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# SCHEDULES

## SCHEDULE 5

Section 20

### CORPORATE INTEREST RESTRICTION

#### PART 1

##### NEW PART 10 OF TIOPA 2010

1 In TIOPA 2010, after Part 9A insert—

#### “PART 10

##### CORPORATE INTEREST RESTRICTION

#### CHAPTER 1

##### INTRODUCTION

#### Overview

372 (1) This Part contains provision that—

- (a) disallows certain amounts that a company would (apart from this Part) be entitled to bring into account for the purposes of corporation tax in respect of interest and other financing costs, and
  - (b) allows certain amounts disallowed under this Part in previous accounting periods to be brought into account in later accounting periods.
- (2) In this Chapter—
- (a) section 373 defines some key concepts including, in particular, “the total disallowed amount” in relation to a period of account of a worldwide group, and
  - (b) section 374 provides for Schedule 7A to have effect.
- (3) Chapter 2 provides for—
- (a) the disallowance in certain circumstances of tax-interest expense amounts of companies that are members of a worldwide group, and
  - (b) the carrying forward of disallowed tax-interest expense amounts, and for bringing those amounts into account in certain circumstances in relation to a later period of account of the worldwide group.
- (4) Chapter 3—

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- (a) defines “a tax-interest expense amount” and “a tax-interest income amount” of a company for a period of account of a worldwide group, which are amounts that are (or apart from this Part would be) brought into account for the purposes of corporation tax,
  - (b) defines “the net tax-interest expense” of a company for a period of account of a worldwide group, which is any excess of the company's tax-interest expense amounts for the period over its tax-interest income amounts for the period,
  - (c) defines “the net tax-interest income” of a company for a period of account of a worldwide group, which is any excess of the company's tax-interest income amounts for the period over its tax-interest expense amounts for the period, and
  - (d) defines “aggregate net tax-interest expense” and “aggregate net tax-interest income” of a worldwide group for a period of account of the worldwide group, which are made up of each member of the group's net tax-interest expense or net tax-interest income for the period.
- (5) Chapter 4 contains provision about the calculation of “the interest capacity” of a worldwide group for a period of account of the group, which is the aggregate of the interest allowance for the period and any unused interest allowance of the group from the previous 5 years (or, if that aggregate is less than the de minimis amount, the de minimis amount).
- (6) Chapter 5 makes provision about the calculation of “the interest allowance” of a worldwide group for a period of account of the group.
- The interest allowance for a period of account is calculated using the fixed ratio method unless the group elects for the group ratio method to be used for the period.
- (7) Chapter 6 defines concepts used in Chapter 5 including—
- the “tax-EBITDA” of a company for a period of account of a worldwide group (which is an amount derived from amounts brought into account for the purposes of corporation tax);
  - the “aggregate tax-EBITDA” of a worldwide group for a period of account of the group (which is an amount derived from the tax-EBITDA of members of the group).
- (8) Chapter 7 defines additional concepts used in Chapter 5 including—
- “the net group-interest expense”, “the adjusted net group-interest expense” and “the qualifying net group-interest expense” of a worldwide group for a period of account of the group (which are amounts derived from the financial statements of the worldwide group);
  - the “group-EBITDA” of the worldwide group for a period of account of the group (which is an amount derived from the financial statements of the worldwide group).
- (9) Chapter 8 contains provision altering the way in which this Part has effect in relation to the provision of public infrastructure assets or the carrying on of certain other related activities.
- (10) Chapter 9 contains special provision altering the operation of certain provisions of this Part in relation to—

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- (a) particular types of company (for example, banking companies, companies carrying on oil-related activities, REITs or insurance companies), or
  - (b) particular types of transaction or accounting (for example, long funding operating leases or fair value accounting).
- (11) Chapter 10 contains rules connected with tax avoidance.
- (12) Chapter 11 contains the remaining interpretative and supplementary provision, including definitions of—
- “related party”;
  - “a worldwide group”;
  - “ultimate parent”;
  - “period of account” of a worldwide group.

**Meaning of “subject to interest restrictions”, “the total disallowed amount” etc**

- 373 (1) A worldwide group is “subject to interest restrictions” in a period of account of the group if—
- (a) the aggregate net tax-interest expense of the group for the period (see section 390), exceeds
  - (b) the interest capacity of the group for the period (see section 392).
- (2) “The total disallowed amount” of a worldwide group in a period of account of the group is—
- (a) if the group is subject to interest restrictions in the period, the amount of the excess mentioned in subsection (1);
  - (b) otherwise, nil.
- (3) “The interest reactivation cap” of a worldwide group in a period of account of the group is (subject to subsection (4))—
- (a) the interest allowance of the group for the period (see section 396), less
  - (b) the aggregate net tax-interest expense of the group for the period.
- (4) If the amount determined under subsection (3) is a negative amount, the interest reactivation cap of the worldwide group in the period is nil.
- (5) A worldwide group is “subject to interest reactivations” in a period of account of the group if—
- (a) the interest reactivation cap of the group in the period is not nil, and
  - (b) at least one member of the group is within the charge to corporation tax at any time during the period, and has an amount available for reactivation in the return period that is not nil (see paragraph 26 of Schedule 7A).
- (6) This section has effect for the purposes of this Part.

**Interest restriction returns**

- 374 (1) Schedule 7A makes provision about—

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- (a) the preparation and submission of interest restriction returns by reporting companies of worldwide groups, and
  - (b) other related matters such as enquiries and information powers.
- (2) Part 1 of that Schedule includes provision—
- (a) for the appointment of a reporting company of a worldwide group for a period of account, but
  - (b) for companies (“non-consenting companies”) to elect to be unaffected by allocations of interest restrictions made by the company.
- (3) Part 2 of that Schedule includes provision—
- (a) for various elections to be made in an interest restriction return that are relevant to the operation of this Part (for example, the group ratio election),
  - (b) entitling the reporting company of a worldwide group to allocate interest restrictions among its members but with a rule that allocates a pro-rata share to a non-consenting company, and
  - (c) entitling the reporting company of a worldwide group to allocate interest reactivations among its members.
- (4) The remaining Parts of that Schedule contain provision about—
- (a) the keeping and preservation of records (see Part 3),
  - (b) enquiries into interest restriction returns (see Part 4),
  - (c) determinations made by officers of Revenue and Customs in the event of the breach of filing or other obligations (see Part 5),
  - (d) information powers exercisable by members of the group (see Part 6),
  - (e) information powers exercisable by officers of Revenue and Customs (see Part 7), and
  - (f) the amendment of company tax returns to reflect the effect of this Part of this Act and supplementary matters (see Parts 8 and 9).

## CHAPTER 2

### DISALLOWANCE AND REACTIVATION OF TAX-INTEREST EXPENSE AMOUNTS

#### **Disallowance of deductions: full interest restriction return submitted**

375 (1) This section applies where—

- (a) an interest restriction return is submitted for a period of account of a worldwide group (“the relevant period of account”),
  - (b) the return complies with the requirements of paragraph 20(3) of Schedule 7A (requirements for full interest restriction return), and
  - (c) the return includes a statement that the group is subject to interest restrictions in the return period.
- (2) A company that is listed on the statement under paragraph 22 of Schedule 7A (statement of allocated interest restrictions) must, in any accounting period for which the statement specifies an allocated disallowance, leave out of

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account tax-interest expense amounts that, in total, equal that allocated disallowance.

- (3) A non-consenting company in relation to the return may—
  - (a) elect that subsection (2) is not to apply in relation to such relevant accounting period of the company as is specified in the election, or
  - (b) revoke an election previously made.
- (4) If—
  - (a) an election under this section has effect in relation to an accounting period of a company, and
  - (b) paragraph 24 of Schedule 7A allocates to that period a pro-rata share of the total disallowed amount that is not nil,the company must leave out of account in that period tax-interest expense amounts that, in total, equal that pro-rata share.
- (5) See section 377 for provision as to which tax-interest expense amounts are to be left out of account as a result of this section.

#### **Disallowance of deductions: no return, or non-compliant return, submitted**

376 (1) This section applies where—

- (a) a worldwide group is subject to interest restrictions in a period of account of the group (“the relevant period of account”),
  - (b) the relevant date has passed, and
  - (c) condition A, B or C is met.
- (2) In this section “the relevant date” means—
- (a) where the appointment of a reporting company has effect in relation to the relevant period of account, the filing date in relation to the period (see paragraph 7(5) of Schedule 7A);
  - (b) otherwise, the last day of the period of 12 months beginning with the end of the relevant period of account.
- (3) Condition A is that no appointment of a reporting company has effect in relation to the relevant period of account.
- (4) Condition B is that—
- (a) the appointment of a reporting company has effect in relation to the relevant period of account, and
  - (b) no interest restriction return has been submitted for the period.
- (5) Condition C is that—
- (a) the appointment of a reporting company has effect in relation to the relevant period of account,
  - (b) an interest restriction return has been submitted for the period, and
  - (c) the return does not comply with the requirements of paragraph 20(3) of Schedule 7A (for example by including inaccurate figures).
- (6) A relevant company must, in any accounting period to which paragraph 24 of Schedule 7A allocates a pro-rata share of the total disallowed amount that is not nil, leave out of account tax-interest expense amounts that, in total, equal that pro-rata share.

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- (7) See section 377 for provision as to which tax-interest expense amounts are to be left out of account as a result of this section.
- (8) In this section “relevant company” means a company that was a member of the worldwide group at any time during the relevant period of account.

**Disallowance of deductions: identification of the tax-interest amounts to be left out of account**

377 (1) This section applies where—

- (a) a company is required to leave tax-interest expense amounts out of account in an accounting period under section 375 or 376, and
- (b) the total of the tax-interest expense amounts that, apart from that provision, would be brought into account in the accounting period exceeds the total of the tax-interest expense amounts that are required by that provision to be left out of account in that period.

- (2) Tax-interest expense amounts must (subject to the following provisions of this section) be left out of account in the following order.

*First*, leave out of account tax-interest expense amounts that meet condition A in section 382 and would (if brought into account) be brought into account under Part 5 of CTA 2009 (non-trading debits in respect of loan relationships).

*Second*, leave out of account tax-interest expense amounts that meet condition B in section 382 and would (if brought into account) be brought into account under Part 5 of CTA 2009 as a result of section 574 of that Act (non-trading debits in respect of derivative contracts).

*Third*, leave out of account tax-interest expense amounts that meet condition A in section 382 and would (if brought into account) be brought into account under Part 3 of CTA 2009 as a result of section 297 of that Act (debits in respect of loan relationships treated as expenses of trade).

*Fourth*, leave out of account tax-interest expense amounts that meet condition B in section 382 and would (if brought into account) be brought into account under Part 3 of CTA 2009 as a result of section 573 of that Act (debits in respect of derivative contracts treated as expenses of trade).

*Fifth*, leave out of account tax-interest expense amounts that meet condition C in section 382 and do not also meet condition A or B in that section (finance leases, debt factoring and service concession arrangements).

- (3) The company may—
  - (a) elect that subsection (2) is not to apply to the accounting period, or
  - (b) revoke an election previously made.
- (4) An election under this section must specify the particular tax-interest expense amounts that are to be left out of account.

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### **Disallowed tax-interest expense amounts carried forward**

378 (1) For the purposes of this Part a tax-interest expense amount of a company is “disallowed” in an accounting period if the company is required to leave it out of account in that accounting period under section 375 or 376.

(2) A tax-interest expense amount of a company that is disallowed in an accounting period is (subject to the remaining provisions of this section) carried forward to subsequent accounting periods.

(3) Where—

- (a) a tax-interest expense amount of a company would (apart from this Part) be brought into account in calculating the profits or losses of a trade carried on by the company in an accounting period,
- (b) the tax-interest expense amount is disallowed in that accounting period, and
- (c) in a subsequent accounting period (“the later accounting period”) the company ceases to carry on the trade, or the scale of the activities in the trade becomes small or negligible,

the tax-interest expense amount is not carried forward to the later accounting period or accounting periods after the later accounting period.

(4) Where—

- (a) a tax-interest expense amount of a company would (apart from this Part) be brought into account in calculating the profits or losses of a trade carried on by the company in an accounting period,
- (b) the tax-interest expense amount is disallowed in that accounting period, and
- (c) in a subsequent accounting period (“the later accounting period”) the trade is uncommercial and non-statutory,

the tax-interest expense amount is not carried forward to the later accounting period or accounting periods after the later accounting period.

(5) For the purposes of subsection (4), a trade is “uncommercial and non-statutory” in an accounting period if, were the company to have made a loss in the trade in the period, relief for the loss under section 37 of CTA 2010 (relief for trade losses against total profits) would have been unavailable by virtue of section 44 of that Act (trade must be commercial or carried on for statutory functions).

(6) Where—

- (a) a tax-interest expense amount of a company would (apart from this Part) be brought into account in calculating the profits or losses of an investment business carried on by the company in an accounting period,
- (b) the tax-interest expense amount is disallowed in that accounting period, and
- (c) in a subsequent accounting period (“the later accounting period”) the company ceases to carry on the investment business, or the scale of the activities in the investment business becomes small or negligible,

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the tax-interest expense amount is not carried forward to the later accounting period or accounting periods after the later accounting period.

- (7) Where a tax-interest expense amount—
- (a) is disallowed in an accounting period,
  - (b) is carried forward to a subsequent accounting period (“the later accounting period”), and
  - (c) is brought into account in the later accounting period in accordance with section 379,

it is not carried forward to accounting periods after the later accounting period.

### **Reactivation of interest**

379 (1) This section applies where—

- (a) an interest restriction return is submitted for a period of account of a worldwide group (“the relevant period of account”),
  - (b) the return complies with the requirements of paragraph 20(3) of Schedule 7A (requirements for full interest restriction return), and
  - (c) the return contains a statement that the group is subject to interest reactivations in the return period.
- (2) A company that is listed on the statement under paragraph 25 of Schedule 7A (statement of allocated interest reactivations) must, in the specified accounting period, bring into account tax-interest expense amounts that—
- (a) are brought forward to the specified accounting period from an earlier accounting period, and
  - (b) in total, equal the allocated reactivation for the return period.
- (3) A tax-interest expense amount is brought into account in the specified accounting period under subsection (2) by being treated as a tax-interest expense amount of the specified accounting period (so that, for example, a tax-interest expense amount that is a relevant loan relationship debit falling within section 383(2)(a)(ii) is brought into account in the specified period as a non-trading debit under Part 5 of CTA 2009).
- (4) See section 380 for provision as to which tax-interest expense amounts are to be brought into account under subsection (2).
- (5) In this section “the specified accounting period” means—
- (a) the earliest relevant accounting period of the company, or
  - (b) where the company became a member of the relevant worldwide group during the relevant period of account, the earliest relevant accounting period of the company in which it was a member of the group.

### **Reactivation of deductions: identification of the tax-interest amounts to be brought into account**

380 (1) This section applies where—



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- (a) a company is required to bring tax-interest expense amounts into account in an accounting period under section 379, and
  - (b) the total of the tax-interest expense amounts that are brought forward to the accounting period from earlier accounting periods exceeds the total of the tax-interest expense amounts that are required by that provision to be brought into account in that accounting period.
- (2) Tax-interest expense amounts must (subject to the following provisions of this section) be brought into account in the following order.
- First*, bring into account tax-interest expense amounts that meet condition A in section 382 and are brought into account under Part 5 of CTA 2009 (non-trading debits in respect of loan relationships).
- Second*, bring into account tax-interest expense amounts that meet condition B in section 382 and are brought into account under Part 5 of CTA 2009 as a result of section 574 of that Act (non-trading debits in respect of derivative contracts).
- Third*, bring into account tax-interest expense amounts that meet condition A in section 382 and are brought into account under Part 3 of CTA 2009 as a result of section 297 of that Act (debits in respect of loan relationships treated as expenses of trade).
- Fourth*, bring into account tax-interest expense amounts that meet condition B in section 382 and are brought into account under Part 3 of CTA 2009 as a result of section 573 of that Act (debits in respect of derivative contracts treated as expenses of trade).
- Fifth*, bring into account tax-interest expense amounts that meet condition C in section 382 and do not also meet condition A or B in that section (finance leases, debt factoring and service concession arrangements).
- (3) The company may—
- (a) elect that subsection (2) is not to apply to the accounting period, or
  - (b) revoke an election previously made.
- (4) An election under this section must specify the particular tax-interest expense amounts that are to be brought into account.

### **Set-off of disallowances and reactivations in the same accounting period**

- 381 (1) This section applies where, as a result of the operation of this Part in relation to different periods of account (whether of the same or a different worldwide group), a company would, apart from this section—
- (a) be required to leave out of account one or more tax-interest expense amounts in an accounting period under section 375 or 376, and
  - (b) be required to bring one or more tax-interest expense amounts into account in that accounting period under section 379.
- (2) In this section—
- (a) “the gross disallowed amount” means the amount, or total of the amounts, mentioned in subsection (1)(a);
  - (b) “the gross reactivated amount” means the amount, or total of the amounts, mentioned in subsection (1)(b).

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- (3) Where the gross disallowed amount is equal to the gross reactivated amount, no tax-interest expense amounts are to be left out of account in the accounting period under this Part or brought into account in the accounting period under this Part.
- (4) Where the gross disallowed amount is more than the gross reactivated amount—
  - (a) the requirement in section 375 or 376 is to leave out of account tax-interest expense amounts that, in total, equal the gross disallowed amount less the gross reactivated amount, and
  - (b) no amount is to be brought into account in the accounting period under section 379.
- (5) Where the gross reactivated amount is more than the gross disallowed amount—
  - (a) no amount to be left out of account in the accounting period under section 375 or 376, and
  - (b) the requirement in section 379 is to bring into account the gross reactivated amount less the gross disallowed amount.

### CHAPTER 3

#### TAX-INTEREST AMOUNTS

##### *Tax-interest expense and income amounts: basic rules*

#### **The tax-interest expense amounts of a company**

- 382 (1) References in this Part to a “tax-interest expense amount” of a company for a period of account of a worldwide group are to any amount that—
- (a) is (or apart from this Part would be) brought into account for the purposes of corporation tax in a relevant accounting period of the company, and
  - (b) meets condition A, B or C.
- (2) Condition A is that the amount is a relevant loan relationship debit (see section 383).
  - (3) Condition B is that the amount is a relevant derivative contract debit (see section 384).
  - (4) Condition C is that the amount is in respect of the financing cost implicit in amounts payable under a relevant arrangement or transaction.
  - (5) In subsection (4) “relevant arrangement or transaction” means—
    - (a) a finance lease,
    - (b) debt factoring, or any similar transaction, or
    - (c) a service concession arrangement if and to the extent that the arrangement is accounted for as a financial liability.

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- (6) Subsection (8) applies if an accounting period in which a tax-interest expense amount is (or apart from this Part would be) brought into account for the purposes of corporation tax contains one or more disregarded periods.
- (7) A “disregarded period” is any period falling within the accounting period—
  - (a) which does not fall within the period of account of the worldwide group, or
  - (b) throughout which the company is not a member of the group.
- (8) Where this subsection applies, the tax-interest expense amount mentioned in subsection (6) is reduced by such amount as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in that subsection.
- (9) An amount may be reduced to nil under subsection (8).
- (10) If—
  - (a) an amount would have met condition A, B or C but for the application of a rule preventing its deduction,
  - (b) some or all of it is deductible at a subsequent time as a result of the application of another rule, and
  - (c) none of conditions A to C are met at that time,so much of the amount as is subsequently deductible is treated, at that time, as meeting whichever of condition A, B or C would have been met but for the application of the rule mentioned in paragraph (a).
- (11) An example of a case to which subsection (10) applies is a case where—
  - (a) an amount is prevented from being deducted as a result of any provision made by Part 6A (hybrid and other mismatches), and
  - (b) another provision of that Part subsequently applies so as to permit some or all of it to be deducted from total profits.

### **Relevant loan relationship debits**

- 383 (1) This section applies for the purposes of section 382.
- (2) An amount is a “relevant loan relationship debit” if—
    - (a) it is a debit that is (or apart from this Part would be) brought into account for the purposes of corporation tax in respect of a loan relationship under—
      - (i) Part 3 of CTA 2009 as a result of section 297 of that Act (loan relationships for purposes of trade), or
      - (ii) Part 5 of that Act (other loan relationships), and
    - (b) is not an excluded debit.
  - (3) A debit is “excluded” for the purposes of subsection (2)(b) if—
    - (a) it is in respect of an exchange loss (within the meaning of Parts 5 and 6 of CTA 2009), or
    - (b) it is in respect of an impairment loss.

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### **Relevant derivative contract debits**

384 (1) This section applies for the purposes of section 382.

- (2) An amount is a “relevant derivative contract debit” if—
- (a) it is a debit that is (or apart from this Part would be) brought into account for the purposes of corporation tax in respect of a derivative contract under—
    - (i) Part 3 of CTA 2009 as a result of section 573 of that Act (derivative contracts for purposes of trade), or
    - (ii) Part 5 of that Act as a result of section 574 of that Act (other derivative contracts),
  - (b) it is not an excluded debit, and
  - (c) the condition in subsection (4) is met.
- (3) A debit is “excluded” for the purposes of subsection (2)(b) if—
- (a) it is in respect of an exchange loss (within the meaning of Part 7 of CTA 2009),
  - (b) it is in respect of an impairment loss, or
  - (c) it is in respect of a derivative contract which hedges risks arising in the ordinary course of a trade where the contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group).
- (4) The condition referred to in subsection (2)(c) is that the underlying subject matter of the derivative contract consists only of one or more of the following—
- (a) interest rates;
  - (b) any index determined by reference to income or retail prices;
  - (c) currency;
  - (d) an asset or liability representing a loan relationship;
  - (e) any other underlying subject matter which is—
    - (i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (d), or
    - (ii) of small value in comparison with the value of the underlying subject matter as a whole.
- (5) For the purposes of this section, whether part of the underlying subject matter of the derivative contract is subordinate or of small value is to be determined by reference to the time when the company enters into or acquires the contract.
- (6) In this section “underlying subject matter” has the same meaning as in Part 7 of CTA 2009.

### **The tax-interest income amounts of a company**

385 (1) References in this Part to a “tax-interest income amount” of a company for a period of account of a worldwide group are to any amount that—

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- (a) is (or apart from this Part would be) brought into account for the purposes of corporation tax in a relevant accounting period of the company, and
  - (b) meets condition A, B, C or D.
- (2) Condition A is that the amount is a relevant loan relationship credit (see section 386).
- (3) Condition B is that the amount is a relevant derivative contract credit (see section 387).
- (4) Condition C is that the amount is in respect of the financing income implicit in amounts receivable under a relevant arrangement or transaction.
- (5) In subsection (4) “relevant arrangement or transaction” means—
  - (a) a finance lease,
  - (b) debt factoring, or any similar transaction, or
  - (c) a service concession arrangement if and to the extent that the arrangement is accounted for as a financial asset.
- (6) Condition D is that the amount is in respect of income that—
  - (a) is receivable from another company, and
  - (b) is in consideration of the provision of a guarantee of any borrowing of that other company.
- (7) Subsection (9) applies if an accounting period in which a tax-interest income amount is (or apart from this Part would be) brought into account for the purposes of corporation tax contains one or more disregarded periods.
- (8) A “disregarded period” is any period falling within the accounting period—
  - (a) which does not fall within the period of account of the worldwide group, or
  - (b) throughout which the company is not a member of the group.
- (9) Where this subsection applies, the tax-interest income amount mentioned in subsection (7) is reduced by such amount as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in that subsection.
- (10) An amount may be reduced to nil under subsection (9).

### **Relevant loan relationship credits**

- 386 (1) This section applies for the purposes of section 385.
- (2) An amount is a “relevant loan relationship credit” if—
    - (a) it is a credit that is (or apart from this Part would be) brought into account for the purposes of corporation tax in respect of a loan relationship under—
      - (i) Part 3 of CTA 2009 as a result of section 297 of that Act (loan relationships for purposes of trade), or
      - (ii) Part 5 of that Act (other loan relationships), and
    - (b) it is not an excluded credit.

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- (3) A credit is “excluded” for the purposes of subsection (2)(b) if—
- (a) it is in respect of an exchange gain (within the meaning of Parts 5 and 6 of CTA 2009), or
  - (b) it is in respect of the reversal of an impairment loss.

### **Relevant derivative contract credits**

387 (1) This section applies for the purposes of section 385.

- (2) An amount is a “relevant derivative contract credit” if—
- (a) it is a credit that is (or apart from this Part would be) brought into account for the purposes of corporation tax in respect of a derivative contract under—
    - (i) Part 3 of CTA 2009 as a result of section 573 of that Act (derivative contracts for purposes of trade), or
    - (ii) Part 5 of that Act as a result of section 574 of that Act (other derivative contracts),
  - (b) is not an excluded credit, and
  - (c) the condition in subsection (4) is met.
- (3) A credit is “excluded” for the purposes of subsection (2)(b) if—
- (a) it is in respect of an exchange gain (within the meaning of Part 7 of CTA 2009),
  - (b) it is in respect of the reversal of an impairment loss, or
  - (c) it is in respect of a derivative contract which hedges risks arising in the ordinary course of a trade where the contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group).
- (4) The condition referred to in subsection (2)(c) is that the underlying subject matter of the derivative contract consists only of one or more of the following—
- (a) interest rates;
  - (b) any index determined by reference to income or retail prices;
  - (c) currency;
  - (d) an asset or liability representing a loan relationship;
  - (e) any other underlying subject matter which is—
    - (i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (d), or
    - (ii) of small value in comparison with the value of the underlying subject matter as a whole.
- (5) For the purposes of this section, whether part of the underlying subject matter of the derivative contract is subordinate or of small value is to be determined by reference to the time when the company enters into or acquires the contract.
- (6) In this section “underlying subject matter” has the same meaning as in Part 7 of CTA 2009.

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### *Double taxation relief*

#### **Double taxation relief**

388 (1) This section applies where—

- (a) apart from this section, an amount (“the relevant amount”) would be a tax-interest income amount brought into account for the purposes of corporation tax in a relevant accounting period (“the relevant accounting period”) of a company, and
  - (b) the amount of corporation tax chargeable in respect of the relevant amount is reduced under section 18(2) (entitlement to credit for foreign tax reduces UK tax by amount of the credit).
- (2) The relevant amount is not a tax-interest income amount to the extent that it consists of notional untaxed income.
- (3) For this purpose, the amount of the relevant amount that consists of “notional untaxed income” is—

$$\frac{A}{B}$$

where—

A is the amount of the reduction mentioned in subsection (1)(b);

B is the rate of corporation tax payable by the company, before any credit under Part 2 (double taxation relief), on the company's profits for the relevant accounting period.

### *Net tax-interest expense*

#### **The “net tax-interest expense” or “net tax-interest income” of a company**

- 389 (1) A company has “net tax-interest expense” for a period of account of a worldwide group if the total of its tax-interest expense amounts for the period exceeds the total of its tax-interest income amounts for the period.
- (2) The amount of the net tax-interest expense of the company for the period is the amount of the excess.
  - (3) A company has “net tax-interest income” for a period of account of a worldwide group if the total of its tax-interest income amounts for the period exceeds the total of its tax-interest expense amounts for the period.
  - (4) The amount of the net tax-interest income of the company for the period is the amount of the excess.
  - (5) The net tax-interest expense or net tax-interest income of a company for a period of account of a worldwide group is “referable” to an accounting period of the company to the extent that it comprises tax-interest expense

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amounts or tax-interest income amounts that are (or apart from this Part would be) brought into account in the accounting period.

(6) This section applies for the purposes of this Part.

### **The worldwide group's aggregate net tax-interest expense and income**

390 (1) The “aggregate net tax-interest expense” of a worldwide group for a period of account of the group is (subject to subsection (2))—

- (a) the total of the net tax-interest expense for the period of each relevant company that has such an amount, less
- (b) the total of the net tax-interest income for the period of each relevant company that has such an amount.

(2) Where the amount determined under subsection (1) is negative, the “aggregate net tax-interest expense” of the group for the period is nil.

(3) The “aggregate net tax-interest income” of a worldwide group for a period of account of the group is (subject to subsection (4))—

- (a) the total of the net tax-interest income for the period of each relevant company that has such an amount, less
- (b) the total of the net tax-interest expense for the period of each relevant company that has such an amount.

(4) Where the amount determined under subsection (3) is negative, the “aggregate net tax-interest income” of the group for the period is nil.

(5) In this section “relevant company” means a company that was a member of the group at any time during the period of account of the group.

(6) This section applies for the purposes of this Part.

### *Interpretation*

#### **Meaning of “impairment loss”**

391 (1) In this Part “impairment loss” means a loss in respect of the impairment of a financial asset.

(2) A reference to a debit in respect of an impairment loss does not include a debit that is (or apart from this Part would be) brought into account in an accounting period in respect of an asset for which fair value accounting is used.

## **CHAPTER 4**

### INTEREST CAPACITY

#### **The interest capacity of a worldwide group for a period of account**

392 (1) For the purposes of this Part “the interest capacity” of a worldwide group for a period of account of the group (“the current period”) is (subject to subsection (2))—



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## $A + B$

where—

A is the interest allowance of the group for the current period (see Chapter 5);

B is the aggregate of the interest allowances of the group for periods before the current period so far as they are available in the current period (see section 393).

- (2) Where the amount determined under subsection (1) is less than the de minimis amount for the current period, the interest capacity of the worldwide group for the period is the de minimis amount.
- (3) For this purpose “the de minimis amount” for a period of account is—
  - (a) £2 million, or
  - (b) where the period is more than or less than a year, the amount mentioned in paragraph (a) proportionately increased or reduced.

### **Amount of interest allowance for a period that is “available” in a later period**

393 (1) This section applies for the purposes of this Chapter.

- (2) The amount of the interest allowance of a worldwide group for a period of account (“the originating period”) that is “available” in a later period of account of the group (“the receiving period”) is (subject to subsection (5)) the lower of amounts A and B.
- (3) Amount A is—
  - (a) the amount of the interest allowance for the originating period, less
  - (b) the total of the amount or amounts (if any) of that interest allowance that were used in the originating period, or in any subsequent period of account of the group before the receiving period (see section 394).
- (4) Amount B is the amount (if any) of the interest allowance for the originating period that is unexpired in the receiving period (see section 395).
- (5) The amount of the interest allowance for the originating period that is “available” in the receiving period is nil if—
  - (a) an abbreviated return election is made in relation to the originating period, the receiving period or any intervening period of account of the group, or
  - (b) an interest restriction return is not submitted for any such period.

### **When interest allowance is “used”**

394 (1) This section applies for the purposes of this Chapter.

- (2) The amount of the interest allowance of a worldwide group for a period of account of the group (“the originating period”) that is “used” in the originating period is the lower of—
  - (a) the interest allowance for the originating period, and

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- (b) the sum of—
- (i) the aggregate net tax-interest expense of the group for the originating period;
  - (ii) the total amount of tax-interest expense amounts required to be brought into account in the originating period under section 379 (reactivation of interest) by members of the group.
- (3) The amount of the interest allowance for the originating period that is “used” in a later period of account of the group (“the receiving period”) is the lower of—
- (a) the interest allowance so far as it is available in the receiving period (see section 393), and
  - (b) the relevant part of the aggregate net tax-interest expense of the group for the receiving period (see subsection (4)).
- (4) In subsection (3)(b) “the relevant part of the aggregate net tax-interest expense of the group for the receiving period” is (subject to subsection (5))—

$$A - B - C$$

where—

A is the aggregate net tax-interest expense of the group for the receiving period;

B is the interest allowance of the group for the receiving period;

C is the amount of the interest allowance of the group for any period before the originating period that is used in the receiving period.

- (5) Where the amount determined under subsection (4) is negative, “the relevant part of the aggregate net tax-interest expense of the group for the receiving period” is nil.

#### **Amount of interest allowance for a period of account that is “unexpired” in later period**

- 395 (1) This section contains provision for determining for the purposes of this Chapter the extent to which an interest allowance of a worldwide group for a period of account (“the originating period”) is “unexpired” in a later period of account of the group (“the receiving period”).
- (2) If the receiving period—
- (a) begins 5 years or less after the originating period begins, and
  - (b) ends 5 years or less after the originating period ends,
- all of the interest allowance for the originating period is unexpired in the receiving period.
- (3) If the receiving period begins 5 years or more after the originating period ends, none of the interest allowance for the originating period is unexpired in the receiving period.

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- (4) Subsection (5) applies if the receiving period—
- (a) begins more than 5 years after the originating period begins, and
  - (b) ends 5 years or less after the originating period ends.
- (5) The amount of the interest allowance for the originating period that is unexpired in the receiving period is—

$$(A - B) \times \frac{X}{Y}$$

where—

A is the interest allowance for the originating period;

B is—

- (a) the aggregate net tax-interest expense of the group for the originating period, or
- (b) if lower, the interest allowance for the originating period;

X is the number of days in the period—

- (a) beginning with the day on which the receiving period begins, and
- (b) ending with the day 5 years after the day on which the originating period ends;

Y is the number of days in the originating period.

- (6) Subsection (7) applies if the receiving period—
- (a) begins 5 years or less after the originating period begins, and
  - (b) ends more than 5 years after the originating period ends.
- (7) The amount of the interest allowance for the originating period that is unexpired in the receiving period is—

$$(C - D) \times \frac{X}{Z}$$

where—

C is the aggregate net tax-interest expense of the group for the receiving period;

D is—

- (a) the interest allowance of the group for the receiving period, or
- (b) if lower, the aggregate net tax-interest expense of the group for the receiving period;

X has the same meaning as in subsection (5);

Z is the number of days in the receiving period.

- (8) Subsection (9) applies if—

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- (a) the receiving period—
    - (i) begins more than 5 years after the originating period begins, and
    - (ii) ends more than 5 years after the originating period ends, and
  - (b) subsection (3) does not apply.
- (9) The amount of the interest allowance for the originating period that is unexpired in the receiving period is the lower of the amounts determined under subsections (5) and (7).

## CHAPTER 5

### INTEREST ALLOWANCE

#### *Interest allowance*

#### **The interest allowance of a worldwide group for a period of account**

396 (1) For the purposes of this Part “the interest allowance” of a worldwide group for a period of account of the group is—

$$A + B$$

where—

A is the basic interest allowance of the group for the period;

B is the amount (if any) of the aggregate net tax-interest income of the group for the period (see section 390(3) and (4)).

- (2) In subsection (1) “the basic interest allowance” means—
- (a) where no group ratio election is in force in relation to the period, the basic interest allowance calculated using the fixed ratio method (see section 397);
  - (b) where such an election is in force in relation to the period, the basic interest allowance calculated using the group ratio method (see section 398).

#### **Basic interest allowance calculated using fixed ratio method**

397 (1) For the purposes of section 396, the basic interest allowance of a worldwide group for a period of account of the group, calculated using the fixed ratio method, is the lower of the following amounts—

- (a) 30% of the aggregate tax-EBITDA of the group for the period;
- (b) the fixed ratio debt cap of the group for the period.

(2) See—

section 400 for the meaning of “fixed ratio debt cap”;  
section 405 for the meaning of “aggregate tax-EBITDA”.

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### **Basic interest allowance calculated using group ratio method**

398 (1) For the purposes of section 396, the basic interest allowance of a worldwide group for a period of account of the group, calculated using the group ratio method, is the lower of the following amounts—

- (a) the group ratio percentage of the aggregate tax-EBITDA of the group for the period;
- (b) the group ratio debt cap of the group for the period.

(2) See—

section 399 for the meaning of “group ratio percentage”;  
section 400 for the meaning of “group ratio debt cap”;  
section 405 for the meaning of “aggregate tax-EBITDA”.

### **The group ratio percentage**

399 (1) For the purposes of this Part “the group ratio percentage” of a worldwide group for a period of account of the group is (subject to subsection (2)) the following proportion expressed as a percentage—

$$\frac{A}{B}$$

where—

A is the qualifying net group-interest expense of the group for the period;

B is the group-EBITDA of the group for the period.

(2) “The group ratio percentage” is 100% where—

- (a) the percentage determined under subsection (1) is negative or higher than 100%, or
- (b) B in that subsection is zero.

(3) See—

section 414 for the meaning of “qualifying net group-interest expense”;  
section 416 for the meaning of “group-EBITDA”.

### **The debt cap**

400 (1) For the purposes of section 397 (and this section), “the fixed ratio debt cap” of a worldwide group for a period of account of the group is the sum of the following amounts—

- (a) the adjusted net group-interest expense of the group for the period;
- (b) the excess debt cap of the group that was generated in the immediately preceding period of account of the group (if any) (see subsections (3) to (7)).

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- (2) For the purposes of section 398 (and this section), “the group ratio debt cap” of a worldwide group for a period of account of the group is the sum of the following amounts—
- (a) the qualifying net group-interest expense of the group for the period;
  - (b) the excess debt cap of the group that was generated in the immediately preceding period of account of the group (if any) (see subsections (3) to (7)).
- (3) Where no group ratio election is in force in relation to a period of account of a worldwide group (“the generating period”), “the excess debt cap” of the group that is generated in the period is (subject to subsections (5) and (6))—

$$A - B$$

where—

A is the fixed ratio debt cap of the group for the generating period;

B is 30% of the aggregate tax-EBITDA of the group for the generating period.

- (4) Where a group ratio election is in force in relation to a period of account of a worldwide group (“the generating period”), “the excess debt cap” of the group that is generated in the period is (subject to subsections (5) and (6))—

$$A - B$$

where—

A is the group ratio debt cap of the group for the generating period;

B is the group ratio percentage of the aggregate tax-EBITDA of the group for the generating period.

- (5) Where the amount determined under subsection (3) or (4) is negative, “the excess debt cap” of the group that is generated in the period is nil.
- (6) Where the amount determined under subsection (3) or (4) is greater than the carry-forward limit, “the excess debt cap” of the group that is generated in the period is the carry-forward limit.
- (7) For this purpose the “carry-forward limit” is the sum of the following amounts—
- (a) the excess debt cap generated in the period of account of the group immediately preceding the generating period (if any);
  - (b) the total disallowed amount of the group in the generating period.
- (8) See—
- section 373 for the meaning of “the total disallowed amount”;
  - section 405 for the meaning of “aggregate tax-EBITDA”;
  - section 413 for the meaning of “adjusted net group-interest expense”;
  - section 414 for the meaning of “qualifying net group-interest expense”.

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### *Effect of group ratio (blended) election*

#### **Effect of group ratio (blended) election on group ratio percentage**

- 401 (1) Where a group ratio (blended) election (see paragraph 14 of Schedule 7A) has effect in relation to a period of account of a worldwide group (“the relevant period of account”), this Chapter applies subject to this section.
- (2) Section 399 (meaning of “group ratio percentage”) does not apply for the purpose of determining the group ratio percentage of the group for the relevant period of account.
- (3) Instead, the group ratio percentage of the group for the relevant period of account is determined by taking the following steps—
- Step 1* For each investor in the group, multiply the investor's applicable percentage by the investor's share in the group.
- Step 2* Add together the amounts found under Step 1.
- (4) For the purposes of this section, an investor's “applicable percentage” is the highest of the following percentages—
- (a) 30%;
- (b) the percentage determined under section 399;
- (c) in the case of a related party investor that, throughout the relevant period of account, is a member of a worldwide group (“the investor's worldwide group”) other than that mentioned in subsection (1), the group ratio percentage of the investor's worldwide group for the relevant period of account.
- (5) Subsection (6) applies where financial statements of the investor's worldwide group are drawn up in respect of one or more periods (“the investor's periods of account”) that are comprised in or overlap with (but are not coterminous with) the relevant period of account.
- (6) The group ratio percentage of the investor's worldwide group for the relevant period of account is to be determined for the purposes of subsection (4)(c) by taking the following steps—
- Step 1* Find the group ratio percentage of the investor's worldwide group for each of the investor's periods of account.
- Step 2* Find the proportion of the relevant period of account that coincides with each of the investor's periods of account.
- Step 3* For each of the investor's periods of account, multiply the group ratio percentage found under Step 1 by the proportion found under Step 2.
- Step 4* Add together the amounts found under Step 3.

#### **Effect of group ratio (blended) election on group ratio debt cap**

- 402 (1) Where a group ratio (blended) election (see paragraph 14 of Schedule 7A) has effect in relation to a period of account of a worldwide group (“the relevant period of account”), this Chapter applies subject to this section.
- (2) In section 400 (the debt cap), subsection (2)(a) is treated as if—

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- (a) it did not refer to the qualifying net group-interest expense of the group for the period, and
  - (b) instead it referred to the blended net group-interest expense of the group for the period, as determined in accordance with this section.
- (3) The blended net group-interest expense of the group for the relevant period of account is determined by taking the following steps—
- Step 1* For each investor in the group whose applicable percentage for the purposes of section 401 is the percentage mentioned in subsection (4)(a) of that section, multiply the adjusted net group-interest expense of the group for the period by the investor's share in the group.
- Step 2* For each investor in the group whose applicable percentage for the purposes of section 401 is the percentage mentioned in subsection (4)(b) of that section, multiply the qualifying net group-interest expense of the group for the period by the investor's share in the group.
- Step 3* For each investor in the group whose applicable percentage for the purposes of section 401 is the percentage mentioned in subsection (4)(c) of that section, find the applicable net group-interest expense of the investor's worldwide group for the period (see subsections (4) to (8) of this section).
- Step 4* Add together the amounts found under Steps 1, 2 and 3.
- (4) For the purposes of this section, the “applicable net group-interest expense” of the investor's worldwide group for a period of account is so much of the qualifying net group-interest expense of the investor's worldwide group for the period as relates to loans to, or other financial arrangements with, members of the investor's worldwide group that are used to fund (directly or indirectly) loans to, or other financial arrangements with, members of the worldwide group mentioned in subsection (1).
- (5) Subsection (6) applies where periods of account of the investor's worldwide group (“the investor's periods of account”) are comprised in or overlap with (but are not coterminous with) the relevant period of account.
- (6) The applicable net group-interest expense of the investor's worldwide group for the relevant period of account is the aggregate of so much of the applicable net group-interest expense of the investor's worldwide group for each of the investor's periods of account as is referable, on a just and reasonable basis, to the relevant period of account.
- (7) Subsection (8) applies where—
- (a) a loan is made to, or another financial arrangement is entered into with, a member of the investor's worldwide group, and
  - (b) the loan or other financial arrangement is—
    - (i) in part used to fund (directly or indirectly) loans to, or other financial arrangements with, members of the worldwide group mentioned in subsection (1), and
    - (ii) in part used for other purposes.
- (8) In determining the applicable net group-interest expense of the investor's worldwide group for any period, the amount of the qualifying net group-



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interest expense of the investor's worldwide group for the period that is brought into account, in respect of the loan or other financial arrangement mentioned in subsection (7)(a), is confined to such amount as is referable, on a just and reasonable basis, to the use mentioned in subsection (7)(b)(i).

- (9) In this section—  
“financial arrangements” does not include the holding of shares;  
“the investor's worldwide group” has the same meaning as in section 401.

### **Calculations under sections 401 and 402: investor worldwide groups**

- 403 (1) This section applies—
- (a) in determining, under section 401, the group ratio percentage of the investor's worldwide group for a period of account;
  - (b) in determining, under section 402, the qualifying net group-interest expense of the investor's worldwide group for a period of account.
- (2) Where the group ratio (blended) election specifies that a particular election under Schedule 7A (“the investor's election”) is to be treated as having effect, or as not having effect, in relation to periods of account of the investor's worldwide group, the investor's election is to be so treated in determining the amounts mentioned in subsection (1).
- (3) Where the group ratio (blended) election does not specify that a particular election under Schedule 7A (“the investor's election”) is to be treated as having effect, or as not having effect, in relation to periods of account of the investor's worldwide group, the investor's election is to be treated as having effect in determining the amounts mentioned in subsection (1) only if it was in fact made in relation to the period of account in question by a reporting company of the investor's worldwide group.
- (4) In this section “the investor's worldwide group” has the same meaning as in section 401.

### **Meaning of “investor”, “related party investor” and investor's “share”**

- 404 (1) An entity is an “investor” in a worldwide group if it has an interest in the ultimate parent of the group that entitles it to a proportion of the profits or losses of the group.
- (2) An investor in a worldwide group is a “related party investor” of the group in relation to a period of account of the group if, throughout the period, it is a related party of the ultimate parent of the group.
- (3) The “share” of an investor in a worldwide group, in relation to a period of account of the group, is the proportion (expressed as a percentage) of the profits or losses of the group that arise in the period to which the investor is entitled by virtue of the investor's interest in the group's ultimate parent.
- (4) This section has effect for the purposes of this Part.

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## CHAPTER 6

### TAX-EBITDA

#### The aggregate tax-EBITDA of a worldwide group

- 405 For the purposes of this Part “the aggregate tax-EBITDA” of a worldwide group for a period of account of the group is—
- (a) the total of the tax-EBITDAs for the period of each company that was a member of the group at any time during the period, or
  - (b) where the amount specified in paragraph (a) is negative, nil.

#### The tax-EBITDA of a company

- 406 (1) For the purposes of this Part the “tax-EBITDA” of a company for a period of account of the worldwide group is—
- (a) where the company has only one relevant accounting period, the company's adjusted corporation tax earnings for that accounting period;
  - (b) where the company has more than one relevant accounting period, the total of the company's adjusted corporation tax earnings for each of those accounting periods.
- (2) The company's “adjusted corporation tax earnings” for an accounting period is the total (which may be negative) of the amounts that meet condition A or B.
- (3) Condition A is that the amount—
- (a) is brought into account by the company in determining its taxable total profits of the period (within the meaning given by section 4(2) of CTA 2010), and
  - (b) is not an excluded amount for the purposes of this condition (see section 407).
- (4) Condition B is that the amount—
- (a) is not brought into account as mentioned in subsection (3)(a), but would have been so brought into account if the company had made profits, or more profits, of any description in the period, and
  - (b) is not an excluded amount for the purposes of this condition (see section 407).
- (5) Subsection (7) applies if an amount—
- (a) is brought into account as mentioned in subsection (3)(a), or
  - (b) is not brought into account as mentioned in subsection (4)(a),
- in an accounting period which contains one or more disregarded periods.
- (6) A “disregarded period” is any period falling within the accounting period—
- (a) which does not fall within the period of account of the worldwide group, or
  - (b) throughout which the company is not a member of the group.

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- (7) Where this subsection applies, the amount mentioned in subsection (5) is reduced, for the purposes of subsection (2), by such amount (if any) as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in subsection (5).
- (8) An amount may be reduced to nil under subsection (7).

### **Amounts not brought into account in determining a company's tax-EBITDA**

- 407 (1) An amount is an excluded amount for the purposes of conditions A and B in section 406 if it is any of the following—
- (a) a tax-interest expense amount or a tax-interest income amount;
  - (b) an allowance or charge under CAA 2001;
  - (c) an excluded relevant intangibles debit or an excluded relevant intangibles credit (see section 408);
  - (d) a loss that—
    - (i) is made by the company in an accounting period other than that mentioned in section 406(2), and
    - (ii) is not an allowable loss for the purposes of TCGA 1992;
  - (e) a deficit from the company's loan relationships for an accounting period other than that mentioned in section 406(2);
  - (f) expenses of management of the company that are referable to an accounting period other than that mentioned in section 406(2);
  - (g) a deduction under section 137 of CTA 2010 (group relief) or section 188CK of that Act (group relief for carried-forward losses) if and to the extent that it constitutes a loss of the worldwide group;
  - (h) a qualifying tax relief.
- (2) For the purposes of subsection (1)(g) the deduction constitutes a “loss of the worldwide group” if and to the extent that it comprises surrenderable amounts that are referable to times at which the surrendering company was a member of the worldwide group.
- (3) An amount is a qualifying tax relief for the purposes of subsection (1)(h) if it is any of the following—
- (a) an R&D expenditure credit within the meaning of section 104A of CTA 2009;
  - (b) a deduction under section 1044, 1063, 1068 or 1087 of CTA 2009 (additional relief for expenditure on research and development);
  - (c) an amount which is treated as a trading loss as a result of section 1092 of CTA 2009 (SMEs: deemed trading loss for pre-trading expenditure);
  - (d) a deduction under section 1147 or 1149 of CTA 2009 (relief for expenditure on contaminated or derelict land);
  - (e) a deduction under section 1199 of CTA 2009 (film tax relief);
  - (f) a deduction under section 1216CF of CTA 2009 (television tax relief);
  - (g) a deduction under section 1217CF of CTA 2009 (video games tax relief);

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- (h) a deduction under section 1217H of CTA 2009 (relief in relation to theatrical productions);
  - (i) a deduction under section 1217RD of CTA 2009 (orchestra tax relief);
  - (j) a deduction under section 1218ZCE of CTA 2009 (museums and galleries exhibition tax relief);
  - (k) a qualifying charitable donation (whether made in the accounting period mentioned in section 406(2) or an earlier one);
  - (l) a deduction under section 357A of CTA 2010 (profits from patents etc chargeable at lower rate of corporation tax).
- (4) An amount is an excluded amount for the purposes of condition B in section 406 if it is an allowable loss for the purposes of TCGA 1992.

#### **Excluded relevant intangibles debits and excluded relevant intangibles credits**

408 (1) For the purposes of section 407 (and this section)—

- (a) a debit is a “relevant intangibles debit” if it is brought into account under a provision of Part 8 of CTA 2009 (intangible fixed assets) that is listed in column 1 of the following table;
- (b) a relevant intangibles debit is “excluded” to the extent indicated in the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>Excluded debits</i>
section 729	excluded in full
section 731	excluded in full
section 732	excluded if and to the extent that its amount is determined by reference to an excluded intangibles credit
section 735	excluded in full
section 736	excluded in full
section 872	excluded in full
section 874	excluded in full

(2) For the purposes of section 407 (and this section)—

- (a) a credit is a “relevant intangibles credit” if it is brought into account under a provision of Part 8 of CTA 2009 (intangible fixed assets) that is listed in column 1 of the following table;
- (b) a relevant intangibles credit is “excluded” to the extent indicated in the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>Excluded credits</i>
section 723	excluded if and to the extent that its amount is determined by reference to excluded intangible debits and excluded intangible credits
section 725	excluded if and to the extent that its amount is determined by reference to an excluded intangibles debit

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section 735	excluded if and to the extent that the cost of the asset in question exceeds its tax written-down value
section 872	excluded in full
section 874	excluded in full

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- (3) In the table in subsection (2)—
- (a) “tax written-down value” has the same meaning as in Part 8 of CTA 2009 (see Chapter 5 of that Part);
  - (b) “the cost of the asset” has the same meaning as in section 736 of that Act.

### **Double taxation relief**

- 409 (1) This section applies where—
- (a) apart from this section, an amount of income (“the relevant amount”) would meet condition A or B in section 406 in relation to a relevant accounting period of a company, and
  - (b) the amount of corporation tax chargeable in respect of the relevant amount is reduced under section 18(2) (entitlement to credit for foreign tax reduces UK tax by amount of the credit).
- (2) The relevant amount is treated, for the purposes of section 406(2) (meaning of “adjusted corporation tax earnings”) as not meeting the condition mentioned in subsection (1)(a) to the extent that it consists of notional untaxed income.
- (3) For this purpose, the amount of the relevant amount that consists of “notional untaxed income” is—

$$\frac{A}{B}$$

where—

A is the amount of the reduction mentioned in subsection (1)(b);

B is the rate of corporation tax payable by the company, before any credit under Part 2 (double taxation relief), on the company's profits for the relevant accounting period.

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## CHAPTER 7

### GROUP-INTEREST AND GROUP-EBITDA

#### *Group-interest*

#### **Net group-interest expense**

410 (1) For the purposes of this Part the “net group-interest expense” of a worldwide group for a period of account of the group (“the relevant period of account”) is—

$$A - B$$

where—

A is the sum of the relevant expense amounts that are recognised in the financial statements of the group for the period as items of profit or loss;

B is the sum of the relevant income amounts that are recognised in the financial statements of the group for the period as items of profit or loss.

(2) Subsection (3) applies where—

- (a) a relevant expense amount (“the capitalised expense”) is brought into account in financial statements of the group (whether for the relevant period of account or any earlier period) in determining the carrying value of an asset,
- (b) the asset is not a relevant asset, and
- (c) in the financial statements of the group for the relevant period of account, any of the carrying value is written down.

(3) A in subsection (1) is treated as including so much of the amount written down as is attributable to the capitalised expense.

(4) Subsection (5) applies where—

- (a) a relevant income amount (“the capitalised income”) is brought into account in financial statements of the group (whether for the relevant period of account or any earlier period) in determining the carrying value of an asset,
- (b) the asset is not a relevant asset, and
- (c) in the financial statements of the group for the relevant period of account, any of the carrying value is written down.

(5) B in subsection (1) is treated as including the amount of the reduction in the amount written down that is attributable to the capitalised income.

(6) See—

- section 411 for the definitions of “relevant expense amount” and “relevant income amount”;
- section 417(5) and (6) for the definition of “relevant asset”;

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section 420 for provision affecting amounts recognised in financial statements in respect of certain profits or losses arising from derivative contracts.

**“Relevant expense amount” and “relevant income amount”**

411 (1) In this Chapter “relevant expense amount” means (subject to subsection (3)) an amount in respect of any of the following—

- (a) interest payable under a loan relationship;
- (b) expenses ancillary to a loan relationship;
- (c) losses arising from a loan relationship or a related transaction, other than—
  - (i) exchange losses, and
  - (ii) impairment losses;
- (d) dividends payable in respect of preference shares accounted for as a financial liability;
- (e) losses arising from a relevant derivative contract or a related transaction, other than—
  - (i) exchanges losses,
  - (ii) impairment losses, and
  - (iii) losses where the contract hedges risks arising in the ordinary course of a trade and the contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group);
- (f) expenses ancillary to a relevant derivative contract or related transaction;
- (g) financing charges implicit in payments made under a finance lease;
- (h) financing charges relating to debt factoring;
- (i) financing charges implicit in payments made under a service concession arrangement if and to the extent that the arrangement is accounted for as a financial liability;
- (j) interest payable in respect of a relevant non-lending relationship;
- (k) alternative finance return payable under alternative finance arrangements;
- (l) manufactured interest payable;
- (m) financing charges in respect of the advance under a debtor repo or debtor quasi-repo;
- (n) financing charges so far as they are made up of amounts which—
  - (i) are treated as interest payable under a loan relationship under a relevant provision of Chapter 2 of Part 16 of CTA 2010 (finance arrangements), or
  - (ii) would be so treated if the company in question were within the charge to corporation tax.

(2) In this Chapter “relevant income amount” means (subject to subsection (3)) an amount in respect of any of the following—

- (a) interest receivable under a loan relationship;
- (b) profits arising from a loan relationship or a related transaction, other than—

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- (i) exchange gains, and
  - (ii) the reversal of impairment losses;
  - (c) dividends receivable in respect of preference shares accounted for as a financial asset;
  - (d) gains arising from a relevant derivative contract or a related transaction, other than—
    - (i) exchange gains,
    - (ii) the reversal of impairment losses, and
    - (iii) gains where the contract hedges risks arising in the ordinary course of a trade and the contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group);
  - (e) financing income implicit in amounts received under a finance lease;
  - (f) financing income relating to debt factoring;
  - (g) financing income implicit in amounts received under a service concession arrangement if and to the extent that the arrangement is accounted for as a financial asset;
  - (h) interest receivable in respect of a relevant non-lending relationship;
  - (i) alternative finance return receivable under alternative finance arrangements;
  - (j) manufactured interest receivable;
  - (k) financing income in respect of the advance under a creditor repo or creditor quasi-repo;
  - (l) financing income so far as it is made up of amounts which—
    - (i) are treated as interest receivable under a loan relationship under a relevant provision of Chapter 2 of Part 16 of CTA 2010 (finance arrangements), or
    - (ii) would be so treated if the company in question were within the charge to corporation tax.
- (3) In this Chapter—
- (a) “relevant expense amount” does not include an amount payable under a pension scheme;
  - (b) “relevant income amount” does not include an amount receivable under a pension scheme.
- (4) In subsection (3) “pension scheme” has the meaning given by section 150(1) of FA 2004.

### **Section 411: interpretation**

- 412 (1) For the purposes of section 411(1)(b), expenses are “ancillary” to a loan relationship if and only if they are incurred directly—
- (a) in bringing, or attempting to bring, the relationship into existence,
  - (b) in making payments under the loan relationship, or
  - (c) in taking steps to ensure the receipt of payments under the loan relationship.



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- (2) For the purposes of section 411(1)(e) and (2)(d) a derivative contract is “relevant” if its underlying subject matter consists only of one or more of the following—
- (a) interest rates;
  - (b) any index determined by reference to income or retail prices;
  - (c) currency;
  - (d) an asset or liability representing a loan relationship;
  - (e) any other underlying subject matter which is—
    - (i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (d), or
    - (ii) of small value in comparison with the value of the underlying subject matter as a whole.
- (3) Whether part of the underlying subject matter of a derivative contract is subordinate or of small value is to be determined for the purposes of subsection (2)(e) by reference to the time when the company enters into or acquires the contract.
- (4) For the purposes of section 411(1)(f) expenses are “ancillary” to a relevant derivative contract or related transaction if and only if they are incurred directly—
- (a) in bringing, or attempting to bring, the derivative contract into existence,
  - (b) in entering into or giving effect to, or attempting to enter into or give effect to, the related transaction,
  - (c) in making payments under the derivative contract or as a result of the related transaction, or
  - (d) in taking steps to secure the receipt of payments under the derivative contract or in accordance with the related transaction.
- (5) For the purposes of section 411(1)(n) and (2)(l), the following provisions of Chapter 2 of Part 16 of CTA 2010 are “relevant”—
- (a) section 761(3) (type 1 finance arrangements: borrower a company);
  - (b) section 762(3) (type 1 finance arrangements: borrower a partnership);
  - (c) section 766(3) (type 2 finance arrangements);
  - (d) section 769(3) (type 3 finance arrangements).
- (6) In section 411—
- (a) in subsections (1)(c) and (2)(b), “related transaction”, “exchange loss” and “exchange gain” have the same meaning as in Parts 5 and 6 of CTA 2009 (see sections 304 and 475 of that Act);
  - (b) in subsections (1)(e) and (2)(d), “related transaction”, “exchange loss” and “exchange gain” have the same meaning as in Part 7 of that Act (see sections 596 and 705 of that Act).
- (7) In section 411 and this section—
- “alternative finance arrangements” has the same meaning as in Parts 5 and 6 of CTA 2009 (see section 501(2) of that Act);
  - “alternative finance return” has the same meaning as in Part 6 of CTA 2009 (see sections 511 to 513 of that Act);

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“creditor quasi-repo” has the same meaning as in Chapter 10 of Part 6 of CTA 2009 (see section 544 of that Act);

“creditor repo” has the same meaning as in Chapter 10 of Part 6 of CTA 2009 (see section 543 of that Act);

“debtor quasi-repo” has the same meaning as in Chapter 10 of Part 6 of CTA 2009 (see section 549 of that Act);

“debtor repo” has the same meaning as in Chapter 10 of Part 6 of CTA 2009 (see section 548 of that Act);

“manufactured interest” has the same meaning as in Chapter 9 of Part 6 of CTA 2009 (see section 539(5) of that Act);

“relevant non-lending relationship” has the same meaning as in Chapter 2 of Part 6 of CTA 2009 (see sections 479 and 480 of that Act);

“underlying subject matter” has the same meaning as in Part 7 of CTA 2009 (see section 583 of that Act).

### **Adjusted net group-interest expense**

413 (1) For the purposes of this Part the “adjusted net group-interest expense” of a worldwide group for a period of account of the group is (subject to subsection (2))—

$$A + B - C$$

where—

A is the net group-interest expense of the group for the period (see section 410);

B is the sum of any upward adjustments (see subsection (3));

C is the sum of any downward adjustments (see subsection (4)).

(2) Where the amount determined under subsection (1) is negative, the “adjusted net group-interest expense” of the group for the period is nil.

(3) In this section “upward adjustment” means any of the following amounts—

(a) a relevant expense amount that is brought into account in the financial statements of the group for the period in determining the carrying value of an asset or liability;

(b) an amount that is included in the net group-interest expense of the group for the period by virtue of section 410(5) (capitalised income written off);

(c) a relevant expense amount that—

(i) in the financial statements of the group for the period is recognised in equity or shareholders' funds, and is not recognised as an item of profit or loss or as an item of other comprehensive income, and

(ii) is brought into account for the purposes of corporation tax by a member of the group under a relevant enactment, or

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- would be so brought into account if the member were within the charge to corporation tax;
- (d) a relevant income amount that is recognised in the financial statements of the group for the period, as an item of profit or loss, so far as it—
- (i) is prevented from being brought into account for the purposes of corporation tax by a member of the group by section 322(2) or 323A of CTA 2009 (cases where credits not required to be brought into account), or
  - (ii) would be so prevented if the member were within the charge to corporation tax.
- (4) In this section “downward adjustment” means any of the following amounts—
- (a) a relevant income amount that is brought into account in the financial statements of the group for the period in determining the carrying value of an asset or liability;
  - (b) an amount that is included in the net group-interest expense of the group for the period by virtue of section 410(3) (capitalised expense written off);
  - (c) a relevant income amount that—
    - (i) in the financial statements of the group for the period is recognised in equity or shareholders' funds, and is not recognised as an item of profit or loss or as an item of other comprehensive income, and
    - (ii) is brought into account for the purposes of corporation tax by a member of the group under a relevant enactment, or would be so brought into account if the member were within the charge to corporation tax;
  - (d) a relevant expense amount that is recognised in the financial statements of the group for the period, as an item of profit or loss, so far as it—
    - (i) is prevented from being brought into account for the purposes of corporation tax by a member of the group by section 323A of CTA 2009 (cases where credits not required to be brought into account), or
    - (ii) would so prevented if the member were within the charge to corporation tax;
  - (e) a relevant expense amount that is recognised in the financial statements of the group for the period, as an item of profit or loss, so far as—
    - (i) the amount represents a dividend payable in respect of preference shares, and
    - (ii) those shares are recognised as a liability in the financial statements of the group for the period.
- (5) The references in subsections (3)(a) and (4)(a) to amounts brought into account in determining the carrying value of an asset or liability do not include amounts so brought into account as the result of writing off any part of an amount which was itself so brought into account.

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- (6) In subsections (3)(c)(ii) and (4)(c)(ii), “relevant enactment” means—
- (a) section 321 or 605 of CTA 2009 (credits and debits recognised in equity), or
  - (b) regulation 3A of the Taxation of Regulatory Capital Securities Regulations 2013 (S.I. 2013/3209) (amounts recognised in equity).

**Qualifying net group-interest expense**

414 (1) For the purposes of this Part the “qualifying net group-interest expense” of a worldwide group for a period of account of the group is (subject to subsection (2))—

$$A - B$$

where

A is the adjusted net group-interest expense of the group for the period (see section 413);

B is the sum of any downward adjustments (see subsection (3)).

- (2) Where the amount determined under subsection (1) is negative, “the qualifying net group-interest expense” of the group for the period is nil.
- (3) In this section “downward adjustment” means a relevant expense amount that meets the condition in subsection (4), so far as it relates to—
- (a) a transaction with, or a financial liability owed to, a person who, at any time during the period, is a related party of a member of the group,
  - (b) results-dependent securities, or
  - (c) equity notes.
- (4) The condition mentioned in subsection (3) is that the amount—
- (a) is recognised in the financial statements of the group for the period, as an item of profit and loss, and is not (and is not comprised in) a downward adjustment for the purposes of section 413 (adjusted net group-interest expense), or
  - (b) is (or is comprised in) an upward adjustment for the purposes of that section.
- (5) In a case where—
- (a) the person mentioned in subsection (3)(a) is not a related party of a member of the group during any part of the period of account, or
  - (b) during any part of the period of account, the financial liability mentioned in subsection (3)(a) is owed to a person who is not a related party of a member of the group,

the amount of the downward adjustment under subsection (3)(a) is to be reduced by such amount (if any) as is attributable, on a just and reasonable basis, to that part.

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#### **Section 414: interpretation**

415 (1) For the purposes of section 414 a person is treated as not being a related party of a member of the group at any time (“the relevant time”) if at the relevant time—

- (a) the person would (apart from this subsection) be a related party of the member by virtue only of section 466(2) (parties to loan relationship treated as related parties by virtue of financial assistance provided by a related party), and
- (b) any of the following conditions is met in relation to the guarantee, indemnity or other financial assistance in question.

(2) The conditions are—

- (a) that the financial assistance is provided before 1 April 2017;
- (b) that the financial assistance is provided by a member of the group;
- (c) that the financial assistance relates only to an undertaking in relation to—
  - (i) shares in the ultimate parent of the group, or
  - (ii) loans to a member of the group;
- (d) that the financial assistance is a non-financial guarantee.

(3) Financial assistance is “a non-financial guarantee” if—

- (a) it guarantees the performance by any person of contractual obligations to provide goods or services to a member of the group,
- (b) it is given by the person providing the goods or services or by a related party of that person, and
- (c) the maximum amount for which the guarantor is liable does not exceed the consideration given under the contract for the provision of the goods or services.

(4) The reference in section 414(3)(b) to “results-dependent securities” is (subject to subsection (8)) to securities issued by an entity where the consideration given by the entity for the use of the principal secured depends (to any extent) on—

- (a) the results of the entity's business, or
- (b) the results of the business of any other entity that was a member of the group at any time during the period of account of the group.

In this subsection references to a business include part of a business.

(5) For the purposes of subsection (4) the consideration given by the entity for the use of the principal secured does not fall within paragraph (a) or (b) of that subsection merely because the terms of the security provide—

- (a) for the consideration to be reduced if the results mentioned in that paragraph improve, or
- (b) for the consideration to be increased if the results mentioned in that paragraph deteriorate.

(6) An amount does not fall within section 414(3)(b) so far as it is relevant alternative finance return (within the meaning given by section 1019(2) of CTA 2010).

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- (7) The reference in section 414(3)(c) to “equity notes” is (subject to subsection (8)) to equity notes within the meaning given by section 1016 of CTA 2010.
- (8) A regulatory capital security (within the meaning of Taxation of Regulatory Capital Securities Regulations 2013 (S.I. 2013/3209)) is not—
  - (a) a results-dependent security for the purposes of section 414(3)(b), or
  - (b) an equity note for the purposes of section 414(3)(c).

### *Group-EBITDA*

#### **Group-EBITDA**

- 416 (1) For the purposes of this Part “the group-EBITDA” of a worldwide group for a period of account of the group (“the relevant period of account”) is—

$$\text{PBT} + I + \text{DA}$$

where—

PBT is the group's profit before tax (which may be a negative amount) (see subsection (2));

I is the net group-interest expense of the group for the period (which may be a negative amount) (see section 410);

DA is the group's depreciation and amortisation adjustment (which may be a negative amount) (see subsection (3)).

- (2) For the purposes of this Chapter a worldwide group's “profit before tax” is—
  - (a) the sum of the amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, in respect of income of any description other than tax income, less
  - (b) the sum of the amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, in respect of expenses of any description other than tax expense.

In this subsection “tax income” and “tax expense” have the meaning they have for accounting purposes.

- (3) In this section the group's “depreciation and amortisation adjustment” means the sum of the following amounts (any of which may be negative)—
  - (a) the capital (expenditure) adjustment (see section 417);
  - (b) the capital (fair value movement) adjustment (see section 418);
  - (c) the capital (disposals) adjustment (see section 419).
- (4) The following expressions have the same meaning in sections 417 to 419 as they have in this section—
  - “the relevant period of account”;
  - “the group's profit before tax”.

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- (5) For provision affecting amounts recognised in financial statements in respect of certain profits or losses arising from derivative contracts, see section 420.

### **The capital (expenditure) adjustment**

417 (1) For the purposes of section 416, “the capital (expenditure) adjustment” is—

$$A - B - C$$

where—

A is the sum of the amounts (if any) in respect of relevant capital expenditure which are brought into account in determining the group's profit before tax;

B is the sum of the amounts (if any) in respect of relevant capital expenditure reversals which are brought into account in determining the group's profit before tax;

C is the sum of the amounts (if any) in respect of relevant capital income which are brought into account in determining the group's profit before tax.

- (2) In this section “relevant capital expenditure” means—
- (a) expenditure of a capital nature that relates to relevant assets (including any relevant expense amounts previously included in the carrying value of relevant assets) that is recognised in the relevant period of account by way of depreciation or amortisation, or as the result of an impairment review,
  - (b) expenditure of a capital nature that relates to relevant assets that is incurred and recognised in the relevant period of account, and
  - (c) amounts recognised in the relevant period of account by way of provision in respect of future expenditure of a capital nature that relates to relevant assets.
- (3) In this section “relevant capital expenditure reversals” means the reversal in the relevant period of account of any relevant capital expenditure recognised in an earlier period of account.
- (4) In this section “relevant capital income” means income of a capital nature that relates to relevant assets.
- (5) In this Chapter “relevant asset” means an asset that is—
- (a) plant, property and equipment,
  - (b) an investment property,
  - (c) an intangible asset,
  - (d) goodwill,
  - (e) shares in a company, or
  - (f) an interest in an entity which entitles the holder to a share of the profits of the entity.
- (6) In subsection (5)—
- (a) “plant, property and equipment” has the meaning it has for accounting purposes;

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- (b) “investment property” has the meaning it has for accounting purposes;
- (c) “intangible asset” has the meaning it has for accounting purposes (and includes an internally-generated intangible asset);
- (d) “goodwill” has the meaning it has for accounting purposes (and includes internally-generated goodwill);
- (e) “entity” includes anything which is treated as an entity in the financial statements of the group (regardless of whether it has a legal personality as a body corporate).

Section 712(2) and (3) of CTA 2009 (“intangible asset” includes intellectual property) applies for the purposes of paragraph (c).

- (7) An amount does not fall within A in subsection (1) if it is brought into account in determining a profit or loss on the disposal of a relevant asset.

### **The capital (fair value movement) adjustment**

418 (1) In section 416, “the capital (fair value movement) adjustment” means the sum of any relevant fair value movements.

- (2) For the purposes of subsection (1) there is a “relevant fair value movement” where—
  - (a) the carrying value of a relevant asset is measured, for the purposes of the financial statements of the group, using fair value accounting, and
  - (b) an amount representing a change in the carrying value of the asset is brought into account in determining the group's profit before tax.
- (3) The amount of the relevant fair value movement is the amount of the change mentioned in subsection (2)(b) and—
  - (a) is a positive amount where the change is a loss;
  - (b) is a negative amount where the change is a profit.
- (4) References in this section to a change in the carrying value of a relevant asset do not include a change where the amount brought into account in respect of the change as mentioned in subsection (2)(b) is of a revenue nature.

### **The capital (disposals) adjustment**

419 (1) For the purposes of section 416, “the capital (disposals) adjustment” is—

$$A - B + C$$

where—

A is the sum of the amounts (if any) that are brought into account in determining the group's profit before tax and that represent losses on disposals of relevant assets;

B is the sum of the amounts (if any) that are brought into account in determining the group's profit before tax and that represent profits on disposals of relevant assets;



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C is the sum of any recalculated profit amounts (see subsections (2) to (8)).

- (2) For the purposes of the definition of C in subsection (1) there is a “recalculated profit amount” where the following two conditions are met.
- (3) The first condition is that an amount is brought into account in determining the group's profit before tax in respect of a profit or loss on the disposal of a relevant asset.
- (4) The second condition is that—
  - (a) the relevant proceeds, exceeds
  - (b) the relevant cost.
- (5) The amount of the recalculated profit amount is the amount of the excess mentioned in subsection (4).
- (6) In this section “the relevant proceeds” means the amount of income of a capital nature that is brought into account in determining the profit or loss mentioned in subsection (3).
- (7) In this section “the relevant cost” means (subject to subsection (8)) the amount of expenditure of a capital nature that is brought into account in determining the profit or loss mentioned in subsection (3).
- (8) For the purposes of subsection (7), any adjustment made to the amount brought into account as mentioned in that subsection is to be disregarded where the adjustment is in respect of amounts that—
  - (a) are otherwise recognised, in the financial statements of the group for the relevant period of account, as items of profit or loss, or
  - (b) were so recognised in the financial statements of the group for an earlier period.
- (9) References in this section to a relevant asset include part of a relevant asset.
- (10) References in this section to the disposal of a relevant asset do not include a disposal where the profit or loss (if any) on the disposal is of a revenue nature.
- (11) The condition in subsection (3) is met even if no amount is brought into account as mentioned in that subsection if that is because no gain or loss accrued on the disposal; and subsections (6) to (8) apply accordingly.

#### *Treatment of derivative contracts in financial statements of worldwide group*

#### **Derivative contracts subject to fair value accounting**

- 420 (1) This section makes provision about the amounts recognised in a worldwide group's financial statements for a period of account (“the relevant period of account”) in respect of derivative contracts.
- (2) Subsection (3) applies where one or more excluded derivative contract amounts are recognised in the group's financial statements for the relevant period of account as items of profit or loss.

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- (3) The financial statements are treated for the purposes of this Part (apart from this section) as if the excluded derivative contract amounts were not recognised in the group's financial statements for the relevant period of account.
- (4) In subsections (2) and (3) “excluded derivative contract amount” means an amount which would, on the relevant assumptions, be excluded from section 597(1) of CTA 2009 (amounts recognised in determining a company's profit or loss) as a result of a relevant provision of the Disregard Regulations.
- (5) Subsection (6) applies where, on the relevant assumptions, one or more amounts (“replacement derivative contract amounts”) would be brought into account by members of the group for the purposes of corporation tax in relevant accounting periods as a result of regulation 9 or 10 of the Disregard Regulations.
- (6) The financial statements are treated for the purposes of this Part (apart from this section) as if the replacement derivative contract amounts were recognised in the group's financial statements for the relevant period of account.
- (7) Subsection (9) applies if an accounting period in which a replacement derivative contract amount would, on the relevant assumptions, be brought into account for the purposes of corporation tax contains one or more disregarded periods.
- (8) A “disregarded period” is any period falling within the accounting period—
- (a) which does not fall within the relevant period of account, or
  - (b) throughout which the company is not a member of the group.
- (9) Where this subsection applies, the replacement derivative contract amount mentioned in subsection (7) is reduced by such amount as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in that subsection.
- (10) An amount may be reduced to nil under subsection (9).

#### **Derivative contracts subject to fair value accounting: interpretation**

- 421 (1) In section 420 “the relevant assumptions” means the following assumptions—
- (a) that all members of the group are within the charge to corporation tax;
  - (b) that elections under regulation 6A of the Disregard Regulations have effect in relation to each derivative contract of each member of the group;
  - (c) that paragraph (5) of regulation 7 of the Disregard Regulations is of no effect;
  - (d) that where—
    - (i) a member of the group (“member A”) holds a derivative contract,

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- (ii) the group has a hedging relationship between that derivative contract (on the one hand), and an asset, liability, receipt or expense (on the other), and
    - (iii) the asset, liability, receipt or expense is held, or is expected to be received or incurred, by a member of the group other than member A,  
the asset, liability, receipt or expense is held, or is expected to be received or incurred, by member A;
  - (e) that the financial statements of members of the group deal with derivative contracts and hedged items in the same way as they are dealt with in the group's financial statements.
- (2) For the purposes of subsection (1)(d) the group has a “hedging relationship” between a derivative contract (on the one hand) and an asset, liability, receipt or expense (on the other) if, were those things held, received or incurred by a single company, the company would have a hedging relationship between them.
- (3) Regulation 2(5) of the Disregard Regulations (hedging relationships of a company) applies for the purposes of this section.
- (4) For the purposes of section 420 and this section—
- (a) “the Disregard Regulations” means the Loan Relationship and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256);
  - (b) the following are “relevant provisions” of the Disregard Regulations—
    - (i) regulation 7 (fair value profits or losses arising from derivative contracts which are currency contracts);
    - (ii) regulation 8 (profits or losses arising from derivative contracts which are commodity contracts or debt contracts);
    - (iii) regulation 9 (profits or losses arising from derivative contracts which are interest rate contracts).

#### *Effect of group-EBITDA (chargeable gains) election*

#### **Group-EBITDA (chargeable gains) election**

- 422 (1) Where a group-EBITDA (chargeable gains) election has effect in relation to a period of account of a worldwide group (“the relevant period of account”), this Chapter applies in relation to the period subject to this section.
- (2) Section 419 (the capital (disposals) adjustment) has effect as if—
- (a) the definition of C in subsection (1) of that section did not apply, and
  - (b) instead, C were defined for the purposes of that section as—
    - (i) the sum of any relevant gains, less
    - (ii) the sum of any relevant losses,or, where that is a negative amount, nil.
- (3) For the purposes of this section, there is a “relevant gain” or “relevant loss” where condition A or B is met.

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- (4) Condition A is that a member of the group disposes of a relevant asset during the relevant period of account.
- (5) Condition B is that—
  - (a) a member of the group ceases to be a member of the group during the relevant period of account, and
  - (b) the member held a relevant asset immediately before ceasing to be a member of the group.
- (6) Where condition A is met, the amount of the relevant gain or relevant loss is the amount of the chargeable gain or allowable loss that would, on the assumptions in subsection (8), accrue to the member on the disposal.
- (7) Where condition B is met, the amount of the relevant gain or relevant loss is the amount of the chargeable gain or allowable loss that would, on the assumptions in subsection (8), accrue to the member if the member—
  - (a) disposed of the relevant asset immediately before ceasing to be a member of the group, and
  - (b) received such consideration for that disposal as it is just and reasonable to attribute to it, having regard to the consideration received by the group for its interests in the member.
- (8) The assumptions mentioned in subsections (6) and (7) are that—
  - (a) all members of the group are within the charge to corporation tax;
  - (b) Schedule 7AC to TCGA 1992 (exemptions for disposals by companies with substantial shareholdings) is of no effect;
  - (c) Part 2 (double taxation relief) is of no effect.
- (9) Where—
  - (a) the sum of any relevant losses, exceeds
  - (b) the sum of any relevant gains,
 the amount of the excess is treated as a relevant loss in relation to the period of account of the group immediately after the relevant period of account.
- (10) In this section “relevant asset” does not include shares in (or other interests giving an entitlement to share in the profits of) a member of the group.

*Effect of interest allowance (alternative calculation) election*

**Capitalised interest brought into account for tax purposes in accordance with GAAP**

- 423 (1) Where an interest allowance (alternative calculation) election (see paragraph 16 of Schedule 7A) has effect in relation to a period of account of a worldwide group (“the relevant period of account”), this Chapter applies in relation to the period subject to this section.
- (2) Section 413 (adjusted net group-interest expense of a worldwide group) has effect as if—
- (a) subsections (3)(a) and (4)(a) (which relate to capitalised interest) did not apply in relation to a GAAP-taxable asset or liability, and

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- (b) subsections (3)(b) and (4)(b) (which relate to capitalised interest written off) did not apply in relation to a GAAP-taxable asset or liability.
- (3) But subsection (2)(b) of this section is of no effect where the adjusted net group-interest expense of the group for a period of account before the relevant period of account included any amount by virtue of section 413(3)(a) or (4)(a) in respect of the GAAP-taxable asset or liability.
- (4) For the purposes of this section an asset or liability is “GAAP-taxable” if any profit or loss for corporation tax purposes in relation to the asset or liability falls to be calculated in accordance with generally accepted accounting practice.
- (5) For the purposes of this section, all members of the group are treated as within the charge to corporation tax.

#### **Employers' pension contributions**

- 424 (1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) The definition of “the group's profit before tax” in subsection (2) of section 416 has effect as if references to amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, did not include amounts so recognised in respect of employer pension contributions.
  - (3) The group's profit before tax, as defined in that section, is reduced by the total of the relief to which members of the group are entitled, by virtue of sections 196 to 200 of FA 2004, in respect of relevant employer pension contributions paid during the period.
  - (4) In this section—
    - (a) “employer pension contributions” means contributions paid by an employer under a registered pension scheme in respect of an individual;
    - (b) employer pension contributions are “relevant” if they are paid at a time at which the employer is a member of the group.

#### **Employee share acquisitions**

- 425 (1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) The definition of “the group's profit before tax” in subsection (2) of section 416 has effect as if references to amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, did not include amounts so recognised in respect of employee share acquisition arrangements.

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- (3) The group's profit before tax, as defined in that section, is reduced by such amount as, on a just and reasonable basis, reflects the effect on the group in the period of—
- (a) deductions allowed to members of the group under Part 11 of CTA 2009 (relief for particular employee share acquisition schemes) and amounts treated as received by members of the group under that Part, and
  - (b) relief given to members of the group under Part 12 of that Act (other relief for employee share acquisitions).
- (4) In this section “employee share acquisition arrangements” means arrangements the corporation tax treatment of which is determined under Part 11 or 12 of CTA 2009.
- (5) For the purposes of this section, all members of the group are treated as within the charge to corporation tax.

#### **Changes in accounting policy**

- 426 (1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group (“the relevant period of account”), this Chapter applies in relation to the period subject to this section.
- (2) The financial statements of the group for the relevant period of account are to be treated as subject to such adjustments as would be made to them under the change of accounting policy provisions if the group were a company that—
- (a) was within the charge to corporation tax,
  - (b) held the assets and owed the liabilities recognised in the financial statements, to the extent that they are so recognised, and
  - (c) carried on the trades and other activities giving rise to amounts recognised in the financial statements as items of profit and loss.
- (3) In this section “the change of accounting policy provisions” means—
- (a) Chapter 14 of Part 3 of CTA 2009 (trading profits);
  - (b) sections 315 to 319 of that Act (loan relationships);
  - (c) sections 613 to 615 of that Act (derivative contracts);
  - (d) Chapter 15 of Part 8 of that Act (intangible fixed assets);
  - (e) the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271).
- (4) For the purposes of subsection (2)—
- (a) the change of accounting policy provisions are to be read subject to the necessary modifications, and
  - (b) it is to be assumed that any election under the change of accounting policy provisions (as applied) has been made.

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### *Effect of interest allowance (non-consolidated investment) election*

#### **Group interest and group-EBITDA**

- 427 (1) Where an interest allowance (non-consolidated investment) election (see paragraph 17 of Schedule 7A) has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) In this section and section 428 (which contains further interpretative provision)—
- (a) “the principal worldwide group” means the worldwide group mentioned in subsection (1);
  - (b) “the relevant period of account” means the period of account mentioned in subsection (1).
- (3) The financial statements of the principal worldwide group for the relevant period of account are treated as if—
- (a) no relevant income amounts were recognised in them, as items of profit or loss, so far as they relate to financial liabilities owed to any member of the principal worldwide group by any member of an associated worldwide group, and
  - (b) no amounts were recognised in them, as items of profits or loss, in respect of any profit or loss attributable to an interest held by any member of the principal worldwide group in any member of an associated worldwide group
- (4) The adjusted net group-interest expense of the principal worldwide group for the relevant period of account is treated as increased by the appropriate proportion of the adjusted net group-interest expense for the period of each associated worldwide group.
- (5) The qualifying net group-interest expense of the principal worldwide group for the relevant period of account is treated as increased by the appropriate proportion of the qualifying net group-interest expense for the period of each associated worldwide group.
- (6) The group-EBITDA of the principal worldwide group for the relevant period of account is treated as increased by the appropriate proportion of the group-EBITDA of each associated worldwide group for the period.
- (7) In this section “the appropriate proportion”, in relation to an associated worldwide group means the proportion of the profits or losses of the associated worldwide group arising in the relevant period of account to which the principal worldwide group is entitled.

#### **Section 427: associated worldwide groups**

- 428 (1) This section has effect for the purposes of section 427 and this section.
- (2) “Associated worldwide group” means the worldwide group of which a specified non-consolidated associate is the ultimate parent.

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- (3) Where (apart from this subsection) a specified non-consolidated associate does not fall within section 473(1)(a) (conditions for being the ultimate parent of a worldwide group), it is treated as if it did fall within that provision.
- (4) Where (apart from this subsection) financial statements of an associated worldwide group are not drawn up in respect of the relevant period of account, IAS financial statements of the associated worldwide group are treated as having been drawn up in respect of that period.
- (5) The associated worldwide group's financial statements for the relevant period of account are treated as if no relevant expense amounts were recognised in them, as items of profit or loss, so far as they relate to financial liabilities owed to any member of the principal worldwide group by any member of the associated worldwide group.
- (6) The reference in section 427(6) to profits or losses of the associated worldwide group to which the principal worldwide group is entitled does not include any profits or losses that relate to times when the non-consolidated associate is a member of the principal worldwide group.
- (7) Subsection (8) has effect in the application of this Part (for the purposes mentioned in subsection (1)) in relation to the financial statements of an associated worldwide group for the relevant period of account.
- (8) The associated worldwide group is treated—
  - (a) as having made an interest allowance (alternative calculation) election if and only if such an election has effect in relation to the relevant period of account of the principal worldwide group, and
  - (b) as not having made any other election under this Part.
- (9) In this section “specified” means specified in the interest allowance (non-consolidated investment) election.

### **Meaning of “non-consolidated associate”**

- 429 (1) An entity is a “non-consolidated associate” of a worldwide group, in relation to a period of account of the group (“the relevant period of account”) if condition A, B or C is met.
- (2) Condition A is that the entity is accounted for in the financial statements of the group for the relevant period of account—
    - (a) as a joint venture or an associate, and
    - (b) using the gross equity method or the equity method.
  - (3) Condition B is that—
    - (a) the entity is a partnership, and
    - (b) an interest allowance (consolidated partnership) election has effect in relation to the relevant period of account.
  - (4) Condition C is the entity is a non-consolidated subsidiary of the ultimate parent at any time during the relevant period of account.
  - (5) In this section the following expressions have the meaning they have for accounting purposes—



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“associate”;  
“equity method”;  
“gross equity method”;  
“joint venture”.

- (6) In this section “entity” includes anything which is treated as an entity in the financial statements of the worldwide group (regardless of whether it has a legal personality as a body corporate).
- (7) This section has effect for the purposes of this Part.

#### *Effect of interest allowance (consolidated partnerships) election*

### **Interest allowance (consolidated partnerships) election**

- 430 (1) Where an interest allowance (consolidated partnerships) election (see paragraph 18 of Schedule 7A) has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) The financial statements of the group for the period are treated as if—
- (a) no amounts were recognised in them, as items of profit or loss, in respect of any income or expenses of a specified consolidated partnership, and
  - (b) instead, each specified consolidated partnership were accounted for using the equity method.
- (3) In subsection (2)(b) “the equity method” has the meaning it has for accounting purposes.
- (4) In this Part “consolidated partnership”, in relation to a period of account of a worldwide group, means a partnership in relation to which conditions A and B are met.
- (5) Condition A is that, in the financial statements of the worldwide group for the period, the results of the partnership are consolidated with those of the ultimate parent as the results of a single economic entity.
- (6) Condition B is that at no time during the period does the partnership have a subsidiary that is a company.
- (7) In this section—
- (a) “specified” means specified in the interest allowance (consolidated partnerships) election or elections;
  - (b) “subsidiary” has the meaning given by international accounting standards.

#### *Interpretation*

### **Interpretation of Chapter**

- 431 In this Chapter the following expressions have the meaning they have for accounting purposes—

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“item of profit or loss”;  
 “item of other comprehensive income”.

## CHAPTER 8

### PUBLIC INFRASTRUCTURE

#### *Overview*

#### **Overview of Chapter**

432 (1) This Chapter —

- (a) alters the way in which this Part has effect in relation to companies (referred to as “qualifying infrastructure companies”) that are fully taxed in the United Kingdom, and
  - (b) operates by reference to the provision of public infrastructure assets or the carrying on of certain other related activities.
- (2) In addition to the requirement for the company to be fully taxed in the United Kingdom, the qualifying requirements are—
- (a) a requirement designed to ensure that the company's income and assets are referable to activities in relation to public infrastructure assets, and
  - (b) a requirement for the company to make an election (which may be revoked, subject to a 5-year rule in relation to the revocation and the ability to make a fresh election).
- (3) Two different types of asset meet the definition of a “public infrastructure asset”, namely—
- (a) tangible assets forming part of the infrastructure of the United Kingdom (or the UK sector of the continental shelf) that meet a public benefit test, and
  - (b) buildings (or parts of buildings) that are part of a UK property business and are let (or sub-let) on a short-term basis to unrelated parties.
- (4) In either case an asset counts as a public infrastructure asset only if—
- (a) it has had, has or is likely to have an expected economic life of at least 10 years, and
  - (b) it is shown in a balance sheet of a member of the group that is fully taxed in the United Kingdom.
- (5) The detail of the above tests is set out in sections 433 to 437.
- (6) The substantive rules provide that an amount does not count as a tax-interest expense amount if—
- (a) the creditor in relation to the amount is an unrelated party or another qualifying infrastructure company or the amount is in respect of a loan relationship entered into on or before 12 May 2016 (see sections 438 and 439), and

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- (b) the recourse of the creditor in relation to the amount is limited to the income or assets of, or shares in or debt issued by, a qualifying infrastructure company (ignoring certain financial assistance and certain non-financial guarantees).
- (7) In addition—
- (a) provision is made for adjusting the operation of this Part to take into account the effect of the above rules (for example, the tax-EBITDA of a qualifying infrastructure company is treated as nil (see section 441)),
  - (b) provision is made modifying the operation of this Chapter in the case of joint venture companies or partnerships or other transparent entities (see sections 444 to 447), and
  - (c) provision is made in relation to the decommissioning of a public infrastructure asset (see section 448).

#### *Key concepts*

#### **Meaning of “qualifying infrastructure company”**

- 433 (1) For the purposes of this Chapter a company is a “qualifying infrastructure company” throughout an accounting period if—
- (a) it meets the public infrastructure income test for the accounting period (see subsections (2) to (4)),
  - (b) it meets the public infrastructure assets test for the accounting period (see subsections (5) to (10)),
  - (c) it is fully taxed in the United Kingdom in the accounting period (see subsection (11)), and
  - (d) it has made an election for the purposes of this section that has effect for the accounting period (see section 434).
- (2) A company meets the public infrastructure income test for an accounting period if all, or all but an insignificant proportion, of its income for the accounting period derives from—
- (a) qualifying infrastructure activities carried on by the company (see sections 436 and 437),
  - (b) shares in a qualifying infrastructure company, or
  - (c) loan relationships or other financing arrangements to which the only other party is a qualifying infrastructure company.
- (3) A company also meets the public infrastructure income test for an accounting period if it has no income for the period.
- (4) In determining whether the public infrastructure income test for an accounting period is met, income which does not derive from any of the matters mentioned in subsection (2)(a) to (c) is ignored if, having regard to all the circumstances, it is reasonable to regard the amount of the income as insignificant.
- (5) A company meets the public infrastructure assets test for an accounting period if all, or all but an insignificant proportion, of the total value of the

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company's assets recognised in an appropriate balance sheet on each day in that period derives from—

- (a) tangible assets that are related to qualifying infrastructure activities,
  - (b) service concession arrangements in respect of assets that are related to qualifying infrastructure activities,
  - (c) financial assets to which the company is a party for the purpose of the carrying on of qualifying infrastructure activities by the company or another associated qualifying infrastructure company,
  - (d) shares in a qualifying infrastructure company, or
  - (e) loan relationships or other financing arrangements to which the only other party is a qualifying infrastructure company.
- (6) If a company has no assets recognised in an appropriate balance sheet on any day in an accounting period, the company is to be taken as meeting the public infrastructure assets test in respect of that day.
- (7) In determining whether the public infrastructure assets test for an accounting period is met in respect of any day, the value of an asset which does not derive from any of the matters mentioned in subsection (5)(a) to (e) is ignored if, having regard to all the circumstances, it is reasonable to regard the value of the asset as insignificant.
- (8) For the purposes of subsection (5)(a) and (b) assets are “related to qualifying infrastructure activities” in the case of a company if the assets are—
- (a) public infrastructure assets (see section 436(2) and (5)) in relation to the company that are provided by the company, or
  - (b) other assets used in the course of a qualifying infrastructure activity carried on by the company or by an associated qualifying infrastructure company.
- (9) For the purposes of this section the reference to the value of an asset recognised in an appropriate balance sheet of a company on a day is to the value which is, or would be, recognised in a balance sheet of the company drawn up on that day.
- (10) A company is not to be taken as failing to meet the public infrastructure assets test for an accounting period if, ignoring this subsection, that test would have been failed on a particular day or days merely as a result of particular circumstances—
- (a) which existed, and
  - (b) which were always intended to exist,
- for a temporary period of an insignificant duration.
- (11) A company is fully taxed in the United Kingdom in an accounting period if—
- (a) every activity that the company carries on at any time in the accounting period is within the charge to corporation tax,
  - (b) the company has not made an election under section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments) that has effect for the accounting period, and
  - (c) the company has not made a claim for relief under Chapter 2 of Part 2 (double taxation relief) for the accounting period.

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### **Elections under section 433**

- 434 (1) An election under section 433—
- (a) must be made before the beginning of the accounting period in relation to which it is to have effect, and
  - (b) has effect in relation to that accounting period and all subsequent accounting periods (subject to subsections (2) to (4)).
- (2) An election under section 433 may be revoked.
- (3) A revocation of an election under section 433—
- (a) must be made before the beginning of the accounting period from which the revocation is to have effect, but
  - (b) cannot have effect in relation to any accounting period that begins before the end of the period of 5 years beginning with the first day of the first accounting period in relation to which the election had effect.
- (4) Once revoked, a fresh election may be made under section 433 but cannot have effect in relation to any accounting period that begins before the end of the period of 5 years beginning with the first day of the accounting period from which the revocation had effect.
- (5) If—
- (a) a qualifying infrastructure company transfers to another company a business, or a part of a business, that consists of the carrying on of qualifying infrastructure activities, and
  - (b) the transferee has not made an election under section 433 that has effect for the accounting period in which the transfer takes place,
- the transferee is to be treated as if it had made the election under that section that the transferor had made.
- (6) If a company has made an election under section 433 that has effect in relation to an accounting period, the company—
- (a) may not make an election under section 18A of CTA 2009 that has effect for the accounting period, and
  - (b) may not make a claim for relief under Chapter 2 of Part 2 for the accounting period.

### **Group elections modifying the operation of sections 433 and 434**

- 435 (1) Two or more companies which are members of the same worldwide group may jointly make an election under this section modifying the operation of sections 433 and 434 in relation to them for the times during which they remain members of that group.
- (2) An election under this section—
- (a) has effect from a date specified in the election;
  - (b) may be revoked jointly by the members of the group in relation to which the election has effect from a date specified in the revocation;
  - (c) ceases to have effect in relation to a company which gives a notice to an officer of Revenue and Customs, and to the companies in relation

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to which the election has effect, notifying them of its withdrawal from the election from a date specified in the notice.

- (3) A date specified in an election, revocation or notice may not be before the date on which it is made or given.
- (4) An election under this section which has effect at particular times (“relevant times”) in relation to particular companies (“elected companies”) modifies the operation of sections 433 and 434 as follows.
- (5) If an elected company (“C”) has made an election under section 433 which has effect for an accounting period that includes relevant times, that section has effect as if, in determining whether anything is insignificant for the purposes of section 433(2), (4), (5) or (7), C also had the income and assets that the other elected companies had at those times.
- (6) If—
- (a) an elected company (“C”) has made an election under section 433 which has effect for an accounting period including relevant times, and
  - (b) C fails to meet one or more of the tests in subsection (1)(a) to (c) of that section in relation to that accounting period otherwise than as a result of this subsection,
- all the other elected companies are also treated as failing to meeting those tests for so much of their accounting periods as consists of the relevant times in the accounting period of C.
- (7) If, in a case where subsection (6) applies, the deemed failed period does not coincide with an accounting period of another elected company (“E”), the accounting period of E is treated for the purposes of this Part as if it consisted of separate accounting periods beginning and ending at such times as secure that none of the separate accounting periods fall partly within the deemed failed period.
- (8) For this purpose “the deemed failed period” means the period consisting of the relevant times in the accounting period of C mentioned in subsection (6).
- (9) All such apportionments as are necessary for the purposes of, or in consequence of, subsections (5) to (7) are to be made on a just and reasonable basis.
- (10) If—
- (a) elected companies have made elections under section 433 which have effect for accounting periods including relevant times, and
  - (b) more than half of those elected companies have each made an election under that section that has had effect for a period of at least 5 years,
- section 434(3)(b) does not apply in relation to any of the elected companies.

### **Meaning of “qualifying infrastructure activity”**

436 (1) For the purposes of this Chapter a company carries on a “qualifying infrastructure activity” if the company—

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- (a) provides an asset that is a public infrastructure asset in relation to it (see subsections (2) and (5)), or
  - (b) carries on any other activity that is ancillary to, or facilitates, the provision of an asset that is a public infrastructure asset in relation to it.
- (2) For the purposes of this Chapter an asset is a “public infrastructure asset” in relation to a company at any time if—
  - (a) the asset is, or is to be, a tangible asset forming part of the infrastructure of the United Kingdom or the UK sector of the continental shelf,
  - (b) the asset meets the public benefit test (see subsections (3) and (4)),
  - (c) the asset has had, has or is likely to have an expected economic life of at least 10 years, and
  - (d) the asset meets the group balance sheet test (see subsection (10)) in relation to the company.
- (3) An asset meets the “public benefit test” if—
  - (a) the asset is, or is to be, procured by a relevant public body, or
  - (b) the asset is, or is to be, used in the course of a regulated activity.
- (4) An asset is used in the course of a “regulated activity” if its use—
  - (a) is regulated by an infrastructure authority (see section 437(2)), or
  - (b) could be regulated by an infrastructure authority if the authority exercised any of its powers.
- (5) For the purposes of this Chapter a building, or part of a building, is also a “public infrastructure asset” in relation to a company at any time if—
  - (a) the company, or another member of the worldwide group of which it is a member at that time, carries on a UK property business consisting of or including the building or part,
  - (b) the building or part is, or is to be, let on a short-term basis to persons who, at that time, are not related parties of the company or member,
  - (c) the building or part has had, has or is likely to have an expected economic life of at least 10 years, and
  - (d) the building or part meets the group balance sheet test in relation to the company.
- (6) A building, or part of a building, is “let” to a person if the person is entitled to the use of the building or part under a lease or other arrangement.
- (7) A building, or part of a building, is let on a “short-term basis” if the lease or other arrangement in question—
  - (a) has an effective duration which is 50 years or less, and
  - (b) is not an arrangement to which any provision of Chapter 2 of Part 16 of CTA 2010 applies (finance arrangements).
- (8) Whether or not a lease or other arrangement has an effective duration which is 50 years or less is determined in accordance with Chapter 4 of Part 4 of CTA 2009 (reading any reference to a lease as a reference to a lease or other arrangement within subsection (6)).

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- (9) For the purposes of this section references to a building or part of a building being let include the building or part being sub-let, and, accordingly, references to a lease include a sub-lease.
- (10) An asset meets the “group balance sheet test” in relation to a company at any time if—
- (a) an entry in respect of the asset is, or would be, recognised (whether as a tangible asset or otherwise) in a balance sheet of the company, or an associated company, that is drawn up at that time, and
  - (b) the company or associated company is within the charge to corporation tax at that time in respect of all of its sources of income and no election or claim mentioned in section 433(11)(b) or (c) has effect for a period including that time.
- (11) For the purposes of this Chapter references to provision, in relation to a public infrastructure asset, include its acquisition, design, construction, conversion, improvement, operation or repair.

### **Section 436: supplementary**

- 437 (1) In section 436 “infrastructure” includes—
- (a) water, electricity, gas, telecommunications or sewerage facilities,
  - (b) oil pipelines, oil terminals or oil refineries,
  - (c) railway facilities (including rolling stock), roads or other transport facilities,
  - (d) health or educational facilities,
  - (e) facilities or housing accommodation provided for use by members of any of the armed forces or of any police force,
  - (f) court or prison facilities,
  - (g) waste processing facilities, and
  - (h) buildings (or parts of buildings) occupied by any relevant public body.
- (2) Each of the following is an “infrastructure authority” for the purposes of section 436(4)—
- (a) the Civil Aviation Authority so far as exercising functions in relation to the provision of airports (within the meaning of the Airports Act 1986),
  - (b) each of the following so far as exercising functions in relation to waste processing—
    - (i) the Environment Agency,
    - (ii) the Scottish Environmental Protection Agency,
    - (iii) the Northern Ireland Environment Agency, or
    - (iv) Natural Resources Wales,
  - (c) the Gas and Electricity Markets Authority,
  - (d) each of the following so far as exercising functions in relation to the management of ports or harbours—
    - (i) a harbour authority within the meaning of the Harbours Act 1964, or



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- (ii) a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970,
  - (e) the Northern Ireland Authority for Utility Regulation,
  - (f) the Office of Communications so far as exercising functions in relation to the provision of electronic communication services (within the meaning of the Communications Act 2003) or the management of the radio spectrum,
  - (g) the Office of Nuclear Regulation,
  - (h) the Office of Rail and Road,
  - (i) the Oil and Gas Authority,
  - (j) the Water Services Regulation Authority or the Water Industry Commission for Scotland, or
  - (k) any other public authority which has functions of a regulatory nature exercisable in relation to the use of tangible assets forming part of the infrastructure of the United Kingdom or the UK sector of the continental shelf.
- (3) The Commissioners may by regulations amend the definition of “infrastructure authority”.

#### *Exemption and related provision*

#### **Exemption for interest payable to third parties etc**

- 438 (1) Amounts that arise to a qualifying infrastructure company in a relevant accounting period are not to be regarded for the purposes of this Part as tax-interest expense amounts of the company so far as they qualify as exempt amounts in that period (see subsections (2) and (3)).
- (2) An amount qualifies as an exempt amount so far as it is attributable, on a just and reasonable apportionment, to the times in the relevant accounting period when—
- (a) each creditor in relation to the amount is within subsection (3) or the amount is in respect of a qualifying old loan relationship (see section 439), and
  - (b) the recourse of each creditor in relation to the amount is limited to relevant infrastructure matters (see subsections (4) to (6)).
- (3) A creditor is within this subsection if—
- (a) the creditor is not a related party of the company, or
  - (b) the creditor is a company which is a qualifying infrastructure company,
- but section 466(2) does not apply for the purposes of paragraph (a).
- (4) The recourse of a creditor is limited to relevant infrastructure matters if, in the event that the company fails to perform its obligations in question, the recourse of the creditor is limited to—
- (a) income of a qualifying infrastructure company,
  - (b) assets of a qualifying infrastructure company, or
  - (c) shares in or debt issued by a qualifying infrastructure company,

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whether the income, assets, shares or debt relate to the company concerned or another qualifying infrastructure company.

- (5) For the purposes of subsection (4) a guarantee, indemnity or other financial assistance in favour of the creditor is ignored if—
- (a) it is provided before 1 April 2017, or
  - (b) it is provided at any later time by a person who, at that time, is not a related party of the company or is a relevant public body.
- (6) For the purposes of subsection (4) a non-financial guarantee in favour of the creditor is ignored if—
- (a) it guarantees the performance by any person of contractual obligations to provide goods or services to a qualifying infrastructure company,
  - (b) it is given by the person providing the goods or services or by a person who is a related party of that person, and
  - (c) the maximum amount for which the guarantor is liable does not exceed the consideration given under the contract for the provision of the goods or services.
- (7) In this section “creditor” means—
- (a) if the amount meets condition A in section 382, the person who is party to the loan relationship as creditor,
  - (b) if the amount meets condition B in that section, the person other than the company who is party to the derivative contract, and
  - (c) if the amount meets condition C in that section, the person other than the company who is party to the relevant arrangement or transaction.

### **Exemption in respect of certain pre-13 May 2016 loan relationships**

- 439 (1) A loan relationship is a “qualifying old loan relationship” of a qualifying infrastructure company if—
- (a) the company entered into the loan relationship on or before 12 May 2016, and
  - (b) as at that date, at least 80% of the total value of the company's future qualifying infrastructure receipts for the qualifying period was highly predictable by reference to qualifying public contracts,
- but see subsection (8) for cases where a loan relationship is not a qualifying old loan relationship of the company.
- (2) For the purposes of this section “the qualifying period” means—
- (a) in a case where the loan relationship would cease to subsist at any time before 12 May 2026 (if any amendments of the loan relationship made on or after 12 May 2016 are ignored), the period beginning with 12 May 2016 and ending with that time, and
  - (b) in any other case, the period of 10 years beginning with 12 May 2016.
- (3) For the purposes of this section “qualifying infrastructure receipts”, in relation to a company (“C”), means—
- (a) receipts arising from qualifying infrastructure activities carried on by C, and

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- (b) such proportion of the receipts arising from qualifying infrastructure activities carried on by another company as, on a just and reasonable basis, is attributable to C's interests in the other company (whether direct or indirect) arising as a result of shares or loans.
- (4) For the purposes of this section receipts are highly predictable by reference to qualifying public contracts so far as their value can be predicted with a high degree of certainty because—
  - (a) the amounts of the receipts are fixed by a qualifying public contract, and
  - (b) the factors affecting the volume of receipts are fixed by a qualifying public contract or are otherwise capable of being predicted with a high degree of certainty.
- (5) For this purpose any provision of a qualifying public contract (however expressed) that adjusts the amount of a receipt for changes in the general level of prices or earnings is to be ignored.
- (6) For the purposes of this section a contract is a “qualifying public contract” if—
  - (a) it was entered into at any time on or before 12 May 2016 and, as at that time, it was expected to have effect for at least 10 years, and
  - (b) it was entered into either with a relevant public body or following bids made in an auction conducted by a relevant public body.
- (7) If a qualifying old loan relationship is amended after 12 May 2016 so as to increase the amount lent or extend the period for which the relationship is to subsist—
  - (a) section 438 is to have effect as if none of those amendments were made (and, accordingly, the exemption under that section has no effect in relation to the increase in the amount or the period of the extension), and
  - (b) such apportionments of amounts in respect of the relationship are to be made as are just and reasonable.
- (8) A loan relationship to which a qualifying infrastructure company is a party at any time is not a qualifying old loan relationship of the company at that or any subsequent time if, on the relevant assumptions, the condition in subsection (1)(b) would not have been met.
- (9) The relevant assumptions are that—
  - (a) the assets held by the company at that time were the only assets that the company held on 12 May 2016,
  - (b) the assets held at that time by any other company in which it has interests (whether direct or indirect) arising as a result of shares or loans were the only assets that the other company held on 12 May 2016, and
  - (c) a qualifying infrastructure receipt could not be regarded as highly predictable if, on 12 May 2016, the public infrastructure asset in question did not exist or was not in the course of being constructed or converted.

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- (10) For the purposes of this section the value of a receipt on 12 May 2016 is taken to be its present value on that date, discounted using a rate that can reasonably be regarded as one that, in accordance with normal commercial criteria, is appropriate for the purpose.
- (11) In this section “receipts” means receipts of a revenue nature.

#### **Loans etc made by qualifying infrastructure companies to be ignored**

- 440 (1) This section applies where—
- (a) a company is a qualifying infrastructure company throughout an accounting period, and
  - (b) the company would (but for this section) have had tax-interest income amounts in the accounting period.
- (2) For the purposes of this Part, the company is treated as if it did not have any tax-interest income amounts in the accounting period.

#### **Tax-EBITDA of qualifying infrastructure company to be nil**

- 441 (1) This section applies where a company is a qualifying infrastructure company throughout an accounting period.
- (2) For the purposes of this Part, the tax-EBITDA of the company for the accounting period is nil.

#### **Amounts of qualifying infrastructure company left out of account for other purposes**

- 442 (1) This section applies where a company is a qualifying infrastructure company throughout a relevant accounting period.
- (2) In calculating—
- (a) the adjusted net group-interest expense of the worldwide group for the period of account concerned, or
  - (b) the qualifying net group-interest expense of the worldwide group for the period of account concerned,
- amounts that are exempt amounts of the company under section 438, or are treated as mentioned in section 440, are to be left out of account.
- (3) For the purposes of this Part the group EBITDA of the worldwide group for the period of account concerned is to be calculated as if the group did not include the company in respect of the relevant accounting period.

#### **Interest capacity for group with qualifying infrastructure company etc**

- 443 (1) If a worldwide group for a period of account includes a qualifying infrastructure company at any time, the general rule is that the interest capacity of the group for the period is calculated as if section 392 did not contain the de minimis provisions.
- (2) But this is subject to an exception that depends on the following comparison.
- (3) The following amounts must be compared with each other—

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- (a) the total disallowed amount of the group in the period calculated as if this Chapter (including subsection (1) of this section but ignoring the remainder of it) were contained in this Part (“the Chapter 8 amount”), and
  - (b) the total disallowed amount of the group in the period calculated as if this Chapter were not contained in this Part and as if section 392 contained only the de minimis provisions (“the ordinary amount”).
- (4) If the Chapter 8 amount exceeds the ordinary amount, the interest capacity of the worldwide group for the period is taken to be the de minimis amount (as defined by 392(3)).
- (5) If the interest capacity of the worldwide group for the period is given by subsection (4), nothing else in this Chapter has effect in relation to the worldwide group for the period.
- (6) For the purposes of this section the reference to section 392 not containing the de minimis provisions is a reference to that section not containing subsections (2) and (3) of that section.
- (7) For the purposes of this section the reference to section 392 containing only the de minimis provisions is a reference to that section having effect as if for subsections (1) and (2) of that section there were substituted—
- “(1) For the purposes of this Part the “interest capacity” of a worldwide group for a period of account of the group is the de minimis amount.”

### *Supplementary*

#### **Joint venture companies**

- 444 (1) This section makes modifications of this Part in relation to an accounting period of a qualifying infrastructure company (“the joint venture company”) where—
- (a) one or more qualifying infrastructure companies (“the qualifying investor or investors”) have shares in the joint venture company,
  - (b) other persons (“the other investors”) who are not qualifying infrastructure companies have all the other shares in the joint venture company,
  - (c) each of the investors (that is to say, the qualifying investor or investors and the other investors) has lent money to the joint venture company,
  - (d) the amounts each of the investors has lent stand in the same, or substantially the same, proportion as the shares in the joint venture company that each of them has,
  - (e) at all times in the accounting period the investors have the same rights in relation to the shares in or assets of the joint venture company and the same rights in relation to the money debt or debts in question, and
  - (f) the joint venture company makes an election for the purposes of this section that has effect for the accounting period (but see section 445 for further provision about elections).

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- (2) Section 401 has effect as if the qualifying investor or investors were not investors in the group for times in the accounting period falling in the relevant period of account.
- (3) Section 427 has effect as if, in determining the appropriate proportion in relation to an associated worldwide group, it is assumed that the qualifying investor or investors were not investors in the group for times in the accounting period falling in the relevant period of account.
- (4) In consequence of subsection (2) or (3), the shares of the qualifying investor or investors in the group are treated as distributed for times in the accounting period falling in the relevant period of account among the other investors in proportion to the actual shares of the other investors in the group.
- (5) For the purposes of section 438 there is a reduction in any amount that would otherwise qualify as an exempt amount in the accounting period where—
  - (a) the exemption operates by reference to creditors being within subsection (3) of that section, and
  - (b) the creditor in relation to the amount is not an investor.
- (6) The amount qualifying as an exempt amount is to be reduced so that only the qualifying proportion of it qualifies.
- (7) For the purposes of this section—
  - “the qualifying proportion” means the proportion of the shares that the qualifying investor or investors have in the joint venture company in the accounting period, and
  - “the non-qualifying proportion” means the proportion of the shares that the other investors have in the joint venture company in the accounting period.
- (8) The treatment mentioned in section 440(2) is to extend only to the qualifying proportion of the tax-interest income amounts in the accounting period.
- (9) Section 441(2) has effect as if the tax-EBITDA of the company for the accounting period were the amount determined as follows.
  - Step 1* Find the tax-EBITDA of the company for the accounting period if section 441 were ignored.
  - Step 2* The tax-EBITDA of the company for the accounting period is equal to the non-qualifying proportion of that amount.
- (10) Section 442(3) has effect as if for the words “the group did not include the company” there were substituted “ amounts of the company were limited to the non-qualifying proportion of those amounts ”.

### **Joint venture groups**

- 445 (1) This section applies if the joint venture company is the ultimate parent of a multi-company worldwide group at any time in the accounting period.
- (2) An election made by the joint venture company under section 444 in relation to the accounting period is of no effect unless all the other members of the group—
  - (a) are qualifying infrastructure companies for the accounting period,

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- (b) are wholly-owned subsidiaries of the joint venture company throughout the accounting period, and
  - (c) have the same accounting periods as the joint venture company.
- (3) In determining whether the conditions in section 444(1)(c) to (e) are met in relation to the accounting period of the joint venture company, any loans made to any of the other members of the group are treated as if they were made to the joint venture company.
- (4) If the joint venture company makes an election under section 444 for the accounting period, the modifications made by subsections (5) to (10) of that section are also to apply in relation to each of the other members of the group.

### **Joint ventures: supplementary**

446 (1) If—

- (a) the joint venture company makes an election under section 444 in relation to an accounting period,
  - (b) that company, or any member of the worldwide group of which it is a member, is the creditor for the purposes of section 438 in any case, and
  - (c) the company mentioned in that section in that case is not a member of that group at any time in the accounting period,

section 438 has effect in that case as if subsection (3)(b) were of no effect in relation to that time.
- (2) Section 434(1) to (5) apply to an election under section 444 as they apply to an election under section 433.
- (3) For the purposes of section 444 the investors are not to be regarded as having the same rights in relation to the shares in or assets of the joint venture company, or in relation to the money debt or debts in question, at any time if—
  - (a) provision is in force at that time in respect of any of the relevant matters that differs in relation to different persons or has, or is capable of having, a different effect in relation to different persons (whether at that or any subsequent time),
  - (b) arrangements are in place at that time the effect of which is that, at that or any subsequent time, the rights of some persons in relation to any of the relevant matters differ, or will or may differ, from the rights of others in relation to the matters in question, or
  - (c) any other circumstances exist at that time as a result of which the rights of some persons in relation to any of the relevant matters cannot reasonably be regarded as being, in substance, the same rights as others in relation to the matters in question at that or any subsequent time.
- (4) In this section—
  - (a) “the relevant matters” means the shares in or assets of the joint venture company or the money debt or debts in question,
  - (b) “rights” includes powers,

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- (c) “different persons” includes persons of a different class or description, and
- (d) “arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

### **Partnerships and other transparent entities**

- 447 (1) Subsections (2) to (4) apply where a company is a member of a partnership.
- (2) For the purposes of section 433 the cases in which assets recognised in a balance sheet of the company are regarded as deriving their value from the matters mentioned in subsection (5)(a) to (e) of that section include any case where—
    - (a) the company's interest in the partnership is recognised in the balance sheet of the company, and
    - (b) that partnership interest derives its value from those matters.
  - (3) For the purposes of section 436 the cases in which an entry in respect of an asset is (or would be) recognised in a balance sheet of the company include any case where—
    - (a) the asset is (or would be) recognised in a balance sheet of the partnership, and
    - (b) the company has a significant interest in the partnership.
  - (4) For the purposes of section 438(4)—
    - (a) the obligations mentioned there include any case where the obligations are those of the partnership, and
    - (b) references to a qualifying infrastructure company in that case include the partnership.
  - (5) Subsections (2) to (4) apply (with any necessary modifications) in relation to transparent entities that are not partnerships as they apply in relation to partnerships.
  - (6) For this purpose an entity is “transparent” if it is not chargeable to corporation tax or income tax as a person (ignoring any exemptions).

### **Decommissioning**

- 448 (1) This Chapter applies in relation to an activity consisting of the decommissioning of a public infrastructure asset as it applies in relation to its provision.
- (2) In determining whether a company is a qualifying infrastructure company the following assets of the company are ignored (and the income arising from them is, accordingly, also ignored)—
    - (a) any shares in a decommissioning fund, and
    - (b) any loan relationships or other financing arrangements to which a decommissioning fund is party.
  - (3) A decommissioning fund is to be regarded as a qualifying infrastructure company.



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- (4) For the purposes of this section “a decommissioning fund” means a fund which—
- (a) holds particular investments for the sole purpose of funding activities for, or in connection with, the decommissioning or other provision of public infrastructure assets, and
  - (b) is prevented from using the proceeds of the investments, or the income arising from them, for any purpose other than the purpose mentioned in paragraph (a) or returning surplus funds.
- (5) In this section “decommissioning” includes demolishing and putting out of use.

### **Minor definitions for purposes of this Chapter**

- 449 (1) For the purposes of this Chapter—
- “balance sheet” means a balance sheet that is drawn up in accordance with generally accepted accounting practice,
  - “financial asset” has the same meaning as it has for accounting purposes,
  - “loan relationships or other financing arrangements” means—
    - (a) loan relationships,
    - (b) derivative contracts in relation to which the condition in section 387(4) is met (underlying subject matter to be interest rates etc),
    - (c) finance leases, or
    - (d) debt factoring or similar transactions, and
  - “the UK sector of the continental shelf” means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.
- (2) For the purposes of this Chapter references to a company which is “associated” with another company at any time are references to companies that are members of the same worldwide group at that time.

## **CHAPTER 9**

### **CASES INVOLVING PARTICULAR TYPES OF COMPANY OR BUSINESS**

#### *Banking companies*

#### **Banking companies**

- 450 (1) This section applies in relation to a banking company carrying on a trade so far as the activities of the trade consist of or include dealing in financial instruments.
- (2) For the purposes of section 382 an amount is treated as meeting condition A, B or C if it is a debit arising directly from dealing in financial instruments other than one in respect of an impairment loss.

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- (3) An amount—
- (a) which is treated as meeting condition A, B or C for the purposes of section 382 as a result of subsection (2) of this section, and
  - (b) which, but for that subsection, would not be a tax-interest expense amount,
- is to be left out of account, or brought into account, as a result of section 377(2) or 380(2) after the second but before the third kind of tax-interest expense amounts mentioned there.
- (4) For the purposes of section 385 an amount is treated as meeting condition A, B, C or D if it is a credit arising directly from dealing in financial instruments other than one in respect of the reversal of an impairment loss.
- (5) In determining a relevant expense amount under section 411 in the case of the company, that section has effect as if it also included a reference to losses arising directly from dealing in financial instruments other than impairment losses.
- (6) In determining a relevant income amount under section 411 in the case of the company, that section has effect as if it also included gains arising directly from dealing in financial instruments other than the reversal of impairment losses.
- (7) In this section—
- “banking company” has the same meaning as in Part 7A of CTA 2010 (see sections 269B to 269BD), and
  - “financial instruments” includes—
    - (a) loan relationships,
    - (b) derivative contracts, and
    - (c) shares or other securities.

### *Oil and gas*

#### **Oil and gas**

- 451 (1) For the purposes of this Part any amount which is, or is taken into account in calculating—
- (a) the ring fence income of a company within the meaning of section 275 of CTA 2010, or
  - (b) a company's aggregate gain or loss under section 197(3) of TCGA 1992,
- is to be ignored.
- (2) For the purpose of applying subsection (1) in relation to the financial statements of a worldwide group of which the company is a member such adjustments are to be made to those statements as are just and reasonable.

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## REITs

### Real Estate Investment Trusts

- 452 (1) This section applies if a company (a “property rental business company”)—
- (a) is a company which has profits for an accounting period which are not charged to corporation tax as a result of section 534(1) or (2) of CTA 2010, or
  - (b) is a company to which gains accrue in an accounting period that are not chargeable gains as a result of section 535(1) or (5) of CTA 2010.
- (2) In this section “the residual business company” means the company which—
- (a) so far as it carries on residual business, is treated, as a result of section 541 of CTA 2010, as a separate company distinct from the property rental business company, but
  - (b) ignoring that section, is in fact the same company as the property rental business company.
- (3) In applying the provisions of this Part—
- (a) the property rental business company and the residual business company are at all times to be regarded as separate members of the same worldwide group (despite the provisions of section 541(3) of CTA 2010), but
  - (b) in the case of the application of section 433 (qualifying infrastructure company), the property rental business company and the residual business company are to be regarded as being one company (and any election (or its revocation) is, therefore, regarded as made by each company).
- (4) This Part has effect as if—
- (a) section 534(1) and (2) of CTA 2010, and
  - (b) section 535(1) and (5) of CTA 2010,
- do not apply in relation to the property rental business company for the accounting period.
- (5) The allocated disallowance for the property rental business company (if any) for the accounting period must be limited to such amount as secures that section 530(3)(b) or (5) of CTA 2010 (distribution of profits not required if would result in unlawful distribution) do not apply.
- (6) This subsection—
- (a) sets out steps to be taken in order to facilitate the operation of Chapter 2 (disallowance and reactivation of tax-interest expense amounts), and
  - (b) has effect in relation to an accounting period of the residual business company whether or not it has net tax-interest expense referable to that period.

If the residual business company does not have net tax-interest expense referable to that period, it is treated for the purposes of steps 1 to 4 in the

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rest of this subsection as if it had instead a nil amount of tax-interest expense referable to that period.

*Step 1* Determine the maximum amount that could be the allocated disallowance for the property rental business company for the accounting period if subsection (5) were ignored and the maximum amount that could be the allocated disallowance for the residual business company for the accounting period (ignoring step 5). The sum of those maximum amounts is referred to in this subsection as “the total REIT expenses”.

*Step 2* Determine the amount (if any) that is the allocated disallowance for the property rental business for the accounting period, applying subsection (5) and all other rules in this Part. This amount is referred to in this subsection as “the actual disallowed amount”.

*Step 3* Deduct from the total REIT expenses the actual disallowed amount.

*Step 4* Determine whether so much of the total REIT expenses as remains after step 3 exceeds the net tax-interest expense of the residual business company referable to the accounting period (ignoring step 5).

*Step 5* If the application of step 4 produces an excess, the residual business company is required to bring into account in the accounting period matching tax-interest expense and income amounts in accordance with the following provisions of this section.

- (7) The residual business company—
- (a) must bring a tax-interest expense amount equal to the excess into account in the accounting period, and
  - (b) must bring a tax-interest income amount equal to the excess into account in the accounting period,
- but nothing in this subsection affects any calculation required under any other provision of this Part in relation to the accounting period of the residual business company.
- (8) The bringing into account of a tax-interest expense amount under subsection (7) is subject to the operation of the other provisions of this Part (which may result in some or all of the amount not being brought into account).
- (9) The tax-interest expense amount under subsection (7) must be matched in amount and nature to an amount comprised in the total REIT expenses.

Section 377(2) to (4) (which, subject to an election made by the company, set out the order in which amounts are left out of account) apply for the purposes of this subsection.

- (10) The tax-interest expense or income amounts under subsection (7) are treated as being of the same nature as each other.
- (11) An interest restriction return—
- (a) must, in relation to any company carrying on residual business or property rental business, specify that fact, and
  - (b) must contain information about how the return has taken into account the effect of this section.

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- (12) Expressions which are used in this section and in Part 12 of CTA 2010 have the same meaning in this section as they have in that Part.

### *Insurance companies etc*

#### **Insurance entities**

- 453 (1) This section applies where—
- (a) an insurance entity is a member of a worldwide group,
  - (b) the entity has a subsidiary (“S”) which it holds as a portfolio investment, and
  - (c) apart from this section, S would be a member of the group.
- (2) For the purposes of this Part—
- (a) the group does not include S (or its subsidiaries), and
  - (b) accordingly, none of those entities is regarded as a consolidated subsidiary of any member of the group.
- (3) For the purposes of this section an insurance entity holds an interest in an entity as “a portfolio investment” if—
- (a) the insurance entity holds the interest as an investment, and
  - (b) the insurance entity judges the value that the interest has to it wholly or mainly by reference to the market value of the interest.
- (4) In this section—
- “insurance entity” means—
- (a) an insurance company,
  - (b) a friendly society within the meaning of Part 3 of FA 2012 (see section 172), or
  - (c) a body corporate which carries on underwriting business as a member of Lloyd's, and
- “subsidiary” has the meaning given by international accounting standards.

#### **Members of Lloyd's**

- 454 In the case of a body corporate carrying on underwriting business as a member of Lloyd's—
- (a) any reference in this Part to an amount being brought into account under Part 3 of CTA 2009 as a result of section 297 or 573 of that Act is to be read as a reference to its being brought into account under that Part as a result of section 219 of FA 1994, and
  - (b) any reference in this Part to a derivative contract is to be read as if subsection (3) of section 226 of FA 1994 (which provides that relevant contracts forming part of a premium trust fund are not derivative contracts) were omitted.

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### *Shipping companies*

#### **Shipping companies subject to tonnage tax**

- 455 (1) This section applies in relation to an accounting period of a tonnage tax company.
- (2) The company's tonnage tax profits for the accounting period are treated as nil for the purpose of calculating the company's adjusted corporation tax earnings for the accounting period under section 406(2).
- (3) In this section “tonnage tax company” and “tonnage tax profits” have the same meaning as in Schedule 22 to FA 2000 (see paragraphs 2 to 5).

### *Fair value accounting*

#### **Creditor relationships of companies determined on basis of fair value accounting**

- 456 (1) A company may elect for all of its creditor relationships which are dealt with on the basis of fair value accounting (“fair-value creditor relationships”) to be subject to the provision made by this section for all of its accounting periods.
- (2) For the purpose of calculating under this Part—
- (a) tax-interest expense amounts of the company, and
  - (b) tax-interest income amounts of the company,
- the relevant loan relationship debits and relevant loan relationship credits in respect of the company's fair-value creditor relationships are instead to be determined for the accounting periods on an amortised cost basis of accounting.
- (3) If—
- (a) a company has a hedging relationship between a relevant contract (“the hedging instrument”) and the asset representing a loan relationship subject to the election, and
  - (b) the loan relationship is dealt with in the company's accounts on the basis of fair value accounting,
- it is to be assumed in applying the amortised cost basis of accounting that the hedging instrument has where possible been designated for accounting purposes as a fair value hedge of the loan relationship.
- (4) An election under this section—
- (a) must be made before the end of 12 months from the end of the relevant accounting period,
  - (b) has effect for that accounting period and all subsequent accounting periods, and
  - (c) is irrevocable.
- (5) For this purpose “relevant accounting period” means—

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- (a) the first accounting period in which the company has a fair-value creditor relationship, or
  - (b) if that accounting period has ended before 1 April 2017, the first accounting period in relation to which any provision of this Part applies.
- (6) In this section “amortised cost basis of accounting”, in relation to an accounting period, has the same meaning as in Part 5 of CTA 2009 (see section 313), but, in the case of creditor relationships relating to insurance activities, as if that basis of accounting required recognition only—
  - (a) interest accrued for the period in respect of the creditor relationships, or
  - (b) if the creditor relationships arise as a result of section 490 of CTA 2009 (OEICs, unit trusts and offshore funds), amounts that can reasonably be regarded as equating to interest accrued for the period in respect of those relationships.
- (7) In subsection (6) “creditor relationships relating to insurance activities” means creditor relationships which—
  - (a) are held by an insurance company, a friendly society within the meaning of Part 3 of FA 2012 (see section 172) or a body corporate which carries on underwriting business as a member of Lloyd's, or
  - (b) are held in connection with the regulation of underwriting business carried on by members of Lloyd's.
- (8) The Commissioners may by regulations amend the definition of “amortised cost basis of accounting” in this section.
- (9) Other expressions which are used in this section and in Part 5 of CTA 2009 have the same meaning in this section as they have in that Part.

#### **Elections under section 456: deemed debits and credits**

457 (1) This section applies if—

- (a) as a result of an election under section 456, the tax-interest expense amounts of a company include notional debits for an accounting period,
  - (b) the worldwide group of which the company is a member is subject to interest restrictions for a period of account, and
  - (c) the total disallowed amount for the period of account consists of or includes the notional debits.
- (2) In order to facilitate the operation of Chapter 2 (disallowance and reactivation of tax-interest expense amounts)—
  - (a) the company must bring a debit equal to the amount of the notional debits into account in the accounting period, and
  - (b) the company must bring a credit equal to the amount of the notional debits into account in the accounting period,but nothing in this subsection affects any calculation required under any other provision of this Part in relation to the accounting period of the company.

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- (3) The bringing into account of a debit under subsection (2)(a) is subject to the operation of the other provisions of this Part (which may result in some or all of the debit not being brought into account).
- (4) The debits and credits under subsection (2) are of the same nature as the notional debits that give rise to them.
- (5) For the purposes of this section a debit is a “notional debit” if the debit is created as a result of the determination required by the election or so far as the amount of the debit is increased as a result of that determination.

*Exemption for tax-interest expense or income amounts*

**Co-operative and community benefit societies etc**

- 458 (1) This section applies where—
- (a) apart from this section, an amount would be a tax-interest expense amount or tax-interest income amount of a company as a result of meeting condition A in section 382 or 385 (loan relationships), and
  - (b) the amount meets that condition only because of section 499 of CTA 2009 (certain sums payable by co-operative and community benefit societies or UK agricultural or fishing co-operatives treated as interest under loan relationship).
- (2) The amount is treated as not being a tax-interest expense amount or tax-interest income amount of the company.

**Charities**

- 459 (1) This section applies where—
- (a) apart from this section, an amount would be a tax-interest expense amount of a company as a result of meeting condition A in section 382 (loan relationship debits),
  - (b) the creditor is a charity,
  - (c) the company is a wholly-owned subsidiary of the charity, and
  - (d) the charitable gift condition is met at all times during the accounting period in which the amount is (or apart from this Part would be) brought into account.
- (2) The amount is treated as not being a tax-interest expense amount of the company.
- (3) For the purposes of this section the “charitable gift condition” is met at any time at which, were the company to make a donation to the charity at that time, it would be a qualifying charitable donation (see section 190 of CTA 2010).
- (4) In this section—
- “charity” has the same meaning as in Chapter 2 of Part 6 of CTA 2010 (see section 202 of that Act as read with Schedule 6 to FA 2010), and



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“the creditor” means the person who is party to the loan relationship in question as creditor.

### *Leases*

#### **Long funding operating leases and finance leases**

- 460 (1) In calculating a company's adjusted corporation tax earnings for an accounting period under section 406(2), each of the following amounts is to be ignored—
- (a) the amount of a deduction under section 363 of CTA 2010 (lessor under long funding operating lease);
  - (b) the amount by which a deduction is reduced under section 379 of CTA 2010 (lessee under long funding operating lease);
  - (c) the capital component of the company's rental earnings under a finance lease which is not a long funding finance lease;
  - (d) the amount of depreciation in respect of any asset leased to the company under a finance lease which is not a long funding finance lease.
- (2) The definition of “relevant capital expenditure” in section 417(2) includes the amount of depreciation in respect of any relevant asset leased under a finance lease for some or all of the relevant period of account to a company that is a member of the worldwide group in question.
- (3) For the purposes of this section the capital component of a company's rental earnings under a finance lease is so much of those earnings as do not constitute tax-interest income amounts of the company.
- (4) For the purposes of this section the amount of depreciation in respect of any asset leased to a company under a finance lease is the amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be shown as depreciation in respect of the asset in the applicable accounts.
- (5) In this section “the applicable accounts” are—
- (a) in a case within subsection (1)(d), the company's accounts for any period, and
  - (b) in a case within subsection (2), the financial statements of the worldwide group for the relevant period of account in question.
- (6) In this section “long funding finance lease” means a finance lease which is a long funding lease (within the meaning of section 70G of CAA 2001).

## **CHAPTER 10**

### **ANTI-AVOIDANCE**

#### **Counteracting effect of avoidance arrangements**

- 461 (1) Any tax advantage that would (in the absence of this section) arise from relevant avoidance arrangements is to be counteracted by the making of such adjustments as are just and reasonable.

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- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim or otherwise.
- (3) For the purposes of this section arrangements are “relevant avoidance arrangements” if conditions A and B are met.
- (4) Condition A is that the main purpose, or one of the main purposes, of the arrangements is to enable a company to obtain a tax advantage.
- (5) Condition B is that the tax advantage is attributable (or partly attributable) to any company—
- (a) not leaving tax-interest expense amounts out of account that it otherwise would have left out of account,
  - (b) leaving tax-interest expense amounts out of account that are lower than they otherwise would have been,
  - (c) leaving tax-interest expense amounts out of account in an accounting period other than that in which it otherwise would have left them out of account,
  - (d) bringing tax-interest expense amounts into account that it otherwise would not have brought into account,
  - (e) bringing tax-interest expense amounts into account that are higher than they otherwise would have been, or
  - (f) bringing tax-interest expense amounts into account in an accounting period other than that in which it otherwise would have brought them into account.
- (6) In subsection (5)—
- (a) references to leaving amounts out of account are to leaving them out of account under this Part;
  - (b) references to bringing amounts into account are to bringing them into account under this Part.
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
- “tax advantage” includes—
- (a) relief or increased relief from tax,
  - (b) repayment or increased repayment of tax,
  - (c) avoidance or reduction of a charge to tax or an assessment to tax,
  - (d) avoidance of a possible assessment to tax,
  - (e) deferral of a payment of tax or advancement of a repayment of tax, and
  - (f) avoidance of an obligation to deduct or account for tax.
- (8) For the purposes of the definition of “tax advantage” any reference to tax includes—

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- (a) any amount chargeable as if it were corporation tax or treated as if it were corporation tax, and
- (b) diverted profits tax.

## CHAPTER 11

### INTERPRETATION ETC

#### *Related parties*

#### **Expressions relating to “related parties”: introduction**

- 462 (1) Section 463 sets out the circumstances in which a person is a related party of another person for the purposes of this Part.
- (2) That section—
- (a) applies generally in relation to any amount, and
  - (b) is supplemented by sections 464 and 465 (which contain provisions that have effect for the purposes of that section).
- (3) Sections 466 and 467 make provision for treating persons as if they were related parties of each other but only in relation to certain matters.
- (4) Sections 468 to 472—
- (a) make provision for treating persons as if they were not related parties of each other but only in relation to certain matters, and
  - (b) take priority over sections 466 and 467.

#### **Whether a person is generally a “related party” of another**

- 463 (1) For the purposes of this Part a person (“A”) is a “related party” of another person (“B”)—
- (a) throughout any period for which A and B are consolidated for accounting purposes,
  - (b) on any day on which the participation condition is met in relation to them, or
  - (c) on any day on which the 25% investment condition is met in relation to them.
- (2) A and B are consolidated for accounting purposes for a period if—
- (a) their financial results for a period are required to be comprised in group accounts,
  - (b) their financial results for the period would be required to be comprised in group accounts but for the application of an exemption, or
  - (c) their financial results for a period are in fact comprised in group accounts.
- (3) In subsection (2) “group accounts” means accounts prepared under—
- (a) section 399 of the Companies Act 2006, or

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- (b) any corresponding provision of the law of a territory outside the United Kingdom.
- (4) The participation condition is met in relation to A and B (“the relevant parties”) on a day if, within the period of 6 months beginning or ending with that day—
  - (a) one of the relevant parties directly or indirectly participates in the management, control or capital of the other, or
  - (b) the same person or persons directly or indirectly participate in the management, control or capital of each of the relevant parties.
- (5) For the interpretation of subsection (4), see sections 157(1), 158(4), 159(1) and 160(1) (which have the effect that references in that subsection to direct or indirect participation are to be read in accordance with provisions of Chapter 2 of Part 4).
- (6) If one of the relevant parties is a securitisation company within the meaning of Chapter 4 of Part 13 of CTA 2010, the relevant parties are not to be regarded as related parties of each other as a result of subsection (4) merely by reference to the fact that—
  - (a) the securitisation company is held by a trustee of a settlement, and
  - (b) the other relevant party is a settlor in relation to that settlement.
- (7) The 25% investment condition is met in relation to A and B if—
  - (a) one of them has a 25% investment in the other, or
  - (b) a third person has a 25% investment in each of them.
- (8) Sections 464 and 465 apply for the purpose of determining whether a person has a “25% investment” in another person.

#### **Meaning of “25% investment”**

- 464 (1) A person (“P”) has a 25% investment in another person (“C”) if—
- (a) P possesses or is entitled to acquire 25% or more of the voting power in C,
  - (b) in the event of a disposal of the whole of the equity in C, P would receive 25% or more of the proceeds,
  - (c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive 25% or more of the amount so distributed, or
  - (d) in the event of a winding-up of C or in any other circumstances, P would receive 25% or more of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.
- (2) In this section references to the equity in C are to—
- (a) the shares in C other than restricted preference shares, or
  - (b) loans to C other than normal commercial loans.
- (3) For this purpose “shares in C” includes—
- (a) stock, and
  - (b) any other interests of members in C.

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- (4) For the purposes of this section a person is an equity holder in C if the person possesses any of the equity in C.
- (5) For the purposes of this section—
- “normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and
- “restricted preference shares” means shares which are restricted preference shares for the purposes of section 160 of CTA 2010.
- (6) In applying for the purposes of this section the definitions of “normal commercial loan” and “restricted preference shares” in a case where—
- (a) C is not a company, or
- (b) C is a company which does not have share capital,
- sections 160(2) to (7) and 161 to 164 of CTA 2010 (and any other relevant provisions of that Act) have effect with the necessary modifications.
- (7) In this section references to a person receiving any proceeds, amount or assets include—
- (a) the direct or indirect receipt of the proceeds, amount or assets, and
- (b) the direct or indirect application of the proceeds, amount or assets for the person's benefit,
- and it does not matter whether the receipt or application is at the time of the disposal, distribution, winding-up or other circumstances or at a later time.
- (8) If—
- (a) there is a direct receipt or direct application of any proceeds, amount or assets by or for the benefit of a person (“A”), and
- (b) another person (“B”) directly or indirectly owns a percentage of the equity in A,
- there is, for the purposes of subsection (7), an indirect receipt or indirect application of that percentage of the proceeds, amount or assets by or for the benefit of B.
- (9) For this purpose the percentage of the equity in A directly or indirectly owned by B is to be determined by applying the rules in sections 1155 to 1157 of CTA 2010 with such modifications (if any) as may be necessary.
- (10) Subsection (7) is not to result in a person being regarded as having a 25% investment in another person merely as a result of their being parties to a normal commercial loan.
- (11) Any reference in this section, in the case of a person who is a member of a partnership, to the proceeds, amount or assets of the person includes the person's share of the proceeds, amount or assets of the partnership (apportioning those things between the partners on a just and reasonable basis).

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### **Attribution of rights and interests**

465 (1) In determining for the purposes of section 464 the investment that a person (“P”) has in another person, P is to be taken to have all of the rights and interests of—

- (a) any person connected with P,
- (b) any person who is a member of a partnership, or is connected with a person who is member of a partnership, of which P is a member, or
- (c) any person who is a member of a partnership, or is connected with a person who is a member of a partnership, of which a person connected with P is a member.

(2) For the purposes of subsection (1)—

- (a) section 1122 of CTA 2010 (“connected” persons) applies but as if subsections (7) and (8) of that section were omitted, but
- (b) a person is not to be regarded as connected with another person merely as a result of their being parties to a loan that is a normal commercial loan for the purposes of section 464.

(3) In determining for the purposes of section 464 the investment that a person (“P”) has in another person (“U”), P is to be taken to have all of the rights and interests of a third person (“T”) with whom P acts together in relation to U.

(4) For this purpose P “acts together” with T in relation to U if (and only if)—

- (a) for the purpose of influencing the conduct of U's affairs—
  - (i) P is able to secure that T acts in accordance with P's wishes (or vice versa), or
  - (ii) T can reasonably be expected to act, or typically acts, in accordance with P's wishes (or vice versa),
- (b) P and T are party to an arrangement that it is reasonable to conclude is designed to affect the value of any equity in U possessed by T, or
- (c) the same person manages some or all of any equity in U possessed by P and T.

In paragraphs (b) and (c) references to equity in U are to be read in accordance with section 464.

(5) But P does not “act together” with T in relation to U under subsection (4) (c) if—

- (a) the managing person does so as the operator of different collective investment schemes, and
- (b) the management of the schemes is not coordinated for the purpose of influencing the conduct of U's affairs.

(6) For this purpose “collective investment scheme” and “operator” have the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see sections 235 and 237).

(7) In determining for the purposes of section 464 the investment that a person (“P”) has in another person (“U”), P is to be taken to have all of the rights and interests of one or more third persons with whom P has entered into a qualifying arrangement in relation to U.

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- (8) For this purpose P has entered into a qualifying arrangement with one or more third persons in relation to U if they are parties to an arrangement concerning U as a result of which, by reference to shares held, or to be held, by any one or more of them in U, they can reasonably be expected to act together—
- (a) so as to exert greater influence in relation to U than any one of them would be able to exert if acting alone, or
  - (b) otherwise so as to be able to achieve an outcome in relation to U that, if attempted by any one of them acting alone, would be significantly more difficult to achieve.
- (9) For this purpose the reference to shares in U includes shares in U that may be held as a result of the exercise of any right or power and includes rights or interests in U that are of a similar character to shares.
- (10) In this section “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

#### **Certain loan relationships etc to be treated as made between related parties**

466 (1) This section—

- (a) makes provision for treating a person (“D”) who is not a related party of another person (“C”) as if they were related parties of each other but only in respect of particular liabilities or transactions, and
  - (b) is expressed to apply in relation to loan relationships but also applies (with any necessary modifications) in relation to any other financial liability owed to, or any transaction with, C.
- (2) If at any time—
- (a) D is party to a loan relationship as debtor and C is party to the relationship as creditor, and
  - (b) another person (“G”) who is a related party of D provides a guarantee, indemnity or other financial assistance in respect of the liability of D that represents the loan relationship,

D and C are treated for the purposes of this Part as if, in relation to the loan relationship concerned (and anything done under or for the purposes of it), they were related parties of each other at that time.

(3) Subsection (2) is subject to—

- (a) section 415 (qualifying net group-interest expense), and
- (b) section 438(3) (infrastructure: interest payable to third parties etc).

(4) If at any time—

- (a) D is party to a loan relationship as debtor and C is party to the relationship as creditor, and
- (b) another person (“G”) who is a related party of D indirectly stands in the position of a creditor as respects the debt in question by reference to a series of loan relationships or other arrangements,

D and C are treated for the purposes of this Part as if, in relation to the loan relationship concerned (and anything done under or for the purposes of it), they were related parties of each other at that time.

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- (5) For the purposes of this section “arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

### **Holdings of debt and equity in same proportions**

467 (1) This section applies at any time where—

- (a) persons have lent money to another person (“U”),
  - (b) the lenders also have shares or voting power in U,
  - (c) the amounts each of the lenders has lent stand in the same, or substantially the same, proportion as the shares or voting power in U that each of them has, and
  - (d) for the purposes of section 464 the lenders (taken together) have a 25% investment in U.
- (2) The lenders are treated for the purposes of this Part as if, in relation to the loans (and anything done under or for the purposes of them), they were related parties of U at that time (so far as that would not otherwise be the case).
- (3) If—
- (a) some or all of the rights under the loan are transferred, and
  - (b) the transferred rights are held by, or for the benefit of, another person (“the transferee”) at any time,
- the transferee is treated for the purposes of this Part as if, in relation to the loan (and anything done under or for the purposes of it), the transferee were a related party of U at that time (so far as that would not otherwise be the case).
- (4) This applies whether or not the transferee has any shares or voting power in U.
- (5) For the purposes of this section references to shares in U include shares in U that may be held as a result of the exercise of any right or power and include rights or interests in U that are of a similar character to shares.
- (6) This section applies (with any necessary modifications) in relation to any other financial liability owed to, or any transaction with, U as it applies to loans made to U.

### **Debts with same rights where unrelated parties hold more than 50%**

468 (1) This section applies if—

- (a) a person (“D”) is party to a loan relationship as debtor in a period of account of a worldwide group of which it is a member,
- (b) a person (“C”) who is party to the loan relationship as creditor is a related party of D at any time in that period,
- (c) there are persons (“the relevant creditors”) other than C who are parties to the loan relationship, or are parties to other loan relationships entered into at the same time, as creditors but who are not related parties of D at any time in that period,



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- (d) at all times in that period the rights of the relevant creditors are rights in relation to at least 50% of the total amount of the money debt or debts in question, and
  - (e) at all times in that period C and the relevant creditors have the same rights in relation to the money debt or debts in question.
- (2) D and C are treated for the purposes of this Part as if, in relation to the loan relationship concerned (and anything done under or for the purposes of it), they were not related parties of each other at any time in that period.
- (3) Persons are not to be regarded as having the same rights in relation to a money debt or debts at any time if—
- (a) the terms or conditions on which any of the money is lent and which are in force at that time make different provision in relation to different persons or have, or are capable of having, a different effect in relation to different persons (whether at that or any subsequent time),
  - (b) arrangements are in place at that time the effect of which is that, at that or any subsequent time, the rights of some persons in relation to any of the debts differ, or will or may differ, from the rights of others in relation to any of the debts, or
  - (c) any other circumstances exist at that time as a result of which the rights of some persons in relation to any of the debts cannot reasonably be regarded as being, in substance, the same rights as others in relation any of the debts at that or any subsequent time.
- (4) For the purposes of this section—
- “arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
  - “different persons” includes persons of a different class or description, and
  - “rights” includes powers.

### **Debt restructuring**

469 (1) This section—

- (a) makes provision for treating a person (“D”) who is a related party of another person (“C”) as if they were not related parties of each other but only in respect of particular liabilities or transactions, and
  - (b) is expressed to apply in relation to loan relationships but also applies (with any necessary modifications) in relation to any other financial liability owed to, or any transaction with, C.
- (2) If—
- (a) D is party to a loan relationship as debtor and C is party to the loan relationship as creditor,
  - (b) D subsequently becomes a related party of C in consequence of a relevant release of debt, and
  - (c) before D became a related party of C in consequence of the release none of the parties to the loan relationship had been related parties of each other,

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D and C are treated for the purposes of this Part as if, in relation to the loan relationship (and anything done under or for the purposes of it), they were not related parties of each other at times on or after the release.

- (3) There is a “relevant release of debt” at any time for the purposes of this section if—
- (a) a liability to pay an amount under a person's debtor relationship is released under the arrangements,
  - (b) that person is D or a person who is a related party of D at that time, and
  - (c) immediately before the release, it is reasonable to conclude that, without the release and any arrangements of which the release forms part, there would be a material risk that, at some time within the next 12 months, D or the related party would be unable to pay its debts.
- (4) For the purposes of this section “debtor relationship” has the meaning given by section 302(6) of CTA 2009 (reading the references in that subsection to a company as references to a person).

### **Ordinary independent financing arrangements by banks and others**

470 (1) This section applies where—

- (a) at any time, a person (“C”) is party to a loan relationship as creditor and the party to the loan relationship as debtor (“D”) is a related party of C as a result of any circumstances, and
  - (b) the loan relationship is not one to which C is a party at that time directly or indirectly in consequence of, or otherwise in connection with, the existence of any of those circumstances.
- (2) C and D are treated for the purposes of this Part as if, in relation to the loan relationship (and anything done under or for the purposes of it), they were not related parties of each other at that time.

### **Loans made by relevant public bodies**

471 (1) This section applies at any time where—

- (a) a relevant public body (“B”) lends money to a person (“P”),
  - (b) B is a related party of P, and
  - (c) the realising of a profit is merely incidental to the making of the loan.
- (2) B and P are treated for the purposes of this Part as if, in relation to the loan (and anything done under or for the purposes of it), they were not related parties of each other at that time.

### **Finance leases granted before 20 March 2017**

472 (1) This section applies at any time where an asset is leased by a person (“A”) to another (“B”) under a lease which is granted before 20 March 2017 and which, in the case of B, is a finance lease.

- (2) A and B are treated for the purposes of this Part as if, in relation to the lease (and anything done under or for the purposes of it), they were not related parties of each other at that time.

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### *Determining the worldwide group*

#### **Meaning of “a worldwide group”, “ultimate parent” etc**

- 473 (1) In this Part “a worldwide group” means—
- (a) any entity which—
    - (i) is a relevant entity (see section 474), and
    - (ii) meets the first or second non-consolidation condition (see subsections (2) and (3)), and
  - (b) each consolidated subsidiary (if any) of the entity mentioned in paragraph (a).
- (2) The first non-consolidation condition is that the entity—
- (a) is a member of an IAS group, and
  - (b) is not a consolidated subsidiary of an entity that—
    - (i) is a relevant entity, and
    - (ii) itself meets the first non-consolidation condition.
- (3) The second non-consolidation condition is that the entity is not a member of an IAS group.
- (4) In this Part—
- (a) references to “a member” of a worldwide group are to an entity mentioned in subsection (1)(a) or (b);
  - (b) references to “the ultimate parent” of a worldwide group are to the entity mentioned in subsection (1)(a);
  - (c) references to “a single-company worldwide group” are to a worldwide group whose only member is its ultimate parent;
  - (d) references to “a multi-company worldwide group” are to a worldwide group with two or more members.
- (5) In this section “IAS group” means a group within the meaning given by international accounting standards.

#### **Interpretation of section 473: “relevant entity”**

- 474 (1) In section 473 “relevant entity” means—
- (a) a company, or
  - (b) an entity the shares or other interests in which are listed on a recognised stock exchange and are sufficiently widely held.
- (2) Shares or other interests in an entity are “sufficiently widely held” if no participator in the entity holds more than 10% by value of all the shares or other interests in the entity.
- Section 454 of CTA 2010 (meaning of participator) applies for the purposes of this subsection.
- (3) The following are not relevant entities—
- (a) the Crown,
  - (b) a Minister of the Crown,

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- (c) a government department,
- (d) a Northern Ireland department, or
- (e) a foreign sovereign power.

### **Meaning of “non-consolidated subsidiary” and “consolidated subsidiary”**

- 475 (1) An entity (“X”) is a “non-consolidated subsidiary” of another entity (“Y”) at any time (“the relevant time”) if—
- (a) X is a subsidiary of Y at the relevant time, and
  - (b) if Y were required at the relevant time to measure its investment in X, it would be required to do so using fair value accounting.
- (2) An entity (“X”) is a “consolidated subsidiary” of another entity (“Y”) at any time if, at that time, X is a subsidiary, but not a non-consolidated subsidiary, of Y.
- (3) In this section “subsidiary” has the meaning given by international accounting standards.
- (4) For the purposes of this section, assume that all entities are subject to international accounting standards.
- (5) This section has effect for the purposes of this Part.

### **Continuity of identity of a worldwide group through time**

- 476 (1) This section applies for the purpose of determining whether a group of entities that constitutes a worldwide group at any time (“Time 2”) is the same worldwide group as a group of entities that constitutes a worldwide group at an earlier time (“Time 1”).
- (2) The group at Time 2 is the same worldwide group as the group at Time 1 if and only if the entity that is the ultimate parent of the group at Time 2—
- (a) was the ultimate parent of the group at Time 1, and
  - (b) was the ultimate parent of a worldwide group at all times between Time 1 and Time 2.

### **Treatment of stapled entities**

- 477 (1) This section applies where two or more entities—
- (a) would, apart from this section, each be the ultimate parent of a worldwide group, and
  - (b) are stapled to each other.
- (2) This Part has effect as if—
- (a) the entities were consolidated subsidiaries of another entity (the “deemed parent”), and
  - (b) the deemed parent fell within section 473(1)(a) (conditions for being the ultimate parent of a worldwide group).
- (3) For the purpose of this section an entity (“entity A”) is “stapled” to another entity (“entity B”) if, in consequence of the nature of the rights attaching to the shares or other interests in entity A (including any terms or conditions

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attaching to the right to transfer the interests), it is necessary or advantageous for a person who has, disposes of or acquires shares or other interests in entity A also to have, dispose of or acquire shares or other interests in entity B.

### **Treatment of business combinations**

- 478 (1) This section applies where two entities—
- (a) would, apart from this section, each be the ultimate parent of a worldwide group, and
  - (b) are treated under international accounting standards as a single economic entity by reason of being a business combination achieved by contract.
- (2) This Part has effect as if—
- (a) the two entities were consolidated subsidiaries of another entity (the “deemed parent”), and
  - (b) the deemed parent fell within section 473(1)(a) (conditions for being the ultimate parent of a worldwide group).
- (3) In this section “business combination” has the meaning given by international accounting standards.

#### *Financial statements and periods of account*

### **“Financial statements” of a worldwide group**

- 479 (1) References in this Part to “financial statements” of a worldwide group for a period are (subject to subsection (2)) to consolidated financial statements of the worldwide group's ultimate parent and its subsidiaries in respect of the period.
- (2) Where the worldwide group is at all times during the period a single-company worldwide group, the references are to financial statements of the ultimate parent in respect of the period.
- (3) The basic rule is that the references mentioned in subsections (1) and (2) are to financial statements that are drawn up by or on behalf of the ultimate parent.
- (4) But see—
- (a) section 481 for provision under which, in specified circumstances, financial statements of a worldwide group are treated as having been drawn up in accordance with different accounting standards from those in accordance with which they are drawn up by or on behalf of the ultimate parent;
  - (b) section 482 for provision under which, in specified circumstances, financial statements of a worldwide group are treated as consolidating different subsidiaries from those consolidated in financial statements drawn up by or on behalf of the ultimate parent;
  - (c) section 483 for provision under which, in specified circumstances, financial statements of a worldwide group are treated as having been drawn up where the ultimate parent has drawn up consolidated financial statements covering more than one worldwide group;

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- (d) sections 484 to 486 for provision under which, where financial statements of a worldwide group are not drawn up by or on behalf of the ultimate parent, financial statements of the group are treated as having been drawn up.
- (5) See also section 487 (under which financial statements drawn up by or on behalf of an entity, but for too long a period or too late, are ignored for the purposes of this Part).

#### **“Period of account” of worldwide group**

- 480 References in this Part to a “period of account” of a worldwide group are to—
- (a) a period in respect of which financial statements of the group are drawn up by or on behalf of the ultimate parent, or
  - (b) a period in respect of which financial statements of the group are treated as drawn up for the purposes of this section (whether under any of sections 481 to 485 or under any other enactment).

#### **Actual financial statements not drawn up on acceptable principles**

- 481 (1) This section applies where financial statements of a worldwide group for a period drawn up by or on behalf of the ultimate parent are not drawn up on acceptable principles.
- (2) For the purposes of this Part (apart from this section)—
    - (a) the financial statements mentioned in subsection (1) are to be ignored, and
    - (b) IAS financial statements of the worldwide group are treated as having been drawn up in respect of the period.
  - (3) For the purposes of this Chapter financial statements are “drawn up on acceptable principles” only if condition A, B, C or D is met.
  - (4) Condition A is that the financial statements are IAS financial statements.
  - (5) Condition B is that the amounts recognised in the financial statements are not materially different from those that would be recognised in IAS financial statements of the worldwide group, if such statements were drawn up.
  - (6) Condition C is that the financial statements are drawn up in accordance with UK generally accepted accounting practice.
  - (7) Condition D is that the financial statements are drawn up in accordance with generally accepted accounting principles and practice of one of the following territories—
    - (a) Canada;
    - (b) China;
    - (c) India;
    - (d) Japan;
    - (e) South Korea;
    - (f) the United States of America.

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- (8) The Commissioners may by regulations amend this section so as to alter the circumstances in which financial statements are “drawn up on acceptable principles” for the purposes of this Chapter.

**Actual financial statements drawn up on acceptable principles but consolidating wrong subsidiaries**

- 482 (1) This section applies where financial statements of a worldwide group for a period drawn up by or on behalf of the ultimate parent are drawn up on acceptable principles but—
- (a) do not consolidate one or more entities that are IAS subsidiaries, or
  - (b) consolidate one or more entities that are not IAS subsidiaries.
- (2) In this section “IAS subsidiary”, in relation to a period, means an entity which would be required to be consolidated with those of the ultimate parent in IAS financial statements of the group for the period.
- (3) For the purposes of this Part (apart from this section)—
- (a) the financial statements mentioned in subsection (1) are to be ignored, and
  - (b) consolidated financial statements of the ultimate parent and its IAS subsidiaries are treated as having been drawn up in respect of the period.
- (4) The financial statements treated by subsection (3)(b) as drawn up are treated as drawn up in accordance with the same accounting principles and practice as the financial statements mentioned in subsection (1).
- (5) In this section a reference to financial statements consolidating the results of an entity is to consolidating its results with those of the ultimate parent as the results of a single economic entity.

**Actual financial statements covering more than one worldwide group**

- 483 (1) This section applies where—
- (a) consolidated financial statements of an entity and its subsidiaries are drawn up by or on behalf of the entity in respect of a period (“the actual period of account”), and
  - (b) the entity was the ultimate parent of a worldwide group for a part (but not all) of that period.
- (2) For the purposes of this Part (apart from this section)—
- (a) the financial statements mentioned in subsection (1)(a) are to be ignored, and
  - (b) consolidated financial statements of the entity and its IAS subsidiaries are treated as having been drawn up in respect of the part of the actual period of account mentioned in subsection (1)(b).
- (3) The financial statements treated by subsection (2)(b) as drawn up are treated as drawn up—
- (a) where the financial statements mentioned in subsection (1)(a) are drawn up on acceptable principles, in accordance with the same accounting principles and practice as those financial statements;

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- (b) otherwise, in accordance with international accounting standards.
- (4) In this section “IAS subsidiary” has the same meaning as in section 482.

**No actual financial statements: ultimate parent draws up financial statements**

484 (1) Subsection (2) applies where—

- (a) financial statements of the ultimate parent of a worldwide group are drawn up by or on behalf of the ultimate parent in respect of a period (“the relevant period”),
  - (b) consolidated financial statements of the ultimate parent and its subsidiaries are not drawn up by or on behalf of the ultimate parent in respect of the relevant period or any part of it, and
  - (c) the group was, at any time during the relevant period, a multi-company worldwide group.
- (2) For the purposes of this Part (apart from this section) IAS financial statements of the worldwide group are treated as drawn up in respect of the relevant period.
- (3) The ultimate parent may elect that subsection (2) is not to apply in relation to financial statements of the ultimate parent.
- (4) An election under subsection (3)—
- (a) has effect in relation to financial statements in respect of periods ending on or after such date as is specified in the election, and
  - (b) is irrevocable.
- (5) The date specified in the election may not be before the day on which the election is made.

**No actual financial statements: other cases**

485 (1) In this section “accounts-free period” means (subject to subsection (2)) any period—

- (a) which begins on or after 1 April 2017,
  - (b) throughout which a worldwide group exists, and
  - (c) in respect of no part of which are financial statements of the group—
    - (i) drawn up by or on behalf of the ultimate parent, or
    - (ii) treated as drawn up for the purposes of this section (whether under section 481, 482, 483 or 484 or any other enactment).
- (2) A period is not an “accounts-free period” if it forms part of an accounts-free period.
- (3) If an accounts-free period in relation to a worldwide group is 12 months or less, IAS financial statements of the worldwide group are treated for the purposes of this Part (apart from this section) as having been drawn up for the accounts-free period.
- (4) If an accounts-free period in relation to a worldwide group is more than 12 months, IAS financial statements of the worldwide group are treated for the purposes of this Part (apart from this section) as having been drawn up for each of the following periods—



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- (a) the first period of 12 months falling within the accounts-free period;
- (b) any subsequent period of 12 months falling within the accounts-free period;
- (c) any period of less than 12 months which—
  - (i) begins immediately after the end of a period mentioned in paragraph (a) or (b), and
  - (ii) ends at the end of the accounts-free period.

### **Election altering period of account deemed under section 485**

- 486 (1) This section applies where, disregarding this section, IAS financial statements of a worldwide group would be treated under section 485(4)(a) or (b) as drawn up for a period (“the default period of account”) during an accounts-free period.
- (2) The ultimate parent of the group may make an election under this section in relation to the default period of account.
- (3) Where an election under this section is made, section 485 has effect as if subsection (4)(a) or (b) of that section—
- (a) did not treat IAS financial statements of the group as having been drawn up for the default period of account;
  - (b) instead, treated IAS financial statements of the group as having been drawn up for the period—
    - (i) beginning with the day on which the default period of account begins (“the start day”), and
    - (ii) ending with such day after the start day as is specified in the election (“the end day”).
- (4) The end day must—
- (a) fall within the accounts-free period, and
  - (b) not be later than the final day of the period of 18 months beginning with the start day.
- (5) An election under this section—
- (a) must be made before the end day, and
  - (b) is irrevocable.
- (6) The fact that the ultimate parent of a worldwide group makes an election under this section in relation to a default period of account (“the earlier elected period”) does not prevent it from making an election in relation to a later default period of account (“the later elected period”).
- (7) But where it does so, the end day in relation to the later elected period must be 3 years or more after the end day in relation to the earlier elected period.
- (8) Where this section modifies section 485(4)(a) or (b) so that it treats IAS financial statements of the group as having been drawn up for the period mentioned in subsection (3)(b) of this section (“the elected period”), section 485(4)(b) and (c) apply in relation to any part of the accounts-free period following the end of the elected period.

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- (9) In this section “accounts-free period” has the same meaning as in section 485.

#### **Actual financial statements ignored if for too long a period or too late**

- 487 Financial statements drawn up by or on behalf of any entity are to be ignored for the purposes of this Part (apart from this section) if—
- (a) the period in respect of which they are drawn up is more than 18 months, or
  - (b) they are drawn up after the end of the period of 30 months beginning with the beginning of the period in respect of which they are drawn up.

#### **Meaning of “IAS financial statements”**

- 488 (1) References in this Part to “IAS financial statements” of a worldwide group for a period are (subject to subsection (2)) to consolidated financial statements of the worldwide group's ultimate parent and its subsidiaries, drawn up in respect of the period in accordance with international accounting standards.
- (2) If the worldwide group is at all times during the period a single-company worldwide group, the references are instead to financial statements of the ultimate parent, drawn up in respect of the period in accordance with international accounting standards.

#### **References to amounts recognised in financial statements**

- 489 (1) References in this Part to an amount “recognised” in financial statements—
- (a) include an amount comprised in an amount so recognised;
  - (b) are, where the amount is expressed in a currency other than sterling, to that amount translated into its sterling equivalent.
- (2) The exchange rate by reference to which an amount is to be translated under subsection (1)(b) is the average rate of exchange for the period of account, calculated from daily spot rates.
- (3) References in this Part to an amount recognised in financial statements “for a period” as an item of profit or loss include references to an amount that—
- (a) was previously recognised as an item of other comprehensive income, and
  - (b) is transferred to become an item of profit or loss in determining the profit or loss for the period.

#### *Other definitions*

#### **Meaning of “relevant accounting period”**

- 490 For the purposes of this Part a “relevant accounting period” of a company, in relation to a period of account of a worldwide group, means any accounting period that falls wholly or partly within the period of account of the worldwide group.

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### **Meaning of “relevant public body”**

491 (1) In this Part “relevant public body” means—

- (a) the Crown,
- (b) a Minister of the Crown,
- (c) a government department,
- (d) a Northern Ireland department,
- (e) a foreign sovereign power,
- (f) a designated educational establishment (within the meaning given by section 106 of CTA 2009),
- (g) a health service body (within the meaning given by section 986 of CTA 2010),
- (h) a local authority or local authority association,
- (i) any other body that acts under any enactment for public purposes and not for its own profit, or
- (j) any wholly-owned subsidiary of any body falling within any of the above paragraphs of this subsection.

(2) In this section “enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

(3) The Commissioners may by regulations amend this section so as to alter the meaning of “relevant public body”.

(4) The provision that may be made by the regulations does not include provision altering the meaning of “relevant public body” so that it includes a person who has no functions of a public nature.

### **Meaning of “UK group company”**

492 In this Part “UK group company”, in relation to any time during a period of account of a worldwide group, means a company—

- (a) which is within the charge to corporation tax at that time, and
- (b) which is a member of the group at that time.

### **Embedded derivatives**

493 Sections 415 and 585 of CTA 2009 (loan relationships with embedded derivatives) apply for the purposes of this Part of this Act.

### **Other interpretation**

494 (1) In this Part—

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“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“fair value accounting” means a basis of accounting under which—

- (a) assets and liabilities are measured in the company's balance sheet at their fair value, and
- (b) changes in the fair value of assets and liabilities are recognised as items of profit or loss;

“fair value” has the meaning it has for accounting purposes;

“finance lease”, in relation to a company or a worldwide group, means a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as a finance lease or loan in the accounts of the company or the financial statements of the group;

“interest restriction return” means a return submitted under any provision of Schedule 7A;

“reporting company” means a company which is for the time being appointed under any provision of Schedule 7A;

“the return period”, in relation to an interest restriction return of a worldwide group, means the period of account of the group to which the return relates;

“service concession arrangement” has the meaning given by international accounting standards;

“wholly-owned subsidiary” has the meaning given by section 1159(2) of the Companies Act 2006.

- (2) For the purposes of this Part a person who is not a company is regarded as being a party to a loan relationship if the person would be so regarded for the purposes of Part 5 of CTA 2009 if the person were a company.

### *Regulations*

#### **Financial statements: different treatment by group or members**

495 (1) The Commissioners may make regulations for the purpose of altering any calculation under Chapter 7 where—

- (a) the financial statements of a worldwide group for a period include or omit an amount in respect of any matter, and
- (b) any member of the group deals with that matter for tax or accounting purposes in a different way.

(2) The regulations—

- (a) may make provision subject to an election or other specified circumstances, and
- (b) may make provision having effect in relation to any period beginning before the regulations are made if the period begins at some time in the calendar year in which the regulations are made.

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### **Parties to capital market arrangements**

- 496 (1) The Commissioners may make regulations entitling—
- (a) a UK group company which has a liability to corporation tax as a result of this Part and which is a party to a capital market arrangement, and
  - (b) another UK group company,
- to make a joint election transferring the liability to the other UK group company.
- (2) The regulations may include provision—
- (a) specifying other conditions that must be met for an election to be made,
  - (b) requiring an election to be made on or before a particular time (for example, before the accounting period for which the liability arises),
  - (c) authorising or requiring an officer of Revenue and Customs (on the exercise of a discretion or otherwise) to accept or reject an election,
  - (d) authorising or requiring an officer of Revenue and Customs (on the exercise of a discretion or otherwise) to revoke an election previously in force and dealing with the effect of the revocation, and
  - (e) dealing with the effect of the transfer of the corporation tax liability on any other liabilities that relate to the transferred corporation tax liability.
- (3) In this section “capital market arrangement” has the same meaning as in section 72B(1) of the Insolvency Act 1986 (see paragraph 1 of Schedule 2A to that Act).

### **Change in accounting standards**

- 497 (1) The Treasury may by regulations amend this Part to take account of a change in the way in which amounts are, or may be, presented or disclosed in financial statements where the change results from the issue, revocation, amendment or recognition of, or withdrawal of recognition from, an accounting standard by an accounting body.
- (2) For this purpose—
- “accounting standard” includes any statement of practice, guidance or other similar document, and
  - “accounting body” means—
    - (a) the International Accounting Standards Board (or successor body), or
    - (b) the Accounting Standards Board (or successor body).
- (3) The regulations—
- (a) may make provision subject to an election or other specified circumstances, and
  - (b) may make provision having effect in relation to any period beginning before the regulations are made if the change mentioned in subsection (1) is relevant to that period.

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- (4) A statutory instrument containing regulations which are capable of increasing the liability of a company to corporation tax may not be made unless a draft of the instrument is laid before, and approved by a resolution of, the House of Commons.

### Regulations

- 498 Regulations under this Part may—
- (a) make different provision for different cases or circumstances,
  - (b) include supplementary, incidental and consequential provision, or
  - (c) make transitional provision and savings.”

## PART 2

### NEW SCHEDULE 7A TO TIOPA 2010

- 2 In TIOPA 2010, after Schedule 7 insert—

“SCHEDULE  
7A

Section 374

INTEREST RESTRICTION RETURNS

### PART 1

#### THE REPORTING COMPANY

*Appointment by a worldwide group of a reporting company*

- 1 (1) A member of a worldwide group may, by notice to an officer of Revenue and Customs, appoint an eligible company to be the group's reporting company.
- (2) The notice must specify the first period of account of the group (“the specified period of account”) in relation to which the appointment is to have effect.
- (3) An appointment under this paragraph has effect in relation to—
- (a) the specified period of account, and
  - (b) subsequent periods of account of the group.
- (4) The notice is of no effect unless—
- (a) it is given during the period of six months beginning with the end of the specified period of account,
  - (b) it is authorised by at least 50% of eligible companies, and
  - (c) it is accompanied by a statement containing the required information.
- (5) For this purpose “the required information” means—
- (a) a list of the eligible companies that have authorised the notice, and

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- (b) a statement that the listed companies constitute at least 50% of eligible companies.
- (6) The notice may be accompanied by a statement that such of the companies listed under sub-paragraph (5)(a) as are specified in the statement do not wish to be consenting companies in relation to returns submitted by the reporting company.
- For provision as to the effect of a statement under this subparagraph, see paragraph 11.
- (7) For the purposes of this paragraph a company is “eligible” if and only if the company —
- (a) was a UK group company at a time during the specified period of account, and
  - (b) was not dormant throughout that period.

*Revocation by worldwide group of appointment under paragraph 1*

- 2
- (1) A member of a worldwide group may, by notice to an officer of Revenue and Customs, revoke an appointment previously made under paragraph 1.
  - (2) The notice must specify the first period of account of the group (“the specified period of account”) in relation to which the appointment is to be revoked.
  - (3) An appointment that is revoked under this paragraph ceases to have effect in relation to—
    - (a) the specified period of account, and
    - (b) subsequent periods of account of the group.
  - (4) The notice is of no effect unless—
    - (a) it is given during the period of six months beginning with the end of the specified period of account,
    - (b) it is authorised by at least 50% of eligible companies, and
    - (c) it is accompanied by a statement containing the required information.
  - (5) For this purpose “the required information” means—
    - (a) a list of the eligible companies that have authorised the notice, and
    - (b) a statement that the listed companies constitute at least 50% of eligible companies.
  - (6) The revocation of an appointment does not prevent the making of a further appointment under paragraph 1 (whether at the same time as the revocation, or later).
  - (7) For the purposes of this paragraph a company is “eligible” if and only if the company —
    - (a) was a UK group company at a time during the specified period of account, and
    - (b) was not dormant throughout that period.

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*Regulations supplementing paragraphs 1 and 2*

- 3 The Commissioners may by regulations make further provision about an appointment under paragraph 1 or the revocation of such an appointment under paragraph 2, including in particular provision—
- (a) about the form and manner in which an appointment or revocation may be made;
  - (b) requiring a person to give information to an officer of Revenue and Customs in connection with the making of an appointment or revocation;
  - (c) prohibiting a company from being appointed unless it meets conditions specified in the regulations;
  - (d) about the time from which an appointment or revocation has effect;
  - (e) providing that an appointment or revocation is of no effect, or (in the case of an appointment) ceases to have effect, if a requirement under the regulations is not met.

*Appointment of reporting company by Revenue and Customs*

- 4 (1) This paragraph applies where—
- (a) no appointment of a reporting company under paragraph 1 has effect in relation to a period of account of a worldwide group (“the relevant period of account”), and
  - (b) as a result of sub-paragraph (4)(a) of that paragraph, an appointment of a reporting company under that paragraph that has effect in relation to the relevant period of account is no longer possible.
- (2) An officer of Revenue and Customs may, by notice to an eligible company, appoint it to be the group's reporting company.
- (3) The notice must specify the relevant period of account (whether by specifying the dates on which it begins and ends or, if the officer does not have that information, by reference to a date or dates).
- (4) The appointment has effect in relation to the relevant period of account.
- (5) The appointment may be made—
- (a) at any time before the end of the period of 36 months beginning with the end of the relevant period of account, or
  - (b) at any time after the end of that period if, at that time, an amount stated in the company tax return of a UK group company for a relevant accounting period can be altered.
- (6) Paragraph 88(3) to (5) of Schedule 18 to FA 1998 (meaning of “can no longer be altered”) applies for the purposes of this paragraph.
- (7) For the purposes of this paragraph a company is “eligible” if and only if the company —
- (a) was a UK group company at a time during the relevant period of account, and
  - (b) was not dormant throughout that period.



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*Appointment by officer of Revenue and Customs of replacement reporting company*

- 5 (1) This paragraph applies where—
- (a) an appointment of a reporting company under paragraph 1 or 4 or this paragraph has effect in relation to a period of account of a worldwide group (“the relevant period of account”), and
  - (b) condition A or B is met.
- (2) Condition A is that an officer of Revenue and Customs considers that the reporting company mentioned in sub-paragraph (1)(a) has not complied with, or will not comply with, a requirement under or by virtue of this Schedule.
- (3) Condition B is that the reporting company mentioned in sub-paragraph (1)(a) has agreed that an officer of Revenue of Customs may exercise the power in this paragraph.
- (4) An officer of Revenue and Customs may, by notice—
- (a) revoke the appointment of the reporting company mentioned in sub-paragraph (1)(a), and
  - (b) appoint in its place an eligible company to be the reporting company of the group.
- (5) The notice must—
- (a) be given to each of the companies mentioned in sub-paragraph (4), and
  - (b) specify the relevant period of account (whether by specifying the dates on which it begins and ends or, if the officer does not have that information, by reference to a date or dates).
- (6) Where the power in sub-paragraph (4) is exercised—
- (a) the appointment that is revoked ceases to have effect in relation to—
    - (i) the relevant period of account, and
    - (ii) subsequent periods of account of the group;
  - (b) the appointment of the replacement has effect in relation to the relevant period of account.
- (7) For the purposes of this paragraph a company is “eligible” if and only if the company —
- (a) was a UK group company at a time during the relevant period of account, and
  - (b) was not dormant throughout that period.

*Obligation of reporting company to notify group members of its status*

- 6 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group (“the relevant period of account”).
- (2) The reporting company must, as soon as reasonably practicable after the relevant time, notify each relevant company that it is the group's reporting company in relation to the relevant period of account.

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- (3) In sub-paragraph (2) “the relevant time” means—
  - (a) if the relevant period of account is the first period of account in relation to which the appointment has effect, the time of the appointment;
  - (b) otherwise, the end of the period of 6 months beginning with the end of the relevant period of account.
- (4) Sub-paragraph (2) does not require the reporting company to notify a relevant company if the reporting company notified that company under that sub-paragraph in relation to an earlier period of account.
- (5) The duty to comply with sub-paragraph (2) is enforceable by the company required to be notified under that sub-paragraph.
- (6) For the purposes of this paragraph a company is “relevant” if and only if the company meets condition A or B.
- (7) Condition A is that the company—
  - (a) was a UK group company at a time during the relevant period of account, and
  - (b) was not dormant throughout that period.
- (8) Condition B is that the company is the ultimate parent of the worldwide group.

*Obligation of reporting company to submit interest restriction return*

- 7 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) If the reporting company was appointed under paragraph 1 or 4, it must submit a return for the period of account to an officer of Revenue and Customs.
- (3) If the reporting company was appointed under paragraph 5, it must submit a return for the period of account to an officer of Revenue and Customs unless a return for the period has already been submitted under sub-paragraph (2) or this sub-paragraph.
- (4) A return submitted under this paragraph must be received by an officer of Revenue and Customs before the filing date in relation to the period of account.
- (5) In this Part of this Act “the filing date”, in relation to a period of account of a worldwide group, means—
  - (a) the end of the period of 12 months beginning with the end of the period of account, or
  - (b) if later, the end of the period of 3 months beginning with the day on which the appointment of a reporting company that has effect in relation to the period was made.
- (6) A return submitted under this paragraph is of no effect unless it is received by an officer of Revenue and Customs before—

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- (a) the end of the period of 36 months beginning with the end of the period of account, or
- (b) if later, the end of the period of 3 months beginning with the day on which the reporting company was appointed.

This is subject to paragraph 57.

*Revised interest restriction return*

- 8 (1) This paragraph applies where—
- (a) the appointment of a reporting company has effect in relation to a period of account of a worldwide group, and
  - (b) a return (“the previous interest restriction return”) was submitted under paragraph 7, or this paragraph, for the period of account.
- (2) The reporting company may submit a revised interest restriction return for the period of account to an officer of Revenue and Customs.
- (3) A revised interest restriction return submitted under sub-paragraph (2) is of no effect unless it is received by an officer of Revenue and Customs before—
- (a) the end of the period of 36 months beginning with the end of the period of account, or
  - (b) if later, the end of the period of 3 months beginning with the day on which the reporting company was appointed.

This is subject to paragraphs 9 and 57.

- (4) Where—
- (a) a member of the group amends, or is treated as amending, its company tax return, and
  - (b) as a result of the amendment any of the figures contained in the previous interest restriction return have become incorrect,
- the reporting company must submit a revised interest restriction return to an officer of Revenue and Customs.
- (5) A revised interest restriction return submitted under sub-paragraph (4) must be received by an officer of Revenue and Customs before the end of the period of 3 months beginning with—
- (a) the day on which the amended company tax return was received by an officer of Revenue and Customs, or
  - (b) (as the case may be) the day as from which the company tax return was treated as amended.
- (6) A return submitted under this paragraph—
- (a) must indicate the respects in which it differs from the previous return, and
  - (b) supersedes the previous return.

*Extended period for submission of full return in place of abbreviated return*

- 9 (1) This paragraph applies where—

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- (a) a reporting company has submitted an abbreviated interest restriction return for a period of account of a worldwide group in accordance with this Schedule, and
  - (b) the worldwide group is not subject to interest restrictions in the return period.
- (2) Despite the passing of the time limit in paragraph 8(3), a full interest restriction return for the period of account submitted under paragraph 8 has effect if it is received before the end of the period of 60 months beginning with the end of the period of account.

*Meaning of “consenting company” and “non-consenting company”*

- 10 (1) This paragraph makes provision for the purposes of this Part of this Act about whether a company is a “consenting company” in relation to an interest restriction return submitted by a reporting company.
- (2) The company is a “consenting company” in relation to the return if, before the return is submitted—
- (a) it has notified the appropriate persons that it wishes to be a consenting company in relation to interest restriction returns submitted by the reporting company, and
  - (b) it has not notified the appropriate persons that it no longer wishes to be a consenting company in relation to such returns.
- (3) In sub-paragraph (2) “the appropriate persons” means—
- (a) an officer of Revenue and Customs, and
  - (b) the reporting company in relation to the period of account.
- (4) The company is a “non-consenting company”, in relation to the return, if it is not a consenting company in relation to the return.

*Company authorising reporting company  
appointment treated as consenting company*

- 11 (1) This paragraph applies where a company—
- (a) is listed in a statement under sub-paragraph (4)(c) of paragraph 1 (list of companies authorising appointment of reporting company), and
  - (b) is not included in a statement under sub-paragraph (6) of that paragraph (companies authorising appointment of reporting company but not wishing to be consenting companies).
- (2) The company is treated as having given, at the time of the appointment, a notice under paragraph 10(2)(a) in relation to interest restriction returns submitted by the reporting company.
- (3) Sub-paragraph (2) does not prevent the company, at any time after the appointment, from giving a notice under paragraph 10(2)(b) in relation to interest restriction returns submitted by the reporting company.

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## PART 2

### CONTENTS OF INTEREST RESTRICTION RETURN

#### *Elections*

- 12 (1) An election to which this paragraph applies must be made in an interest restriction return for the period of account (or, as the case may be, the first period of account) to which the election relates.
- (2) If an election to which this paragraph applies is capable of being revoked, the revocation must be made in an interest restriction return for the period of account (or, as the case may be, the first period of account) to which the revocation relates.
- (3) This paragraph applies to the following elections—
- (a) a group ratio election (see paragraph 13);
  - (b) a group ratio (blended) election (see paragraph 14);
  - (c) a group-EBITDA (chargeable gains) election (see paragraph 15);
  - (d) an interest allowance (alternative calculation) election (see paragraph 16);
  - (e) an interest allowance (non-consolidated investment) election (see paragraph 17);
  - (f) an interest allowance (consolidated partnerships) election (see paragraph 18);
  - (g) an abbreviated return election (see paragraph 19).

#### *Group ratio election*

- 13 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may—
- (a) elect that the interest allowance of the group is to be calculated using the group ratio method, or
  - (b) revoke an election previously made.
- (3) An election or revocation under this paragraph has effect in relation to the period of account.
- (4) An election under this paragraph is referred to in this Part of this Act as a “group ratio election”.
- (5) For provision as to the effect of a group ratio election, see section 396.

#### *Group ratio (blended) election*

- 14 (1) This paragraph applies where—
- (a) the appointment of a reporting company has effect in relation to a period of account of a worldwide group,

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- (b) the reporting company makes a group ratio election in respect of the period of account, and
  - (c) a related party investor in relation to the period of account is, throughout the period of account, a member of a worldwide group (an “investor worldwide group”) other than that mentioned in paragraph (a).
- (2) The reporting company may—
- (a) elect that Chapter 5 of Part 10 (interest allowance) is to apply subject to the blended group ratio provisions, or
  - (b) revoke an election previously made.
- (3) An election under this paragraph may—
- (a) specify one or more investor worldwide groups,
  - (b) specify, in relation to any such group, one or more elections under this Schedule that are capable of being made in relation to a period of account by a reporting company of a worldwide group, and
  - (c) specify that the election is to be treated, for the purposes of the blended group ratio provisions, as having effect, or as not having effect, in relation to periods of account of the investor's worldwide group.
- (4) Sub-paragraph (5) applies where—
- (a) an election under this paragraph is made in relation to a period of account,
  - (b) an election under this paragraph was made in relation to any earlier period of account of the group,
  - (c) the election mentioned in paragraph (b) specified, under sub-paragraph (3)(c), that an election (“the investor's election”) was to be treated as having effect in relation to periods of account of the investor's worldwide group, and
  - (d) the investor's election was an election which, if made by a reporting company of a worldwide group, would have been irrevocable.
- (5) The election mentioned in sub-paragraph (4)(a) must specify, under sub-paragraph (3)(c), that the investor's election is to be treated as having effect in relation to periods of account of the investor's worldwide group.
- (6) An election or revocation under this paragraph has effect in relation to the period of account.
- (7) An election under this paragraph is referred to in this Part of this Act as a “group ratio (blended) election”.
- (8) In this paragraph “the blended group ratio provisions” means the provisions of sections 401 to 403.

*Group-EBITDA (chargeable gains) election*

- 15 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may elect that Chapter 7 of Part 10 (group-interest and group-EBITDA) is to apply subject to the chargeable gains provisions.

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- (3) An election under this paragraph—
  - (a) has effect in relation to the period of account and subsequent periods of account of the worldwide group, and
  - (b) is irrevocable.
- (4) An election under this paragraph is referred to in this Part of this Act as a “group-EBITDA (chargeable gains) election”.
- (5) In this paragraph “the chargeable gains provisions” means the provisions of section 422.

*Interest allowance (alternative calculation) election*

- 16 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may elect that Chapter 7 of Part 10 (group-interest and group-EBITDA) is to apply subject to the alternative calculation provisions.
- (3) An election under this paragraph—
  - (a) has effect in relation to the period of account and subsequent periods of account of the worldwide group, and
  - (b) is irrevocable.
- (4) An election under this paragraph is referred to in this Part of this Act as an “interest allowance (alternative calculation) election”.
- (5) In this paragraph “the alternative calculation provisions” means sections 423 to 426.

*Interest allowance (non-consolidated investment) election*

- 17 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may—
  - (a) elect that Chapter 7 of Part 10 (group-interest and group-EBITDA) is to apply subject to the non-consolidated investment provisions, or
  - (b) revoke an election previously made.
- (3) An election under this paragraph must specify, for the purposes of the non-consolidated investment provisions, one or more non-consolidated associates of the worldwide group.
- (4) An election or revocation under this paragraph has effect in relation to the period of account.
- (5) An election under this paragraph is referred to in this Part of this Act as an “interest allowance (non-consolidated investment) election”.
- (6) In this paragraph “the non-consolidated investment provisions” means sections 427 and 428.

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*Interest allowance (consolidated partnerships) election*

- 18 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may elect that Chapter 7 of Part 10 (group-interest and group-EBITDA) is to apply subject to the consolidated partnership provisions.
- (3) An election under this paragraph must specify, for the purposes of the consolidated partnership provisions, one or more consolidated partnerships of the worldwide group.
- (4) Where an election under this paragraph has been made in relation to a worldwide group, a further election may be made specifying, for the purposes of the consolidated partnership provisions, one or more additional consolidated partnerships of the worldwide group.
- (5) An election under this paragraph—
- (a) has effect in relation to the period of account and subsequent periods of account of the worldwide group, and
  - (b) is irrevocable.
- (6) An election under this paragraph is referred to in this Part of this Act as an “interest allowance (consolidated partnerships) election”.
- (7) In this paragraph “the consolidated partnership provisions” means the provisions of section 430.

*Abbreviated return election*

- 19 (1) This paragraph applies where the appointment of a reporting company has effect in relation to a period of account of a worldwide group.
- (2) The reporting company may—
- (a) elect to submit an abbreviated interest restriction return, or
  - (b) revoke an election previously made.
- (3) An election or revocation under this paragraph has effect in relation to the period of account.
- (4) An election under this paragraph is referred to in this Part of this Act as an “abbreviated return election”.
- (5) For provision as to the effect of an abbreviated return election, see—
- paragraph 20 of this Schedule (which limits the required contents of the interest restriction return);
  - section 393 (which deprives the group of the use of the interest allowance for the return period, or any earlier period, in future periods of account).



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*Required contents of interest restriction return: full returns and abbreviated returns*

- 20 (1) This paragraph makes provision about the contents of an interest restriction return submitted by the reporting company of a worldwide group.
- (2) Sub-paragraph (3) applies if—
- (a) the worldwide group is subject to interest restrictions in the return period, or
  - (b) the worldwide group is not subject to interest restrictions in the return period, and no abbreviated return election has effect in relation to the period.
- (3) The interest restriction return must—
- (a) state the name and (where it has one) the Unique Taxpayer Reference of the ultimate parent of the worldwide group;
  - (b) specify the return period;
  - (c) state the names and Unique Taxpayer References (where they have them) of the companies that were UK group companies at any time during the return period, specifying in relation to each whether it is a consenting or a non-consenting company in relation to the return;
  - (d) contain a statement of calculations (see paragraph 21);
  - (e) if the group is subject to interest restrictions in the return period—
    - (i) contain a statement of that fact,
    - (ii) specify the total disallowed amount, and
    - (iii) contain a statement of allocated interest restrictions (see paragraph 22);
  - (f) if the group is subject to interest reactivations in the return period—
    - (i) contain a statement of that fact,
    - (ii) specify the interest reactivation cap,
    - (iii) contain a statement of allocated interest reactivations (see paragraph 25);
  - (g) contain a declaration by the person making the return that the return is, to the best of that person's knowledge, correct and complete.
- (4) Sub-paragraph (5) applies if—
- (a) the worldwide group is not subject to interest restrictions in the return period, and
  - (b) an abbreviated return election has effect in relation to the period.
- (5) The interest restriction return must—
- (a) state that the group is not subject to interest restrictions in the return period, and
  - (b) comply with paragraphs (a) to (c) and (g) of sub-paragraph (3).
- (6) If the ultimate parent of the worldwide group is a deemed parent by virtue of section 477 (stapled entities) or 478 (business combinations), the requirement in sub-paragraph (3)(a) is to state the name and (where it has one) Unique Taxpayer Reference of each of the entities mentioned in that paragraph.
- (7) In this Part of this Act—

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- (a) a return prepared in accordance with sub-paragraph (3) is referred to as “a full interest restriction return”;
- (b) a return prepared in accordance with sub-paragraph (5) is referred to as “an abbreviated interest restriction return”.

*Statement of calculations*

- 21 The statement of calculations required by paragraph 20(3)(d) to be included in a full interest restriction return must include the following information—
- (a) for each company that was a UK group company at any time during the return period—
    - (i) the company's net tax-interest expense, or net tax-interest income, for the return period (see section 389);
    - (ii) the company's tax-EBITDA for the return period (see section 406);
  - (b) the aggregate net tax-interest expense, and aggregate net tax-interest income, of the group for the return period (see section 390);
  - (c) the interest capacity of the group for the return period (see section 392);
  - (d) the aggregate of interest allowances of the group for periods before the return period so far as they are available in the return period (see section 393);
  - (e) the interest allowance of the group for the return period (see section 396);
  - (f) the aggregate tax-EBITDA of the group for the return period (see section 405);
  - (g) where the interest allowance is calculated using the fixed ratio method and that allowance is given by section 397(1)(b), the adjusted net group-interest expense of the group for the return period (see section 413);
  - (h) where the interest allowance is calculated using the group ratio method—
    - (i) the group ratio percentage (see section 399 or 401);
    - (ii) the qualifying net group-interest expense of the group for the return period (see section 414);
    - (iii) the group-EBITDA of the group for the return period (see section 416).

*Statement of allocated interest restrictions*

- 22 (1) The statement of allocated interest restrictions required by paragraph 20(3) (e) to be included in a full interest restriction return must—
- (a) list one or more companies that—
    - (i) were UK group companies at any time during the return period, and
    - (ii) had net tax-interest expense for the period,
  - (b) in relation to each company listed under paragraph (a), specify an amount, and
  - (c) show the total of the amounts specified under paragraph (b).

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- (2) The amount specified under sub-paragraph (1)(b) in relation to a company is referred to in this Part of this Act as the “allocated disallowance” of the company for the return period.
- (3) The allocated disallowance of a company for the return period—
  - (a) must not exceed the net tax-interest expense of the company for the return period,
  - (b) where the company is a non-consenting company in relation to the return, must not exceed the company's pro-rata share of the total disallowed amount (see paragraph 23), and
  - (c) must not be a negative amount.
- (4) The sum of the allocated disallowances for the return period of the companies listed in the statement must equal the total disallowed amount.
- (5) The statement must also specify an amount in relation to each relevant accounting period of each company listed in the statement.
- (6) The amount specified under sub-paragraph (5) in relation to an accounting period of a company is referred to in this Part of this Act as the “allocated disallowance” of the company for the accounting period.
- (7) In the case of a company that has only one relevant accounting period, the allocated disallowance of the company for that accounting period must be equal to the allocated disallowance of the company for the return period.
- (8) In the case of a company that has more than one relevant accounting period, the allocated disallowance of the company for any of those accounting periods—
  - (a) must not exceed so much of the net tax-interest expense of the company for the return period as is referable to the accounting period,
  - (b) where the company is a non-consenting company in relation to the return, must not exceed the accounting period's pro-rata share of the total disallowed amount (see paragraph 24), and
  - (c) must not be a negative amount.
- (9) The sum of the allocated disallowances of the company for its relevant accounting periods must be equal to the allocated disallowance of the company for the return period.

*A company's pro-rata share of the total disallowed amount*

- 23 (1) This paragraph—
  - (a) applies in relation to a worldwide group that is subject to interest restrictions in a period of account of the group, and
  - (b) allocates the total disallowed amount of the group in the period to companies that are UK group companies at any time during the period.
- (2) The amount allocated to a company under this paragraph is referred to in this Part of this Act as the company's “pro-rata share” of the total disallowed amount.

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- (3) Sub-paragraph (4) applies in relation to a company that has net tax-interest expense for the period of account.
- (4) The amount of the total disallowed amount that is allocated to the company is—

$$A \times \frac{B}{C}$$

where—

A is the total disallowed amount;

B is the net tax-interest expense of the company for the period of account;

C is the sum of the net tax-interest expense for the period of account of each company that has net tax-interest expense for the period.

- (5) Where this paragraph does not allocate any of the total disallowed amount to a company, the company's “pro-rata share” of the total disallowed amount is nil.

*Accounting period's pro-rata share of the total disallowed amount*

- 24 (1) This paragraph—
- (a) applies in relation to a worldwide group that is subject to interest restrictions in a period of account of the group (“the relevant period of account”), and
  - (b) allocates the total disallowed amount of the group in the period of account to relevant accounting periods of companies that are UK group companies at any time during that period.
- (2) The amount allocated to an accounting period under this paragraph is referred to in this Part of this Act as the accounting period's “pro-rata share” of the total disallowed amount.
- (3) Sub-paragraph (4) applies where—
- (a) a company's pro-rata share of the total disallowed amount is not nil, and
  - (b) the company has only one relevant accounting period.
- (4) The amount of the total disallowed amount that is allocated to the accounting period is the company's pro-rata share of the total disallowed amount.
- (5) Sub-paragraph (6) applies where—
- (a) a company's pro-rata share of the total disallowed amount is not nil, and
  - (b) the company has more than one relevant accounting period.
- (6) The amount of the total disallowed amount that is allocated to a relevant accounting period of the company is—

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$$A \times \frac{B}{C}$$

where—

A is the company's pro-rata share of the total disallowed amount;

B is the net tax-interest expense of the company for the accounting period;

C is the sum of the net tax-interest expenses of the company for each relevant accounting period.

- (7) Where this paragraph does not allocate any of the total disallowed amount to an accounting period of a company, the accounting period's "pro-rata share" of the total disallowed amount is nil.
- (8) For the purposes of this paragraph, the "net tax-interest expense" of a company for a relevant accounting period is—
- so much of the net tax-interest expense of the company for the relevant period of account as is referable to the accounting period, or
  - if the amount determined under paragraph (a) is negative, nil.

*Statement of allocated interest reactivations*

- 25 (1) The statement of allocated interest reactivations required by paragraph 20(3)(f) to be included in a full interest restriction return must—
- list one or more companies that are UK group companies at any time during the return period,
  - in relation to each company listed under paragraph (a), specify an amount, and
  - show the total of the amounts specified under paragraph (b).
- (2) The amount specified under sub-paragraph (1)(b) in relation to a company is referred to in this Part of this Act as the "allocated reactivation" of the company for the return period.
- (3) The allocated reactivation of a company for the return period—
- must not exceed the amount available for reactivation of the company in the return period (see paragraph 26), and
  - must not be a negative amount.
- (4) The sum of the allocated reactivations for the return period of the companies listed in the statement must equal—
- the sum of the amounts available for reactivation of each company in the return period, or
  - if lower, the interest reactivation cap of the worldwide group in the return period.

*"Amount available for reactivation" of company in period of account of group*

- 26 (1) This paragraph applies for the purposes of this Part of this Act.

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- (2) The “amount available for reactivation” of a company in a period of account of a worldwide group (“the relevant worldwide group”) is—
- (a) the amount determined under sub-paragraph (3), or
  - (b) if lower, the company's interest reactivation cap (see sub-paragraph (5)).
- (3) The amount referred to in sub-paragraph (2)(a) is—

$$A + B - C + D - E$$

where—

A is the total of the disallowed tax-interest expense amounts (if any) that are brought forward to the specified accounting period from earlier accounting periods;

B is the total of the tax-interest expense amounts (if any) that the company is required to leave out of account in the specified accounting period as a result of the operation of this Part of this Act in relation to a period of account of the worldwide group before the period of account;

C is the total of the disallowed tax-interest expense amounts (if any) that the company is required to bring into account in the specified accounting period as a result of the operation of this Part of this Act in relation to a period of account of the worldwide group before the period of account;

D is the total of the tax-interest expense amounts (if any) that the company is required to leave out of account in the specified accounting period as a result of the operation of this Part of this Act in relation to a period of account of a worldwide group of which the company was a member before it became a member of the relevant worldwide group;

E is the total of the disallowed tax-interest expense amounts (if any) that the company is required to bring into account in the specified accounting period as a result of the operation of this Part of this Act in relation to a period of account of a worldwide group of which the company was a member before it became a member of the relevant worldwide group.

- (4) In sub-paragraph (3) “the specified accounting period” means—
- (a) the earliest relevant accounting period of the company, or
  - (b) where the company became a member of the relevant worldwide group during the period of account, the earliest relevant accounting period of the company in which it was a member of the group.
- (5) For the purposes of sub-paragraph (2)(b) “the interest reactivation cap” of the company is—

$$A \times B$$

where—

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A is the interest reactivation cap of the worldwide group in the period of account;

B is the proportion of the period of account in which the company is a UK group company.

#### *Estimated information in statements*

- 27 (1) This paragraph applies in relation to a statement under—
- (a) paragraph 21 (statement of calculations),
  - (b) paragraph 22 (statement of allocated interest restrictions), or
  - (c) paragraph 25 (statement of allocated interest reactivations).
- (2) Where any information is included in the statement that is (or is derived from) estimated information, the statement—
- (a) must state that fact, and
  - (b) must identify the information in question.
- (3) Where—
- (a) estimated information (or information deriving from estimated information) is included in an interest restriction return for a period of account in reliance on this paragraph, and
  - (b) a period of 36 months beginning with the end of that period of account has passed without the information becoming final,
- the reporting company must give a notice to an officer of Revenue and Customs within the period of 30 days beginning with the end of that 36-month period.
- (4) The notice—
- (a) must identify the information in question that is not final, and
  - (b) must indicate when the reporting company expects the information to become final.
- (5) If a company fails to comply with the duty under sub-paragraph (3), it is liable to a penalty of £500.
- (6) An officer of Revenue and Customs may, in a particular case, treat a revised interest restriction submitted after the end of the applicable period under paragraph 8(3)(a) or (b) as having effect if—
- (a) the revisions to the return are limited to those necessary to take account of information that has become final,
  - (b) the officer considers that it was not possible to make those revisions before the end of that period, and
  - (c) the reporting company has complied with the duty under sub-paragraph (3).

#### *Correction of return by officer of Revenue and Customs*

- 28 (1) An officer of Revenue and Customs may amend an interest restriction return submitted by a company so as to correct—
- (a) obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise), and

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- (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.
- (2) A correction under this paragraph is made by notice to the company.
- (3) A correction under this paragraph must not be made more than 9 months after the day on which the return was submitted.
- (4) A correction under this paragraph is of no effect if the company—
  - (a) revises the return so as to reject the correction, or
  - (b) after the end of the period mentioned in paragraph 8(3)(a) or (b) but within 3 months from the date of the issue of the notice of correction, gives notice rejecting the correction.
- (5) Notice under sub-paragraph (4)(b) must be given to the officer of Revenue and Customs by whom notice of the correction was given.

*Penalty for failure to deliver return*

- 29 (1) A company is liable to a penalty if the company—
- (a) is required to submit an interest restriction return under paragraph 7 for a period of account of a worldwide group, and
  - (b) fails to do so by the filing date in relation to the period (see sub-paragraph (5) of that paragraph).
- (2) The penalty is—
- (a) £500 if the return is delivered within 3 months after the filing date, and
  - (b) £1,000 in any other case.
- (3) If a company becomes liable to a penalty under this paragraph, an officer of Revenue and Customs must—
- (a) assess the penalty, and
  - (b) notify the company.
- (4) The assessment must be made within the period of 12 months beginning with the filing date mentioned in sub-paragraph (1)(b).
- (5) A company may, by notice, appeal against a decision of an officer of Revenue and Customs that a penalty is payable under this paragraph.
- (6) Notice of appeal under this paragraph must be given—
- (a) within 30 days after the penalty was notified to the company,
  - (b) to the officer of Revenue and Customs who notified the company.
- (7) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with—
- (a) the day on which the company was notified of the penalty, or
  - (b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.

*Penalty for incorrect or uncorrected return*

- 30 (1) A company is liable to a penalty if—



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- (a) the company (or a person acting on its behalf) submits an interest restriction return to an officer of Revenue and Customs for a period of account of a worldwide group,
  - (b) there is an inaccuracy in the return which meets condition A or B, and
  - (c) the inaccuracy is due to a failure by the company (or a person acting on its behalf) to take reasonable care (a “careless inaccuracy”) or the company makes the inaccuracy deliberately (a “deliberate inaccuracy”).
- (2) An inaccuracy meets condition A if it consists of understating the total disallowed amount in the period of account of the group (including a case where no amount is specified in the return).
- (3) An inaccuracy meets condition B if it consists of overstating the interest reactivation cap in the period of account of the group.
- (4) A penalty payable under this paragraph is equal to the appropriate part of the notional tax.
- (5) For the purposes of this Part of this Schedule—
  - “the appropriate part” means—
    - (a) in the case of a careless inaccuracy, 30%,
    - (b) in the case of a deliberate inaccuracy that is not concealed, 70%, and
    - (c) in the case of a deliberate inaccuracy that is concealed, 100%, and
  - “the notional tax” means the result produced by applying the average rate of the main corporation tax rate applicable in each of the days of the period of account to the total of the amount of the understatement referred to in condition A and the amount of the overstatement referred to in condition B.
- (6) A company is not liable to a penalty under this paragraph in respect of anything done or omitted to be done by the company's agent if the company took reasonable care to avoid the inaccuracy.

*Meaning of “deliberate inaccuracy that is concealed”  
and discovering inaccuracy after return submitted*

- 31
- (1) For the purposes of this Part of this Schedule a deliberate inaccuracy made by a company is concealed if the company makes arrangements to conceal it (for example, by submitting false evidence in support of an inaccurate figure).
  - (2) An inaccuracy in an interest restriction return which was not a careless or deliberate inaccuracy made by a company (or a person acting on its behalf) when the return was submitted is taken to be a careless inaccuracy made by the company for the purposes of this Part of this Schedule if the company (or a person acting on its behalf)—
    - (a) discovers the inaccuracy at some later time, and
    - (b) does not take reasonable steps to inform an officer of Revenue and Customs.

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*Inaccuracy in return attributable to another company*

- 32 (1) A company (“C”) is liable to a penalty if—
- (a) another company submits an interest restriction return for a period of account of a worldwide group,
  - (b) there is an inaccuracy in the return which meets condition A or B in paragraph 30, and
  - (c) the inaccuracy was attributable to C deliberately supplying false information to the other company, or to C deliberately withholding information from the other company, with the intention of the return containing the inaccuracy.
- (2) A penalty is payable under this paragraph in respect of an inaccuracy whether or not the other company is liable to a penalty under paragraph 30 in respect of the same inaccuracy.
- (3) A penalty payable under this paragraph is equal to the notional tax.

*Reductions in amount of penalty for disclosure or special circumstances*

- 33 (1) If a company liable to a penalty under paragraph 30 or 32 in respect of an inaccuracy discloses the inaccuracy—
- (a) the penalty must be reduced to one that reflects the quality of the disclosure (including its timing, nature and extent), but
  - (b) the penalty may not be reduced below the applicable minimum.
- (2) In the case of a penalty under paragraph 30, the applicable minimum is—
- (a) in the case of a careless inaccuracy, 0% of the notional tax if the disclosure is unprompted and 15% otherwise,
  - (b) in the case of a deliberate inaccuracy that is not concealed, 30% of the notional tax if the disclosure is unprompted and 45% otherwise, and
  - (c) in the case of a deliberate inaccuracy that is concealed, 40% of the notional tax if the disclosure is unprompted and 60% otherwise.
- (3) In the case of a penalty under paragraph 32, the applicable minimum is 40% of the notional tax if the disclosure is unprompted and 60% otherwise.
- (4) For the purposes of this paragraph—
- (a) a person makes a disclosure of an inaccuracy by telling an officer of Revenue and Customs about it, giving an officer of Revenue and Customs reasonable help in quantifying it and allowing an officer of Revenue and Customs access to records to ensure that it is fully corrected, and
  - (b) a person makes an “unprompted” disclosure at any time if the person has no reason at that time to believe that an officer of Revenue and Customs have discovered, or are about to discover, the inaccuracy.
- (5) If they think it right because of special circumstances, an officer of Revenue and Customs may—
- (a) reduce a penalty under paragraph 30 or 32, or

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- (b) stay the penalty or agree a compromise in relation to proceedings for the penalty.
- (6) The reference to special circumstances does not include an ability to pay but, subject to that, is taken to include, or exclude, such other circumstances as are prescribed by regulations made by the Commissioners.
- (7) The power to prescribe circumstances includes power to prescribe circumstances by reference to the notional tax and the extent to which the notional tax exceeds, or is likely to exceed, any actual loss of tax to the Crown.

*Assessment, payment and enforcement of penalty*

- 34 (1) If a person becomes liable to a penalty under paragraph 30 or 32, an officer of Revenue and Customs must—
- (a) assess the penalty, and
  - (b) notify the person.
- (2) The assessment must be made within the period of 12 months beginning with the day on which the inaccuracy is corrected.
- (3) The penalty must be paid before the end of the period of 30 days beginning with—
- (a) the day on which the person was notified of the penalty, or
  - (b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.
- (4) An assessment may be enforced—
- (a) as if it were an assessment to corporation tax (which, among other things, secures the application of Chapters 6 and 7 of Part 22 of CTA 2010 (corporation tax payable by non-UK resident companies: recovery from others)), and
  - (b) as if that assessment were also an assessment to corporation tax of any company which was a UK group company of the group at any time in the period of account in relation to which the interest restriction return contained an inaccuracy.

*Right to appeal against penalty or its amount*

- 35 A person may, by notice, appeal against—
- (a) a decision of an officer of Revenue and Customs that a penalty under paragraph 30 or 32 is payable, or
  - (b) a decision of an officer of Revenue and Customs as to the amount of a penalty under paragraph 30 or 32.

*Procedure on appeal*

- 36 (1) Notice of an appeal under paragraph 35 must be given—
- (a) within 30 days after the penalty was notified to the person,
  - (b) to an officer of Revenue and Customs.

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- (2) On an appeal notified to the tribunal against a decision that a penalty is payable, the tribunal may confirm or cancel the decision.
- (3) On an appeal notified to the tribunal against the amount of a penalty, the tribunal may—
  - (a) confirm the decision, or
  - (b) substitute for the decision another decision that an officer of Revenue and Customs had power to make.
- (4) If the tribunal substitutes its decision for a decision of an officer of Revenue and Customs, the tribunal may rely on paragraph 33(5)—
  - (a) to the same extent as an officer of Revenue and Customs (which may mean applying the same percentage reduction as the officer to a different starting point), or
  - (b) to a different extent, but only if the tribunal thinks that the decision in respect of the application of paragraph 33(5) was flawed.
- (5) For this purpose “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (6) Subject to this Part of this Schedule, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this Part of this Schedule as they have effect in relation to appeals against an assessment to corporation tax.

*Payments between companies in respect of penalties*

- 37 (1) This paragraph applies if—
- (a) a company (“P”) liable to a penalty under this Part of this Schedule has an agreement in relation to the penalty with one or more other companies within the charge to corporation tax, and
  - (b) as a result of the agreement, P receives a payment or payments in respect of the penalty that do not, in total, exceed the amount of the penalty.
- (2) The payment—
- (a) is not to be taken into account in calculating the profits for corporation tax purposes of either P or the company making the payment, and
  - (b) is not to be regarded as a distribution for corporation tax purposes.

### PART 3

#### DUTY TO KEEP AND PRESERVE RECORDS

*Duty to keep and preserve records*

- 38 (1) A company which is a reporting company in relation to a period of account of a worldwide group must—
- (a) keep such records as may be needed to enable it to submit a correct and complete interest restriction return for the period, and

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- (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved until the end of the relevant day.
- (3) In this paragraph “the relevant day” means—
- (a) the sixth anniversary of the end of the period of account, or
  - (b) such earlier date as may be specified in writing by an officer of Revenue and Customs (and different days may be specified for different cases).
- (4) If the company is required to submit an interest restriction return for the period before the end of the relevant day, the records must be preserved until any later date on which—
- (a) any enquiry into the return is complete, or
  - (b) if there is no enquiry, an officer of Revenue and Customs no longer has the power to enquire into the return (but, for this purpose, paragraph 42 is to be ignored).
- (5) If the company is required to submit an interest restriction return for the period after the end of the relevant day and has in its possession at that time any records that may be needed to enable it to submit a correct and complete return, it is under a duty to preserve those records until the date on which—
- (a) any enquiry into the return is complete, or
  - (b) if there is no enquiry, an officer of Revenue and Customs no longer has the power to enquire into the return (but, for this purpose, paragraph 42 is to be ignored).
- (6) The duty under this paragraph to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by an officer of Revenue and Customs.
- (7) The Commissioners may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
  - (b) provide that those records include supporting documents so specified.
- (8) The regulations may make provision by reference to things specified in a notice published by the Commissioners in accordance with the regulations (and not withdrawn by a subsequent notice).

*Penalty for failure to keep and preserve records*

- 39 (1) A company which fails to comply with paragraph 38 is liable to a penalty not exceeding £3,000.
- (2) If a company becomes liable to a penalty under this paragraph, an officer of Revenue and Customs must—
- (a) assess the penalty, and

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- (b) notify the company.
- (3) The assessment must be made within the period of 12 months beginning with the day on which an officer of Revenue and Customs first becomes aware that the company has failed to comply with paragraph 38.
- (4) A company may, by notice, appeal against a decision of an officer of Revenue and Customs that a penalty is payable under this paragraph.
- (5) Notice of appeal under this paragraph must be given—
  - (a) within 30 days after the penalty was notified to the company,
  - (b) to the officer of Revenue and Customs who notified the company.
- (6) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with—
  - (a) the day on which the company was notified of the penalty, or
  - (b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.

#### PART 4

##### ENQUIRY INTO INTEREST RESTRICTION RETURN

###### *Notice of enquiry*

- 40 (1) An officer of Revenue and Customs may enquire into an interest restriction return submitted by a reporting company if the officer gives notice to the company of the officer's intention to do so (“notice of enquiry”).
- (2) The general rule is that an interest restriction return which has been the subject of one notice of enquiry may not be the subject of another.
- (3) If a return (“the previous return”) is superseded by an interest restriction return submitted under paragraph 8 (“the revised return”), notice of enquiry may be given in relation to the revised return even though notice of enquiry has been given in relation to the previous return.
- (4) But see paragraph 43(5) for a limitation in certain circumstances on the scope of an enquiry into an interest restriction return submitted under paragraph 8.
- (5) The power to give notice of enquiry into an interest restriction return for a period of account of a worldwide group does not restrict the power to give notice of enquiry into a company tax return of a company that is a member of the group at any time in that period.
- (6) Accordingly, an amendment of the company's company tax return may be required as a result of an enquiry into the interest restriction return even though a closure notice has been given in respect of an enquiry into that company tax return.
- (7) But see paragraph 43(2) for a limitation on the scope of an enquiry into an interest restriction return so far as affecting amounts in a company tax return.

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*Normal time limits for opening enquiry*

- 41 (1) This paragraph applies where an interest restriction return is submitted by a reporting company for a period of account.
- (2) Notice of enquiry may be given at any time before whichever is the latest of—
- (a) the end of the period of 39 months beginning with the end of the period of account;
  - (b) the end of the period of 6 months beginning with the day on which the reporting company was appointed; and
  - (c) the end of 31 January, 30 April, 31 July or 31 October next following the first anniversary of the day on which an officer of Revenue and Customs receives the revised return.
- (3) If—
- (a) estimated information (or information deriving from estimated information) is included in an interest restriction return for a period of account in reliance on paragraph 27, and
  - (b) a period of 36 months beginning with the end of that period of account has passed without the information becoming final,
- notice of enquiry may be given at any time up to and including the end of the period of 12 months beginning with the end of that 36-month period.
- (4) This paragraph is subject to paragraph 42 (which allows notices of enquiry to be given after the time allowed by this paragraph or an enquiry previously closed to be re-opened).

*Extended time limits for opening enquiries: discovery of errors*

- 42 (1) Notice of enquiry may be given later than the time allowed under paragraph 41, or a closed enquiry may be re-opened, if—
- (a) an officer of Revenue and Customs discovers that an interest restriction return submitted to an officer of Revenue and Customs does not, or might not, comply with the requirements of paragraph 20(3) in any respect,
  - (b) there would be, or might be, an increase in tax payable by any company for any accounting period if the return had complied with those requirements in that respect,
  - (c) the discovery is made after the time allowed under paragraph 41 or after an enquiry into the return has been closed, and
  - (d) the officer could not, at the relevant time and by reference to the relevant information, have been reasonably expected to be aware of the respects in which the return might not comply with those requirements.
- (2) For this purpose “the relevant time” means—
- (a) in a case where no notice of enquiry has been given within the time allowed under paragraph 41, when an officer of Revenue and Customs ceased to be entitled to give a notice, or

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- (b) in a case where an enquiry has been closed, when the officer gave the closure notice.
- (3) For this purpose “the relevant information” means information which—
- (a) is contained in the interest restriction return in question or either of the two returns for the immediately preceding periods of account of the group,
  - (b) is contained in any documents, financial statements or other accounts or information produced or provided to an officer of Revenue or Customs for the purposes of an enquiry into the interest restriction return in question or either of the two returns for the immediately preceding periods of account of the group,
  - (c) is information the existence of which, and the relevance of which as regards the situation mentioned in sub-paragraph (1)(b), could reasonably be expected to be inferred by an officer of Revenue and Customs from information falling with paragraph (a) or (b) of this sub-paragraph, or
  - (d) is information the existence of which, and the relevance of which as regards the situation mentioned in sub-paragraph (1)(b), are notified in writing to an officer of Revenue and Customs by the reporting company for the period of account or a person acting on its behalf.
- (4) Notice of enquiry into an interest restriction return for a period of account may not be given, or a closed enquiry may not be re-opened, as a result of this paragraph more than the applicable number of years after the end of the period of account.
- (5) The “applicable number of years” is—
- (a) 20 years in a case involving deliberate non-compliance by the reporting company for the period of account or by a qualifying person,
  - (b) 6 years in a case involving careless non-compliance by the reporting company for the period of account or by a qualifying person, and
  - (c) 4 years in any other case.
- (6) For this purpose “qualifying person” means—
- (a) a person acting on behalf of the reporting company for the period of account, or
  - (b) a person who was a partner of the reporting company for the period of account at the relevant time.
- (7) For the purposes of this paragraph an enquiry is “closed” when a closure notice is given in relation to the enquiry.

#### *Scope of enquiry*

- 43 (1) An enquiry into an interest restriction return extends to anything contained, or required to be contained, in the return (including any election included in the return).
- (2) But the enquiry does not extend to an enquiry into an amount—
- (a) which is contained, or required to be contained, in a company tax return of a UK group company, and



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- (b) which is taken into account in any calculation required for the purposes of the interest restriction return.
- (3) Sub-paragraph (2) does not affect—
  - (a) any question as to whether or not, as a result of this Part of this Act, the amount falls to be left out of account, or to be brought into account, in any accounting period of the company, or
  - (b) the way in which, by reference to that amount and other matters, any provision of this Part of this Act has effect to determine whether or not the amount, or any other amount, is to be left out of, or brought into account, in any accounting period (whether of that company or another company).
- (4) Nor does sub-paragraph (2) limit the operation of any provision of Part 4 of Schedule 18 to FA 1998 (determinations and assessments made by officers of Revenue and Customs).
- (5) If—
  - (a) at any time an enquiry into an interest restriction return (“the previous return”) has been closed, and
  - (b) the previous return is subsequently superseded by an interest restriction return submitted under paragraph 8 (“the revised return”),the enquiry into the revised return extends only to matters arising as a result of information that was not included in the previous return.
- (6) For this purpose an enquiry is “closed” when a closure notice is given in relation to the enquiry.

*Enquiry into return for wrong period or wrong group*

- 44 (1) If it appears to an officer of Revenue and Customs that the period of account for which an interest restriction return has been submitted is or may be the wrong period, the power to enquire into the return includes power to enquire into the period for which the return ought to have been made.
- (2) If sub-paragraph (1) applies, paragraph 41 (normal time limits for opening enquiry) has effect as if the return were one that had been submitted for the correct period of account.
- (3) If it appears to an officer of Revenue and Customs that the worldwide group (“the relevant group”) in relation to which an interest restriction return has been submitted—
  - (a) consists of, or may consist of, two or more worldwide groups,
  - (b) includes, or may include, entities that are members of a different worldwide group or groups, or
  - (c) does not include, or may not include, entities that should be members of the relevant group,the power to enquire into the return includes power to enquire into the returns for the periods of account of the worldwide groups which ought to have been made.

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*Amendment of self-assessment during enquiry to prevent loss of tax*

- 45 (1) If after notice of enquiry has been given into an interest restriction return but before the enquiry is completed, an officer of Revenue and Customs forms the opinion that—
- (a) the amount stated in the self-assessment of a company as the amount of tax payable is insufficient,
  - (b) the deficiency is attributable to matters in relation to which the enquiry extends, and
  - (c) unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- the officer may by notice to the company amend its self-assessment to make good the deficiency.
- (2) In sub-paragraph (1) the reference to a company is to a company that was a member of the group at any time in the period of account for which the interest restriction return was submitted.
- (3) An appeal may be brought, by notice, against an amendment of a company's self-assessment by an officer of Revenue and Customs under this paragraph.
- (4) Notice of appeal must be given—
- (a) within 30 days after the amendment was notified to the company,
  - (b) to the officer of Revenue and Customs by whom the notice of amendment was given.
- (5) None of the steps mentioned in section 49A(2)(a) to (c) of TMA 1970 (reviews of the matter or notification of appeal to tribunal) may be taken in relation to the appeal before the completion of the enquiry.
- (6) In this paragraph “self-assessment” has the meaning given by paragraph 7 of Schedule 18 to FA 1998.

*Revision of interest restriction return during enquiry*

- 46 (1) This paragraph applies if a reporting company submits a revised interest restriction return at a time when an enquiry is in progress into the previous return.
- (2) The submission of the revised return does not restrict the scope of the enquiry but the revisions may be taken into account (together with any matter arising) in the enquiry.
- (3) So far as the revised return affects the tax payable by a company, it does not take effect until the enquiry is completed (and, accordingly, paragraph 70 has effect subject to this sub-paragraph).
- (4) But sub-paragraph (3) does not affect any claim by the company under section 59DA of TMA 1970 (claim for repayment in advance of liability being established).
- (5) The submission of a revised return whose effect is deferred under sub-paragraph (3) takes effect as follows—
- (a) if the conclusions in the closure notice state either—

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- (i) that the revisions were not taken into account in the enquiry,  
or
  - (ii) that no revision of the revised return is required arising from  
the enquiry,  
the revision takes effect on the completion of the enquiry, and
  - (b) in any other case, the revisions take effect as part of the steps  
required to be taken in order to give effect to the conclusions stated  
in the closure notice.
- (6) For the purposes of this paragraph the period during which an enquiry into  
an interest restriction return is in progress is the whole of the period—
- (a) beginning with the day on which an officer of Revenue and Customs  
gives notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

#### *Completion of enquiry*

- 47 (1) An enquiry into an interest restriction return submitted by a reporting  
company is completed when an officer of Revenue and Customs by notice  
(a “closure notice”)—
- (a) informs the company that the officer has completed the enquiry, and
  - (b) states the officer's conclusions.
- (2) The closure notice takes effect when it is given.
- (3) If an officer of Revenue and Customs concludes that the return should have  
been made for one or more different periods of account of the group, the  
closure notice must designate the period of account (or periods of account)  
for which the return should have been made.
- (4) If an officer of Revenue and Customs concludes that an interest restriction  
return in relation to a worldwide group should have been submitted—
- (a) in relation to one or more different worldwide groups, or
  - (b) in relation to a different membership,
- the closure notice must designate each period of account of a worldwide  
group for which an interest restriction return should have been made or for  
which an interest restriction return should have been submitted in relation  
to a different membership.
- (5) If the officer concludes that the group in relation to which the return  
was submitted has a different membership, the designation under sub-  
paragraph (4) must also include details of the members of the group that the  
officer considers are UK group companies.
- (6) If the officer concludes that the return should have been submitted in relation  
to one or more different worldwide groups, the designation under sub-  
paragraph (4) must also include—
- (a) sufficient details to identify the different worldwide group or groups,  
and
  - (b) details of the members of the group that the officer considers are UK  
group companies.

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- (7) A designation by a closure notice of a period of account under this paragraph must specify the dates on which the period of account begins and ends.
- (8) In this paragraph references to UK group companies, in relation to a period of account, do not include UK group companies that are dormant throughout the period.

*Direction to complete enquiry*

- 48 (1) An application may be made at any time to the tribunal for a direction that an officer of Revenue and Customs gives a closure notice in respect of an enquiry into an interest restriction return within a specified period.
- (2) The application is to be made by the reporting company for the period of account of the group for which the return was submitted.
  - (3) The application is subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
  - (4) The tribunal must give a direction unless satisfied that an officer of Revenue and Customs has reasonable grounds for not giving a closure notice within a specified period.

*Conclusions of enquiry*

- 49 (1) This paragraph applies where a closure notice is given under paragraph 47 to a company by an officer.
- (2) The closure notice must—
    - (a) state that, in the officer's opinion, no steps are required to be taken by the company as a result of the enquiry, or
    - (b) state the steps that the company is required to take in order to give effect to the conclusions stated in the notice.
  - (3) The closure notice may (but need not) specify the allocated disallowance for particular companies specified in the notice.
  - (4) If—
    - (a) the return was made for the wrong period, and
    - (b) a period of account designated under paragraph 47(3) begins or ends at any time in that period,
 the closure notice must require the company to take steps to make the return one appropriate to that designated period of account.
  - (5) If there is more than one designated period of account within subparagraph (4), the closure notice must require the company to submit an interest restriction return for each of those designated periods of account.
  - (6) If—
    - (a) a period of account of a worldwide group (“the relevant group”) is designated under paragraph 47(4),
    - (b) the company is a member of the relevant group for that period of account, and
    - (c) condition A or B is met,

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the closure notice must require the company to submit an interest restriction return for the designated period of account of the relevant group.

- (7) Condition A is met if the UK group companies comprised in the relevant group were regarded as members of the worldwide group in relation to which the return was made.
- (8) Condition B is met if—
  - (a) the relevant group includes UK group companies that were not regarded as members of the group in relation to which the return was made, and
  - (b) the ultimate parent of the relevant group is not the ultimate parent of a worldwide group in relation to which a reporting company has been appointed for a period of account that includes a time falling within the designated period of account of the relevant group.
- (9) If sub-paragraph (6) applies in relation to two or more designated periods of account of a worldwide group (whether those periods are of the same or different groups), the closure notice must require the company to submit separate interest restriction returns for each of the designated periods of account.
- (10) If, as a result of this paragraph, a closure notice requires a company to submit an interest restriction return for a period of account of a worldwide group, the company is treated for the purposes of this Part of this Act as if it had been appointed as the reporting company of the group in relation to the period.
- (11) For this purpose it does not matter whether the return that was subject to the enquiry was submitted in relation to a different worldwide group.
- (12) Sub-paragraph (10) is ignored in determining the period within which the return must be submitted (as to which, see instead paragraph 50(2)).

*Interest restriction returns to be submitted to an officer of Revenue and Customs*

- 50 (1) If, as a result of a closure notice given under paragraph 47 (closure notice in respect of a return subject to enquiry), a company is required to submit one or more interest restriction returns, the return or returns must—
- (a) be submitted to an officer of Revenue and Customs,
  - (b) give effect to the conclusions stated in the notice, and
  - (c) contain such consequential provision as the company considers appropriate.
- (2) A return submitted in compliance with the closure notice is of no effect unless it is received by an officer of Revenue and Customs before the end of the period of 3 months beginning with the day on which the closure notice is given to the company.
- (3) A return submitted in compliance with the closure notice—
- (a) must indicate the respects in which it differs from the return that was the subject of the enquiry, and
  - (b) supersedes that return.

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- (4) For provision dealing with cases where no return is submitted before the end of the period mentioned in sub-paragraph (2), see paragraph 58.

*Return in relation to a worldwide group: other entities part of another group*

- 51 (1) This paragraph applies if—
- (a) an enquiry has been made into an interest restriction return (“the original return”) for a period of account of a worldwide group (“the original group”),
  - (b) a closure notice has been given in respect of the enquiry that designates a period of account of a worldwide group under paragraph 47(4) (“the new group”),
  - (c) the new group consists of both UK group companies that were not regarded as members of the original group and other UK group companies, and
  - (d) the ultimate parent of the new group is the ultimate parent of a worldwide group (“the existing group”) in relation to which a reporting company has been appointed for a period of account that includes a time falling within the designated period of account of the new group.
- (2) An officer of Revenue and Customs must give a notice to that company appointing it as the reporting company in relation to each designated period of account of the new group.
- (3) The notice of appointment must be given within the period of 30 days beginning with the day on which the closure notice was given.
- (4) If—
- (a) an interest restriction return has been submitted for a period of account of the existing group, and
  - (b) that period of account begins or ends at any time in a designated period of account of the new group,
- the return is to be treated as withdrawn.
- (5) Accordingly—
- (a) any notice of enquiry or closure notice in relation to the return is also to be treated as withdrawn,
  - (b) any appeal in respect of any matter stated in a closure notice in relation to the return is treated as withdrawn, and
  - (c) any determination of any such appeal is treated as being of no effect.
- (6) If—
- (a) an interest restriction return for a period of account is treated as withdrawn as a result of sub-paragraph (4), and
  - (b) the period of account begins at any time before a designated period of account of the new group,
- the notice under sub-paragraph (2) is also to be treated as if it constituted, on the day on which it is given, the appointment of the company in relation to a period of account of the existing group beginning with that time and ending immediately before the beginning of the designated period of account.

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- (7) If—
- (a) enquiries are open at any time in relation to more than one interest restriction return, and
  - (b) this paragraph is capable of applying by reference to a closure notice to be given in respect of any one of those enquiries (so that a worldwide group could be either the original group or the existing group),
- an officer of Revenue and Customs must select the company that, in the officer's opinion, ought to be the reporting company in relation to the new group.
- (8) For this purpose an enquiry is “open” in relation to an interest restriction return if no closure notice has been given in relation to the enquiry.

*Appeal against closure notice or notice under paragraph 51*

- 52 (1) If a closure notice —
- (a) is given to a company under paragraph 47, and
  - (b) contains a statement under paragraph 49(2)(b),
- the company may appeal against the statement.
- (2) If a notice is given to a company under paragraph 51, the company may appeal against the notice.
- (3) Notice of appeal under this paragraph must be given—
- (a) within 30 days after the notice was given to the company,
  - (b) to the officer of Revenue and Customs by whom the notice in question was given.

*New groups without existing reporting company*

- 53 (1) This paragraph applies if—
- (a) a closure notice is given to a company under paragraph 47,
  - (b) a period of account of a worldwide group (“the new group”) is designated under paragraph 47(4) in the closure notice,
  - (c) the company is not a member of the new group at any time in that period of account, and
  - (d) paragraph 51 does not apply.
- (2) An officer of Revenue and Customs may appoint a company to be the reporting company of the new group in relation to that period.
- (3) The appointment—
- (a) must be of a company that was a UK group company at any time during that period and was not dormant throughout that period, and
  - (b) must be made before the end of the period of 3 months beginning with the day on which the closure notice is given to the company.

*Matters required to be done on a “just and reasonable” basis*

- 54 (1) This paragraph applies if—

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- (a) anything is required to be done under any provision of this Part of this Act on a “just and reasonable” basis,
  - (b) in preparing an interest restriction return the reporting company adopts a particular basis for dealing with that thing, and
  - (c) notice of enquiry is given into the return.
- (2) An officer of Revenue and Customs may determine that, in preparing the return, a different just and reasonable basis should have been adopted for dealing with that thing.
- (3) A closure notice given in respect of the return must require the reporting company to whom the notice is given to revise the return to give effect to that determination.
- (4) The officer's determination may be questioned on an appeal under paragraph 52 on the ground that the basis to be adopted is not just and reasonable (but not on any other ground).

*References to a reporting company where replaced*

- 55 (1) This paragraph applies where—
- (a) the appointment of a reporting company has effect in relation to a period of account of a worldwide group, and
  - (b) another reporting company is appointed in place of that company and the appointment has effect in relation to that period of account.
- (2) Any reference in this Part of this Schedule (however expressed) to the reporting company in relation to that period of account at any time is to the company which is the reporting company at that time in relation to that period of account.

## PART 5

### DETERMINATIONS BY OFFICERS OF REVENUE AND CUSTOMS

*Power of Revenue and Customs to make determinations where no return filed etc*

- 56 (1) This paragraph applies where—
- (a) an officer of Revenue and Customs considers that a worldwide group was subject to interest restrictions in a period of account of the group (“the relevant period of account”),
  - (b) the determination date has passed, and
  - (c) condition A, B or C is met.
- (2) In this paragraph “the determination date”, in relation to a period of account of a worldwide group, means—
- (a) where the appointment of a reporting company has effect in relation to the period of account, the filing date in relation to the period (see paragraph 7(5));
  - (b) otherwise, the end of the period of 12 months beginning with the end of the period of account.



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- (3) Condition A is that no appointment of a reporting company has effect in relation to the relevant period of account.
- (4) Condition B is that—
  - (a) the appointment of a reporting company has effect in relation to the relevant period of account, and
  - (b) no interest restriction return has been submitted for the period.
- (5) Condition C is that—
  - (a) the appointment of a reporting company has effect in relation to the relevant period of account,
  - (b) an interest restriction return has been submitted for the period, and
  - (c) the return does not comply with the requirements of paragraph 20(3) (for example by including inaccurate figures).
- (6) An officer of Revenue and Customs may determine, to the best of the officer's information and belief—
  - (a) a company's pro-rata share of the total disallowed amount of the group for the relevant period of account, and
  - (b) in relation to each relevant accounting period of the company, the accounting period's pro-rata share of the total disallowed amount.
- (7) If, as a result of the determination, an accounting period's pro-rata share of the total disallowed amount is not nil, the company must leave out of account tax-interest expense amounts in that period that, in total, equal that pro-rata share.
- (8) A notice of determination under this paragraph must be given to the company, and to the reporting company, stating the date on which the determination is made.
- (9) No determination under this paragraph may be made after the end of the period of 3 years beginning with the determination date.

*Time limit: interest restriction return following determination under paragraph 56*

- 57 (1) Sub-paragraph (2) applies where—
- (a) a notice of determination under paragraph 56 is given to a company, and
  - (b) at the time the notice is given, no interest restriction return for the relevant period of account has been submitted under paragraph 7.
- (2) Despite the passing of the time limit in paragraph 7(6), an interest restriction return for the relevant period of account submitted under paragraph 7 has effect if it is received before the end of the period of 12 months beginning with the date on which the notice is given.
- (3) Sub-paragraph (4) applies where—
- (a) a notice of determination under paragraph 56 is given to a company, and
  - (b) at the time the notice is given, an interest restriction return for the relevant period of account has been submitted under paragraph 7.

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- (4) Despite the passing of the time limit in paragraph 8(3), an interest restriction return for the relevant period of account submitted under paragraph 8 has effect if it is received before the end of the period of 12 months beginning with the date on which the notice is given.
- (5) In this paragraph “the relevant period of account” means the period of account to which the determination in question relates.

*Power of Revenue and Customs to make determinations following enquiry*

- 58 (1) This paragraph applies where—
- (a) as a result of a closure notice given under paragraph 47 (closure notice in respect of a return subject to enquiry), a company is required to submit an interest restriction return (“the return”) in relation to a worldwide group,
  - (b) the worldwide group is subject to interest restrictions in the return period, and
  - (c) condition A or B is met.
- (2) Condition A is that the time limit in paragraph 50(2) for submission of the return has passed without the return being received by an officer of Revenue and Customs.
- (3) Condition B is that—
- (a) the return has been received by an officer of Revenue and Customs before the time limit in paragraph 50(2), and
  - (b) the officer considers that the return does not comply with the requirements of the closure notice.
- (4) An officer of Revenue and Customs may determine, to the best of the officer's information and belief—
- (a) a company's pro-rata share of the total disallowed amount of the group for the period of account in question, and
  - (b) in relation to each relevant accounting period of the company, the accounting period's pro-rata share of the total disallowed amount.
- (5) If, as a result of the determination, an accounting period's pro-rata share of the total disallowed amount is not nil, the company must leave out of account tax-interest expense amounts in that period that, in total, equal that pro-rata share.
- (6) A notice of determination under this paragraph must be given to the company, and to the reporting company, stating the date on which the determination is made.
- (7) No determination under this paragraph may be made after the end of the period of 3 months beginning with the end of the period mentioned in paragraph 50(2).

*Appeal against determination under paragraph 58*

- 59 (1) If a notice of determination under paragraph 58 is given to a company, the company may appeal against the notice.

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- (2) The only ground on which an appeal under this paragraph may be brought is that the determination is inconsistent with the requirements of the closure notice to which it relates.
- (3) Notice of appeal under this paragraph must be given—
  - (a) within 30 days after the notice of determination was given to the company,
  - (b) to the officer of Revenue and Customs by whom the notice of determination was given.

## PART 6

### INFORMATION POWERS EXERCISABLE BY MEMBERS OF GROUP

#### *Provision of information to and by the reporting company*

- 60 (1) The reporting company in relation to a period of account of a worldwide group may, by notice, require a company that was a UK group company at any time during the period to provide it with information that it needs for the purpose of exercising functions under or by virtue of this Part of this Act.
- (2) A notice under sub-paragraph (1) must specify the information to be provided.
- (3) The duty to comply with a notice under sub-paragraph (1) is enforceable by the reporting company.
- (4) As soon as reasonably practicable after submitting an interest restriction return to an officer of Revenue and Customs under any provision of this Schedule, the reporting company must send a copy of it to each company that was a UK group company at any time during the period of account.
- (5) If a reporting company receives a closure notice under paragraph 47, the reporting company must, as soon as reasonably practicable, send a copy of the notice to every company that was a UK group company at any time during the period of account that was subject to the enquiry.
- (6) The duty to comply with sub-paragraph (4) or (5) is enforceable by any person to whom the duty is owed.

#### *Provision of information between members of group where no reporting company appointed*

- 61 (1) This paragraph applies where condition A or B is met in relation to a period of account of a worldwide group.
- (2) Condition A is that—
  - (a) no appointment of a reporting company has effect in relation to the period of account, and
  - (b) as a result of sub-paragraph (4)(a) of paragraph 1, an appointment of a reporting company under that paragraph that has effect in relation to the relevant period of account is no longer possible.

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- (3) Condition B is that—
- (a) an appointment of a reporting company has effect in relation to the period of account,
  - (b) a full interest restriction return has not been submitted in accordance with this Part for the period, and
  - (c) the filing date in relation to the period has passed (see paragraph 7(5)).
- (4) A company that was a UK group company at any time during the period of account may, by notice, require any other such company to provide it with information that it needs for the purpose of determining whether, or the extent to which, it is required to leave tax-interest expense amounts out of account, or bring them into account, under this Part of this Act.
- (5) A notice under sub-paragraph (4) must specify the information to be provided.
- (6) The duty to comply with a notice under sub-paragraph (4) is enforceable by the company that gives the notice.

## PART 7

### INFORMATION POWERS EXERCISABLE BY OFFICERS OF REVENUE AND CUSTOMS

#### *Power to obtain information and documents from members of worldwide group*

- 62 (1) An officer of Revenue and Customs may, by notice, require a group member—
- (a) to provide information, or
  - (b) to produce a document,
- if the information or document is reasonably required by the officer for the purpose of checking an interest restriction return for, or exercising any of the powers under this Part of this Act in relation to, a period of account of a worldwide group.
- (2) For the purposes of this Part of this Schedule a person is a “group member” if, in the opinion of an officer of Revenue and Customs, the person is or might be a member of the worldwide group at any time in the period of account.
- (3) A group member may (subject to the operation of any provision of Part 4 of Schedule 36 to FA 2008 as applied by paragraph 66(1) of this Schedule) be required to provide information, or produce a document, that relates to one or more other group companies.
- (4) A notice under this paragraph may be given to a person even if the person is not within the charge to corporation tax or income tax.
- (5) A notice under this paragraph may specify or describe the information or documents to be provided or produced.

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*Power to obtain information and documents from third parties*

- 63 (1) An officer of Revenue and Customs may, by notice, require a third party—
- (a) to provide information, or
  - (b) to produce a document,
- if the information or document is reasonably required by the officer for the purpose of checking an interest restriction return for, or exercising any of the powers under this Part of this Act in relation to, a period of account of a worldwide group.
- (2) A person is a “third party” if the person is not a group member at any time in the period of account.
- (3) A notice may not be given under this paragraph unless—
- (a) a company which is a UK group company of the group at any time in the period of account agrees to the giving of the notice, or
  - (b) on an application made by an officer of Revenue and Customs, the tribunal approves the giving of the notice.
- (4) The tribunal may not approve the giving of a notice to a third party unless—
- (a) the tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so, and
  - (b) either the requirements of sub-paragraph (5) are met or the tribunal is satisfied that it is appropriate to dispense with meeting those requirements because to meet them might prejudice the assessment or collection of tax.
- (5) The requirements in this sub-paragraph are met if—
- (a) the third party has been told that the information or documents referred to in the notice are required,
  - (b) the third party has been given a reasonable opportunity to make representations to an officer of Revenue and Customs,
  - (c) the tribunal has been given a summary of any representations made by the third party, and
  - (d) a company which is a UK group company of the group at any time in the period of account has been given a summary of the reasons why the information and documents are required.
- (6) Sub-paragraph (5)(d) does not apply if an officer of Revenue and Customs has insufficient information to identify a company mentioned in that paragraph.
- (7) No notice of the application for the approval of the tribunal needs to be given to the third party by an officer of Revenue and Customs.
- (8) A notice under this paragraph to the third party must give details of the worldwide group unless—
- (a) the notice is approved by the tribunal, and
  - (b) the tribunal is satisfied that no details should be given because to do so might seriously prejudice the assessment or collection of tax.

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- (9) An officer of Revenue and Customs must give a copy of a notice under this paragraph to a company which is a UK group company of the group at any time in the period of account unless—
- (a) the tribunal has approved the notice and is satisfied that no copy should be given because to do so might prejudice the assessment or collection of tax, or
  - (b) an officer of Revenue and Customs has insufficient information to identify such a company.
- (10) A decision of the tribunal under this paragraph is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).
- (11) A notice under this paragraph—
- (a) may specify or describe the information or documents to be provided or produced, and
  - (b) if given with the approval of the tribunal, must state that fact.

*Notices following submitted interest restriction returns*

- 64 (1) The general rule is that, if an interest restriction return for a period of account of a worldwide group has been received by an officer of Revenue and Customs, a notice under paragraph 62 or 63 may not be given in relation to the period of the account of the group.
- (2) But the general rule does not apply if—
- (a) a notice of enquiry has been given in respect of the return, and
  - (b) the enquiry has not been completed.

*Appeals*

- 65 (1) A group member may appeal against a notice under paragraph 62.
- (2) A person to whom a notice is given under paragraph 63 in a case where the tribunal has not approved the giving of the notice may appeal against the notice on the ground that it would be unduly onerous to comply with it.
- (3) No appeal may be made under this paragraph in relation to a requirement to provide any information, or produce any documents, that forms part of the statutory records of any company which is a UK group company of the group at any time in the period of account.
- (4) “Statutory records” has the same meaning given by paragraph 62 of Schedule 36 to FA 2008.
- (5) In this Part of this Schedule references to an appeal against a notice include an appeal against a requirement of the notice.

*Application of provisions of Schedule 36 to FA 2008*

- 66 (1) The following provisions of Schedule 36 to FA 2008 (information and inspection powers) apply in relation to notices under paragraph 62 or 63—
- (a) paragraph 7 (complying with notices),
  - (b) paragraph 8 (producing copies of documents),

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- (c) paragraph 15 (power to copy documents),
  - (d) paragraph 16 (power to remove documents),
  - (e) paragraph 18 (documents not in person's possession or power),
  - (f) paragraph 19 (types of information),
  - (g) paragraph 20 (old documents),
  - (h) paragraph 23 (privileged communications),
  - (i) paragraphs 24 to 27 (auditors and tax advisers),
  - (j) every paragraph contained in Part 7 (penalties),
  - (k) every paragraph contained in Part 8 (offence), and
  - (l) paragraph 56 (application of provisions of TMA 1970).
- (2) Paragraph 32 of Schedule 36 to FA 2008 (procedure on appeals) applies in relation to an appeal under this Part of this Schedule against a notice under this Part of this Schedule.

*References to checking an interest restriction return etc*

- 67 (1) For the purposes of this Part of this Schedule references to checking an interest restriction return include—
- (a) determining whether or not an interest restriction return should be submitted for a period of account of a worldwide group,
  - (b) determining whether or not a worldwide group is, or may be, subject to interest restrictions in a period of account, (and, if so, determining the total disallowed amount of the group),
  - (c) determining the membership of a worldwide group (or determining the members that are UK group companies), and
  - (d) determining any other question that is relevant to the operation of this Part of this Schedule in relation to an interest restriction return or anything required to be included in it.
- (2) For the purposes of this Part of this Schedule references to a worldwide group include one that an officer of Revenue and Customs suspects may exist.

## PART 8

### COMPANY TAX RETURNS

*Elections under section 375, 377 or 380*

- 68 The following elections (or their revocation) must be made by a company in its company tax return (whether as originally made or by amendment) for the accounting period to which the election (or revocation) relates—
- (a) an election under section 375 (a non-consenting company leaving pro-rata share of total disallowed amount out of account),
  - (b) an election under section 377 (a company specifying tax-interest expense amounts to be left out of account), and
  - (c) an election under section 380 (a company specifying tax-interest expense amounts to be brought into account).

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*Amendments to take account of operation  
of this Part of this Act (including elections)*

- 69 (1) A company may amend its company tax return for an accounting period so as to make (or revoke) an election under section 375 at any time before—
- (a) the filing date in relation to the period of account of the worldwide group to which the interest restriction return in question relates (see paragraph 7(5)), or
  - (b) if later, the end of the period of 3 months beginning with the day on which the interest restriction return in question is received by an officer of Revenue and Customs.
- (2) A company that amends its company tax return for an accounting period as mentioned in sub-paragraph (1) must, before the time limit specified in that sub-paragraph, also amend the return to take account of the election (or revocation).
- (3) If—
- (a) a company is required by section 376 to leave an amount out of account in an accounting period, and
  - (b) the company has already delivered a company tax return for the period,
- the company must amend its company tax return to take account of the requirement.
- (4) The amendment must be made before the end of the period of 3 months beginning with the day after the relevant date (within the meaning of section 376).
- (5) A company may amend its company tax return for an accounting period so as to make (or revoke) an election under section 377 or 380 at any time before—
- (a) the end of the period of 36 months beginning with the day after the end of the accounting period, or
  - (b) if later, the end of the period of 3 months beginning with the day on which a relevant interest restriction return was received by an officer of Revenue and Customs.
- (6) A company that amends its company tax return for an accounting period as mentioned in sub-paragraph (5) must, before the time limit specified in that sub-paragraph, also amend the return to take account of the election (or revocation).
- (7) In sub-paragraph (5) “a relevant interest restriction return” means an interest restriction return for a period of account in relation to which the accounting period is a relevant accounting period.
- (8) The time limit for amending a company tax return given by paragraph 15(4) of Schedule 18 to FA 1998 is subject to the time limits given by this paragraph.

*Cases where company treated as amending return*

- 70 (1) If—



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- (a) a company has delivered a company tax return for an accounting period, but
- (b) as a result of the submission of an interest restriction return, information contained in the company tax return is incorrect (for example, there is a change in the amount of profits on which corporation tax is chargeable),

the company is treated as having amended its company tax return for the accounting period so as to correct the information.

(2) If—

- (a) a notice of determination under paragraph 56 or 58 is given to a company in relation to an accounting period, and
- (b) the company has already delivered a company tax return for the period,

the company is treated as having amended its company tax return to take account of the determination.

*Regulations for purposes of paragraph 70 etc*

71 (1) The Commissioners may by regulations—

- (a) make provision generally for the purposes of paragraph 70, and
- (b) make provision for other cases where a company is to be treated as having amended its company tax return.

(2) The provision that may be made by the regulations includes provision—

- (a) permitting or requiring the company to deliver an amended company tax return for the accounting period;
- (b) specifying amendments that may or must be made in the return;
- (c) specifying a time limit for the delivery of the return that is later than that determined under paragraph 15(4) of Schedule 18 to FA 1998 (amendment of return by company).

*Consequential claims to company tax returns*

72 (1) This paragraph applies if—

- (a) a company amends, or is treated as amending, its company tax return for an accounting period in consequence of a closure notice given in respect of an interest restriction return under paragraph 47 or a notice of determination given to the company under paragraph 56 or 58, and
- (b) the amendment has the effect of increasing the amount of corporation tax payable by the company for the accounting period.

(2) Any qualifying claim may be made or given within the period of one year beginning with the day on which the company receives a copy of the closure notice under paragraph 60(5) or the notice of determination.

(3) Any qualifying claim previously made which is not irrevocable—

- (a) may be revoked or varied within that one-year period, and
- (b) if it is revoked or varied, must be done so in the same manner as it was made and by or with the consent of the same person or persons

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who made or consented to it (or, if a person has died, by or with the consent of the person's personal representatives).

- (4) For the purposes of this paragraph a claim is a “qualifying” claim if its making, revocation or variation has the effect of reducing the liability of the company to corporation tax for the accounting period (whether or not it also reduces the liability to tax of the company for other periods).
- (5) But a claim is not a “qualifying” claim if—
- (a) the making, revocation or variation of the claim would alter the liability to tax of any person other than the company, or
  - (b) the making, revocation or variation of the claim is such that, if it were to be made, revoked or varied, the total of the reductions in liability to tax of the company would exceed the additional liability to corporation tax resulting from the amendment.
- (6) If a qualifying claim is made, revoked or varied as a result of this paragraph, all such adjustments must be made as are required to take account of the effect of taking that action on the liability of the company to tax for any period.
- (7) The adjustments may be made by way of discharge or repayment of tax or the making of amendments, assessments or otherwise.
- (8) The provisions of TMA 1970 relating to appeals against decisions on claims apply with any necessary modifications to a decision on the revocation or variation of a claim as a result of this paragraph.
- (9) In this paragraph (except in sub-paragraph (8)) “claim” includes an election, an application and a notice, and references to making a claim are to be read accordingly.
- (10) In this paragraph “tax” (except in the expression “corporation tax”) includes income tax and capital gains tax.

*Meaning of “company tax return”*

- 73 In this Schedule “company tax return” has the meaning given by paragraph 3 of Schedule 18 to FA 1998.

**PART 9**

SUPPLEMENTARY

*Double jeopardy*

- 74 A person is not liable to a penalty under any provision of this Schedule in respect of anything in respect of which the person has been convicted of an offence.

*Notice of appeal*

- 75 Notice of an appeal under this Schedule must specify the grounds of appeal.

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*Conclusiveness of amounts stated in interest restriction return*

- 76 (1) This paragraph applies to an amount stated in an interest restriction return submitted under paragraph 7 or 8 (“the interest restriction return”), other than an amount that is also stated in a company tax return.
- (2) If the amount can no longer be altered, it is taken to be conclusively determined for the purposes of the Corporation Tax Acts.
- (3) An amount is regarded as one that can no longer be altered if—
- (a) the interest restriction return has not been superseded by a subsequent interest restriction return;
  - (b) the applicable time limit has passed;
  - (c) any enquiry into the interest restriction return has been completed;
  - (d) if the closure notice in relation to an enquiry into the interest restriction return contained a statement under paragraph 49(2)(b), the period within which an appeal against the statement may be brought has ended; and
  - (e) if such an appeal is brought, the appeal has been finally determined.
- (4) For the purposes of sub-paragraph (3) the “applicable time limit” means the time limit in paragraph 8(3) or, in a case where paragraph 57(2) or (4) applies and imposes a later time limit for submission of the interest restriction return, that later time limit.
- (5) Nothing in this paragraph affects—
- (a) the power under paragraph 42 (extended time limits for opening enquiries: discovery of errors), or
  - (b) any power to make a determination under paragraph 56 or 58 (determinations by officers of Revenue and Customs).”

**PART 3**

CONSEQUENTIAL AMENDMENTS

*TMA 1970*

- 3 (1) In section 98 of TMA 1970 (special returns, etc), in the table in subsection (5), in the first column, the entry relating to regulations under section 283, 284, 285, 295 or 297 of TIOPA 2010 is repealed.
- (2) In consequence of sub-paragraph (1), paragraph 157(3) of Schedule 8 to TIOPA 2010 is repealed.

*FA 1998*

- 4 In paragraph 88 of Schedule 18 to FA 1998 (conclusiveness of amounts stated in company tax returns), at the end insert—
- “(9) Nothing in this paragraph affects the operation of any provision of Part 10 of TIOPA 2010 (corporate interest restriction).”

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*CTA 2009*

- 5 In section A1 of CTA 2009 (overview of the Corporation Tax Acts), in subsection (2)—
- (a) omit paragraph (i), and
  - (b) after paragraph (ja) insert—
    - “(jb) Part 10 of that Act (corporate interest restriction).”

*CTA 2010*

- 6 CTA 2010 is amended as follows.
- 7 After section 937N (risk transfer schemes) insert—

**“937NA Priority**

For the purposes of this Part, the provisions of Part 10 of TIOPA 2010 (corporate interest restriction) are to be treated as of no effect.”

- 8 In section 938N (group mismatch schemes: priority), for paragraph (e) substitute—
- “(e) Part 10 of that Act (corporate interest restriction).”
- 9 In section 938V (tax mismatch schemes: priority), for paragraph (d) substitute—
- “(d) Part 10 of that Act (corporate interest restriction).”

*TIOPA 2010: consequential renumbering*

- 10 (1) In consequence of the insertion of a new Part 10 of TIOPA 2010 by Part 1 of this Schedule, the existing Part 10 of that Act becomes a new Part 11.
- (2) The following provisions of TIOPA 2010 are repealed—
- (a) the existing sections 375 and 376 (which contain powers that are no longer exercisable), and
  - (b) the existing section 381(2)(e) and (f) (which refer to those sections);
- but the repeals made by this sub-paragraph do not affect any orders made under section 375 or 376 before the passing of this Act.
- (3) As a result of the provision made by sub-paragraphs (1) and (2), the following provisions of TIOPA 2010 are renumbered as follows—
- (a) the existing section 372 becomes section 499;
  - (b) the existing section 373 becomes section 500;
  - (c) the existing section 374 becomes section 501;
  - (d) the existing section 377 becomes section 502;
  - (e) the existing section 378 becomes section 503;
  - (f) the existing section 379 becomes section 504;
  - (g) the existing section 380 becomes section 505;
  - (h) the existing section 381 becomes section 506;
  - (i) the existing section 382 becomes section 507.
- (4) Consequently—
- (a) in section 287(2A) of TCGA 1992, for “372” substitute “ 499 ”;
  - (b) in section 1014(2)(fa) of ITA 2007, for “372” substitute “ 499 ”;

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- (c) in section 1171(2)(f) of CTA 2010, for “372” substitute “ 499 ”;
  - (d) in section 1 of TIOPA 2010—
    - (i) in subsection (4), for “10” substitute “ 11 ”;
    - (ii) in subsection (5), for “373” substitute “ 500 ”;
  - (e) in section 381(2) of TIOPA 2010—
    - (i) in paragraph (a), for “372” substitute “ 499 ”;
    - (ii) in paragraph (b), for “373” substitute “ 500 ”;
    - (iii) in paragraph (d), for “374” substitute “ 501 ”;
    - (iv) in paragraph (g), for “377(2) and (3)” substitute “ 502(2) and (3) ”;
    - (v) in paragraph (h), for “380” substitute “ 505 ”;
    - (vi) in paragraph (i), for “382” substitute “ 507 ”.
- (5) In section 379(1) and (2) of TIOPA 2010 (index of defined expressions), for “8” substitute “ 10 ”.

*TIOPA 2010: repeal of Part 7*

- 11 (1) Part 7 of TIOPA 2010 (tax treatment of financing costs and income) is repealed; and accordingly the following provisions of that Act are also repealed—
- (a) section 1(1)(d) (overview);
  - (b) in Schedule 9, Part 7 (transitional provision);
  - (c) in Schedule 11, Part 5 (index of defined expressions).
- (2) In consequence of sub-paragraph (1), the following enactments (which amend provisions repealed by that sub-paragraph) are repealed—
- (a) in F(No.3)A 2010, section 11 and Schedule 5;
  - (b) in FA 2011, in Schedule 13, paragraphs 29 and 30;
  - (c) in FA 2012—
    - (i) section 31 and Schedule 5;
    - (ii) in Schedule 16, paragraphs 242 and 243(a);
    - (iii) in Schedule 20, paragraphs 43 to 45;
  - (d) in FA 2013, section 44;
  - (e) in FA 2014, section 39.
- (3) The following regulations were made under powers contained in Part 7 of TIOPA 2010 and are therefore revoked by virtue of sub-paragraph (1)—
- (a) the Corporation Tax (Financing Costs and Income) Regulations 2009 (S.I. 2009/3173);
  - (b) the Corporation Tax (Tax Treatment of Financing Costs and Income) (Acceptable Financial Statements) Regulations 2009 (S.I. 2009/3217);
  - (c) the Corporation Tax (Exclusion from Short-Term Loan Relationships) Regulations 2009 (S.I. 2009/3313);
  - (d) the Tax Treatment of Financing Costs and Income (Available Amount) Regulations 2010 (S.I. 2010/2929);
  - (e) the Tax Treatment of Financing Costs and Income (Correction of Mismatches) Regulations 2010 (S.I. 2010/3025);
  - (f) the Taxation (International and Other Provisions) Act 2010 (Part 7) (Amendment) Regulations 2012 (S.I. 2012/3045);

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- (g) the Tax Treatment of Financing Costs and Income (Correction of Mismatches: Partnerships and Pensions) Regulations 2012 (S.I. 2012/3111);
- (h) the Tax Treatment of Financing Costs and Income (Excluded Schemes) Regulations 2013 (S.I. 2013/2892);
- (i) the Tax Treatment of Financing Costs and Income (Change of Accounting Standards: Investment Entities) Regulations 2015 (S.I. 2015/662).

*TIOPA 2010: other amendments*

- 12 TIOPA 2010 is amended as follows.
- 13 In section 1 (overview of Act), in subsection (1)—
- (a) omit the “and” at the end of paragraph (d), and
  - (b) after paragraph (e) insert—
    - “(f) Part 9A (controlled foreign companies), and
    - (g) Part 10 (corporate interest restriction).”
- 14 In section 155 (transfer pricing: “potential advantage” in relation to United Kingdom taxation), in subsection (6), for paragraph (a) substitute—
- “(a) Part 10 (corporate interest restriction).”
- 15 In section 157 (direct participation), in subsection (1)—
- (a) omit the “and” at the end of paragraph (c), and
  - (b) after paragraph (d) insert “, and
  - (e) in Part 10, section 463(4).”
- 16 In section 159 (indirect participation: potential direct participant), in subsection (1)
- 
- (a) omit the “and” at the end of paragraph (c), and
  - (b) after paragraph (d) insert “, and
  - (e) in Part 10, section 463(4).”
- 17 In section 160 (indirect participation: one of several major participants), in subsection (1)—
- (a) omit the “and” at the end of paragraph (c), and
  - (b) after paragraph (d) insert “, and
  - (e) in Part 10, section 463(4).”
- 18 In section 259CB (financial instruments: hybrid or otherwise impermissible deduction/non-inclusion mismatches and their extent), in subsection (6), for paragraph (e) substitute—
- “(e) Part 10 (corporate interest restriction).”
- 19 In section 259DC (hybrid transfer deduction/non-inclusion mismatches and their extent), in subsection (5), for paragraph (d) substitute—
- “(d) Part 10 (corporate interest restriction).”
- 20 After section 259NE (treatment of a person who is a member of a partnership) insert—

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*“Priority*

**259NEA Priority**

For the purposes of this Part, the provisions of Part 10 (corporate interest restriction) are to be treated as of no effect.”

- 21 (1) Chapter 3 of Part 9A (CFCs: the CFC charge gateway) is amended as follows.
- (2) In section 371CE (which makes provision for determining whether Chapter 6 of Part 9A applies)—
- (a) in subsection (2)(a), after “period” insert “ (see section 371CEA) ”, and
  - (b) omit subsections (4) and (5).
- (3) After section 371CE insert—

**“371CEA Section 371CE: meaning of “group treasury company”**

- (1) This section makes provision for determining whether the CFC is a group treasury company in the accounting period for the purposes of section 371CE.
- (2) The CFC is a group treasury company in the accounting period if—
- (a) it is a member of a worldwide group in relation to a period of account in which the accounting period wholly or partly falls,
  - (b) throughout the accounting period—
    - (i) all, or substantially all, of the activities undertaken by it consist of treasury activities undertaken for the group, and
    - (ii) all, or substantially all, of its assets and liabilities relate to such activities, and
  - (c) at least 90% of its relevant income for the accounting period is group treasury revenue.
- (3) For the purposes of this section a company undertakes treasury activities for the group if it does one or more of the following in relation to, or on behalf of, the group or any of its members—
- (a) managing surplus deposits of money or overdrafts,
  - (b) making or receiving deposits of money,
  - (c) lending money,
  - (d) subscribing for or holding shares in a company which is a UK group company undertaking treasury activities for the group at least 90% of whose relevant income is group treasury revenue for its relevant accounting period,
  - (e) investing in debt securities, and
  - (f) hedging assets, liabilities, income or expenses.
- (4) For the purposes of this section “group treasury revenue”, in relation to a company, means revenue—
- (a) arising from the treasury activities that the company undertakes for the group, and
  - (b) accounted for as such under generally accepted accounting practice,

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before any deduction (whether for expenses or otherwise).

(5) But revenue consisting of a dividend or other distribution is not group treasury revenue of the company unless it is from a company that meets the conditions in subsection (3)(d).

(6) In this section—

“debt security” has the same meaning as in the Handbook made by the Financial Conduct Authority or Prudential Regulation Authority under the Financial Services and Markets Act 2000 (as the Handbook in question has effect from time to time),

“period of account” has the same meaning as in Part 10,

“relevant accounting period” has the same meaning as in Part 10,

“relevant income”, in relation to a company, means income—

(a) arising from the activities of the company, and

(b) accounted for as such under generally accepted accounting practice,

before any deduction (whether for expenses or otherwise),

“UK group company” has the same meaning as in Part 10, and

“worldwide group” has the same meaning as in Part 10.”

(4) In consequence of the amendments made by this paragraph, in Schedule 47 to FA 2013, omit paragraph 17.

22 (1) Chapter 9 of Part 9A (CFCs: exemption for profits from qualifying loan relationships) is amended as follows.

(2) For section 371IE substitute—

**“371IE The “matched interest profits” exemption**

(1) This section applies if—

(a) there are profits of qualifying loan relationships which are not exempt after sections 371IB and 371ID have been applied to each qualifying loan relationship,

(b) the relevant corporation tax accounting period (as defined in section 371BC(3)) of company C is a relevant accounting period of it in relation to a period of account of a worldwide group,

(c) the CFC's accounting period ends in that period of account, and

(d) apart from this section, the profits mentioned in paragraph (a) would be included in the chargeable profits of the CFC.

(2) In this section “the matched interest profits” means so much of the profits mentioned in subsection (1)(a) as remain after excluded credits and excluded debits are left out of account.

(3) If the aggregate net tax-interest expense of the group for the period is nil, all of the matched interest profits are exempt.

(4) Otherwise, there is a more limited exemption if the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies exceeds the aggregate net tax-interest expense of the group for the period.



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- (5) For the purposes of this section “the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies” is determined as follows.

*Step 1* For each relevant chargeable company (including C) determine the percentage (P%) of the CFC's chargeable profits that are apportioned to the company under step 5 of section 371BC(1).

*Step 2* For each relevant chargeable company (including C) multiply P% by the matched interest profits.

*Step 3* The sum of the amounts for each company found under step 2 is “the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies”.

- (6) For the purposes of this section a company is a relevant chargeable company if the relevant corporation tax accounting period of the company is a relevant accounting period in relation to the period of account of the group.
- (7) The limited exemption is given effect by treating the matched interest profits as equal to the amount found by multiplying the amount that they would otherwise be by—

$$\frac{E}{\text{RPMIP}}$$

where—

E is the amount of the excess mentioned in subsection (4), and

RPMIP is the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies.

- (8) For the purposes of this section the aggregate net tax-interest expense of a worldwide group for a period of account is determined in accordance with Part 10 (corporate interest restriction) but without regard to debits, credits or other amounts arising from—
- banking business carried on by a company within the charge to corporation tax, or
  - insurance business carried on by a company within the charge to corporation tax.

- (9) For the purposes of this section—

“excluded credit” has the meaning given by section 386(3),

“excluded debit” has the meaning given by section 383(3), and

“period of account”, “relevant accounting period” and “worldwide group” have the same meanings as in Part 10.”

- (3) In section 371IJ (claims), in subsection (6), for “the tested income amount or the tested expense amount mentioned in section 371IE(2)” substitute “the aggregate net tax-interest expense that is mentioned in section 371IE”.

- 23 (1) Chapter 19 of Part 9A (CFCs: assumed taxable total profits, assumed total profits and the corporation tax assumptions) is amended as follows.

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(2) In section 371SL (group relief etc), at the end insert—

“(4) This section is subject to section 371SLA (corporate interest restriction).”

(3) After section 371SL insert—

**“371SLA Corporate interest restriction**

(1) This section applies for the purpose of applying Part 10 (corporate interest restriction).

(2) Assume—

(a) that the CFC is a member of a worldwide group for a period of account of which it would be a member if section 371SL were ignored, and

(b) that the CFC is the only UK group company in the period (within the meaning of that Part).

(3) Assume also that Part 10 applies as if subsections (2) and (3) of section 392 (interest capacity of the group: the de minimis amount) were omitted.”

24 In Schedule 11, at the end insert—

**“PART 7**

CORPORATE INTEREST RESTRICTION: INDEX  
OF DEFINED EXPRESSIONS USED IN PART 10

abbreviated interest restriction return (in Part 10)	paragraph 20 of Schedule 7A
abbreviated return election (in Part 10)	paragraph 19 of Schedule 7A
accounting period (in Part 10)	Chapter 2 of Part 2 of CTA 2009 (applied by section 1119 of CTA 2010)
adjusted net group-interest expense of a worldwide group (in Part 10)	section 413
aggregate net tax-interest expense of a worldwide group (in Part 10)	section 390
aggregate net tax-interest income of a worldwide group (in Part 10)	section 390
aggregate tax-EBITDA of a worldwide group (in Part 10)	section 405
allocated reactivation of company for period of account (in Part 10)	paragraph 25 of Schedule 7A
allowable loss (in Part 10)	TCGA 1992 (applied by

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	section 1119 of CTA 2010)
associated (in Chapter 8 of Part 10)	section 449(2)
amount available for reactivation of company in period of account (in Part 10)	paragraph 26 of Schedule 7A
available, in relation to interest allowance (in Chapter 4 of Part 10)	section 393
balance sheet (in Chapter 8 of Part 10)	section 449(1)
chargeable gain (in Part 10)	TCGA 1992 (applied by section 1119 of CTA 2010)
the Commissioners (in Part 10)	section 494(1)
company (in Part 10)	section 1121 of CTA 2010
company tax return (in Schedule 7A)	paragraph 73 of Schedule 7A
consenting company (in Part 10)	paragraph 10 of Schedule 7A
consolidated partnership (in Part 10)	section 430
consolidated subsidiary of another entity (in Part 10)	section 475
derivative contract (in Part 10)	Part 7 of CTA 2009 (applied by section 1119 of CTA 2010)
disallowed, in relation to tax-interest expense amount (in Part 10)	section 378
drawn up on acceptable principles, in relation to financial statements (in Chapter 11 of Part 10)	section 481
fair value accounting (in Part 10)	section 494(1)
fair value (in Part 10)	section 494(1)
filing date, in relation to a period of account of a worldwide group (in Part 10)	paragraph 7(5) of Schedule 7A
finance lease (in Part 10)	section 494(1)
financial asset (in Chapter 8 of Part 10)	section 449(1)
financial statements of a worldwide group (in Part 10)	section 479
fixed ratio method (in Part 10)	section 397
for accounting purposes (in Part 10)	section 1127(4) of CTA 2010
full interest restriction return (in Part 10)	paragraph 20 of Schedule 7A

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generally accepted accounting practice (in Part 10)	section 1127(1) and (3) of CTA 2010
group-EBITDA (chargeable gains) election (in Part 10)	paragraph 15 of Schedule 7A
group ratio election (in Part 10)	paragraph 13 of Schedule 7A
group ratio (blended) election (in Part 10)	paragraph 14 of Schedule 7A
group ratio method (in Part 10)	section 398
group ratio percentage (in Part 10)	section 399
IAS financial statements (in Part 10)	section 488
impairment loss (in Part 10)	section 391
income (in Part 10)	section 1119 of CTA 2010
insurance company (in Part 10)	section 141 of FA 2012
interest allowance of a worldwide group (in Part 10)	section 396
interest allowance (alternative calculation) election (in Part 10)	paragraph 16 of Schedule 7A
interest allowance (consolidated partnerships) election (in Part 10)	paragraph 18 of Schedule 7A
interest allowance (non-consolidated investment) election (in Part 10)	paragraph 17 of Schedule 7A
interest capacity of a worldwide group (in Part 10)	section 392
interest reactivation cap of a worldwide group (in Part 10)	section 373
interest restriction return (in Part 10)	section 494(1)
international accounting standards (in Part 10)	section 1127(5) of CTA 2010
investor in a worldwide group (in Part 10)	section 404
loan relationship (in Part 10)	Part 5 of CTA 2009 (applied by section 1119 of CTA 2010)
loan relationships or other financing arrangements (in Chapter 8 of Part 10)	section 449(1)
local authority (in Part 10)	section 1130 of CTA 2010
local authority association (in Part 10)	section 1131 of CTA 2010
member of a worldwide group (in Part 10)	section 473(4)(a)

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multi-company worldwide group (in Part 10)	section 473(4) (d)
net group-interest expense of a worldwide group (in Part 10)	section 410
net tax-interest expense of a company (in Part 10)	section 389
net tax-interest income of a company (in Part 10)	section 389
non-consenting company (in Part 10)	paragraph 10 of Schedule 7A
non-consolidated associate of a worldwide group (in Part 10)	section 429
non-consolidated subsidiary of an entity (in Part 10)	section 475
notice (in Part 10)	section 1119 of CTA 2010
party to a loan relationship (in Part 10)	section 494(2)
period of account of a worldwide group (in Part 10)	section 480
profit before tax, of a worldwide group (in Chapter 7 of Part 10)	section 416
pro-rata share of company (of total disallowed amount) (in Part 10)	paragraph 23 of Schedule 7A
pro-rata share of accounting period (of total disallowed amount) (in Part 10)	paragraph 24 of Schedule 7A
provision (in relation to a public infrastructure asset) (in Chapter 8 of Part 10)	section 436
public infrastructure asset (in Chapter 8 of Part 10)	section 436
qualifying charitable donation (in Part 10)	Part 6 of CTA 2010 (applied by section 1119 of CTA 2010)
qualifying infrastructure company (in Chapter 8 of Part 10)	section 433
qualifying infrastructure activity (in Chapter 8 of Part 10)	section 436
qualifying net group-interest expense of a worldwide group (in Part 10)	section 414
recognised, in financial statements (in Part 10)	section 489
recognised stock exchange (in Part 10)	section 1137 of CTA 2010
registered pension scheme (in Part 10)	section 150(2) of FA 2004 (applied by section 1119 of CTA 2010)
related party (in Part 10)	sections 462 to 472
related party investor (in Part 10)	section 404

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relevant asset (in Chapter 7 of Part 10)	section 417
relevant accounting period (in Part 10)	section 490
relevant expense amount (in Chapter 7 of Part 10)	section 411
relevant income amount (in Chapter 7 of Part 10)	section 411
relevant public body (in Part 10)	section 491
reporting company (in Part 10)	section 494(1)
the return period (in Part 10)	section 494(1)
service concession agreement (in Part 10)	section 494(1)
share, of an investor in a worldwide group (in Part 10)	section 404
single-company worldwide group (in Part 10)	section 473(4)(c)
subject to interest reactivations (in Part 10)	section 373
subject to interest restrictions (in Part 10)	section 373
tax (in Part 10)	section 1119 of CTA 2010
tax-EBITDA of a company (in Part 10)	section 406
tax-interest expense amount of a company (in Part 10)	section 382
tax-interest income amount of a company (in Part 10)	section 385
trade (in Part 10)	section 1119 of CTA 2010
total disallowed amount of a worldwide group (in Part 10)	section 373
UK generally accepted accounting practice (in Part 10)	section 1127(2) of CTA 2010
UK group company (in Part 10)	section 492
UK property business (in Part 10)	Chapter 2 of Part 4 of CTA 2009 (applied by section 1119 of CTA 2010)
the UK sector of the continental shelf (in Chapter 8 of Part 10)	section 449(1)
the ultimate parent, of a worldwide group (in Part 10)	section 473(4) (b)
unexpired (in Chapter 4 of Part 10)	section 395
United Kingdom (in Part 10)	section 1170 of CTA 2010
used (in Chapter 4 of Part 10)	section 394
within the charge to corporation tax (in Part 10)	section 1167 of CTA 2010
wholly-owned subsidiary (in Part 10)	section 494(1)

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a worldwide group (in Part 10)

section 473”

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## PART 4

### COMMENCEMENT AND TRANSITIONAL PROVISION

#### *Commencement: new Part 10 of TIOPA*

- 25 (1) The corporate interest restriction amendments have effect in relation to periods of account of worldwide groups that begin on or after 1 April 2017.
- (2) In this paragraph “the corporate interest restriction amendments” means the amendments made by Parts 1 to 3 of this Schedule, apart from those made by paragraph 11 (repeal of Part 7 of TIOPA 2010).
- (3) Any regulations made by the Treasury or Commissioners under Part 10 of TIOPA 2010 before 1 April 2018 may have effect in relation to periods of account of worldwide groups that begin on or after 1 April 2017.
- (4) Sub-paragraphs (6) to (11) apply if—
- (a) financial statements of a worldwide group are drawn up by or on behalf of the ultimate parent in respect of a period that begins before, and ends on or after, 1 April 2017,
  - (b) the period in respect of which the financial statements are drawn up is 18 months or less, and
  - (c) the financial statements are drawn up before the end of the period of 30 months beginning with the beginning of the period in respect of which they are drawn up.
- (5) In sub-paragraphs (6) to (11)—
- (a) “the group's actual financial statements” means the financial statements mentioned in sub-paragraph (4);
  - (b) “the straddling period of account” means the period in respect of which those financial statements are drawn up.
- (6) For the purposes of Part 10 of TIOPA 2010, the group's actual financial statements are treated as not having been drawn up.
- (7) Instead, financial statements of the worldwide group are treated for those purposes as having been drawn up in respect of each of the following periods—
- (a) the period beginning at the time the straddling period of account begins and ending with 31 March 2017, and
  - (b) the period beginning with 1 April 2017 and ending at the time the straddling period of account ends.
- (8) Where condition C or D in section 481 of TIOPA 2010 is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (7) are treated as drawn up in accordance with the generally accepted accounting principles and practice with which the group's actual financial statements were drawn up.

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- (9) Where neither of those conditions is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (7) are IAS financial statements.
- (10) Where, for the purpose of determining amounts recognised in the financial statements treated as drawn up by sub-paragraph (7), it is expedient to apportion any amount that is recognised in the group's actual financial statements, the apportionment is to be made in accordance with section 1172 of CTA 2010 (apportionment on a time basis).
- (11) But if it appears that apportionment in accordance with that section would work unjustly or unreasonably, the apportionment is to be made on a just and reasonable basis.
- (12) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

*Commencement: repeal of Part 7 of TIOPA 2010*

- 26 (1) The repeals and revocations made by paragraph 11 of this Schedule have effect in relation to periods of account of the worldwide group that begin on or after 1 April 2017.
- (2) Sub-paragraphs (4) to (10) apply if financial statements of the worldwide group are drawn up in respect of a period that begins before, and ends on or after, 1 April 2017.
- (3) In sub-paragraphs (4) to (10)—
- (a) “the group's actual financial statements” means the financial statements mentioned in sub-paragraph (2);
  - (b) “the straddling period of account” means the period in respect of which those financial statements are drawn up.
- (4) For the purposes of Part 7 of TIOPA 2010, the group's actual financial statements are treated as not having been drawn up.
- (5) Instead, financial statements of the worldwide group are treated for those purposes as having been drawn up in respect of each of the following periods—
- (a) the period beginning at the time the straddling period of account begins and ending with 31 March 2017, and
  - (b) the period beginning with 1 April 2017 and ending at the time the straddling period of account ends.
- (6) Where condition B, C or D in regulation 2 of the Acceptable Financial Statements Regulations is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are treated as drawn up in accordance with the generally accepted accounting principles and practice with which the group's actual financial statements were drawn up.
- (7) Where none of those conditions is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are IAS financial statements.
- (8) Where, for the purpose of determining amounts recognised in the financial statements treated as drawn up by sub-paragraph (5), it is expedient to apportion any amount that is recognised in the group's actual financial statements, the apportionment is to be made in accordance with section 1172 of CTA 2010 (apportionment on a time basis).



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- (9) But if it appears that apportionment in accordance with that section would work unjustly or unreasonably, the apportionment is to be made on a just and reasonable basis.
- (10) In sub-paragraph (6), “the Acceptable Financial Statements Regulations” means the Corporation Tax (Tax Treatment of Financing Costs and Income) (Acceptable Financial Statements) Regulations 2009 (S.I. 2009/3217).
- (11) Expressions used in this paragraph and in Part 7 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

*Time limits for elections relating to financial statements of a worldwide group*

- 27 (1) In section 484 of TIOPA 2010, subsection (5) (which requires the date specified in an election under subsection (3) of that section to be on or after the day on which the election is made) does not apply in relation to an election made on or before 31 March 2018.
- (2) In section 486 of that Act, subsection (5)(a) (which requires an election under that section to be made before the end-day of the new period of account) does not apply in relation to an election made on or before 31 March 2018.

*Time limit relating to appointment of reporting company or filing interest restriction return*

- 28 (1) Paragraph 1(4)(a) of Schedule 7A to TIOPA 2010 (notice of the appointment of reporting company ineffective if given outside the period specified in that provision) does not apply to a notice that—
  - (a) is given on or before 31 March 2018, and
  - (b) would otherwise be of no effect by reason only of the expiry of the period specified in that provision.
- (2) Paragraph 2(4)(a) of that Schedule (notice of the revocation of the appointment of reporting company ineffective if given outside the period specified in that provision) does not apply to a notice that—
  - (a) is given on or before 31 March 2018, and
  - (b) would otherwise be of no effect by reason only of the expiry of the period specified in that provision.
- (3) Where the date determined under paragraph 7(5) of that Schedule as the filing date in relation to a period of account of a worldwide group would (apart from this sub-paragraph) be a date before 30 June 2018, that provision has effect as if it provided for the filing date in relation to the period to be 30 June 2018.

*Change of accounting policy*

- 29 (1) For the purposes of Part 10 of TIOPA 2010 a debit or credit to which this paragraph applies is to be ignored.
- (2) This paragraph applies to a debit or credit if—
  - (a) it is brought into account under the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271), and

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- (b) the later period, in relation to the change of accounting policy to which the debit or credit relates, begins before 1 April 2017.
- (3) In sub-paragraph (2) “the later period” has the same meaning as in the regulations mentioned in that sub-paragraph.

*Adjustments under Schedule 7 to F(No.2)A 2015*

- 30 (1) For the purposes of Part 10 of TIOPA 2010 a debit or credit to which this paragraph applies is to be ignored.
- (2) This paragraph applies to a debit or credit if—
- (a) it is brought into account for the purposes of Part 5 of CTA 2009 by virtue of paragraphs 115 and 116 of Schedule 7 to F(No.2)A 2015 (transitional adjustments relating to loan relationships), or
  - (b) it is brought into account for the purposes of Part 7 of CTA 2009 by virtue of paragraphs 120 and 121 of that Schedule (transitional adjustments relating to derivative contracts).

*Power to make elections under Disregard  
Regulations for pre-1 April 2020 derivative contracts*

- 31 (1) A company which is a UK group company of a worldwide group on 1 April 2017 may elect for the Disregard Regulations to have effect as if—
- (a) the company had made an election (“the disregard election”) under regulation 6A of those Regulations for the purposes of regulation 6(1)(a) of those Regulations,
  - (b) the disregard election applied to regulations 7, 8 and 9 of those Regulations, and
  - (c) the disregard election had effect in relation to derivative contracts entered into by the company before 1 April 2020.
- (2) The election has effect for the calculation under Part 10 of TIOPA 2010 of—
- (a) the tax-interest expense amounts and tax-interest income amounts of the company and any relevant transferee company, and
  - (b) the adjusted corporation tax earnings under section 406 of that Act of the company and any relevant transferee company.
- (3) A company is a “relevant transferee company” if regulation 6B or 6C of the Disregard Regulations applies in relation to the company as the transferee mentioned in the regulation (on the assumption that an election has been made before the transfer under this paragraph).
- (4) An election under this paragraph has effect only if every company which was a UK group company of the worldwide group on 1 April 2017 (other than one which was dormant on that date or at the time the election is made) also makes an election under this paragraph.
- (5) An election under this paragraph—
- (a) must be made before 1 April 2018, and
  - (b) is irrevocable.

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- (6) Section 457 of TIOPA 2010 is to apply in relation to debits resulting from an election under this paragraph.
- (7) In this paragraph “the Disregard Regulations” means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256).
- (8) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

#### *Qualifying infrastructure companies*

- 32 (1) In the case of an accounting period of a company beginning before 1 April 2018, the company may make an election under section 433 or 444 of TIOPA 2010 before that date.
- (2) Companies making an election under section 435 of TIOPA 2010 before 1 April 2018 may specify a date in the election from which it has effect which is before the date on which the election is made.
- 33 (1) This paragraph applies in the case of an accounting period of a company beginning before 1 April 2018 (“the transitional accounting period”) if—
  - (a) the company does not meet the public infrastructure assets test, or the public infrastructure income test, for the transitional accounting period, but
  - (b) in the case of each test that it does not meet as mentioned in paragraph (a), the company would meet the test for an accounting period that includes that date and is at least 3 months long.
- (2) For the purposes of section 433 of TIOPA 2010 the company is treated as meeting the test (or tests) for the transitional accounting period.
- (3) For the purposes of sections 438 and 440 to 442 of TIOPA 2010 such adjustments to the relevant amounts are to be made as are just and reasonable, having regard to the extent to which, but for this paragraph, the company would not have met the public infrastructure assets test, or the public infrastructure income test, for the transitional accounting period.
- (4) For this purpose “the relevant amounts” means—
  - (a) amounts that would otherwise have qualified as exempt amounts under section 438,
  - (b) amounts that would otherwise have been treated as mentioned in section 440,
  - (c) the tax-EBITDA of the company, and
  - (d) the amounts that would otherwise have been left of account as a result of section 442.
- (5) Expressions used in this paragraph and in section 433 of TIOPA 2010 have the same meaning in this paragraph as they have in that section.

#### *Counteracting effect of avoidance arrangements*

- 34 (1) This paragraph applies in relation to section 461 of TIOPA 2010.
- (2) Section 461 applies in relation to arrangements whenever entered into.

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- (3) Arrangements are not “relevant avoidance arrangements” for the purposes of section 461 so far as—
- (a) they secure that an amount paid before 1 April 2017 is brought into account in an accounting period ending before that date, and
  - (b) directly in consequence of the amount being brought into account as mentioned in paragraph (a), there is a reduction in the tax-interest expense amounts that could otherwise have been left out of account under Part 10 of TIOPA 2010.
- (4) If an accounting period begins before 1 April 2017 and ends on or after that date, sub-paragraph (3) is to have effect as if so much of the accounting period as falls before that date, and so much of that period as falls on or after that date, were treated as separate accounting periods.
- (5) Arrangements are not “relevant avoidance arrangements” for the purposes of section 461 if the obtaining of any tax advantages that would otherwise arise from them can reasonably be regarded as arising wholly from commercial restructuring arrangements entered into in connection with the commencement of Part 10 of TIOPA 2010.
- (6) For this purpose “commercial restructuring arrangements” means—
- (a) arrangements that, but for that Part, would have resulted in significantly more corporation tax becoming payable as a result of one or more loan relationships being brought within the charge to corporation tax, or
  - (b) arrangements that—
    - (i) are designed to secure, in a way that is wholly consistent with its policy objectives, the benefit of a relief expressly conferred by a provision of that Part, and
    - (ii) are effected by taking only ordinary commercial steps in accordance with a generally prevailing commercial practice.
- (7) This paragraph is to be read as if it formed part of section 461.

*Commencement of orders or regulations containing consequential provision*

- 35 (1) This paragraph applies in relation to any order or regulations made before 1 April 2018 by the Treasury or Commissioners containing provision that is consequential on provision made by this Schedule.
- (2) Any order or regulations to which this paragraph applies may contain provision (however expressed) for securing that the consequential provision made by the order or regulations has effect in accordance with paragraph 25 (commencement) as if the consequential provision were included in the corporate interest restriction amendments mentioned in that paragraph.

*Interpretation*

- 36 References in this Part of this Schedule to Part 10 of TIOPA 2010 are to Part 10 of that Act as inserted by Parts 1 and 2 of this Schedule.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)