



Finance Act 2018

2018 CHAPTER 3

PART 1

DIRECT TAXES

Corporation tax

19 Research and development expenditure credit

- (1) In section 104M of CTA 2009 (amount of R&D expenditure credit), in subsection (3), for “11%” substitute “ 12% ”.
- (2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after 1 January 2018.

20 Intangible fixed assets: realisation involving non-monetary receipt

- (1) In section 739 of CTA 2009 (meaning of “proceeds of realisation”) after subsection (1) insert—
 - “(1A) But if the realisation involved the receipt of something other than money, subsection (1) has effect as if the reference to the amount recognised for accounting purposes as the proceeds of realisation were a reference to the amount that would have been so recognised had the receipt been a receipt of a sum of money equal to the price the thing concerned might reasonably have been expected to fetch on a sale in the open market.”
- (2) The amendment made by this section applies in relation to a realisation which takes place on or after 22 November 2017, unless it takes place pursuant to an obligation, under a contract, that was unconditional before that date.
- (3) For the purposes of subsection (2), an obligation is “unconditional” if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

21 Intangible fixed assets: transactions between related parties

- (1) In section 844 of CTA 2009 (overview of Chapter 13 of Part 8: transactions between related parties) after subsection (2) insert—

“(2ZA) Sections 849AB to 849AD make provision for the grant of a licence or other right by a company to a related party, or vice versa, to be treated as being at market value.”

- (2) After section 849A of that Act insert—

“Grants treated as being at market value

849AB Grant of licence or other right treated as at market value

- (1) This section applies if—
- (a) a company which holds an intangible asset grants a licence or other right in respect of the asset to a related party, or
 - (b) a company is granted a licence or other right in respect of an intangible asset by a related party that holds the asset.
- (2) The grant of the licence or other right is treated for all purposes of the Taxes Acts as being at market value as respects the grantor if—
- (a) the licence or other right was actually granted at less than market value, and
 - (b) condition A or B is met.
- (3) The grant of the licence or other right is treated for all purposes of the Taxes Acts as being at market value as respects the grantee if—
- (a) the licence or other right was actually granted at more than market value, and
 - (b) condition A or B is met.
- (4) Condition A is that the asset is a chargeable intangible asset in relation to the grantor immediately before the licence or right in respect of it is granted.
- (5) Condition B is that the licence or right is a chargeable intangible asset in relation to the grantee immediately after it is granted.
- (6) This section is subject to—
- (a) section 849AC (grants not at arm's length), and
 - (b) section 849AD (grants involving other taxes).
- (7) References in subsection (1) to a related party in relation to a company are to be read as including references to a person in circumstances where the participation condition is met as between that person and the company.
- (8) References in subsection (7) to a company include a firm in a case where, for the purposes of section 1259, references in subsection (1) to a company are read as references to the firm.
- (9) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (7) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

- (10) Subsection (11) applies where—
- (a) a gain on the grant by a firm of a licence or other right in respect of an intangible fixed asset is a gain to be taken into account for the purposes of section 1259, and
 - (b) for those purposes, references in subsection (1) to a company are read as references to the firm.
- (11) Where this subsection applies, the gain referred to in subsection (10)(a) is to be treated for the purposes of this section as if it were a chargeable realisation gain for the purposes of section 741(1) (meaning of “chargeable intangible asset”).
- (12) In this section—
- “market value” means the price the licence or right might reasonably be expected to fetch on a sale in the open market, and
 - “the Taxes Acts” means the enactments relating to income tax, corporation tax or chargeable gains.

849AC Grants not at arm's length

- (1) This section applies if the consideration for the grant of a licence or other right would, but for this section, fall to be adjusted as respects one of the parties to the grant (“the relevant party”) under both—
- (a) section 849AB, and
 - (b) Part 4 of TIOPA 2010 (provision not at arm's length).
- (2) The consideration for the grant is not to be adjusted as respects the relevant party under Part 4 of TIOPA 2010 if the adjustment that falls to be made under section 849AB is greater than the adjustment that would otherwise fall to be made under that Part.
- (3) The consideration for the grant is not to be adjusted under section 849AB if the adjustment that falls to be made as respects the relevant party under Part 4 of TIOPA 2010 is greater than or equal to the adjustment that would otherwise fall to be made under that section.

849AD Grants involving other taxes

- (1) This section applies if—
- (a) in a case where section 849AB applies and the licence or other right is granted by the company to a related party, the grant is at less than its market value,
 - (b) in a case where that section applies and the licence or other right is granted to the company by a related party, the grant is at more than its market value, and
 - (c) conditions A and B apply.
- (2) Condition A is that the related party—
- (a) is not a company, or
 - (b) is a company in relation to which—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

- (i) in a case within subsection (1)(a), the licence or other right is not a chargeable intangible asset immediately after the grant to it, or
 - (ii) in a case within subsection (1)(b), the relevant asset is not a chargeable intangible asset immediately before the grant by it.
- (3) Condition B is that the grant of the licence or right—
- (a) gives rise to an amount to be taken into account in calculating any person's income, profits or losses for tax purposes because of a relevant provision, or
 - (b) would do so apart from section 849AB(2) or (3).
- (4) If this section applies, section 849AB(2) and (3) does not apply in relation to the calculation referred to in subsection (3) for the purposes of any relevant provision.
- (5) In this section “relevant provision” means—
- (a) Chapter 2 of Part 23 of CTA 2010 (matters which are distributions), except section 1000(2), and
 - (b) Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings).”
- (3) The amendments made by this section apply in relation to a grant of a licence or other right made on or after 22 November 2017, unless it is made pursuant to an obligation, under a contract, that was unconditional before that date.
- (4) For the purposes of subsection (3), an obligation is “unconditional” if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

22 Oil activities: tariff receipts etc

- (1) Chapter 4 of Part 8 of CTA 2010 (oil activities: calculation of profits) is amended as follows.
- (2) In section 291 (corporation tax treatment of oil activities: tariff receipts etc), for subsection (9) substitute—
- “(9) In this section, “tariff receipt” has the meaning given by section 291A.
- (10) So far as it would not otherwise be the case, anything that constitutes a tariff receipt or a tax-exempt tariffing receipt for the purposes of the Oil Taxation Act 1983 is to be treated as a “tariff receipt” for the purposes of this section.”
- (3) After section 291 (but before the italic heading preceding section 292) insert—

“291A Meaning of “tariff receipt”

- (1) A “tariff receipt” of a participator in an oil field is the amount or value of any consideration received or receivable by the person in respect of—
- (a) the use of a ring fence asset, or

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

- (b) the provision of services or other business facilities (of whatever kind) in connection with the use, otherwise than by the participator, of a ring fence asset.
- (2) “Ring fence asset” means a qualifying asset which is, or has been, used wholly or partly for the purposes of a ring fence trade.
- (3) “Qualifying asset” means an asset other than—
 - (a) land or an interest in land, or
 - (b) a building or structure which—
 - (i) is situated on land, and
 - (ii) does not fall within any of sub-paragraphs (i) to (iv) of paragraph (c) of section 3(4) of OTA 1975 (allowable expenditure: exclusions).
- (4) But an amount does not constitute a tariff receipt if the amount—
 - (a) is, in relation to the person giving it, expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit,
 - (b) is referable to the use of a qualifying asset for, or the provision of services or facilities in connection with, deballasting, or
 - (c) is referable to other use of an asset, except use wholly or partly for an oil purpose.
- (5) Any consideration which includes an amount within subsection (4)(a) to (c) is to be apportioned in a just and reasonable manner.
- (6) In subsection (4)(c), the reference to use of an asset for an oil purpose is a reference to—
 - (a) use in connection with an oil field (including use giving rise to receipts which, for the purposes of this Part, are tariff receipts), and
 - (b) use for any other purpose (apart from a purpose falling within section 3(1)(b) of OTA 1975 (allowable expenditure: payment in connection with a relevant licence)) of a separate trade consisting of oil-related activities.

291B Tariff receipts: counteraction of avoidance arrangements

- (1) Subsection (2) applies if an arrangement has been entered into, the main purpose or one of the main purposes of which is to obtain a tax advantage by reference to section 291.
- (2) The relevant tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) 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—
 - (a) an assessment,
 - (b) the modification of an assessment,
 - (c) amendment or disallowance of a claim,or otherwise.
- (4) In this section—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“tax advantage” has the meaning given by section 1139.”

- (4) In section 291—
- (a) in subsection (2), omit “or tax-exempt tariffing receipt”,
 - (b) in subsection (6), omit “or tax exempt tariffing receipts”, and
 - (c) in subsection (7), in both places, omit “or tax exempt tariffing receipt”.
- (5) The amendments made by subsections (1) to (4) have effect in relation to accounting periods beginning on or after 1 January 2018.
- (6) In the Investment Allowance and Cluster Area Allowance Regulations (Investment Expenditure) Regulations 2017 (S.I. 2017/292), in regulation 3 (operating expenditure)—
- (a) in paragraph (2)(e), omit “or tax-exempt tariffing receipts”,
 - (b) in paragraph (6), for the definition of “tariff receipts” substitute—

““tariff receipts” has the same meaning as it has for the purposes of section 291 of the Corporation Tax Act 2010 (corporation tax treatment of oil activities: tariff receipts etc); and”, and
 - (c) in that paragraph, omit the definition of “tax-exempt tariffing receipts” (and the “and” following it).
- (7) The amendments made by subsection (6) have effect in relation to any expenditure that is incurred on or after 1 January 2018.
- (8) The amendments made by subsection (6) are to be treated as having been made by the Treasury under the applicable powers to make regulations conferred by sections 332BA and 356JE of CTA 2010.

23 Hybrid and other mismatches

Schedule 7 contains provision amending Part 6A of TIOPA 2010 (hybrid and other mismatches).

24 Corporate interest restriction

Schedule 8 contains provision relating to Part 10 of TIOPA 2010 (corporate interest restriction).

25 Education Authority of Northern Ireland

- (1) In CTA 2010, after section 987A insert—

“Education Authority of Northern Ireland

987B Education Authority of Northern Ireland

The Education Authority of Northern Ireland is not liable to corporation tax.”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Corporation tax. (See end of Document for details)

- (2) The amendment made by this section is to be treated as having come into force on 1 April 2015.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2018, Cross Heading:
Corporation tax.