

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 377

#### TRANSITIONALS AND SAVINGS ETC

#### PART 1

#### GENERAL PROVISIONS

##### *Continuity of the law: general*

- 1 The repeal of provisions and their enactment in a rewritten form by this Act does not affect the continuity of the law.
- 2 Paragraph 1 does not apply to any change made by this Act in the effect of the law.
- 3 Any subordinate legislation or other thing which—
- (a) has been made or done, or has effect as if made or done, under or for the purposes of a superseded enactment so far as it applied for relevant tax purposes, and
  - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,
- has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 (1) Any reference (express or implied) in this Act, another enactment or an instrument or document to a rewritten provision is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to the superseded enactment so far as applying for those relevant tax purposes.
- (2) Any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) things done under or for the purposes of a rewritten provision, or
  - (b) things falling to be done under or for the purposes of a rewritten provision,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to things done or falling to be done under or for the purposes of the superseded enactment so far as applying for those relevant tax purposes.
- 5 (1) Any reference (express or implied) in any enactment, instrument or document to a superseded enactment in its application for relevant tax purposes is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision.
- (2) Any reference (express or implied) in any enactment, instrument or document to—

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- (a) things done under or for the purposes of a superseded enactment in its application for relevant tax purposes, or
- (b) things falling to be done under or for the purposes of a superseded enactment in its application for relevant tax purposes,

is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to things done or falling to be done under or for the purposes of the rewritten provision.

- 6 Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (but are without prejudice to any other provision of that Act).
- 7 Paragraphs 4 and 5 apply only so far as the context permits.

*General saving for old transitional provisions and savings*

- 8 (1) The repeal by this Act of a transitional or saving provision relating to the coming into force of a provision rewritten in this Act does not affect the operation of the transitional or saving provision, so far as it is not specifically rewritten in this Act but remains capable of having effect in relation to the corresponding provision of this Act.
- (2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving so far as it is not specifically rewritten in this Act but remains capable of having effect.

*Interpretation*

- 9 (1) In this Part—
  - “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978),
  - “relevant tax purposes” means, in relation to a superseded enactment, tax purposes for which the enactment has been rewritten by this Act, and
  - “superseded enactment” means an earlier enactment which has been rewritten by this Act for certain tax purposes (whether it applied only for those purposes or for those and other tax purposes).
- (2) References in this Part to the repeal of a provision include references to its revocation and to its express or implied disapplication for particular tax purposes.

**PART 2**

CHANGES IN THE LAW

- 10 (1) This paragraph applies if, in the case of any person—
  - (a) a thing is done or an event occurs before 1 April 2010, and
  - (b) because of a change in the law made by this Act, the corporation tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.

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- (2) This paragraph also applies if, in the case of any person—
  - (a) a thing is done or an event occurs before 6 April 2010, and
  - (b) because of a change in the law made by this Act, the income tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.
- (3) If the person so elects, this Act applies with such modifications as may be necessary to secure that the consequences for that tax for that period are the same as they would have been if the change in the law had not been made.
- (4) In sub-paragraphs (1) and (2) “the relevant period” means—
  - (a) for corporation tax purposes, any accounting period beginning before and ending on or after 1 April 2010, and
  - (b) for income tax purposes, any period of account beginning before and ending on or after 6 April 2010.
- (5) If this paragraph applies in the case of two or more persons in relation to the same thing or event, an election made under this paragraph by any one of those persons is of no effect unless a corresponding election is made by the other or each of the others.
- (6) An election under this paragraph must be made—
  - (a) for corporation tax purposes, not later than 2 years after the end of the accounting period, and
  - (b) for income tax purposes, on or before the first anniversary of the 31 January following the tax year in which the period of account ends.

### PART 3

#### DOUBLE TAXATION RELIEF

##### *Conversion of references to the profits tax in old arrangements*

- 11 (1) Sub-paragraph (2) applies to any arrangements—
  - (a) made in relation to the profits tax (which was abolished by section 46(3) of FA 1965), and
  - (b) specified in an Order in Council made—
    - (i) under section 347 of the Income Tax Act 1952, or
    - (ii) under any earlier enactment corresponding to that section.
- (2) The arrangements have effect—
  - (a) in relation to corporation tax as they are expressed to have effect in relation to the profits tax (and not as they had effect in relation to income tax), and
  - (b) in relation to income to which the charge to corporation tax on income applies, and in relation to gains to which the charge to corporation tax on chargeable gains applies, as they are expressed to have effect in relation to profits chargeable to the profits tax,but with the substitution of accounting periods for chargeable accounting periods.
- (3) Sub-paragraph (2) applies subject to any contrary provision contained in arrangements—
  - (a) made after the passing of FA 1965 (which was passed on 5 August 1965), and

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- (b) specified in an Order in Council made—
- (i) under section 347 of the Income Tax Act 1952, or
  - (ii) under any later enactment corresponding to that section.
- (4) Sub-paragraph (2) applies despite section 18(5) of this Act.

*Effect in relation to capital gains tax of arrangements  
given effect before introduction of that tax*

- 12 Any arrangements specified in an Order in Council made under section 347 of the Income Tax Act 1952 before 5 August 1965, so far as they provide (in whatever terms) for relief from tax chargeable in the United Kingdom on capital gains, have effect in relation to capital gains tax.

*Double taxation arrangements to which section 11(3) applies*

- 13 Section 11(3) does not have effect in relation to arrangements made before 21 March 2000.

*Unilateral relief for underlying tax on dividends*

- 14 (1) Condition C in section 15 (credit for underlying tax on dividend paid to sub-10% associate) is not met if the reduction below the 10% limit took place before 1 April 1972.
- (2) Condition C in section 16 (credit for underlying tax on dividend paid by exchanged associate) is not met if the exchange took place before 1 April 1972.

*Time limits for claims for relief*

- 15 (1) If article 10 of the 2009 Order applies—
- (a) section 19(2)(a) (claims for relief under section 18(2) in relation to income tax or capital gains to be made by fourth anniversary of end of tax year) has effect at times before 1 April 2012 as if for “fourth anniversary of the end of” there were substituted “fifth anniversary of the 31 January next following”,
  - (b) section 19(3)(a) (claims for relief under section 18(2) in relation to corporation tax to be made within 4 years) has effect at times before 1 April 2012 as if for “4” there were substituted “6”,
  - (c) section 77(3)(a) (claims for relief under section 73(1) to be made within 4 years) has effect at times before 1 April 2012 as if for “four” there were substituted “6”, and
  - (d) section 43D(5) of TMA 1970 (which is inserted by Part 1 of Schedule 8 and is about claims for relief under sections 2 to 6 in relation to petroleum revenue tax) has effect at times before 1 April 2012 as if for “4 years after the end of” there were substituted “5 years after the 31 January next following”.
- (2) In sub-paragraph (1) “the 2009 Order” means the Finance Act 2008, Schedule 39 (Appointed Day, Transitional Provision and Savings) Order 2009 (S.I. 2009/403).

*Taking account of underlying tax*

- 16 In relation to distributions paid before 1 July 2009, the amount of any income or gain is not to be increased under section 31(2)(b) by so much of any underlying tax

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within section 31(3)(a) as represents relievably underlying tax, within the meaning of sections 806A to 806J of ICTA, arising in respect of another dividend and treated as underlying tax under those sections.

*Reduction in credit: payment by reference to foreign tax*

17 Section 34 does not have effect in relation to payments made before 22 April 2009.

*Credit against corporation tax on trade income: anti-avoidance*

18 Section 45(2) has effect in relation to a credit for foreign tax only if the credit relates to—

- (a) a payment of foreign tax on or after 22 April 2009, or
- (b) income received on or after that date in respect of which foreign tax has been deducted at source.

*Credit against corporation tax on trade income: banks*

19 Section 49 has effect in relation to a credit for foreign tax only if the credit relates to—

- (a) a payment of foreign tax on or after 22 April 2009, or
- (b) income received on or after that date in respect of which foreign tax has been deducted at source.

*Meaning of “relevant profits” in section 58*

20 In relation to dividends paid before 1 July 2009, section 59 has effect with the following modifications—

- (a) the omission of subsections (2) and (3),
- (b) in subsection (4), the omission of “is not within subsection (3) but”, and
- (c) in subsection (5), the omission of “is not within subsection (3) and”.

*Conditions for relief for underlying tax paid by company lower in dividend-paying chain*

21 Section 65(3)(a) applies with the omission of sub-paragraph (ii) if the dividend paid by the second company to the first company is paid before 22 April 2009.

*Application of sections 109 and 110 in relation to pre-1 October 2007 cases*

22 (1) Section 109 does not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section of that Act came into force before 1 October 2007.

(2) Section 110 does not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale before 1 October 2007.

(3) This Act has effect with the modifications set out in sub-paragraphs (4) and (5), but those modifications—

- (a) do not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section comes into force on or after 1 October 2007, and

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- (b) do not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale on or after 1 October 2007.
- (4) In section 108(3) for “section 109 or 110” substitute “ section 109A ”.
- (5) For sections 109 and 110 substitute—

**“109A Repo or stock-lending cases in which no disregard under section 108**

- (1) Tax attributable to interest accruing to a company under a loan relationship is within this section if—
  - (a) at the time when the interest accrues, the company has ceased to be a party to the relationship as a result of having made the initial transfer under or in accordance with any repo or stock-lending arrangements relating to the relationship, and
  - (b) that time is in the period for which those arrangements have effect.
- (2) In this section “repo or stock-lending arrangements”, in relation to a loan relationship, means (subject to subsection (3)) any arrangements consisting in or involving an agreement or series of agreements under which provision is made—
  - (a) for the transfer from one person (“A”) to another of any rights under the relationship, and
  - (b) for A subsequently to be or become entitled, or required—
    - (i) to have the same or equivalent rights transferred to A, or
    - (ii) to have rights in respect of benefits accruing in respect of the relationship on redemption.
- (3) Arrangements are not repo or stock-lending arrangements for the purposes of this section if they are excluded from section 730A of ICTA by section 730A(8) of ICTA.
- (4) For the purposes of subsection (2) rights under a loan relationship are equivalent to rights under another loan relationship if they entitle the holder of an asset representing the relationship—
  - (a) to the same rights against the same persons as to capital, interest and dividends, and
  - (b) to the same remedies for the enforcement of those rights,
 despite any difference in the total nominal amounts of the assets, in the form in which they are held or in the manner in which they can be transferred.
- (5) In this section—
  - (a) “the initial transfer”, in relation to any repo or stock-lending arrangements, is a reference to the transfer mentioned in subsection (2)(a), and
  - (b) a reference to the period for which repo or stock-lending arrangements have effect is a reference to the period from the making of the initial transfer until whichever is the earlier of the following—

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- (i) the discharge of the obligations arising by virtue of the entitlement or requirement mentioned in subsection (2)(b), or
- (ii) the time when it becomes apparent that the discharge of those obligations will not take place.”

*Income increased by amounts paid by reference to foreign tax for which deduction allowed*

- 23 Section 112(3) does not have effect in relation to payments made before 22 April 2009.

*Offshore fund treated after 1 December 2009 as distributing fund under repealed Chapter 5 of Part 17 of ICTA*

- 24 In paragraph 5(4)(b) of Schedule 27 to ICTA (offshore funds: distributing funds) as it has effect as a result of paragraph 3 of Schedule 1 to the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), the reference to section 811 of ICTA is to be treated as a reference to section 112 of this Act.

*Limited effect of amendments of sections 806A to 806J of ICTA*

- 25 The amendments in sections 806A to 806J of ICTA that are made by Part 1 of Schedule 8 have effect only in relation to distributions paid before 1 July 2009.

*Interpretative rules saved for the purposes of applying sections 806A to 806K of ICTA to distributions paid before 1 July 2009*

- 26 (1) Despite their repeal by this Act, the saved rules have effect for the purposes of applying sections 806A to 806K of ICTA in relation to distributions paid—
- (a) before 1st July 2009, but
  - (b) in accounting periods ending on or after 1st April 2010.
- (2) In this paragraph “the saved rules” means the following provisions of ICTA—
- (a) section 788(4),
  - (b) in section 788(5), the first two sentences,
  - (c) section 790(12), and
  - (d) section 792.
- (3) The saved rules, so far as having effect as mentioned in sub-paragraph (1), have effect with the following modifications.
- (4) Section 788(4) of ICTA has effect as if for “by virtue of this section” there were substituted “ under section 2(1) of TIOPA 2010 ”.
- (5) In section 788(5) of ICTA the first sentence has effect as if for the words before “any amount of tax” there were substituted “ For the purposes of Chapter 2 of this Part in its application to relief under sections 2 and 6 of TIOPA 2010, but subject to section 31(4) of TIOPA 2010, ”.
- (6) Section 790(12) of ICTA has effect as if for the words from the beginning to “unilateral relief,” there were substituted “ In Chapter 2 of this Part in its application to relief under section 18(1)(b) and (2) of TIOPA 2010, ”.

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- (7) Section 792(1) of ICTA has effect as if—
- (a) for “by virtue of section 788” (in both places) there were substituted “ under section 2(1) of TIOPA 2010 ”,
  - (b) for “Chapter 7 of Part 3 of the Finance Act 2004” there were substituted “ Part 3 of TIOPA 2010 ”, and
  - (c) for “section 790” there were substituted “ section 18(1)(b) and (2) of TIOPA 2010 ”.
- (8) Section 792 of ICTA has effect as if after subsection (3) there were (by way of relocation of provisions of section 790(3) of ICTA) inserted—
- “(4) Any expression in this Chapter which imports a reference to relief under arrangements for the time being having effect under section 2(1) of TIOPA 2010 shall be deemed to import also a reference to unilateral relief.”

*Repealed references to Part 18 of ICTA saved for purposes of sections 806A to 806K of ICTA*

- 27 (1) Sub-paragraph (2) has effect for the purposes of applying sections 806A to 806K of ICTA in relation to distributions paid—
- (a) before 1st July 2009, but
  - (b) in accounting periods ending on or after 1st April 2010.
- (2) The reference to Part 2 of this Act contained in each of the provisions mentioned in sub-paragraph (3) is to be treated as including a reference to Part 18 of ICTA.
- (3) The provisions are—
- (a) paragraph 4(2) of Schedule 26 to ICTA (controlled foreign companies: dividends), and
  - (b) sections 140H(3), 140I(3) and 140J(3) of TCGA 1992 (foreign tax not charged as a result of Mergers Directive to be treated as charged).

#### PART 4

##### TRANSFER PRICING

*Transfer pricing: meaning of potential advantage*

- 28 Section 155(6)(b) does not have effect in relation to distributions paid before 1 July 2009.

#### PART 5

##### ADVANCE PRICING AGREEMENTS

- 29 (1) An agreement made before 27 July 1999 cannot have effect as an advance pricing agreement for the purposes of Part 5.
- (2) Section 218(1)(c) (agreement must contain declaration that it is made for the purposes of section 218) applies in relation to an agreement made before 1 April 2010 as if after “this section” there were inserted “ or a declaration that it is made for the purposes of section 85 of FA 1999 ”.



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## PART 6

### TAX AVOIDANCE (ARBITRAGE)

*Arbitrage: contributions to capital of UK resident companies before 16 March 2005*

- 30 Sections 249 to 254 (tax arbitrage: receipt notices) do not apply in relation to any contribution to the capital of a UK resident company made before 16 March 2005.

## PART 7

### TAX TREATMENT OF FINANCING COSTS AND INCOME

*Periods of account in relation to which Part 7 does not have effect*

- 31 (1) Part 7 of this Act does not have effect in relation to periods of account of the worldwide group that begin before 1 January 2010 (but see also sub-paragraphs (2) and (3)).
- (2) Sub-paragraph (3) applies in relation to a period of account of the worldwide group (“the relevant period of account”) if—
- (a) the ultimate parent of the group changes the date to which financial statements of the group are drawn up,
  - (b) as a result of the change, the relevant period of account—
    - (i) begins before 1 January 2010, and
    - (ii) includes a period that would, if the change had not been made, have fallen within a period of account beginning on or after that date, and
  - (c) the main purpose, or one of the main purposes, of the ultimate parent of the group in making the change is to secure that the first period of account in relation to which Part 7 has effect does not include any period falling within the relevant period of account.
- (3) The relevant period of account is treated for the purposes of sub-paragraph (1) as not beginning before 1 January 2010.

*Exclusion of certain debits and credits*

- 32 (1) An amount that would, apart from this paragraph, meet condition A, B or C in section 313 (definition of “financing expense amount”) does not meet that condition if it is a debit that, but for a relevant enactment, would be brought into account for corporation tax purposes in an accounting period beginning before 1 January 2010.
- (2) For this purpose the following are “relevant enactments”—
- (a) section 373 of CTA 2009 (late interest treated as not accruing until paid in some cases),
  - (b) section 407 of that Act (postponement until redemption of debits for connected companies' deeply discounted securities),
  - (c) section 409 of that Act (postponement until redemption of debits for close companies' deeply discounted securities), and

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- (d) regulation 3A of the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271) (prescribed debits and credits brought into account over prescribed period).
- (3) An amount that would, apart from this paragraph, meet condition A, B <sup>F1</sup>, C or D] in section 314 (definition of “financing income amount”) does not meet that condition if it is a credit that, but for the regulation mentioned in sub-paragraph (2)(d), would be brought into account for corporation tax purposes in an accounting period beginning before 1 January 2010.

#### Textual Amendments

- F1** Words in Sch. 9 para. 32(3) substituted (retrospectively) by [Finance \(No. 3\) Act 2010 \(c. 33\), Sch. 5 paras. 34, 36\(1\)](#)

## PART 8

### OFFSHORE FUNDS

#### *Restriction on regulation-making power under section 354*

- 33 (1) Regulations under section 354 may not make provision about the treatment of a person in respect of any rights in an affected offshore fund that are acquired by the person—
- (a) before 1 December 2009, or
  - (b) in accordance with sub-paragraph (3).
- (2) Sub-paragraph (1) is subject to paragraph 34.
- (3) Rights are acquired by a person in accordance with this sub-paragraph if—
- (a) the rights are acquired by the person in accordance with a legally enforceable agreement in writing that was entered into by the person before 30 April 2009,
  - (b) in the case of a conditional agreement, the conditions are satisfied before that date, and
  - (c) the agreement is not varied on or after that date.
- (4) For the purposes of this paragraph rights of a person in a fund are rights in an affected offshore fund if—
- (a) the fund is an offshore fund within the meaning of section 354, but
  - (b) on the date on which the person acquired them, the fund was not an offshore fund within the meaning of Chapter 5 of Part 17 of ICTA.
- 34 Paragraph 33 does not prevent regulations under section 354 making—
- (a) provision for a person to elect to be treated in accordance with the regulations in respect of rights referred to in that paragraph, or
  - (b) provision that does not increase the person's liability to tax in respect of such rights.

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## PART 9

### OIL ACTIVITIES

#### *Regional development grants*

- 35 In relation to periods of account (within the meaning given by section 6 of CAA 2001) beginning before 6 April 2011—
- (a) section 225K(3)(b) of ITTOIA 2005 has effect as if—
    - (i) “ , 3 ” were inserted after “Part 2”, and
    - (ii) “ , industrial buildings ” were inserted after “machinery”, and
  - (b) section 225L(3) and (7) of that Act have effect as if “ , 3 ” were inserted after “Part 2”.

#### *Reimbursement by defaulter in respect of certain abandonment expenditure*

- 36 (1) If article 10 of the 2009 Order applies, section 225T(5) of ITTOIA 2005 has effect at times before 1 April 2012 as if for “4” there were substituted “ 6 ”.
- (2) In sub-paragraph (1) “the 2009 Order” means the Finance Act 2008, Schedule 39 (Appointed Day, Transitional Provision and Savings) Order 2009 (S.I. 2009/403).

## PART 10

### ALTERNATIVE FINANCE ARRANGEMENTS

#### *Alternative finance arrangements entered into before certain dates etc*

- 37 (1) The alternative finance provisions do not apply to purchase and resale arrangements entered into before 6 April 2005 or diminishing shared ownership arrangements entered into before the relevant date.
- (2) If deposit arrangements, profit share agency arrangements or investment bond arrangements were entered into before the relevant date, the alternative finance provisions only apply if alternative finance return is payable under the arrangements on or after the relevant date and then—
- (a) apply for the purposes of income tax in relation to payments of alternative finance return under the arrangements to a person other than a company on or after the relevant date (so far as relevant to the tax year 2010-11 and subsequent tax years), and
  - (b) if a company is a party to the arrangements, apply in relation to the company in respect of the arrangements with effect from the relevant date (so far as relevant to those tax years or, as the case may be, any accounting period ending on or after 1 April 2010).
- (3) Sub-paragraph (2) is subject to sub-paragraph (4).
- (4) For the purposes of income tax and capital gains tax in relation to the disposal after 6 April 2007 of investment bond arrangements (whenever entered into), the relevant provisions are treated as always having had effect.

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- (5) An order made under section 1005 of ITA 2007 (recognised stock exchanges: designation) that includes such provision as is mentioned in section 1005(2A) may be expressed as respects that provision—
- (a) to have had effect as from 1 April 2007 for the purposes of arrangements entered into on or after that date, and
  - (b) for the purposes mentioned in sub-paragraph (4) as always having had effect.
- (6) In this paragraph—
- “alternative finance provisions” means—
- (a) section 367A of ICTA 1988,
  - (b) Chapter 4 of Part 4 of TCGA 1992, and
  - (c) Part 10A and section 1005(2A) of ITA 2007,
- “alternative finance return” has the same meaning as in Chapter 4 of Part 4 of TCGA 1992 (see section 151S of that Act) or Chapter 10A of ITA 2007 (see section 564L of that Act),
- “deposit arrangements”, “diminishing shared ownership arrangements”, “investment bond arrangements”, “profit share agency arrangements” and “purchase and resale arrangements” have the same meaning as in Chapter 4 of Part 4 of TCGA 1992 (see section 151H(3) of that Act) or Chapter 10A of ITA 2007 (see section 564A(3) of that Act),
- “the relevant date” means—
- (a) in the case of deposit arrangements, 6 April 2005,
  - (b) in the case of diminishing shared ownership arrangements or profit share agency arrangements, for income tax purposes 6 April 2006, and
  - (c) in the case of investment bond arrangements, for corporation tax purposes 1 April 2007 and for income tax and capital gains tax purposes 6 April 2007, and
- “the relevant provisions” means—
- (a) for income tax purposes, sections 564G, 564L(3) to (5), and 564S to 564U of ITA 2007 and section 1005(2A) of that Act so far as it relates to section 564G of that Act, and
  - (b) for capital gains tax purposes, sections 151N, 151S(3) and (4) and 151T to 151W of TCGA 1992 and section 1005(2A) of ITA 2007 so far as it relates to section 151N of TCGA 1992.

*Alternative finance arrangements not offshore funds*

- 38 So far as Chapter 5 of Part 17 of ICTA continues to apply for any purpose, references to section 354 of this Act in section 151W(b) of TCGA 1992, section 564U(b) of ITA 2007 and section 519(4)(b) of CTA 2009 are to be read for that purpose as references to that Chapter.

*Alternative finance arrangements entered into before 15 October 2009*

- 39 (1) In relation to arrangements entered into before 15 October 2009, Part 10A of ITA 2007 (alternative finance arrangements) applies with the following modifications.
- (2) In section 564B(1) (meaning of “financial institution”)—

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- (a) in paragraph (e) for “, diminishing shared ownership arrangements or profit share agency arrangements” substitute “ or diminishing shared ownership arrangements ”,
  - (b) at the end of that paragraph insert “ or ”,
  - (c) omit paragraph (g) and “or” at the end of that paragraph, and
  - (d) omit paragraph (h).
- (3) In section 564F(1) (profit share agency arrangements)—
- (a) in paragraph (a) for “an agent” substitute “ a financial institution as agent ”, and
  - (b) omit paragraph (b).
- 40 (1) In relation to arrangements entered into before 15 October 2009, Chapter 4 of Part 4 of TCGA 1992 (alternative finance arrangements) applies with the following modifications.
- (2) In section 151I(1) (meaning of “financial institution”)—
- (a) in paragraph (e) for “, diminishing shared ownership arrangements or profit share agency arrangements” substitute “ or diminishing shared ownership arrangements ”,
  - (b) at the end of that paragraph insert “ or ”,
  - (c) omit paragraph (g) and “or” at the end of that paragraph, and
  - (d) omit paragraph (h).
- (3) In section 151M(1) (profit share agency arrangements)—
- (a) in paragraph (a) for “an agent” substitute “ a financial institution as agent ”, and
  - (b) omit paragraph (b).

## PART 11

### SALE AND LEASE-BACK ETC

*New lease of land after assignment or surrender: right to new lease existed pre-22 June 1971*

- 41 (1) Sub-paragraphs (2) and (3) apply if—
- (a) each of conditions A to D in section 681BA of ITA 2007, or each of conditions A to D in section 850 of CTA 2010, is met (new lease granted to, or to person linked with, lessee under assigned or surrendered lease),
  - (b) condition E in that section is not met (condition that no right to new lease existed before 22 June 1971), and
  - (c) the rent under the new lease is payable by a person within the charge to income tax.
- (2) No part of the rent paid under the new lease is to be treated as a payment of capital.
- (3) The provisions of ITTOIA 2005 providing for deductions or allowances by way of income tax relief in respect of payments of rent apply in relation to the rent under the new lease.
- (4) Section 681BM of ITA 2007 (meaning of “rent” etc) applies for the purposes of this paragraph.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 9. (See end of Document for details)*

## PART 12

### FACTORING OF INCOME ETC

#### *Application of Chapter 5B of Part 13 of ITA 2007 (finance arrangements) to pre-6 June 2006 arrangements*

- 42 Chapter 5B of Part 13 of ITA 2007 (which is inserted by Schedule 5 to this Act) has no effect in relation to an arrangement made before 6 June 2006 so far as section 43B or 43D of ICTA applies to the arrangement (sections 43B and 43D of ICTA contain provision about rent factoring: their repeal by paragraph 1 of Schedule 6 to FA 2006 does not apply in relation to pre-6 June 2006 transactions).

#### *Application of section 809BZN of ITA 2007 (finance arrangements: exceptions)*

- 43 (1) In relation to a transfer before 22 April 2009, section 809BZN of ITA 2007 (which is inserted by Schedule 5 to this Act) has effect as if after subsection (1) there were inserted—
- “(1A) For the purposes of subsection (1) the effect of section 785A of ICTA (rent factoring of leases of plant or machinery) is to be disregarded.”
- (2) If the arrangement mentioned in section 809BZN of ITA 2007 came into force before 1 October 2007, subsection (5)(b) of that section applies as if for “Schedule 13 to FA 2007 or Chapter 10 of Part 6 of CTA 2009” there were substituted “ paragraph 15 of Schedule 9 to FA 1996 ”.
- (3) Paragraph 14(6) of Schedule 13 to FA 2007 (when an arrangement is in force) applies for the purposes of sub-paragraph (2) of this paragraph as for those of that Schedule.
- (4) In the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is before 9 October 2007, section 809BZN(8) of ITA 2007 has effect as if at the end there were inserted “, but in applying that section it is to be assumed that the words “and which are not a long funding lease in the case of the lessor” were omitted from section 219(1)(b) of that Act (meaning of “finance lease”)”.
- (5) In relation to transactions referred to in section 228A(2)(a) of CAA 2001 (as substituted by paragraph 12 of Schedule 20 to FA 2008) and entered into before 9 October 2007, section 809BZN(9) of ITA 2007 has effect as if at the end there were inserted “ with the modifications contained in section 228F of that Act ”.

#### *Application of section 809CZC of ITA 2007 (income-transfer under loan or credit transaction)*

- 44 In relation to a transfer before 22 April 2009, section 809CZC(4) of ITA 2007 (which is inserted by Schedule 5 to this Act) has effect as if—
- (a) after “the person” there were inserted “ assigns, ” and
- (b) after “it” there were inserted “ (without a sale or transfer of the property) ”.

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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 9. (See end of Document for details)*

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## PART 13

### MISCELLANEOUS RELOCATIONS

#### *Application of sections 925A to 925F of ITA 2007 (repos)*

- 45 (1) Sections 925A to 925F and 926(1A) of ITA 2007 (which are inserted by Part 19 of Schedule 7 to this Act) do not have effect in relation to an arrangement that comes into force before 1 October 2007.
- (2) Paragraph 14(6) of Schedule 13 to FA 2007 (when an arrangement is in force) applies for the purposes of sub-paragraph (1) of this paragraph as for those of that Schedule.

**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 9.