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SCHEDULES

SCHEDULE 5

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

- (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—
- 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
 - 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—
- “specified” means specified in the interest allowance (consolidated partnerships) election or elections;
 - “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.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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.”

Changes to legislation:

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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\(a\)](#)