

SCHEDULES

SCHEDULE 10

PUBLIC INTEREST BUSINESS PROTECTION TAX

PART 4

SUPPLEMENTARY

Anti-avoidance

- 36 (1) This paragraph applies to arrangements if the main purpose, or one of the main purposes of the arrangements, is to—
- (a) reduce or avoid a charge to public interest business protection tax, or
 - (b) otherwise avoid the effect of any of the provisions of this Schedule.
- (2) Any such reduction or avoidance that would (in the absence of this paragraph) arise from such arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) Any adjustments required to be made under this paragraph (whether or not by an officer of Revenue and Customs) may be made by way of—
- (a) an assessment,
 - (b) the modification of an assessment,
 - (c) amendment or disallowance of a claim,
- or otherwise.
- (4) In this paragraph “arrangements” include any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable).

No deduction for public interest business protection tax

- 37 In calculating profits, losses or gains for income tax, capitals gains tax or corporation tax purposes, no deduction is allowed in respect of public interest business protection tax.

Information sharing

- 38 (1) This paragraph applies to information that—
- (a) is held by the Secretary of State or the Gas and Electricity Markets Authority, and
 - (b) is relevant to public interest business protection tax.
- (2) Information to which this paragraph applies may be disclosed by whichever of the Secretary of State or Gas and Electricity Markets Authority holds it (or anyone acting on behalf of that person) to the Commissioners for Her Majesty’s Revenue

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and Customs for the purposes of their functions relating to public interest business protection tax or any other tax.

- (3) Subject to sub-paragraph (5), no duty of confidentiality or other restriction on disclosure (however imposed) prevents the disclosure of information in accordance with sub-paragraph (2).
- (4) This paragraph does not limit the circumstances in which information may be disclosed under section 105(2) to (4) of the Utilities Act 2000 or under any other enactment or rule of law.
- (5) Nothing in this paragraph authorises the making of a disclosure which—
 - (a) contravenes the data protection legislation (save that the power conferred by this paragraph is to be taken into account in determining whether a disclosure contravenes that legislation), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (save that the power conferred by this paragraph is to be taken into account when determining whether a disclosure is prohibited by those provisions).

Application of the Provisional Collection of Taxes Act 1968

- 39 The Provisional Collection of Taxes Act 1968 has effect as if section 1(1) of that Act (temporary statutory effect of House of Commons resolutions affecting listed taxes or customs or excise duties) contained a reference to public interest business protection tax.

Power to apply, disapply or modify provisions of relevant tax legislation

- 40 (1) For purposes in connection with the administration of public interest business protection tax, the Treasury may by regulations make provision about the application of relevant tax legislation to public interest business protection tax (including provision disapplying or modifying such legislation or applying legislation that would not otherwise apply).
- (2) Relevant tax legislation means any provision made by or under—
- (a) the Taxes Acts, or
 - (b) Part 3 of this Schedule.

Regulations

- 41 (1) A power to make regulations under this Schedule includes power to make—
- (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) provision having retrospective effect.
- (2) Regulations under this Schedule are to be made by statutory instrument.
- (3) Sub-paragraph (4) applies to—
- (a) regulations under paragraph 2,
 - (b) regulations under this Schedule that have the effect of limiting the application of, reducing or removing any existing relief or exemption from tax, or

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- (c) regulations under this Schedule which have retrospective effect, other than regulations having retrospective effect which provide for a new or increased relief or a new exemption.
- (4) A statutory instrument containing (whether alone or with other provision) regulations to which this sub-paragraph applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (5) Any other statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation of Schedule

42 (1) In this Schedule—

- “adjusted value” is to be construed in accordance with paragraph 3;
- “asset” is to be construed in accordance with paragraph 1(10);
- “company” means a body corporate;
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “discovery assessment” is to be construed in accordance with paragraph 18(1);
- “disposal” is to be construed in accordance with paragraph 1(10);
- “disqualifying period” is to be construed in accordance with paragraph 4(4);
- “disqualifying steps” is to be construed in accordance with paragraph 1;
- “fair value”, in relation to an asset held by a person (“P”), means the amount which, at the time as at which the value is to be determined, is the amount which P would obtain from an independent person dealing at arm’s length for—
 - (a) in the case of an asset comprising rights and liabilities, the transfer of P’s rights under the asset and the release of all P’s liabilities under it, or
 - (b) in any other case, the transfer of the asset;
- “principal taxpayer” is to be construed in accordance with (as the case may require) paragraph 4(1), 5(1) or 5(2);
- “public interest business” is to be construed in accordance with paragraph 2(1);
- “qualifying purpose” is to be construed in accordance with paragraph 1;
- “special measures” is to be construed in accordance with paragraph 2(3);
- “tax” (except where the context otherwise requires) means public interest business protection tax;
- “the Taxes Acts” has the meaning given by section 118(1) of TMA 1970;
- “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

(2) For the purposes of this Schedule—

- (a) whether a person is connected with another person is to be determined in accordance with section 1122 of CTA 2010, and
- (b) whether a person controls a company is to be determined in accordance with section 1124(2) of that Act.

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- (3) Subsections (5) to (7) of section 118 of TMA 1970 (meaning of references to bringing about loss of tax or situation carelessly or deliberately) apply for the purposes of this Schedule as they apply for the purposes of that Act.
- (4) The Treasury may by regulations make further provision about the meaning and application of “fair value” in cases specified in the regulations.

Commencement and expiry

- 43 (1) This Schedule has effect in relation to the taking of disqualifying steps (whenever taken) in disqualifying circumstances where the public interest business in question becomes subject to special measures—
 - (a) on or after 28 January 2022, and
 - (b) before 28 January 2023.
- (2) The Treasury may, for the date for the time being specified in sub-paragraph (1)(b), by regulations substitute such later date before 29 January 2025 as may be specified in the regulations.
- (3) The power in sub-paragraph (2)—
 - (a) may be exercised on more than one occasion;
 - (b) may not be exercised on or after the date for the time being specified in sub-paragraph (1)(b).