

## SCHEDULES

### SCHEDULE 22

#### PREVENTION OF EXPLOITATION OF SCHEDULE 20 TO FINANCE ACT 1994

##### PART IV

##### INTERPRETATION

###### *Relevant transactions for purposes of paragraphs 1, 3, 6 and 7*

- 15 Any self-cancelling transaction or transaction with a connected person is a relevant transaction for the purposes of paragraphs 1, 3, 6 and 7 above unless—
- (a) the transaction is entered into exclusively for bona fide commercial reasons; or
  - (b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the entering into of the transaction.
- 16 (1) An agreement by which the person by whom a trade, profession or vocation is carried on agrees to sell or transfer trading stock or work in progress is a self-cancelling transaction for the purposes of paragraph 15 above if by the same or any collateral agreement that person—
- (a) agrees to buy back or re-acquire the trading stock or work in progress; or
  - (b) acquires or grants an option, which is subsequently exercised, for him to buy back or re-acquire the trading stock or work in progress.
- (2) In sub-paragraph (1) above—
- “trading stock” has the same meaning as in section 100 of the Taxes Act 1988;
  - “work in progress”, in relation to a profession or vocation, means—
- (a) any services performed in the ordinary course of the profession or vocation, the performance of which is wholly or partly completed at the time of the sale or transfer and for which it would be reasonable to expect that a charge would have been made on their completion if the sale or transfer had not been effected; and
  - (b) any article produced, and any such material as is used, in the performance of any such services,
- and references in that sub-paragraph to the sale or transfer of work in progress shall include references to the sale or transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.
- 17 (1) For the purposes of paragraph 15 above, any question whether the person by whom a trade, profession or vocation is carried on is connected with another person shall be determined in accordance with sub-paragraphs (2) to (5) below.

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*Status: This is the original version (as it was originally enacted).*

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- (2) An individual carrying on a trade, profession or vocation is connected with another person if they are connected with each other within the meaning of section 839 of the Taxes Act 1988 (disregarding for this purpose the exception in subsection (4) of that section).
- (3) Persons carrying on a trade or profession in partnership are connected with an individual if he controls the partnership.
- (4) Persons carrying on a trade or profession in partnership are connected with a company if the company controls the partnership or the same person controls both the company and the partnership.
- (5) Persons carrying on a trade or profession in partnership are connected with persons carrying on another trade or profession in partnership if the same person controls both partnerships.
- (6) In this paragraph—
  - (a) “control” shall be construed—
    - (i) in relation to a company, in accordance with section 416 of the Taxes Act 1988;
    - (ii) in relation to a partnership, in accordance with section 840 of that Act; and
  - (b) any reference to a person controlling a company or partnership is a reference to his doing so either alone or with one or more persons connected with him.