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for the Finance Act 2013, PART 2. (See end of Document for details)*

SCHEDULES

SCHEDULE 4

CASH BASIS FOR SMALL BUSINESSES

PART 2

CONSEQUENTIAL AMENDMENTS

TMA 1970

- 44 In section 42 of TMA 1970 (procedure for making claims etc), in subsection (7) (e), after “sections” insert “ 25A, ”.

TCGA 1992

- 45 After section 47 of TCGA 1992 insert—

“Cash basis accounting

47A Exemption for disposals by persons using cash basis

- (1) No chargeable gain shall accrue on the disposal of, or of an interest in, an asset if conditions A to D are met in relation to the asset.
- (2) Condition A is that the asset is—
 - (a) tangible movable property, and
 - (b) a wasting asset.
- (3) Condition B is that, at any time during the period of ownership of the person making the disposal, the asset has been used for the purposes of a trade, profession or vocation carried on by the person.
- (4) Condition C is that an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect in relation to the trade, profession or vocation at the time of the disposal.
- (5) Condition D is that—
 - (a) any expenditure attributable to the asset or interest under paragraph (a) or (b) of section 38(1) has been brought into account in calculating the profits of the trade, profession or vocation on the cash basis, or
 - (b) any of that expenditure would have been so brought into account if an election under section 25A of ITTOIA 2005 had had effect in relation to the trade, profession or vocation at the time the expenditure was paid.

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- (6) Subsection (7) applies in the case of the disposal of, or of an interest in, an asset which, in the period of ownership of the person making the disposal—
 - (a) has been used partly for the purposes of the trade, profession or vocation and partly for other purposes, or
 - (b) has been used for the purposes of the trade, profession or vocation for part of that period.
- (7) In such a case—
 - (a) the consideration for the disposal, and any expenditure attributable to the asset or interest by virtue of section 38(1)(a) and (b), shall be apportioned by reference to the extent to which that expenditure was, or (as the case may be) would have been, brought into account as mentioned in subsection (5) above,
 - (b) the computation of the gain shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
 - (c) subsection (1) above shall apply to any gain accruing by reference to the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation.

47B Disposals made by persons after leaving cash basis

- (1) This section applies where—
 - (a) a person disposes of, or of an interest in, an asset that has been used for the purposes of a trade, profession or vocation carried on by the person, and
 - (b) conditions A and B are met in relation to the trade, profession or vocation.
- (2) Condition A is that—
 - (a) any expenditure attributable to the asset or interest under paragraph (a) or (b) of section 38(1) was incurred at a time when an election under section 25A of ITTOIA 2005 (cash basis for small businesses) had effect in relation to the trade, profession or vocation, and
 - (b) that expenditure (“the relevant expenditure”) has been brought into account in calculating the profits of the trade, profession or vocation on the cash basis.
- (3) Condition B is that no such election has effect in relation to the trade, profession or vocation at the time of the disposal.
- (4) Section 39 (exclusion of expenditure by reference to tax on income) does not apply in relation to the relevant expenditure.
- (5) Section 41 (restriction of losses by reference to capital allowances and renewals allowances) has effect as if—
 - (a) the election mentioned in subsection (2)(a) above had not had effect at the time the relevant expenditure was incurred, and
 - (b) the reference in subsection (7) to qualifying expenditure included a reference to expenditure which, if that election had not had effect at that time, would have been qualifying expenditure.

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- (6) Section 45 (exemption for certain wasting assets) and section 47 (wasting assets qualifying for capital allowances) have effect as if the election mentioned in subsection (2)(a) above had not had effect at the time the relevant expenditure was incurred.

Accordingly, any reference in those sections to expenditure qualifying for capital allowances is to be read as a reference to expenditure that would, in the absence of the election, have qualified for such allowances.”

CAA 2001

- 46 In section 1 of CAA 2001 (capital allowances), after subsection (3) insert—

“(4) But a person is not entitled to any allowance or liable to any charge under this Act in calculating the profits of a trade, profession or vocation of the person in relation to which an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect, other than an allowance in respect of expenditure incurred on the provision of a car (or a charge in connection with such an allowance).

(5) In subsection (4) “car” has the same meaning as in Part 2 (see section 268A).”

- 47 In section 59 of CAA 2001 (unrelieved qualifying expenditure), after subsection (3) insert—

“(4) If a person carrying on a trade, profession or vocation enters the cash basis for a tax year, no amount may be carried forward as unrelieved qualifying expenditure from the chargeable period ending with the basis period for the previous tax year.

(5) But subsection (4) does not apply to unrelieved qualifying expenditure incurred on the provision of a car.

(6) Where a person has unrelieved qualifying expenditure to carry forward from a chargeable period that is not expenditure allocated to a single asset pool, the amount of unrelieved qualifying expenditure incurred on the provision of a car is to be determined on such basis as is just and reasonable in all the circumstances.

(7) Section 240B of ITTOIA 2005 (meaning of “entering the cash basis”) applies for the purposes of this section as it applies for the purposes of Chapter 17A of Part 2 of that Act.”

- 48 In Chapter 5 of Part 2 of CAA 2001 (plant and machinery allowances and charges), after section 66 insert—

“Application of Chapter to person leaving cash basis

66A Persons leaving cash basis

- (1) This section applies if—

- (a) a person carrying on a trade, profession or vocation leaves the cash basis in a chargeable period, and
- (b) the person has at any time incurred expenditure which, if an election under section 25A of ITTOIA 2005 (cash basis for small

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businesses) had not had effect at that time, would have been qualifying expenditure.

- (2) In this section—
- (a) the “relieved portion” of the expenditure is the amount of that expenditure for which—
 - (i) a deduction was allowed in calculating the profits of the trade, profession or vocation, or
 - (ii) a deduction would have been so allowed if the expenditure had been incurred wholly and exclusively for the purposes of the trade, profession or vocation;
 - (b) the “unrelieved portion” of the expenditure is any remaining amount of the expenditure.
- (3) For the purposes of determining any entitlement of the person to an annual investment allowance or a first-year allowance, the person is to be treated as incurring the unrelieved portion of the expenditure in the chargeable period.
- (4) For the purposes of determining the person's available qualifying expenditure in a pool for the chargeable period (see section 58)—
- (a) the whole of the expenditure must be allocated to the appropriate pool (or pools) in that chargeable period, and
 - (b) the available qualifying expenditure in a pool to which the expenditure (or some of it) is allocated is reduced by the relieved portion of that expenditure.
- (5) For the purposes of determining any disposal receipts (see section 60), the expenditure incurred by the person is to be regarded as qualifying expenditure.
- (6) For the purposes of this section a person carrying on a trade, profession or vocation leaves the cash basis in a chargeable period if—
- (a) immediately before the beginning of the chargeable period an election under section 25A had effect in relation to the trade, profession or vocation, and
 - (b) such an election does not have effect in relation to the trade, profession or vocation for the chargeable period.”

ITTOIA 2005

- 49 In section 31 of ITTOIA 2005 (relationship between rules prohibiting and allowing deductions), in subsection (2), omit the “or” at the end of paragraph (b) and after paragraph (c) insert “or
(d) Chapter 17A,”.
- 50 In section 56 of ITTOIA 2005 (rules allowing deductions: professions and vocations), after “marks” insert “ and section 97A (cash basis: value of trading stock on cessation of trade) ”.
- 51 Omit section 160 of ITTOIA 2005 (cash basis of calculation for barristers and advocates in early years of practice).
- 52 (1) Chapter 17 of Part 2 of ITTOIA 2005 (adjustment income) is amended as follows.
(2) In section 229(2)(a), for “sections 237 to 239” substitute “ sections 237 to 239B ”.

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- (3) Omit sections 238 and 239 (spreading of adjustment income: barristers and advocates).
- 53 In Part 2 of Schedule 4 to ITTOIA 2005 (index of defined expressions), at the appropriate place insert—

“the cash basis (in Part 2) section 25A”;
“entering the cash basis (in Chapter 17A section 240B”
of Part 2)

ITA 2007

- 54 (1) In Part 4 of ITA 2007 (loss relief), Chapter 2 (trade losses) is amended as follows.
- (2) In section 64 (deduction of losses from general income), in subsection (8), after paragraph (ba) insert—
- “(bb) section 74E (restriction on the relief and early trade losses relief where cash basis applies),”.
- (3) In section 72 (relief for individuals for losses in first 4 years of trade), in subsection (5), after paragraph (ba) insert—
- “(bb) section 74E (restriction on the relief and trade loss relief where cash basis applies),”.
- (4) After section 74D insert—

“Restriction on sideways relief and capital gains relief where cash basis applies

74E No relief where cash basis used to calculate losses

- (1) This section applies if—
- (a) a person makes a loss in any trade in a tax year, and
- (b) an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect in relation to the trade for that tax year.
- (2) No sideways relief or capital gains relief may be given to the person for the loss.
- (3) For the purposes of this section—
- (a) capital gains relief is, in relation to a loss, the treatment of a loss as an allowable loss by virtue of section 261B of TCGA 1992 (use of trading loss as a CGT loss), and
- (b) capital gains relief is given for a loss when it is so treated.”
- 55 (1) Chapter 1 of Part 8 of ITA 2007 (relief for interest payments) is amended as follows.
- (2) In section 383(5), after paragraph (a) insert—
- “(aa) section 384B (restriction on relief where cash basis applies),”.
- (3) After section 384A insert—

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“384B Restriction on relief where cash basis applies

- (1) Relief is not to be given under this Chapter for a tax year for interest paid by a person on a relevant loan if the partnership to which the loan relates has made an election under section 25A of ITTOIA 2005 (cash basis for small businesses) for the tax year.
- (2) A loan is a “relevant loan” if—
 - (a) it is a loan to which section 388 applies (loan to buy plant or machinery for partnership use), or
 - (b) it is a loan to which section 398 applies (loan to invest in partnership) and which is not used for purchasing a share in a partnership.”

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