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SCHEDULES

SCHEDULE 16

CONTROLLED FOREIGN COMPANIES

PART 2

AMENDMENT OF EXEMPT ACTIVITIES EXEMPTION

Abolition of special rules for holding companies other than local holding companies

- 10 (1) Part 2 of Schedule 25 to ICTA (exempt activities) is amended as follows.
- (2) In paragraph 6 (definition of exempt activities)—
- (a) in sub-paragraph (1)(c), for “(2), (3), (4) or (4A)” substitute “ (2) or (3) ”,
 - (b) in sub-paragraph (3)(b), omit “or superior holding companies”,
 - (c) omit sub-paragraphs (4) to (4BB),
 - (d) in sub-paragraph (5)—
 - (i) for “sub-paragraphs (3) to (4B)” substitute “ sub-paragraph (3) ”, and
 - (ii) omit “or superior holding company”,
 - (e) in sub-paragraph (5ZA), omit “or superior holding company”,
 - (f) in sub-paragraph (5ZB), omit “or superior holding company”,
 - (g) in sub-paragraph (5A), for “sub-paragraphs (3) to (4B)” substitute “ sub-paragraph (3) ”,
 - (h) omit sub-paragraph (5B),
 - (i) in sub-paragraph (5C), omit “or superior holding company”, and
 - (j) in sub-paragraph (6), for “sub-paragraphs (1) to (4BB) above” substitute “ this paragraph ”.
- (3) In paragraph 8(3) (paragraph 6(1)(b) condition), omit “or superior holding company”.
- (4) In paragraph 12 (definition of “holding company” etc)—
- (a) in sub-paragraph (1), for “paragraph 12A below and in” substitute “ in ”,
 - (b) in sub-paragraph (4), omit “or (4), as the case may be,”, and
 - (c) in sub-paragraph (5)—
 - (i) in the words before paragraph (a), for “sub-paragraphs (3) and (4)” substitute “ sub-paragraph (3) ”, and
 - (ii) in paragraph (a), omit “or superior holding company”.
- (5) Omit paragraph 12A (definition of “superior holding company” etc).
- 11 In consequence of the amendments made by paragraph 10, omit—

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- (a) in FA 1998, in Schedule 17, paragraphs 30(4)(a), (5), (6) and (8), 31, 32(2) and (3)(a) and 33,
- (b) in FA 2000, in Schedule 31, paragraph 7(2) to (7), (10) and (11), and
- (c) in FA 2003, in Schedule 42, paragraph 2(2).

Commencement

- 12 (1) The amendments made by this Part have effect in relation to accounting periods of controlled foreign companies beginning on or after the commencement date.
- (2) For this purpose “the commencement date” means—
- (a) in relation to a controlled foreign company other than a qualifying holding company, 1 July 2009,^{F1}...
 - ^{F1}(b)
- [^{F2}(3) The amendments made by this Part have no effect in relation to a qualifying holding company.]

Textual Amendments

- F1** Sch. 16 para. 12(2)(b) and word omitted (retrospective to 30.6.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 20 paras. 33\(a\)](#), 54
- F2** Sch. 16 para. 12(3) inserted (retrospective to 30.6.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 paras. 33\(b\)](#), 54

Meaning of “qualifying holding company” and “exempt holding company”

- 13 (1) In this Part “qualifying holding company” means a controlled foreign company that was an exempt holding company in relation to the last accounting period to end before 1 July 2009.
- (2) For the purposes of sub-paragraph (1) paragraphs 14 and 15 are to be disregarded.
- (3) For the purposes of this Part a company is an “exempt holding company” in relation to an accounting period if—
- (a) throughout the period the company is, within the meaning of Part 2 of Schedule 25 to ICTA, engaged in exempt activities, and
 - (b) paragraph 6(4) or (4A) of that Schedule applies to the company in relation to the period.

Periods straddling 1 July 2009

- 14 (1) Where a controlled foreign company has an accounting period (“the straddling accounting period”) that—
- (a) begins before 1 July 2009, and
 - (b) ends on or after that date,
- the straddling accounting period is to be treated as split.
- (2) Where this paragraph provides that the straddling accounting period is to be treated as “split”—

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- (a) that part of the straddling accounting period that falls before 1 July 2009 and that part of the straddling accounting period that falls on or after that date are to be treated for the purposes of Chapter 4 of Part 17 of ICTA as separate accounting periods, and
- (b) the company's gross income for the straddling accounting period, and its chargeable profits and creditable tax (if any) for that period, are to be apportioned to the two separate accounting periods on a time basis according to the respective lengths of the periods.

Qualifying holding companies: periods straddling 1 July [F3 2012]

Textual Amendments

F3 Word in Sch. 16 para. 15 heading substituted (21.7.2009 retrospective) by [Finance Act 2011 \(c. 11\)](#), [Sch. 12 paras. 9\(3\)\(c\), 14\(1\)](#)

F4 15

Textual Amendments

F4 [Sch. 16 para. 15](#) omitted (retrospective to 30.6.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 20 paras. 34, 54](#)

Qualifying holding companies: definition of “relevant accounting period”

- 16 For the purposes of paragraph 17 an accounting period of a qualifying holding company is a “relevant accounting period” if it—
- (a) begins on or after 1 July 2009 [F5 but before 1 January 2013], F6 ...
 - F6**(b)

Textual Amendments

F5 Words in Sch. 16 para. 16(a) inserted (retrospective to 30.6.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 paras. 35\(a\), 54](#)

F6 Sch. 16 para. 16(b) and word omitted (retrospective to 30.6.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 20 paras. 35\(b\), 54](#)

Qualifying holding companies: treatment during [F7 three years before 1 July 2012]

Textual Amendments

F7 Word in Sch. 16 para. 17 substituted (21.7.2009 retrospective) by [Finance Act 2011 \(c. 11\)](#), [Sch. 12 paras. 9\(5\), 14\(1\)](#)

- 17 (1) In its application in relation to a relevant accounting period of a qualifying holding company, Part 2 of Schedule 25 to ICTA has effect subject to the modifications in this paragraph.

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- (2) Sub-paragraph (4) or (4A) of paragraph 6 applies to a company only if—
- (a) the condition specified in that sub-paragraph is met, and
 - (b) conditions A and B are met.
- (3) Condition A is that at all material times the company was a member of a group with the same ultimate corporate parent.
- (4) For this purpose the following times are “material”—
- (a) the beginning of 9 December 2008, and
 - (b) all times during the accounting period in question.
- (5) Condition B is that amount X does not exceed amount Y.
- (6) Amount X is the amount of the company's gross income in the accounting period in question that is non-qualifying gross income.
- (7) Amount Y is (subject to sub-paragraph (8))—
- (a) where there are three reference periods in relation to the company, the greatest of the amounts of the company's non-qualifying gross income in each of those periods,
 - (b) where there are two reference periods in relation to the company, the greater of the amounts of the company's non-qualifying gross income in each of those periods,
 - (c) where there is one reference period in relation to the company, the amount of the company's non-qualifying gross income in that period, or
 - (d) where there is no reference period in relation to the company, the amount of the company's non-qualifying gross income in the period of 12 months ending with 9 December 2008.
- (8) Where the number of days in the period by reference to which amount X is determined is not the same as the number of days in the period by reference to which amount Y is determined, amount Y is to be multiplied by—

$$\frac{DX}{DY}$$

where—

DX is the number of days in the period by reference to which amount X is determined, and

DY is the number of days in the period by reference to which amount Y is determined.

- (9) In this paragraph—
- “non-qualifying gross income” means gross income that does not satisfy the test in paragraph 6(3), (4) or (4A) of Schedule 25 to ICTA;
- “a reference period”, in relation to a company, means an accounting period of the company that—
- (a) is one of the last three accounting periods of the company to end before 9 December 2008, and
 - (b) is an accounting period in relation to which the company is an exempt holding company.

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Meaning of “ultimate corporate parent” and “group” for the purposes of paragraph 17(3)

- 18 (1) In paragraph 17(3) the “ultimate corporate parent”, in relation to a group, means a member of the group that—
- (a) is a body corporate, and
 - (b) is not a subsidiary (whether direct or indirect) of another body corporate.
- (2) A reference in this paragraph to a body corporate does not include—
- (a) the Crown,
 - (b) a Minister of the Crown,
 - (c) a government department,
 - (d) a Northern Ireland department, or
 - (e) a foreign sovereign power.
- (3) In paragraph 17(3) and this paragraph “group” has the meaning for the time being given by international accounting standards.
- (4) In this paragraph “subsidiary” has the meaning for the time being given by international accounting standards.

Reference periods: anti-avoidance

- 19 (1) This paragraph applies where, on or after 9 December 2008, a company alters its accounting date so that any period (“period A”) that would otherwise have fallen in an accounting period ending on or after 9 December 2008 falls instead in an accounting period ending before that date.
- (2) The reference in paragraph (a) of the definition of “a reference period” in paragraph 17(9) to 9 December 2008 is to be treated as a reference to the beginning of period A.

Interpretation

- 20 The following expressions have the same meaning for the purposes of this Part as they have for the purposes of Chapter 4 of Part 17 of ICTA—
- “accounting period”;
 - “chargeable profits”;
 - “control”;
 - “controlled foreign company”;
 - “creditable tax”;
 - “gross income”.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 54A para. 2(e)-(g) omitted by [2024 c. 3 Sch. 2 para. 13](#)
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)