

## SCHEDULES

### SCHEDULE 8

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 2

#### TRANSFER PRICING AND ADVANCE PRICING AGREEMENTS

##### *Taxes Management Act 1970 (c. 9)*

- 106 TMA 1970 is amended as follows.
- 107 In section 9A(4)(b) (scope of enquiries) for “paragraph 5C of Schedule 28AA to the principal Act” substitute “section 168(1) of TIOPA 2010”.
- 108 (1) Amend the second column of the Table in section 98 (special returns etc) as follows.
- (2) Omit the entry for section 86(4) of FA 1999.
- (3) At the appropriate place insert—

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“Section 228 of TIOPA 2010.”

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##### *Income and Corporation Taxes Act 1988 (c. 1)*

- 109 ICTA is amended as follows.
- 110 Omit section 770A (which introduces Schedule 28AA).
- 111 Omit Schedule 28AA (transfer pricing).

##### *Finance Act 1998 (c. 36)*

- 112 FA 1998 is amended as follows.
- 113 Omit section 110 (determinations requiring the sanction of the Commissioners for Her Majesty’s Revenue and Customs).
- 114 Omit section 111 (duty to give notice to persons who may be able to make or amend a claim under paragraph 6 of Schedule 28AA or who may have rights to be heard in appeals under that Schedule).

##### *Finance Act 1999 (c. 16)*

- 115 FA 1999 is amended as follows.
- 116 Omit section 85 (advance pricing agreements).
- 117 Omit section 86(1) to (8) and (10) (provisions supplementary to section 85).

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118 Omit section 87 (effect of advance pricing agreements on non-parties).

*Finance Act 2000 (c. 17)*

- 119 (1) Schedule 22 to FA 2000 (tonnage tax) is amended as follows.
- (2) In paragraph 58(1) for the words after paragraph (b) substitute—
- “Part 4 of the Taxation (International and Other Provisions) Act 2010 (transactions not at arm’s length) has effect with the omission of sections 174 to 184, 187 to 189 and 191 to 196 (elimination of double counting etc).”
- (3) In paragraph 58(2) for “Schedule 28AA” substitute “Part 4 of the Taxation (International and Other Provisions) Act 2010”.
- (4) In paragraph 59(1) for “Schedule 28AA to the Taxes Act 1988” substitute “Part 4 of the Taxation (International and Other Provisions) Act 2010”.
- (5) For paragraph 59(2) substitute—
- “(2) As applied by sub-paragraph (1), Part 4 of the Taxation (International and Other Provisions) Act 2010 has effect with the omission of sections 174 to 184, 187 to 189 and 191 to 196 (elimination of double counting etc).”
- (6) In paragraph 59(3) for “Schedule 28AA” substitute “Part 4 of the Taxation (International and Other Provisions) Act 2010”.
- (7) In paragraph 60(2) for “Schedule 28AA” substitute “Part 4 of the Taxation (International and Other Provisions) Act 2010”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 120 ITTOIA 2005 is amended as follows.
- 121 (1) Amend section 172F (transfer pricing rules to take precedence over sections 172D and 172E) as follows.
- (2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (3) In subsection (1)(b) for “that Schedule” substitute “that Part”.
- (4) In subsection (2) for “Schedule 28AA to ICTA without falling to be adjusted under that Schedule” substitute “Part 4 of TIOPA 2010 without falling to be adjusted under that Part”.
- (5) For subsection (2)(a) and (b) substitute—
- “(a) the condition in section 147(1)(a) of TIOPA 2010 is met, and  
 (aa) the participation condition is met (see subsection (2B)), but  
 (b) either—
- (i) one of the conditions in section 147(1)(c) and (d) of TIOPA 2010 is not met, or  
 (ii) one of the exceptions mentioned in subsection (2A) applies.”
- (6) After subsection (2) insert—

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“(2A) The exceptions are those in—

- (a) section 447(5) of CTA 2009 (exchange gains or losses from loan relationships),
- (b) section 694(8) of CTA 2009 (exchange gains or losses from derivative contracts),
- (c) section 213 of TIOPA 2010 (saving for provisions relating to capital allowances), and
- (d) section 214 of TIOPA 2010 (saving for provisions relating to chargeable gains).

(2B) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”

122 In section 173(2) (trading stock not to be valued if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “section 147(3) or (5) of TIOPA 2010”.

#### *Corporation Tax Act 2009 (c. 4)*

123 CTA 2009 is amended as follows.

124 (1) Amend section 161 (transfer pricing rules take precedence over rules about disposals and acquisitions of trading stock not made in course of the trade concerned) as follows.

(2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.

(3) In subsection (1)(b) for “that Schedule” substitute “that Part”.

(4) For subsection (2) substitute—

“(2) For the purposes of subsection (1)(b), the relevant consideration falls within Part 4 of TIOPA 2010 without falling to be adjusted under that Part if—

- (a) the condition in section 147(1)(a) of TIOPA 2010 is met, and
- (b) the participation condition is met (see subsection (3A)), but
- (c) either—
  - (i) one of the conditions in section 147(1)(c) and (d) of TIOPA 2010 is not met, or
  - (ii) one of the exceptions mentioned in subsection (3) applies.”

(5) In subsection (3) for paragraphs (c) and (d) substitute—

- “(c) section 213 of TIOPA 2010 (saving for provisions relating to capital allowances), and
- (d) section 214 of TIOPA 2010 (saving for provisions relating to chargeable gains).”

(6) After subsection (3) insert—

“(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(b) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”

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- 125 In section 162(2) (trading stock not to be valued if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “section 147(3) or (5) of TIOPA 2010”.
- 126 In section 340(7) (Schedule 28AA to ICTA does not apply to amounts accounted for under the section) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 127 In section 374(3)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “section 173 of TIOPA 2010”.
- 128 (1) Amend section 376(5) (interpretation of section 375) as follows.
- (2) In the definition of “non-qualifying territory” for “paragraph 5E of Schedule 28AA to ICTA” substitute “section 173 of TIOPA 2010”.
- (3) In the definition of “small or medium-sized enterprise” for “paragraph 5D of that Schedule” substitute “section 172 of TIOPA 2010”.
- 129 In section 377(3)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “section 173 of TIOPA 2010”.
- 130 In section 407(6)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “section 173 of TIOPA 2010”.
- 131 (1) Amend section 410(5) (interpretation of section) as follows.
- (2) In the definition of “non-qualifying territory” for “paragraph 5E of Schedule 28AA to ICTA” substitute “section 173 of TIOPA 2010”.
- (3) In the definition of “small or medium-sized enterprise” for “paragraph 5D of that Schedule” substitute “section 172 of TIOPA 2010”.
- 132 In section 444(3) (section is subject to section 445) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 133 (1) Amend section 445 (disapplication of section 444 where Schedule 28AA to ICTA applies) as follows.
- (2) In subsection (1) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (3) In each of paragraphs (a) and (b) of that subsection for “that Schedule” substitute “that Part”.
- (4) In subsection (2)(a) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (5) In subsection (2)(b) for “that Schedule” substitute “that Part”.
- (6) In subsection (3) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (7) For subsection (3)(a) substitute—
- “(a) the condition in section 147(1)(a) of TIOPA 2010 is met,  
 (aa) the participation condition is met (see subsection (3A)), and”.
- (8) After subsection (3) insert—
- “(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (3)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”
- (9) In subsection (4) for “Schedule 28AA to ICTA,” substitute “Part 4 of TIOPA 2010,”.

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- (10) In subsection (5) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act)”.
- (11) In the title for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 134 (1) Amend section 446 (bringing into account adjustments made under Schedule 28AA to ICTA) as follows.
- (2) In each of subsections (1), (2), (4) and (6), and in the title, for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 135 (1) Amend section 447 (exchange gains and losses on debtor relationships: loans disregarded under Schedule 28AA to ICTA) as follows.
- (2) In subsection (1)(c) for “paragraph 1 of Schedule 28AA to ICTA” substitute “section 147(3) or (5) of TIOPA 2010”.
- (3) In subsection (5) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (4) In subsection (7) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act)”.
- (5) In the title for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 136 In section 452(1)(a) and (3)(a) (exchange gains and losses where loan not on arm’s length terms) for “paragraph 6D(2) of Schedule 28AA to ICTA” substitute “section 192(1) of TIOPA 2010”.
- 137 In section 455(5) (section does not apply if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “section 147(3) or (5) of TIOPA 2010”.
- 138 In section 464(3)(a) (which refers to and describes section 445(2)) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 139 In section 484(1) (non-lending relationships treated as loan relationships: meaning of “interest”) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 140 In section 508(2) (arrangements which are not alternative finance arrangements)—
- (a) in paragraph (b) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “subsection (3) or (5) of section 147 of TIOPA 2010”,
- (b) in that paragraph for “in paragraph 1(2)(a) of that Schedule” substitute “in that subsection”, and
- (c) in paragraph (c) for “that Schedule” substitute “Part 4 of TIOPA 2010”.
- 141 In section 625(7) (Schedule 28AA to ICTA does not apply to amounts if credits or debits in respect of those amounts are determined under the section), for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 142 (1) Amend section 693 (bringing into account adjustments under Schedule 28AA to ICTA) as follows.
- (2) In subsections (1), (2) and (4), and the title, for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 143 (1) Amend section 694 (exchange gains and losses where derivative contracts not on arm’s length terms) as follows.

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- (2) In subsections (2), (4) and (8) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (3) In subsection (10) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act)”.
- 144 In section 698(5) (section does not apply if paragraph 1(2) of Schedule 28AA to ICTA increases company’s tax liability) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “section 147(3) or (5) of TIOPA 2010”.
- 145 (1) In the provisions mentioned in sub-paragraph (2) (provisions which relate to intangible fixed assets and refer to matters being subject to adjustments under Schedule 28AA to ICTA) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (2) The provisions are—  
     section 721(3),  
     section 728(3),  
     section 729(4),  
     section 731(5),  
     section 736(7),  
     section 739(2),  
     section 740(4),  
     section 742(3), and  
     section 743(3).
- 146 In section 775(3) (intangible fixed assets: transfers within a group) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- 147 (1) Amend section 846 (intangible fixed assets: transfers not at arm’s length) as follows.
- (2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.
- (3) In subsection (1)(b) for “that Schedule” substitute “that Part”.
- (4) In subsection (2) for “within that Schedule” substitute “within that Part”.
- (5) For subsection (2)(a) substitute—  
     “(a) the condition in section 147(1)(a) of TIOPA 2010 is met,  
     (aa) the participation condition is met (see subsection (2A)), and”.
- (6) After subsection (2) insert—  
     “(2A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”
- (7) In subsection (3) for the words after “meaning” substitute “as in that Part (see, respectively, sections 149 and 151 of TIOPA 2010)”.
- 148 In section 931P(4) (section does not apply if Schedule 28AA to ICTA applies) for “Schedule 28AA to ICTA” substitute “Part 4 of TIOPA 2010”.

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*Finance Act 2009 (c. 10)*

149 FA 2009 is amended as follows.

150 In Schedule 17 (international movement of capital) in paragraph 12(5) for “Paragraph 3 of Schedule 28AA to ICTA” substitute “Section 150 of TIOPA 2010”.