
*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2012, PART 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 20

CONTROLLED FOREIGN COMPANIES AND FOREIGN PERMANENT ESTABLISHMENTS

PART 3

OTHER AMENDMENTS

TMA 1970

- 10 TMA 1970 is amended as follows.
- 11 In section 55 (recovery of tax not postponed) in subsection (1) omit paragraph (d).
- 12 In section 59E (provision about when corporation tax due and payable) in subsection (11) for paragraph (b) substitute—
- “(b) to any sum charged on a company at step 5 in section 371BC(1) of TIOPA 2010 (controlled foreign companies) as if it were an amount of corporation tax;”.
- 13 In section 59F (arrangements for paying tax on behalf of group members) in subsection (6) for paragraph (b) and the “and” after it substitute—
- “(b) a sum charged on a company at step 5 in section 371BC(1) of TIOPA 2010 (controlled foreign companies) as if it were an amount of corporation tax, and”.

ICTA

- 14 In ICTA omit Chapter 4 of Part 17 (controlled foreign companies).

FA 1998

- 15 FA 1998 is amended as follows.
- 16 In section 32 (unrelieved surplus advance corporation tax) for subsection (5) substitute—
- “(5) The provision which may be made by regulations under this section includes provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to a sum charged at step 5 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 (controlled foreign companies) as if it were an amount of corporation tax for an accounting period.”
- 17 (1) Schedule 18 (company tax returns) is amended as follows.

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- (2) In paragraph 1 for “section 747(4)(a) of the Taxes Act 1988 (tax on profits of controlled foreign company)” substitute “ step 5 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 (controlled foreign companies) ”.
- (3) In paragraph 8(1), in the third step, for paragraph 2 substitute—
- “(2) Any sum charged at step 5 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 (controlled foreign companies).”
- FA 2000*
- 18 Schedule 22 to FA 2000 (tonnage tax) is amended as follows.
- 19 (1) Paragraph 54 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “under section 747 of the Taxes Act 1988” substitute “ at step 5 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 (“TIOPA 2010”) ”,
- (b) for “controlled foreign company” (in both places) substitute “ CFC ”, and
- (c) at the end insert “ ; and, accordingly, the tonnage tax company is not to be a chargeable company for the purposes of Part 9A of TIOPA 2010 in relation to the CFC's accounting period in question. ”
- (3) For sub-paragraphs (2) to (5) substitute—
- “(2) In relation to a CFC which—
- (a) is a member of a tonnage tax group, and
- (b) is a tonnage tax company by virtue of the group's tonnage tax election, or would be if it were within the charge to corporation tax, the corporation tax assumptions within the meaning of Part 9A of TIOPA 2010 are to be taken to include the following assumption.
- (3) The CFC is to be assumed to be a single company that is a tonnage tax company.
- (4) Nothing in section 371SL(1) of TIOPA 2010 affects sub-paragraphs (2) and (3) above.
- (5) In this paragraph “CFC” has the same meaning as in Part 9A of TIOPA 2010.”
- 20 (1) Paragraph 57 is amended as follows.
- (2) In sub-paragraph (1)(b) for the words from “controlled” to the end substitute “ CFC apportioned to the company at step 3 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010. ”
- (3) For sub-paragraph (4) substitute—
- “(4) For the purposes of sub-paragraph (1)(b)—
- (a) “tonnage profits” means so much of the CFC's chargeable profits for its accounting period in question as, applying the corporation tax assumptions, are calculated in accordance with paragraph 4 of this Schedule; and

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(b) so much of those chargeable profits as are tonnage profits shall be treated as apportioned at step 3 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 in the same proportions as those profits (taken generally) are apportioned.

(4A) In sub-paragraphs (1)(b) and (4) terms defined in Part 9A of the Taxation (International and Other Provisions) Act 2010 have the same meaning as in that Part.”

FA 2002

21 In FA 2002 omit section 90 (controlled foreign companies and treaty non-resident companies).

ITA 2007

22 (1) Section 725 of ITA 2007 (transfer of assets abroad: reduction in amount charged where controlled foreign company involved) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section 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, and
- (b) apart from this section, the amount of income treated as arising to an individual under section 721 for a tax year would be or include a sum forming part of the CFC's chargeable profits for that accounting period.”

(3) In subsection (2)—

- (a) for “controlled foreign company's” (in both places) substitute “CFC's”, and
- (b) in the definition of “CA” for “chargeable amount” substitute “ CFC's chargeable profits for that accounting period so far as apportioned to chargeable companies at step 3 in section 371BC(1) of TIOPA 2010 ”.

(4) For subsection (3) substitute—

“(3) Terms used in this section which are defined in Part 9A of TIOPA 2010 have the same meaning as in that Part.”

FA 2007

23 (1) Paragraph 3 of Schedule 11 to FA 2007 (technical provision made by insurers) is amended as follows.

(2) In sub-paragraph (1) for paragraph (b) and the “or” after it substitute—

“(b) a CFC (within the meaning of Part 9A of the Taxation (International and Other Provisions) Act 2010) which carries on general business, or”.

(3) In sub-paragraph (2) for paragraph (b) substitute—

“(b) a company which for the purposes of Part 9A of the Taxation (International and Other Provisions) Act 2010 has an interest in a

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CFC (within the meaning of that Part) which carries on general business.”

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
 - (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—

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“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.
- (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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FA 2009

32 Part 2 of Schedule 16 to FA 2009 (amendment of exempt activities exemption) is amended as follows.

33 In paragraph 12—

- (a) in sub-paragraph (2) omit paragraph (b) and the “and” before it, and
- (b) after sub-paragraph (2) insert—

“(3) The amendments made by this Part have no effect in relation to a qualifying holding company.”

34 Omit paragraph 15.

35 In paragraph 16—

- (a) in paragraph (a) after “2009” insert “ but before 1 January 2013 ”, and
- (b) omit paragraph (b) and the “and” before it.

36 In the cross-heading before paragraph 17 for “*during three years before 1 July 2012*” substitute “*from 1 July 2009*”.

CTA 2010

37 CTA 2010 is amended as follows.

^{F1}38

Textual Amendments

F1 Sch. 20 para. 38 omitted (with effect in accordance with s. 36(3)-(5) of the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), s. 36(2)(b)

39 (1) Section 938M (group mismatch schemes: controlled foreign companies) is amended as follows.

(2) In subsection (1) for the words from the beginning to “company” substitute “ Section 371SL(1) of TIOPA 2010 (assumption that a CFC ”.

(3) In subsection (2)—

- (a) for “chargeable profits” substitute “ assumed taxable total profits ”, and
- (b) for “Chapter 4 of Part 17 of ICTA” substitute “ Part 9A of TIOPA 2010 ”.

40 In section 1139 (definition of “tax advantage”) in subsection (2) —

- (a) omit the “or” after paragraph (d), and
- (b) after paragraph (d) insert—
 - “(da) the avoidance or reduction of a charge or assessment to a charge under Part 9A of TIOPA 2010 (controlled foreign companies), or”.

TIOPA 2010

41 TIOPA 2010 is amended as follows.

42 (1) Section 179 (compensating payment if advantaged person is controlled foreign company) is amended as follows.

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(2) For subsection (1) substitute—

“(1) Subsection (2) applies if—

- (a) the actual provision is provision made or imposed in relation to a CFC,
- (b) for the purpose of determining the CFC's assumed taxable total profits for an accounting period, the CFC's profits and losses are to be calculated in accordance with section 147(3) or (5) in the case of that provision,
- (c) in relation to the accounting period, sums are charged on chargeable companies at step 5 in section 371BC(1), and
- (d) in consequence of the application of section 147(3) or (5) as mentioned in paragraph (b), the total of those sums is more than it would otherwise be.”

(3) In subsection (2) for “controlled foreign company” substitute “ CFC ”.

(4) In subsection (3)—

- (a) in paragraph (a) for “companies mentioned in subsection (1)(c)” substitute “ chargeable companies on which a sum is charged ”, and
- (b) in paragraph (b) for “tax chargeable under section 747(4) of ICTA” substitute “ the CFC charge ”.

(5) For subsection (4) substitute—

“(4) In this section terms which are defined in Part 9A have the same meaning as they have in that Part.

(5) For the purposes of subsections (1)(c) and (d) and (3)(a) assume that any claims made under Chapter 9 of Part 9A for the accounting period were not made.”

F²43

Textual Amendments

F2 Sch. 20 paras. 43-45 repealed (with effect in accordance with Sch. 5 para. 26(1) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 11(2)(c)(iii)**

F²44

Textual Amendments

F2 Sch. 20 paras. 43-45 repealed (with effect in accordance with Sch. 5 para. 26(1) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 11(2)(c)(iii)**

F²45

Textual Amendments

F2 Sch. 20 paras. 43-45 repealed (with effect in accordance with Sch. 5 para. 26(1) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 11(2)(c)(iii)**

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Insurance Companies (Reserve) (Tax) Regulations 1996 (S.I. 1996/2991)

- 46 The Insurance Companies (Reserve) (Tax) Regulations 1996 (S.I. 1996/2991) are amended as follows.
- 47 (1) Regulation 8A is amended as follows.
- (2) In paragraph (1)—
- (a) in sub-paragraph (a) for “controlled foreign company” substitute “ CFC (within the meaning of Part 9A of the Taxation (International and Other Provisions) Act 2010) ”, and
 - (b) in sub-paragraph (b) for “controlled foreign company” substitute “ CFC ”.
- (3) In paragraph (4)—
- (a) for “controlled foreign company's” substitute “CFC's”, and
 - (b) for “the company” substitute “ the CFC ”.
- 48 In regulation 8B for “controlled foreign company” substitute “ CFC (within the meaning of Part 9A of the Taxation (International and Other Provisions) Act 2010) ”.

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