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SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 2

OTHER ENACTMENTS

Income Tax (Trading and Other Income) Act 2005

- 444 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.
- 445 In section 100(4) (meaning of sale and lease-back arrangement) for “section 779(1) or (2) or 780(1) of ICTA” substitute “ section 835(1) or (2) or 836(1) or (2) of CTA 2010 ”.
- 446 In section 108(3) (gifts of trading stock to charities etc) for “paragraph 1 of Schedule 18 to FA 2002 (relief for community” substitute “ section 658 of CTA 2010 (community ”.
- 447 For section 148D (lessor under long funding operating lease: periodic deduction) substitute—

“148D Lessor under long funding operating lease: periodic deduction

- (1) This section applies if a person carrying on a trade is the lessor of any plant or machinery under a long funding operating lease for the whole or part of a period of account.
- (2) A deduction is allowed in calculating the profits of the person for the period of account for income tax purposes.
- (3) The amount of the deduction is so much of the expected gross reduction in value over the term of the lease as is attributable to the period of account.
- (4) The expected gross reduction in value over the term of the lease is—
 - (a) the starting value of the plant or machinery, less
 - (b) the amount which at the commencement of the term of the lease is expected to be its residual value (or, if section 148DB applies, would have been expected to be that value had that value been estimated at that time).
- (5) The expected gross reduction in value over the term of the lease that is attributable to the period of account is found by apportioning that reduction on a time basis according to the proportion of the term of the lease that falls in the period of account.
- (6) For the meaning of “starting value”, see—

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- (a) section 148DA (“starting value”: general), and
- (b) section 148DB (“starting value” where plant or machinery originally unqualifying).

(7) For the meaning of “residual value”, see section 148J(2).”

448 After section 148D insert—

“148DA Starting value”: general

- (1) This section is about the meaning of “starting value” in section 148D in relation to a long funding operating lease (“the section 148D lease”).
- (2) But this section does not apply if the conditions in section 148DB(2) (“starting value” where plant or machinery originally unqualifying) are met.
- (3) If the only use of the plant or machinery by the lessor has been the leasing of it under the section 148D lease as a qualifying activity, the starting value is the amount of the expenditure incurred by the lessor on the provision of the plant or machinery (“cost”).
- (4) If subsection (3) does not apply, the starting value depends on the last previous use of the plant or machinery by the lessor.
- (5) If that use was the leasing of it under another long funding operating lease as a qualifying activity, the starting value is the market value of the plant or machinery at the commencement of the term of the section 148D lease (“market value”).
- (6) If that use was the leasing of it under a long funding finance lease as a qualifying activity, the starting value is the value at which the plant or machinery is recognised in the books or other finance records of the lessor at the commencement of the term of the section 148D lease.
- (7) If that use was for the purposes of a qualifying activity other than leasing under a long funding lease, the starting value is the lower of cost and market value.
- (8) For the meaning of “qualifying activity”, see section 148J(2).

148DB “Starting value” where plant or machinery originally unqualifying

- (1) This section applies if the conditions in subsection (2) are met in relation to a long funding operating lease to which section 148D applies.
- (2) The conditions are that—
 - (a) the lessor owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity,
 - (b) the plant or machinery is brought into use by the lessor for the purposes of a qualifying activity on or after 1 April 2006, and
 - (c) that qualifying activity is the leasing of the plant or machinery under the lease.
- (3) For the purposes of section 148D the starting value is the lower of—
 - (a) first use market value, and

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- (b) first use amortised market value.
 - (4) “First use market value” means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity.
 - (5) “First use amortised value” means the value that the plant or machinery would have at the time when it is first brought into use for the purposes of the qualifying activity on the assumptions in subsection (6).
 - (6) The assumptions are that—
 - (a) the cost of acquiring the plant or machinery had been written off on a straight line basis over its remaining useful economic life, and
 - (b) any further capital expenditure incurred had been written off on a straight line basis over so much of its remaining economic life as remains at the time when the expenditure is incurred.
 - (7) For the meaning of “qualifying activity”, “remaining useful economic life” and writing off on a straight line basis, see section 148J(2), section 148J(4) (and section 70YI of CAA 2001 as applied by that section) and section 148J(3) respectively.”
- 449 For section 148E substitute—

“148E Long funding operating lease: lessor's additional expenditure

- (1) This section applies if in any period of account—
 - (a) a person carrying on a trade is the lessor of any plant or machinery under a long funding operating lease,
 - (b) the person incurs capital expenditure in relation to the plant or machinery (the “additional expenditure”), and
 - (c) the additional expenditure is not reflected in the market value of the plant or machinery at the commencement time (see subsection (7)).
- (2) An additional deduction is allowed in calculating the profits of the person for income tax purposes for each period of account—
 - (a) which ends after the incurring of the additional expenditure, and
 - (b) in which the person is the lessor of the plant or machinery under the lease.
- (3) The amount of the deduction is so much of the expected reduction in value of the additional expenditure (“the expected reduction”) as is attributable to the period of account.
- (4) The expected reduction is the amount of the additional expenditure, less the remaining residual value of the plant or machinery resulting from that expenditure.
- (5) For how to determine that remaining residual value, see—
 - (a) section 148EA (determination of remaining residual value resulting from lessor's first additional expenditure), and
 - (b) section 148EB (determination of remaining residual value resulting from lessor's further additional expenditure).

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- (6) The amount of the expected reduction attributable to the period of account is found by apportioning that reduction on a time basis according to the proportion of the term of the lease that falls in the period of account.
- (7) In this section “the commencement time” means—
- (a) except where section 148DB applies, the commencement of the term of the lease, and
 - (b) if that section applies, the time when the plant or machinery is first brought into use by the lessor for the purposes of the qualifying activity.”

450 After section 148E insert—

“148EA Determination of remaining residual value resulting from lessor's first additional expenditure

- (1) This section sets out how the remaining residual value of the plant or machinery resulting from the additional expenditure (“RRV”) is determined for the purposes of section 148E(4) if section 148E has not applied in relation to any previous additional expenditure incurred by the person in relation to the leased plant or machinery.
- (2) RRV depends on whether—
 - (a) the amount (“ARV”) which is expected to be the residual value of the plant or machinery at the time when the additional expenditure is incurred, exceeds
 - (b) the amount (“CRV”) which at the commencement of the term of the lease is expected to be its residual value (or, if section 148DB applies, would have been expected to be that value had that value been estimated at that time).
- (3) If ARV exceeds CRV, RRV is the part of the excess that is a result of the additional expenditure.
- (4) Otherwise, RRV is nil.
- (5) For the meaning of “residual value”, see section 148J(2).

148EB Determination of remaining residual value resulting from lessor's further additional expenditure

- (1) This section sets out how the remaining residual value of the plant or machinery resulting from the additional expenditure (“RRV”) is determined for the purposes of section 148E(4) if section 148E has applied in relation to previous additional expenditure incurred by the person in relation to the leased plant or machinery.
- (2) RRV depends on whether—
 - (a) the amount which is expected to be the residual value of the plant or machinery at the time when the further additional expenditure is incurred (“FARV”), exceeds
 - (b) the sum of the amounts in subsection (3).
- (3) Those amounts are—

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- (a) the amount which at the commencement of the term of the lease is expected to be the residual value of the plant or machinery (or, if section 148DB applies, would have been expected to be that value had that value been estimated at that time), and
 - (b) any amounts that were subtracted under section 148E(4) as the remaining residual value of the plant or machinery resulting from the previous additional expenditure.
- (4) If FARV exceeds the sum of the amounts in subsection (3), RRV is the portion of the excess that is a result of the further additional expenditure.
- (5) Otherwise, RRV is nil.
- (6) For the meaning of “residual value”, see section 148J(2).”

451 For section 148F substitute—

“148F Lessor under long funding operating lease: termination of lease

- (1) This section applies in calculating for income tax purposes the profits of a person carrying on a trade if the person is the lessor immediately before the termination of a long funding operating lease.
- (2) If the termination amount exceeds the sum of the amounts in subsection (3), an amount equal to the excess is treated as income of the person attributable to the lease arising in the period of account in which it terminates.
- (3) The amounts referred to in subsection (2) are—
 - (a) the total amounts paid to the lessee that are calculated by reference to the termination value,
 - (b) the excess relevant value for section 148D (see subsection (6)), and
 - (c) the excess expenditure for section 148E (see subsection (7)).
- (4) If the sum of the amounts in subsection (3) exceeds the termination amount, the excess is treated as a revenue expense incurred by the person in connection with the lease in the period of account in which it terminates.
- (5) No deduction is allowed in respect of any sums within subsection (3)(a).
- (6) “The excess relevant value for section 148D” is the amount (if any) by which—
 - (a) the starting value of the plant or machinery for the purposes of section 148D(4) (lessor under long funding operating lease: periodic deduction), exceeds
 - (b) the total of the deductions allowable under section 148D for periods of account for the whole or part of which the person was the lessor.
- (7) “The excess expenditure for section 148E” is the amount (if any) by which—
 - (a) the total of any amounts of capital expenditure incurred by the person which constitute additional expenditure in the case of the lease for the purposes of section 148E (long funding operating lease: lessor's additional expenditure), exceeds
 - (b) the total of any deductions allowable under section 148E for periods of account for the whole or part of which the person was the lessor.

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- (8) For the meaning of “termination amount” and “termination value”, see sections 70YG and 70YH of CAA 2001 (as applied by section 148J(4)).”
- 452 In section 375(1) (interpretation of sections 373 and 374) for the definition of “umbrella company” substitute—
- ““umbrella company” has the meaning given by section 615 of CTA 2010.”
- 453 In section 388(1) (interpretation of sections 386 and 387) for the definition of “umbrella company” substitute—
- ““umbrella company” has the meaning given by section 615 of CTA 2010.”
- 454 In section 389(5) (authorised unit trust dividend distributions) for “section 468(1) of ICTA” substitute “ section 617(1) of CTA 2010 ”.
- 455 In section 401(7) (relief: qualifying distributions after linked non-qualifying distribution) for “section 254(1) of ICTA” substitute “ section 1117(1) of CTA 2010 ”.
- 456 In Chapter 3 of Part 4 after section 401 insert—

“401A Recovery of overpaid tax credit etc

- (1) If an officer of Revenue and Customs discovers that a payment or set-off of tax credit should not have been made or is excessive, the officer may act in accordance with subsection (3) or (4).
 - (2) For the purposes of subsection (1) it does not matter whether the payment or set-off was excessive when made or became so later.
 - (3) The officer may make any assessment that in the officer's judgement is needed to recover—
 - (a) any income tax that should have been paid, or
 - (b) any payment of tax credit that should not have been made.
 - (4) More generally, the officer may make any assessment that in the officer's judgement is needed to secure that the liabilities to income tax (and any liabilities to interest on income tax) of the persons concerned are what they would have been if only the correct set-offs and payments had been made.
 - (5) TMA 1970 applies to an assessment under this section for recovering a payment of tax credit, or of interest on a tax credit—
 - (a) as if it were an assessment to income tax for the tax year in respect of which the payment was claimed, and
 - (b) as if the payment represented a loss of tax to the Crown.
 - (6) Any sum charged by an assessment such as is mentioned in subsection (5) is due within 14 days after the notice of assessment is issued.
 - (7) The duty to comply with subsection (6) is subject to any appeal against the assessment.”
- 457 After section 401A insert—

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“401B Power to obtain information

- (1) An officer of Revenue and Customs may, for the purposes of section 397, by notice require any person in whose name any shares or loan capital are registered—
 - (a) to state whether or not that person is the beneficial owner of the shares or loan capital, and
 - (b) if that person is not the beneficial owner of the shares or loan capital, to provide the name and address of the person on whose behalf the shares or loan capital are registered in that person's name.
- (2) Subsections (3) and (4) apply if a company (“the issuing company”) appears to an officer of Revenue and Customs to be a close company.
- (3) The officer may, for the purposes of section 397, by notice require the issuing company to provide the officer with—
 - (a) particulars of any bearer securities issued by the company,
 - (b) the names and addresses of the persons to whom the securities were issued, and
 - (c) details of the amounts issued to each person.
- (4) The officer may, for the purposes of section 397, by notice require—
 - (a) any person to whom bearer securities were issued by the company, or
 - (b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.
- (5) In this section—

“loan creditor” has the meaning given by section 453 of CTA 2010, and

“securities” includes—

 - (a) shares, stocks, bonds, debentures and debenture stock, and
 - (b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.”

458 (1) Amend section 410 as follows.

(2) For subsection (1) substitute—

“(1) This section applies to—

- (a) share capital issued by a UK resident company in lieu of a cash dividend, and
 - (b) bonus share capital issued by a UK resident company in respect of shares in the company of a qualifying class.
- (1A) For the purposes of subsection (1)(b), shares are of a qualifying class if—
- (a) shares of that class carry the right to receive bonus share capital in the company (of the same or a different class), and

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- (b) that right is conferred by the terms on which shares of that class were originally issued or by those terms as subsequently extended or otherwise varied.”

(3) After subsection (7) insert—

“(8) There are special rules in paragraph 78A of Schedule 2 for share capital issued in respect of shares issued before 6 April 1975.”

459 After section 410 insert—

“410A Conversion etc of bonus share capital

- (1) This section applies if bonus share capital falling within section 410(1)(b) is converted into, or exchanged for, shares in the company of a different class.
- (2) Section 410 does not apply to any shares in the company issued—
 - (a) in connection with the conversion or exchange, and
 - (b) in consideration of the cancellation, extinguishment or acquisition by the company of the bonus share capital.”

460 (1) Amend section 412 (cash equivalent of share capital) as follows.

- (2) In subsection (1) for the words from “within” to the end substitute “ issued as mentioned in section 410(1)(a) is the amount of the cash dividend alternative (see section 414A(2)). ”
- (3) In subsection (3) for “within section 249(1)(b) of ICTA (bonus share capital)” substitute “ issued as mentioned in section 410(1)(b) ”.

461 After section 414 insert—

“414A Interpretation of Chapter

- (1) In this Chapter “bonus share capital” means—
 - (a) share capital issued otherwise than wholly for new consideration, or
 - (b) the part (if there is such a part) of any share capital so issued that is not properly referable to new consideration.
- (2) For the purposes of this Chapter share capital is issued by a company in lieu of a cash dividend if—
 - (a) it is issued in consequence of the exercise by any person of an option conferred on the person, and
 - (b) that option is an option to receive, in respect of shares in the company, either a dividend in cash or additional share capital.
- (3) For the purposes of subsection (2), an option to receive either a dividend in cash or additional share capital is conferred on a person not only—
 - (a) if the person is required to choose one or the other, but also
 - (b) if the person is offered the one subject to a right, however expressed, to choose the other instead.
- (4) The reference in subsection (2) to a person's exercise of an option includes a person's abandonment of, or failure to exercise, a right such as is mentioned in subsection (3)(b).

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- (5) In this Chapter “share” includes stock, and any other interest of a member in a company.
- (6) If two or more companies enter into arrangements to make distributions to each other's members, all parties concerned (however many) may, for the purposes of this Chapter, be treated as if anything done by any one of those companies had been done by any one of the others.
- (7) The following apply in relation to this Chapter as they apply in relation to Part 23 of CTA 2010—
- (a) section 1113 (“in respect of shares”) of CTA 2010,
 - (b) section 1115 (“new consideration”) of CTA 2010.”
- 462 (1) Amend section 415 (charge to tax under Chapter 6) as follows.
- (2) In subsection (1)(a) for “is or has been assessed or is liable to be assessed under section 419 of ICTA” substitute “ is or was chargeable to tax under section 455 of CTA 2010 ”.
- (3) In subsection (3)—
- (a) for “section 419 of ICTA has effect under section 422 of that Act (extension of section 419 to loans by companies controlled by close companies)” substitute “ , as a result of section 460 of CTA 2010, sections 455 to 459 of that Act have effect ”, and
 - (b) for “section 419(2) of ICTA” substitute “ section 455(4) of that Act ”.
- 463 In section 419(1)(b) (loans and advances to people who die) for “is or has been assessed or is liable to be assessed under section 419 of ICTA (loans to participators in close companies etc)” substitute “ is or was chargeable to tax under section 455 of CTA 2010 (charge to tax in case of loan to participator) ”.
- 464 In section 420(1)(b) (loans and advances to trustees of settlements that have ended) for “is or has been assessed or is liable to be assessed under section 419 of ICTA (loans to participators in close companies etc)” substitute “ is or was chargeable to tax under section 455 of CTA 2010 (charge to tax in case of loan to participator) ”.
- 465 After section 421 insert—

“421A Power to obtain information

- (1) An officer of Revenue and Customs may, for the purposes of this Chapter, by notice require any person in whose name any shares or loan capital are registered—
- (a) to state whether or not that person is the beneficial owner of the shares or loan capital, and
 - (b) if that person is not the beneficial owner of the shares or loan capital, to provide the name and address of the person on whose behalf the shares or loan capital are registered in that person's name.
- (2) Subsections (3) and (4) apply if a company (“the issuing company”) appears to an officer of Revenue and Customs to be a close company.
- (3) The officer may, for the purposes of this Chapter, by notice require the issuing company to provide the officer with—
- (a) particulars of any bearer securities issued by the company,

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- (b) the names and addresses of the persons to whom the securities were issued, and
 - (c) details of the amounts issued to each person.
- (4) The officer may, for the purposes of this Chapter, by notice require—
- (a) any person to whom bearer securities were issued by the company, or
 - (b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,
- to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.
- (5) In this section—
- “loan creditor” has the meaning given by section 453 of CTA 2010, and
 - “securities” includes—
 - (a) shares, stocks, bonds, debentures and debenture stock, and
 - (b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.”
- 466 (1) Amend section 456 (securities issued to connected persons etc at excessive price) as follows.
- (2) For subsection (7) substitute—
- “(7) Chapter 2 of Part 10 of CTA 2010 (meaning of “close company”) applies for the purposes of this section but with the omission of section 442(a) (exclusion of non-UK resident companies).”
- (3) In subsection (8) for “section 416 of ICTA” substitute “ sections 450 and 451 of CTA 2010 ”.
- 467 In section 460(2) (minor definitions) for “section 840ZA of ICTA” substitute “ section 1139 of CTA 2010 ”.
- 468 In section 482(7) (conditions in relation to excepted group life policies) for “section 840ZA of ICTA” substitute “ section 1139 of CTA 2010 ”.
- 469 In section 520(4) (the property categories) for “section 842 of ICTA” substitute “ section 1158 of CTA 2010 ”.
- 470 In section 643(4) (interpretation) for “section 416 of ICTA” substitute “ section 449 of CTA 2010 ”.
- 471 (1) Amend Schedule 2 (transitionals and savings) as follows.
- (2) In paragraph 40(2)—
- (a) in the definition of “associate” for “section 417(3) and (4) of ICTA” substitute “ section 448 of CTA 2010 ”, and
 - (b) in the definition of “associated company”—
 - (i) for “section 416(1) of that Act” substitute “ section 449 of that Act ”, and
 - (ii) for “subsections (2) to (6) of that section” substitute “ sections 450 and 451 of that Act ”.

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(3) After paragraph 78 insert—

“Stock dividends issued in respect of shares issued before 6 April 1975

78A(1) This paragraph applies if—

- (a) share capital is issued by a UK resident company in respect of shares in the company issued before 6 April 1975 (“the old shares”),
- (b) the old shares confer on the holder a right to convert them into, or exchange them for, shares of a different class, and
- (c) as a result of the issue of the share capital, income would (apart from this paragraph) be treated as arising under section 410(2), (3) or (4) (stock dividend income).

(2) Section 410 does not apply to the protected part of any bonus share capital issued by the company in connection with an exercise of that right.

(3) For the purposes of sub-paragraph (2), the protected part of the bonus share capital is however much of it (if any) would have been issued if the right had been exercised so as to bring about the conversion or exchange of the shares on the earliest possible date after 5 April 1975.

(4) In this paragraph “share” includes stock, and any other interest of a member in a company

(5) Section 1113 of CTA 2010 (meaning of “in respect of shares”) applies in relation to this paragraph as it applies in relation to Part 23 of CTA 2010.”

(4) In paragraph 131(2)—

- (a) in the definition of “associate” for “section 417(3) and (4) of ICTA” substitute “ section 448 of CTA 2010 ”, and
- (b) in the definition of “associated company”—
 - (i) for “section 416(1) of that Act” substitute “ section 449 of that Act ”, and
 - (ii) for “subsections (2) to (6) of that section” substitute “ sections 450 and 451 of that Act ”.

472 (1) Amend Schedule 4 (abbreviations and defined expressions) as follows.

(2) In Part 1 at the end insert—

“CTA 2010

The Corporation Tax Act 2010”

(3) In Part 2—

- (a) in the entry for “accounting period”, in the second column, for “section 834(1) of ICTA” substitute “ section 1119 of CTA 2010 ”,
- (b) in the entry for “close company”, in the second column, for “sections 414 and 415 of ICTA” substitute “ Chapter 2 of Part 10 of CTA 2010 ”,
- (c) in the entry for “permanent establishment”, in the second column, for “section 148 of FA 2003” substitute “ Chapter 2 of Part 24 of CTA 2010 ”, and
- (d) at the appropriate place insert—

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“bonus share capital (in section 414A(1))”
Chapter 3 of Part 4

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