
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: CTA 2009. (See end of Document for details)

SCHEDULES

SCHEDULE 20

CONTROLLED FOREIGN COMPANIES AND FOREIGN PERMANENT ESTABLISHMENTS

PART 3

OTHER AMENDMENTS

CTA 2009

- 24 CTA 2009 is amended as follows.
- 25 In section A1 (overview of the Corporation Tax Acts) in subsection (2)—
- (a) omit paragraph (b), and
 - (b) before paragraph (k) (as inserted by paragraph 136 of Schedule 16 to this Act) insert—
 - “(ja) Part 9A of that Act (controlled foreign companies).”.
- 26 In section 486D (disguised interest: arrangement with no tax avoidance purpose) omit subsections (5) and (6).
- 27 (1) Section 486E (disguised interest: excluded shares) is amended as follows.
- (2) In subsection (7)(c) for “relevant controlled foreign company” substitute “ CFC within the meaning of Part 9A of TIOPA 2010 ”.
- (3) For subsections (9) and (10) substitute—
- “(9) For the purposes of subsection (7)(b) a company (“C”) is a relevant joint venture company if—
 - (a) the holding company is one of two persons who, taken together, control C,
 - (b) the holding company has interests, rights and powers representing at least 40% of the holdings, rights and powers in respect of which the holding company and the second person fall to be taken as controlling C, and
 - (c) the second person has interests, rights and powers representing—
 - (i) at least 40%, but
 - (ii) no more than 55%,of the holdings, rights and powers in respect of which the holding company and the second person fall to be taken as controlling C.
- (10) For the purposes of subsection (9)—
- (a) section 371RB of TIOPA 2010 (read with section 371RD of that Act) applies for the purpose of determining if two persons, taken together, control a company, and

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- (b) section 371RD of that Act applies for the purpose of determining if the requirements of paragraphs (b) and (c) are met in any case.”
- (4) Omit subsection (11).
- 28 In section 521E (unallowable purpose) omit subsections (5) and (6).
- 29 Omit section 870 (intangible fixed assets: assumptions to be made in the case of a controlled foreign company) and the cross-heading before it.
- 30 In Chapter 2 of Part 9A (exemption of distributions received by small companies) after section 931C insert—

“931CA Further exemption where distribution received from CFC

- (1) Subsection (2) applies if—
 - (a) under Part 9A of TIOPA 2010 (controlled foreign companies), the CFC charge is charged in relation to a CFC's accounting period,
 - (b) a dividend or other distribution of the CFC is received in an accounting period (for corporation tax purposes) of the recipient in which the recipient is a small company,
 - (c) the whole or a part of the distribution is paid in respect of profits which are chargeable profits of the CFC for its accounting period mentioned in paragraph (a), and
 - (d) the requirements of section 931B(b) to (d) are met in relation to the distribution.
- (2) The distribution is exempt.
- (3) If part of the distribution is not paid in respect of chargeable profits—
 - (a) for the purposes of this Part and Part 2 of TIOPA 2010 that part of the distribution is treated as a separate distribution, and
 - (b) subsection (2) does not apply to that separate distribution.
- (4) In this section references to chargeable profits of the CFC are limited to chargeable profits so far as apportioned to chargeable companies at step 3 in section 371BC(1) of TIOPA 2010.”
- 31 In section 931E (distributions from controlled companies) for subsections (3) to (5) substitute—

“(3) Condition B is that—

 - (a) the recipient is one of two persons who, taken together, control the payer,
 - (b) the recipient has interests, rights and powers representing at least 40% of the holdings, rights and powers in respect of which the recipient and the second person fall to be taken as controlling the payer, and
 - (c) the second person has interests, rights and powers representing—
 - (i) at least 40%, but
 - (ii) no more than 55%,
 of the holdings, rights and powers in respect of which the recipient and the second person fall to be taken as controlling the payer.

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- (4) Section 371RB of TIOPA 2010 (read with section 371RD of that Act) applies for the purposes of this section.
- (5) Section 371RD of TIOPA 2010 applies for the purpose of determining if the requirements of subsection (3)(b) and (c) are met in any case.
- (6) In subsections (4) and (5) references to section 371RD of TIOPA 2010 are to that section omitting subsection (3)(c) and (d).”

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