Finance (No. 2) Act 2023

CHAPTER 30

£53.20

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2023 CHAPTER 30

An Act to make provision in connection with finance. [11th July 2023]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax charge, rates etc

1 Income tax charge for tax year 2023-24

Income tax is charged for the tax year 2023-24.

2 Main rates of income tax for tax year 2023-24

For the tax year 2023-24 the main rates of income tax are as follows—

(a) the basic rate is 20%,

(b) the higher rate is 40%, and

(c) the additional rate is 45%.

3 Default and savings rates of income tax for tax year 2023-24

(1) For the tax year 2023-24 the default rates of income tax are as follows—

(a) the default basic rate is 20%,

(b) the default higher rate is 40%, and

(c) the default additional rate is 45%.

(2) For the tax year 2023-24 the savings rates of income tax are as follows—

(a) the savings basic rate is 20%,

(b) the savings higher rate is 40%, and

(c) the savings additional rate is 45%.

4 Freezing starting rate limit for savings for tax year 2023-24

(1) For the tax year 2023-24 the amount specified in section 12(3) of ITA 2007 (the starting rate limit for savings) is "£5,000".

(2) Accordingly, section 21 of that Act (indexation) does not apply in relation to the starting rate limit for savings for that tax year.

Corporation tax charge and rates

5 Charge and main rate for financial year 2024

(1) Corporation tax is charged for the financial year 2024.

(2) The main rate of corporation tax for that year is 25%.

6 Standard small profits rate and fraction for financial year 2024

(1) For the purposes of Part 3A of CTA 2010, for the financial year 2024—

(a) the standard small profits rate is 19%, and

(b) the standard marginal relief fraction is 3/200ths.

Capital allowances

7 Temporary full expensing etc for expenditure on plant or machinery

(1) Part 2 of CAA 2001 (plant and machinery allowances) has effect as if the following amendments were made.

(2) Section 39 (first-year allowances available for certain types of qualifying expenditure only) has effect as if after the entry relating to section 45O there were inserted—

"section 45S	expenditure on plant or machinery in other cases".

(3) Chapter 4 has effect as if after section 45R there were inserted—

"45S Expenditure on plant or machinery in other cases

Expenditure is first-year qualifying expenditure if—

(a) it is incurred on or after 1 April 2023 but before 1 April 2026,

(b) it is incurred by a company within the charge to corporation tax,

(c) it is expenditure on plant or machinery which is unused and not second-hand, and

(d) it is not excluded by section 45T (exclusion of expenditure under disqualifying arrangements) or 46 (general exclusions).

45T Exclusion of expenditure incurred under disqualifying arrangements

(1) Expenditure is not first-year qualifying expenditure under section 45S if the expenditure is incurred directly or indirectly in consequence of, or otherwise in connection with, disqualifying arrangements.

(2) Arrangements are "disqualifying arrangements" for the purposes of this section if—

(a) the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage connected with expenditure being first-year qualifying expenditure under section 45S (including securing the advantage by avoiding a balancing charge under section 59A or 59B or reducing the amount or timing of such a charge), and

(b) it is reasonable, taking account of all the relevant circumstances—

(i) to conclude that the arrangements are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or

(ii) to regard the arrangements as circumventing the intended limits of relief under this Act or otherwise exploiting shortcomings in this Act.

(3) In this section "arrangements" include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

(4) Section 46 (general exclusions) has effect as if—

(a) in subsection (1), after the entry relating to section 45O there were inserted—

"section 45S	expenditure on plant or machinery in other cases", and

(b) after subsection (4) there were inserted—

"(4A) General exclusion 6 does not prevent expenditure being first-year qualifying expenditure under section 45S if the plant or machinery is provided for leasing under an excluded lease of background plant or machinery for a building."

(5) Section 52 (first-year allowances) has effect as if in subsection (3), in the table, at the end there were inserted—

"Expenditure qualifying under section 45S (expenditure on plant or machinery in other cases) which is not special rate expenditure	100%
Expenditure qualifying under section 45S (expenditure on plant or machinery in other cases) which is special rate expenditure	50%".

(6) Chapter 5 has effect as if after section 59 there were inserted—

"Special balancing charge in cases of temporary full expensing etc

59A Disposal of assets where first-year allowance made under section 45S for expenditure which is not special rate expenditure

(1) This section applies if a first-year allowance has been made to a company in respect of first-year qualifying expenditure under section 45S which is not special rate expenditure.

(2) If the company is required to bring a disposal value into account for an accounting period by reference to the plant or machinery on which the expenditure is incurred, the company is liable to a balancing charge for that period (whether or not it is also liable to any other balancing charge for that period).

(3) The amount of the balancing charge is the relevant proportion of the disposal value; and the relevant proportion is determined by dividing—

(a) the amount of the expenditure that was the subject of the allowance, by

(b) the total amount of expenditure that has been the subject of that or any other first-year allowance or has been allocated to a pool for that or any other accounting period.

(4) In relation to the accounting period for which the disposal value is brought into account, TDR (see section 55(1)(b)) for the pool to which the expenditure that was the subject of the allowance was allocated is to be reduced by the amount of the balancing charge.

59B Disposal of assets where first-year allowance made under section 45S for expenditure which is special rate expenditure

(1) This section applies if a first-year allowance has been made to a company in respect of first-year qualifying expenditure under section 45S which is special rate expenditure.

(2) If the company is required to bring a disposal value into account for an accounting period by reference to the plant or machinery on which the expenditure is incurred, the company is liable to a balancing charge for that period (whether or not it is also liable to any other balancing charge for that period).

(3) The amount of the balancing charge is the relevant proportion of the disposal value; and the relevant proportion is determined by—

(a) dividing the amount of the expenditure that was the subject of the allowance by two, and

(b) dividing the result of that division by the total amount of expenditure that has been the subject of that or any other first-year allowance or has been allocated to a pool for that or any other accounting period.

(4) In relation to the accounting period for which the disposal value is brought into account, TDR (see section 55(1)(b)) for the pool to which the expenditure that was the subject of the allowance was allocated is to be reduced by the amount of the balancing charge.

59C Sections 59A and 59B: tax avoidance arrangements

(1) This section applies if arrangements are entered into the main purpose, or one of the main purposes, of which is—

(a) to secure that a balancing charge under section 59A or 59B is not chargeable on a company, or

(b) to secure a reduction in the amount, or a change in the timing, of a balancing charge under section 59A or 59B which is chargeable on a company.

(2) Sections 59A and 59B are to have effect as if the arrangements had not been entered into.

(3) In this section "arrangements" include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

8 Annual investment allowance to remain at £1M beyond temporary period

(1) The amount of £1,000,000 which is specified in section 51A(5) of CAA 2001 as the maximum allowance in relation to expenditure incurred in the period beginning with 1 January 2019 and ending with 31 March 2023 is to be the

amount of the maximum allowance in relation to expenditure incurred on or after 1 April 2023 (as well as in relation to expenditure incurred in that period).

(2) Accordingly—

(a) in section 51A of CAA 2001, for the amount specified in subsection (5) as the maximum allowance (which in the absence of this section would be £200,000 in relation to expenditure incurred on or after 1 April 2023) substitute "£1,000,000", and

(b) the temporary AIA transitional provisions cease to have effect in relation to chargeable periods beginning before 1 April 2023 and ending on or after that date.

(3) For this purpose "the temporary AIA transitional provisions" means—

(a) paragraphs 2 and 3 of Schedule 13 to FA 2019, and

(b) section 32 of FA 2019, section 15 of FA 2021 and section 12 of FA 2022 so far as relating to those paragraphs.

9 First-year allowance for expenditure on electric vehicle charge points

In section 45EA of CAA 2001 (expenditure on plant or machinery for electric vehicle charging point), in subsection (3) (the relevant period), in paragraphs (a) and (b), for "2023" substitute "2025".

Other reliefs relating to businesses

10 Relief for research and development

Schedule 1 makes provision in relation to the corporation tax relief contained in Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits) and Part 13 of CTA 2009 (additional relief for expenditure on research and development)—

(a) conferring relief in respect of expenditure on data and cloud computing services,

(b) about the administration and management of claims for relief,

(c) about the circumstances in which an enterprise counts as a small or medium-sized enterprise and in which accounts are to be treated as prepared on a going concern basis, and

(d) limiting relief for expenditure incurred on payments to expenditure incurred on payments made before the making of a claim for the relief.

11 Treatment of profits from patents etc: small profits rate of corporation tax

(1) In section 357A of CTA 2010 (election for special treatment of profits from patents etc), in subsection (3)—

(a) in the formula, in both places it occurs, for "MR" substitute "AR";

(b) for the definition of "MR" substitute—

""AR" means, in relation to a company—

(a) in a case where corporation tax is charged at the standard small profits rate on the company's taxable total profits of the accounting period mentioned in subsection (1) which are not ring fence profits, that rate, or

(b) in any other case, the main rate of corporation tax."

(2) The amendments made by subsection (1) have effect in relation to accounting periods beginning on or after 1 April 2023.

12 Energy (oil and gas) profits levy: de-carbonisation allowance

(1) The Energy (Oil and Gas) Profits Levy Act 2022 is amended as follows.

(2) In section 2 (additional expenditure treated as incurred for purposes of section 1), for subsection (3) substitute—

"(3) For the purposes of section 1 the company is to be treated as if, in addition to the investment expenditure ("the IE") incurred by it in the accounting period, it had incurred in that period—

(a) expenditure of an amount equal to 80% of the amount of the IE, in a case where the expenditure is capital expenditure on the de-carbonisation of its upstream petroleum production, and

(b) expenditure of an amount equal to 29% of the amount of the IE, in any other case."

(3) In that section, after subsection (4) insert—

"(4A) For the purposes of this section, where a company incurs expenditure part of which is capital expenditure on the de-carbonisation of its upstream petroleum production and part of which is not, the expenditure is to be apportioned on a just and reasonable basis."

(4) After that section insert—

"2A Section 2: meaning of expenditure on "de-carbonisation of upstream petroleum production"

(1) Expenditure incurred by a company is expenditure on the "de-carbonisation of its upstream petroleum production" for the purposes of section 2 if—

(a) the expenditure is incurred in qualifying circumstances, and

(b) the main purpose, or one of the main purposes, in incurring the expenditure is to reduce greenhouse gas emissions in the carrying on by the company of its ring fence trade.

(2) For this purpose expenditure is incurred in qualifying circumstances if—

(a) it is incurred on the provision of an alternative energy asset which is to be used for the purpose of generating or storing

power for use by the company in its upstream petroleum facilities,

(b) it is incurred on the modification of an asset so that it becomes an alternative energy asset which is to be used for that purpose,

(c) it is incurred on the provision of an asset (such as a cable or substation) where the asset is to be used to make a connection to the electric grid or to an alternative energy asset so that (in either case) the company can use the power generated in its upstream petroleum facilities,

(d) it is incurred for the purpose of reducing or eliminating flaring or venting,

(e) it is incurred for the purpose of capturing greenhouse gas emissions, or

(f) it is incurred for the purpose of monitoring or measuring greenhouse gas emissions (including with a view to detecting leaks of greenhouse gas emissions from the company's upstream petroleum facilities).

(3) For the purposes of this section an asset is an alternative energy asset if the asset generates or stores power (wholly or mainly) from sources of energy other than fossil fuels.

(4) For the purposes of this section references to a company's upstream petroleum facilities are to any facility used by the company for the purposes of its oil extraction activities.

(5) In this section—

"the electric grid" means—

(a) in Great Britain, anything which is a transmission system, or a distribution system connected to a transmission system, for the purposes of Part 1 of the Electricity Act 1989, or

(b) in Northern Ireland, anything which is a transmission system, or a distribution system connected to a transmission system, for the purposes of Part 2 of the Electricity (Northern Ireland) Order 1992,

"emissions" has the same meaning as it has in the Climate Change Act 2008 (see section 97),

"fossil fuel" has the meaning given by section 32M of the Electricity Act 1989, and

"greenhouse gas" has the same meaning as it has in the Climate Change Act 2008 (see section 92)."

(5) In section 3 (section 2: meaning of "operating expenditure"), for subsection (5) substitute—

"(5) In this section "tariff receipts" has the meaning given by section 291A of CTA 2010."

(6) In section 18(1) (interpretation)—

(a) after the definition of "energy (oil and gas) profits levy" insert—

""facility" means a platform, an oil well, a platform well, an oil well head or upstream petroleum infrastructure,", and

(b) omit the "and" before the definition of "ring fence trade" and after that definition insert—

""upstream petroleum infrastructure" means any upstream petroleum pipeline, oil processing facility or gas processing facility (as those expressions are defined by section 90 of the Energy Act 2011 but as if that section also applied (with the appropriate modifications) to Northern Ireland)."

(7) The amendments made by subsections (2) to (4) have effect in relation to expenditure incurred on or after 1 January 2023 and the amendments made by subsections (5) and (6) have effect in relation to expenditure incurred on or after 26 May 2022.

13 Museums and galleries exhibition tax relief: extension of sunset date

In section 1218ZCG(1)(c) of CTA 2009 (date before which qualifying expenditure must be incurred), for "2024" substitute "2026".

14 Extension of the temporary increase in theatre tax credit etc

(1) In each of the following provisions of FA 2022—

(a) section 17(2) (temporary increase in amount of theatre tax credit),

(b) section 19(2) (corresponding provision for orchestra tax credit), and

(c) section 21(2) (corresponding provision for museums and galleries exhibition tax credit),

for "2023" substitute "2025".

(2) In each of the following provisions of that Act (which provide for an increase in the amount of those credits for a further year but at a lower rate than that provided for by sections 17(2), 19(2) and 21(2))—

(a) section 17(3),

(b) section 19(3), and

(c) section 21(3),

for "2023" substitute "2025" and for "2024" substitute "2026".

(3) In each of the following provisions of that Act (which deal with straddling periods for those credits)—

(a) section 17(4),

(b) section 19(4), and

(c) section 21(4),

for "2023" substitute "2025" and for "2024" substitute "2026".

15 Seed enterprise investment scheme: increase of limits etc.

(1) Part 5A of ITA 2007 (seed enterprise investment scheme) is amended in accordance with subsections (2) to (5).

(2) In section 257AB (form and amount of SEIS relief), in subsection (2)(b), for "£100,000" substitute "£200,000".

(3) In section 257DI (the gross assets requirement)—
(a) in subsection (1), for "£200,000" substitute "£350,000";
(b) in subsection (2), for "£200,000" substitute "£350,000".

(4) In section 257DL (the amount raised through the SEIS), in each of the following provisions, for "£150,000" substitute "£250,000"—
(a) subsection (1);
(b) subsection (4)(a);
(c) subsection (4)(b);
(d) in subsection (6), the definition of "A".

(5) In section 257HF (meaning of "new qualifying trade")—
(a) in subsection (1)(a), for "two" substitute "three";
(b) in subsection (2), for the definition of "two year pre-investment period" substitute—

""three year pre-investment period" means the period of 3 years ending immediately before the day on which the relevant shares are issued."

(6) In Schedule 5BB to TCGA 1992 (seed enterprise investment scheme: re-investment), in paragraph 2—
(a) in sub-paragraph (1), for "£100,000" substitute "£200,000";
(b) in sub-paragraph (2), in the formula, for "£100,000" substitute "£200,000".

(7) The amendments made by this section have effect in relation to shares issued on or after 6 April 2023.

Reliefs for employees

16 CSOP schemes: share value limit and share class

(1) Schedule 4 to ITEPA 2003 (CSOP schemes) is amended as follows.

(2) In paragraph 6 (limit on value of shares subject to options)—
(a) in sub-paragraph (1), in the words after paragraph (b), for "£30,000" substitute "£60,000";
(b) after sub-paragraph (4) insert—

"(5) The Treasury may by regulations amend sub-paragraph (1) by substituting a different sum of money for the sum for the time being specified there."

(3) In paragraph 15 (requirements relating to shares that may be subject to share options: introduction), in sub-paragraph (1)—

(a) after the entry for paragraph 17 insert ", and";

(b) omit the entry for paragraph 20 and the ", and" before it.

(4) Omit paragraph 20 (requirements as to other shareholdings).

(5) In paragraph 27 (requirement about share options granted in exchange), in sub-paragraph (4)(a), for "20" substitute "18".

(6) The amendments made by subsection (2) have effect for the purposes of determining whether a share option may be granted to an individual on or after 6 April 2023 ("the commencement day").

(7) The amendments made by subsections (3) and (4) have effect in relation to—

(a) share options granted on or after the commencement day, and

(b) shares acquired by the exercise of share options on or after the commencement day (regardless of when those share options were granted).

(8) The amendment made by subsection (5) has effect in relation to share options granted on or after the commencement day.

(9) A CSOP scheme which was approved by, or notified to, His Majesty's Revenue and Customs before the commencement day has effect on and after the commencement day with any modifications needed to reflect the amendments made by this section.

(10) In particular, such a CSOP scheme has effect from the commencement day with—

(a) the substitution of "£60,000" for "£30,000" in any provision required by paragraph 6 of Schedule 4 to ITEPA 2003;

(b) the omission of any provision that (before the amendments made by this section) was required by paragraph 20 of that Schedule by virtue of paragraph 15(1) of that Schedule.

(11) In this section, "CSOP scheme" and "share option" have the same meaning as in the CSOP code (see paragraph 37 of Schedule 4 to ITEPA 2003).

17 Enterprise management incentives: restricted shares and declarations

(1) Schedule 5 to ITEPA 2003 (enterprise management incentives) is amended as follows.

(2) In Part 5 (requirements relating to options), in paragraph 37 (terms of option to be agreed in writing) omit sub-paragraphs (4) and (5).

(3) In Part 7 (notification of option to HMRC), in paragraph 44 (notice of option to be given to HMRC)—

(a) in sub-paragraph (5)—

(i) after paragraph (a) insert "and";

(ii) omit paragraph (c) and the ", and" immediately before it;

(b) omit sub-paragraphs (5A) and (6).

(4) In Part 8 (supplementary provisions) omit paragraph 57A (penalty for non-compliance with paragraph 44(5A)).

(5) The amendments made by this section have effect in relation to—

(a) share options granted on or after 6 April 2023, or

(b) share options granted before 6 April 2023 which are capable of being exercised on or after that date ("relevant options").

(6) But if—

(a) an employer company has granted relevant options to persons by reason of their employment with the company, and

(b) the effect of subsection (5)(b) would otherwise be that a relevant requirement would not be met in relation to one or more share options granted before 6 April 2023,

the employer company must, on or before the relevant day, make arrangements for determining which of the relevant options, or the extent to which those options, are to take the benefit of subsection (5)(b) without a relevant requirement not being met in relation to any share options granted before 6 April 2023.

(7) The arrangements must—

(a) set out the criteria by reference to which the determination will be made, and

(b) be made available to persons who may be affected by the determination.

(8) If the employer company fails to make arrangements in accordance with subsection (7) in a case where it is required to do so by subsection (6), which relevant options, or the extent to which those options, take the benefit of subsection (5)(b) is to be determined in the chronological order in which those options were granted (and where two or more relevant options were granted at the same time, the extent to which those options take the benefit of subsection (5)(b) is, where necessary, to be apportioned between those options).

(9) In this section—

"relevant day" means 6 July following the end of the first tax year in which a relevant option granted by the employer company is exercised;

"relevant options" has the meaning given in subsection (5)(b);

"relevant requirement" means any of the requirements in paragraphs 5(1), 6(2) or (4) or 7(1) of Schedule 5 to ITEPA 2003;

"share option" and "employer company" have the same meaning as in the EMI code (see paragraph 59 of Schedule 5 to ITEPA 2003).

Pensions

18 Lifetime allowance charge abolished

(1) No lifetime allowance charge arises for the tax year 2023-24 or any subsequent tax year.

(2) Subsection (1) does not affect the continued operation of any provision of Part 4 of FA 2004 (pension schemes etc) so far as it has effect for purposes other than that of determining a person's liability for the lifetime allowance charge.

19 Certain lump sums to be taxed at marginal rate

(1) Subsection (2) applies to any relevant lump sum, or any part of a relevant lump sum, that—

(a) is paid under a registered pension scheme, and

(b) would, disregarding section 18, have been chargeable to income tax under sections 214 to 226 of FA 2004 (lifetime allowance charge).

(2) Section 579A of ITEPA 2003 (pensions under registered pension schemes) applies in relation to the relevant lump sum or part of the relevant lump sum as it applies to any pension under a registered pension scheme.

(3) Subsection (4) applies to any lump sum, or any part of a lump sum, that—

(a) is paid under a relieved non-UK pension scheme,

(b) would have been a relevant lump sum within subsection (5)(a), (c) or (d) if it had been paid under a registered pension scheme, and

(c) would, disregarding section 18, have been chargeable to income tax under sections 214 to 226 of FA 2004 (as applied by paragraphs 13 to 19 of Schedule 34 to FA 2004 (application of lifetime allowance charge to non-UK schemes)).

(4) Section 573 of ITEPA 2003 (foreign pensions) applies in relation to the lump sum or part of the lump sum as it applies to any pension paid by or on behalf of a person who is outside the United Kingdom to a person who is resident in the United Kingdom.

(5) In this section "relevant lump sum" means—

(a) a serious ill-health lump sum,

(b) a lifetime allowance excess lump sum,

(c) a defined benefits lump sum death benefit, or

(d) an uncrystallised funds lump sum death benefit;

(6) Expressions used in subsection (5) have the same meaning as in Part 4 of FA 2004 (see Schedule 29 to that Act).

(7) In this section—

"registered pension scheme" has the same meaning as in Part 4 of FA 2004 (see section 150(2) of that Act);

"relieved non-UK pension scheme" has the meaning given by paragraph 13(3) of Schedule 34 to FA 2004.

(8) This section has effect for the tax year 2023-24 and subsequent tax years.

20 Annual allowance increased

(1) In Part 4 of FA 2004 (pension schemes etc), section 228 (annual allowance) is amended as follows.

(2) For subsection (1) substitute—

"(1) The annual allowance for the tax year 2023-24 and, subject to subsection (2), each subsequent tax year is £60,000."

(3) In subsection (2) for "2014-15" substitute "2023-24".

21 Money purchase annual allowance

(1) Part 4 of FA 2004 (pension schemes etc) is amended as follows.

(2) In the following provisions, for "£4,000" substitute "£10,000"—

(a) section 227ZA(1)(b);

(b) section 227B(1)(b) and (2);

(c) in section 227D(4), Steps 4 and 5.

(3) In consequence of the amendments made by this section, in F(No.2)A 2017, omit section 7.

(4) The amendments made by this section have effect for the tax year 2023-24 and subsequent tax years.

22 Annual allowance: tapering

(1) In Part 4 of FA 2004 (pension schemes etc), section 228ZA (tapered reduction of annual allowance) is amended as follows.

(2) In subsection (1)—

(a) for "£4,000" substitute "£10,000";

(b) for "£240,000" substitute "£260,000".

(3) In subsection (3)(a) and (b), for "£240,000" substitute "£260,000".

(4) The amendments made by this section have effect for the tax year 2023-24 and subsequent tax years.

23 Modification of certain existing transitional protections

(1) In Part 4 of FA 2004 (pension schemes etc), Schedule 36 (transitional provisions) is amended in accordance with subsections (2) and (3).

(2) In paragraph 12 (enhanced protection), in sub-paragraph (2), after "ceases to apply if" insert "the notice under sub-paragraph (1) is given on or after 15 March 2023 and".

(3) In paragraph 27 (enhanced protection: modifications of paragraph 2 of Schedule 29), in sub-paragraph (3), in the substituted sub-paragraph (5) of paragraph 2, for the words after "the permitted maximum is" substitute "the lower of—

(a) the applicable amount calculated in accordance with paragraph 3, and

(b) the amount that would have been the applicable amount calculated in accordance with paragraph 3 if the lump sum had been paid on 5 April 2023."

(4) In the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), in article 25C (payment of stand-alone lump sums: tax consequences), for paragraph (3) substitute—

"(3A) Section 636A of ITEPA 2003 (exemptions and liabilities for certain lump sums under registered pension schemes) is to be read as if, after subsection (1C), there were inserted—

"(1D) In the case of a stand-alone lump sum paid under a registered pension scheme—

(a) no liability to income tax arises on so much of the sum as does not exceed the 5 April 2023 maximum, and

(b) section 579A applies in relation to the remainder (if any) of the sum as that section applies to any pension under a registered pension scheme.

(1E) In subsection (1D) and this subsection—

(a) "stand-alone lump sum" has the meaning given by paragraph (3) of article 25 of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572);

(b) "the 5 April 2023 maximum" means the maximum amount that, on 5 April 2023, could have been paid to the member under the registered pension scheme by way of a stand-alone lump sum.

(1F) For the purposes of determining the maximum amount mentioned in paragraph (b) of subsection (1E), condition C in article 25A of the order mentioned in paragraph (a) of that subsection (condition that member has reached normal minimum pension age etc) is treated as met.""

(5) In FA 2011, in Schedule 18, in paragraph 14 (fixed protection 2012) in sub-paragraph (4), after "ceases to apply if" insert "the notice under

sub-paragraph (1) or (as the case may be) sub-paragraph (1A) is given on or after 15 March 2023 and,".

(6) In FA 2013, in Schedule 22, in paragraph 1 (fixed protection 2014), in sub-paragraph (3), after "ceases to apply if" insert "the notice under sub-paragraph (1) is given on or after 15 March 2023 and,".

(7) In FA 2016, in Schedule 4, in Part 1 (fixed protection 2016), in paragraph 3, after "There is a protection-cessation event if" insert "the reference number for the purposes of paragraph 1(2) was issued pursuant to an application made on or after 15 March 2023 and".

(8) The amendments made by this section have effect for the tax year 2023-24 and subsequent tax years.

24 Collective money purchase arrangements

(1) Part 4 of FA 2004 (pension schemes) is amended in accordance with subsections (2) to (8).

(2) In section 152 (meaning of arrangement), in subsection (5A)—

(a) the words after "means benefits that are" become paragraph (a);

(b) at the end of that paragraph insert ", or";

(c) after that paragraph insert—

"(b) payments of CMP periodic income."

(3) In section 169 (recognised transfers), after subsection (1E) insert—

"(1F) The Commissioners for His Majesty's Revenue and Customs may by regulations make provision as to the treatment for the purposes of any provision of this Part of a CMP-derived drawdown pension.

(1G) The provision that may be made under subsection (1F) includes provision for treating sums or assets held for the purposes of a CMP-derived drawdown pension as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, held for the purposes of the collective money purchase arrangement under the pension scheme from which they were transferred."

(4) In section 279 (other definitions), after subsection (1E) insert—

"(1F) For the purposes of this Part a "CMP-derived drawdown pension" means a drawdown pension (within the meaning given by paragraph 4 of Schedule 28) where—

(a) the sums or assets constituting the fund from which the pension is payable were transferred from another pension scheme, and

(b) before the transfer, those sums or assets were held for the purposes of paying CMP periodic income.

(1G) For the purposes of this Part "CMP periodic income" means income payable by virtue of section 36(7)(b) or 87(7)(b) of the Pension Schemes Act 2021 (periodic income paid under collective money purchase arrangement while pursuing continuity option 1)."

(5) In section 280 (abbreviations and general index), in subsection (2) at the appropriate places insert—

"CMP-derived drawdown pension	section 279(1F)"
"CMP periodic income	section 279(1G)".

(6) In Schedule 28 (registered pension schemes: authorised pensions - supplementary), in Part 2 (pension death benefit rules), in paragraph 16A (limit on dependant's scheme pension), after sub-paragraph (2) insert—

"(3) Where, immediately before the member's death, the member is actually or prospectively entitled to CMP periodic income, any CMP periodic income that is at any later time payable to a dependant of the member is to be ignored for the purposes of paragraphs 16AA to 16B."

(7) In Schedule 29 (authorised lump sums - supplementary), in Part 1 (lump sum rule), in paragraph 1, for sub-paragraph (4A) substitute—

"(4A) A lump sum is an excluded lump sum if the pension in connection with which the member becomes entitled to it is a CMP-derived drawdown pension."

(8) In Schedule 32 (benefit crystallisation events - supplementary), for paragraph 2B substitute—

"2B (1) This paragraph applies for the purposes of benefit crystallisation event 1 where the sums or assets designated are, after the designation, held for the purposes of a CMP-derived drawdown pension.

(2) The amount crystallised by the event is to be reduced by the amount (or an appropriate proportion of the amount) crystallised on the individual becoming entitled to a scheme pension under the collective money purchase arrangement for the purposes of which the sums or assets were previously held."

(9) In consequence of the amendments made by the preceding provisions of this section, the following provisions of Schedule 5 to FA 2021 are omitted—

(a) paragraph 21(2)(b);

(b) paragraph 22(2).

(10) The Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006 (S.I. 2006/499) are amended in accordance with subsections (11) and (12).

(11) In regulation 3 (scheme pension payable by registered pension scheme - recognised transfers), at the end insert—

"(3) Paragraphs (1) and (2) do not apply in relation to a transfer within section 169(1) or (1A) of sums or assets which, before the transfer, were held for the purposes of paying CMP periodic income.

(4) Such a transfer is not a recognised transfer unless the sums and assets transferred are, after the transfer, applied towards the provision of a drawdown pension (within the meaning given by paragraph 4 of Schedule 28)."

(12) In regulation 5 (term and reduction in rate of scheme pension), in paragraph (1), in the opening words, for "3 or 4" substitute "3(1) or (2) or regulation 4,".

25 Relief relating to net pay arrangements

In FA 2004, in Part 4 (pension schemes etc), in Chapter 4 (certain tax reliefs and exemptions), after section 193 (relief under net pay arrangements) insert—

"193A Net pay arrangements: relief where no income tax liability

(1) This section applies where—

(a) an individual is entitled to be given relief in accordance with section 193 in respect of the payment of a contribution under a pension scheme,

(b) the individual is entitled to a personal allowance, in accordance with section 35(1) of ITA 2007 (personal allowance), for the tax year in which the payment is made ("the relevant tax year"), and

(c) the amount of the individual's total income for the relevant tax year does not exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year.

(2) The Commissioners for His Majesty's Revenue and Customs must make arrangements to secure that, so far as reasonably practicable and subject to provision made under subsection (5), they pay to the individual the appropriate amount in relation to the contribution.

(3) The appropriate amount is—

(a) where the individual's total income for the relevant tax year plus the contribution does not exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year, an amount equal to income tax at the relevant rate on the whole of the contribution, and

(b) where the individual's total income for the relevant tax year plus the contribution does exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year, an amount equal to income tax at the relevant rate on an amount calculated in accordance with this formula—

$$C - E$$

where—

C equals the whole of the contribution, and

E equals the amount by which the personal allowance is exceeded by the individual's total income for the relevant tax year plus the contribution.

(4) The arrangements must secure that an amount which the Commissioners are required to pay in relation to a contribution is paid as soon as reasonably practicable after the tax year in which the contribution is paid.

(5) The arrangements must include a procedure for the purposes of allowing an individual to whom an amount would otherwise have to be paid under subsection (2) to decline to receive that amount.

(6) For the purposes of income tax, apart from determining whether this section applies or calculating the appropriate amount in accordance with subsection (3), an amount paid to an individual in accordance with the arrangements is to be treated as if it were earnings within Chapter 1 of Part 3 of ITEPA 2003—

(a) from an employment in the relevant tax year, and

(b) in respect of duties performed in the United Kingdom.

(7) In subsection (3), "the relevant rate" is—

(a) where the individual is a Scottish taxpayer for the relevant tax year, the Scottish basic rate for that year,

(b) where the individual is a Welsh taxpayer for the relevant tax year, the Welsh basic rate for that year, and

(c) in all other cases, the basic rate for that tax year.

(8) In this section, "total income" has the meaning given by section 23 of ITA 2007 (the calculation of income tax liability).

(9) The Treasury may by regulations amend or otherwise modify this section.

(10) Regulations under subsection (9) may make different provision for different purposes."

Social security

26 Payments under Jobs Growth Wales Plus

(1) After section 776 of ITTOIA 2005 insert—

"776A Payments under Jobs Growth Wales Plus

(1) No liability to income tax arises in respect of a payment that is made—

(a) by way of training allowance under the Jobs Growth Wales Plus scheme, and

(b) to a person as a participant in that scheme.

(2) For this purpose the "Jobs Growth Wales Plus scheme" means the scheme under section 14 of the Education Act 2002 known as Jobs Growth Wales Plus."

(2) The amendment made by this section has effect in relation to payments made on or after 1 April 2022.

27 Power to clarify tax treatment of devolved social security benefits

(1) The Treasury may by regulations amend Chapter 3 of Part 10 of ITEPA 2003 (taxable UK social security benefits) so as to provide that a specified devolved social security benefit is chargeable to income tax.

(2) A "specified devolved social security benefit" means a social security benefit which is—

(a) payable under or by virtue of a post-commencement devolved enactment, and

(b) specified in regulations under this section.

(3) A "post-commencement devolved enactment" means an enactment which is—

(a) contained in, or in an instrument made under—

(i) an Act of the Scottish Parliament;

(ii) an Act of Senedd Cymru;

(iii) Northern Ireland legislation, and

(b) passed or made on or after the day on which this Act is passed.

(4) Regulations under this section may make—

(a) different provision for different cases;

(b) incidental, supplementary or consequential provision (which may include provision amending any provision made by or under the Income Tax Acts).

(5) In section 655 of ITEPA 2003 (structure of Part 10), in subsection (2), at the end insert ";

section 27 of F(No. 2)A 2023 (power to clarify tax treatment of devolved social security benefits)."

Foster carers etc

28 Qualifying care relief: increase in individual's limit

(1) Chapter 2 of Part 7 of ITTOIA 2005 (qualifying care relief) is amended as follows.

(2) In section 808 (the individual's limit)—

(a) in subsection (2), for "£10,000" substitute "£18,140", and

(b) omit subsection (3) (which confers a power to amend that amount).

(3) In section 811 (the amount per adult or child)—

(a) in subsection (1A) (weekly amount for adult), for "£250" substitute "£450",

(b) in subsection (2)(a) (weekly amount for children under 11 years old), for "£200" substitute "£375",

(c) in subsection (2)(b) (weekly amount for older children), for "£250" substitute "£450", and

(d) omit subsection (3) (which confers a power to amend those amounts).

(4) After section 828 insert—

"828A Indexation of the fixed amount and the amount per adult and child

(1) This section provides for increases in the amounts specified in—

(a) section 808(2) (the fixed amount), and

(b) section 811(1A) and (2)(a) and (b) (the amount per adult or child),

if the consumer prices index for the September before the start of a tax year is higher than it was for the previous September.

(2) The amount specified in section 808(2) for the tax year is found as follows—

Step 1: multiply the amount for the previous tax year by the same percentage as the percentage increase in the consumer prices index.

Step 2: if the result of Step 1 is a multiple of £10, it is the increase for the tax year.

If the result of Step 1 is not a multiple of £10, round it up to the nearest amount which is a multiple of £10 and that amount is the increase for the tax year.

Step 3: add the increase for the tax year to the amount for the previous tax year and the result is the amount for the tax year.

(3) The amounts specified in section 811(1A) and (2)(a) and (b) for the tax year are found as follows—

Step 1: multiply the amount for the previous tax year by the same percentage as the percentage increase in the consumer prices index.

Step 2: if the result of Step 1 is a multiple of £5, it is the increase for the tax year.

If the result of Step 1 is not a multiple of £5, round it up to the nearest amount which is a multiple of £5 and that amount is the increase for the tax year.

Step 3: add the increase for the tax year to the amount for the previous tax year and the result is the amount for the tax year.

(4) Before the start of the tax year the Treasury must make an order replacing the amounts specified in the provisions listed in subsection (1) with the amounts which, as a result of this section, are the amounts for the tax year.

(5) In this section "consumer prices index" means the all items consumer prices index published by the Statistics Board."

(5) In section 873(3) (orders made by Treasury etc not subject to negative resolution procedure), after paragraph (c) (but before the "or" at the end) insert—

"(ca) section 828A (qualifying care relief: indexation of amounts),".

(6) The amendments made by this section have effect for the tax year 2023-24 and subsequent tax years.

Estates in administration and trusts

29 Estates in administration and trusts

Schedule 2 contains amendments relating to estates in administration and trusts.

Provisions relating to insurance

30 Transfer of basic life assurance and general annuity business

(1) In Part 2 of FA 2012 (insurance companies carrying on long-term business), after section 130 insert—

"130A Re-insurance in the course of transfer of BLAGAB

(1) This section applies to a re-insurer in relation to the re-insurance of the whole, or part of, a cedant's basic life assurance and general annuity business, if—

(a) the business is not excluded business for the purposes of section 57(2)(e), and

(b) it is reasonable to suppose that the arrangements for the re-insurance are made, or are operated, in connection with an insurance business transfer scheme under which the business will be transferred to the re-insurer or a person connected with the re-insurer.

(2) Where the arrangements are operated, but were not made, in connection with the insurance business transfer scheme, this section is to apply to the re-insurer from the later of—

(a) the beginning of the accounting period in which it is reasonable to suppose that the arrangements were first operated in connection with the transfer, and

(b) 15 December 2022.

(3) Where this section applies in relation to re-insurance, that re-insurance (so far as it is of basic life assurance and general annuity business) is to be treated as excluded business for the purposes of section 57(2)(e) (and that business is referred to in this section as "the re-insured business").

(4) Accordingly—

(a) the re-insured business is, or forms part of, the separate basic life assurance and general annuity business of the re-insurer (see section 66(2)), and

(b) accounting profit or loss and the tax adjustments (within the meaning of section 114(4)) referable to the re-insured business are, for the purposes of provision made by or under this Part or Schedule 5 to FA 2022, to be allocated to the basic life assurance and general annuity business.

(5) But, subject to subsection (6), no amount referable to the re-insured business is to be included in the determination of the I-E profit of the re-insurer for an accounting period (and accordingly, subject to that subsection, the I-E profit referable to that business for the accounting period will be nil).

(6) Any BLAGAB trade loss relieved for an accounting period (see section 78(5)) that is referable to the re-insured business is to be included (as a deduction in Step 4 in section 76) in determining the adjusted BLAGAB management expenses of the re-insurer for the accounting period (which, accordingly, may result in the I-E profit referable to that business for the accounting period being greater than nil).

(7) Nothing in this section is to be taken to affect the liability of the cedant to corporation tax.

(8) For the purposes of this section "arrangements" includes any agreement, scheme, transaction or understanding (whether or not legally enforceable).

(9) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this section."

(2) The amendment made by this section is treated as having come into force on 15 December 2022 and applies to the re-insurance of basic life assurance and general annuity business whenever the arrangements for that re-insurance were made.

(3) Where, on or after 15 December 2022, a re-insurer adopts IFRS 17 in relation to one or more accounting periods that commence before that date, the

amendment made by this section has effect, in relation to that re-insurer, for those accounting periods.

(4) In subsection (3) "IFRS 17" means International Financial Reporting Standard 17 (insurance contracts) issued by the International Accounting Standards Board.

31 Certain re-insurance sums not to count as deemed I-E receipts

(1) Section 92 of FA 2012 (certain BLAGAB trading receipts to count as deemed I-E receipts) is amended as follows.

(2) In subsection (5)—

(a) after paragraph (a) insert—

"(aa) sums paid to the company under re-insurance arrangements under which the re-insurer assumes substantially all of the insurance risks relating to the business that is re-insured,", and

(b) in paragraph (b), after "sums" insert ", other than sums falling within paragraph (aa),".

(3) In subsection (6), in the words before paragraph (a), after "contract" insert ", other than a sum falling within paragraph (aa),".

(4) The amendments made by this section have effect for accounting periods ending on or after 15 December 2022.

32 Insurers in difficulties: write-down orders for corporation tax purposes

(1) In Part 3 of CTA 2009 (trading income), after section 130 insert—

"130A Insurers in financial difficulties: write-down orders

(1) A receipt or expense that is attributable to the operation of a write-down order, or to a write-down order ceasing to have effect, is not brought into account in calculating the profits of a trade.

(2) In this section "write-down order" means an order under section 377A of the Financial Services and Markets Act 2000 (court order writing down liabilities of insurer)."

(2) Part 5 of CTA 2009 (loan relationships) is amended as follows.

(3) After section 323A insert—

"323B Insurers in financial difficulties: write-down orders

(1) Subsection (2) applies if a debtor relationship of a company is modified by a write-down order.

(2) The company is not required to bring into account for the purposes of this Part a credit in respect of any change in the carrying value of the liability representing the modified debtor relationship.

(3) If as a result of subsection (2) no credit was brought into account in respect of a change in the carrying value of a liability representing a debtor relationship, the company may not bring into account a debit for the purposes of this Part in respect of a change in the carrying value of that liability, to the extent that the change represents a reversal of the change in carrying value to which subsection (2) applied.

(4) In this section "write-down order" means an order under section 377A of the Financial Services and Markets Act 2000 (court order writing down liabilities of insurer)."

(4) In section 465B ("tax-adjusted carrying value"), in subsection (9), after paragraph (d) insert—

"(da) section 323B (insurers in financial difficulties: write-down orders),".

33 Insurers in difficulties: write-down orders in case of pension schemes

(1) In Part 4 of FA 2004 (pension schemes), Schedule 28 (registered pension schemes: authorised pensions - supplementary) is amended as follows.

(2) In paragraph 3 (definition of "lifetime annuity"), in sub-paragraph (2A)—

(a) the words after "by reason of the operation of" become paragraph (a);

(b) at the end of that paragraph insert ", or";

(c) after that paragraph insert—

"(b) an order under section 377A of the Financial Services and Markets Act 2000 (court order writing down liabilities of insurer)."

(3) In paragraph 17 (definition of "dependants' annuity"), in sub-paragraph (2)—

(a) the words after "by reason of the operation of" become paragraph (a);

(b) at the end of that paragraph insert ", or";

(c) after that paragraph insert—

"(b) an order under section 377A of the Financial Services and Markets Act 2000 (court order writing down liabilities of insurer)."

Miscellaneous corporation tax matters

34 Corporate interest restriction

Schedule 3 makes provision about corporate interest restriction and the tax treatment of financing costs and income.

35 Investment vehicles

Schedule 4 makes amendments to—

(a) Schedule 5AAA to TCGA 1992 (UK property rich collective investment vehicles etc),

(b) Part 12 of CTA 2010 (Real Estate Investment Trusts) and the Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006 (S.I. 2006/2867), and

(c) Schedule 2 to FA 2022 (qualifying asset holding companies).

International matters

36 Share exchanges involving non-UK incorporated close companies

(1) TCGA 1992 is amended in accordance with subsections (2) and (3).

(2) After section 138 (exchange of securities and schemes of reconstruction: procedure for clearance in advance) insert—

"138ZA Share exchanges involving non-UK incorporated close companies

(1) Section 138ZB applies where—

(a) section 135 or 136 applies to an issue by a company ("company B") of shares in or debentures of that company ("the exchanged shares or debentures") in exchange for or in respect of shares in or debentures of another company ("company A"),

(b) immediately before the issue is made, company A is a close company which is incorporated in the United Kingdom (whether or not it is resident in the United Kingdom),

(c) immediately after the issue is made, company B is a close company which is not incorporated in the United Kingdom (whether or not it is resident in the United Kingdom), and

(d) the person to whom the exchanged shares or debentures are issued ("P") is an individual who meets the conditions in subsection (2).

(2) Those conditions are that—

(a) immediately before the issue is made, P—

(i) has a material interest in company A, and

(ii) is a participator in company A, and

(b) immediately after the issue is made, P—

(i) has a material interest in company B, and

(ii) is a participator in company B.

(3) A person has a material interest in a company for the purposes of this section if condition A or B is met.

(4) Condition A is that the person, an associate of the person, or the person or an associate of the person together with one or more associates is—

(a) the beneficial owner of, or

(b) directly or indirectly able to control,

more than 5% of the ordinary share capital of the company.

(5) Condition B is that the person, an associate of the person, or the person or an associate of the person together with one or more associates possesses or is entitled to acquire such rights as would—

(a) in the event of the winding up of the company, or

(b) in any other circumstances,

give an entitlement to receive more than 5% of the assets which would then be available for distribution among the participators.

(6) Chapter 2 of Part 10 of CTA 2010 (meaning of "close company" and related terms) applies for the purposes of this section but with the omission of section 442(a) (exclusion of non-UK resident companies).

(7) In relation to a company that has no share capital, this section applies as if—

(a) references to shares in, or debentures of, the company included any interests of the company possessed by members of the company, and

(b) the reference in subsection (4) to the ordinary share capital of the company were to all such interests.

(8) In this section "ordinary share capital" has the meaning it has in the Corporation Tax Acts (see section 1119 of CTA 2010).

138ZB Treatment of securities connected with such exchanges

(1) Where this section applies (see section 138ZA), a security falling within subsection (2) is to be treated for the purposes of this Act as situated in the United Kingdom (whether or not it would otherwise be so treated) if—

(a) it is held by P, other than as a result of a disposal of the security by P's spouse or civil partner ("S") to P to which section 58 (no loss or gain on disposals between spouses or civil partners) did not apply, or

(b) is held by S, other than as a result of a disposal of the security by P to S to which that section did not apply.

(2) Those securities are as follows—

(a) the exchanged shares or debentures;

(b) a security of company B acquired by P on or after the day on which the exchanged shares or debentures are issued;

(c) where—

(i) there is a repo (within the meaning of section 263A) in respect of a security, and

(ii) that security falls within any of the paragraphs of this subsection (including this paragraph),

any similar security (see section 263AA(5) and (6)) that P, or a person connected with P, buys back under the repo;

(d) where—

(i) P transfers a security to another person under a stock lending arrangement (within the meaning of section 263B), and

(ii) that security falls within any of the paragraphs of this subsection (including this paragraph),

any security of a similar description (see section 263B(6)) transferred back to P under the arrangement;

(e) a security of a company issued to P where—

(i) the security is issued in exchange for, or in respect of, another security,

(ii) section 135 or 136 applies to that issue,

(iii) the other security falls within any of the paragraphs of this subsection (including this paragraph), and

(iv) P has a material interest in the company (within the meaning of section 138ZA(3));

(f) where a security of a company, other than company B, falls within paragraph (e), a security of that company acquired by P on or after the first day on which a security of that company fell within that paragraph.

(3) For the purposes of paragraphs (b), (f) and (e) of subsection (2), it does not matter whether or not—

(a) consideration was given for the security acquired by P, or

(b) the security acquired by P is of a different class from the exchanged shares or debentures.

(4) If S acquires a security falling within subsection (2) as a result of a disposal by P to which section 58 applies, subsections (2) and (3) have effect, from the time of its acquisition by S (whether or not S continues to hold it), as if every reference to "P" were to "P or S".

(5) In this section—

"company B", "P", and "the exchanged shares or debentures" are to be construed in accordance with section 138ZA;

"security" means—

(a) shares in, or debentures of, a company, or

(b) interests of a company that has no share capital that are possessed by members of the company.

138ZC Election to disapply section 135 or 136

(1) This section applies where section 138ZB would, but for an election under this section, apply in relation to the issue by a company of shares in or debentures of that company in exchange for, or in respect of, shares in or debentures of another company.

(2) The person to whom the shares or debentures are issued may elect for section 135 or 136 not to apply to the issue, and accordingly—

(a) the exchange or scheme of reconstruction in question will not be treated as a reorganisation within the meaning of section 126, and

(b) section 138ZB will not apply in relation to the issue.

(3) An election under this section must be made on or before the first anniversary of the 31 January following the tax year in which the shares or debentures are issued."

(3) In section 288 (interpretation), in the definition of "close company", at the end insert "(subject to section 138ZA(6))".

(4) The amendments made by subsections (2) and (3) have effect in relation to an issue of shares or debentures made on or after 17 November 2022.

(5) In section 830 of ITTOIA 2005 (meaning of "relevant foreign income"), after subsection (3) insert—

"(3A) "Relevant foreign income" does not include income paid in respect of a security, within the meaning of section 138ZB of TCGA 1992, if—

(a) the security is treated, for the purposes of that Act, as situated in the United Kingdom as a result of section 138ZB of that Act, and

(b) that section applies in respect of the security as a result of an issue of shares in or debentures of a company in exchange for, or in respect of, shares in or debentures of another company that is incorporated, and is resident, in the United Kingdom."

(6) The amendment made by subsection (5) is treated as having come into force on 17 November 2022.

37 Records relating to transfer pricing

Schedule 5 makes provision about the keeping of records for the purposes of Part 4 of TIOPA 2010.

38 Double taxation relief: foreign nominal rates

(1) No extended time limit claim may be made on or after 20 July 2022 for a credit calculated by reference to a foreign nominal rate of tax unless subsection (2) or (3) applies in relation to the claim.

(2) This subsection applies in relation to an extended time limit claim if the adjustment in the amount of tax payable that gives rise to the claim—

(a) is not calculated by reference to a foreign nominal rate of tax, and

(b) occurred on or after 21 July 2016 but before 20 July 2022.

(3) This subsection applies in relation to an extended time limit claim if the claim relates to an accounting period that ended before 20 July 2022 ("the relevant accounting period") and as at that date—

(a) an appeal under section 31 of TMA 1970 against an assessment to tax in relation to the relevant accounting period has been brought but has not been finally determined or withdrawn,

(b) an enquiry under paragraph 5 of Schedule 1A to TMA 1970 into a claim in relation to the relevant accounting period could be opened or is in progress,

(c) an appeal against a conclusion stated in respect of such a claim, or an amendment of such a claim, as a result of an enquiry under that paragraph—

(i) could be brought, or

(ii) has been brought but has not been finally determined or withdrawn,

(d) an enquiry under Part 4 of Schedule 18 to FA 1998 into the company tax return for the relevant accounting period could be opened or is in progress, or

(e) an appeal against an amendment of that return as a result of an enquiry under that Part—

(i) could be brought, or

(ii) has been brought but has not been finally determined or withdrawn.

(4) An "extended time limit claim" is a claim under—

(a) section 79 of TIOPA 2010 (extended time limits for certain claims), or

(b) section 806(2) of ICTA (extended time limits for certain claims in relation to accounting periods to which section 79 of TIOPA 2010 does not apply).

Chargeable gains

39 Payments to farmers under the lump sum exit scheme etc

(1) An amount paid to a person ("P") under the lump sum exit scheme is—

(a) in a case where P satisfied the eligibility conditions when the payment was made, to be treated as an amount of capital nature that is treated as a chargeable gain accruing to P on the disposal of an asset for the purposes of TCGA 1992;

(b) in a case where P did not satisfy the eligibility conditions when the payment was made, to be treated as an amount of a revenue nature.

(2) Where—

(a) a person ("P") makes an application for a lump sum under the lump sum exit scheme,

(b) P satisfies the eligibility conditions at any time during the interim period, and

(c) during the interim period, an amount is paid to P under the basic payment scheme,

the amount is to be treated as an amount of capital nature that is treated as a chargeable gain accruing to P on the disposal of an asset for the purposes of TCGA 1992.

(3) Where—

(a) a person ("P") makes an application for a lump sum under the lump sum exit scheme,

(b) P does not satisfy the eligibility conditions at any time during the interim period, and

(c) during the interim period, an amount is paid to P under the basic payment scheme,

the amount is to be treated as an amount of a revenue nature.

(4) For the purposes of this section—

the "lump sum exit scheme" means the Agriculture (Lump Sum Payment) (England) Regulations 2022 (S.I. 2022/390);

the "basic payment scheme" means Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009;

"eligibility conditions" means the conditions in regulation 5 of the lump sum exit scheme;

the "interim period", in relation to P, means the period—

(a) beginning with the day on which the lump sum exit scheme came into force (see regulation 1(1) of that scheme), and

(b) ending with the scheme end date;

the "scheme end date" has the same meaning as in the lump sum exit scheme (see regulation 2(1) of that scheme).

(5) This section has effect in relation to amounts whether paid before or after the coming into force of this Act.

40 Contracts completed after ordinary notification period

(1) In TCGA 1992, after section 28 (time of disposal and acquisition where asset disposed of under contract) insert—

"28A Contracts completed after ordinary notification period

(1) This section applies in relation to chargeable gains or allowable losses accruing on the disposal and acquisition of an asset under a contract where the asset is conveyed or transferred after the ordinary notification period relating to the chargeable period in which the asset was disposed of and acquired in accordance with section 28.

(2) The following references are to be read as references to the chargeable period in which the conveyance or transfer takes place—

(a) the references in section 7(1C) of the Management Act (income tax and capital gains tax: period for giving notice of chargeability) to the year of assessment;

(b) the references in sections 34(1) and 36(1) and (1A) of the Management Act (income tax and capital gains tax: time limits for assessments) to the year of assessment to which an assessment relates;

(c) the reference in section 43(1) of the Management Act (income tax and capital gains tax: time limit for making claims) to the year of assessment to which a claim relates;

(d) the reference in paragraph 2(2) of Schedule 18 to the Finance Act 1998 (corporation tax: period for giving notice of chargeability) to the accounting period;

(e) the references in paragraph 46(1), (2) and (2A) of Schedule 18 to the Finance Act 1998 (corporation tax: time limits for assessments) to the accounting period to which an assessment relates;

(f) the reference in paragraph 55 of Schedule 18 to the Finance Act 1998 (general time limit for making claims) to the accounting period to which a claim for relief relates.

(3) For the purposes of subsection (1), the "ordinary notification period" relating to a chargeable period is—

(a) in the case of capital gains tax, the period of 6 months from the end of the chargeable period, and

(b) in the case of corporation tax, the period of 12 months from the end of the chargeable period.

(4) Where a claim, election, application or notice is made, given, revoked or varied by virtue of this section, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of amendments, assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period."

(2) The amendment made by subsection (1) has effect—

(a) for the purposes of corporation tax, in relation to any disposal and acquisition of an asset under a contract that is entered into on or after 1 April 2023, and

(b) for all other purposes, in relation to any disposal and acquisition of an asset under a contract that is entered into on or after 6 April 2023.

41 Separated spouses and civil partners

(1) TCGA 1992 is amended in accordance with subsections (2) to (5).

(2) In Part 3 (individuals, partnerships, trusts and collective investment schemes), in Chapter 1 (miscellaneous provisions), in section 58 (spouses and civil partnerships), for subsection (1) substitute—

"(1A) If an individual ("A") disposes of an asset to another individual ("B") in circumstances where any of subsections (1B) to (1D) applies, A and B are to be treated as if B acquired the asset from A for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to A.

(1B) This subsection applies where the disposal is made while A and B—

(a) are married to, or are civil partners of, each other, and

(b) are living together.

(1C) This subsection applies where the disposal is made—

(a) while A and B are married to, or are civil partners of, each other,

(b) at a time when A and B have ceased to live together, and

(c) on or before the earlier of—

(i) the last day of the third tax year after the tax year in which A and B ceased to live together, or

(ii) the day on which a court grants an order or decree for A and B's divorce, the annulment of their marriage, the dissolution or annulment of their civil partnership, their judicial separation or, as the case may be, their separation in accordance with a separation order.

(1D) This subsection applies where—

(a) A and B have ceased to be, or are in the process of ceasing to be, married to, or civil partners of, each other, and

(b) the disposal of the asset is in accordance with an agreement or order within subsection (2)(a) or (b) of section 225B (disposals in connection with divorce etc), but as if, in subsection (2)(a), after "partner" there were inserted ", or former spouse or civil partner,"."

(3) In section 225B (disposals in connection with divorce etc)—

(a) in subsection (1)(b), after "to" insert "someone other than";

(b) in subsection (3), after "disposal to" insert "someone other than".

(4) After section 225B insert—

"225BA Deferred payments on disposals in connection with divorce etc

(1) This section applies where—

(a) an individual ("A") ceases to live with A's spouse or civil partner ("B") in a dwelling-house or part of a dwelling-house,

(b) immediately before A ceases to live with B, the dwelling-house or part is A's only or main residence,

(c) A disposes of, or of an interest in, that dwelling-house or part to B ("the initial disposal"), and

(d) the initial disposal is in accordance with a deferred sale agreement or order.

(2) If—

(a) in accordance with the deferred sale agreement or order A receives a sum in respect of a share of any profit made by B upon B's disposal of, or of an interest in, the dwelling-house or part, and

(b) the receipt of that sum would be treated (apart from this section) as a disposal falling with section 22 (disposal where capital sums derived from assets),

that receipt is to be treated for the purposes of this Act as a gain attributable to the initial disposal but accruing to A at the time the sum is received.

(3) In this section, a "deferred sale agreement or order" is an agreement or order of a court which—

(a) is within paragraph (a) or (b), as the case may be, of section 225B(2) (agreements and orders of the court in relation to divorce etc), and

(b) includes a term entitling A to receive a share of any profit made by B as mentioned in subsection (2)(a)."

(5) In Part 8 (supplemental), in section 288 (interpretation), in subsection (3), after "partner" insert "(however expressed)".

(6) The amendments made by this section apply in relation to disposals made on or after 6 April 2023.

42 Carried interest: election to pay tax as scheme profits arise

(1) TCGA 1992 is amended as follows.

(2) After section 103KF insert—

"103KFA Election for carried interest gains to be chargeable as scheme profits arise

(1) An individual ("A") may make an election under this section in respect of an investment scheme ("the relevant scheme") if—

(a) section 103KA applies in relation to A and the relevant scheme, or

(b) it is reasonable to expect that it will apply in relation to A and the relevant scheme.

(2) Subsection (3) applies for a tax year ("the relevant tax year") where an election made under this section has effect for that tax year.

(3) A chargeable gain is deemed to arise to A in the relevant tax year and is to be treated as accruing to A immediately before the end of the relevant tax year.

(4) The amount of the gain is the amount given by reducing—

(a) the amount of carried interest that would arise to A in the relevant tax year in the circumstances mentioned in subsection (5), by

(b) the sum of chargeable gains deemed to arise to A under this section in respect of the relevant scheme in previous tax years.

(5) Those circumstances are that—

(a) all of the investments held by the relevant scheme in the relevant tax year, and previously held by the scheme, whose disposal would be relevant to A's entitlement to carried interest, were disposed of in the relevant tax year,

(b) the amount realised on the disposal of each investment that was not actually disposed of in, or before, the relevant tax year were the amount of the costs to the relevant scheme in acquiring that investment,

(c) all income that was received by the scheme (whether before or during the relevant tax year) and that would be relevant to A's entitlement to carried interest, were received in the relevant tax year, and

(d) all profits realised by the scheme as a result of those disposals and the receipt of that income were distributed to its investors in the relevant tax year.

(6) Where—

(a) distributions were made by the scheme to external investors before the relevant tax year, and

(b) the timing of those distributions affects the amount of carried interest that actually arises to A,

the amount of carried interest to be presumed to arise in the circumstances mentioned in subsection (5) is to reflect the fact those distributions were made before the relevant tax year.

(7) But if reflecting that fact would lead to a presumption that an amount of carried interest had arisen before the relevant tax year, any such amount is to be presumed to arise in the relevant tax year.

(8) A chargeable gain treated as accruing to an individual under subsection (3) is a chargeable gain accruing on the disposal of an asset situated outside the United Kingdom only to the extent that the individual performs investment management services in respect of the relevant scheme outside the United Kingdom.

(9) An election under this section—

(a) must be made by notice given to an officer of Revenue and Customs, and

(b) may not be revoked.

(10) A notice making an election—

(a) must state the first tax year for which it is to have effect, and

(b) may not be given after 31 January following the end of that tax year.

103KFB Election in relation to scheme to apply to associated schemes

(1) Where an election has been made under section 103KFA in relation to an investment scheme ("S") that is associated with another investment scheme, the election applies in respect of the other scheme (whether or not the conditions for an election to be made in respect of the other scheme were met at that time).

(2) "Associated", in relation to two or more investments schemes, is to be construed in accordance with section 809FZZ of ITA 2007.

103KFC Interaction with other charges

(1) The accrual of a chargeable gain treated as accruing to an individual under section 103KFA(3) does not prevent the individual or any other person being charged to tax (whether income tax, capital gains tax or any other tax, and including as a result of section 103KA) in relation to carried interest that arises to the individual under arrangements with the relevant scheme.

(2) But subsection (3) applies where an individual—

(a) has made an election under section 103KFA,

(b) has accrued a chargeable gain treated as accruing under section 103KFA(3),

(c) has paid (and has not been repaid) an amount of capital gains tax that is attributable to that chargeable gain, and

(d) is charged to tax (whether income tax, capital gains tax or another tax) in relation to carried interest that—

(i) arises to the individual under arrangements with the relevant scheme, and

(ii) arises in or after the tax year in which a gain first accrued under that section.

(3) The individual may make a claim for one or more consequential adjustments to be made reducing the tax mentioned in subsection (2)(d).

(4) On a claim under subsection (3) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(5) The value of any consequential adjustments made must not exceed the lesser of—

(a) the amount of capital gains tax paid as mentioned in subsection (2)(c), and

(b) the tax charged as mentioned in subsection (2)(d).

(6) Consequential adjustments may be made—

(a) in respect of any period, and

(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise.

(7) No claim may be made under section 103KE (carried interest: avoidance of double taxation) in respect of tax charged as a result of the accrual of a chargeable gain treated as accruing to an individual under section 103KFA(3).

103KFD Deemed accrual of loss where carried interest never arises

(1) Subsection (3) applies where—

(a) an individual has made an election under section 103KFA,

(b) the individual has accrued a chargeable gain treated as accruing under section 103KFA(3), and

(c) the conditions in subsection (2) are met.

(2) Those conditions are that—

(a) all, or substantially all, of the investments of the relevant scheme have been disposed of,

(b) the amount of carried interest that has arisen to the individual in respect of the relevant scheme since the beginning of the first tax year in which a gain is treated as accruing under section 103KFA(3) is less than the sum of chargeable gains treated as accruing to the individual under that section, and

(c) no further amount of carried interest can reasonably be expected to arise to the individual under arrangements with the relevant scheme.

(3) The individual is to be treated as accruing a loss immediately before the end of the tax year in which the conditions in subsection (2) are first met.

(4) The amount of that loss is the amount given by subtracting—

(a) the amount of carried interest that arose to the individual in respect of the relevant scheme since the beginning of the first tax year in which a gain is treated as accruing under section 103KFA(3), from

(b) the sum of the chargeable gains that have accrued under section 103KFA(3) (including any gain that accrues in respect of the tax year in which the loss accrues).

(5) Where a loss has accrued to an individual as a result of subsection (3)—

(a) section 103KFA(3) does not apply (in relation to the individual and the relevant scheme) for any tax year after the tax year in which the loss accrued, and

(b) if carried interest arises to the individual in respect of the relevant scheme after the loss accrued, the individual may not make a claim under section 103KFC(3) in respect of tax charged in relation to it.

103KFE Anti-avoidance

(1) This section applies where an election was made by an individual under section 103KFA and the main purpose, or one of the main purposes, of making the election is to cause a loss to be treated as accruing to the individual under subsection (3) of section 103KFD.

(2) Any such loss that would (in the absence of this section) accrue to the individual under that subsection 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, or

(c) amendment or disallowance of a claim, or otherwise."

(3) In section 1H (the main rates of CGT), in subsection (9)—

(a) omit the "or" at the end of paragraph (a), and

(b) after that paragraph insert—

"(aa) under section 103KFA(3) (gains on deemed carried interest where election made), or".

(4) The amendments made by this section have effect for the tax year 2022-23 and subsequent tax years.

43 Relief on disposal of joint interests in land

(1) In section 248A of TCGA 1992 (roll-over relief on disposal of joint interests in land: conditions), at end insert—

"(8) Section 248B applies in relation to cases where, immediately before the disposal, the land is held by a partnership comprising the landowner and the co-owner or co-owners (whether the partnership is formed in Scotland or elsewhere) as it applies in relation to other cases (and the partners are regarded as the landowner and the co-owner or co-owners for the purposes of this section and section 248B)."

(2) In section 248E of TCGA 1992 (relief on disposal of joint interests in private residence), at end insert—

"(9) This section applies in relation to cases where, immediately before the disposal, the land is held by a partnership comprising the landowner and the co-owner or co-owners (whether the partnership is formed in Scotland or elsewhere) as it applies in relation to other cases (and the partners are regarded as the landowner and the co-owner or co-owners for the purposes of this section)."

(3) The amendments made by this section have effect in relation to disposals made on or after 6 April 2023.

PART 2

ALCOHOL DUTY

CHAPTER 1

CHARGE TO ALCOHOL DUTY

Alcoholic products

44 Meaning of "alcoholic product"

(1) In this Part, "alcoholic product" means any of the following—
(a) spirits,
(b) beer,
(c) cider,
(d) wine, and
(e) any other fermented product.

(2) But a product listed in subsection (1) is not an alcoholic product if it is of an alcoholic strength of 1.2% or less.

(3) Schedule 6 defines each category of alcoholic product (and makes further provision in connection with the definitions).

45 Alcoholic strength

(1) The "alcoholic strength" of an alcoholic product is the ratio, expressed as a percentage, of—
(a) the volume of the alcohol contained in the product, to
(b) the volume of the product (inclusive of the alcohol contained in it).

(2) The alcoholic strength of any alcoholic product is to be determined by reference to the product as at 20°C.

(3) The Commissioners may by regulations make provision about the means of ascertaining the alcoholic strength, weight or volume of any alcoholic product

or other substance (including products or substances that are not in liquid form at 20°C) for the purposes of this Part.

(4) Regulations under subsection (3) may, in particular, include provision for ascertaining the alcoholic strength, weight or volume of anything contained in a bottle or container by reference to information given on the bottle or container or in documents relating to it.

(5) In this Part, "alcohol" means ethanol.

46 Categories of alcoholic products: regulations

The Treasury may by regulations—

(a) amend Schedule 6;

(b) provide that a beverage of an alcoholic strength exceeding 1.2%, of a description specified by or under the regulations, is to be treated as being an alcoholic product of a particular category listed in section 44 (whether or not it would otherwise fall within another category listed in that section).

Charge and rates

47 Alcohol duty: charge

(1) An excise duty ("alcohol duty") is charged on alcoholic products that are produced in, or imported into, the United Kingdom.

(2) But subsection (1) is subject to the exemptions in Chapters 4 and 6.

48 Rates

(1) Alcohol duty is charged at the rates shown in Schedule 7.

(2) But subsection (1) is subject to—

(a) section 50 (draught relief), and

(b) section 54 (small producer relief).

49 Excise duty point and payment

(1) Alcohol duty is to be paid, and the amount chargeable is to be determined and become due, in accordance with provision made by or under—

(a) section 88;

(b) section 1 of F(No. 2)A 1992.

(2) In this Part, "excise duty point" has the meaning given by section 1 of F(No. 2)A 1992.

CHAPTER 2

DRAUGHT RELIEF

50 Qualifying draught products: reduced rates

(1) Alcohol duty is charged on qualifying draught products at the reduced rates shown in Schedule 8 (instead of at the rates shown in Schedule 7 (the "full rates")).

(2) But a person liable to pay alcohol duty on qualifying draught products may, for the purposes of section 52(2), elect for duty to be charged at the full rates.

51 Alcoholic products qualifying for draught relief

(1) "Qualifying draught products" means alcoholic products that—

(a) are of an alcoholic strength of less than 8.5%, and

(b) at the excise duty point are contained in, or are being transported to a place in the United Kingdom for the purpose of being transferred to, a large draught container.

(2) But alcoholic products that are produced in the United Kingdom by a person otherwise than in accordance with an approval under section 82 are not qualifying draught products.

(3) A "large draught container" means a container which—

(a) is of a capacity of at least 20 litres, and

(b) incorporates, or is designed to connect to, a qualifying system for dispensing individual drinks.

(4) For the purposes of subsection (3)(b), "qualifying system" means—

(a) a pressurised gas delivery system, or

(b) a pump delivery system.

(5) The Commissioners may by regulations—

(a) amend subsection (3)(a) so as to specify a different capacity;

(b) amend subsection (4) so as to add or remove, or to vary the description of, a qualifying system.

52 Repackaging qualifying draught products

(1) For the purposes of this section, qualifying draught products are "repackaged" if—

(a) they are transferred to containers that are not large draught containers, but

(b) are not transferred in the course of serving a beverage for immediate consumption.

(2) A person may not repackage qualifying draught products on any premises in the United Kingdom unless—

(a) the repackaging is authorised, or
(b) alcohol duty was charged on the products at the full rates, in accordance with an election under section 50(2).

(3) Repackaging is "authorised" if it is carried out by a person who is—
(a) approved and registered under section 100G of CEMA 1979 by virtue of regulation 3 of the Warehousekeepers and Owners of Warehoused Goods Regulations 1999 (S.I. 1999/1278), or
(b) approved under section 82 (producers of alcoholic products).

(4) Where the repackaging of qualifying draught products is authorised, an amount equal to the duty shortfall is treated, for the purposes of this Part, as an amount of alcohol duty charged on the repackaged products.

(5) In this section and in section 53, the "duty shortfall" in relation to repackaged qualifying draught products is the difference between—
(a) the alcohol duty payable on the alcoholic products under section 50(1) (draught products: reduced rates), and
(b) the alcohol duty that would have been payable on the alcoholic products under section 48 (rates) if they had not, at the excise duty point, been qualifying draught products.

(6) For the purposes of subsection (2), the Commissioners may by regulations require a person to provide, on the supply to another person of qualifying draught products in respect of which an election under section 50(2) has been made, information or documents, of a description specified by or under the regulations, as evidence that duty has been charged at the full rates.

53 Repackaging in contravention of section 52(2)

(1) This section applies if a person repackages qualifying draught products in contravention of section 52(2).

(2) The Commissioners may—
(a) assess as alcohol duty due from the person mentioned in subsection (1) an amount equal to the duty shortfall, and
(b) notify that person or that person's representative of any assessment under paragraph (a).

(3) The conduct mentioned in subsection (1) attracts a penalty under section 9 of FA 1994, calculated by reference to the amount of duty referred to in section 52(5)(b).

(4) Any alcoholic products, articles (including packaging or equipment) or substances in the person's possession, used (or which may be used) for or in connection with the repackaging, are liable to forfeiture.

CHAPTER 3

SMALL PRODUCER RELIEF

Main provisions

54 Small producer relief: discounted rates

(1) Alcohol duty is charged at the discounted rate on small producer alcoholic products produced in a particular production year (the "current year").

(2) The discounted rate, in relation to small producer alcoholic products, is equal to—

(a) the standard rate, less

(b) the duty discount for those products (determined in accordance with section 59 and Schedule 9).

(3) In subsection (2)(a), the "standard rate", in relation to alcoholic products, means—

(a) the rate shown for products of that kind in Schedule 7, or

(b) if Schedule 8 applies (and no election has been made under section 50(2)) in relation to the products) the rate shown for products of that kind in that Schedule.

(4) For the purposes of this Chapter—

(a) a "production year" is a period of 12 months beginning with 1 February;

(b) the "previous year", in relation to alcoholic products, is the production year immediately preceding the current year in relation to those products.

55 Small producer alcoholic products

(1) "Small producer alcoholic products" are alcoholic products that—

(a) are of an alcoholic strength of less than 8.5%,

(b) are produced on premises that are small production premises,

(c) are not produced under licence, and

(d) meet such other conditions (if any) as are specified by regulations made by the Commissioners.

(2) Subsection (1) is subject to section 58 (exclusions).

56 Small production premises

(1) Production premises are "small production premises" in the current year in relation to alcoholic products if—

(a) the production limit condition is met, and

(b) the unlicensed product condition is met.

(2) The "production limit condition" is met in relation to non-group premises if, in relation to those premises, neither of the following amounts exceeds the small production limit—

(a) the alcohol production amount for the previous year;

(b) the estimated alcohol production amount for the current year,

(3) The "production limit condition" is met in relation to group premises if neither of the following amounts exceeds the small production limit—

(a) the aggregate of the alcohol production amount, in relation to every set of premises in the production group, for the previous year;

(b) the aggregate of the estimated alcohol production amount, in relation to every set of premises in the production group, for the current year.

(4) The "small production limit" is 4500 hectolitres.

(5) The "unlicensed product condition" is met—

(a) in relation to non-group premises if the condition in subsection (6) is met in relation to those premises;

(b) in relation to group premises if the condition in subsection (6) is met in relation to every set of premises in the production group.

(6) The condition is that—

(a) less than half of the alcohol production amount (if any), in relation to the premises, for the previous year was contained in alcoholic products produced under licence, and

(b) the producer reasonably estimates that less than half of the alcohol production amount, in relation to the premises, for the current year will be contained in alcoholic products produced under licence.

57 "Alcohol production amount" etc

(1) In relation to production premises—

(a) the "alcohol production amount" for a production year is the total amount of alcohol contained in alcoholic products produced on those premises in that year, and

(b) the "estimated alcohol production amount" for a production year is the producer's reasonable estimate of the alcohol production amount for those premises in that year.

(2) Subsection (1) is subject to subsections (3) to (6).

(3) The reference in subsection (1) to the alcoholic products produced on a set of premises does not include a reference to any alcoholic products that are—

(a) spoilt or destroyed before the excise duty point, or

(b) produced in the course of producing a different alcoholic product on those premises or on any set of connected premises.

(4) Subsection (5) applies where premises are in use for the purposes of the production of alcoholic products for part only (the "relevant part") of a

production year (including where premises begin to be used for those purposes part-way through a production year).

(5) The alcohol production amount or (as the case may be) the estimated alcohol production amount is treated, for the purposes of this Part, as being the amount given by—

(a) dividing the actual alcohol production amount, or (as the case may be) the estimate of that amount, by the number of days in the relevant part of the production year, and

(b) multiplying the amount given by paragraph (a) by the number of days in the production year.

(6) The Commissioners may, if satisfied that the circumstances are exceptional, agree with a producer that certain alcoholic products, or a certain quantity of alcoholic products, may be disregarded for the purposes of determining—

(a) the alcohol production amount, or

(b) the estimated alcohol production amount,

in relation to production premises for any production year.

58 Exclusions

Alcoholic products produced on any premises are not "small producer alcoholic products" if—

(a) they are exempt from duty under any of sections 72, 76 or 77,

(b) they are produced in the United Kingdom by a person otherwise than in accordance with an approval under section 82,

(c) at the time they are produced, the alcohol production amount attributable to the premises (in the case of non-group premises) or the production group (in the case of group premises) for the current year has exceeded the small production limit, or

(d) they are produced—

(i) in the case of non-group premises, before the producer has estimated (for the purposes of section 57) the alcohol production amount attributable to the premises for the current year, or

(ii) in the case of group premises, before the producer in relation to those premises or any connected premises has estimated (for the purposes of section 57) the alcohol production amount attributable to those premises or any connected premises for that year.

59 Duty discount for small producer alcoholic products

(1) The duty discount, in relation to small producer alcoholic products in a discount band, is the amount (in £ per litre of alcohol) given by the formula in subsection (2) and rounded up to the nearest penny.

(2) The formula is—

$$\frac{C + (M(A - S))}{A}$$

where—

C is the cumulative discount for the discount band (in £);

M is the marginal discount for the discount band (in £);

A is the relevant production amount (in hectolitres);

S is the start threshold for the discount band (in hectolitres).

(3) Where the alcoholic products are produced on non-group premises, the "relevant production amount" is—

(a) the alcohol production amount, in relation to those premises, for the previous year, or

(b) if that amount would be nil, the estimated alcohol production amount in relation to those premises for the current year.

(4) Where the alcoholic products are produced on group premises, the "relevant production amount" is —

(a) the aggregate of the alcohol production amount for the previous year, in relation to every set of premises in the production group on which alcoholic products were produced in that year, or

(b) if there are no premises in the production group on which alcoholic products were produced in the previous year, the aggregate of the estimated alcoholic production amount, in relation to every set of premises in the production group, for the current year.

(5) Small producer alcoholic products are in a particular discount band if the relevant production amount in relation to those products—

(a) exceeds the start threshold for that band, but

(b) does not exceed the end threshold for that band.

(6) The start and end thresholds, cumulative discount and marginal discount for a discount band are the figures shown—

(a) in relation to alcoholic products (other than qualifying draught products referred to in paragraph (b)) of a particular description, in the tables in Part 1 of Schedule 9, and

(b) in relation to qualifying draught products (in respect of which no election has been made under section 50(2)) of a particular description, in the tables in Part 2 of Schedule 9.

60 Assessments where incorrectly low rate of alcohol duty applied

(1) This section applies if—

(a) alcohol duty is charged on alcoholic products,

(b) it appears at the excise duty point that the alcoholic products are small producer alcoholic products, and

(c) it turns out that the alcoholic products were not small producer alcoholic products (including where circumstances were not as they appeared at the excise duty point or where circumstances subsequently changed).

(2) This section also applies if—

(a) alcohol duty is charged on small producer alcoholic products, and

(b) the discounted rate that at the excise duty point appeared to be the correct rate turns out to be lower than the correct rate (including where circumstances were not as they appeared at the excise duty point or where circumstances subsequently changed).

(3) The Commissioners—

(a) may assess as being alcohol duty due from the liable person an amount equal to the duty shortfall, and

(b) must notify that person or that person's representative of any assessment under paragraph (a).

(4) In this section "duty shortfall" means the difference between—

(a) the actual amount of alcohol duty chargeable on the alcoholic products, and

(b) the lower amount that, at the excise duty point, appeared to be the amount chargeable.

(5) The reference in subsection (3) to the "liable person" is a reference to the person liable to pay the alcohol duty on the alcoholic products.

Mergers and demergers

61 Mergers: general provisions

(1) This section and sections 62 to 67 apply where a small producer ("SP1") becomes connected with another small producer ("SP2").

(2) "Post-merger production group" means the production group that consists of—

(a) every set of premises on which SP1 or SP2 produces alcoholic products, and

(b) every set of connected premises,

and references to "post-merger production group premises" are to premises within paragraph (a) or (b).

(3) In relation to the post-merger production group—

(a) "Year 1" means the production year in which SP1 and SP2 become connected with one another,

(b) "Year 2" means the production year immediately following Year 1,

(c) "Year 3" means the production year immediately following Year 2, and

(d) the "pre-merger year" means the production year immediately preceding Year 1.

(4) Each of Year 1, Year 2 and Year 3 is a "merger transition year" in relation to the post-merger production group, unless any of the following apply—

(a) section 65 (early termination of merger transition period),

(b) section 66 (subsequent mergers), or

(c) section 68(8) (demergers in a merger transition year).

62 Modified "small production premises" test

(1) This section (instead of section 56) applies in relation to a post-merger production group in a merger transition year.

(2) Post-merger production group premises are "small production premises" in the current year in relation to alcoholic products if—

(a) the adjusted post-merger amount, determined in accordance with section 64 does not exceed the small production limit (within the meaning of section 56(4)), and

(b) in relation to each set of post-merger production group premises, less than half of the alcohol production amount (if any), in relation to those premises, for the previous year was contained in alcoholic products produced under licence.

63 Modified duty discount

(1) This section applies in relation to alcoholic products that are produced—

(a) on post-merger production group premises, and

(b) in a merger transition year.

(2) For the purposes of section 59, references to the "relevant production amount" are references to the adjusted post-merger amount (and subsections (3) and (4) of that section do not apply).

(3) Section 58(c) does not apply for the purposes of the application of section 55 or 59 in a merger transition year.

64 Adjusted post-merger amount

(1) In Year 1, the adjusted post-merger amount is the alcohol production amount in relation to the larger producer's premises for the pre-merger year, determined in accordance with section 57 (and the alcohol production amount attributable to the smaller producer for the pre-merger year is disregarded).

(2) In Year 2, the adjusted post-merger amount is the total of—

(a) the adjusted post-merger amount in Year 1, and

(b) one-third of the production difference for Year 2.

(3) In Year 3, the adjusted post-merger amount is the total of—

(a) the adjusted post-merger amount in Year 1, and
(b) two-thirds of the production difference for Year 3.

(4) The amount of the "production difference" for a merger transition year is the difference between—
(a) the aggregate of the alcohol production amount, in relation to every set of post-merger production group premises, for the previous year (determined in accordance with section 57), and
(b) the adjusted post-merger amount in Year 1.

(5) If the alcohol production amount attributable to SP1's premises for the pre-merger year is greater than the alcohol production amount attributable to SP2's premises for that year—
(a) SP1 is the "larger producer", and
(b) SP2 is the "smaller producer",
and vice versa.

(6) If the amount mentioned in subsection (5) is equal in relation to both SP1's premises and SP2's premises, either SP1 or SP2 may be treated as the "larger producer" for the purposes of this section.

(7) In subsections (1), (5) and (6), references to a person's premises are references to—
(a) the premises on which the person produces alcoholic products immediately before becoming connected with the other person mentioned in section 61(1), if those premises are (at that time) non-group premises, or
(b) if those premises are group premises, the production group which, at that time, includes those premises (and the reference in subsection (1) to the alcohol production amount in relation to those premises is a reference to the aggregate of the alcohol production amount in relation to those premises and every set of connected premises).

65 Early termination of merger transition period

(1) This section applies in relation to a post-merger production group if, in a relevant year, Amount A is less than Amount B.

(2) "Amount A" is the aggregate of the alcohol production amount, in relation to every set of premises in the group, for the production year immediately preceding the relevant year (determined in accordance with section 57).

(3) "Amount B" is the adjusted post-merger amount in the relevant year.

(4) Neither the relevant year, nor any subsequent production year, is a merger transition year in relation to the group.

(5) Each of Year 1, 2 and 3 is a "relevant year" for the purposes of this section.

66 Subsequent mergers

(1) This section applies if—

(a) a person who produces alcoholic products on group premises which are included in a post-merger production group (the "first post-merger group") becomes connected with another person who produces alcoholic products (that are not exempt from duty under any of sections 72, 76 or 77), and

(b) the producers mentioned in paragraph (a) become connected with one another in Year 1, 2 or 3 in relation to the first post-merger group.

(2) Neither the production year in which the producers mentioned in subsection (1)(a) become connected with one another, nor any subsequent year, is a merger transition year in relation to the first post-merger group.

(3) But subsection (2) does not prevent the application of sections 61 to 67 in relation to the post-merger production group that includes both of the producers mentioned in subsection (1)(a).

67 Simultaneous mergers

(1) Subsections (2) to (4) apply if, at the same time as SP1 becomes connected with SP2, SP1 also becomes connected with one or more other small producers (who are not already connected with one another).

(2) References in sections 61 and 64 to SP2 include references to the other small producers becoming connected with SP1.

(3) For the purposes of section 64—

(a) the "larger producer" is the producer with a greater alcohol production amount attributable to the producer's premises for the pre-merger year than any of the other producers mentioned in subsection (1), and

(b) each of the other producers is a "smaller producer",

(and this subsection applies instead of section 64(5)).

(4) If the amount mentioned in subsection (3)(a) is equal in relation to any two or more of the producers mentioned in subsection (1), any one of them may be treated as the "larger producer" for the purposes of section 64.

68 Demergers

(1) This section applies if a demerger event occurs in relation to a production group.

(2) A "demerger event" occurs, in relation to a production group, if a group producer (the "demerging producer") ceases to be connected with at least one other group producer.

(3) A "group producer" in relation to a production group means a person who produces alcoholic products on premises that are (immediately before the demerger event) included in the production group.

(4) For the purposes of the application of sections 56 and 59 in relation to the demerger year, the alcohol production amount for the immediately preceding production year, in relation to production premises that were (immediately before the demerger event) included in the group, is treated as being nil.

(5) If, before the end of the restricted period, the demerging producer becomes connected again with another group producer, none of sections 61 to 67 apply by reference to that connection.

(6) For the purposes of subsection (5), the "restricted period" is the period of 7 years beginning with the date on which the demerger event occurs.

(7) Subsection (8) applies if the demerger event occurs in Year 1, 2 or 3 in relation to a post-merger production group (the "relevant group").

(8) Neither the production year in which the event occurs, nor any subsequent year, is a merger transition year in relation to the relevant group.

(9) References in this section to the "demerger year" are references to the production year in which the demerger event occurs.

Interpretation of Chapter 3

69 "Producer", "production premises", "group premises" etc

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

(2) "Production premises" means premises (whether or not in the United Kingdom) on which alcoholic products are produced.

(3) Production premises are "group premises" at a time in a production year (the "reference time") if—

(a) a person ("P") who produces alcoholic products on the premises at the reference time or at any earlier time in that year, or

(b) a person connected with P,

also produces alcoholic products on any other premises at the reference time or any earlier time in that year.

(4) "Connected premises", in relation to group premises, means premises on which alcoholic products are produced at the reference time or at any earlier time in the current year, by—

(a) P, or

(b) a person connected with P.

(5) References to "the production group", in relation to group premises, are references to the group consisting of—

(a) the group premises, and

(b) every set of connected premises.

(6) Production premises are "non-group premises" at a time in a production year if, at that time, they are not group premises.

(7) In this Chapter—

(a) references to the "producer", in relation to a set of premises, are references to the person who produces alcoholic products on those premises, and

(b) references to a "small producer" are references to a person who produces small producer alcoholic products.

70 Connected persons

(1) References in this Chapter to a person being or becoming connected with another person are to be construed in accordance with section 1122 of CTA 2010.

(2) But the Commissioners may, if they think it appropriate, treat two connected persons as if they were not connected with one another for the purposes of this Chapter.

71 Index of defined expressions: Chapter 3

The following Table sets out expressions defined or explained for the purposes of this Chapter—

Expression	Provision
adjusted post-merger amount	section 64(1) to (3)
alcohol production amount	section 57(1)(a)
connected premises	section 69(4)
current year	section 54(1)
duty discount	section 59(1)
estimated alcohol production amount	section 57(1)(b)
group premises	section 69(3)
merger transition year	section 61(4)
non-group premises	section 69(6)
post-merger production group	section 61(3)
post-merger production group premises	section 61(2)
previous year	section 54(4)(b)
producer (in Chapter 3)	section 69(7)(a)
production group	section 69(5)
production premises	section 69(2)
production year	section 54(4)(a)

Expression	Provision
small producer	section 69(7)(b)
small producer alcoholic products	section 55
small production limit	section 56(4)
small production premises	section 56 (for general purposes); section 62 (in relation to a post-merger production group)
SP1 and SP2	section 61(1)
Year 1, Year 2 and Year 3	section 61(3)

CHAPTER 4

OTHER RELIEFS AND EXEMPTIONS

General

72 Exemption: production for personal consumption

Alcohol duty is not charged on alcoholic products which—

(a) are produced, in the United Kingdom, by a person who produces alcoholic products only for the person's own domestic use, and

(b) are not spirits.

73 Research and experiments

(1) This section applies where—

(a) alcohol duty is chargeable on alcoholic products produced in the United Kingdom, and

(b) the Commissioners are satisfied that the alcoholic products are to be used only for the purposes of research into, or experiments in, the production of alcoholic products.

(2) The Commissioners may remit or repay the alcohol duty.

74 Spoilt alcoholic products

(1) This section applies where—

(a) alcohol duty is chargeable on alcoholic products, and

(b) the Commissioners are satisfied that the alcoholic products have become spoilt or unfit for use.

(2) The Commissioners may remit or repay the alcohol duty.

75 Alcoholic ingredients

(1) Subsection (2) applies where a person proves to the satisfaction of the Commissioners that—

(a) alcohol duty is chargeable, and has been paid, on alcoholic products, and

(b) the alcoholic products have been used as an ingredient in the production or manufacture of—

(i) a qualifying food product, or

(ii) a beverage of an alcoholic strength of 1.2% or less.

(2) The person is entitled to repayment of the alcohol duty, on making a claim in accordance with this section (subject to subsection (7)).

(3) In this section "qualifying food product" means—

(a) vinegar,

(b) chocolates containing alcohol, where 100 kilograms of the chocolates would not contain more than 8.5 litres of alcohol, or

(c) any other food (for human consumption) which contains alcohol, where 100 kilograms of the food would not contain more than 5 litres of alcohol.

(4) Alcoholic products that are converted into vinegar are treated, for the purposes of this section, as being used as an ingredient in the production or manufacture of vinegar.

(5) Neither of the following is a qualifying food product for the purposes of this section—

(a) a beverage, including a beverage produced or intended for consumption in frozen form;

(b) a product that is intended for consumption as a substitute for a beverage.

(6) A claim for repayment under this section—

(a) must be in the form and manner, and contain the information, required by the Commissioners (either generally or in a particular case), and

(b) except so far as the Commissioners otherwise allow, relate to duty paid on alcoholic products used as an ingredient during a period of 3 months ending not more than 3 years before the claim is made.

(7) No repayment of duty may be made unless the Commissioners are satisfied that the repayment claimed does not relate to any duty which has been repaid or drawn back prior to the making of the claim.

(8) The Commissioners may remit any alcohol duty chargeable—

(a) on alcoholic products imported into the United Kingdom at a time when they are contained as an ingredient in a qualifying food product within subsection (3)(b) or (c), or

(b) on alcoholic products used as an ingredient in the manufacture or production in an excise warehouse of a qualifying food product within subsection (3)(b) or (c).

Spirits

76 Imported medical articles

(1) Alcohol duty is not charged on spirits contained in medical articles imported into the United Kingdom.

(2) "Medical article" means an article recognised by the Commissioners as being an article used for medical purposes.

77 Flavourings

(1) Alcohol duty is not charged on spirits contained in food and drink flavourings.

(2) In this section—

"food and drink flavourings" means any qualifying flavourings which are for use in—

(a) the preparation of food for human consumption, or

(b) the preparation of any beverage of an alcoholic strength not exceeding 1.2%;

"qualifying flavourings" means any products falling within commodity code 3302 of the customs tariff established by regulations made under section 8 of TCTA 2018.

78 Authorised use for certain purposes

(1) This section applies where a person proposes to use spirits, on which alcohol duty is chargeable, either—

(a) in the manufacture or preparation of medical articles, or

(b) for scientific purposes.

(2) This section also applies where—

(a) a person proposes to use spirits, on which alcohol duty is chargeable, for the purposes of art or manufacture (other than the manufacture of medical articles), and

(b) the Commissioners are satisfied that denatured alcohol would not be suitable for that use.

(3) The Commissioners may authorise the person to receive the spirits, and permit the delivery of the spirits from relevant premises to that person, without payment of the alcohol duty.

(4) In subsection (3), "relevant premises" means—

(a) an excise warehouse, or

(b) premises in respect of which a person is approved (including premises on which a person is authorised to hold alcoholic products without payment of duty) under section 82.

(5) An authorisation under this section may be given subject to the conditions (if any)—

(a) specified by the Commissioners in a notice published by them;

(b) imposed by them in a particular case.

(6) If a person fails to comply with a condition in respect of an authorisation, the failure attracts a penalty under section 9 of FA 1994.

(7) Subsection (8) applies if—

(a) the spirits are delivered to the person mentioned in subsection (3), and

(b) the spirits are used otherwise than for the purpose in respect of which the authorisation was given.

(8) The Commissioners—

(a) may assess as being alcohol duty due from the person an amount equal to the alcohol duty that would have been charged on the spirits if, at the time of delivery, no authorisation under this section had been given, and

(b) must notify that person or the person's representative of the assessment.

(9) In this section "medical article" has the same meaning as in section 76.

79 Imported goods not for human consumption

(1) The Commissioners may remit any alcohol duty chargeable on spirits imported into the United Kingdom at a time when the spirits are contained in goods that are not for human consumption.

(2) If it turns out that the goods containing spirits are for human consumption, the Commissioners—

(a) may assess as being alcohol duty due from the relevant person an amount equal to the alcohol duty that would (apart from subsection (1)) have been charged on the goods, and

(b) must notify the relevant person or that person's representative of the assessment.

(3) For the purposes of subsection (2), references to "the relevant person" are references to the importer.

80 Restrictions on use of certain articles

(1) If a person makes unauthorised use of an article to which this section applies—

(a) that conduct attracts a penalty under section 9 of FA 1994, and

(b) the article is liable to forfeiture.

(2) This section applies to—

(a) an article containing spirits which are exempt under section 76 from the charge to alcohol duty;

(b) an article in respect of which spirits were used in the manufacture or preparation, where remission of alcohol duty on the spirits was obtained under section 78.

(3) A person makes "unauthorised use" of an article for the purposes of this section if—

(a) the person uses the article other than for medical or scientific purposes, and

(b) the person has not complied with the requirements under subsection (4).

(4) The requirements are that—

(a) the person must obtain the written consent of the Commissioners to the use of the article other than for medical or scientific purposes, and

(b) the person must pay to the Commissioners an amount equal to the duty shortfall.

(5) In this section, the "duty shortfall" means—

(a) the difference between the duty charged on the spirits contained in, or used in the manufacture or preparation of, the article, and

(b) the duty which would have been chargeable had the article not been exempt under section 76 or the duty had not been remitted under section 78.

(6) The Commissioners may make regulations for the purpose of enforcing this section.

(7) Regulations under subsection (6) may, in particular, require a person carrying on any trade in which spirits or articles containing, manufactured or prepared with spirits are, in the opinion of the Commissioners, likely to be or have been used—

(a) to give and verify particulars of the materials which the person is using or has used, or the articles the person has sold;

(b) to produce any documents (of whatever nature) relating to such materials or articles.

(8) If a person contravenes or fails to comply with any regulation made under subsection (6), the contravention or failure attracts a penalty under section 9 of FA 1994.

(9) In this section, a reference to an article includes a reference to any part of that article.

Remission and repayment

81 Further provision about remission and repayment

(1) The remission or repayment of alcohol duty under any provision of this Chapter is subject to the conditions (if any)—

(a) specified by the Commissioners in a notice published by them;

(b) specified by or under regulations made by them;

(c) imposed by them in a particular case.

(2) If a person fails to comply with a condition in respect of the remission or repayment, the failure attracts a penalty under section 9 of FA 1994.

CHAPTER 5

REGULATED ACTIVITIES AND APPROVALS

82 Approval requirement: producers

(1) A person may not produce alcoholic products on any premises unless—

(a) the production on those premises is in accordance with an approval given under this section by the Commissioners to the person, or

(b) the person is exempt from the approval requirement under section 84 or 85.

(2) The Commissioners may approve a person under this section only if they are satisfied that the person is a fit and proper person to produce alcoholic products.

(3) An approval under this section may authorise the approved person to hold alcoholic products (including alcoholic products produced by another person in, or imported into, the United Kingdom) on certain premises without payment of alcohol duty.

(4) A person may not carry out other activities on those premises in relation to those alcoholic products, without payment of alcohol duty, except in accordance with an approval under this section.

(5) The reference in subsection (4) to "activities" includes, in particular, packaging and processing, or carrying out other operations on or in relation to, the alcoholic products.

83 Supplementary provision about approvals

(1) An approval under section 82 may be given to a person—

(a) in respect of—

(i) more than one category of alcoholic product;

(ii) more than one set of premises;

(b) for such period as the Commissioners think fit.

(2) An approval is subject to the conditions or restrictions (if any)—
  (a) specified by the Commissioners in a notice published by them;
  (b) specified by or under regulations made by them;
  (c) imposed by them in a particular case.

(3) The Commissioners may, at any time, revoke or vary the terms of an approval.

(4) An application for approval must be in the form and manner, and contain the information, specified by or under regulations made by the Commissioners.

84 Exemption: production for personal consumption

For the purposes of section 82(1)(b), a person is exempt from the approval requirement if—
  (a) the person produces alcoholic products only for the person's own domestic use, and
  (b) the alcoholic products are not spirits.

85 Exemption: research and experiments

For the purposes of section 82(1)(b), a person is exempt from the approval requirement if—
  (a) the person produces alcoholic products only for the purposes of research into, or experiments in, the production of alcoholic products, and
  (b) the person complies with, and the alcoholic products are produced in accordance with, the requirements specified—
    (i) by the Commissioners in a notice published by them, or
    (ii) by or under regulations made by the Commissioners.

86 Mixing alcoholic products

(1) A person may not mix two or more alcoholic products unless one of the following exemptions applies.

(2) The first exemption applies if the products are mixed—
  (a) either—
    (i) in accordance with an approval under section 82, or
    (ii) in an excise warehouse, and
  (b) the mixing takes place before the excise duty point.

(3) The second exemption applies if all of the alcoholic products being mixed—
  (a) fall within the same paragraph of section 44(1), and
  (b) are of the same alcoholic strength.

(4) The third exemption applies if—
  (a) the alcohol duty on each of the alcoholic products being mixed has been paid, and

(b) that amount is equal to or exceeds the amount of alcohol duty that would (if the mixing had taken place before the excise duty point) have been chargeable on the resulting mix.

(5) The fourth exemption applies if—

(a) the alcohol duty on each of the alcoholic products being mixed has been paid,

(b) the resulting mix is intended for consumption on the premises on which the mixing takes place, and

(c) the method of mixing is of a description specified in a notice published by the Commissioners.

87 Post-duty point dilution of alcoholic products

(1) A person may not mix water or any other substance with alcoholic products on which alcohol duty is chargeable if—

(a) the mixing takes places after the excise duty point in relation to that charge,

(b) the resulting product is intended for sale, and

(c) if the mixing had taken place immediately before the excise duty point, the amount of alcohol duty would have been greater than the amount actually payable.

(2) This section has effect, despite section 8 of the Isle of Man Act 1979, as if a removal of relevant alcoholic products to the United Kingdom from the Isle of Man constituted their importation into the United Kingdom (and references to the charge to alcohol duty and to the excise duty point are to be read accordingly).

88 Alcoholic products regulations

(1) The Commissioners may by regulations ("alcoholic products regulations") make provision—

(a) regulating the production, packaging, keeping and storage of alcoholic products produced in, or imported into, the United Kingdom;

(b) for determining when the production of any alcoholic product begins and when it is completed;

(c) for securing and collecting alcohol duty;

(d) for determining alcohol duty, the rate and the method of charging the duty;

(e) for charging alcohol duty, in specified circumstances, by reference to an alcoholic strength which any alcoholic product might reasonably be expected to have, or the rate of duty in force, at a time other than that at which the alcoholic product becomes chargeable;

(f) for determining the alcohol production amount in relation to a set of premises (for the purposes of Chapter 3 of this Part), in specified circumstances, by reference to an alcoholic strength which any alcoholic

product might reasonably be expected to have at a time other than that at which the alcoholic product is produced;

(g) for full or partial relief from alcohol duty in specified circumstances (and whether or not subject to conditions);

(h) regulating or prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, any alcoholic product;

(i) regulating the approval of persons under this Chapter, including the variation or revocation of the approval or of any condition or restriction to which it is subject;

(j) permitting, in specified circumstances, the removal of alcoholic products from certain premises without payment of duty (whether or not subject to conditions);

(k) make provision in respect of alcoholic products permitted to be removed from premises without payment of duty or on which alcohol duty has been remitted;

(l) regulating the transportation of alcoholic products;

(m) requiring the production of certificates as to matters relating to alcoholic products imported into the United Kingdom, and the production and producer of those products, as evidence that conditions for charging the duty at a particular rate are satisfied.

(2) Alcoholic products regulations may, in particular, include provision—

(a) requiring the making of returns;

(b) for notifications and other communications with the Commissioners to be made electronically;

(c) requiring persons to keep, and make available for inspection, specified records relating to alcoholic products;

(d) for the imposition under the regulations of requirements as to documents to accompany, or be provided with, alcohol products at any time during a specified period or in specified circumstances, and requiring production of those documents;

(e) conferring powers on an officer of Revenue and Customs to inspect, copy or remove for a reasonable period records or documents relating to alcoholic products;

(f) for assessing an amount as alcohol duty due from a person in specified circumstances;

(g) for the imposition under the regulations of conditions and restrictions (which may include a requirement to give a guarantee or other security).

(3) The reference in subsection (1)(k) to alcoholic products permitted to be removed from premises without payment of duty is treated as including a reference to alcoholic products that are—

(a) treated for the purposes of alcohol duty, by provision made (or having effect as if made) under section 12 of the Customs and Excise Duties

(General Reliefs) Act 1979 (supply of duty-free goods to His Majesty's ships), as exported,

(b) supplied to persons on whom relief from payment of alcohol duty is conferred by provision made under section 13A of that Act (reliefs from duties and taxes for persons enjoying certain immunities and privileges), or

(c) supplied for use on a ship, aircraft or railway vehicle as stores, in accordance with provision made under section 60A of CEMA 1979 (power to make regulations about stores).

(4) In this section, "specified" means specified by or under alcoholic products regulations.

89 Penalties and forfeiture

(1) This section applies if a person contravenes or fails to comply with—

(a) section 82,

(b) section 86(1),

(c) section 87(1), or

(d) any provision made by or under alcoholic products regulations.

(2) The person's conduct attracts a penalty under section 9 of FA 1994.

(3) Any alcoholic products, articles (including packaging or equipment) or substances in the person's possession, used (or which may be used) for or in connection with an action to which the contravention or failure relates, are liable to forfeiture.

CHAPTER 6

DENATURED ALCOHOL

90 Denatured alcohol

(1) Alcohol duty is not charged on denatured alcohol.

(2) "Denatured alcohol" means an alcoholic product which has been mixed with a substance, and in a manner, specified by or under regulations made by the Commissioners (and references, however expressed, to "denaturing" alcoholic products are to be construed accordingly).

(3) Provision made under subsection (2) may include provision specifying a substance, or a manner of mixing, by reference to particular circumstances or other factors, or to the approval or opinion of specified persons.

(4) Where—

(a) alcohol duty is chargeable on alcoholic products, and

(b) the Commissioners are satisfied that the alcoholic products are to be converted into denatured alcohol before the duty is required to be paid,

the duty is to be remitted.

91 Licence to manufacture and deal wholesale in denatured alcohol

(1) A person may not denature any alcoholic products, or deal wholesale in denatured alcohol, unless the person holds an excise licence as a denaturer under this section.

(2) For the purposes of this section, a person deals wholesale in denatured alcohol if the person sells, at any one time to any one person—

(a) a quantity of at least 20 litres of denatured alcohol, or

(b) a smaller quantity, specified by or under regulations made by the Commissioners, of denatured alcohol.

(3) The Commissioners may, at any time, revoke or suspend an excise licence under this section.

(4) An application for an excise licence as a denaturer must be in the form and manner, and contain the information, specified by the Commissioners in a notice published by them.

92 Regulations relating to denatured alcohol

(1) The Commissioners may, with a view to the protection of the revenue, by regulations make provision—

(a) regulating the denaturing of alcoholic products;

(b) regulating the supply, storage, removal, sale, delivery, receipt, use, export or shipment as stores of denatured alcohol;

(c) permitting alcoholic products to be denatured in a warehouse;

(d) permitting dealing wholesale (within the meaning of section 91) in denatured alcohol of a specified description, in specified circumstances, without an excise licence;

(e) regulating the import, receipt, removal, storage and use of alcoholic products for denaturing;

(f) regulating the storage and removal of substances to be used in denaturing alcoholic products;

(g) about the manner in which account is to be kept of stocks of denatured alcohol in the possession of persons licensed as denaturers under section 91 and of retailers of denatured alcohol.

(2) Regulations under this section may, in particular, include provision—

(a) for applications and other communications with the Commissioners to be made electronically;

(b) requiring persons licensed as denaturers under section 91 and retailers of denatured alcohol to keep, and make available for inspection, specified records relating to denaturing;

(c) conferring powers on an officer of Revenue and Customs to inspect, copy or remove for a reasonable period those records;

(d) for the imposition under the regulations of conditions and restrictions (which may include a requirement to give a guarantee or other security).

(3) In this section, "specified" means specified by or under regulations under this section.

93 Penalties and forfeiture

(1) This section applies if a person—

(a) fails to comply with section 91(1) (denaturing alcoholic products, or dealing wholesale in denatured alcohol, otherwise than in accordance with an excise licence), or

(b) contravenes or fails to comply with any provision made by or under regulations under section 92.

(2) Conduct mentioned in subsection (1)(a) or (b) attracts a penalty under section 9 of FA 1994.

(3) Any alcoholic product or denatured alcohol, article (including packaging or equipment) or substance in the person's possession, used (or which may be used) for or in connection with an action to which the contravention or failure relates is liable to forfeiture.

94 Defaults in respect of denatured alcohol: possession of excess alcoholic products

(1) This section applies if, in relation to a person who holds an excise licence under section 91 (the "denaturer"), at a time when an account is taken of the quantity of denatured alcohol in the denaturer's possession—

(a) there is a difference between the actual amount and the proper amount, and

(b) either—

(i) where the actual amount exceeds the proper amount, the amount of the excess is more than 1% of the permitted amount, or

(ii) where the proper amount exceeds the actual amount, the amount of the excess is more than 2% of the permitted amount.

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

(a) the "actual amount" is the quantity of alcoholic products of any description in the denatured alcohol in the denaturer's possession;

(b) the "proper amount" is the quantity of alcoholic products of the same description which, according to any accounts that are required to be kept by or under any regulations under section 92, ought to be in the denatured alcohol in the denaturer's possession.

(3) Where there is a difference between the actual amount and the proper amount, in relation to alcoholic products of a particular description, the "permitted amount" is the aggregate of—

(a) the quantity of alcoholic products of that description when an account was last taken, and

(b) the quantity of alcoholic products of that description that have since been lawfully added to the denaturer's stock.

(4) In a case within subsection (1)(b)(i), the relevant amount of any alcoholic products of the description to which the difference relates in the denaturer's possession is liable to forfeiture.

(5) The "relevant amount" for the purposes of subsection (4) is the amount corresponding to the amount of the excess mentioned in subsection (1)(b)(i), or such smaller amount as the Commissioners consider appropriate.

(6) In a case within subsection (1)(b)(ii), the denaturer must, on demand by the Commissioners, pay alcohol duty—

(a) on the amount of alcoholic products (of the same description) equal to the amount of the difference, or

(b) if the Commissioners specify a smaller amount of alcoholic products (of the same description) in the demand, on that amount.

(7) A demand made for the purposes of this section is to be combined, as if there had been a default of a kind mentioned in section 12 of FA 1994 (assessments to excise duty) with an assessment and notification under that section of the amount of duty due in consequence of the demand.

95 Defaults in respect of denatured alcohol: supply and use of denatured alcohol

(1) This section applies if a person, in contravention of regulations under section 92, uses or supplies denatured alcohol containing alcoholic products of any description.

(2) The person must, on demand by the Commissioners, pay alcohol duty—

(a) on the amount of alcoholic products contained, at the time of supply or use, in the denatured alcohol, or

(b) if the Commissioners specify a smaller amount of alcoholic products (of the same description) in the demand, on that amount.

(3) For the purposes of this section, a supply of denatured alcohol to a person who—

(a) by reason of regulations under section 92 is prohibited from receiving it unless authorised to do so by or under the regulations, but

(b) is not so authorised,

is treated as being a supply in contravention of those regulations.

(4) A demand made for the purposes of this section is to be combined, as if there had been a default of a kind mentioned in section 12 of FA 1994 (assessments

to excise duty) with an assessment and notification under that section of the amount of duty due in consequence of the demand.

96 Inspection of premises etc

(1) An officer of Revenue and Customs may, at any reasonable time—

(a) enter and inspect the premises of a person authorised by regulations under section 92 to receive denatured alcohol,

(b) inspect and examine any denatured alcohol on the premises, and

(c) take samples of any denatured alcohol or of any goods containing denatured alcohol (paying a reasonable price for each sample).

(2) Subsection (1) does not affect any other power conferred by the customs and excise Acts.

97 Prohibition of use of denatured alcohol etc as beverage or medicine

(1) It is an offence for a person—

(a) to prepare, or attempt to prepare, denatured alcohol for use as a beverage or as a mixture with a beverage;

(b) to sell denatured alcohol (whether or not prepared as described in paragraph (a)) as a beverage or mixed with a beverage;

(c) to use any denatured alcohol or a derivative of it in the preparation of any article capable of being used as a beverage;

(d) to sell or possess any article capable of being used as described in paragraph (c), in the preparation of which denatured alcohol or any derivative of it has been used;

(e) except as permitted by the Commissioners and in accordance with any conditions imposed by them—

(i) to purify, or attempt to purify, denatured alcohol, or

(ii) after denatured alcohol has once been used, to attempt to recover the spirit or alcohol contained in it by distillation, condensation or in any other manner.

(2) Subsection (1) is subject to subsections (5) and (6).

(3) A person who commits an offence under this section is liable on summary conviction to a penalty not exceeding level 3 on the standard scale.

(4) Any denatured alcohol, or any article (including packaging or equipment), in respect of which an offence under this section is committed is liable to forfeiture.

(5) No offence is committed under this section where a person uses denatured alcohol or any derivative of it—

(a) in the preparation for use as a medical article (as defined in section 76),

(b) in the making of anything sold or supplied in accordance with regulations made by the Commissioners under section 92, or

(c) in art or manufacture.

(6) No offence is committed under this section where a person sells or possesses anything that—

(a) is permitted to be prepared or made, by reference to paragraph (a) or (b) of subsection (5), for a use described in that paragraph, and

(b) is sold or possessed for that use.

(7) In this section, references to denatured alcohol include references to—

(a) methanol, and

(b) any mixture containing denatured alcohol or methanol.

CHAPTER 7

WHOLESALING OF CONTROLLED ALCOHOLIC PRODUCTS

98 Definitions

(1) This section defines certain expressions used in this Chapter.

(2) A sale is of "controlled alcoholic products" if—

(a) it is a sale of alcoholic products on which alcohol duty is charged under this Part at a rate greater than nil, and

(b) the excise duty point for the alcoholic products falls at or before the time of the sale.

(3) Controlled alcoholic products are sold "wholesale" if—

(a) the sale is of any quantity of the alcoholic products,

(b) the seller is carrying on a trade or business and the sale is made in the course of that trade or business,

(c) the sale is to a buyer carrying on a trade or business, for sale or supply in the course of that trade or business, and

(d) the sale is not an incidental sale, a group sale or an excluded sale,

and a reference to buying controlled alcoholic products wholesale is to be read accordingly.

(4) A sale is an "incidental sale" if—

(a) the seller makes authorised retail sales of alcoholic products of any description, and

(b) the sale is incidental to those sales.

(5) A sale is an "authorised retail sale" if it is made by retail under and in accordance with a licence or other authorisation under an enactment regulating the sale and supply of alcohol.

(6) A sale is a "group sale" if the seller and the buyer are both bodies corporate which are members of the same group (see section 106).

(7) A sale is an "excluded sale" if it is of a description specified by or under regulations made by the Commissioners.

(8) "Controlled activity" means—

(a) selling controlled alcoholic products wholesale,

(b) offering or exposing controlled alcoholic products for sale in circumstances in which the sale (if made) would be a wholesale sale, or

(c) arranging in the course of a trade or business for controlled alcoholic products to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale.

(9) "UK person" means a person who is UK-established for the purposes of value added tax (see paragraph 1(10) of Schedule 1 to VATA 1994).

(10) "Enactment" includes an enactment contained in—

(a) an Act of the Scottish Parliament;

(b) an Act or Measure of Senedd Cymru;

(c) Northern Ireland legislation.

(11) References in this Chapter to the "alcohol wholesaling provisions" are references to this section and sections 99 to 106, and Schedule 10.

99 Further provision relating to definitions

(1) The Commissioners may by regulations make provision as to the cases in which sales are, or are not, to be treated for the purposes of this Chapter as—

(a) wholesale sales,

(b) sales of controlled alcoholic products,

(c) incidental sales,

(d) authorised retail sales, or

(e) group sales.

(2) The Commissioners may by regulations make provision as to the cases in which a person is, or is not, to be treated for the purposes of this Chapter as carrying on a controlled activity by virtue of section 98(8)(b) or (c).

100 Approval to carry on controlled activity

(1) A UK person may not carry on a controlled activity otherwise than in accordance with an approval given by the Commissioners under this section.

(2) The Commissioners may approve a person under this section to carry on a controlled activity only if they are satisfied that the person is a fit and proper person to carry on the activity.

(3) The Commissioners may approve a person under this section to carry on a controlled activity for such period as they think fit.

(4) An approval may be given subject to the conditions or restrictions (if any)—

(a) specified by the Commissioners in a notice published by them;

(b) specified by or under regulations made by them;

(c) imposed by them in a particular case.

(5) The conditions or restrictions may include conditions or restrictions requiring the controlled activity to be carried on only at or from premises specified or approved by the Commissioners.

(6) The Commissioners may at any time revoke or vary the terms of an approval under this section.

(7) In this Chapter "approved wholesaler" means a person approved under this section to carry on a controlled activity.

101 The register of approved wholesalers

(1) The Commissioners must maintain a register of approved wholesalers.

(2) The register is to contain such information relating to approved wholesalers as the Commissioners consider appropriate.

(3) The Commissioners may make publicly available such information contained in the register as they consider necessary to enable those who deal with a person who carries on a controlled activity to determine whether the person in question is an approved wholesaler for the purposes of that activity.

(4) The information may be made available by such means as the Commissioners consider appropriate.

102 Regulations relating to approval, registration and controlled activities

(1) The Commissioners may by regulations make provision—

(a) regulating the approval and registration of persons under the alcohol wholesaling provisions,

(b) regulating the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject,

(c) about the register maintained under section 101,

(d) regulating the carrying on of controlled activities, and

(e) imposing obligations on approved wholesalers.

(2) The regulations may, in particular, make provision—

(a) requiring applications, and other communications with the Commissioners, to be made electronically;

(b) as to the procedure for the approval and registration of bodies corporate which are members of the same group and for members of such a group to be jointly and severally liable for any penalties imposed under—

(i) the regulations, or

(ii) Schedule 10;

(c) requiring approved wholesalers to keep and make available for inspection such records relating to controlled activities as may be specified by or under the regulations;

(d) conferring powers on an officer of Revenue and Customs to inspect, copy or remove for a reasonable period those records;

(e) imposing a penalty of an amount specified by the regulations (which must not exceed £1,000) for a contravention of—

(i) the regulations, or

(ii) any condition or restriction imposed under the alcohol wholesaling provisions;

(f) for the assessment and recovery of such a penalty;

(g) for alcoholic products (whether or not charged with any duty and whether or not that duty has been paid) to be subject to forfeiture for a contravention of—

(i) the alcohol wholesaling provisions or the regulations made under this section, or

(ii) any condition or restriction imposed under the alcohol wholesaling provisions.

103 Restriction on buying controlled alcoholic products wholesale

(1) A person may not—

(a) buy controlled alcoholic products wholesale from a UK person, unless the person is an approved wholesaler in relation to the sale, or

(b) buy relevant alcoholic products from an Isle of Man person, unless the person is an Isle of Man approved wholesaler.

(2) In this section and in section 104(4)—

(a) "Isle of Man person" means a person who is established in the Isle of Man for the purposes of value added tax under any provision of the law in force in the Isle of Man corresponding to paragraph 1(10) of Schedule 1 to VATA 1994;

(b) "Isle of Man approved wholesaler" means an Isle of Man person who is approved under any provision of the law in force in the Isle of Man corresponding to section 100;

(c) "relevant alcoholic products" means alcoholic products which, if they had been produced in the United Kingdom, would have been charged with alcohol duty under this Part at a rate greater than nil.

104 Offences

(1) A person who contravenes section 100(1) by selling controlled alcoholic products wholesale commits an offence if the person knows or has reasonable grounds to suspect that—

(a) the buyer is carrying on a trade or business, and

(b) the alcoholic products are for sale or supply in the course of that trade or business.

(2) A person who contravenes section 100(1) by offering or exposing controlled alcoholic products for sale in circumstances in which the sale (if made) would be a wholesale sale commits an offence if the person intends to make a wholesale sale of the alcoholic products.

(3) A person who contravenes section 100(1) by arranging in the course of a trade or business for controlled alcoholic products to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale, commits an offence if the person intends to arrange for the alcoholic products to be sold wholesale.

(4) A person who contravenes section 103 commits an offence if the person knows or has reasonable grounds to suspect that—

(a) the UK person from whom the controlled alcoholic products are bought is not an approved wholesaler in relation to the sale, or

(b) the Isle of Man person from whom the relevant alcoholic products are bought is not an Isle of Man approved wholesaler in relation to the sale.

(5) A person who commits an offence under this section is liable on summary conviction—

(a) in England and Wales to—

(i) imprisonment for a term not exceeding the general limit in a magistrates' court,

(ii) a fine, or

(iii) both,

(b) in Scotland to—

(i) imprisonment for a term not exceeding 12 months,

(ii) a fine not exceeding the statutory maximum, or

(iii) both, and

(c) in Northern Ireland to—

(i) imprisonment for a term not exceeding 6 months,

(ii) a fine not exceeding the statutory maximum, or

(iii) both.

(6) A person who commits an offence under this section is liable on conviction on indictment to—

(a) imprisonment for a period not exceeding 7 years,

(b) a fine, or

(c) both.

105 Penalties

Schedule 10 contains provision about penalties for contraventions of the alcohol wholesaling provisions.

106 Groups

(1) Two or more bodies corporate are members of a group for the purposes of the alcohol wholesaling provisions if each is established or has a fixed establishment in the United Kingdom and—

(a) one of them controls each of the others,

(b) one person (whether a body corporate or an individual) controls all of them, or

(c) two or more individuals carrying on a business in partnership control all of them.

(2) For the purposes of this section, a body corporate is to be taken to control another body corporate if—

(a) it is empowered by or under an enactment to control that body's activities, or

(b) it is that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006.

(3) For the purposes of this section—

(a) an individual or individuals are to be taken to control a body corporate if the individual or individuals (were the individual or individuals a company) would be that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006 (meaning of "subsidiary" etc), and

(b) a body corporate is established or has a fixed establishment in the United Kingdom if it is so established or has such an establishment for the purposes of value added tax.

107 Index of defined expressions: Chapter 7

The following Table sets out expressions defined or explained for the purposes of this Chapter—

Expression	Provision
alcohol wholesaling provisions	section 98(11)
approved wholesaler	section 100(7)
authorised retail sale	section 98(5)
controlled activity	section 98(8)
enactment	section 98(10)
group (in relation to bodies corporate)	section 106(1)
group sale	section 98(6)
incidental sale	section 98(4)

Expression	Provision
Isle of Man person and Isle of Man approved wholesaler	section 103(2)(a) and (b)
relevant alcoholic products (for the purposes of sections 103 and 104(4))	section 103(2)(c)
sale of controlled alcoholic products	section 98(2)
UK person	section 98(9)
wholesale	section 98(3)

CHAPTER 8

SUPPLEMENTARY

108 Reviews and appeals

Schedule 11 makes provision about reviews and appeals.

109 Forfeiture: supplementary provision

(1) An officer of Revenue and Customs may destroy, break up or spill anything seized as liable to forfeiture under any provision of this Part.

(2) Subsection (1) does not affect any other provision of, or power conferred by, the customs and excise Acts.

110 Removal of goods: application of section 95 of CEMA 1979

(1) Section 95 of CEMA 1979 (deficiency in goods occurring in course of removal from warehouse without payment of duty) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsection (1) applies in relation to goods that are alcoholic products as if references, in that subsection and in section 94, to a "warehouse" included references to premises in respect of which a person is authorised, under section 82 of the Finance (No. 2) Act 2023, to hold alcoholic products without payment of duty (and references to "warehoused" are to be construed accordingly).

(1B) Subsection (1) applies (as modified by subsection (1A)) in relation to alcoholic products on which alcohol duty has been remitted as it applies to alcoholic products lawfully permitted to be taken from premises as mentioned in that subsection."

(3) In subsection (2), in the words before paragraph (a), after "subsection (1)" insert ", (1A) or (1B)".

111 Drawback

(1) This section applies where drawback of alcohol duty is allowable, under regulations made under section 60A of CEMA 1979 (power to make regulations about stores) or section 2 of F(No. 2)A 1992 (power to provide for drawback of excise duty), to a person who produces alcoholic products in accordance with an approval under section 82 ("the producer").

(2) Subject to the conditions (if any) that the Commissioners impose, drawback of alcohol duty may be set against any amount to which the producer is chargeable in respect of alcohol duty (and any reference in CEMA 1979 to drawback payable is to be construed in accordance with this section).

112 Duty stamps

Schedule 12 makes provision about duty stamps.

CHAPTER 9

REPEALS, FURTHER AMENDMENTS AND TRANSITIONAL PROVISIONS

Repeals and further amendments

113 Repeals

(1) The Alcoholic Liquor Duties Act 1979 is repealed.

(2) The following sections of FA 1995 are repealed—
(a) section 4 (alcoholic ingredients relief);
(b) section 5 (denatured alcohol).

114 Minor and consequential amendments

Schedule 13 makes minor and consequential amendments relating to this Part.

Transitional provision

115 Temporary provision: wine

(1) Wine of an alcoholic strength of at least 11.5% but not exceeding 14.5% is treated, for the purposes of the charge to alcohol duty, as if it were of an alcoholic strength of 12.5%.

(2) This section expires at the end of the period of 18 months beginning with the day on which section 48 (rates) comes into force.

116 Temporary provision: cider

Alcohol duty is not charged on cider which is produced—
(a) at a time before section 82 (approvals) comes into force, and

(b) by a person who, at that time, is exempt from the requirement to register under section 62 of ALDA 1979 by reason of an order made (or having effect as if made) under subsection (3) of that section.

CHAPTER 10

FINAL PROVISIONS

117 Interpretation of this Part

(1) The following Table sets out expressions defined or explained in this Part for general purposes—

Expression	Provision
alcohol	section 45(5)
alcoholic products	section 44(1) and (2)
alcoholic strength	section 45(1)
beer	Schedule 6, paragraph 3
cider	Schedule 6, paragraph 5
denatured alcohol	section 90
excise duty point	section 49
other fermented product	Schedule 6, paragraph 12
qualifying draught product	section 51(1)
spirits	Schedule 6, paragraph 1
wine	Schedule 6, paragraph 11

(2) This Part is to be construed as one with the Customs and Excise Acts 1979.

(3) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by any other Act included in the Customs and Excise Acts 1979 has, except where the context otherwise requires, the same meaning in this Act or any such instrument as in that Act.

118 Regulations: supplementary and general

(1) The Commissioners may by regulations make provision supplementing provision made in relation to alcohol duty by or under this Part or any other enactment.

(2) A power to make regulations under any provision of this Part may be exercised so as to make different provision for different purposes or areas.

(3) A power to make regulations under any provision of this Part includes power to make—

(a) provision which applies generally or only for specified cases or purposes;

(b) provision conferring a discretion on a specified person to do anything under, or for the purposes of, the regulations;

(c) provision by reference to things specified in a notice published in accordance with the regulations;

(d) consequential, supplementary, incidental, transitional or saving provision.

(4) Regulations under this Part are to be made by statutory instrument.

(5) This section does not apply to regulations under section 120.

119 Regulations: procedure

(1) A statutory instrument containing any regulations made under section 46(a) or section 51(5) must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.

(2) The fact that a statutory instrument ceases to have effect as a result of subsection (1) does not affect—

(a) anything previously done under the instrument, or

(b) the making of a new statutory instrument.

(3) In calculating the period for the purposes of subsection (1), no account is to be taken of any time—

(a) during which Parliament is dissolved or prorogued, or

(b) during which the House of Commons is adjourned for more than 4 days.

(4) A statutory instrument containing (whether alone or with other provision) any regulations made under paragraph 2 of Schedule 12 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(5) A statutory instrument containing regulations made under this Part, other than regulations in respect of which subsection (1) or subsection (4) applies, is subject to annulment in pursuance of a resolution of the House of Commons.

(6) A statutory instrument containing regulations to which subsection (1) applies may also include regulations relating to alcohol duty under any other provision of the customs and excise Acts (including any provision of this Part) if the Parliamentary procedure applicable to a statutory instrument containing regulations under the other provision does not require House of Commons approval.

(7) Where regulations are included as mentioned in subsection (6), the procedure applicable to the statutory instrument is the procedure mentioned in subsection (1) (and not the procedure mentioned in subsection (6)).

(8) If—

(a) a statutory instrument contains regulations under any provision of this Part (other than regulations in respect of which subsection (1) or subsection (4) applies) and regulations relating to alcohol duty under any other provision of the customs and excise Acts, and

(b) the Parliamentary procedure applicable to a statutory instrument containing provision under the other provision does not require House of Commons approval,

the only Parliamentary procedure applicable to a statutory instrument mentioned in paragraph (a) is that given by this section.

(9) For the purposes of subsection (6) and subsection (8) the Parliamentary procedure applicable to a statutory instrument requires House of Commons approval if, as a condition of its continuing to have effect or its making, the House of Commons has to approve the statutory instrument or a draft of it.

(10) This section does not apply to regulations under section 120.

120 Commencement

(1) The following provisions of this Part come into force on the day on which this Act is passed—

(a) this Chapter, and

(b) any other provision of this Part so far as it confers a power to make regulations.

(2) The other provisions of this Part (so far as not brought into force by subsection (1)) come into force on such day or days as the Commissioners may by regulations appoint.

(3) Different days may be appointed for different purposes or different areas.

(4) The Commissioners may by regulations make consequential, supplementary, incidental, transitional or saving provision in connection with the coming into force of any provision of this Part.

(5) The power to make regulations under subsection (4)—

(a) may be exercised so as to make different provision for different purposes or areas, and

(b) includes power to make provision of a kind described in section 118(3)(a) to (c).

(6) Regulations under this section are to be made by statutory instrument.

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 1

INTRODUCTION AND CHARGE

121 Introduction to multinational top-up tax

(1) The purpose of this Part is to implement the provisions of the Pillar Two rules relating to top-up tax under the IIR (within the meaning of those rules).

(2) For that purpose, this Part makes provision for a tax payable in respect of members of multinational groups who are located in territories (outside the United Kingdom) where their rate of tax (as determined in accordance with this Part) is less than 15%.

(3) The tax is to be known as "multinational top-up tax".

(4) Sections 122 to 124 set out the charge to multinational top-up tax and describe how it is to be calculated.

(5) Chapter 2 of this Part—

(a) sets out the meaning of "multinational group";

(b) describes who the members of such a group are;

(c) identifies the ultimate parent of such a group;

(d) limits the application of this Part to multinational groups with an annual revenue of at least 750 million euros and that have at least one member in the United Kingdom (such a group is referred to in this Part as "qualifying");

(e) sets out how to determine which members of a multinational group ("responsible members") are responsible for paying the tax and which members they are responsible for.

122 Chargeable persons

(1) A person is chargeable to multinational top-up tax for an accounting period of a multinational group if the group is a qualifying multinational group in that period and—

(a) the person—

(i) is a responsible member of the multinational group at any time in that period,

(ii) is a body corporate or a partnership that is not a body corporate, and

(iii) is located in the United Kingdom, or

(b) the person is chargeable to tax in respect of an entity that is a responsible member of the multinational group at any time in that period.

(2) A person is chargeable to tax in respect of a responsible member of a multinational group if—

(a) the profits of the responsible member would, on the relevant assumptions, be the profits of the person for the purposes of income tax or corporation tax,

(b) the responsible member is located in the United Kingdom, and

(c) the responsible member is not—

(i) a body corporate, or

(ii) a partnership that is not a body corporate.

(3) The relevant assumptions are—

(a) that the responsible member has profits that are chargeable to income tax or corporation tax, and

(b) that the person is resident in the United Kingdom for the purposes of that tax.

(4) Where a partnership that is not a body corporate is chargeable to multinational top-up tax as a result of subsection (1)(a)—

(a) the responsible partners are liable to pay the tax, and

(b) the liability of the responsible partners to do so is joint and several.

(5) The references in subsection (4) to "the responsible partners" are to each member of the partnership at any time during the accounting period who—

(a) in the case of a partner that is an entity, is located in the United Kingdom, or

(b) in the case of a partner that is an individual, is tax resident in the United Kingdom.

(6) A partnership is to be regarded for the purposes of this section as continuing to be the same partnership regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.

(7) Where more than one person is chargeable to tax in relation to the same responsible member of a qualifying multinational group as a result of the application of subsection (2), each of those persons is jointly and severally liable to multinational top-up tax.

123 Amount charged by reference to "top-up amounts"

Where a person is chargeable to multinational top-up tax for an accounting period as a responsible member of a qualifying multinational group or in respect of a responsible member of a qualifying multinational group, the amount (if any) the person must pay is determined as follows—

Step 1

Determine which, if any, of the multinational group's members that the responsible member is responsible for have top-up amounts or additional top-up amounts for that period and the extent of those amounts.

Step 2

Determine how much of each of those amounts is to be attributed to the responsible member.

Step 3

Add together the amounts attributed to the responsible member.

Step 4

If the result of Step 3 is not expressed in sterling, convert the result of that Step to sterling.

124 How to calculate top-up amounts and attribute them

(1) Generally, a member of a multinational group in a territory will have a top-up amount for an accounting period if—

(a) the effective tax rate of the members of the group in that territory for that period is less than 15%, and

(b) that member has profits for that period.

(2) Chapter 3 of this Part sets out how to determine the effective tax rate of the members of a multinational group in a territory by reference to the profits of, and the taxes payable by, those members in that territory.

(3) Chapter 4 of this Part sets out how to calculate the profits of members of a multinational group.

(4) Chapter 5 of this Part sets out—

(a) which taxes (referred to in this Part as "covered taxes") are to be considered in determining the effective tax rate of those members, and

(b) how to determine the amount of covered taxes allocated to those members.

(5) Chapter 6 of this Part sets out how to use the effective tax rate and profits of the members of a multinational group to determine the top-up amounts of those members.

(6) Chapter 7 of this Part sets out how to attribute those top-up amounts to a responsible member of the group.

(7) Chapter 8 of this Part contains provisions about—

(a) additional top-up amounts, and

(b) further adjustments that may need to be made (including provision about adjustments for restructuring of multinational groups).

(8) Chapter 9 of this Part sets out special provision for investment entities, joint venture groups and minority owned members (including provision that applies to those entities instead of provision in the previous Chapters).

(9) Chapter 10 of this Part contains definitions and other provisions relevant to the calculations and other determinations to be made for the purposes of multinational top-up tax and Chapter 11 contains general provision.

125 Administration of multinational top-up tax

Schedule 14 makes provision for—

(a) information returns which must be made in respect of multinational groups,

(b) assessments to multinational top-up tax,

(c) penalties, and

(d) other administrative matters.

CHAPTER 2

QUALIFYING MULTINATIONAL GROUPS AND THEIR MEMBERS

Multinational groups

126 Meaning of "multinational group" and "ultimate parent"

(1) References in this Part to a multinational group are to a consolidated group where at least one of the members of that group is not located in the same territory as the others.

(2) A "consolidated group" means the following entities (which are its members)—

(a) an entity (the "ultimate parent")—

(i) in which no other entity has a controlling interest, and

(ii) which has a controlling interest in other entities, and

(b) the entities whose assets, liabilities, income, expenses and cash flows—

(i) are included in the consolidated financial statements of the ultimate parent, or

(ii) are not included in those statements only because of an exclusion on size or materiality grounds or on the grounds that the entity in question is held for sale.

127 Excluded entities

(1) For the purposes of this Part, excluded entities are to be treated as not being members of a multinational group.

(2) But subsection (1) does not apply for the purposes of the following provisions—

(a) section 126 (and accordingly an excluded entity that is the ultimate parent of multinational group remains the ultimate parent of that group),

(b) this section, and

(c) section 129 (determining whether a multinational group is qualifying).

(3) The following are excluded entities—

(a) a governmental entity;

(b) an international organisation;

(c) a pension fund;
(d) a non-profit organisation;
(e) a qualifying non-profit subsidiary;
(f) a qualifying service entity;
(g) a qualifying exempt income entity.

(4) The following are also excluded entities if they are the ultimate parent of a multinational group, or would be but for the fact they do not produce consolidated financial statements that include assets, liabilities, income expenses and cash flows of entities in which they have ownership interests—
(a) an investment fund,
(b) a UK REIT, or
(c) an overseas REIT equivalent.

(5) An entity is a qualifying non-profit subsidiary in an accounting period if—
(a) it is 100% owned by one or more entities that are non-profit organisations,
(b) the revenue (see section 129(5)) of the multinational group of which the entity is a member would not exceed the threshold set out in section 129(4) for that period if the revenue of every member that is a non-profit organisation, a qualifying service entity or a qualifying exempt income entity were ignored,
(c) the revenue of the group for that period that is ignored for the purposes of paragraph (b) is less than 25% of the total revenue of the group, and
(d) no election under subsection (8) is in force in relation to the entity.

(6) An entity is a qualifying service entity if—
(a) it is 95% owned by one or more qualifying excluded entities,
(b) either—
(i) the entity only carries out activities that are ancillary to the activities of those owners, or
(ii) all, or almost all, of its activities, ignoring activities falling within sub-paragraph (i), consist of the holding of assets or the investment of funds for the benefit of those owners, and
(c) no election under subsection (8) is in force in relation to the entity.

(7) An entity is a qualifying exempt income entity if—
(a) it is 85% owned by one or more qualifying excluded entities,
(b) almost all of the entity's income is excluded dividends or excluded equity gains (or a mixture of both), and
(c) no election under subsection (8) is in force in relation to the entity.

(8) The filing member of a multinational group (see paragraph 2 of Schedule 14) may make an election that a member of that group that would otherwise be an excluded entity as a result of subsection (5), (6) or (7) is not to be an excluded entity.

(9) Schedule 15 makes provision about elections under this Part.

(10) Paragraph 1 of that Schedule (long term elections) applies to an election under subsection (8).

(11) For the purposes of subsection (5), the reference to an entity being 100% owned by one or more entities that are non-profit organisations is to those entities together having that percentage of ownership interest in that entity.

(12) For the purposes of subsections (6) and (7)—

(a) despite section 232(3) (permanent establishments treated as distinct from main entity), the conditions in subsection (6)(b) and (7)(b) are only met in relation to a permanent establishment or a main entity if the conditions are met by the main entity and all of its permanent establishments taken together as if they were a single entity;

(b) an excluded entity is "qualifying" if it is not a pensions service entity, and

(c) references to an entity being 95% or 85% owned by qualifying excluded entities are to those entities together having at least that percentage of the ownership interests in that entity (see section 245 for how to calculate ownership interests in excluded entities).

Responsible members

128 Responsible members

(1) The ultimate parent of a multinational group is a responsible member of that group if it is subject to Pillar Two IIR tax.

(2) An ultimate parent that is a responsible member of a multinational group is responsible for all of its members that are not located in the territory it is located in.

(3) An intermediate parent member of a multinational group (see section 237(2)) that is located in a Pillar Two territory is a responsible member of that group if it is subject to Pillar Two IIR tax and—

(a) no intermediate parent member of that group that is subject to Pillar Two IIR tax has a controlling interest in it,

(b) the ultimate parent is not subject to Pillar Two IIR tax, and

(c) it has an ownership interest in a member of the group that has a top-up amount.

(4) Such an intermediate parent member is responsible for all of the members of the group it has an ownership interest in that are not located in the territory it is located in.

(5) A partially-owned parent member of a multinational group (see section 237(1)) that is located in a Pillar Two territory is a responsible member if it is subject to Pillar Two IIR tax and—

(a) it is not wholly owned by another partially-owned parent member of that group that is subject to Pillar Two IIR tax, and

(b) it has an ownership interest in a member of the group that has a top-up amount.

(6) Such a partially owned parent member is responsible for all of the members of the group it has an ownership interest in that are not located in the same territory it is located in.

(7) For the purposes of this Part an entity is subject to Pillar Two IIR tax if—

(a) the entity is located in the United Kingdom and is not an excluded entity, or

(b) the entity—

(i) is located in another Pillar Two territory in which a tax equivalent to multinational top-up tax is in force, and

(ii) is not excluded from the application of that tax as a result of provision equivalent to section 127.

Qualifying multinational groups

129 Qualifying multinational groups

(1) For the purposes of this Part, a multinational group is "qualifying" in an accounting period if conditions A and B are met.

(2) Condition A is that the group's members have revenue that exceeds the threshold set out in subsection (4) in at least 2 accounting periods of the previous 4 accounting periods.

(3) Condition B is that at least one of the group's members is located in the United Kingdom.

(4) The threshold for an accounting period is the amount given by multiplying 750 million euros by the amount given by dividing the number of days in the accounting period by 365.

(5) For the purposes of this section, and section 127(5), the revenue of the members of a multinational group for a period is to be determined by reference to the consolidated financial statements of the ultimate parent for that period.

130 Change in composition of multinational group

(1) This section applies for the purpose of determining whether condition A in section 129(2) is met by a multinational group in an accounting period ("the qualifying period") where its composition has changed—

(a) in that period, or

(b) during the previous 4 accounting periods ("the testing period").

(2) Reference in subsection (1) to a change in the composition of a multinational group includes its formation as a result of the acquisition by one entity of ownership interests in another.

(3) Where a member of the multinational group was not a member of any consolidated group in one or more of the accounting periods in the testing period—

(a) its revenues for those accounting periods are to be determined by reference to its financial statements or any consolidated financial statements in which its revenue is included (and, if necessary, apportioned on a just and reasonable basis to those accounting periods), and

(b) those revenues are to be treated as forming part of the revenues of the multinational group in those periods (whether or not the group existed in those periods).

(4) Where a multinational group is the result of a merger of two or more consolidated groups in the qualifying period or the testing period, for each accounting period of those periods in which they were separate groups, add together the revenues of each consolidated group for that period (determined by reference to the consolidated financial statements of the ultimate parent of each group and if necessary, apportioned on a just and reasonable basis to the accounting period of the merged group) to determine whether the threshold in section 129(4) is met for that period.

(5) For the purposes of this section "merger" means any arrangement that results in two or more consolidated groups becoming a single consolidated group.

131 Whether de-merged groups meet the revenue threshold

(1) Where a multinational group is the result of a qualifying de-merger ("a de-merged group"), section 129 has effect in relation to that group for its first accounting period that ends after the de-merger, and in the 3 accounting periods that follow it as if for subsection (2) there were substituted—

"(2) A de-merged group meets condition A if—

(a) in its first accounting period that ends after the de-merger, if its members have revenue for that period that exceeds the threshold set out in section 129(4), and

(b) in any of the second to fourth accounting periods ending after the de-merger, if its members have revenue that exceeds the threshold set out in that section in any two of the following periods—

(i) that period;

(ii) any of the accounting periods that precede that period and end after the de-merger."

(2) In this section "qualifying de-merger" means the separation of members of a multinational group that meets condition A in section 129(2) into two or more

consolidated groups, such that those members cease to all be consolidated by the same ultimate parent.

CHAPTER 3

EFFECTIVE TAX RATE OF MEMBERS OF A MULTINATIONAL GROUP IN A TERRITORY

132 Effective tax rate

(1) The effective tax rate of the standard members of a multinational group in a territory for an accounting period is determined as follows—

Step 1

Determine, in accordance with Chapter 4, the adjusted profits for that period of each standard member of that group in that territory.

Step 2

Subtract the sum of the losses of those members of the group that made a loss in that period from the sum of the profits of those members of the group that made a profit in that period.

Step 3

If the result of Step 2 is nil or less, the effective tax rate is to be treated as 15%. Otherwise, proceed to Step 4.

Step 4

Determine the combined covered tax balance for the standard members of the group in that territory (which may be negative).

Step 5

If that balance is nil the effective tax rate is 0%. Otherwise, proceed to Step 6.

Step 6

Divide the combined covered tax balance by the result of Step 2.

Step 7

Except where Step 3 or 5 applies, the effective tax rate of the standard members of that group is X% where X (which will be negative if the combined covered tax balance is negative) is the result of Step 6 multiplied by 100.

(2) The combined covered tax balance for standard members of a multinational group in a territory is—

(a) where those members only have positive covered tax balances (see Chapter 5), the sum of those balances,

(b) where those members only have negative covered tax balances (see that Chapter), the sum of those balances expressed as a negative number, or

(c) where those members have a mixture of positive covered tax balances and negative covered tax balances, the amount (which may be positive

or negative) given by subtracting the sum of those negative covered tax balances from the sum of those positive covered tax balances.

Section 164 contains provision about the determination of covered tax balances of members of multinational groups.

(3) For the purposes of this Part—

(a) a member of a multinational group is a "standard member" if it is not—

(i) an investment entity, or

(ii) a minority owned member, and

(b) a stateless member of a multinational group is to be treated as being the sole member of the group located in a nominal territory.

CHAPTER 4

CALCULATION OF ADJUSTED PROFITS OF MEMBERS OF A MULTINATIONAL GROUP

Adjusted profits of a member of a multinational group

133 Adjusted profits of a member of a multinational group

(1) For the purposes of this Part, references to the adjusted profits of a member of a multinational group are to the underlying profits of that member adjusted in accordance with this Chapter and (to the extent applicable) Chapter 8.

(2) Sections 134 to 137 set out how to determine the underlying profits.

(3) Sections 138 to 158 set out various adjustments that may need to be made to those profits.

(4) Sections 159 and 160 set out adjustments to be made in relation to members that are permanent establishments.

(5) Sections 161 to 164 make provision for elections for certain matters to be calculated in an alternative manner.

(6) Sections 167 to 171 set out adjustments in relation to transparent and hybrid entities and entities subject to a "qualifying dividend regime".

(7) Other provisions of this Part may require further adjustments of underlying profits, including provision in—

(a) Chapter 9 (investment entities), and

(b) Schedule 16 (transitional provision).

134 Underlying profits as determined for statements of ultimate parent

(1) The normal rule is that the underlying profits of a member of a multinational group, other than a member that is a permanent establishment, are the member's profits as they would be determined for that member in preparing consolidated financial statements for the ultimate parent.

(2) But those profits may instead be determined on the basis of an alternative accounting standard, and information in the separate financial accounts of the member, if all of the conditions in subsection (3) are met.

(3) Those conditions are that—

(a) it is not reasonably practicable to determine those profits on the basis of the accounting standard used in the preparation of the consolidated financial statements of the ultimate parent,

(b) the alternative accounting standard is an acceptable accounting standard or an authorised accounting standard,

(c) the alternative accounting standard is that used for the financial accounts of the member, and

(d) the information in those accounts is reliable.

(4) Where an alternative accounting standard is used and an amount relevant to the underlying profits of a member of a multinational group is recorded in a currency other than the currency used for the consolidated financial statements of the ultimate parent, that amount is to be converted to that currency for the purposes of this Part.

(5) Subsection (6) applies where the application of a particular policy of the alternative accounting standard in the determination of the profits of the member results in a significant accounting standard difference that would not arise if the accounting standard of the ultimate parent had been applied.

(6) The underlying profits are to be adjusted to eliminate that difference (as if the accounting standard of the ultimate parent had been applied).

(7) Information in the financial accounts of the member is "reliable" if an auditor applying the generally accepted auditing standards of a relevant territory would reasonably conclude the member has in place such processes relating to their preparation as are likely to make the information in the financial accounts a fair and accurate description of the income, expenses, assets and liabilities of that member.

(8) For the purposes of subsection (7), the following are relevant territories—

(a) the territory in which the member is located;

(b) the territory in which the ultimate parent is located;

(c) if the member is a flow-through entity (see section 168(2)) that is a stateless entity, the territory in which it was created.

(9) For the purposes of this section, reference to a "significant accounting standard difference" is to a difference of more than 1 million euros between the treatment of an amount in the financial accounts of a member of a multinational group and the consolidated financial statements of the ultimate parent that is not eliminated over time.

135 Underlying profits of permanent establishments

(1) The underlying profits of a member of a multinational group that is a permanent establishment are the member's profits—

(a) if the member has separate financial accounts, as reflected in those accounts, and

(b) if not, as reflected in the underlying profits accounts of the main entity, attributed between the permanent establishment and the main entity in accordance with section 159.

(2) If the member is a permanent establishment falling within paragraph (d) of section 232(2) (income of permanent establishment exempt from tax in territory of main entity) the member's underlying profits are determined only by reference to its relevant income and relevant expenses.

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

(a) the relevant income of the member is the income of the member that is exempted from tax in the territory where the main entity is located that is attributable to operations carried out outside the territory the main entity is located in, and

(b) the relevant expenses of the member are such of its expenses as are attributable to those operations and are not deducted for tax purposes in the territory of the main entity.

(4) Profits (as determined in accordance with this Part) of a permanent establishment are not to be taken into account in determining the adjusted profits of the main entity, and vice versa.

(5) But subsection (4)—

(a) does not apply to profits of a permanent establishment that are excluded from its profits as a result of an adjustment under section 159, and

(b) is subject to section 160 (attribution of losses between permanent establishment and main entity).

136 Underlying profits accounts

In this Part, reference to the "underlying profits accounts" of a member of a multinational group is to the statements or accounts (which may in some circumstances be hypothetical) that are the basis of the determination of the member's underlying profits for the purposes of this Part.

137 No amounts outside of profit and loss account to be included

Except as required by any other provision of this Part, amounts that are recognised outside the profit and loss account in the underlying profits accounts of a member of a multinational group are not to be reflected in the underlying profits of that member.

Adjustments of underlying profits

138 Profits adjusted to be before tax

(1) The underlying profits of a member of a multinational group for an accounting period are to be adjusted by adding back any debit, and excluding any credit, for tax expense amounts reflected in its those profits.

(2) In this Part "tax expense amount" means an amount of tax expense (including a deferred tax expense) in respect of—

(a) a covered tax (whether or not the income to which the tax relates are excluded from adjusted profits for the purposes of this Part);

(b) multinational top-up tax, or any tax equivalent to multinational top-up tax;

(c) a qualifying domestic top-up tax (see section 256);

(d) a qualifying undertaxed profits tax (see section 257);

(e) taxes accrued by an insurance company in respect of returns to policyholders to the extent that section 152(2) applies in relation to those taxes;

(f) a disqualified refundable imputation tax (see section 253).

139 Profits adjusted to be profits before consolidation adjustments to eliminate intragroup transactions

(1) The underlying profits of a member of a multinational group are to be adjusted so that they include income, expenses, gains and losses arising from transactions between that member and other members of that group.

(2) Subsection (1) is subject to—

(a) section 137 (amounts outside profit and loss excluded), and

(b) section 164 (where an election is made under that section to exclude profits from intra-group transactions).

140 Profits adjusted to be profits before certain purchase accounting adjustments

(1) The underlying profits of a member of a multinational group for an accounting period are to be adjusted so that they do not reflect relevant share acquisition adjustments.

(2) "Relevant share acquisition adjustment" means a purchase accounting adjustment to the consolidated financial statements of an ultimate parent of a multinational group arising as a result of an entity becoming a member of the group as a result of the acquisition of shares in the entity by an existing member of the group.

(3) This section does not apply to a relevant share acquisition adjustment resulting from an acquisition of shares before 1 December 2021 if it is not reasonably practicable to identify the adjustment made.

141 General exclusion of dividends

(1) The underlying profits of a member of a multinational group are to be adjusted so as to exclude any excluded dividends received or accrued by that member.

(2) "Excluded dividends" means—

(a) a dividend or other distribution arising as a result of a qualifying interest in a flow-through entity (see section 168), or

(b) any other dividend or other distribution arising as a result of a qualifying interest in an entity, other than a dividend or other distribution falling within subsection (3).

(3) The following fall within this subsection—

(a) a dividend or other distribution arising as a result of a qualifying interest that is a short-term portfolio holding;

(b) a dividend or other distribution arising as a result of a qualifying interest in an investment entity that is subject to an election under section 214 (taxable distribution method election);

(c) a dividend or other distribution made by a member of a multinational group if—

(i) its recipient is a member of the same group, and

(ii) payments in respect of the distribution (whether or not the distribution was accounted for as a distribution at the time of payment) are treated as an expense of the member that made it for the purposes of determining the member's underlying profits, or

(d) any other dividend or other distribution to the extent it reflects debt rather than a qualifying interest.

(4) For the purposes of subsection (2) a qualifying interest in an entity held by a member of a multinational group is a portfolio holding if, on the vesting date of the distribution, the members of that group do not, between them, have qualifying interests that entitle them to 10% or more of the entity's—

(a) profits,

(b) capital,

(c) reserves, and

(d) voting rights.

(5) A portfolio holding held by a member of a multinational group is a short-term portfolio holding if it was held for less than 1 year before the vesting date of the distribution.

(6) The vesting date of a distribution is the earlier of—

(a) the day on which it is made, and

(b) the day on which the person to whom it arises is entitled to have it made.

(7) The filing member of a multinational group may elect that all portfolio holdings held by a member of the group specified in the election are to be treated for the purposes of this section as short-term portfolio holdings.

(8) Paragraph 1 of Schedule 15 (long term elections) applies to an election under subsection (7).

(9) In this section, and in section 142, "qualifying interest" in an entity means—

(a) a direct ownership interest in it, or

(b) an entitlement to exercise voting rights in relation to it.

142 Excluded equity gain or loss

(1) The underlying profits of a member of a multinational group are to be adjusted so as to exclude any excluded equity gain or loss.

(2) "Excluded equity gain or loss" means any gain, profit or loss arising from—

(a) gains and losses from changes in fair value of a qualifying interest or the impairment of such an interest, other than an interest to which subsection (3) applies,

(b) profit or loss in respect of a qualifying interest included in underlying profits under the equity method of accounting, other than an interest to which subsection (3) applies, or

(c) gains and losses from a disposition of a qualifying interest, other than an interest to which subsection (3) applies.

(3) This subsection applies to a qualifying interest in an entity if the members of the multinational group do not, at the relevant time, have qualifying interests between them that entitle them to 10% or more of that entity's—

(a) profits,

(b) capital,

(c) reserves, and

(d) voting rights.

(4) The "relevant time" means—

(a) for the purposes of testing whether subsection (3) applies to an interest for the purposes of subsection (2)(a) or (b), the end of the accounting period in which the gain, profit or loss arose, and

(b) for the purposes of testing whether subsection (3) applies to an interest for the purpose of subsection (2)(c), immediately before the disposition.

(5) See also section 165 which provides for an election to treat certain gains or losses as not being excluded equity gains or losses.

143 Included revaluation method gain or loss

(1) The underlying profits of a member of a multinational group are to be adjusted so as to include any relevant revaluation method gain or loss.

(2) "Relevant revaluation method gain or loss" means a gain or loss, before making any adjustment to reflect tax expense amounts, arising as a result of the use of an accounting method or practice that—

(a) periodically adjusts the carrying value of the member's property, plant and equipment to its fair value,

(b) records the changes in value in other comprehensive income, and

(c) does not subsequently report the gains or losses through the profit and loss account.

(3) In this Part—

"other comprehensive income", in relation to a member of a multinational group, means items of income and expense that are recognised, in the underlying profits accounts, outside the profit and loss account;

"property, plant and equipment" has the meaning given, for the time being, by International Accounting Standard 16.

144 Adjustments for asymmetric foreign currency income and losses

(1) This section only applies in relation to a member of a multinational group where its accounting currency and its tax currency are different.

(2) Where—

(a) the member has a gain or a loss as a result of fluctuations in the exchange rate between its accounting currency and its tax currency, and

(b) the gain or loss is reflected differently in its taxable income and in the determination of its underlying profits (including where it is not reflected at all in one of those),

the member's underlying profits are to be adjusted so that the gain or loss is reflected in those profits on the same basis it is reflected in its taxable income.

(3) Where—

(a) the member has a gain or a loss as a result of fluctuations in the exchange rate between its accounting currency and a third currency,

(b) the gain or loss is reflected in its underlying profits, and

(c) the gain or loss is not reflected, or is reflected to a different extent, in its taxable income,

the member's underlying profits are to be adjusted to exclude that gain or loss.

(4) Where—

(a) the member has a gain or a loss as a result of fluctuations in the exchange rate between its tax currency and a third currency, and

(b) the income or loss is not reflected, or is reflected to a different extent, in its underlying profits,

the member's underlying profits are to be adjusted so that the gain or loss is fully reflected in those profits (whether or not it is reflected in its taxable income).

(5) In this Part—

"accounting currency" means the currency of the main economic environment in which a member of a multinational group operates;

"tax currency" means the currency in which the profits of that member are determined for the purposes of determining its liability to covered taxes in the territory in which it is located;

"third currency" means any currency which is neither the accounting currency nor the tax currency of the member;

"taxable income" means income subject to, and determined for the purposes of, covered taxes.

145 Exclusion of expenses for illegal payments, fines and penalties

(1) Where the underlying profits of a member of a multinational group reflects—

(a) expenses accrued for illegal payments (for example, bribes or kickbacks), or

(b) expenses accrued for fines or penalties of 50,000 euros or more,

those profits are to be adjusted to exclude those expenses.

(2) For the purposes of subsection (1)(a), a payment is illegal if the making of that payment is, or forms part of conduct which is, an offence under the law of—

(a) the United Kingdom,

(b) the territory of the member, or

(c) the territory of the ultimate parent.

(3) For the purposes of subsection (1)(b), where more than one fine or penalty is accrued in respect of the same conduct, or for continuing conduct, those fines or penalties are to be aggregated.

146 Adjustment for changes in accounting policies and prior period errors

Where there has been a change to the net assets and liabilities of a member of a multinational group at the start of an accounting period, the underlying profits of that member for that period are to be adjusted to include the amount of that change if the change is attributable to—

(a) a change in accounting policy that affects income or expenses included in determining the member's adjusted profits, or

(b) a correction of an error reflected in the determination, for the purposes of this Part, of the adjusted profits of the member for a previous accounting period, except to the extent the correction of the error results in a material decrease to the member's liability to covered taxes such that section 217 (post-filing adjustments of covered taxes) applies.

147 Accrued pension expense

Where the underlying profits of a member of a multinational group for an accounting period reflect pension expense, the underlying profits are to be adjusted in accordance with the following steps—

Step 1

Determine whether income (expressed as a positive number) or expense (expressed as a negative number) has accrued to the member in respect of the pension fund in the period.

Step 2

Add the sum of contributions made to the pension fund by the member in the period to the result of Step 1.

Step 3

If the result of Step 2 is more than nil, reduce the underlying profits by that amount.

If the result of Step 2 is less than nil, increase the underlying profits by that amount (as expressed as a positive number).

148 Treatment of qualifying refundable tax credits

(1) The underlying profits of a member of a multinational group are to be adjusted (if necessary) to secure that—

(a) qualifying refundable tax credits are treated as income, and

(b) other tax credits (refundable or otherwise) are not treated as income.

(2) A refundable tax credit is "qualifying" to the extent that, under the law of the territory in which it is given, it entitles a person to receive (by way of payment or discharge of liability) the amount of the refundable tax credit within 4 years of meeting the conditions for receiving it.

(3) But a refundable tax credit is never qualifying if it is creditable or refundable pursuant to a qualified refundable imputation tax or a disqualified refundable imputation tax (see section 253).

(4) In this Part "refundable tax credit" means a tax credit which—

(a) after any liability to covered taxes has been reduced or discharged by it, or

(b) in the absence of any tax liability to covered taxes,

is payable in cash or cash equivalents (which for these purposes includes by way of discharge against a liability to a tax which is not a covered tax).

149 Arm's length requirement for certain transactions

(1) Subsection (6) applies to a member of a multinational group if any of Conditions A to D are met.

(2) Condition A is that—

(a) a debit is recorded in the underlying profits accounts of the member that arises from a transaction ("the relevant transaction") comprising a transfer of an asset between the member and another member of that group,
(b) both members are located in the same territory, and
(c) the relevant transaction is not recorded on an arm's length basis.

(3) Condition B is that—
(a) the member is party to a transaction ("the relevant transaction") with another member of that group,
(b) both members are located in the same territory,
(c) one of the members is a minority owned member and the other is not, and
(d) the relevant transaction is not recorded in the member's underlying profits accounts on an arm's length basis.

(4) Condition C is that—
(a) the member is party to a transaction ("the relevant transaction") with another member of that group,
(b) both members are located in the same territory,
(c) one of the members is an investment entity and the other is not, and
(d) the relevant transaction is not recorded in the member's underlying profits accounts on an arm's length basis.

(5) Condition D is that—
(a) the member is party to a transaction ("the relevant transaction") with another member of that group,
(b) both members are located in the same territory, and
(c) the recorded value of the relevant transaction is not the same in each member's underlying profits accounts.

(6) Where this subsection applies to a member of a multinational group, the underlying profits of the member are to be adjusted to secure that the relevant transaction is reflected on an arm's length basis.

(7) In this Part "arm's length basis", in relation to a transaction between members of the same multinational group, means reflecting the conditions of the transaction as would have been obtained had the transaction been conducted between independent enterprises in a comparable transaction under comparable circumstances.

150 Transactions between members of a multinational group: differences with accounting for tax

(1) This section applies if—
(a) a transaction between two members of a multinational group located in different territories is not recorded in the same amount, or is not

recorded on an arm's length basis (or is not recorded at all), in the underlying profits accounts of both of those members, and

(b) there is a permanent difference in respect of the transaction in relation to one or both of those members as a result of adjustments to the taxable income of the member made in connection with transfer pricing.

(2) Subsection (3) applies if—

(a) for each member there is a permanent difference in respect of the transaction which arises as a result of adjustments made in connection with transfer pricing, and

(b) the permanent difference for each member corresponds to the permanent difference for the other.

(3) Where this subsection applies, the underlying profits of each of the members are to be adjusted so that the amount of the transaction reflects the amount reflected in the member's taxable income.

(4) Subsection (5) applies if—

(a) one of the members ("A") is a high tax member,

(b) there is a permanent difference for A in respect of the transaction which arises as a result of adjustments made in connection with transfer pricing, and

(c) there is no permanent difference for the other member ("B") in respect of the transaction arising as a result of adjustments made in connection with transfer pricing.

(5) Where this subsection applies—

(a) the underlying profits of A are to be adjusted so that the amount of the transaction reflects the amount reflected in the member's taxable income, and

(b) an adjustment is to be made to the underlying profits of B which corresponds with the amount of the adjustment made to the profits of A.

(6) For the purposes of this section, a member of a multinational group is a high tax member for an accounting period ("the relevant period") if—

(a) the nominal tax rate in the territory in which the member is located is, or exceeds, 15% in the relevant period, and

(b) the effective tax rate of the standard members of that group in that territory is, or exceeds, 15% in either, or both, of the accounting period that immediately preceded the relevant period and the accounting period immediately before that one.

(7) In this section reference to a "permanent difference" is to a difference between the treatment of an amount for the purposes of covered taxes and for accounting purposes that is not eliminated over time (and accordingly does not give rise to deferred tax).

151 Adjustments for companies in distress

(1) This section applies to a member of a multinational group where—

(a) it is released from an obligation to pay a debt (however that obligation arises), and

(b) at the time of that release, one or more of the circumstances mentioned in paragraphs (a) to (c) of subsection (2) applied to it.

(2) Those circumstances are—

(a) that the member meets an insolvency condition mentioned in paragraphs (a) to (e) of section 322(6) of CTA 2009 (release of debts);

(b) that—

(i) it is reasonable to suppose that within 12 months, ignoring any debts owed to persons and entities that are connected to the member, the member will be unable to meet its debts to persons and entities it is not connected to as they fall due, and

(ii) the member has obtained an independent expert opinion confirming that is the case;

(c) that the member's liabilities exceed its assets.

(3) Where the circumstance in subsection (2)(a) applies to the member, its underlying profits are to be adjusted to exclude any profits arising as a result of the release of the debt obligation.

(4) Where—

(a) the circumstance in subsection (2)(b) applies to the member,

(b) the circumstance in (2)(a) does not, and

(c) the debt—

(i) is not a debt owed to a person or entity that is connected to the member, or

(ii) the debt is owed to a person or entity that is connected to the member, but the release of the debt obligation can reasonably be regarded as part of arrangements to secure the solvency of the member that involve the release of debt owed to a person that is not connected to the member,

the member's underlying profits are to be adjusted to exclude any profits arising as a result of the release of the debt obligation.

(5) Subsection (6) applies where—

(a) the circumstance in subsection (2)(c) applies to the member,

(b) neither the circumstance in subsection (2)(a) nor (2)(b) applies to the member, and

(c) the debt is not a debt owed to a person or entity that is connected to the member.

(6) Where this subsection applies, the underlying profits of the member are to be adjusted to exclude the lesser of—

(a) the amount of any profits arising as a result of the release of the debt obligation,

(b) if, as a result of the release of the debt obligation, the member's assets exceed its liabilities, the amount by which its liabilities exceeded its assets immediately before the release, and

(c) if, in determining the member's liability to tax, some or all of the profits arising as a result of the release of the debt obligation are offset by deferred tax assets, the amount of those profits that are offset.

(7) Where the member is released from more than one obligation to pay a debt at the same time, the release of those obligations is to be treated, for the purposes of applying the conditions in this section, as if they represented the release of a single obligation to pay a debt.

152 Adjustments where life assurance business carried on

(1) This section applies to a member of a multinational group that carries on a life assurance business.

(2) Where amounts charged to the member's policyholders for taxes payable by the member are reflected in its underlying profits, those profits are to be adjusted to exclude such of those amounts as would (had they not been charged to the policyholders) have formed part of the member's tax expense amount.

(3) Where returns to the member's policyholders are not reflected in the member's underlying profits but corresponding increases or decreases in the liability of the member to the policyholders are so reflected, those profits are to be adjusted so as to reflect those returns to the extent they correspond with those increases or decreases in liability.

(4) In this section "life assurance business" has the meaning it has in section 56 of FA 2012.

153 Exclusion of certain insurance reserve movement expense

(1) The underlying profits of a member of a multinational group that is an insurance company are to be adjusted so as to exclude any expense resulting from the movement of its insurance reserves where the movement is economically matched by excluded dividends (ignoring the extent to which those dividends also reflect any investment management fees).

(2) The underlying profits of a member of a multinational group that is an insurance company are to be adjusted so as to exclude any expense resulting from the movement of its insurance reserves where the movement is economically matched by an excluded equity gain or loss.

154 Exclusion of qualifying intra-group financing arrangement expenses

(1) Where—

(a) the underlying profits of the member of a multinational group for an accounting period reflect expenses attributable to a qualifying intra-group financing arrangement that could be reasonably expected, over the expected duration of the arrangement, to—

(i) increase the amount of expenses taken into account in calculating the member's underlying profits, and

(ii) not result in a corresponding increase in the taxable income of a member of the group that is a high tax member for that period,

(b) the member is a low tax member for that period, and

(c) the expenses are not required to be included as a result of section 155,

the member's underlying profits for that period are to be adjusted to exclude those expenses.

(2) In this section—

"intra-group financing arrangement" means an arrangement between two or more members of a multinational group under which a member (member A) directly or indirectly provides credit or otherwise makes an investment in another member (member B);

an intra-group financing arrangement is "qualifying" if member A is a high tax member and member B is a low tax member;

a member of a multinational group is a "low tax member" in an accounting period if the effective tax rate for the standard members of the group located in the member's territory for that period would, ignoring intra-group financing arrangements, be less than 15%;

a member of a multinational group is a "high tax member" in an accounting period if the effective tax rate for the standard members of the group located in the member's territory would, ignoring intra-group financing arrangements, be 15% or more.

155 Qualifying tier one capital

(1) Where amounts recognised by a member of a multinational group as a decrease to its equity in an accounting period that is attributable to distributions paid or payable in respect of qualifying tier one capital issued by the member are not reflected in its underlying profits for that period as expenses, those profits are to be adjusted to reflect those amounts as expenses.

(2) Where amounts recognised by a member of a multinational group as an increase to its equity in an accounting period that is attributable to distributions received or receivable in respect of qualifying tier one capital held by the member are not reflected in its underlying profits for that period as income, those profits are to be adjusted to reflect those amounts as income.

(3) In this section "qualifying tier one capital" means an instrument issued by an entity pursuant to regulatory requirements applicable to the banking or insurance sector that is convertible to equity or written down if a pre-specified

trigger event occurs and that has other features which are designed to aid loss absorbency in the event of a financial crisis.

156 Exclusion of international shipping profits

(1) Where the underlying profits of a member of a multinational group for an accounting period reflect the inclusion of international shipping profits, the member's underlying profits for that period are to be adjusted to exclude those profits.

(2) The member's international shipping profits for the period are the sum of the member's—

(a) core international shipping profits (see section 157), and

(b) ancillary international shipping profits (see section 158).

(3) Subsection (1) does not apply if, in the period, the strategic and commercial management of any ship used in international shipping giving rise to those profits is not effectively carried on within the territory in which the member is located.

(4) In this section, and in sections 157 and 158—

"international shipping" means the transportation of passengers or cargo by ship between different territories;

"transportation" does not include towing or dredging.

157 Core international shipping profits

(1) A member's core international shipping profits for a period are the member's core international shipping revenue for the period less the member's core international shipping costs for the period.

(2) A member's core international shipping revenue is all revenue earned by the member in consideration for the member's performance of core international shipping activities.

(3) A member's core international shipping costs are the sum of—

(a) all costs incurred by the member that are directly attributable to the member's performance of core international shipping activities, and

(b) all costs incurred by the member that are indirectly attributable to the member's performance of core international shipping activities multiplied by the core international shipping factor.

(4) The core international shipping factor is the member's core international shipping revenue divided by all revenue earned by the member from any source.

(5) An activity is a core international shipping activity if it is of a type referred to in subsection (6).

(6) The types of activity are—

(a) carrying out international shipping, whether alone or in conjunction with another person;

(b) leasing as lessor a ship to be used for international shipping, where—

(i) the ship is leased fully equipped, crewed and supplied, or

(ii) the lessee is a member of the same multinational group and the purpose of the lease is to allow that member to carry out a core international shipping activity;

(c) arranging for another person to carry out international shipping under slot-chartering arrangements;

(d) the sale of a ship used in international shipping, where the ship has been held for use by the member for at least one year.

158 Ancillary international shipping profits

(1) A member's ancillary international shipping profits for a period are the member's ancillary international shipping revenue for the period, less—

(a) the member's ancillary international shipping costs for the period, and

(b) the member's ancillary international shipping profit cap adjustment for the period.

(2) A member's ancillary international shipping revenue is all revenue earned by the member in consideration for the member's performance of ancillary international shipping activities.

(3) A member's ancillary international shipping costs are the sum of—

(a) all costs incurred by the member that are directly attributable to the member's performance of ancillary international shipping activities, and

(b) all costs incurred by the member that are indirectly attributable to the member's performance of ancillary international shipping activities multiplied by the ancillary international shipping factor.

(4) The ancillary international shipping factor is the ancillary international shipping revenue divided by all revenue earned by the member from any source.

(5) An activity is an ancillary international shipping activity if—

(a) it is of a type referred to in subsection (6), and

(b) it is performed primarily in connection with international shipping.

(6) The types of activity are—

(a) leasing as lessor a ship to be used for international shipping, where—

(i) the ship is not leased fully equipped, crewed and supplied,

(ii) the lessee is a third party, and

(iii) the lease has not been in effect for a period exceeding three years, or entered into on terms that would result in the lease being in effect for such a period;

(b) selling tickets for a domestic leg of an international voyage carried out by a third party;

(c) leasing as lessor a container of a kind used for international shipping;

(d) storing such a container for a short period, including by leasing as lessor space for the storage of such a container by another person;

(e) providing support services (see subsection (7)(e)) to persons engaged in international shipping;

(f) holding assets necessary for the member to carry out a core international shipping activity;

(g) the disposal of emissions allowances it is necessary for the member to hold in order to carry out international shipping.

(7) For the purposes of subsection (6)—

(a) "third party", in relation to a member of a multinational group, means a person that is not—

(i) the member, or

(ii) a member of the same multinational group;

(b) "domestic leg of an international voyage" means the transportation of passengers or cargo by ship between two locations in a single territory in circumstances where the ship's overall voyage has proceeded from or will continue to a different territory;

(c) a lease of a ship is in effect for the period in which the practical effect of that lease and any associated arrangements (including any other lease) is that a person is in the position of a lessee of the ship, whether or not the lease or any other document expressly provides that the person is a lessee of the ship for the whole of that period;

(d) "lessee", in relation to a ship, means the person referred to in paragraph (c);

(e) "support services" means engineering, maintenance, cargo handling, catering and customer relations services.

(8) The member's ancillary international shipping profit cap adjustment is to be calculated by taking the following steps—

Step 1

Determine the "cap threshold" in accordance with Steps 2 to 5.

Step 2

Calculate the core international shipping profits for each member of the group in the territory.

Step 3

Add together the amounts calculated at Step 2.

Step 4

If the result of Step 3 is nil or less, the cap threshold is nil. Otherwise, proceed to Step 5.

Step 5

Divide the result of Step 3 by two. This is the cap threshold.

Step 6

Calculate the ancillary international shipping profits for each member of the group in the territory (ignoring the requirement to subtract the ancillary international shipping profit cap adjustment).

Step 7

Add together the amounts calculated at Step 6.

Step 8

Subtract the cap threshold from the result of Step 7. If the result is nil or less, the member's ancillary international shipping profit cap adjustment is nil. Otherwise, proceed to Step 9.

Step 9

If the ancillary international shipping profits for the member calculated at Step 6 are nil or less, the member's ancillary international shipping profit cap adjustment is nil. Otherwise, proceed to Step 10.

Step 10

Add together any positive ancillary international shipping profits calculated at Step 6.

Step 11

Divide the ancillary international shipping profits for the member calculated at Step 6 by the result of Step 10.

Step 12

Multiply the result of Step 8 by the result of Step 11. This is the member's ancillary international shipping profit cap adjustment.

Adjustments only applicable to permanent establishments

159 Permanent establishment income and expense attribution

(1) Where a member of a multinational group is a permanent establishment falling within paragraph (a) of section 232(2) (entity treated as permanent establishment in accordance with tax treaty), its underlying profits are to be adjusted so that they only reflect amounts of income and expenses that are attributable to it in accordance with the tax treaty in accordance with which it is treated as a permanent establishment (regardless of whether an amount of income is subject to tax or not, or an amount of expenses are deductible or not).

(2) Where a member of a multinational group is a permanent establishment falling within paragraph (b) of section 232(2) (permanent establishment taxed on similar basis to residents in absence of tax treaty), its underlying profits are to be adjusted so that they only reflect amounts of income and expenses that are attributable to it in accordance with the law of the territory in which

the member is located (regardless of whether an amount of income is subject to tax or not, or an amount of expenses are deductible or not).

(3) Where a member of a multinational group is a permanent establishment falling within paragraph (c) of section 232(2) (permanent establishment located in territory without corporate income tax), its underlying profits are to be adjusted so that they only reflect amounts of income and expenses that would have been attributed to it in accordance with Article 7 of the OECD tax model.

160 Attribution of losses between permanent establishment and main entity

(1) Subsection (2) applies where, on determining (ignoring this section) the adjusted profits of a member of a multinational group that is a permanent establishment for an accounting period ("the relevant period"), that member has a loss.

(2) So much of that loss as—

(a) is treated as an allowable expense of the main entity for the purposes of the computation of tax in the territory in which the main entity is located, and

(b) is not set off against an item of income that is subject to tax under the laws of both the territory of the permanent establishment and the territory of the main entity,

is to be treated as an expense of the main entity for the purposes of determining the adjusted profits of the main entity for the relevant period.

(3) Subsections (4) and (5) apply where an amount ("the relevant amount") is treated as an expense of the main entity for the purposes of determining its adjusted profits for the relevant period as a result of subsection (2).

(4) The relevant amount is to be excluded from the adjusted profits of the permanent establishment for the relevant period.

(5) Where, on determining (ignoring this section) the adjusted profits of the permanent establishment for an accounting period after the relevant period, the permanent establishment has made a profit for that period, those profits are to be treated as income of the main entity for the purpose of determining that entity's adjusted profits for that period.

(6) But subsection (5) only applies until the total amount treated as income of the main entity as a result of that subsection is equal to the relevant amount.

(7) Where profits of the permanent establishment for an accounting period are treated as income of the main entity as a result of subsection (5), those profits are to be excluded from the adjusted profits of the permanent establishment for that period.

Elections to treat certain amounts differently

161 Election to use realisation principle

(1) The filing member of a multinational group may elect that all of the group's members in a territory, or all of the group's members in that territory that are investment entities, are to use the realisation principle in determining gains and losses in relation to—

(a) all assets and liabilities that are subject to fair value or impairment accounting, or

(b) tangible assets that are subject to fair value accounting or impairment accounting.

(2) Where such an election is in force in relation to members of multinational group in a territory—

(a) the underlying profits of each of the group's members for each of the accounting periods in respect of which the election is in force are to be adjusted so as to exclude gains and losses in respect of assets or liabilities to which the election applies that are attributable to fair value or impairment accounting;

(b) the carrying value of an asset or liability to which the election applies to be used for the purposes of determining gains or losses in respect of that asset or liability, is to be its carrying value at the later of—

(i) the commencement of the first accounting period of the multinational group to which the election applied, or

(ii) the time the asset was acquired or the liability was incurred.

(3) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(4) Where an election under this section has been revoked, the underlying profits of each member of a multinational group in respect of which the election was in force are to be adjusted in the first accounting period in respect of which the election no longer applies ("the revocation period") by adjusting for the change in treatment of the assets and liabilities that were subject to the election and that remain held by the member at the commencement of the revocation period.

(5) To adjust the underlying profits of a member of a multinational group for the change in treatment of an asset or liability subject to an election under this section, subtract the carrying value of that asset or liability as determined in accordance with subsection (2)(b) from the fair value of the asset or liability at the commencement of the revocation period and—

(a) if the amount given is positive, add it to those profits, or

(b) if the amount is negative, subtract it from those profits.

162 Election to reflect deductions for stock-based compensation

(1) The filing member of a multinational group may make an election under this section for the members of the group located in a territory to adjust their underlying profits in accordance with subsection (2).

(2) Where such an election has effect—

(a) the underlying profits of each such member is adjusted by substituting, for the amount of any expense for stock-based compensation, the amount that was allowed as a deduction for the same expense when calculating the member's taxable income, and

(b) where such a member has an expense for stock-based compensation that arises in connection with an option that expires without exercise, the underlying profits of that member for the accounting period in which the option expires are to be increased by such amount of that expense as was an expense in determining the member's adjusted profits for a previous accounting period.

(3) Where—

(a) the underlying profits of a member of a multinational group are adjusted in accordance with subsection (2) in respect of an amount of stock-based compensation,

(b) some expenses in respect of that compensation were recorded in the underlying profits of the member in one or more accounting periods before the election had effect, and

(c) the sum of the expenses recorded in those periods exceeds the sum of what those expenses would have been had the election been in effect for those periods,

the member's adjusted profits are to be adjusted to include the amount of that excess as if it were income.

(4) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(5) Where—

(a) the underlying profits of a member of a multinational group are adjusted in accordance with subsection (2),

(b) the election is revoked before all of the stock-based compensation has been paid, and

(c) the sum of amounts deducted in accordance with subsection (2) exceeds the sum of the financial account expense accrued that has been paid,

the member's adjusted profits are to be adjusted to include the amount of that excess as if it were income.

163 Election to spread certain capital gains over five years

(1) The filing member of a multinational group may elect that the net gain in respect of the disposal of local tangible assets by standard members of the group in a territory in an accounting period ("the election period") is to be

spread across that period and the preceding 4 accounting periods (collectively "the look-back period") in accordance with subsection (2).

(2) To spread the net gain across those periods take the following steps—

Step 1

For each standard member of the group in the territory, determine whether it has net losses in the first accounting period of the look-back period ("the carry-back period") in respect of the disposal of local tangible assets (ignoring any losses in relation to which these steps have previously been carried out).

Step 2

Allocate the proportion of the net gain in the election period to each standard member with such losses in the carry-back period that is equal to the proportion those losses represent of the total losses in respect of the disposal of local tangible assets of all such members of the group in the carry-back period.

Step 3

Adjust the underlying profits of each such member by reducing the member's losses (but not below nil) by the amount allocated to it under Step 2.

Step 4

If there remains an amount of the net gain which was not used to reduce members' losses in accordance with Step 3, carry out Steps 1 to 3 again, but as if—

(a) the reference in Step 2 to the net gain were to that amount, and

(b) the reference to the first accounting period of the look-back period were to the second accounting period of the look-back period.

Step 5

If there still remains an amount of the net gain which was not used to reduce the members' losses, carry out Steps 1 to 3 again but as if—

(a) the reference in Step 2 to the net gain were to that amount, and

(b) the reference to the first accounting period of the look-back period were to the third accounting period of the look-back period.

Step 6

If there still remains an amount of the net gain which was not used to reduce the members' losses, carry out Steps 1 to 3 again but as if—

(a) the reference in Step 2 to the net gain were to that amount, and

(b) the reference to the first accounting period of the look-back period were to the fourth accounting period of the look-back period.

Step 7

If there still remains an amount of the net gain which was not used to reduce the members' losses, carry out Steps 1 to 3 again but as if—

(a) the reference in Step 2 to the net gain were to that amount, and

(b) the reference to the first accounting period of the look-back period were to the election period.

Step 8

If there still remains an amount of the net gain which was not used to reduced the members' losses, divide the amount remaining by 5.

Step 9

For each accounting period of the look-back period, determine whether any member of the group in the territory has net gains from the disposal of local tangible assets.

Step 10

For each accounting period in the look-back period where at least one standard member in the territory has such gains, adjust the underlying profits of each member who has such gains in that period by adding the amount given by multiplying the result of Step 8 by the amount given by dividing the amount of those gains by the amount of net gains from the disposal of local tangible assets of all members in that territory for that period.

Step 11

For each accounting period in the look-back period where no member has any such gains, adjust the underlying profits of each member in the territory by adding the amount given by multiplying the result of Step 8 by the amount given by dividing 1 by the number of members of the group in that territory.

(3) For the purposes of this section any gain or loss arising from the transfer of assets between standard members of a multinational group is to be ignored.

(4) Where, as a result of an election under this section, the underlying profits of a member of a multinational group in an accounting period is adjusted, the following are to be recalculated for that period—

(a) the effective tax rate for the member and the other members of that group located in the same territory, and

(b) the top-up amounts that those members would have.

(5) Section 206—

(a) makes provision about the consequences of a recalculation (which may include the generation of an additional top-up amount), and

(b) applies to recalculations under subsection (4).

(6) Where an election under this section has effect in relation to a member of a multinational group, any amount of tax with respect to any gains or loss in respect of the disposal of local tangible assets in the election year is to be excluded from the calculation of the member's covered tax balance.

(7) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

(8) In this section "local tangible asset" means immovable property in the same territory as the member disposing of it is located.

164 Election to exclude intra-group transactions

(1) The filing member of a multinational group may elect that standard members of the group that are located in the same territory and are included in a tax consolidation group are to apply the consolidated accounting treatment of the ultimate parent to eliminate income, expenses, gains and losses arising from transactions between those members.

(2) Where an election under this section has effect—

(a) the underlying profits of those members are to be adjusted accordingly in the accounting periods for which the election has effect, and

(b) the underlying profits of those members are to be adjusted for the first accounting period for which the election has effect so as to ensure that there are no duplications or omissions of items of income, expenses, gains or losses arising from the making of the election.

(3) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(4) Where an election under this section is revoked, the underlying profits of the members to whom the election applied are to be adjusted in the first accounting period in which the revocation has effect so as to ensure that there are no duplications or omissions of items of income, expenses, gains or losses arising from the revocation of the election.

(5) For the purposes of this section, members of a multinational group in a territory are included in a "tax consolidation group" if under the law of that territory the income, expenses, gains or losses of those members may for tax purposes be aggregated, surrendered to each other or otherwise shared or transferred between them as a result of a connection between those members.

165 Election to have excluded equity gains and losses included

(1) The filing member of a multinational group may elect that qualifying excluded equity gains or losses of the standard members of the group in a territory are to be treated as not being excluded equity gains or losses for the purposes of section 142.

(2) Excluded equity gains or losses are "qualifying" if—

(a) those gains or losses are subject to covered taxes (as taxable gains or allowable losses) in that territory, or

(b) in the case of gains or losses falling within section 142(2)(a) that are not subject to covered taxes in that territory, gains or losses on the disposal of the qualifying interest in question are subject to covered taxes in that territory.

(3) Paragraph 1 of Schedule 15 (long term elections) applies to an election under subsection (1).

(4) But a revocation of the election under that paragraph does not have effect in relation to equity gains or losses in respect of an ownership interest if—

(a) any member's adjusted profits have included a loss in respect of that ownership interest as a result of subsection (1), and

(b) that loss would otherwise have been excluded from those profits as a result of section 142(1).

Accordingly, subsection (1) will apply to equity gains and losses in respect of that ownership interest even after the election is revoked.

166 Election in relation to hedging currency risk in ownership interests

(1) The filing member of a multinational group may elect that the underlying profits of a member of the group specified in the election are to be adjusted to exclude qualifying gains or losses arising from fluctuations in exchange rates.

(2) A gain or loss arising from fluctuations in exchange rates is "qualifying" to the extent—

(a) the gain or loss is attributable to an instrument intended to act as a hedge against currency risk in ownership interests held by the member or another member of the group, other than an ownership interest in an entity falling within subsection (3),

(b) the gain or loss is recognised in other comprehensive income in the consolidated financial statements of the ultimate parent,

(c) the instrument is considered an effective net investment hedge under the authorised accounting standard upon which those statements are prepared,

(d) where the instrument is held by the member, the economic and accounting effect of the hedge has not been transferred to any other entity, and

(e) where the instrument is not held by the member, the economic and accounting effect of the hedge has been transferred to the member.

(3) An ownership interest in an entity held by a member of a multinational group falls within this subsection if the members of that group do not, between them, have qualifying interests that entitle them to 10% or more of the entity's —

(a) profits,

(b) capital,

(c) reserves, and

(d) voting rights.

(4) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

Dealing with transparency and entities subject to qualifying dividend regime

167 Underlying profits of hybrids

(1) This section applies where a member of a multinational group ("M")—

(a) is not regarded as tax transparent in the territory in which it is located, and

(b) is regarded as tax transparent in a territory in which a member of the group with an ownership interest in it ("G") is located.

(2) Where—

(a) the adjusted profits of G reflect profits of M, and

(b) the basis for the profits of M being so reflected is that M (along with any other entities through which G holds that interest) is regarded as tax transparent in the territory in which G is located,

such profits as are reflected on that basis are to be allocated to M (and included in the adjusted profits of M to the extent not already included) and excluded from the adjusted profits of G.

168 Underlying profits of transparent and reverse hybrid entities

(1) This section applies where a member of a multinational group ("M") is a flow-through entity.

(2) An entity is a flow-through entity if—

(a) it is regarded as tax transparent in the territory in which it is created, and

(b) it is not subject to a covered tax on its profits in another territory.

(3) A proportion of the underlying profits of M is to be allocated to each entity ("O") with an ownership interest in M in relation to which condition A or B is met.

(4) The proportion to be allocated to O is equal to the proportional ownership interest O has in M in relation to which condition A or B is met (subject to subsection (7)).

(5) Condition A is that—

(a) O is not regarded as tax transparent in the territory in which O is located,

(b) M is regarded as tax transparent in the territory in which O is located, and

(c) if O's ownership interest in M is an indirect ownership interest in M—

(i) each entity through which O holds that interest is regarded as tax transparent in the territory in which O is located, and

(ii) this condition is not met in relation to any other entity through which O's indirect ownership interest in M is held.

(6) Condition B is that—

(a) O is a reverse hybrid entity,

(b) M is regarded as tax transparent in the territory in which O is located, and

(c) if O's ownership interest in M is an indirect ownership interest—

(i) each entity through which it is held is regarded as tax transparent in the territory in which O is located, and

(ii) neither condition A nor this condition is met in relation to any other entity through which O's indirect ownership interest in M is held.

(7) Where –

(a) underlying profits of M are allocated to an entity ("H") as a result of it meeting condition B, and

(b) underlying profits of M are allocated to an entity ("J") as a result of it meeting condition A in relation to an ownership interest it holds through H,

the underlying profits to be allocated to H are to be reduced by the profits allocated to J.

(8) Where underlying profits of M are allocated to a member of the group of which M is a member, those profits are to be included in the member's adjusted profits and excluded from the adjusted profits of M.

(9) Where underlying profits of M are allocated to an entity which is not a member of the group of which M is a member, those profits are to be excluded from the adjusted profits of M.

(10) Any amount of M's underlying profits not allocated to an entity in accordance with this section is to be included in the adjusted profits of M.

(11) For the purposes of this section, an entity ("R") is a "reverse hybrid entity" if R is regarded as tax transparent in the territory in which it is located and there is a territory –

(a) in which an entity with a direct ownership interest in R is located, and R is regarded in that territory as not being tax transparent, or

(b) in which an entity with an indirect ownership interest in R is located, and –

(i) R is regarded in that territory as not being tax transparent, and

(ii) each entity through which that ownership interest is held is regarded in that territory as tax transparent.

169 Certain non tax resident entities to be treated as flow-through entities

(1) This section applies to a member of a multinational group that –

(a) is not tax resident in any territory,

(b) is not subject to covered taxes,

(c) does not have a place of business in the territory where it is created, and

(d) is not regarded as tax transparent in the territory in which it is created.

(2) A member of a multinational group to which this section applies is to be treated as being regarded as tax transparent in the territory it is created to the extent that –

(a) it is tax transparent in the territory in which its owners are located, and

(b) its income, expenditure, profits and losses are not attributable to a permanent establishment.

(3) Accordingly, such a member is to be treated as a flow-through entity.

170 Adjustments for ultimate parent that is a flow-through entity

(1) Where—

(a) the ultimate parent of a multinational group is a flow-through entity, and

(b) on determining its adjusted profits for an accounting period (ignoring this section), it has made a profit for that period,

those profits are to be further adjusted so as to exclude any amount of its profits that is qualifying.

(2) An amount of profits is qualifying if—

(a) it represents an amount of the ultimate parent's profits to which the holder of an ownership interest (direct or indirect) in the ultimate parent is entitled as a result of that interest, and

(b) condition A, B or C is met.

(3) Condition A is that the holder of the ownership interest is subject to tax on the amount for a taxable period that ends within 12 months of the accounting period of the group and—

(a) the holder is subject to tax on the full amount of the ultimate parent's profits to which it is entitled at a nominal rate equal to, or in excess of, 15%, or

(b) it is reasonable to expect that the sum of—

(i) the covered taxes payable by the ultimate parent in respect of the amount of the ultimate parent's profits to which the holder is entitled, and

(ii) taxes payable by the holder of the ownership interest in respect of the amount of the ultimate parent's profits to which the holder is entitled,

is equal to, or more than, 15% of the amount of the profits of the ultimate parent to which the holder of the interest is entitled.

(4) Condition B is that the holder of the ownership interest is an individual that—

(a) is tax resident in the territory of the ultimate parent, and

(b) does not hold ownership interests that together entitle the person to more than 5% of the profits and assets of the ultimate parent.

(5) Condition C is that the holder of the ownership interest is a governmental entity, an international organisation, a non-profit organisation or a pension fund that—

(a) is located in the territory of the ultimate parent, and

(b) does not hold ownership interests that together entitle that entity to more than 5% of the profits and assets of the ultimate parent.

(6) Where the adjusted profits of the ultimate parent of a multinational group for an accounting period are reduced as a result of subsection (1), its covered tax balance (see section 174) is—

(a) in the case of a positive covered tax balance, to be reduced by the same proportion that the underlying profits were reduced, or

(b) in the case of a negative covered tax balance, to be increased by that same proportion.

(7) Where—

(a) the ultimate parent of a multinational group is a flow-through entity,

(b) on determining its adjusted profits for an accounting period (ignoring this section), it has made a loss for that period,

those profits are to be further adjusted so as to exclude any disqualified amount of that loss.

(8) An amount of that loss is disqualified if the holder of an ownership interest in the ultimate parent is allowed to use that amount in computing the holder's taxable income.

(9) This section applies to a member of a multinational group as it applies to the ultimate parent if the member is—

(a) a permanent establishment through which the ultimate parent wholly or partly carries out its business, if the ultimate parent is a flow-through entity, or

(b) a permanent establishment through which the business of a flow-through entity is carried out, if the ultimate parent's interest in that entity is held directly or through one or more entities all of which are regarded as tax transparent in the territory in which the ultimate parent is located.

171 Ultimate parent subject to qualifying dividend regime

(1) Where—

(a) the ultimate parent of a multinational group that is subject to a qualifying dividend regime distributes a qualifying dividend within 12 months of the end of its accounting period, and

(b) on determination of its adjusted profits for the period, it has made a profit,

its adjusted profits for that period are to be reduced (but not below nil) by the amount of that dividend if any one of conditions A to C is met.

(2) Condition A is that the qualifying dividend is subject to tax in the hands of the dividend recipient for a taxable period that ends within 12 months of the end of the ultimate parent's accounting period and—

(a) its recipient is subject to tax on the full amount of the dividend at a nominal rate equal to, or in excess of, 15%,

(b) it is reasonable to expect that the sum of the adjusted covered taxes payable by the ultimate parent in respect of the profits represented by the dividend and taxes payable by the dividend recipient in respect of the dividend income is at least the amount given by multiplying the amount of that income by 15%, or

(c) the ultimate parent is a supply cooperative and the recipient is an individual.

(3) For the purposes of subsection (2) patronage dividends made by a supply cooperative are subject to tax to the extent they reduce an expense or cost that is deductible in the computation of the recipient's taxable income.

(4) Condition B is that the recipient of the qualifying dividend is an individual that—

(a) is tax resident in the territory of the ultimate parent, and

(b) does not hold ownership interests in the ultimate parent held directly, or through entities that are regarded as tax transparent in the territory in which the individual is tax resident, that together entitle the individual to more than 5% of the profits and assets of the ultimate parent.

(5) Condition C is that the recipient of the qualifying dividend is located in the territory of the ultimate parent and is—

(a) a governmental entity,

(b) an international organisation,

(c) a non-profit organisation, or

(d) a pension fund that is not a pension services entity.

(6) Where the underlying profits of the ultimate parent of a multinational group for an accounting period are reduced as a result of subsection (1)—

(a) its covered tax balance, excluding any tax in respect of which a deduction for the dividend was allowed, is—

(i) in the case of a positive covered tax balance, to be reduced by the same proportion that underlying profits were reduced, or

(ii) in the case of a negative covered tax balance, to be increased by that same proportion, and

(b) its adjusted profits are to be further reduced by an amount equal to the amount by which its covered tax balance was adjusted under paragraph (a).

(7) References in this section to "the recipient" of a qualifying dividend means—

(a) the direct recipient of the qualifying dividend, or

(b) an entity or individual with ownership interests in the direct recipient if—

(i) in the case of an entity, it is located in a territory in which the direct recipient, and every entity through which that ownership interest is held, is regarded as tax transparent, or

(ii) in the case of an individual, they are tax resident in a territory in which the direct recipient, and every entity through which that ownership interest is held, is regarded as tax transparent.

(8) Where there is more than one recipient of a dividend as a result of paragraph (b) of subsection (7)—

(a) this section is to be applied separately in relation to each recipient,

(b) where a recipient falls within that paragraph, references to the dividend is to so much of the dividend to which that recipient is entitled to as a result of its ownership interests in the direct recipient.

But a reduction of adjusted profits may not be made more than once in respect of a dividend or a part of it (where more than one individual or entity can be regarded as a recipient of the whole dividend or a part of it).

(9) For the purposes of this section and section 172—

"qualifying dividend regime" means a tax regime designed to result in a single level of taxation on the owners of an entity through—

(a) a deduction from the income of the entity for distributions of profits to the owners,

(b) a regime where certain of the profits ("the relevant profits") of a UK REIT or overseas REIT equivalent are not taxed provided a sufficient proportion of the relevant profits is distributed, or

(c) a regime applicable to a supply cooperative that exempts the cooperative from taxation on profits in connection with its distribution of patronage dividends;

"qualifying dividend" means—

(a) in the case of a qualifying dividend regime falling within paragraph (a) of the definition of qualifying dividend regime, a dividend or other distribution made to an owner of the entity,

(b) in the case of a qualifying dividend regime falling within paragraph (b) of the definition of qualifying dividend regime, a dividend or other distribution which would count towards satisfying the condition that a sufficient proportion of the relevant profits of the UK REIT or overseas REIT equivalent have been distributed (assuming that condition had not already been met), or

(c) in the case of a qualifying dividend regime falling within paragraph (c) of the definition of qualifying dividend regime, a patronage dividend;

"supply cooperative" means a cooperative that acquires goods or services and sells them to its members or patrons;

"cooperative" means an entity that collectively markets or acquires goods or services on behalf of its members and that is subject to a tax regime in the territory in which it is located that is designed to ensure tax neutrality in respect of—

(a) property or services of the members sold through the cooperative, or

(b) property or services acquired by members through the cooperative;

"patronage dividend" means a distribution by a cooperative to its members.

172 Application of section 171 to members in the same territory as the ultimate parent

(1) Subsection (2) applies to a distribution of a qualifying dividend by a member of a multinational group where conditions X and Y are met.

(2) Where this subsection applies, subsections (1) and (6) of section 171 apply to the distribution made by the member as it applies to a distribution by the ultimate parent in relation to which one of conditions A to C in that section apply.

(3) Condition X is that the member—

(a) is located in the same territory as the ultimate parent,

(b) the member and the ultimate parent are subject to the same qualifying dividend regime,

(c) all of the ultimate parent's ownership interests in the member are—

(i) direct, or

(ii) held solely through other members of the group who are located in that territory and subject to the regime.

(4) Condition Y is that—

(a) the distribution of the qualifying dividend is made—

(i) to the ultimate parent, or

(ii) to one of the members referred to in subsection (3)(c)(ii),

(b) in the case of a distribution made to the ultimate parent, the whole of the qualifying dividend is distributed by the ultimate parent and one of the conditions A to C in section 171 applies to each of the distributions made from the qualifying dividend, and

(c) in the case of a distribution made to one of the members referred to in subsection (3)(c)(ii)—

(i) the whole of the dividend is distributed to the ultimate parent, or to one of the members referred to in that subsection provided the whole amount is eventually distributed to the ultimate parent via one or more further distributions to members referred to in that subsection, and

(ii) the ultimate parent distributes the whole of the dividend and one of conditions A to C in section 171 applies to each of the distributions made from the qualifying dividend.

(5) For the purposes of this section, it is to be assumed that —

(a) where the ultimate parent, or a member referred to in subsection (3)(c)(ii), has received the whole of the qualifying dividend, but has also received other distributions or has other income, any subsequent

distribution by the ultimate parent or member is funded first by the qualifying dividend and then by any other amounts, and

(b) where the ultimate parent receives amounts from members referred to in subsection (3)(c)(ii), those amounts fund distributions that meet one of conditions A to C in section 171 before distributions that do not.

CHAPTER 5

COVERED TAX BALANCE

Amount of covered taxes

173 Covered taxes

(1) The following are covered taxes in relation to a member of a multinational group—

(a) taxes on profits of that member (including, where it has direct or indirect ownership interests in another member of the group, taxes on its share of the income or profits of that other member),

(b) taxes imposed on the member under an eligible distribution tax system,

(c) taxes imposed on the member as a substitute for a tax on profits that generally applies in the territory of the member, and

(d) taxes charged by reference to the capital of a company, or by reference to its capital and profits.

(2) But none of the following are to be regarded as covered taxes—

(a) multinational top-up tax, or any tax equivalent to multinational top-up tax;

(b) a qualifying domestic top-up tax (see section 256);

(c) a qualifying undertaxed profits tax (see section 257);

(d) a disqualified refundable imputation tax (see section 253);

(e) where the member carries on a life assurance business, taxes in respect of which amounts were charged to the member's policyholders.

174 Amount of covered tax balance

(1) To determine the covered tax balance of a member of a multinational group for an accounting period—

Step 1
Determine the amount of the qualifying current tax expense accrued by the member for that period.

Step 2
Determine whether any amounts need to be excluded from that expense under section 175 (and adjust it accordingly).

Step 3

Determine whether any amounts need to be reflected in that expense under section 176 (and adjust it accordingly).

Step 4

If any amount of covered taxes is taken into account more than once in the covered tax balance expense, adjust it so that the amount is only taken into account once.

(2) For the purposes of this Part, current tax expense is to be expressed—

(a) as a positive number where it represents an expense, and

(b) as a negative number where it represents a credit.

(3) If the result of subsection (1) is a negative amount that amount (expressed as a positive number) is a "negative covered tax balance".

(4) If the result of subsection (1) is a positive amount, or nil, that amount is a "positive covered tax balance".

(5) In this Part—

references to the "covered tax balance" of a member of a multinational group are to a positive covered tax balance or a negative covered tax balance;

"qualifying current tax expense" means the amount of the current tax expense as reflected in the member's underlying profits to the extent the expense relates to covered taxes.

175 Amounts excluded from covered tax balance

(1) The amounts referred to in subsection (2) are to be excluded from a member of a multinational group's qualifying current tax expense (to the extent they would otherwise be included).

(2) Those amounts are as follows—

(a) any amount that relates to income or gains that are not included in the member's adjusted profits;

(b) any amount that relates to an uncertain tax position;

(c) any amount of credit or refund in respect of a qualifying refundable tax credit that is recorded as a reduction of qualifying current tax expense;

(d) any amount that is not expected to be paid before the end of the period of three years commencing with the first day after the end of the accounting period;

(e) any amount allocated to another member of the multinational group in accordance with this Part;

(f) any amount excluded under section 180(3)(b) (blended CFC regime).

176 Amounts to be reflected in covered tax balance

(1) The amounts referred to in subsection (2) are to be reflected in a member of a multinational group's qualifying current tax expense (to the extent they were not already reflected).

(2) Those amounts are as follows—

(a) any amount of covered taxes reflected in the member's underlying profits but which (ignoring this paragraph) is not reflected in the qualifying current tax expense;

(b) the total deferred tax adjustment amount (see section 182);

(c) any amount of covered taxes paid, or refunded, in the current accounting period that relates to an uncertain tax position where the amount was excluded under section 175(2)(b) for a previous accounting period;

(d) any amount of credit or refund in respect of a tax credit (whether refundable or not) that—

(i) is not a qualifying refundable tax credit, and

(ii) has not been reflected in its qualifying current tax expense in the current accounting period or a previous accounting period (see section 148);

(e) any amount of covered taxes refunded or credited to the member, other than a qualifying refundable tax credit;

(f) where section 187(5) applies in relation to the member, the amount of special loss deferred tax assets used, in accordance with section 187(7), by the member for the current accounting period;

(g) any amount of covered taxes recorded in other comprehensive income of the member relating to amounts included in determining its adjusted profits that are subject to covered taxes under the law of the territory in which the member is located;

(h) any amount of covered taxes relating to an amount reflected in the member's adjusted profits as a result of section 146 (adjustment for changes in accounting polices and prior period errors);

(i) any amount allocated to the member from another member of the multinational group.

(3) For the purposes of this Part—

(a) an amount of tax paid or tax expense is to be expressed as a positive number, and

(b) an amount of tax credit or refund is to be expressed as a negative number.

Allocation of covered taxes

177 Permanent establishments

(1) Any amount of qualifying current tax expense included in the underlying profits accounts of a member of a multinational group that is in respect of profits of a permanent establishment is to be allocated to the permanent establishment.

(2) Where profits of a permanent establishment are treated as income of the main entity as a result of section 160(5), covered taxes on those profits are to be allocated to the main entity.

(3) But the amount allocated in accordance with subsection (2) is not to exceed the amount given by multiplying the amount of those profits by the highest corporate tax rate on ordinary income in the territory where the main entity is located.

(4) Any deferred tax asset with respect to a loss arising in the territory of a permanent establishment that is treated as an expense of the main entity as a result of section 160(2) is to be ignored in determining the covered tax balance of either the main entity or the permanent establishment.

178 Reallocation of tax expense

(1) Where—

(a) profits have been allocated to a member of a multinational group ("O") under section 167 or 168 (allocation of profits of hybrid, transparent and reverse hybrid entities), and

(b) the member from whom the profits have been allocated has an amount of qualifying current tax expense in respect of those profits,

that qualifying tax expense is to be allocated to O.

(2) But the amount of qualifying current tax expense in respect of mobile income allocated to O is not to exceed the amount given by taking the following steps—

Step 1

Determine the effective tax rate of the members of the multinational group in the territory of O for the accounting period to which the qualifying current tax expense relates, ignoring that expense.

Step 2

Subtract the result of Step 1 from 15%.

Step 3

Multiply the result of Step 2 by the amount of mobile income to which the qualifying tax expense relates.

(3) For the purposes of this section and section 179, "mobile income" means income of a type mentioned in subsection (4) in respect of which a member of a multinational group is subject to tax—

(a) under a controlled foreign company tax regime (see section 179(4)), or

(b) as a result of an ownership interest in an entity regarded as tax transparent in the territory the member is located in but not so regarded in the territory in which that entity is located.

(4) Those types of income are—

(a) dividends or dividend equivalents,

(b) interest or interest equivalent,

(c) rent,

(d) a royalty,

(e) an annuity, or

(f) net gains from property of a type that produces income described in paragraphs (a) to (e).

179 Controlled foreign company tax regimes

(1) Where—

(a) a member of a multinational group ("C") is subject to a controlled foreign company tax regime, and

(b) C has an ownership interest in another member of the group ("F") that is a controlled foreign company in relation to C,

any amount of qualifying current tax expense included in C's underlying profits accounts with respect to tax on C's share of the profits of F are to be allocated to F (to the extent it has not already been allocated as a result of another provision of this Part).

(2) But the amount of qualifying current tax expense in respect of mobile income allocated to F is not to exceed the amount given by taking the following steps—

Step 1

Determine the effective tax rate of the members of the multinational group in the territory of F for the accounting period to which the qualifying current tax expense relates, ignoring that expense.

Step 2

Subtract the result of Step 1 from 15%.

Step 3

Multiply the result of Step 2 by the amount of mobile income to which the qualifying current tax expense relates.

(3) Subsection (1) does not apply to a controlled foreign company tax regime that is a blended CFC regime in accounting periods commencing on or before 31 December 2025 that end on or before 30 June 2027.

(4) In this Part—

"controlled foreign company tax regime" means a set of tax rules (other than multinational top-up tax or any tax equivalent to multinational top-up tax) under which an entity with an ownership interest in another entity located in a different territory ("the controlled foreign company") is subject to current taxation on its share of part or all of the income earned by the controlled foreign company, irrespective of whether that income is distributed currently to it;

"blended CFC regime" means a controlled foreign company tax regime—

(a) under which the income, losses and creditable taxes of all of the controlled foreign companies of the entity with ownership interests in them are aggregated for the purposes of calculating the entity's tax liability under the regime,

(b) that does not take into account the income of the entity, or members of a consolidated group of which the entity is a member, that arises in the location of the entity, apart from to the extent the entity may use its losses arising in that location to reduce its liability under the regime, and

(c) which operates by reference to a rate which reflects a threshold for low taxation.

180 Blended CFC regimes

(1) This section applies to accounting periods commencing on or before 31 December 2025 that end on or before 30 June 2027.

(2) Subsection (3) applies where—

(a) a member of a multinational group ("C") is subject to a blended CFC regime in an accounting period ("the relevant period"),

(b) C has an ownership interest in an entity ("F") that is a blended CFC entity in relation to C, and

(c) the blended CFC allocation key of F is greater than nil.

(3) The appropriate proportion of tax charged to C under that regime (after all deductions and use of any losses) is—

(a) where F is a member of the same multinational group as C, to be allocated to F, or

(b) where F is not a member of that group, to be excluded from the covered tax balance of C.

(4) The appropriate proportion is the proportion given by dividing the blended CFC allocation key for F for the relevant period by the sum of all blended CFC allocation keys for that period of blended CFC entities in which C has an ownership interest.

(5) The blended CFC allocation key for the relevant period of a blended CFC entity that C has an ownership interest in is the amount given by multiplying—

(a) the attributable income of C, by

(b) the percentage given by subtracting the applicable effective tax rate of the blended CFC entity for the relevant period from the applicable CFC rate for that period.

(6) But where—

(a) the result of subsection (5)(b) in relation to a blended CFC entity is less than nil, or

(b) the applicable effective tax rate of that entity is greater than 15%,

the blended CFC allocation key for that entity is to be treated as nil.

(7) The attributable income of C means C's share of the income of F for the relevant period determined as it would be determined for the purposes of the blended CFC regime.

(8) The applicable effective tax rate of a blended CFC entity for the relevant period is—

(a) where it is located in a territory in which the effective tax rate of members of the multinational group of which C is a member is calculated for that period, that effective tax rate as it would be calculated if—

(i) any tax arising under a blended CFC regime were ignored, and

(ii) where the blended CFC regime permits foreign tax credit in respect of a qualifying domestic top-up tax on the same basis it would be permitted for covered taxes, that qualifying domestic top-up tax were a covered tax, or

(b) where it is not located in such a territory, the effective tax rate that would be calculated for the relevant period for the blended CFC entities located in that territory in which C has an ownership interest if—

(i) those entities were members of a multinational group whose ultimate parent's accounting period is the same as the relevant period,

(ii) the consolidated financial accounts of that ultimate parent represented the aggregate income and taxes shown in the financial accounts of those companies,

(iii) any tax arising under a blended CFC regime were ignored, and

(iv) where the blended CFC regime permits foreign tax credit in respect of a qualifying domestic top-up tax on the same basis it would be permitted for covered taxes, that qualifying domestic top-up tax were a covered tax.

(9) The applicable CFC rate for the relevant period means the rate which reflects the threshold for low taxation by reference to which the blended CFC regime is generally operated, taking into account any credit for foreign taxes available under the regime.

(10) In this section "blended CFC entity" in relation to a member of a multinational group subject to a blended CFC regime means—

(a) a controlled foreign company in relation to that member,

(b) a permanent establishment of such a controlled foreign company,

(c) an entity whose profits are treated, for the purposes of the regime, as the profits of such a controlled foreign company.

181 Distributions from other members of a group

(1) Where qualifying current tax expense in respect of covered taxes accrued in an accounting period in the underlying profits accounts of a member of a multinational group ("R") is in respect of a distribution received from another member of the group ("D") in which R has a direct ownership interest, that expense is to be allocated to D.

(2) Reference in subsection (1) to a distribution received is to be treated as including deemed distributions taken account of for the purposes of taxes on a shareholder of an entity in respect of undistributed earnings or capital of the entity.

Dealing with deferred tax assets etc

182 Total deferred tax adjustment amount

(1) The total deferred tax adjustment amount for a member of a multinational group for an accounting period is the deferred tax expense relating to covered taxes reflected in the member's underlying profits, adjusted as follows.

(2) The deferred tax expense is to be adjusted to exclude the following—

(a) any amount of that expense that reflects items not reflected in the member's adjusted profits;

(b) any amount of that expense that reflects disallowed accruals or unclaimed accruals;

(c) the impact of a valuation adjustment or accounting recognition adjustment with respect to a deferred tax asset;

(d) any amount of that expense arising from a re-measurement with respect to a change in the rate of tax;

(e) any amount of that expense that reflects the generation or use of tax credits (but see section 183 which permits the inclusion of qualifying foreign tax credits).

(3) Where a deferred tax liability is reversed in an accounting period, and that deferred tax liability was treated as an unclaimed accrual in a previous accounting period, the deferred tax expense is to be increased by the amount of the deferred tax liability that has reversed.

(4) Where a deferred tax asset is not reflected in the deferred tax expense only as a result of the recognition criteria not being met, that deferred tax asset is to be reflected in the total deferred tax adjustment amount.

(5) Where the amount of a deferred tax asset is adjusted as a result of section 186, an amount equal to that adjustment is to be reflected in the total deferred tax adjustment amount.

(6) Where an amount of recaptured deferred tax liability (see section 184) that was determined for a previous accounting period is reversed during the accounting period, that amount is to be reflected in the total deferred tax adjustment amount.

(7) Where the deferred tax expense relates to covered taxes where the rate is greater than 15%, the amount of that expense (after adjustment under subsections (2) to (6)) is to be adjusted so that it reflects the amount it would have been had the rate been 15%.

(8) For the purposes of this section—

"disallowed accrual" means—

(a) any movement in deferred tax expense reflected in the member's underlying profits which relates to an uncertain tax position, or

(b) any movement in deferred tax expense reflected in those profits which relates to distributions from another member of that group;

"unclaimed accrual" means an increase in a deferred tax liability reflected in the member's underlying profits for an accounting period—

(a) that is not expected to be reversed before the end of the fifth accounting period after that period, and

(b) in respect of which the filing member has elected not to include in the total deferred tax adjustment amount for that period.

Paragraph 2 of Schedule 15 (annual elections) applies to an election not to include an unclaimed accrual in the total deferred tax adjustment amount.

183 Qualifying foreign tax credits (substitute loss carry forward assets)

(1) A qualifying foreign tax credit of a member of a multinational group is to be included in the member's total deferred tax adjustment amount.

(2) A foreign tax credit is qualifying if—

(a) the territory in which the member is located—

(i) requires that domestic losses are offset against relevant foreign income before foreign tax credits can be applied against tax on foreign income, and

(ii) permits foreign tax credits to be used to offset tax on domestic profits to the extent to which domestic losses have been offset against relevant foreign income in a previous taxable period,

(b) the member has used a domestic loss to offset (in whole or in part) relevant foreign income, and

(c) the foreign tax credit is in respect of tax imposed by another territory on that foreign income.

(3) The amount that may be included in the total deferred tax adjustment amount of the member is the lesser of—

(a) the foreign tax paid, and

(b) the amount of domestic loss used to offset the relevant foreign income, multiplied by the tax rate in respect of which the foreign tax was calculated.

(4) Section 182(7) (adjustment where rate of tax exceeds 15%) applies to a qualifying tax credit included in the member's total deferred tax adjustment amount as it applies to the member's deferred tax expense.

(5) In this section "relevant foreign income", in relation to a member of a multinational group, means income of a controlled foreign company of the member on which the member is taxed as a result of a controlled foreign company tax regime.

184 Recaptured deferred tax liabilities

(1) A member of a multinational group has a recaptured deferred tax liability if it has a deferred tax liability, other than an excluded liability, taken into account in its total deferred tax adjustment amount for an accounting period ("the initial period") that is not reversed before the end of the fifth accounting period after the initial period.

(2) Where a member of a multinational group has a recaptured deferred tax liability—

(a) the amount included in the total deferred tax adjustment amount for the initial period in relation to that recaptured deferred tax liability is to be excluded from its covered tax balance for that period, and

(b) the following are to be accordingly recalculated for the initial period—

(i) the effective tax rate for the member and the other members of that group located in the same territory, and

(ii) the top-up amounts that those members would have.

(3) Section 206 applies to recalculations under subsection (2).

(4) For the purposes of subsection (1) "excluded liability" means a tax expense attributable to changes in associated deferred tax liabilities in respect of—

(a) cost recovery allowances on tangible assets,

(b) the cost of a licence or similar arrangement from the government for the use of immovable property or exploitation of natural resources that entails significant investment in tangible assets,

(c) research and development expenses,

(d) de-commissioning and remediation expenses,

(e) fair value accounting on unrealised net gains,

(f) foreign currency exchange net gains,

(g) insurance reserves and insurance policy deferred acquisition costs,

(h) gains from the sale of tangible property located in the same territory as the member that are reinvested in tangible property in the same territory, or

(i) additional amounts accrued as a result of accounting principle changes with respect to things falling within any of paragraphs (a) to (h).

185 Inclusion of existing deferred tax assets and liabilities on entry into regime

(1) This section applies to deferred tax assets and deferred tax liabilities of a member of a multinational group as at the beginning of the first accounting period for which Pillar Two rules apply to it that is reflected in its underlying profits accounts (and the adjustments set out in this section apply instead of those set out in section 182(2) to (7)).

(2) Each such asset and liability is to be taken into account in determining the member's deferred tax expense—

(a) if the nominal tax rate in relation to the asset—

(i) is less than 15% and subsection (3) does not apply, at its nominal tax rate,

(ii) is 15% or more, as if the rate of tax to which the asset or liability related was 15%,

(b) in the case of a deferred tax asset, excluding the impact of a valuation adjustment or accounting recognition adjustment with respect to it.

(3) But where—

(a) the nominal tax rate in relation to the asset is less than 15%, and

(b) the member can demonstrate that a deferred tax asset is attributable to the fact of the member having a loss which would have been taken account of in determining adjusted profits had those profits been determined under this Part,

that asset is to be taken into account in determining the member's deferred tax expense as if the rate of tax to which the asset related was 15%.

(4) Where a deferred tax asset relates to a tax credit neither subsection (2)(a) nor (3) applies.

(5) If the nominal tax rate that applies on the reversal of such a tax asset exceeds 15%, the amount of the reversal is to be treated as if it were the amount given by multiplying—

(a) the amount given by dividing—

(i) the amount of the deferred tax expense in the underlying profits accounts in respect of that deferred tax asset, by

(ii) the nominal tax rate that applied on the reversal, by

(b) 15%.

(6) Subsection (7) applies to a deferred tax asset of a member of a qualifying multinational group that arises—

(a) as a result of a transaction made after 30 November 2021 and before the commencement of the first accounting period for which Pillar Two rules apply to it, and

(b) in relation to an item that either—

(i) is included in the member's taxable income but which would not be included in the member's adjusted profits (had those profits been determined under this Part), or

(ii) is not included in the member's taxable income but which would be included in the member's adjusted profits (had those profits been determined under this Part).

(7) A deferred tax asset to which this subsection applies is to be ignored in determining the member's deferred tax expense.

186 Deferred tax assets recorded at less than minimum rate

(1) This section applies where the value of a deferred tax asset of a member of a multinational group—

(a) is calculated on the basis of a tax rate of less than 15%, and

(b) is attributable to an accounting period in which the member's adjusted profits were a loss.

(2) But this section only applies in relation to a deferred tax asset if the filing member has made an election for it to apply to the member.

(3) Subsection (4) applies where the loss for the accounting period upon which the value of that asset was calculated does not exceed the loss established on determining the member's adjusted profits for that period.

(4) Where this subsection applies, the asset is to be treated as having the value it would have if the tax rate upon which it was calculated were 15%.

(5) Subsection (6) applies where the loss for the accounting period upon which the value of that asset was calculated exceeds the loss established on determining the member's adjusted profits for that period.

(6) The relevant part of the asset is to be treated as having the value of a deferred tax asset generated on the loss established on determining the member's adjusted profits on the basis of a tax rate of 15%.

(7) The "relevant part" of the asset means so much of the asset derived from an amount of loss that does not exceed the loss established on determining the member's adjusted profits.

(8) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

187 Election for losses to be treated as special loss deferred tax assets

(1) The filing member of a multinational group may elect that this section applies to all of the standard members of the group in a particular territory ("the relevant territory").

(2) An election under subsection (1) –

(a) must be made having effect for the first accounting period in which the Pillar Two rules apply to any standard member in the relevant territory,

(b) may not otherwise be made (and accordingly if the election is revoked it cannot be made again), and

(c) may not be made for a territory that has an eligible distribution tax system.

(3) Where this section applies to the standard members of a multinational group for an accounting period –

(a) none of those members has a total deferred tax adjustment amount for that period, and

(b) if the result of Step 2 in section 132(1) in relation to those members is nil or less (those members between them have made a loss), the amount of that result (expressed as a positive number) multiplied by 15% is a special loss deferred tax asset of those members.

(4) Subsection (5) applies where –

(a) this section applies in relation to the standard members of a multinational group in a territory for an accounting period,

(b) the result of Step 2 in section 132(1) in relation to those members is greater than nil, and

(c) those members have one or more special loss deferred tax assets.

(5) Where this subsection applies, the standard members of the group that have made a profit in that accounting period are to use those assets in that period to increase their covered tax balances in accordance with subsections (6) and (7).

(6) The amount of the special loss deferred tax assets that is to be used is the lesser of –

(a) the amount of the assets, and

(b) the amount which would cause the effective tax result of the standard members of the group in that territory to be 15%.

Any remainder continues to be a special loss deferred tax asset of the relevant members of the group (and is available for use in subsequent accounting periods where subsection (5) applies).

(7) Each of the standard members that made a profit in that period is to use the proportion of the amount to be used in accordance with subsection (6) that is equal to the proportion the adjusted profits of the member bears to the total adjusted profits of all of the standard members that made a profit.

188 Further provision about elections under section 187

(1) Paragraph 1 of Schedule 15 (long term elections) applies to an election under section 187.

(2) But that paragraph has effect for the purposes of such an election as if—

(a) sub-paragraph (4) were omitted (so that there is no restriction on revoking the election), and

(b) sub-paragraph (5) were omitted (as an election under this section cannot be made again once revoked).

Eligible distribution tax systems: deemed taxes

189 Deemed distribution tax election

(1) The filing member of a multinational group may make an election that section 190 (deemed distribution tax) applies to all of the standard members of the group in a particular territory for an accounting period.

(2) An election under subsection (1) may only be made in relation to a territory if that territory has an eligible distribution tax system.

(3) In this Part "eligible distribution tax system" means a system of tax on company profits that—

(a) is generally only payable when a company distributes, or is deemed to distribute, those profits to its members, or when it incurs certain non-business expenses,

(b) is charged at a rate of at least 15%, and

(c) was in force on or before 1 July 2021.

(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

190 Deemed distribution tax amount

(1) Where this section applies to the standard members of a multinational group in a territory for an accounting period, those members have a deemed distribution tax amount for that period.

(2) The deemed distribution tax amount is the lesser of—

(a) the amount that, when added to the result of Step 4 in section 132(1), would result in the effective tax rate of those members for that period being 15%, and

(b) the amount of tax that would have been due in that territory if all of those members had distributed all of their profits of that period.

(3) The combined covered tax balance of those members for that period, as determined under Step 4 in section 132(1), is to be increased by adding that deemed distribution tax amount.

(4) In the following accounting period, those members have a "recapture amount" in respect of the previous accounting period that is (initially) equal to the deemed distribution tax amount for that period.

(5) Those members continue to have a recapture amount in respect of an accounting period until the earlier of—

(a) the end of the fourth accounting period after the period in which the recapture amount first arose, and

(b) the time when the recapture amount has reduced to nil.

(6) Section 191 sets out how recapture amounts reduce.

(7) If the recapture amount in respect of an accounting period has not reduced to nil by the end of the fourth accounting period after that period the following are to be recalculated for the period in which the recapture amount arose, with the amount of the recapture amount remaining subtracted from the combined covered tax balance (after the addition of the deemed distribution tax amount)—

(a) the effective tax rate for those members, and

(b) the top-up amounts that those members would have following that recalculation.

191 Reduction of recapture amount

(1) Where standard members of a multinational group in a territory have a recapture amount in an accounting period ("the relevant period") in respect of a previous accounting period that amount is to be reduced in accordance with subsections (3) to (5).

(2) If those members have more than one recapture amount in the relevant period, those reductions are to be applied first to the recapture amount in respect of the earliest accounting period, then the next earliest and so on.

(3) First, if any of the members have accrued qualifying taxes in the relevant period reduce the recapture amount (but not below nil) by the amount of qualifying taxes accrued by the members in that period that is available.

(4) Then, if the members have a collective loss for the relevant period (and if the recapture amount has not been reduced to nil) reduce the recapture amount (but not below nil) by the amount of that loss that is available multiplied by 15%.

(5) Finally, if the members have a qualifying carried forward loss (and if the recapture amount has not been reduced to nil) reduce the recapture amount (but not below nil) by the amount of the qualifying carried forward loss that is available.

(6) An amount is "available" to the extent it has not been used to reduce another recapture amount (in the case of a qualifying carried forward loss, whether in that period or a previous period).

(7) For the purposes of subsections (3) to (6)—

"qualifying taxes" means taxes accrued in the relevant period on actual or deemed distributions of profits;

members of the group have a "collective loss" for an accounting period if the result of Step 2 in section 132(1) is less than nil, and the amount of that loss is that result expressed as a positive number,

members of the group have a "qualifying carried forward loss" if —

(a) they had a collective loss in a period, and

(b) after making reductions in accordance with subsections (2) to (5) an amount of that collective loss remains available,

and the amount of that qualifying carried forward loss is the amount of the collective loss that remained available.

(8) Any amount of qualifying taxes accrued by a member of the group that is used to reduce a recapture amount is excluded from that member's covered tax balance.

192 Recalculation where member leaves the group

(1) This section applies where—

(a) in an accounting period ("the relevant period"), a standard member of a multinational group ("D") in a territory ("the relevant territory")—

(i) leaves the group,

(ii) transfers all, or substantially all, of its assets to an entity who is not a member of the group or to an individual, or

(iii) transfers all, or substantially all, of its assets to a member of the group that is not located in the relevant territory, and

(b) the standard members (including D) of the group in the relevant territory ("the relevant members") had, in previous accounting periods, one or more recapture amounts (each a "recapture period").

(2) Where this section applies, the following are to be recalculated for each recapture period—

(a) the effective tax rate for the relevant members, and

(b) the top-up amounts that those members would have in accordance with that recalculation.

(3) In recalculating that rate and those amounts for each of those periods, deduct the amount of each recapture amount that was outstanding in the period (after any reduction under section 191 in that period) from the combined covered tax balance of those members for the period.

(4) The relevant members have a special additional top-up tax amount under this section for the relevant period that is equal to the sum of the amounts given by—

(a) subtracting the amount of top-up amounts those members had for each recapture period from the sum of the top-up amounts those

members would have for that period as recalculated under subsection (2)(b), and

(b) multiplying the result of paragraph (a) for each recapture period by the disposition recapture ratio for that period.

(5) Subject to subsections (6) and (7), the disposition recapture ratio for an accounting period is the amount given by dividing—

(a) the adjusted profits of D in that period, by

(b) the result of Step 2 in section 132(1) for the relevant members for that period.

(6) If either of the amounts described in paragraph (a) or (b) of subsection (5) is nil or less, the disposition recapture ratio is nil.

(7) If (ignoring this subsection) the disposition recapture ratio would be greater than 1, it is to be treated as 1.

(8) Sections 206 and 207 include further provision about special additional top-up tax amounts under this section.

(9) Each of the amounts mentioned in subsection (10) for each affected period is to be treated, for the purposes of this Part, as the amount given by multiplying—

(a) that amount, by

(b) the amount given by subtracting the disposition recapture ratio for that period from 1.

(10) Those amounts are—

(a) the result of Step 2 in section 132(1) for those members for that period;

(b) the combined covered tax balance of the standard members of the group in the relevant territory;

(c) any recapture amount those members have in that affected period;

(d) the substance based income exclusion for that period for that territory.

(11) An accounting period is an affected period if it is—

(a) a recapture period, or

(b) the relevant period and the standard members of the group in the territory have one or more recapture amounts in that period.

CHAPTER 6

CALCULATION OF TOP-UP AMOUNTS

193 Calculation of top-up amounts

Take the following steps to determine if a standard member of a multinational group ("the member in question") has a top-up amount for an accounting period and, if it does, the extent of it—

Step 1

Determine, under section 194, the total top-up amount for the accounting period for the territory the member in question is located in.

Step 2

If the total top-up amount for that territory is nil, the member in question does not have a top-up amount. Otherwise, proceed to Step 3.

Step 3

Determine the adjusted profits of the member in question for the period (in accordance with Chapter 4).

Step 4

If the member has not made a profit for the period (as determined by reference to its adjusted profits), the member in question does not have a top-up amount. Otherwise, proceed to Step 5.

Step 5

If there are no other standard members of the multinational group located in the same territory as the member in question, the member's top-up amount is equal to the total top-up amount for that territory for the period. Otherwise, proceed to Step 6.

Step 6

Determine (in accordance with Chapter 4) the adjusted profits for the period of all of the other standard members of the group that are located in same territory as the member in question.

Step 7

Add together the adjusted profits of all standard members of the group in that territory that have profits (including those of the member in question).

Step 8

Divide the member in question's adjusted profits by the result of Step 7.

Step 9

The member's top-up amount is the result of multiplying the total top-up amount for the territory by the result of Step 8.

194 Total top-up amount for a territory

(1) Take the following steps to determine the total top-up amount for an accounting period for a territory—

Step 1

Subtract the effective tax rate of the standard members of the group in that territory for that period (as determined in accordance with section 132) from 15%.

Step 2

If the result of Step 1 is nil or less, the total top-up amount for that territory is nil. Otherwise, proceed to Step 3.

Step 3

Subtract the sum of the losses of those members of the group that made a loss for the period (as determined by reference to their adjusted profits) from the sum of the profits of those members of the group that made a profit in that period (as determined by reference to their adjusted profits).

Step 4

Subtract the substance based income exclusion for that period for that territory (if any) from the result of Step 3.

Step 5

If the result of Step 4 is nil or less, the total top-up amount for that territory is nil. Otherwise, proceed to Step 6.

Step 6

Multiply the result of Step 1 (which will be a percentage) by the result of Step 4.

(2) But where those members have a QDT credit for that territory for the accounting period, the total top-up amount is to be reduced in accordance with subsections (4) to (7).

(3) For the purposes of this Part, standard members of a multinational group in a territory have a "QDT credit" for a territory for an accounting period if qualifying domestic top-up tax (see section 256) is accrued by one or more of those members in that territory in that period.

(4) Where—

(a) the standard members do not have a collective additional amount under section 206 for the period, and

(b) the result of Step 6 in subsection (1) is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the total top-up amount is to be reduced by the sum of those amounts.

(5) Where—

(a) the standard members do not have a collective additional amount under section 206 for the period, and

(b) the result of Step 6 in subsection (1) is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in the period,

the total top-up amount is to be reduced to nil.

(6) Where—

(a) the standard members have a collective additional amount under section 206 for the period, and

(b) the sum of the result of Step 6 in subsection (1) and that collective additional amount is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in the period,

the total top-up amount is to be reduced to nil.

(7) Where—

(a) the standard members have a collective additional amount under section 206, and

(b) the sum of the result of Step 6 in subsection (1) and that collective additional amount is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in the period,

the total top-up amount is to be reduced by the amount given by multiplying the sum of those amounts of qualifying domestic top-up tax by the amount given by dividing the result of Step 6 in subsection (1) by the sum of the result of that step and that collective additional amount.

195 Substance based income exclusion

(1) The substance based income exclusion for a period for a territory is calculated by taking the following steps—

Step 1

Determine the payroll carve-out amount for that period for each standard member of the group in that territory.

Step 2

Determine the tangible asset carve-out amount for that period for each standard member of the group in that territory.

Step 3

Add together the amounts determined at steps 1 and 2.

(2) But if the filing member for the group elects not to calculate the substance based income exclusion for the period, the exclusion is nil.

(3) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (2).

(4) The payroll carve-out amount for a member is 5% of the eligible payroll costs incurred by the member in the period.

(5) The tangible asset carve-out amount for a member is 5% of the eligible tangible asset amount of the member in the period.

(6) Section 196 sets out how to calculate the eligible payroll costs of a member.

(7) Section 197 sets out how to calculate the eligible tangible asset amount of a member.

(8) Section 198 sets out special rules on calculating the eligible payroll costs and eligible tangible asset amount of a member that is a permanent establishment or a flow-through entity.

196 Eligible payroll costs

(1) The eligible payroll costs of a member for a period are all costs incurred by the member in the period in connection with the employment of an employee of that member, provided that—

(a) the employee is an individual,

(b) the costs are payable primarily in respect of work done in the course of the ordinary operating activities of the member or the group,

(c) those activities are substantially performed in the territory in which the member is located, and

(d) the costs are not excluded costs.

(2) The costs may include in particular—

(a) salaries, wages and other expenditures that provide a direct and personal benefit to the employee,

(b) payroll and other employment taxes payable by the member, and

(c) social security contributions payable by the member.

(3) "Employee" means—

(a) a person regarded as an employee under the law of the territory in which the member is located, and

(b) any other person while they are acting exclusively under the direction or control of the member or the group (including on a part-time basis),

and "employment" is to be construed accordingly.

(4) "Excluded costs" are the following—

(a) costs taken into account in determining the underlying profits of a permanent establishment of the member;

(b) costs taken into account in a carrying value used to calculate the eligible tangible asset amount (see section 197);

(c) costs that are core international shipping costs (see section 157);

(d) costs that are ancillary international shipping costs (see section 158), subject to subsections (5) and (6).

(5) Where the member has an ancillary international shipping profit cap adjustment of more than nil for the period, only the eligible proportion of costs that are ancillary international shipping costs are excluded costs.

(6) The eligible proportion is the proportion given by dividing—

(a) the member's ancillary international shipping profits for the period, by

(b) the amount given by subtracting the member's ancillary international shipping costs from the member's ancillary international shipping revenue for the period.

197 Eligible tangible asset amount

(1) The eligible tangible asset amount of a member for a period is the average of—

(a) the sum of the carrying values of each eligible tangible asset held by the member, as those values are recorded at the start of the period;

(b) the sum of the carrying values of each eligible tangible asset held by the member, as those values are recorded at the end of the period.

(2) Where a value is not recorded at a time referred to in subsection (1), the value is to be calculated as if it were recorded at that time.

(3) "Recorded" means recorded for the purposes of preparing the consolidated financial statements of the ultimate parent.

(4) For the purposes of this section "carrying value" means the carrying value of the asset including—

(a) accumulated depreciation, amortisation or depletion,

(b) amounts attributable to the capitalisation of eligible payroll costs and costs that would be eligible payroll costs were they not excluded costs under section 196(4), and

(c) amounts attributable to any purchase accounting adjustment relating to the asset,

but not including any positive difference between the value of an asset recorded from time to time and the value of an asset when it was acquired by the member, where that difference is solely attributable to a revaluation.

(5) An asset is an eligible tangible asset if it is—

(a) of a type referred to in subsection (6), and

(b) not an excluded asset.

(6) The types of asset are—

(a) property, plant or equipment located in the same territory as the member;

(b) natural resources located in that territory;

(c) a right to use a tangible asset located in that territory under a lease;

(d) a license or similar right to use a tangible asset located in that territory, provided that—

(i) the right is granted by a government of that territory, and

(ii) it is expected in granting the right that the member will, in using that right, incur significant expenditure in enhancing the value of tangible assets in that territory (whether or not those assets are subject to the right).

(7) An asset is an excluded asset if it is of one of the following types—

(a) property (including land or buildings) that is held for sale, lease or investment (whether such sale, lease or investment is to be carried out in the period or not);

(b) an asset used in the course of core international shipping activity (see section 157);

(c) an asset used in the course of ancillary international shipping activity (see section 158), subject to subsections (8) and (9).

(8) Where the member has an ancillary international shipping profit cap adjustment of more than nil for the period, only the eligible proportion of an asset used in the course of ancillary international shipping activity is to be treated as an excluded asset.

(9) The eligible proportion is the proportion given by dividing—

(a) the member's ancillary international shipping profits for the period, by

(b) the amount given by subtracting the member's ancillary international shipping costs from the member's ancillary international shipping revenue for the period.

198 Eligible payroll costs and eligible tangible asset amount: permanent establishments and flow-through entities

(1) In calculating the eligible payroll costs and eligible tangible asset amount of a permanent establishment, the only amounts to be taken into account are amounts that would be taken into account in determining the adjusted profits of the establishment.

(2) But if, following the application of subsection (1), the value of an eligible tangible asset used in the business of the establishment has not been taken into account in calculating the eligible tangible asset amount of the establishment, the value of that asset is to be taken into account as well.

(3) In calculating the eligible payroll costs and eligible tangible asset amount of a flow-through entity, the only amounts to be taken into account are amounts that would be taken into account in determining the adjusted profits of the entity.

199 Election to treat total top-up amount as nil

(1) The filing member of a multinational group may elect that the total top-up amount for an accounting period ("the current period") for a territory is to be treated as nil.

(2) An election under this section may be made only if—

(a) the average revenue for an accounting period of the standard members of the group in that territory is less than 10 million euros, and

(b) the average of the adjusted profits of those members for an accounting period is less than 1 million euros.

(3) The average revenue for an accounting period of the standard members of a multinational group in a territory is determined by adding together all of the

revenue of those members in each qualifying accounting period, and dividing the result by the number of qualifying accounting periods.

(4) The average of the sum of the adjusted profits of the standard members of a multinational group in a territory is determined by taking the following steps—

Step 1

Determine the sum of the adjusted profits of each of those members for each qualifying accounting period.

Step 2

Add together the results of Step 1.

Step 3

Divide the result of Step 2 by the number of qualifying accounting periods.

(5) The current period is a qualifying accounting period.

(6) Each of the previous two accounting periods is a qualifying period unless—

(a) none of the standard members of the group in the territory had revenue in that period, and

(b) none of the standard members of the group in the territory made a loss in that period.

(7) Where a qualifying period is longer or shorter than a year, the adjusted profits and revenue of the members are to be treated for the purposes of this section as the amounts given by multiplying the profits and revenue by the amount given by dividing 365 by the number of days in the period.

(8) An election under this section may not be made in respect of the nominal territory of a stateless member of a multinational group.

(9) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

CHAPTER 7

ALLOCATING TOP-UP AMOUNTS TO RESPONSIBLE MEMBERS

200 Top-up amounts multiplied by inclusion ratio

(1) The amount of a top-up amount of a member of a multinational group that is attributed to a responsible member (see section 128) is found by multiplying the top-up amount by the responsible member's inclusion ratio for the member whose top-up amount it is.

(2) Where the responsible member's ("the first responsible member") interest in the member is through another responsible member, the first responsible member's top-up amount is to be reduced (but not below nil) by the amount attributed under this section to that other responsible member.

201 Inclusion ratio

(1) A responsible member's inclusion ratio for a member with a top-up amount ("the relevant member") is found as follows—

Step 1

Determine the adjusted profits of the relevant member with the top-up amount (in accordance with Chapter 4).

Step 2

Determine how much of those profits are attributable to ownership interests held by entities other than the responsible member.

Step 3

Subtract the amount determined under Step 2 from the amount determined under Step 1.

Step 4

The inclusion ratio is given by dividing the amount determined under Step 3 by the amount determined under Step 1.

(2) The amount of profits of the relevant member attributable to ownership interests held by entities other than the responsible member is the amount that would, in hypothetical consolidated financial statements prepared by the responsible member (whether or not it actually prepared consolidated financial statements), have been treated in those statements as attributable to such entities under the principles of the authorised accounting standard used, or treated as used (see section 249(1)(d)), in the ultimate parent's consolidated financial statements.

(3) For the purposes of determining what that amount would be in those hypothetical consolidated financial statements of the responsible member, use the following assumptions—

(a) the relevant member's profits were its adjusted profits as determined in accordance with Chapter 4;

(b) the responsible member had a controlling interest in the relevant member such that all of its income and expenses were consolidated on a line-by-line basis with those of the responsible member;

(c) all of the profits of the relevant member were attributable to transactions with persons who are not members of the multinational group;

(d) all ownership interests that are not directly or indirectly held by the responsible member were held by persons other than members of the multinational group.

(4) Where the relevant member is a flow-through entity, none of the adjusted profits of the relevant member are to be regarded as attributable to ownership interests held by entities that are not members of the group (and any such entity is to be ignored for the purposes of this section).

CHAPTER 8

FURTHER ADJUSTMENTS

Covered taxes less than nil

202 Covered taxes balance less than nil when members in a territory have a profit

(1) This section applies to the standard members of a multinational group in a territory ("the relevant territory") in an accounting period ("the current period") if—

(a) those members do not have a collective loss for the current period, and

(b) the combined covered tax balance for those members for the current period is less than nil (including as a result of this section or section 205 having applied in a previous accounting period).

(2) Where this section applies—

(a) the amount of the combined covered tax balance for the current period is to be added to the combined covered tax balance for the standard members in the relevant territory in the next accounting period in which those members do not have a collective loss (which as the balance for the current period is negative will reduce the combined covered tax balance for that next period), and

(b) the combined covered tax balance for those members for the current period is to be treated as nil (and as a result of Step 5 in section 132(1) their effective tax rate for the current period will be 0%).

(3) For the purposes of this section and sections 203 to 205, the standard members of a multinational group in a territory have a collective loss for a period if the result of Step 2 in section 132(1) is nil or less for those members for that period.

203 Additional top-up amounts where covered taxes less than expected

(1) This section applies in an accounting period in relation to standard members of a multinational group in a territory where—

(a) those members have a collective loss for that period, and

(b) the combined covered tax balance for those members for the current period is less than nil, and

(c) the collective negative covered tax balance expressed as a positive number is greater than the amount given by multiplying the collective loss expressed as a positive number by 15% ("the expected covered tax amount").

(2) Where this section applies, those members in that territory collectively have an additional top-up amount (a "collective additional amount") equal to the

difference between the expected covered tax amount and the combined covered tax balance.

(3) Where those members have a QDT credit for the accounting period, the collective additional amount under this section is to be reduced in accordance with subsections (4) to (7).

(4) Where—

(a) the standard members do not have a collective additional amount under section 206 for the period, and

(b) the collective additional amount under this section (before reduction by relevant QDT credit) is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced by the sum of those accrued amounts.

(5) Where—

(a) the standard members do not have a collective additional amount under section 206 for the period, and

(b) the collective additional amount under this section (before reduction by relevant QDT credit) is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced to nil.

(6) Where—

(a) the standard members have a collective additional amount under section 206 for the period, and

(b) the sum of the collective additional amount under this section (before reduction by relevant QDT credit) and the collective additional amount under section 206 is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced to nil.

(7) Where—

(a) the standard members have a collective additional amount under section 206 for the period, and

(b) the sum of the collective additional amount under this section (before reduction by relevant QDT credit) and the collective additional amount under section 206 is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced by the amount given by multiplying the sum of those amounts of qualifying domestic top-up tax by the amount given by dividing the collective additional amount under this section by the sum of that collective additional amount and the collective additional amount under section 206.

204 Allocation of collective additional amount under section 203 to members

(1) Where the standard members of a multinational group in a territory have a collective additional amount under section 203, an amount of that amount is to be allocated to each member that has a negative covered tax balance, expressed as a negative number, which is less than the adjusted profits of that member (which may be positive or negative) multiplied by 15%.

(2) To determine the amount of the collective additional amount to be allocated to each such member, take the following steps—

Step 1

For each such member determine the amount given by subtracting the member's negative covered tax balance, expressed as a negative number, from its adjusted profits multiplied by 15%.

Step 2

Add together the amounts determined under Step 1.

Step 3

For each such member, divide the amount determined for that member under Step 1 by the result of Step 2.

Step 4

Allocate to each member the amount given by multiplying the result of Step 3 for that member by the collective additional amount.

(3) For the purposes of this Part, an amount of a collective additional amount allocated to a member of a multinational group under this section is an additional top-up amount.

(4) Chapter 7 (allocation of top-up amounts to responsible members) applies to an additional top-up amount allocated to a member of a multinational group under this section as it applies to a top-up amount of that member as if the adjusted profits of that member were the amount given by dividing the additional top-up amount by 15%.

205 Election to carry forward and reduce collective additional amount

(1) This section applies where the standard members of a multinational group in a territory ("the relevant territory") have a collective additional amount for an accounting period ("the current period") and the filing member of the group has elected for this section to apply for that period.

(2) Where this section applies—

(a) the qualifying amount of the collective additional amount for the current period is to be subtracted from the combined covered tax balance for the standard members of the group in the relevant territory in the next accounting period in which those members do not have a collective loss, and

(b) the collective additional amount for the current period is to be reduced by the qualifying amount of that collective additional amount (including to nil where the whole amount is qualifying).

(3) The amount of the collective additional amount that is "qualifying" is the amount given by subtracting the amount of any deferred tax asset deemed to arise under section 217(7) for the period.

(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

Additional top-up amounts on recalculations

206 Additional top-up amounts where recalculations required

(1) This section applies to the standard members of a multinational group in an accounting period ("the current period") in a territory where—

(a) a recalculation is required in the current period in relation to one or more previous accounting periods (each a "prior period") as a result of any of the following sections—

(i) section 163(4);

(ii) section 184(2);

(iii) section 217(5);

(iv) section 219(1), or

(b) the members have a special additional top-up tax amount under section 192 for the current period.

(2) Where—

(a) the sum of the top-up amounts that those members would have for a prior period, determined in accordance with a recalculation required under one of the sections mentioned in subsection (1)(a), is greater than the sum of the top-up amounts those members had for that prior period, or

(b) this section applies as a result of subsection (1)(b) (whether or not it also applies as a result of subsection (1)(a)),

the members collectively have an additional top-up amount (a "collective additional amount") under this section for the current period.

(3) Take the following steps to determine the collective additional amount under this section—

Step 1

Where one or more recalculations are required in accordance with any of the sections mentioned in subsection (1)(a), for each prior period carry out the recalculation or recalculations required in respect of that period to establish the top-up amounts those members would have had for the prior period (taking account of all recalculations required for that period).

Step 2

For each prior period, subtract the sum of the top-up amounts those members had for that prior period from the sum of top-up amounts that those members would have for that period.

Step 3

Add together all of the results of Step 2 that are greater than nil.

Step 4

Where the members have a special additional top-up tax amount under section 192 for the current period, add that amount to the result of Step 2 (which may be nil).

(4) Where those members have a QDT credit for the accounting period, the collective additional amount under this section is to be reduced in accordance with subsections (5) to (8).

(5) Where—

(a) the standard members do not have a collective additional amount under section 203 for the period,

(b) the total top-up amount for the current period for the members for the members' territory is nil, and

(c) the collective additional amount under this section (before reduction by relevant QDT credit) is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced by the sum of those accrued amounts.

(6) Where—

(a) the standard members do not have a collective additional amount under section 203 for the period,

(b) the total top-up amount for the current period for the standard members in the territory is nil, and

(c) the collective additional amount under this section (before reduction by relevant QDT credit) is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced to nil.

(7) Where—

(a) the standard members have a collective additional amount under section 203 for the period or the total top-up amount for the current period for members for the members' territory is greater than nil, and

(b) the sum of the collective additional amount under this section (before reduction by relevant QDT credit), any collective additional amount under section 203 and the total top-up amount for the current period for the members for the member's territory is less than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced to nil.

(8) Where—

(a) the standard members have a collective additional amount under section 203 for the period or the total top-up amount for the current period for members for the members' territory is greater than nil, and

(b) the sum of the collective additional amount under this section (before reduction by relevant QDT credit), any collective additional amount under section 203 and the total top-up amount for the current period for the members for the member's territory is equal to or greater than the sum of amounts of qualifying domestic top-up tax accrued by those members in that period,

the collective additional amount under this section is to be reduced by the amount given by multiplying the sum of those amounts of qualifying domestic top-up tax by the amount given by dividing the collective additional amount under this section by the sum of that collective additional amount, any collective additional amount under section 203 and the total-up up amount for the current period.

207 Allocation of collective additional amounts under section 206 to members

(1) Where the standard members of a multinational group in a territory have a collective additional amount under section 206 for an accounting period ("the current period"), that amount is to be allocated to those members as follows—

Step 1

Determine the sum of the top-up amounts that those members would have (in prior accounting periods) in accordance with the recalculation, or recalculations, that relate to that collective additional amount.

Step 2

Determine the sum of the top-up amounts that each of those members would have in accordance with the recalculation, or recalculations, that relate to the collective additional amount.

Step 3

For each member where the result of Step 2 is greater than nil, divide that result by the result of step 1.

Step 4

Each such member has an additional top-up amount under this section equal to the amount given by multiplying the collective additional amount by the result of Step 3 for that member.

(2) Chapter 7 (allocation of top-up amounts to responsible members)—

(a) applies to an additional top-up amount allocated to a member of a multinational group under this section as it applies to a top-up amount of that member, and

(b) if the result of Step 2 in section 132(1) in relation to the standard members of the group for the current period is nil or less (those members between them have made a loss), has effect as if the adjusted

profits of that member were the amount given by dividing the additional top-up amount by 15%.

Restructuring of groups

208 Member joining or leaving multinational group

(1) Subsection (2) applies to an entity where, in an accounting period ("the transfer period") of a multinational group, the entity—

(a) becomes a member of that multinational group (including, where it was previously a member of a different group, as a result of it becoming the ultimate parent of a new group), or

(b) ceases to be a member of that multinational group.

(2) The entity is to be treated as a member of that group for the whole of the transfer period (whether or not that results in it being treated as a member of two or more groups) if any portion of its assets, liabilities, income, expenses or cash flows are included on a line-by-line basis in the consolidated financial statements of the ultimate parent for that period.

(3) But in applying this Part in relation to the entity as a member of the multinational group it has become or ceased to be a member of, only its profits, covered taxes and (where applicable) eligible payroll costs that are taken into account in the consolidated financial statements of the ultimate parent are to be taken account of.

(4) Any purchase accounting consolidation adjustments arising from the transfer of the ownership interests resulting in an entity becoming a member of a multinational group are to be ignored in determining the adjusted profits and covered tax balance of that entity as a member of that group in the transfer period and in subsequent accounting periods.

(5) When (where applicable) determining the eligible tangible asset amount of an entity that becomes a member of a multinational group as a member of that group in the transfer period, adjust that amount by multiplying it by the amount given by dividing the number of days in the post-transfer period by the number of days in the transfer period.

(6) For the purposes of subsection (5) the "post-transfer period" means the period beginning with the day on which the member became or (as the case may be) ceased to be a member of a multinational group and ending with the last day of the transfer period.

(7) When (where applicable) determining the eligible tangible asset amount of an entity that ceased to be a member of a multinational group as a member of that group in the transfer period, adjust that amount by multiplying it by the amount given by dividing the number of days in the pre-transfer period by the number of days in the transfer period.

(8) For the purposes of subsection (7) the "pre-transfer period" means the period beginning with the commencement of the transfer period and ending with the day before the day on which the ownership interests were transferred.

(9) Subsections (10) and (11) apply where an entity that becomes a member of a multinational group ("group A") as a result of a transfer of direct or indirect ownership interests in it was a member of another multinational group immediately before the transfer ("group B").

(10) The amount of deferred tax assets and tax liabilities (which for these purposes does not include a special loss deferred tax asset) of the entity that existed immediately before the transfer to be taken into account in relation to that entity as a member of group A is the amount that would have been taken into account had group A had a controlling interest in the entity at the time the assets and liabilities arose.

(11) Where a deferred tax liability of the entity was included in the total deferred tax adjustment amount for that member in group B—

(a) that deferred tax liability is to be deemed to have reversed without the need to reflect the reversal in any calculation made for the purposes of this Part in relation to group B, and

(b) the deferred tax liability is to be treated as arising in the transfer period for the purpose of determining the total deferred tax adjustment amount for the member in group A,

(c) any resulting reduction in the covered tax balance of the entity as a member of group A (see sections 182 and 184) is only to have effect in the accounting period in which the deferred tax liability is recaptured.

209 When transfer of controlling interest treated as acquisition of assets and liabilities

(1) This section applies to the acquisition or disposal of a controlling interest in a member of a multinational group where—

(a) the acquisition or disposal of that controlling interest is treated in the same, or a similar manner, as a transfer of assets and liabilities of the member (rather than ownership interests in it) by—

(i) in the case of the acquisition or disposal of a controlling interest in an entity which is tax transparent under the law of the territory in which it was created, the territory in which the assets are located, or

(ii) in any other case, the territory in which the member is located, and

(b) that territory imposes a covered tax on the seller based on the difference between the tax basis and either the consideration paid in exchange for the controlling interest or the fair value of the assets and liabilities.

(2) Where this section applies to an acquisition or disposal of a controlling interest in a member of a multinational group, that acquisition or disposal is to be treated as an acquisition or disposal of the assets and liabilities of the member (and accordingly, section 208 will not apply in relation to that transfer).

(3) Any covered tax arising in relation to the disposal of a controlling interest in a member of a multinational group described in subsection (1)(b) is to included in the covered tax balance of that member.

210 Transfer of assets or liabilities from a member of a multinational group

(1) Where a member of a multinational group transfers assets or liabilities to another entity in the course of a qualifying reorganisation (see section 212), any gain or loss on the transfer is to be excluded from the adjusted profits of the member, except to the extent it is a non-qualifying gain or loss.

(2) In this section, and in sections 211 and 212, "non-qualifying gain or loss" means a gain or loss of the transferee on the transfer of assets or liabilities, and is the lesser of—

(a) the amount of that gain or loss that is subject to tax in the territory the transferee is located in, and

(b) the amount of that gain or loss reflected in the underlying profits accounts of the transferee.

211 Transfer of assets or liabilities to a member of a multinational group

(1) Where there has been a transfer of assets or liabilities to a member of a multinational group—

(a) if the transfer forms part of a qualifying reorganisation (see section 212), the value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer, or

(b) otherwise, the value of the assets or liabilities, for that purpose, is the carrying value of the assets or liabilities immediately after the transfer as determined under the accounting standard used in determining the underlying profits of the member for the purposes of this Part and subject to the adjustments to those profits made in accordance with Chapter 4.

(2) But subsection (3) applies where—

(a) subsection (1)(b) applies to the transfer,

(b) the transfer is from another member of the group, and

(c) neither a gain nor a loss is recorded in the underlying profits accounts of the transferor in respect of that transfer.

(3) Where this subsection applies the adjusted profits of both the transferor and the transferee are to be adjusted to secure that the transfer is reflected on an arm's length basis (see section 149(7)).

(4) Where a member of a multinational group transfers assets or liabilities to another entity in the course of a qualifying reorganisation, and recognises a non-qualifying gain or loss as a result of that transfer—

(a) that gain or loss, to the extent it is non-qualifying, is to be included in the adjusted profits of the member, and

(b) where the other entity is a member of a multinational group, the value of the assets or liabilities is, for the purposes of determining the adjusted profits of that member, to be adjusted to exclude the non-qualifying gain or loss in a manner consistent with the tax treatment of the assets or liabilities.

212 Meaning of "qualifying reorganisation"

(1) For the purposes of sections 210 and 211, a transfer of assets or liabilities is made in the course of a qualifying reorganisation if the transfer takes place as a result of a merger, de-merger, liquidation or a change in form of an entity, or a similar event, and conditions A, B and C are met.

(2) Condition A is that—

(a) any consideration for the transfer is, or the transfer involves, wholly or mostly equity interests issued by the transferee, or by a person connected with the transferee,

(b) in the case of a liquidation, any consideration for the transfer is, or the transfer involves, wholly or mostly, the cancellation of equity interests in the entity subject to the liquidation, or

(c) the reorganisation does not result in a change in the ownership of an entity.

(3) Condition B is that any gain or loss of the transferor that arises from the transfer is not, in whole or in part, subject to tax.

(4) Condition C is that, under the law of the territory the transferee is located in, the value of the assets or liabilities for the purpose of determining the transferee's taxable income is the tax basis value of the assets or liabilities in the hands of the transferor, adjusted for any non-qualifying gain or loss.

(5) Sections 719 to 724A of CTA 2010 (change in company ownership) have effect for the purposes of determining whether there has been a change in ownership of an entity as if—

(a) references in those sections to "company" were to "entity";

(b) references in those sections to ordinary share capital or shares (however expressed), in relation to a company, were to ownership interests in an entity;

(c) in section 721—

(i) in subsection (1), "for the purposes of Chapters 2 to 5A" were omitted,

(ii) in subsection (3), for the words from "major change" to the end there were substituted "a change in the ownership of the company",

(iii) in subsection (4), the words from "for" to "5A" were omitted,
(iv) in that subsection, paragraph (a) were omitted, and
(v) in that paragraph (a) of that subsection, for "share capital" there were substituted "ownership interests";

(d) section 722, and references to it in those sections, were omitted;

(e) in section 724—
(i) in subsection (2) for "conditions A, B and C are met" there were substituted "the parent entity has at least 75% of the ownership interests in the subsidiary entity", and
(ii) subsections (3) to (6) were omitted;

(f) in section 724A—
(i) in subsection (1), in the words before paragraph (a), "for the purposes of Chapters 2 to 6" were omitted, and
(ii) in that subsection, paragraphs (b) and (c) were omitted, and
(iii) subsection (8) were omitted.

Elections in relation to investment entities

213 Investment entity tax transparency election

(1) The filing member of a multinational group may make an investment entity tax transparency election in relation to a member of the group that is an investment entity ("M") and a member of the group with ownership interests in that entity ("O").

(2) For the purposes of determining whether O has ownership interests in M, only interests that give rise to a share of profits are to be taken into account.

(3) An investment entity tax transparency election is an election that, for the purposes of sections 168 (underlying profits of transparent entities) and 178 (covered taxes of transparent entities)—
(a) M is to be treated as a flow-through entity,
(b) M is to be treated as regarded as tax transparent in the territory of O, and
(c) O is to be treated as having direct ownership interests in M.

(4) To determine the percentage of direct ownership interest O is to be treated as having in M, section 246(1) applies as if paragraph (b) were omitted, and for those purposes only interests that give rise in a share of profits are relevant.

(5) The filing member may only make such an election if—
(a) an election under section 214 is not in effect in relation to M and O, and
(b) either—
(i) O is subject to tax (in the territory in which O is located) on increases in the fair value of its ownership interests in M, and

the rate of tax applicable to such increases is equal to or exceeds 15%, or

(ii) O is a regulated mutual insurance entity.

(6) An entity is a "regulated mutual insurance entity" if—

(a) it is regulated or authorised to carry on insurance business, and

(b) it is wholly owned by persons with which it has entered into insurance contracts.

(7) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(8) Subsection (9) applies where—

(a) an election under this section has been revoked, and

(b) the adjusted profits of M fall to be determined for the first accounting period in respect of which the election no longer applies (the "revocation period").

(9) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to the fair value of the asset or liability as at the first day of the revocation period.

(10) Subsection (11) applies where—

(a) an election under this section has been revoked, and

(b) the adjusted profits of M fall to be determined for an accounting period—

(i) after the revocation period, but

(ii) before an accounting period for which a further election under this section has been made.

(11) In determining those profits, the value of any gain or loss from the disposition of an asset or liability by M is to be determined by reference to—

(a) if M's assets and liabilities are accounted for on a realisation basis, the fair value of the asset or liability as at the first day of the revocation period;

(b) if M's assets and liabilities are accounted for on a fair value basis, the fair value of the asset or liability as accounted for at the end of the previous accounting period.

214 Taxable distribution method election

(1) The filing member of a multinational group may elect that a member of the group (an "owner") with direct ownership interests in an investment entity that is a member of the group is to have those interests treated in accordance with this section.

(2) The filing member may only make such an election if—

(a) an election under section 213 is not in effect in relation to the owner,

(b) the owner is not itself an investment entity, and

(c) the owner can reasonably be expected to be subject to tax (in the territory in which it is located) on distributions from the entity at a rate equal to or exceeding 15%.

(3) If an election is made under this section, in calculating amounts under this Part—

(a) distributions and deemed distributions from the investment entity to the owner in an accounting period are to be included in the adjusted profits of the owner in that period;

(b) credit the owner receives to reduce the tax payable by the owner in an accounting period to reflect tax payable or to be paid by the entity in that period is to be included in the adjusted profits of the owner in that period;

(c) if the owner receives such credit, such tax payable or to be paid by the entity in an accounting period is to be taken into account in determining the covered tax balance of the owner in that period.

(4) If an election is made under this section—

(a) an undistributed income amount for the entity for an accounting period is to be determined under section 215, and

(b) any positive undistributed income amount is to be added to the top-up amount of that entity as determined under section 220(1) (see section 220(2)).

(5) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(6) Subsection (7) applies where—

(a) an election under this section has been revoked, and

(b) the adjusted profits of the investment entity fall to be determined under section 220 for the first accounting period in respect of which the election no longer applies.

(7) Those profits are to include any positive undistributed income amount for the entity for the previous accounting period.

215 Undistributed income amount

(1) The undistributed income amount for an investment entity for an accounting period is the entity's adjusted profits for the income period less the amounts referred to in subsection (2).

(2) The amounts are—

(a) the covered taxes payable by the entity (determined in accordance with Chapter 5) in the income period;

(b) distributions and deemed distributions paid by the entity and received by shareholders other than other investment entities in the review period;

(c) if, on determining the adjusted profits for the accounting periods in the review period, the entity has made a loss for one or more of those periods the made a loss, the sum of those losses;

(d) the investment loss carry-forward amount for the review period.

(3) But an amount referred to in subsection (2) is not to be deducted from the undistributed income amount for an accounting period if it has already been deducted from the undistributed income amount for a previous accounting period.

(4) In this section—

(a) the "income period" is the third accounting period before the accounting period for which the undistributed income amount falls to be determined;

(b) the "review period" is the period beginning with the first day of the income period and ending with the last day of the accounting period for which the undistributed income amount falls to be determined;

(c) a "deemed distribution" is an amount arising from the transfer of an ownership interest held by the owner to a person that is not a member of the group;

(d) the amount of a deemed distribution is to be calculated as the undistributed income amount for the accounting period in which the transfer occurs (disregarding the deemed distribution) multiplied by the transfer factor;

(e) the transfer factor is the value of the ownership interest transferred divided by the sum of that value and the value of the remaining ownership interest held by the owner;

(f) the "investment loss carry-forward amount" for a review period is the amount of any losses not deducted from the undistributed income amount for any accounting period preceding the review period.

Other adjustments

216 Election where assets and liabilities adjusted to fair value for tax purposes

(1) This section applies to a member of a multinational group if the filing member has made an election under this section in respect of a relevant tax adjustment made in an accounting period ("the adjustment period") in relation to that member.

(2) A "relevant tax adjustment" is an adjustment to the value of assets or liabilities of a member of a multinational group for tax purposes so that they reflect fair value that is required or permitted, under the law of the territory the member is located in, as a result of the occurrence of an event.

(3) But adjustments made in connection with transfer pricing, or in connection with the sale of assets in the course of carrying on a trade, are not relevant tax adjustments.

(4) Where this section applies to the member—

(a) the member has an adjustment amount in respect of each asset or liability that is subject to the relevant adjustment, and

(b) the value of an asset or liability subject to the relevant adjustment is to be treated, for the purpose of determining the member's adjusted profits in the adjustment period and subsequent accounting periods, as its fair value immediately after occurrence of the event that caused, or enabled, the adjustment to be made.

(5) An adjustment amount is to be—

(a) included in the adjusted profits of the member for the adjustment period, or

(b) split into 5 equal amounts to be included in the adjusted profits of the member in that period and the subsequent 4 accounting periods.

(6) But where the adjustment amount is split between those accounting periods and the member leaves the multinational group before the end of the 4th subsequent accounting period, any amount of the adjustment amount that has not been included in the adjusted profits of the member for a previous accounting period is to be included in the adjusted profits of the member for the final accounting period in which it was a member of the group.

(7) The adjustment amount of a member of a multinational group in respect of an asset or liability subject to a relevant adjustment is the amount given by—

(a) subtracting the carrying value of the asset or liability immediately before the event that caused, or enabled, the adjustment to be made from the fair value of the asset immediately after occurrence of that event, and

(b) if that event resulted in a non-qualifying gain or loss (within the meaning given by section 210(2)) for the member—

(i) in the case of a non-qualifying gain, reducing the result of paragraph (a) by the amount of that gain, or

(ii) in the case of a non-qualifying loss, increasing the result of paragraph (a) by the amount of that loss.

(8) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section.

217 Post filing adjustments of covered taxes

(1) This section applies where, in an accounting period ("the current period"), the liability of a member of a multinational group to covered taxes for a prior accounting period ("the prior period") as reflected in an information return, overseas information return or self-assessment return (see Schedule 14) has increased or decreased.

(2) Subsection (4) applies where—

(a) that liability has increased, or

(b) that liability has decreased and the decrease is to be treated as insignificant.

(3) Subsection (5) applies where that liability has decreased, unless the decrease is to be treated as insignificant.

(4) Where this subsection applies, the covered tax balance of the member for the current period is to be adjusted so as to reflect the amount of that increase or decrease if not already reflected in that balance.

(5) Where this subsection applies—

(a) the following are to be recalculated for the prior period to take account of the decrease—

(i) the effective tax rate for the member and the other members of that group located in the same territory,

(ii) the top-up amounts that those members would have, and

(iii) if the liability to covered taxes has decreased because of a reduction of the member's profits, its adjusted profits but only to the extent necessary to prevent the effective tax rate from decreasing,

(b) the adjusted profits of those members in subsequent accounting periods are to be adjusted in consequence of the decrease, and the matters referred to in paragraph (a) recalculated accordingly, and

(c) if the amount of the decrease is reflected in the covered tax balance of the member for the current period, that balance is to be adjusted to exclude it.

(6) Section 206 applies to a recalculation under subsection (5).

(7) Where subsection (5) applies in relation to a decrease in liability to covered taxes that arises as a result of the member offsetting a loss in a later accounting period against profits in the prior period, the member is treated for the purposes of this Part—

(a) as having a deferred tax asset that arises in the later period that is equal to the amount offset multiplied by the lesser of—

(i) 15%, and

(ii) the tax rate that applied to the profits the amount was offset against, and

(b) as having used that asset in the prior accounting period.

(8) For the purposes of this section, a decrease of liability is to be treated as insignificant if—

(a) the aggregate decrease in liability for covered taxes for the prior period is less than 1 million euros, and

(b) the filing member has made an election for decreases in the prior period to be treated as insignificant.

Paragraph 2 of Schedule 15 (annual elections) applies to an election under this subsection.

218 Effect of rate changes to deferred tax expense

(1) Where—

(a) the rate of tax for a member of a multinational group changes in an accounting period,

(b) the change in rate is to some extent relevant, and

(c) the effect of the rate change would reduce the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,

section 217 applies to so much of that reduction as reflects the extent of the change in rate that is relevant as it applies to a decrease in liability to covered taxes.

(2) Where—

(a) the rate of tax for a member of a multinational group changed in a previous accounting period,

(b) the change in rate is to some extent relevant,

(c) the member's deferred tax expense for the current accounting period reflects the reversal of deferred tax assets or liabilities that were recognised in an accounting period prior to the rate change at a different rate, and

(d) the effect of the rate change would increase the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,

section 217 applies to so much of that increase as reflects the extent of the change in rate that is relevant as it applies to a increase in liability to covered taxes.

(3) For the purposes of subsections (1) and (2), a change of a rate of tax is relevant to the extent that—

(a) in the case of a rate that is increasing, it reflects an increase from below 15% to the lesser of—

(i) the rate it is changed to, and

(ii) 15%, and

(b) in the case of a rate that is decreasing, it reflects a decrease from the lesser of—

(i) the previous rate, and

(ii) 15%.

219 Adjustment where covered taxes not paid

(1) Where an amount of current tax expense included in the covered tax balance of a member of a multinational group for an accounting period is not paid before the end of the period of 3 years commencing with the last day of that

accounting period, the following are to be recalculated excluding that amount—

(a) the effective tax rate for the member and the other members of that group located in the same territory, and

(b) the top-up amounts that those members would have.

(2) But subsection (1) does not apply unless the total of amounts included in the covered tax balance for that accounting period which are not paid before the end of that 3 year period exceeds 1 million euros.

(3) Section 206 applies to a recalculation under subsection (1).

CHAPTER 9

SPECIAL PROVISION FOR INVESTMENT ENTITIES, JOINT VENTURE GROUPS AND MINORITY-OWNED MEMBERS

Investment entities

220 Top-up amount of investment entity

(1) The top-up amount for an accounting period of a member of a multinational group that is an investment entity is, subject to subsection (2), determined by taking the following steps—

Step 1

Determine the adjusted profits (if any) of the entity for the period in accordance with Chapter 4. If the adjusted profits are nil or less, the top-up amount is nil. Otherwise, proceed to Step 2.

Step 2

Adjust the result of Step 1 in accordance with section 223 (to the extent applicable). If the adjusted result is nil, the top-up amount is nil. Otherwise, proceed to Step 3.

Step 3

Determine the substance-based income exclusion for the entity for the period (see section 221).

Step 4

Adjust the result of Step 3 in accordance with section 223 (to the extent applicable).

Step 5

Subtract the result of Step 4 from the result of Step 2. If the result is nil or less, the top-up amount is nil. Otherwise, proceed to Step 6.

Step 6

Determine the investment entity effective tax rate for the territory for the period (see section 222).

Step 7

Subtract the result of Step 6 from 15%. If the result is nil or less, the top-up amount is nil. Otherwise, proceed to Step 8.

Step 8

Multiply the result of Step 7 by the result of Step 5. This is the top-up amount for the entity.

(2) If an election under section 214 (taxable distribution method election) has been made in relation to the entity, the top-up amount for an accounting period of the entity is the top-up amount determined under subsection (1) added together with any positive undistributed income amount for the entity for the period (see section 215).

(3) For the purposes of applying Chapter 4 in relation to an investment entity, the references in section 33(2) to "standard members" of a multinational group are instead to members of the multinational group that are investment entities.

221 Substance based income exclusion for investment entity

(1) The substance based income exclusion for an investment entity is to be determined by adding together—

(a) the payroll carve-out amount of the entity, and

(b) the tangible asset carve-out amount of the entity,

(2) Section 195(4) applies to the determination of the payroll carve-out amount of the entity as it applies for members of the group that are not investment entities.

(3) Section 195(5) applies to the determination of the tangible asset carve-out amount of the entity as it applies for members of the group that are not investment entities.

(4) If the filing member for the group elects not to calculate the substance based income exclusion for the period in a self-assessment (see Schedule 12), the exclusion is nil.

(5) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (4).

222 Investment entity effective tax rate

The investment entity effective tax rate in a territory for an accounting period is determined by taking the following steps—

Step 1

Determine the adjusted profits made by each of the investment entities in the territory, as determined under Chapter 4 and adjusted under section 223.

Step 2

Subtract the sum of the losses of those investment entities that made a loss in that period from the sum of the profits of those investment entities that made a profit in that period.

Step 3

If the result of Step 2 is nil or less, the investment entity effective tax rate is to be treated as 15%. Otherwise, proceed to Step 4.

Step 4

Determine the covered tax balance of each such investment entity in accordance with Chapter 5.

Step 5

Adjust the amounts determined in Step 4 in accordance with section 223 (to the extent applicable).

Step 6

Add together the amounts determined in Step 5 that are adjusted positive covered tax balances.

Step 7

Add together the amounts determined in Step 5 that are adjusted negative covered tax balances.

Step 8

Subtract the result of Step 7 from the result of Step 6.

Step 9

Divide the result of Step 8 by the result of Step 1. This is the investment entity effective tax rate.

223 Adjustments

(1) In this section each of the following amounts is a "relevant amount"—

(a) the adjusted profits of an investment entity;

(b) a substance based income exclusion for an investment entity;

(c) the covered tax balance of an investment entity.

(2) An external holding adjustment is to be made to each relevant amount if a person that is not a member of the multinational group has ownership interests in the entity and no election under section 213 (tax transparency election) has been made in relation to the entity.

(3) An election adjustment is to be made to each relevant amount if an election under section 213 (tax transparency election) or 214 (taxable distribution method election) has been made in relation to the entity.

(4) Where both an external holding adjustment and an election adjustment are to be made, the election adjustment is to be made after the external holding adjustment (and accordingly is to be an adjustment of a relevant amount as adjusted by the external holding adjustment).

(5) An adjustment under this section is a reduction of the relevant amount by an adjustment amount.

(6) An adjustment amount is the adjustment factor for the type of adjustment multiplied by the relevant amount.

(7) The adjustment factor for an external holding adjustment is the value obtained by dividing—

(a) the amount of profits of the entity attributable to ownership interests held by persons that are not members of the group, by

(b) the total amount of profits of the entity determined under Chapter 4.

(8) The adjustment factor for an election adjustment is the value obtained by dividing—

(a) the amount of profits of the entity attributable to ownership interests held by the owners in relation to which an election has been made, by

(b) the total amount of profits of the entity attributable to ownership interests held by members of the group.

(9) The amount of profits attributable to ownership interests is to be determined in accordance with the method in section 201(2) for determining the amount of profits attributable to the ownership interests referred to in that section.

(10) Where the covered tax balance of an investment entity includes an amount allocated to it under section 179(1) or 180(3)(a) (allocation of tax imposed under controlled foreign company tax regimes), only so much of its covered tax balance as is not comprised of amounts allocated under those sections is subject to adjustment under this section.

224 Additional top-up amounts of investment entities

(1) Sections 202 to 207 apply in respect of a member of a multinational group that is an investment entity such that the member may have additional top-up amounts.

(2) For that purpose—

(a) references in those sections to the standard members of a multinational group in a territory apply as if they were references to the investment entities of the group in the territory;

(b) the reference in section 202(3) to Step 2 in section 132(1) applies as if it were a reference to Step 2 in section 222;

(c) sections 204(4) and 207(2) do not apply.

225 Attribution of top-up amounts and additional top-up amounts to responsible member

(1) In this section "top-up amount" includes an additional top-up amount determined under section 224.

(2) Section 200 applies to the attribution of a top-up amount of a member of a multinational group that is an investment entity ("the relevant member") to a responsible member as it applies to a top-up amount of any other member of the group.

(3) Section 201 applies for the purpose of determining the inclusion ratio of the responsible member, but—

(a) in carrying out Step 1 in section 201(1)—

(i) the adjusted profits of the entity determined in that Step are to be further adjusted in accordance with section 223 (to the extent applicable);

(ii) if an election under section 214 (taxable distribution method election) has been made in relation to the entity, the adjusted profits of the entity are to be treated as including the undistributed income amount for the entity determined under section 215, and

(b) subsection (4) of that section applies whether or not the relevant member is a flow-through entity (so that entities that are not members of the group are always ignored).

Joint venture group

226 Joint venture group

(1) For the purposes of this Part "joint venture group" means a joint venture parent of a qualifying multinational group and its joint venture subsidiaries (together its "members").

(2) An entity is a joint venture parent of a multinational group if—

(a) the financial results of that entity are reported under the equity method in the consolidated financial statements of the ultimate parent of that group,

(b) the ultimate parent holds at least 50% of the ownership interests in the entity,

(c) the entity is not the ultimate parent of a qualifying multinational group,

(d) the entity is not an excluded entity,

(e) the entity is not an entity owned by an excluded entity—

(i) that only carries out activities that are ancillary to the activities of the excluded entity,

(ii) whose activities consist, wholly or almost wholly, of the holding of assets or the investment of funds for the benefit of the excluded entity, or

(iii) whose income is, wholly or almost wholly, excluded dividends or excluded equity gains (or a mixture of both),

(f) the multinational group of which the entity is a member is not composed exclusively of excluded entities, and

(g) the entity is not a joint venture subsidiary in relation to another joint venture parent.

(3) An entity is a joint venture subsidiary of a joint venture parent if its assets liabilities, income, expenses and cash flows are included in the consolidated financial statements of the joint venture parent.

(4) Where the main entity of a permanent establishment is a joint venture parent of a multinational group or a joint venture subsidiary, that permanent establishment is to be treated as a separate joint venture subsidiary of the same multinational group joint venture group.

227 Application of Part to joint venture groups

(1) This Part applies to a joint venture group as it applies to a multinational group, but Chapters 3 to 6 and 8 of this Part and Schedule 16 apply as if—

(a) references to the ultimate parent were to the joint venture parent of that group,

(b) references to a member of a multinational group were to the members of the joint venture group, and.

(c) references to the filing member were to the filing member of the multinational group whose ultimate parent holds at least 50% of the ownership interests in the joint venture parent.

(2) For the purposes of the other provisions of this Part, the members of the joint venture group are treated as members of the multinational group whose ultimate parent directly or indirectly holds at least 50% of the ownership interests in the joint venture parent.

(3) But no member of the joint venture group is to be regarded as an intermediate parent member or a partially owned parent member of that group.

Minority owned members

228 Minority owned members

(1) For the purposes of this Part, a member of a multinational group is a "minority owned member" if—

(a) the ultimate parent holds no more than 30% of the ownership interests in that member, and

(b) the member is not an investment entity.

(2) If—

(a) a minority owned member ("M") holds (directly or indirectly) ownership interests in another minority owned member, and

(b) no other minority owned member holds (directly or indirectly) ownership interests in M,

M is the minority owned parent of a minority subgroup, and the minority owned members in which M has ownership interests are also members of that group.

(3) For the purpose of determining the effective tax rate and top-up amounts of members of a minority subgroup, this Part applies as if references to standard members of a multinational group were instead to members of that subgroup.

(4) For the purposes of determining the effective tax rate and top-up amounts of a minority owned member that is not a member of a minority subgroup, this Part applies as if references to standard members of a multinational group were instead to that member.

Application to multi-parent groups

229 Multi-parent groups

(1) Where two or more consolidated groups form part of a multi-parent group—

(a) those groups ("the constituent groups") are to be treated as a single multinational group (and accordingly multinational top-up tax will be charged in relation to that single group), and

(b) the group's members include (as well as the members who are members as a result of section 126) entities who would not be a member of any of the constituent groups but in which a controlling interest is held by one or more members of the constituent groups,

(2) This Part has effect, in its application to a multi-parent group, as if—

(a) references (however framed) to the consolidated financial statements of the ultimate parent were to the multi-parent consolidated financial statements,

(b) references to the ultimate parent were to all of the ultimate parents of the constituent groups, other than the reference in section 128(3)(b) (responsible members).

(3) Where ownership interests in an intermediate parent member of a multi-parent group are held by more than one of the ultimate parents of the multi-parent group, section 127(3) has effect as if for paragraph (b) there were substituted—

"(b) any of the ultimate parents of the constituent groups that have ownership interest in the intermediate parent member are not subject to Pillar Two IIR tax, and".

(4) Where an intermediate parent member of a multi-parent group is not a member of any of the constituent groups, section 128 has effect in relation to it as if—

(a) paragraph (b) of subsection (3) were omitted, and

(b) for subsection (4) there were substituted—

"(4) Such an intermediate parent member is responsible for each member of the group it has an ownership interest provided

the conditions in subsection (4A) are met in relation to that member ("the owned member").

(4A) Those conditions are that—

(a) the owned member is not located in the same territory as the intermediate parent member, and

(b) any of the ultimate parents of the constituent groups that has an ownership interest in the owned member is not subject to Pillar Two IIR tax."

(5) Unless a nomination under paragraph 2(2) of Schedule 14 is in force in relation to a multi-parent group—

(a) the ultimate parents of the constituent groups are jointly the filing member of the multi-parent group, and

(b) any liability for a penalty for a failure to comply with the obligations of the filing member is the joint and several liability of those ultimate parents.

(6) For the purposes of this section—

two or more consolidated groups form part of a "multi-parent group" if—

(a) the ultimate parents of those groups are party to an arrangement that is a stapled structure or a dual-listed arrangement, and

(b) at least one of the controlled entities of those groups is not in the same territory as another of the other controlled entities of those groups;

"controlled entity" in relation to two or more consolidated groups means—

(a) a member of any of those groups, and

(b) any entity, other than a member of any of those groups, in which a controlling interest is held by one or more members of those groups;

"stapled structure" means an arrangement entered into by two or more ultimate parents of consolidated groups where the following conditions are met—

(a) as a result of the arrangements, 50% or more of the ownership Interests in the ultimate parents of the consolidated groups—

(i) are by reason of form of ownership, restrictions on transfer, or other terms or conditions combined with each other, and

(ii) cannot be transferred or traded independently;

(b) if the combined ownership Interests are listed, they are quoted at a single price;

(c) one of those ultimate parents prepares, or together those parents prepare, consolidated financial statements—

(i) in which the assets, liabilities, income, expenses and cash flows of the controlled entities of those consolidated groups are presented together as those of a single economic unit, and

(ii) that are required by a regulatory regime to be externally audited;

"dual-listed arrangement" means an arrangement entered into by two or more ultimate parents of consolidated groups to combine their businesses by contract (rather than by the holding of ownership interests in one another) where the following conditions are met—

(a) the arrangements provide for the ultimate parents of the groups to make distributions (with respect to dividends and in liquidation) to their shareholders based on a fixed ratio,

(b) the arrangements provide for the management of those businesses as a single economic entity while retaining their separate legal identities,

(c) ownership interests in the ultimate parents are quoted, traded or transferred independently in different capital markets, and

(d) one of those ultimate parents prepares, or together those parents prepare, consolidated financial statements—

(i) in which the assets, liabilities, income, expenses and cash flows of the controlled entities of those consolidated groups are presented together as those of a single economic unit, and

(ii) that are required by a regulatory regime to be externally audited;

"multi-parent consolidated financial statements" means—

(a) in relation to a multi-parent group that is a multi-parent group as a result of a stapled structure, the consolidated financial statements referred to in paragraph (c) of the definition of stapled structure, or

(b) in relation to a multi-parent group that is a multi-parent group as a result of a dual-listed arrangement, the consolidated financial statements referred to in paragraph (d) of the definition of dual-listed arrangement.

CHAPTER 10

DEFINITIONS ETC

Introduction

230 Meaning of terms and concepts used in this Part

(1) The provisions of this Chapter define or otherwise explain terms and concepts used in this Part.

(2) Unless the contrary appears, those provisions have effect for the purposes of this Part.

Meaning of "entity" etc

231 Meaning of entity

(1) In this Part "entity" means—

(a) a company,

(b) a partnership,

(c) a trust, or

(d) any other arrangement that results in the preparation of separate financial accounts in respect of the activities carried out under the arrangement.

(2) An entity which is, or is part of, a national, regional or local government is not to be regarded as an entity for the purposes of this Part.

(3) Sections 232 to 238 make further provision about entities including provision—

(a) treating permanent establishments as entities,

(b) defining various particular types of entities, and

(c) about when entities are "tax transparent".

232 Permanent establishments treated as entities

(1) A "permanent establishment" of an entity ("the main entity") means a place of business of the main entity that—

(a) is located in a territory other than the territory of the main entity, and

(b) meets any of the conditions in paragraphs (a) to (d) of subsection (2).

(2) Those conditions are—

(a) that the place of business is situated in a territory where it is treated as a permanent establishment in accordance with an applicable tax treaty in force provided that such territory taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD tax model;

(b) that the place of business is in a territory where there is no applicable tax treaty in force and the territory, under its domestic law, taxes the income attributable to such place of business on a net basis similar to the manner in which it taxes its own tax residents;

(c) that the place of business is in a territory that has no corporate income tax system, but would be treated as a permanent establishment in accordance with the OECD tax model provided that such territory would have had the right to tax the income attributable to it in accordance with Article 7 of that model;

(d) that—

(i) the place of business does not meet any of the conditions in paragraphs (a) to (c), and

(ii) the territory of the main entity exempts the income attributable to the place of business's operations.

(3) For the purposes of this Part, a permanent establishment is to be treated as an entity distinct from the entity it is a permanent establishment of (whether that would otherwise be the case or not).

(4) In this section "place of business" means a place of business as construed in accordance with the OECD tax model, and includes a deemed place of business for the purpose of that model, a tax treaty or the domestic law of a territory.

(5) In this Part, a reference to "the main entity" in relation to a permanent establishment is to be construed in accordance with this section.

233 Treatment of protected cell companies

(1) For the purposes of this Part—

(a) a protected cell company is not to be regarded as an entity, and

(b) each part of a protected cell company is to be treated as an entity distinct from the others.

(2) Accordingly—

(a) the fact an entity is a part of a protected cell company is irrelevant to determining whether it is a member of a consolidated group, and

(b) the accounts of the protected cell company are not to be regarded as consolidated financial statements.

(3) In this Part—

"protected cell company" means a protected cell company incorporated under Part 4 of the Risk Transformation Regulations 2017 (S.I. 2017/1212);

a "part" of a protected cell company means its core or a cell of the company;

"core" and "cell" have the meaning they have in those regulations.

234 Governmental, international and non-profit entities

(1) An entity is a "governmental entity" if—

(a) it is wholly owned by a national, regional or local government,

(b) it has the principal purpose of—

(i) carrying on a public function of that government, or

(ii) managing or investing the assets of that government through investment activities (such as the making and holding of investments or asset management),

(c) it is accountable to that government on its overall performance and provides annual information reporting to that government,

(d) it does not carry on a trade or business, other than an investment business described in paragraph (b)(ii),

(e) its assets vest in that government on its dissolution, and

(f) it does not make distributions of its profits to, or for the benefit of, any person other than that government.

(2) "International organisation" means an intergovernmental or supranational organisation, or an entity that acts for, is part of, or is wholly owned by such an organisation, provided—

(a) the organisation is comprised primarily of governments,

(b) the organisation has a headquarters, or privileges or immunities in respect of its establishments, in the territory in which it is established, and

(c) its governing documents, or the law of that territory, preclude the distribution of its profits for the benefit of private persons.

(3) An entity is a "non-profit organisation" if—

(a) it is established and operated in the territory it is located in—

(i) exclusively for religious, charitable, scientific, artistic, cultural, athletic, education, or other similar purposes, or

(ii) as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare, and

(b) it meets all of the conditions mentioned in subsection (4).

(4) Those conditions are that—

(a) substantially all of the income from the activities it carries out for the purposes it was established is exempt from income tax in the territory where it is located,

(b) it has no shareholders or members who have any interest in its income or assets,

(c) the income or assets of the entity may not be distributed to, or applied for the benefit of, a private person or non-charitable entity other than—

(i) pursuant to the conduct of the entity in carrying out activities for the purposes for which it was established,

(ii) as payment of reasonable compensation for services rendered or for the use of property or capital, or

(iii) as payment representing the fair market value of property which the entity has purchased,

(d) upon termination, liquidation or dissolution of the entity, all of its assets must be distributed or revert to a non-profit organisation or to a governmental entity of the territory in which the entity is located, and

(e) the entity does not carry on a trade or business that is not directly related to the purposes for which it was established.

235 Pension funds and pension services entities

(1) An entity is a "pension fund" if—

(a) it is an entity that is established and operated in a territory exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals where—

(i) the entity is regulated as such in that territory, or

(ii) those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary arrangement or trust to secure the fulfilment of the corresponding pension obligations against a case of insolvency of the entity or the group the entity is a member of, or

(b) a pension services entity.

(2) An entity is a "pension services entity" if it is an entity established and operated exclusively or almost exclusively—

(a) to invest funds for the benefit of an entity falling with the description in subsection (1)(a), or

(b) to carry out activities that are ancillary to the regulated activities carried out by an entity falling with that description, provided that the entities are members of the same group.

236 Investment funds and investment entities

(1) An "investment fund" is an entity that meets all of the following conditions—

(a) it is designed to pool assets (which may be financial and non-financial) from a number of investors, at least some of which are not connected;

(b) it invests in accordance with a defined investment policy;

(c) it operates with a view to allowing its investors to reduce transaction, research, and analytical costs, or to spread risk collectively;

(d) it is primarily designed to generate investment income or gains, or protection against a particular or general event or outcome;

(e) investors have rights to the assets of the fund, or to income earned on those assets, based on the contributions made by those investors;

(f) the entity, or its management, is subject to a regulatory regime, that includes anti-money laundering and investor protection regulation, of—

(i) the territory in which the entity is established or managed, or

(ii) in the case of a permanent establishment, the territory in which the main entity is established or managed;

(g) it is managed by an investment management professional on behalf of the investors.

(2) An "insurance investment entity" is an entity that meets all of the following conditions—

(a) the entity is not an investment fund under subsection (1), but would be an investment fund if it were designed to pool assets from more than one investor or those investors were required not to be connected;

(b) the costs or risks the entity operates with a view to reducing are those associated with insurance or annuity contracts;

(c) the income or gains the entity is designed to generate are intended to offset, or the event or outcome the entity is designed to protect against consists of, losses arising or that may arise in connection with insurance or annuity contracts;

(d) no person other than members of the group has ownership interests in the entity;

(e) each person with direct ownership interests in the entity is subject to a regulatory regime in the territory in which it is established or managed, and that regime is specific to persons engaged in the business of entering into insurance or annuity contracts or of performing activities ancillary to such business.

(3) An entity is an investment entity if it is—

(a) an investment fund,

(b) a UK REIT or an overseas REIT equivalent,

(c) an entity—

(i) that is 95% owned by one or more entities falling within paragraph (a) or (b), and

(ii) whose activities consist, wholly or almost wholly, of the holding of assets or the investment of funds for the benefit of those owners,

(d) an entity—

(i) that is 85% owned by one or more entities falling within paragraph (a) or (b), and

(ii) whose income is wholly or almost wholly excluded dividends or excluded equity gains (or a mixture of both), or

(e) an insurance investment entity.

(4) For the purposes of subsection (3) references to an entity being 95% or 85% owned by one or entities falling within paragraph (a) or (b) of that subsection is to those entities together having at least that percentage of the ownership interests in that entity.

237 Intermediate and partially-owned parent members

(1) A member of a multinational group is a partially-owned parent member of that group if—

(a) it is not a permanent establishment, investment entity or the ultimate parent,

(b) it has (directly or indirectly) an ownership interest in another member of the group, and

(c) more than 20% of the ownership interests that represent an entitlement to a share of the profits of the member are held by persons that are not members of the group.

(2) A member of a multinational group is an intermediate parent member of the group if—

(a) it is not a permanent establishment, investment entity, a partially-owned parent member or the ultimate parent, and

(b) it has (directly or indirectly) an ownership interest in another member of the group.

238 Tax transparency of entities

An entity is regarded as tax transparent in a territory if the territory treats the income, expenditure, profits and losses of the entity, for the purposes of covered taxes, as the income, expenditure, profits and losses of the direct owner of the entity in proportion to its interest in the entity.

Provision relating to location of entities

239 Location of entities

(1) The normal rule for determining, for the purposes of this Part, the territory in which an entity is located is that—

(a) if it is tax resident in a territory based on its place of management or place of creation, or based on similar criteria, it is located in that territory, or

(b) if it is not tax resident in any territory based on such criteria, it is located in the territory in which it was created.

(2) But subsection (1) does not apply to a flow-through entity or a permanent establishment (as to which, see section 240).

(3) Where, in an accounting period, an entity is tax resident based on its place of management, place of creation or similar criteria in more than one territory and—

(a) all of those territories are party to a tax treaty, and

(b) for the purposes of the treaty the entity is deemed resident in one of those territories,

the entity is treated as located in that territory for that period.

(4) Otherwise, where an entity is tax resident in an accounting period based on its place of management, place of creation or similar criteria in more than one territory—

(a) if the entity has accrued more covered taxes in an accounting period in one of those territories than in the others, ignoring any taxes accrued in accordance with a controlled foreign company tax regime, it is to be treated as located in that territory for that period,

(b) if paragraph (a) does not apply and the entity has a greater qualifying substance based income exclusion amount in one of those territories than in the others, it is to be treated as located in that territory for that period, or

(c) if neither paragraph (a) nor (b) applies—

(i) if the entity is the ultimate parent of a multinational group, it is to be treated as being located in the place where it was created for that period, or

(ii) otherwise, the entity is a stateless entity for that period.

(5) For the purposes of subsection (4)(b) "the qualifying substance based income exclusion amount" for an entity for a period in a territory is—

(a) if the substance based income exclusion is calculated for that period for that territory, the sum of the payroll carve-out amount and the tangible asset carve-out amount as would be determined under section 195(1) for the entity for that period if the entity were located in that territory, and

(b) if the substance based income exclusion is not calculated for that period for that territory, nil.

(6) Where—

(a) an entity is not (ignoring this subsection) subject to Pillar Two IIR tax within the meaning of section 128,

(b) it is tax resident based on its place of management, place of creation or similar criteria in the United Kingdom,

(c) as a result of the application of subsection (3) or (4) it is treated as not being located in the United Kingdom, and

(d) if it were located in the United Kingdom, it would be a responsible member of a multinational group,

the entity is instead to be treated as located in the United Kingdom for the purposes of sections 122 and 126 of this Part (but not otherwise).

(7) For the purposes of this Part—

(a) a "stateless entity" is to be treated as not being located in any territory;

(b) where an entity's location changes during an accounting period, it is to be treated as being located in the territory it was located, or was treated as being located, at the start of that period.

240 Location of flow-through entities and permanent establishments

(1) A flow-through entity which is a responsible member of a multinational group is located in the territory in which it was created.

(2) Any other flow-through entity is a stateless entity.

(3) A permanent establishment that is a permanent establishment falling within paragraph (a) of section 232(2) (entity treated as permanent establishment in accordance with tax treaty) is located in the territory where it is treated as a

permanent establishment in accordance with the tax treaty in accordance with which it is treated as a permanent establishment.

(4) A permanent establishment that is a permanent establishment falling within paragraph (b) of section 232(2) (permanent establishment taxed on similar basis to residents in absence of tax treaty) is located in the territory where it is subject to net basis taxation based on its business presence.

(5) A permanent establishment that is a a permanent establishment falling within paragraph (c) of section 232(2) (permanent establishment located in territory without corporate income tax) is located in the territory in which it is situated.

(6) A permanent establishment that is a permanent establishment falling within paragraph (d) of section 232(2) (other permanent establishments) is a stateless entity.

241 Pillar Two territories

(1) In this Part "Pillar Two territory" means the United Kingdom and every other territory specified as such in regulations made by the Treasury.

(2) Regulations may only specify a territory as a Pillar Two territory if the Treasury consider that provisions equivalent to this Part—

(a) have effect under the law of that territory, or

(b) will have effect under the law of that territory on or before the specification has effect.

(3) Regulations under this section may provide that the specification of a territory is to have effect from a time before the regulations are made (but may not provide that the specification of a territory previously specified ceases to have effect before the regulations are made).

Ownership of entities

242 Ownership interests and controlling interests

(1) In this Part "ownership interest" means a direct ownership interest or an indirect ownership interest.

(2) An entity or an individual ("A") has a direct ownership interest in an entity ("B") if—

(a) A has an interest (whether by way of shares, other security or otherwise) that gives rise to a share of the profits, capital or reserves of B or of a permanent establishment of B (whether on the making of a distribution of profits, winding up or otherwise), and

(b) that interest would, ignoring any requirement to consolidate the assets, liabilities, income, expenses and cash flows of B in the consolidated financial statements of A, be accounted for as equity in those statements.

(3) An entity or an individual ("C") has an indirect ownership interest in an entity ("D") if C has a direct ownership interest in—

(a) an entity that has a direct ownership interest in D, or

(b) an entity that has (as a result of the single or repeated application of this subsection) an indirect ownership interest in D.

(4) An entity ("R") has a controlling interest in another entity ("S") if condition A or B is met.

(5) Condition A is that as a result of an ownership interest R has in S—

(a) R is required to consolidate the assets, liabilities, income, expenses and cash flows of S on a line-by-line basis in accordance with an acceptable financial accounting standard, or

(b) R would have been required to do so if R had prepared consolidated financial statements.

(6) Condition B is that S is a permanent establishment of R.

243 Calculating percentage ownership interests of a specific entity or individual

(1) For the purpose of determining the percentage ownership interests in an entity ("A") held by a specific entity or individual ("B")—

(a) ignore any indirect ownership interest not held by B, and

(b) where B has an indirect ownership interest in A, reduce the direct ownership interest from which it is derived by the amount of that indirect ownership interest.

(2) But this section does not apply for the purpose of any provision that requires the calculation of direct ownership interests only.

244 Calculating percentage ownership interests of a class

(1) For the purpose of determining the percentage of ownership interests in an entity ("A") held by a class of entities ("B")—

(a) ignore any indirect ownership interest required to be ignored as described in subsection (2), and

(b) reduce any percentage direct ownership interest required to be reduced in accordance with subsection (3).

(2) An indirect ownership interest is to be ignored if—

(a) it is an indirect ownership interest held by an entity that is not a member of B, or

(b) it is an indirect ownership interest held by a member of B through another entity that is a member of B.

(3) Where a member of B holds an indirect ownership interest in A solely through an entity, or entities, that are not members of B, the direct ownership interest from which it is derived is to be reduced by the amount of that indirect ownership interest.

(4) This section does not apply—

(a) for the purpose of any provision that requires the calculation of direct ownership interests only, or

(b) for the purposes of section 127(6)(a) and (7)(a) (whether an entity is 95% or 85% owned by qualifying excluded entities).

245 Calculating percentage ownership interests: excluded entities

(1) For the purpose of determining, under section 127(6)(a) and (7)(a), the percentage of ownership interests in an entity ("A") held by qualifying excluded entities—

(a) ignore any indirect ownership interest apart from ownership interests held solely through one or more qualifying service entities or qualifying exempt income entities, and

(b) ignore any direct or indirect ownership interest required to be ignored as described in subsection (2).

(2) Where an entity holds an indirect ownership interest in A solely through an entity, or entities, that are qualifying service entities or qualifying exempt income entities, each direct and indirect ownership interest from which it is derived is to be ignored.

246 Calculating percentage direct and indirect ownership interests

(1) To determine the percentage of direct ownership interest an entity or individual ("E") has in an entity ("F")—

(a) add together the proportional entitlement of E to the following types of interest that are relevant—

(i) an interest that gives rise to a share of profits of F,

(ii) an interest that gives rise to a share of the capital of F, and

(iii) an interest that gives rise to a share of the reserves of F, and

(b) if—

(i) F issues all of those types of interest and all of those types are relevant, divide the result of paragraph (a) by 3, or

(ii) F only issues 2 of the relevant types of interest or there are only 2 types of interest that are relevant and E issues both of them, divide the result of paragraph (a) by 2.

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

(a) where a provision under which a percentage of ownership interests is to be determined refers to types of interest mentioned in those sub-paragraphs, the types referred to are "relevant", and

(b) where such a provision does not refer to types of interest mentioned in sub-paragraphs (i) to (iii) of subsection (1)(a), all of those types of interest are "relevant".

(3) To determine the percentage indirect ownership interest an entity or individual ("G") has in an entity ("H")—

(a) determine the percentage indirect ownership interest arising as a result of each stack through which it has an indirect ownership interest in H, and

(b) add those percentage indirect ownership interests for those stacks together.

(4) For the purposes of subsection (3) a "stack" means a chain of entities through which G has an indirect ownership interest in H which is comprised of an entity ("J") which has a direct ownership interest in H and—

(a) where G has a direct ownership interest in J, G, or

(b) where G does not have a direct ownership interest in J—

(i) G,

(ii) an entity ("K") which has a direct ownership interest in J and that G has a direct or indirect ownership interest in, and

(iii) where G does not have a direct ownership interest in K, an entity which has a direct ownership interest in K and that G has a direct or indirect ownership interest in, and so on until an entity is reached that G has a direct ownership interest in.

(5) To determine G's percentage indirect ownership interest in H arising as a result of a stack—

(a) determine, in accordance with subsection (1)—

(i) J's percentage direct ownership interest in H, and

(ii) the percentage direct ownership interest each other member of the stack has in the member of the stack it has a direct ownership interest in, and

(b) multiply together the percentage direct ownership interests determined under paragraph (a).

247 Timing of transfers of interests

(1) Where ownership interests in an entity are transferred from one entity or individual to another entity or individual, that transfer is to be treated as effective at the earlier of—

(a) the time when the obligations of the parties to the transfer necessary to effect the transfer have been met, and

(b) the time when any of the substantive consideration for the transfer has been provided,

(instead of at any earlier time when the transfer is effective).

(2) In subsection (1)(b) the reference to "substantive consideration" means any amount of the consideration for the transfer other than any amount provided before the transfer which would not be refundable if the transfer did not take place as a result of the transferee not meeting its obligations under the arrangements to make the transfer.

248 Exclusion of indirect interests held through ultimate parent

For the purposes of determining whether an entity has an indirect ownership interest in a member of a multinational group (other than the ultimate parent), ignore any indirect interests arising only as a result of an ownership interest in the ultimate parent.

Financial statements and accounting period

249 Consolidated financial statements

(1) The consolidated financial statements of an entity are—

(a) where the entity is not the ultimate parent of a consolidated group whose only members are that entity and its permanent establishments, the financial statements prepared by the entity in accordance with acceptable accounting standards in which the assets, liabilities, income, expenses and cash flows of that entity and the entities it has a controlling interest in are presented as those of a single economic unit,

(b) where the entity is the ultimate parent of a consolidated group whose only members are that entity and its permanent establishments, the financial accounts of that entity that are prepared in accordance with an acceptable accounting standard,

(c) where the entity has prepared statements that would fall within paragraph (a) or (b) but they were not prepared in accordance with an acceptable accounting standard, those statements but adjusted to prevent material competitive distortions, or

(d) where no statements were prepared falling within paragraphs (a) to (c), the statements that would have been prepared (whether or not the entity was required to prepare such statements) in accordance with an authorised accounting standard that is either—

(i) an acceptable accounting standard, or

(ii) a financial accounting standard whose application is adjusted to prevent material competitive distortions.

(2) But subsection (1)(d) is not to be taken as imposing a requirement to consolidate entities where that is not required, or is not permitted, by an authorised accounting standard.

(3) "Authorised accounting standard" in relation to an entity means a set of generally acceptable accounting principles permitted by the body responsible for prescribing, establishing or accepting accounting standards for financial reporting purposes in the territory the entity is located in.

(4) There are "competitive distortions" in accounts not prepared in accordance with an acceptable accounting standard if the result of the application of one or more specific principles or procedures under the standard under which it was prepared results in differences between—

(a) the treatment of items in those accounts, and

(b) the treatment of those items in accounts prepared in accordance with the corresponding principles or procedures under international financial reporting standards.

(5) Competitive distortions are "material" if the sum of the differences between the treatment of items in the accounts referred to in subsection (4) exceeds 75 million euros.

250 Acceptable accounting standards

(1) In this Part "acceptable accounting standards" means—

(a) UK GAAP,

(b) acceptable overseas GAAP, or

(c) international financial reporting standards.

(2) "UK GAAP"—

(a) means generally accepted accounting practice in relation to accounts of UK companies (other than accounts prepared in accordance with international accounting standards or international financial reporting standards) that are intended to give a true and fair view, and

(b) has the same meaning in relation to entities other than companies, and companies that are not UK companies, as it has in relation to UK companies.

(3) "Acceptable overseas GAAP" means the generally accepted accounting practice and principles of any of the following—

Australia;

Brazil;

Canada;

an EEA state;

the Hong Kong Special Administrative Region of the People's Republic of China;

Japan;

Mexico;

New Zealand;

the People's Republic of China;

the Republic of India;

the Republic of Korea;

Singapore;

Switzerland;

the United States of America.

(4) The Treasury may by regulations amend subsection (3) to add or remove territories.

(5) In this section "UK companies" means companies incorporated or formed under the law of a part of the United Kingdom.

251 Accounting periods

(1) The general rule is that reference to an accounting period in relation to a multinational group, or any member of that group, is to an accounting period for which the ultimate parent prepares its consolidated financial statements.

(2) Where the ultimate parent does not prepare consolidated financial statements, references to accounting periods are to the period of a year commencing on 1 January.

(3) But—

(a) where an accounting period ("the default period") has started as a result of the rule in subsection (2), but the ultimate parent prepares consolidated financial statements during the default period for a period commencing with a date after the start of the default period, the default period is to end immediately before that date, and

(b) where the ultimate parent had previously prepared consolidated financial statements for accounting periods, the accounting period that follows the last period for which it had prepared consolidated financial statements begins immediately after that last period and ends immediately before 1 January in the following year.

Miscellaneous

252 Application to sovereign wealth funds

(1) A sovereign wealth fund that would, ignoring this subsection, be the ultimate parent of a multinational group is not to be regarded as the ultimate parent of that group and is to be ignored for the purposes of this Part.

(2) Accordingly, an entity ("A") in which such a sovereign wealth fund has a controlling interest as a result of direct ownership interests is to be regarded as the ultimate parent of a consolidated group consisting of—

(a) itself, and

(b) the entities that A has a controlling interest in.

(3) For the purposes of this section "sovereign wealth fund" means an entity which is a government entity for the purposes of this Part as a result of meeting the condition in section 234(1)(b)(ii).

253 Disqualified and qualified refundable imputation taxes

(1) An amount of tax payable by a member of a multinational group is "disqualified refundable imputation tax" if—

(a) it is—

(i) in respect of a dividend made by the member and is refundable to the beneficial owner of the dividend,

(ii) creditable by the beneficial owner of such a dividend against a tax liability other than a tax liability in respect of that dividend, or

(iii) refundable to an entity upon the distribution of a dividend, and

(b) it is not qualified refundable imputation tax.

(2) An amount of tax payable by a member of a multinational group is "qualified refundable imputation tax" to the extent—

(a) it is refundable or creditable to the beneficial owner of a dividend distributed by—

(i) the member, or

(ii) where the member is a permanent establishment, the main entity, and

(b) the refund is payable, or the credit is provided—

(i) under a foreign tax credit regime by a territory other than the territory that imposed the tax on the member,

(ii) to a beneficial owner of the dividend subject to tax in the territory imposing the tax payable by the member, provided the nominal rate of that tax that is at least 15%,

(iii) to a beneficial owner of the dividend who is an individual who is tax resident in that territory and who is subject to tax on the dividends as ordinary income,

(iv) to a governmental entity or an international organisation,

(v) to a resident non-profit organisation, a resident pension fund or a resident investment entity that is not a member of a multinational group, or

(vi) to a resident life insurance company to the extent the dividends are received in connection with a pension fund business and subject to tax in a similar manner as a dividend received by a pension fund.

(3) For the purposes of sub-paragraphs (v) and (vi) of subsection (2)(b), an entity is a resident entity if it is resident in the territory that imposed the tax, and for those purposes—

(a) a non-profit organisation or pension fund is resident in a territory if it is created and managed in that territory;

(b) an investment entity is resident in a territory if it is created and regulated in that territory;

(c) a life insurance company is resident in a territory if it is located there (see section 239).

254 Use of currency

Where it is necessary, for the purposes of this Part, to convert an amount expressed in one currency to another, the average exchange rate for the accounting period to which the amount relates is to be used.

255 Pillar Two rules

(1) In this Part references to the "Pillar Two rules" are to the Pillar Two model rules as interpreted in accordance with, and supplemented by—

(a) the Pillar Two commentary, and

(b) any further commentaries or guidance published from time to time by the OECD that are relevant to the implementation of the Pillar Two model rules.

(2) In subsection (1)—

"Pillar Two model rules" means the model rules published by the Organisation for Economic Co-operation and Development as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS";

"Pillar Two commentary" means the following—

(a) the commentary on the Pillar Two model rules published by the Organisation for Economic Co-operation and Development as "Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)", and

(b) the examples illustrating the application of the Pillar Two model rules published by the Organisation for Economic Co-operation and Development as "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two) Examples".

(3) Pillar Two rules apply to a multinational group, or a member of a multinational group, in an accounting period if—

(a) the group is a qualifying multinational group, or

(b) the group would be a qualifying multinational group but is not only as a result of Condition B in section 129(3) (requirement that at least one member located in the United Kingdom).

256 Qualifying domestic top-up tax

(1) For the purposes of this Part a tax is a "qualifying domestic top-up tax" if it is—

(a) domestic top-up tax (see Part 4), or

(b) specified in a regulations made by the Treasury.

(2) A tax may only be specified in regulations if the Treasury consider that it is equivalent in substance to domestic top-up tax (see Part 4).

(3) A tax may be considered equivalent to domestic top-up tax despite being not being calculated in accordance with the financial accounting standard used in the consolidated financial statements of the ultimate parent if calculated in accordance with an authorised accounting standard that is either—

(a) an acceptable accounting standard, or

(b) another financial accounting standard that is adjusted to prevent material competitive distortions.

(4) Regulations under this section may provide that the specification of a tax is to have effect from a time before the regulations are made (but may not provide that the specification of a tax previously specified ceases to have effect before the regulations are made).

257 Qualifying undertaxed profits tax

(1) For the purposes of this Part a tax is a "qualifying undertaxed profits tax" if it is specified in regulations made by the Treasury.

(2) A tax may only be specified in regulations if the Treasury consider that the tax is an appropriate means of implementing the UTPR (within the meaning of the Pillar Two rules).

(3) Regulations under this section may provide that the specification of a tax is to have effect from a time before the regulations are made (but may not provide that the specification of a tax previously specified ceases to have effect before the regulations are made).

258 Meaning of "connected"

For the purposes of this Part, a person or entity is "connected" with an entity if they are "closely related" within the meaning of Article 5(8) of the OECD tax model.

259 Other definitions

(1) In this Part—

"company" means a body corporate;

"for accounting purposes" means for the purposes of accounts drawn up in accordance with acceptable accounting standards;

"held for sale" has the meaning given by international accounting standards;

"HMRC" means His Majesty's Revenue and Customs;

"international financial reporting standards" or "international accounting standards" means those standards as issued or adopted, from time to time, by the International Accounting Standards Board;

"OECD tax model" means the Model Tax Convention on Income and on Capital published (from time to time) by the Organisation for Economic Co-operation and Development;

"overseas REIT equivalent" means an entity resident in a territory outside the United Kingdom that is the equivalent of a UK REIT;

"tax treaty" means an agreement for the avoidance of double taxation with respect to taxes on income and on capital;

"UK REIT" means—

(a) a company UK REIT within the meaning of Part 12 of CTA 2010 (see section 524 of that Act), or

(b) a company that is a member of a group UK REIT within the meaning of that Part (see sections 523 and 606 of that Act);

an "uncertain tax position", in relation to an amount of covered taxes, exists where the amount as reflected in the underlying profits accounts is different to how it is, or will be, reflected in a tax return because of uncertainty over whether the tax authority in question will accept the basis on which it is reflected in that return.

(2) For the purposes of this Part, an individual is "tax resident" in a territory if—

(a) in the case of the United Kingdom, the individual is resident for income tax purposes, and

(b) in any other territory, the individual is resident for the purposes of a tax on income imposed under the law of that territory.

(3) Where a term in this Part has a meaning for accounting purposes, unless the context otherwise requires, it has that meaning in this Part.

(4) Examples of such terms include—

carrying value;

current tax;

deferred tax;

deferred tax expense;

deferred tax asset;

deferred tax liability;

fair value;

impairment;

tax expense.

CHAPTER 11

GENERAL AND MISCELLANEOUS PROVISION

260 Transitional provision

Schedule 16 makes transitional provision.

261 Index of defined expressions

Schedule 17 contains a table that lists terms defined for this Part and the provisions that define or explain them.

262 Power to amend to ensure consistency with Pillar Two

(1) Where the Treasury consider it necessary for the purpose of ensuring consistency with the Pillar Two rules, the Treasury may by regulations—

(a) make further provision about the application of provisions of this Part or of Schedule 14 to Schedule 16, or

(b) amend this Part or Schedule 14 to Schedule 17.

(2) The power in this section may not be exercised after 31 December 2026.

263 Regulations

(1) A power to make regulations under this Part includes a power to make consequential, supplementary, incidental, transitional or saving provision.

(2) Regulations under this Part are to be made by statutory instrument.

(3) A statutory instrument containing (whether alone or with other provision) regulations made under section 262(1)(b) is subject to the made affirmative procedure.

(4) Otherwise, a statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.

(5) Where a statutory instrument is subject to "the made affirmative procedure"—

(a) it must be laid before the House of Commons after being made, and

(b) it ceases to have effect at the end of the period of 28 sitting days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the House of Commons.

(6) Where regulations cease to have effect as a result of subsection (5), that does not—

(a) affect anything previously done under the regulations, or

(b) prevent the making of new regulations.

(7) In this section, "sitting day" means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day).

264 Multinational top-up tax to apply from 31 December 2023

This Part has effect in relation to accounting periods commencing on or after 31 December 2023.

PART 4

DOMESTIC TOP-UP TAX

CHAPTER 1

INTRODUCTION

265 Introduction to domestic top-up tax

(1) The purpose of this Part is to make provision for a qualified domestic minimum top-up tax within the meaning of the Pillar Two rules.

(2) For that purpose, this Part makes provision for a tax payable in respect of qualifying entities (that will be located in the United Kingdom) whose rate of tax (as determined in accordance with this Part) is less than 15%.

(3) The tax is to be known as "domestic top-up tax".

(4) This Part applies (with modifications) many of the provisions of Part 3 (multinational top-up tax) for the purposes of—

(a) determining liability to domestic top-up tax, and

(b) administering domestic top-up tax.

(5) Except where the contrary appears, expressions used in this Part and in Part 3 (multinational top-up tax) have the same meaning in this Part as they have in Part 3.

266 Qualifying entities

(1) An entity is qualifying for an accounting period if it is not a DTT excluded entity or an investment entity, it meets condition A for that period and—

(a) if it is not a member of a group, it meets condition B for that period, or

(b) if it is a member of a group, it meets condition C for that period.

(2) Condition A is met by an entity for an accounting period if it is located in the United Kingdom in that period (see section 239 in Part 3).

(3) Condition B is met by an entity for an accounting period if the entity has revenue that exceeds the threshold set out in subsection (6) in at least 2 previous accounting periods of the previous 4 accounting periods.

(4) For the purposes of condition B, the revenue of an entity that is not a member of a group is to be determined by reference to its qualifying financial statements.

(5) Condition C is met by a member of a group for an accounting period if the members of the group have revenue that exceeds the threshold set out in subsection (6) in at least 2 previous accounting periods of the previous 4 accounting periods.

(6) The threshold for an accounting period is the amount given by multiplying 750 million euros by the amount given by dividing the number of days in the accounting period by 365.

(7) For the purposes of condition C, the revenue of the members of a group for a period is to be determined by reference to the consolidated financial statements of the ultimate parent for that period (see sections 126(2) and 249 in Part 3).

(8) Sections 130 and 131 in Part 3 (change in composition of multinational groups) apply for the purpose of Condition C as if—

(a) references to "multinational group" were to "group",

(b) in section 130—

(i) in subsection (1), for "condition A in section 129(2)" there were substituted "condition C in section 266(5)",

(ii) in subsection (4), for "section 129(4)" there were substituted "section 266(6)",

(c) in section 131(1)—

(i) for "section 129" there were substituted "section 266",

(ii) for "subsection (2)" there were substituted "subsection (5)",

(iii) for "condition A" there were substituted "condition C", and

(iv) for "section 129(4)" there were substituted "section 266(6), and

(d) in section 131(2), for "condition A in section 129(2)" there were substituted "condition C in section 266(5)"

(9) References in this Part to a "group" (other than in the expression "multinational group") means a consolidated group (see section 126(2) in Part 3).

(10) For the purposes of this Part "qualifying financial statements" in relation to an entity means—

(a) financial statements of the entity prepared in accordance with acceptable accounting standards, or

(b) where no such accounts were prepared, the statements that would have been prepared (whether or not the entity was required to prepare such statements) in accordance with an authorised accounting standard that is either—

(i) an acceptable accounting standard, or

(ii) a financial accounting standard whose application is adjusted to prevent material competitive distortions (see section 249(4)).

267 DTT excluded entities

(1) An entity is a DTT excluded entity if—

(a) it falls within subsection (3) of section 127 in Part 3 (excluded entities),

(b) it is a member of a multinational group and falls within subsection (4) of that section, or

(c) it is a member of a group that is not a multinational group, but would fall within that subsection if that group were a multinational group.

(2) A DTT excluded entity falling within subsection (1) (as well as not being a qualifying entity) is, for the purposes of the provisions of this Part other than section 266 and this section, to be treated as not being a member of any group.

(3) A qualifying transformer vehicle that is not a member of a multinational group is also a DTT excluded entity.

(4) In this section "qualifying transformer vehicle" means—

(a) a qualifying transformer vehicle within the meaning of the Risk Transformation (Tax) Regulations 2017 (S.I. 2017/1271), or

(b) a part of a protected cell company that is a qualifying transformer vehicle within the meaning of those Regulations.

268 Permanent establishments

Section 232(3) (permanent establishment treated as distinct from entity it is a permanent establishment of) applies for the purposes of this Part as it applies for the purposes of Part 3.

CHAPTER 2

CHARGE TO DOMESTIC TOP-UP TAX

269 Chargeable persons

(1) A person is chargeable to domestic top-up tax for an accounting period if—

(a) the person is a qualifying entity for that period and is a body corporate or a partnership that is not a body corporate, or

(b) the person is chargeable to tax in respect of an entity—

(i) that is a qualifying entity for that period, and

(ii) that is not a body corporate or a partnership that is not a body corporate.

(2) A person is chargeable to tax in respect of an entity if the profits of that entity would, on the relevant assumptions, be the profits of the person for the purposes of income tax or corporation tax.

(3) The relevant assumptions are that—

(a) the entity has profits that are chargeable to income tax or corporation tax, and

(b) the person is resident in the United Kingdom for the purposes of that tax.

(4) Where a partnership that is not a body corporate is chargeable to domestic top-up tax as a result of subsection (1)(a)—

(a) the person liable to pay the tax is the responsible partners, and

(b) the liability of the responsible partners to do so is joint and several.

(5) The references in subsection (4) to "the responsible partners" are to all the persons who are members of the partnership at any time during the accounting period.

(6) A partnership is to be regarded for the purposes of this section as continuing to be the same partnership regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.

(7) Where more than one person is chargeable to tax in relation to the same qualifying entity as a result of the application of subsection (2), each of those persons is jointly and severally liable to domestic top-up tax.

270 Amount charged

(1) Where a person is chargeable to domestic top-up tax for an accounting period as a qualifying entity or in respect of a qualifying entity, the amount (if any) the person must pay is determined as follows—

Step 1

Determine whether the entity has any top-up amounts or additional top-up amounts for that period and the extent of those amounts.

Step 2

Determine the sum of those amounts.

Step 3

If the result of Step 3 is not expressed in sterling, convert the result of that Step to sterling.

(2) Generally, a qualifying entity will have a top-up amount for an accounting period if it has profits for a period and its effective tax rate (or, where it is a member of a group, that of its group) is less than 15%.

(3) Chapter 3 of this Part makes provision, principally by applying (with modifications) provisions in Part 3, for determining—

(a) the effective tax rate of a qualifying entity by reference—

(i) in the case of an entity that is a member of a group, to the profits of, and the taxes payable by, members of the group that are located in the United Kingdom, or

(ii) in the case of an entity that is not a member of a group, to its profits and to the taxes payable by that entity.

(b) those profits,

(c) which taxes (referred to as "covered taxes") are to be considered in the determining effective tax rates,

(d) top-up amounts, and

(e) additional top-up amounts.

271 Election to make one member of a group liable for amounts charged

(1) Where multiple members of a group are chargeable to domestic top-up tax in an accounting period, the filing member of the group may elect that only one member of the group specified in the election (the "responsible member") is to be liable to pay domestic top-up tax in that period.

(2) Where an election under this section is made—

(a) no member of the group other than the responsible member is required to pay any amount by way of domestic top-up tax, and

(b) the responsible member must pay any amount by way of domestic top-up tax any other member of the group would have been required to pay if the election had not been made.

(3) Subsection (2) does not apply if the responsible member has not consented to the election.

(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section, and has effect for that purpose as if references to an information return or overseas return notification were to a self-assessment return or below-threshold notification.

CHAPTER 3

APPLICATION OF MULTINATIONAL TOP-UP TAX PROVISIONS

272 Determining top-up amounts of entity that is a member of a group

(1) Subject as follows, Chapters 3 to 6, 8 and 9 of Part 3 apply for the purposes ("domestic purposes") of determining whether a qualifying entity that is a member of a group has top-up amounts or additional top-up amounts, and the extent of those amounts, as they apply for the purpose of determining the same for the purposes of multinational top-up tax.

(2) Where the group is not a multinational group, that Part has effect for domestic purposes as if any reference to a multinational group were to a group.

(3) Part 3 has effect for those purposes as if the following provisions (which provide for reductions of top-up amounts where a qualifying domestic top-up tax is payable) were omitted—

(a) in section 194, subsections (2) to (7);

(b) in section 203, subsections (3) to (7);

(c) in section 206, subsections (4) to (8).

(4) The following provisions of Part 3 are of no practical application for domestic purposes and accordingly that Part has effect for those purposes as if they were omitted—

(a) section 173(1)(b) and sections 189 to 192 (eligible distribution tax systems);

(b) section 225 (attribution of top-up amounts of investment entities).

(5) Where—

(a) an election is made under Part 3 in relation to a member of a multinational group (whether or not a qualifying entity) for the purposes of multinational top-up tax, and

(b) if the election had effect for domestic purposes, it would affect the calculation of top-up amounts or additional top-up amounts,

that election has effect for domestic purposes.

(6) For the purposes of subsection (5), a foreign IIR election is to be treated as an election made under Part 3.

(7) A "foreign IIR election" means an election—

(a) made in respect of a group in connection with a tax equivalent to multinational top-up tax in another Pillar Two territory;

(b) contained in an information return—

(i) submitted to a qualifying authority in that territory, and

(ii) in relation to which information in the return about the election has been shared with HMRC.

(8) For domestic purposes—

(a) section 134 (underlying profits as determined for statements of ultimate parent) has effect as if, after subsection (3), there were inserted—

"(3A) The conditions in subsection (3) are not required to be met if—

(a) the alternative accounting standard is UK GAAP,

(b) all members of the group are located in the United Kingdom, and

(c) the filing member of the group has made an election in a self-assessment return that the underlying profits of all members of the group are to be determined on the basis of UK GAAP.

(3B) Paragraph 1 of Schedule 15 (long term elections) applies to an election under subsection (3A), and has effect for that purpose as if references to an information return or overseas return notification were to a self-assessment return or below-threshold notification.";

(b) section 176 (amounts to be reflected in covered tax balance) has effect as if, for subsection (2)(i) (amounts allocated from another member of the group), there were substituted—

"(i) any amount allocated to the member from another member of the group under section 178(1) (reallocation of tax expense).";

(c) section 178 (reallocation of tax expense) has effect as if—

(i) after subsection (1) there were inserted—

"(1A) But qualifying tax expense in respect of tax imposed by a territory other than the United Kingdom is not to

be allocated to O as a result of the allocation of profits under section 167 (hybrids).";

(ii) subsection (2) (restriction on allocation of tax expense in respect of mobile income) were omitted;

(d) section 179 (controlled foreign companies) has effect as if subsection (2) (restriction on allocation to CFC) were omitted;

(e) section 193 (calculation of top-up amounts) has effect as if the total top-up amount referred to in that section included any top-up amounts or additional top-up amounts of investment entities determined under sections 220 to 224.

273 Determining top-up amounts of entity that is not a member of a group

(1) Chapters 3 to 6, 8 and 9 of Part 3 apply for the purposes ("domestic entity purposes") of determining whether a qualifying entity that is not a member of a group has top-up amounts or additional top-up amounts, and the extent of those amounts, as they apply for the purpose of determining the same for the purposes of multinational top-up tax.

(2) Chapter 3 of that Part has effect for domestic entity purposes as if for section 132 there were substituted—

"132 Effective tax rate

The effective tax rate of a qualifying entity that is not a member of a group is determined as follows—

Step 1

Determine, in accordance with Chapter 4 of Part 3, the adjusted profits for that period of that member.

Step 2

If, on determining those adjusted profits, the member has not made a profit, the effective tax rate is to be treated as 15%. Otherwise, proceed to Step 3.

Step 3

Determine the covered tax balance of the member for the period (which may be negative) in accordance with Chapter 5 of Part 3.

Step 4

If that balance is nil the effective tax rate is 0%. Otherwise, proceed to Step 5.

Step 5

Divide the covered tax balance by the adjusted profits.

Step 6

Except where Step 2 or 4 applies, the effective tax rate of the entity is X%, where X (which will be negative if the covered tax balance is negative) is the result of Step 5 multiplied by 100."

(3) That Part has effect for domestic entity purposes as if—

(a) references to "member of a multinational group" (however framed and including references to multiple members) were to "qualifying entity";

(b) any reference (however framed) to the consolidated financial statements of the ultimate parent were to the qualifying financial statements of the entity;

(c) in section 194 (total top-up amount), subsections (2) to (7) were omitted;

(d) in section 203 (additional top-up amounts: covered taxes less than expected), subsections (3) to (7) were omitted;

(e) in section 206 (additional top-up amounts: recalculations), subsections (4) to (8) were omitted.

(4) Part 3 has effect for those purposes as if the following provisions (which are only relevant to groups or have no relevance for domestic purposes) were omitted—

(a) in section 134 (underlying profits as determined for statements of ultimate parent), subsections (2) to (9);

(b) section 135 (permanent establishments);

(c) section 139 (consolidation adjustments);

(d) section 140 (purchase accounting adjustments);

(e) in section 141 (general exclusion of dividends), subsection (2)(c);

(f) section 149 (arm's length requirement);

(g) section 150 (transactions between group members);

(h) section 154 (exclusion of qualifying intra-group financing arrangement expenses);

(i) sections 159 and 160 (adjustments applicable to permanent establishments);

(j) in section 163 (election to spread capital gains), subsection (3);

(k) section 164 (election to exclude intra-group transactions);

(l) section 167 (underlying profits of member of group seen as transparent);

(m) in section 168 (underlying profits of flow-through entities), subsection (8);

(n) section 169 (non-tax resident entities to be treated as flow-through entities);

(o) section 170 (adjustments for ultimate parent that is flow-through entity);

(p) section 172 (ultimate parent subject to deductible dividend regime);

(q) section 177 (allocation of covered taxes: permanent establishments);

(r) section 178 (reallocation of tax expense);

(s) sections 179 and 180 (controlled foreign company tax regimes);

(t) section 181 (distributions from other group members);

(u) section 183 (qualifying foreign tax credits);

(v) sections 189 to 192 (deemed distribution tax election);

(w) sections 208 to 212 (restructuring of groups);

(x) sections 213 to 215 (elections in relation to investment entities);

(y) in section 216 (election where assets and liabilities adjusted to fair value), subsection (6);

(z) sections 226 to 229 (joint venture groups, minority owned members and multi-parent groups).

274 Application of section 262

The power in section 262 (power to amend to ensure consistency with Pillar Two) applies in relation to this Part as it applies to Part 3.

275 Application of Schedule 14

Schedule 18 –

(a) applies Schedule 14 for the purpose of the administration of domestic top-up tax;

(b) makes related amendments.

276 Application of transitional provision

The transitional provision in Schedule 16 applies in relation to domestic top-up tax as it applies in relation to multinational top-up tax as if –

(a) references in that Schedule to a multinational group were to a group;

(b) where a qualifying entity is a member of a group and all members of the group are located in the United Kingdom, the following provisions of that Schedule (which have no relevance in such a case) were omitted –

(i) paragraph 3(2)(b) and (d), and 3(7) and (8) (country-by-country reporting);

(ii) the words "that are used for preparation of the group's country-by-country report" in paragraph 4(2);

(iii) paragraph 4(5) (use of statements used for preparation of country-by-country report);

(iv) in paragraph 9(2), the words from "ignoring" to the end.

(c) where a qualifying entity is not a member of a group –

(i) references in that Schedule to a member of a group (however framed and including references to multiple members) were to a qualifying entity;

(ii) references in that Schedule (however framed) to the consolidated financial statements of the ultimate parent were to the qualifying financial statements of the entity;

(iii) paragraph 2 were omitted;

(iv) the provisions mentioned in paragraph (b)(i) to (iv) were omitted.

277 Index of defined expressions

See the table in Schedule 17 for a list of terms defined for Part 3, but which also contains some terms defined for this Part, and the provisions that define or explain them.

278 Domestic top-up tax to apply from 31 December 2023

This Part has effect in relation to accounting periods commencing on or after 31 December 2023.

PART 5

ELECTRICITY GENERATOR LEVY

Introduction and charge

279 Charge on exceptional generation receipts

(1) If a qualifying generating undertaking has exceptional generation receipts for a qualifying period, that undertaking is liable to pay a charge equal to 45% of those exceptional receipts.

(2) The charge is referred to in this Part as the "electricity generator levy".

(3) A generating undertaking is "qualifying" in a qualifying period if generation attributed to it under this Part (see section 282, but also sections 294 to 297) for that period exceeds the levy threshold.

(4) The levy threshold for a qualifying period is—

(a) where the period is a year, 50,000 megawatt hours, or

(b) where the period is shorter than a year, that number of megawatt hours multiplied by the amount given by dividing the number of days in the period by 365.

(5) To determine if a generating undertaking has exceptional generation receipts for a qualifying period and (if so) the amount of those receipts, take the following steps—

Step 1 (attribute generation receipts)
Determine the amount of generation receipts to be attributed to the undertaking for the period in accordance with section 283.

Step 2 (determine the maximum amount of receipts that would not be exceptional)
Multiply the amount of electricity generation (expressed in megawatt hours) attributed to the undertaking for the period (see section 282) by the benchmark amount (see section 281).

Step 3 (determine whether undertaking has receipts that exceed that amount)
Subtract the result of Step 2 from the amount determined under Step 1.

If the result of this Step is nil or less, the undertaking does not have any exceptional generation receipts (otherwise, carry on to Step 4).

Step 4 (subtract allowable costs)
Determine the amount of allowable costs (if any) to be attributed to the undertaking for the period (see section 284) and subtract that amount from the result of Step 3.
If the result of this Step is nil or less, the undertaking does not have any exceptional generation receipts (otherwise, carry on to Step 5).

Step 5 (apply revenue allowance)
Subtract the revenue allowance for the period from the result of Step 4.

Step 6 (result of Step 5 is amount of exceptional generation receipts unless negative)
If the result of Step 5 is nil or less, the undertaking does not have any exceptional generation receipts.
Otherwise, the amount of exceptional generation receipts the undertaking has for the period is the result of Step 5.

(6) For the purposes of Step 5, the revenue allowance for a generating undertaking for a qualifying period is—

(a) where the period is a year, £10 million, or

(b) where the period is shorter than a year, £10 million multiplied by the amount given by dividing the number of days in the period by 365.

(7) Other provisions in this Part may affect the determination of exceptional generation receipts, including—

(a) section 293, which contains provision attributing amounts from a joint venture to its participants,

(b) sections 294 and 295, which contain provision that attributes generation to participants in a joint venture in certain circumstances,

(c) sections 296 and 297, which contain provision that attributes generation to significant minority shareholders in a generating undertaking in certain circumstances, and

(d) section 308, which contains anti-avoidance provision.

280 Key concepts (generating undertaking etc)

(1) In this Part—

"company" has the meaning it has in the Corporation Tax Acts (see section 1121 of CTA 2010);

"generating undertaking" means—

(a) a company, other than a company that is a member of a group, that operates a relevant generating station, or

(b) a group of companies that includes at least one member who operates a relevant generating station;

a generating station is "relevant"—

(a) if it generates electricity at a relevant place and is not a generating station that mainly generates electricity—

(i) as a result of the burning of oil, coal or natural gas, or

(ii) as a result of the use of plant driven by water, where the power is mainly a result of the hydrostatic head of the water having been increased by pumping, and

(b) to the extent that it is not subject to—

(i) a contract for difference within the meaning of Chapter 2 of Part 2 of the Energy Act 2013 (contracts for difference),

(ii) an investment contract within the meaning of Schedule 2 to that Act (investment contracts),

(iii) a revenue collection contract within the meaning of Part 2 of the Nuclear Energy (Financing) Act 2022 (revenue collection contracts), or

(iv) feed-in tariff export payments;

"relevant place" means a place in—

(a) the United Kingdom,

(b) the territorial sea of the United Kingdom, or

(c) a Renewable Energy Zone within the meaning of Part 2 of the Energy Act 2004 (see section 84(4) of that Act);

a generating station is "subject"—

(a) to a contract for difference or an investment contract to the extent that its output may give rise to payments under such an instrument, and

(b) to feed-in tariff export payments to the extent its output gives rise to such payments, and

(c) to a revenue collection contract if the station is the subject of such a contract.

(2) References in this Part to a "qualifying period" in relation to a generating undertaking means—

(a) the period, if any, between the beginning of 1 January 2023 and the commencement of the first accounting period of the undertaking that commences on or after 1 January 2023,

(b) the first accounting period of the undertaking commencing on or after 1 January 2023,

(c) every subsequent accounting period of the undertaking that ends on or before 31 March 2028, and

(d) the period, if any, between the end of the last accounting period ending on or before 31 March 2028 and the end of 31 March 2028.

(3) References in this Part to an "accounting period" are—

(a) in relation to a company within the charge to corporation tax, to an accounting period for the purposes of that tax, or

(b) in relation to a company not within the charge to corporation tax, to a period that would be an accounting period for the purposes of that tax were the company within the charge to that tax and had first come within it on 1 January 2023.

See also section 288, which provides that the accounting period of a generating undertaking that is a group is the accounting period of its lead member.

281 Benchmark amount

(1) The benchmark amount for the financial years ending in 2023 and 2024 is £75.

(2) The benchmark amount for each subsequent financial year is the benchmark amount for the previous financial year—

(a) increased or decreased by the same percentage as the consumer prices index for the December before the start of that subsequent financial year has increased or decreased from that index for the previous December, and

(b) rounded up to the nearest whole penny.

(3) Before the commencement of each of the financial years ending in 2025 to 2028, His Majesty's Revenue and Customs (referred to elsewhere in this Part as "HMRC") must publish the benchmark amount for that financial year in such manner as they consider appropriate.

(4) Subsections (5) to (7) apply where 2 financial years fall within a qualifying period.

(5) Generation attributed to a generating undertaking for that period is to be allocated, on a fair and reasonable basis, between those financial years.

(6) The calculation in Step 2 of section 279(5) is to be applied separately to the generation allocated to each of those financial years by reference to the benchmark amount for that year.

(7) Accordingly, the result of that Step is to be the sum of those calculations.

(8) In this section—

"consumer prices index" means the all items consumer prices index published by the Statistics Board;

"financial year" means a period of twelve months ending with 31st March.

Calculation of exceptional generation receipts

282 Attribution of generation

(1) The following amounts of generation, expressed in megawatt hours, are to be attributed to a generating undertaking for a qualifying period—

(a) any grid connected electricity generation of a relevant generating station of the undertaking for the period, and

(b) the amount given by multiplying—

(i) the amount (if any) of grid connected electricity generation for the period of a relevant generating station that is operated by a qualifying partnership in relation to the undertaking (see section 291), by

(ii) the qualifying proportion for that period (see that section).

(2) For the purposes of this Part, a generating station is a generating station of a generating undertaking if—

(a) in the case of an undertaking that is a company, it is operated by that company otherwise than in partnership with another person, and

(b) in the case of an undertaking that is a group, it is operated by any member of that group—

(i) including where the station is operated in partnership and all of the partners are members of the group, but

(ii) not including where the station is operated in partnership and one or more of the partners are not members of the group.

(3) "Grid connected electricity generation" of a relevant generating station for a qualifying period means—

(a) electricity generated by the station in that period for the purpose of giving a supply to any premises or enabling a supply to be so given where that supply would involve the use of a licensed distribution system or a licensed transmission system, and

(b) electricity that was, at any time, expected to be (but was not) generated by the station in that period for that purpose.

(4) But for the purposes only of—

(a) section 279(3) (application of levy threshold), and

(b) Step 2 in section 279(5) (determination of maximum amount of receipts that would not be exceptional),

ignore any electricity that was expected to be, but was not, generated by a relevant generating station unless the electricity was not generated in connection with an accepted bid to decrease generation under a settlement code.

283 Generation receipts

(1) Where generation is attributed to a generating undertaking under section 282(1) for a qualifying period, generation receipts in respect of that generation are to be attributed to that undertaking for that period.

(2) In this Part "generation receipts" means amounts that it is fair and reasonable to attribute to generation attributed under section 282(1) (whether or not they are received by, or otherwise arise to the operator of the station) on the basis that the amounts reflect, directly or indirectly, the amount realised (or to be realised) for the wholesale purchase of electricity arising from that generation (whether or not the electricity is actually generated).

(3) In determining the amounts realised (or to be realised) for the wholesale purchase of electricity the following are, amongst other things, to be taken into account—

(a) amounts received in accordance with a settlement code in connection with accepted offers to increase generation (but not amounts in connection with accepted bids to decrease generation);

(b) imbalance charges under such a code;

(c) payments and receipts under arrangements whose principal purpose is to act as a hedge of the exposure to changes in the price of electricity where those arrangements relate to generation attributed under section 282(1).

(4) The arrangements referred to in subsection (3)(c) may include arrangements comprising, or that include the use of, options, futures and contracts for difference (within the meaning of Part 7 of CTA 2009).

(5) The Treasury may by regulations make provision about when amounts can (and cannot) be fairly and reasonably attributed to generation under subsection (2).

(6) Regulations may also provide that—

(a) amounts of a specified description are always to be treated as generation receipts;

(b) amounts of a specified description are never to be treated as generation receipts.

"Specified" means specified in the regulations.

(7) Subsection (8) applies to generation attributed to a generating undertaking under section 282(1) if—

(a) provision, within the meaning of Part 4 of TIOPA 2010, has been made or imposed as between two persons by means of a transaction or series of transactions,

(b) that provision relates to that generation,

(c) if instead of that provision the arm's length provision had been made or imposed, one of those persons would have an amount that it is fair and reasonable to attribute the generating undertaking in accordance with subsection (2), and

(d) were that person within the charge to corporation tax, their profits and losses would be calculated (as a result of Part 4 of TIOPA 2010) as if the arm's length provision had been made or imposed instead of the provision actually made or imposed.

(8) Where this subsection applies to generation attributed to a generating undertaking, generation receipts in respect of it are to be determined as if the arm's length provision had been made or imposed instead of the provision actually made or imposed.

(9) In this Part "the arm's length provision" has the meaning it has in Part 4 of TIOPA 2010.

284 Allowable costs

(1) "Allowable costs" means—

(a) exceptional generation fuel costs of relevant generating stations (see section 285),

(b) exceptional revenue sharing costs in respect of relevant generating stations (see section 286), and

(c) qualifying electricity purchase costs (see subsection (6)).

(2) Allowable costs may only be attributed to a generating undertaking for a qualifying period to the extent—

(a) those costs are fairly and reasonably attributable to generation receipts attributed to the undertaking for the period,

(b) they reflect expenses of the undertaking (or, in the case of an undertaking that is a group, of one or more of its members), and

(c) those costs are not already reflected in the determination of the amounts of those receipts.

(3) Allowable costs are only to be attributed to a generating undertaking if a claim is made for those allowable costs in a company tax return.
In this Part "company tax return" has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1) of that Schedule).

(4) Subsection (5) applies to allowable costs of a person ("the cost holder") to be attributed to a generating undertaking if—

(a) the costs arise as a result of provision made or imposed as between the cost holder and another person by means of a transaction or series of transactions, and

(b) were the cost holder within the charge to corporation tax, the cost holder's profits and losses would be calculated (as a result of Part 4 of TIOPA 2010) as if the arm's length provision had been made or imposed instead of the provision actually made or imposed.

(5) Where this subsection applies to allowable costs, the amount of those costs is to be determined as if that arm's length provision had been made or imposed instead of the provision it arose as a result of.

(6) In this section "qualifying electricity purchase costs" means costs reasonably incurred in the purchase of electricity in order to comply with the terms of an agreement under which it was expected that a relevant generating station will generate but does not do so.

285 Exceptional generation fuel costs

(1) For the purposes of a claim for allowable costs by a generating undertaking, the amount (if any) of "exceptional generation fuel costs" of a relevant generating station for a qualifying period is to be determined as follows—

Step 1

Determine the generation fuel costs for the station for that period.

Step 2

Divide the amount of those costs by the amount of electricity generated by the station in that period (expressed in megawatt hours) that are attributable to a generating undertaking.

Step 3

Determine the baseline fuel cost of the station.

Step 4

If the result of Step 2 is the same as or less than the baseline fuel cost, there are no exceptional generation fuel costs of the station for that period.

Step 5

If the result of Step 2 is greater than the baseline fuel cost, subtract the baseline fuel cost from the result of Step 2.

Step 6

Multiply the amount of electricity generated by the station that is attributable to a generating undertaking in that period by the result of Step 5 to give the amount of exceptional generation fuel costs of the station for that period.

(2) The "generation fuel costs" of a relevant generating station for a period means costs which, on a fair and reasonable basis, can be directly attributed to the acquisition of fuel used for generating electricity in that period (which may include the costs of transporting such fuel) that is attributable to a generating undertaking.

(3) The baseline fuel cost of a relevant generating station is the lesser of—

(a) the average generation fuel costs of the station per megawatt hour for the reference period specified in the claim for allowable costs, determined on a fair and reasonable basis (and which cannot be less than nil), and

(b) £65 per megawatt hour.

(4) Subject to subsection (5), the reference period that may be specified in the claim must—

(a) be a period of at least 12 months in which there is a period of 3 months where the generating station was generating on 50% or more of the days in that 3 month period,

(b) commence no earlier than 1 January 2017, and

(c) end no later than 1 March 2020.

(5) Where a reference period cannot be specified in the claim in accordance with subsection (4) because there is no period of at least 12 months between 1 January 2017 and 1 March 2020 in which there is a period of 3 months where the generating station was generating on 50% or more of the days in that 3 month period—

(a) a period of 12 months commencing no earlier than 1 January 2017 and ending no later than 1 March 2020 may be specified as the reference period,

(b) the average generation fuel costs of the station for the purposes of subsection (3)(a) is to be determined as a fair and reasonable estimate of what those costs would have been—

(i) had the generating station been generating in that period, and

(ii) had it been generating on a similar basis in that period as it had been generating in the period of 12 months ending with the end of the qualifying period to which the claim relates.

(6) Where a generating station uses more than one type of fuel, a generating undertaking making a claim for allowable costs in respect of the exceptional fuel costs of that station may calculate the exceptional generation fuel costs in relation to each type of fuel separately, and may specify different reference periods for those calculations.

(7) Where a generating undertaking makes a claim for allowable costs in respect of exceptional generation fuel costs of two or more generating stations that use the same type of fuel, the same reference period must be specified in relation to the calculation of exceptional generation costs in relation to fuel of the same type.

286 Exceptional revenue sharing costs

(1) Subsection (2) applies for the purposes of determining the amount of allowable costs that may be claimed by a generating undertaking in respect of exceptional revenue sharing costs.

(2) Take the following steps to determine the amount (if any) that can be claimed for a qualifying period—

Step 1

Determine if there are any relevant generating stations whose generation has been attributed to the undertaking in relation to which there are qualifying arrangements under which payments are made to a third party in relation to the undertaking by reference to—

(a) the price received for generation by that station, or

(b) the wholesale price of electricity.

Step 2

Determine the amounts paid, in respect of each of those arrangements.

Step 3

In relation to each such payment, determine the amount that would have been paid if the price received for generation by the station in question and the wholesale price of electricity had been the benchmark amount and subtract that amount from the amount actually paid.

Step 4

Add together the results of Step 3.

If the result of Step 3 is nil or less the generating undertaking, no amount can be claimed.

If the result of Step 3 is more than nil, that amount can be claimed (to the extent it is fairly and reasonably attributable to generation receipts attributed to the undertaking).

(3) For the purposes of subsection (2), arrangements are "qualifying" if they are arrangements under which fuel for generating electricity is acquired and the requirement to make payments under the arrangements relates to that acquisition.

(4) Where the arrangements provide for some or all of the cost of paying the levy to be passed to the third party (whether by way of reduction of payments or otherwise) no amount of allowable costs in relation to the arrangements may be claimed unless subsection (6) applies.

(5) Subsection (6) applies where the arrangements provide for a fixed proportion of the cost of paying the levy to be passed to the third party.

(6) Where this subsection applies, the proportion of the amount calculated under subsection (2) that is equal to the proportion of the costs of paying the levy that are not passed to the third party may be claimed.

(7) In this section—

"third party", in relation to a generating undertaking, means a person that is not a significant equity holder in—

(a) where the undertaking is not a group, the undertaking, or

(b) where the undertaking is a group, any member of the group;

a person ("P"), other than a member of a group of companies, is a "significant equity holder" in a company ("C") if—

(a) P is beneficially entitled to 20% or more of any profits available for distribution to equity holders of C,

(b) P would be beneficially entitled to 20% or more of any assets of C available for distribution to its equity holders on a winding-up, or

(c) at least 20% of C's ordinary share capital is owned directly or indirectly by P;

a member of a group of companies is a "significant equity holder" in a company ("C") if—

(a) members of the group between them are beneficially entitled to 20% or more of any profits available for distribution to equity holders of C,

(b) members of the group between them would be beneficially entitled to 20% or more of any assets of C available for distribution to its equity holders on a winding-up, or

(c) at least 20% of C's ordinary share capital is owned directly or indirectly by members of the group.

Groups, partnerships and joint ventures

287 Groups

(1) For the purposes of this Part, the following form a "group"—

(a) a company that is not a 75% subsidiary of any other company, and

(b) every company that is a 75% subsidiary—

(i) of that company,

(ii) of a 75% subsidiary of that company, or

(iii) of a 75% subsidiary of a 75% subsidiary of that company, and so on.

(2) The company in a group that is not a 75% subsidiary of any other company is the "principal member" of the group.

(3) Every other member of the group is a "subsidiary member".

(4) A company ("B") is a "75% subsidiary" of another company ("A") if—

(a) A is beneficially entitled to 75% or more of any profits available for distribution to equity holders of B,

(b) A would be beneficially entitled to 75% or more of any assets of B available for distribution to its equity holders on a winding-up, or

(c) at least 75% of B's ordinary share capital is owned directly or indirectly by A.

(5) Where as a result of the application of each of paragraphs (a) to (c) of subsection (4) a company would (ignoring this paragraph) be a member of more than one group, that company is to be treated as only being a 75% subsidiary of the first company it is a subsidiary of applying the rules in those paragraphs in order (starting with paragraph (a)).

(6) If at any time a company that is a generating undertaking becomes a member of a group that is a generating undertaking (including a group that becomes a generating undertaking as a result of that company becoming a member), the final qualifying period of the company ends at that time.

(7) If at any time a group ceases to be a group as a result of the principal member becoming a 75% subsidiary of another group, the final qualifying period of the group ends at that time.

288 Lead member of a group and its qualifying periods

(1) For the purposes of section 280(2) (meaning of qualifying period), the reference to an accounting period of a generating undertaking that is a group means an accounting period of its lead member.

(2) Take the following steps in order to identify the lead member of the group (stopping at the first step under which a member of the group is identified as the lead member)—

Step 1

If there is a member of the group that—

(a) is within the charge to corporation tax, and

(b) is nominated for the purposes of this section,

that member is the lead member of the group.

Step 2

If the principal member of the group is within the charge to corporation tax, it is the lead member of the group.

Step 3

If—

(a) there is a member of the group that—

(i) is within the charge to corporation tax, and

(ii) has no 75% parent within the charge to corporation tax, and

(b) there is no other member of the group falling within paragraph (a),

that member is the lead member of the group.

Step 4

If there is more than one member falling within paragraph (a) of Step 3, the lead member is the member falling within that paragraph to which the greatest amount of generation would be attributed under section 282(1) in the period of 12 months ending with the later of 31 December 2022 and the beginning of the first qualifying period in which the group is a qualifying generating undertaking if—

(a) each such member were a generating undertaking, and

(b) that period of 12 months were a qualifying period.

Step 5

If none of the preceding steps identifies a lead member, the principal member of the group (who will not be within the charge to corporation tax) is the lead member of the group.

(3) For the purposes of subsection (2), a company ("P") is a 75% parent of another company if that other company is a 75% subsidiary—

(a) of P,

(b) of a 75% subsidiary of P, or

(c) of a 75% subsidiary of a 75% subsidiary of P, and so on.

(4) A nomination of a member of a group as the lead member of the group—

(a) is to be made by the member of the group that, ignoring Step 1 in subsection (2), would be the lead member of the group ("the nominating member"),

(b) must be made by notice to HMRC,

(c) must specify when it takes effect, which must be no earlier than the commencement of the qualifying period in which it is made, and

(d) has effect until—

(i) a further nomination takes effect,

(ii) it is revoked, or

(iii) the nominated member leaves the group.

(5) The revocation of a nomination of a member of a group as the lead member—

(a) is to be made by the member of the group that, ignoring Step 1 in subsection (2), would be the lead member of the group,

(b) must be made by notice to HMRC, and

(c) must specify when it takes effect, which must be no earlier than the commencement of the qualifying period in which it is made.

(6) Where a company becomes lead member of a group during a qualifying period, and that period is not the same as an accounting period of the new lead member—

(a) the qualifying period ends, and

(b) a qualifying period commences that ends with the end of the current accounting period of the new lead member.

289 Liability of members of groups

Where a generating undertaking that is a group is liable to an amount of electricity generator levy—

(a) the lead member is liable to pay that amount, and

(b) every other member is jointly and severally liable for that amount.

290 Election for members with significant minority shareholding to pay levy

(1) This section applies where—

(a) a generating undertaking that is a group is liable to an amount of electricity generator levy for a qualifying period,

(b) a subsidiary member of that group ("the relevant member") has, at any time in that period, at least one significant minority shareholder,

(c) some, or all, of that amount is attributable, on a fair and reasonable basis, to the activities of the relevant member and, if it has one or more relevant subsidiaries, those relevant subsidiaries.

(2) Where this section applies, the lead member of the group may elect that so much of the amount as is attributable to the activities of the relevant member and (where it has one or more relevant subsidiaries) its relevant subsidiaries must be paid by that member.

(3) But the other members of the group are jointly and severally liable for that amount.

(4) An election under this section in respect of an amount of electricity generator levy for a qualifying period must be made no later than 9 months after the end of that period.

(5) For the purposes of this Part—

(a) a person ("P") is a significant minority shareholder in a subsidiary member of a group ("S") if P is not a member of the group and—

(i) P is beneficially entitled to 10% or more of any profits available for distribution to equity holders of S,

(ii) P would be beneficially entitled to 10% or more of any assets of S available for distribution to its equity holders on a winding-up, or

(iii) at least 10% of S's ordinary share capital is owned by P, and

(b) a group of companies (other than the group S is a member of) is a significant minority shareholder in S if—

(i) members of the group are, between them, beneficially entitled to 10% or more of any profits available for distribution to equity holders of S,

(ii) members of the group between them would be beneficially entitled to 10% or more of any assets of S available for distribution to its equity holders on a winding-up, or

(iii) at least 10% of S's ordinary share capital is owned by members of the group.

(6) For the purposes of this section and sections 296 and 297, a company is a relevant subsidiary of another company if it is a 75% subsidiary of—

(a) that other company,

(b) a 75% subsidiary of that other company, or

(c) a 75% subsidiary of a 75% subsidiary of that other company, and so on.

291 Qualifying partnerships

(1) A "qualifying partnership", in relation to a generating undertaking, means a partnership that operates a relevant generating station whose partners include—

(a) in the case of a generating undertaking that is a company, that company, or

(b) in the case of a generating undertaking that is a group, at least one partner who is not a member of the group and at least one partner who is a member of the group.

(2) For the purposes of subsection (1) of section 282, the qualifying proportion for a qualifying period in relation to a generating undertaking that is a company and a qualifying partnership in relation to that undertaking is the proportion of the partnership's profits represented by the undertaking's share of those profits.

(3) For the purposes of that subsection, the qualifying proportion for a qualifying period in relation to a generating undertaking that is a group and a qualifying partnership in relation to that undertaking is the proportion of the partnership's profits represented by the sum of the shares of those profits of each partner that is a member of the undertaking.

(4) Part 17 of CTA 2009 (partnerships) applies for the purposes of this section as it applies for the purposes of corporation tax.

292 Qualifying joint ventures

(1) For the purposes of this Part a company ("C") is a "qualifying joint venture" if—

(a) C is not a member of a group other than a group of which it is the principal member, and

(b) there are five or fewer persons who between them—

(i) hold 75% or more of C's ordinary share capital, or

(ii) in a case where C does not have ordinary share capital, are beneficially entitled to 75% or more of C's profits available for distribution to equity holders of C.

(2) In determining whether there are five or fewer such persons as are mentioned in subsection (1)(b), the members of a group are treated as if they were a single company.

(3) A company ("P") that is not a member of a group is a participant in a qualifying joint venture ("V") if—

(a) P holds 10% or more of V's ordinary share capital, or

(b) in a case where V does not have ordinary share capital, P is beneficially entitled to 10% or more of V's profits available for distribution to equity holders of V.

(4) A group of companies is a participant in a qualifying joint venture ("V") if—

(a) a member of that group, or two or more members between them, hold 10% or more of V's ordinary share capital, or

(b) in a case where V does not have ordinary share capital, a member of the group is, or two or more members between them are, beneficially entitled to 10% or more of V's profits available for distribution to equity holders of V.

(5) Where a participant in a qualifying joint venture is not a generating undertaking, the participant is to be treated as a generating undertaking for the purposes of this Part.

Attribution and surrender of amounts: joint ventures and significant minority shareholders

293 Non-chargeable amounts of joint venture to be attributed to participants

(1) Subsection (3) applies where the result of Step 4 in section 279(5) for a joint venture undertaking is greater than nil for a qualifying period.

(2) For the purposes of this Part "joint venture undertaking" means a generating undertaking—

(a) that is a qualifying joint venture, or

(b) that is a group whose principal member is a qualifying joint venture.

(3) The appropriate proportion of the non-chargeable amount in relation to the joint venture undertaking is to be added to the result of Step 4 in section 279(5) for each generating undertaking that is a participant in the qualifying joint venture ("the JV") that comprises, or is the principal member of, the joint venture undertaking (and where Step 4 would not otherwise have been reached as a result of the second sentence of Step 3, ignore that sentence).

(4) Where the qualifying period of the joint venture undertaking corresponds to a qualifying period of a participant of the JV, the whole of the appropriate proportion of the non-chargeable amount is to be added to the result of Step 4 for the participant for that period.
Otherwise, the appropriate proportion is to be apportioned, on a fair and reasonable basis, between the qualifying periods of the participant in which the qualifying period of the joint venture undertaking falls.

(5) The non-chargeable amount for a qualifying period of the joint venture undertaking is so much of the result of Step 4 in section 279(5) for that period as is reduced as a result of Step 5 of that section.

(6) To determine the appropriate proportion of the participants in the JV for a qualifying period of the joint venture undertaking take the following steps—

Step 1

The generation receipts and allowable costs attributed to the joint venture undertaking for the period are to be allocated to the participants in the JV in proportion to the proportional interest each has in the JV at the time of the generation to which the receipts or costs relate.

Step 2

In respect of each participant, subtract those allocated allowable costs from those allocated generation receipts.
If the result of this Step is less than nil for any of the participants, the appropriate proportion for that participant is nil.

Step 3

The appropriate proportion for any other participant is the amount given by dividing—

(a) the result of Step 2 in respect of that participant, by

(b) the result of Step 4 in section 279(5) for the joint venture undertaking—

(i) ignoring any amounts added to the result of that Step in accordance with subsection (3), and

(ii) where the result of Step 2 for one or more of the participants is less than nil, increased by the sum of those results (each expressed as a positive number).

(7) The proportional interest of a participant ("P") in the JV at any time is—

(a) the percentage of the JV's ordinary share capital held—

(i) where P is a generating undertaking which is a company, by P, or

(ii) where P is a generating undertaking which is a group, by members of P, or

(b) in a case where the JV does not have ordinary share capital, the percentage of the JV's profits available for distribution to equity holders of the JV—

(i) where P is a generating undertaking which is a company, to which P is beneficially entitled, or

(ii) where P is a generating undertaking which is a group, to which members of P are beneficially entitled.

(8) Where the appropriate proportion of the non-chargeable amount is required to be added to the result of Step 4 in section 279(5) for a generating undertaking that is not "qualifying" (see section 279(3)) in the qualifying period in which it is to be added, that undertaking is to be treated as qualifying for that period.

294 Generation acquired and supplied by JV participants

(1) Subsection (3) applies to generation if —

(a) the generation is attributed to a joint venture undertaking, other than in accordance with this section or sections 295 to 297,

(b) it is supplied, directly or indirectly, to a generating undertaking ("Q") that is a participant in the joint venture ("the JV") that comprises, or is the principal member of, the joint venture undertaking, and

(c) it is subsequently the subject of a wholesale purchase of electricity from Q.

(2) Where the generation attributed to the joint venture undertaking is generation falling within section 282(3)(b) (generation expected to be generated which was not generated), reference in subsection (1) to supply or purchase is to any supply or purchase that was expected in consequence of that generation having occurred.

(3) Where this subsection applies to generation—

(a) the generation is to be attributed to Q (as well as to the joint venture undertaking),

(b) in determining the amount of generation receipts to be attributed to the joint venture undertaking under section 283 in respect of that generation, do not take account of the transaction described in subsection (1)(c),

(c) the generation attributed to Q as a result of paragraph (a) is to be attributed to Q for the qualifying period of Q in which the generation occurred,

(d) subject to paragraph (f), the generation attributed to Q as a result of paragraph (a) is to be treated for the purposes of this Part as if it had been attributed under section 282(1),

(e) in determining the amount of generation receipts to be attributed to Q under section 283 in respect of generation attributed as a result of

paragraph (a), take account of the costs of the transaction under which the generation so attributed was acquired or was expected to be acquired, and

(f) in determining the exceptional generation receipts of Q for a qualifying period of Q under section 279(5), any generation attributed to Q for that period as a result of paragraph (a) is to be ignored for the purposes of Step 2 (which may result in the result of that Step being nil).

(4) But the amount generation that is to be attributed to Q in a qualifying period of Q under this section is not to exceed the amount of generation attributed to the joint venture undertaking in respect of that same period multiplied by the relevant proportion.

(5) The "relevant proportion" for the purposes of subsection (4) and section 295(3) is—

(a) the percentage of the JV's ordinary share capital held—

(i) where Q is a generating undertaking which is a company, by Q, or

(ii) where Q is a generating undertaking which is a group, by members of Q, or

(b) in a case where the JV does not have ordinary share capital, the percentage of the JV's profits available for distribution to equity holders of the JV—

(i) where Q is a generating undertaking which is a company, to which Q is beneficially entitled, or

(ii) where Q is a generating undertaking which is a group, to which members of Q are beneficially entitled.

295 Arrangements that reflect receipts (JV participants)

(1) Subsection (2) applies to generation if—

(a) the generation is attributed to a joint venture undertaking, other than in accordance with this section or sections 294, 296 or 297,

(b) a participant ("Q") in the joint venture ("the JV") that comprises, or is the principal member of, the joint venture undertaking is party to arrangements that result in amounts arising by reference to the generation,

(c) those amounts would, if the joint venture undertaking, or a member of it, were party to those arrangements, be taken into account in determining the generation receipts of the joint venture undertaking, and

(d) the generation—

(i) is not supplied (directly or indirectly) to Q, or

(ii) in the case of generation falling within section 282(3)(b) (generation expected to be generated which was not generated), was not expected to be supplied (directly or indirectly) to Q.

(2) Where this subsection applies to generation—

(a) the generation is to be attributed to Q (as well as to the joint venture undertaking),

(b) the generation attributed to Q as a result of paragraph (a) is to be attributed to Q for the qualifying period of Q in which the generation occurred,

(c) subject to paragraph (d), the generation attributed to Q as a result of paragraph (a) is to be treated for the purposes of this Part as if it had been attributed under section 282(1),

(d) in determining the exceptional generation receipts of Q for a qualifying period of Q under section 279(5)—

(e) any generation attributed to Q for that period as a result of paragraph (a) is to be ignored for the purposes of Step 2 (which may result in the result of that Step being nil).

(3) But amount of generation that is to be attributed to Q in a qualifying period of Q under this section is not to exceed the amount given by subtracting—

(a) the amount of generation attributed to Q in that period under section 294, from

(b) the amount of generation attributed to the joint venture undertaking in respect of that same period multiplied by the relevant proportion (see section 294(5)).

296 Generation acquired and supplied by significant minority shareholders

(1) Subsection (3) applies to generation if—

(a) a subsidiary member ("A") of a generating undertaking that is a group ("U") has a significant minority shareholder that is a company or group,

(b) the generation is generation by a relevant generating station operated by A or a relevant subsidiary of A (see section 290(6)),

(c) the generation is supplied, directly or indirectly, to a significant minority shareholder ("M") in A that is a company or a group, and

(d) the generation is subsequently the subject of a wholesale purchase of electricity from M.

(2) Where the generation falls within section 282(3)(b) (generation expected to be generated which was not generated), reference in subsection (1) to supply or purchase is to any supply or purchase that was expected in consequence of that generation having occurred.

(3) Where this subsection applies to generation—

(a) the generation is to be attributed to M (as well as to U),

(b) in determining the amount of generation receipts to be attributed to U under section 283 in respect of the generation, do not take account of the transaction described in subsection (1)(d),

(c) the generation attributed to M as a result of paragraph (a) is to be attributed to M for the qualifying period of M in which the generation occurred,

(d) subject to paragraph (f), the generation attributed to M as a result of paragraph (a) is to be treated for the purposes of this Part as if it had been attributed under section 282(1),

(e) in determining the amount of generation receipts to be attributed to M under section 283 in respect of generation attributed as a result of paragraph (a), take account of the costs of the transaction under which the generation so attributed was acquired or was expected to be acquired, and

(f) in determining the exceptional generation receipts of M for a qualifying period of M under section 279(5), any generation attributed to M for that period as a result of paragraph (a) is to be ignored for the purposes of Step 2 (which may result in the result of that Step being nil).

(4) Where the generation is generation by a relevant generating station operated in partnership and at least one of the partners is neither A nor a relevant subsidiary of A, only the qualifying proportion of that generation is to be attributed to M under subsection (3)(a).

(5) For the purposes of this section and section 297, "the qualifying proportion" is the proportion of generation that is equal to the proportion of the partnership's profits represented by the sum of A's share of the partnership's profits and the shares of those profits of any relevant subsidiaries of A (and Part 17 of CTA 2009 applies for the purposes of this subsection as it applies for the purposes of corporation tax).

(6) But the generation that is to be attributed to M in a qualifying period of M is not to exceed the amount of generation that is attributable on a fair and reasonable basis to the activities of A and (where it has one or more relevant subsidiaries) its relevant subsidiaries in that same period multiplied by the relevant proportion.

(7) The "relevant proportion" for the purposes of subsection (6) and section 297(4)(b) is—

(a) the percentage of A's ordinary share capital held—

(i) where M is a generating undertaking which is a company, by M, or

(ii) where M is a generating undertaking which is a group, by members of M, or

(b) in a case where A does not have ordinary share capital, the percentage of A's profits available for distribution to equity holders of A—

(i) where M is a generating undertaking which is a company, to which M is beneficially entitled, or

(ii) where M is a generating undertaking which is a group, to which members of M are beneficially entitled.

(8) Where M is not a generating undertaking, M is to be treated as a generating undertaking for the purposes of this Part.

297 Arrangements that reflect receipts (significant minority shareholders)

(1) Subsection (2) applies to generation if—

(a) a subsidiary member ("A") of a generating undertaking that is a group ("U") has a significant minority shareholder that is a company or group,

(b) the generation is generation by a relevant generating station operated by A or a relevant subsidiary of A (see section 290(6)),

(c) a significant minority shareholder ("M") in A that is a company or a group is party to arrangements that result in amounts arising by reference to the generation,

(d) those amounts would be taken into account in determining the generation receipts of U if A or a relevant subsidiary of A (whichever operates the station) were party to the arrangements, and

(e) the generation—

(i) is not supplied (directly or indirectly) to M, or

(ii) in the case of generation falling within section 282(3)(b) (generation expected to be generated which was not generated), was not expected to be supplied (directly or indirectly) to M.

(2) Where this subsection applies to generation—

(a) the generation is to be attributed to M (as well as to U),

(b) the generation attributed to M as a result of paragraph (a) is to be attributed to M for the qualifying period of M in which the generation occurred,

(c) subject to paragraph (d), the generation attributed to M as a result of paragraph (a) is to be treated for the purposes of this Part as if it had been attributed under section 282(1),

(d) in determining the exceptional generation receipts of M for a qualifying period of M under section 279(5), any generation attributed to M for that period as a result of paragraph (a) is to be ignored for the purposes of Step 2 (which may result in the result of that Step being nil).

(3) Where the generation is generation by a relevant generating station operated in partnership and at least one of the partners is neither A nor a relevant subsidiary of A, only the qualifying proportion of that generation (see section 294(4)) is to be attributed to M under subsection (2)(a).

(4) But the amount of generation that is to be attributed to M in a qualifying period of M is not to exceed the amount given by subtracting—

(a) the amount of generation attributed to M in that period under section 296, from

(b) the amount of generation that is attributable on a fair and reasonable basis to the activities of A and (where it has one or more relevant

subsidiaries) its relevant subsidiaries multiplied by the relevant proportion (see section 296(7)).

(5) Where M is not a generating undertaking, M is to be treated as a generating undertaking for the purposes of this Part.

298 Surrender of shortfalls

(1) This section applies where in an overlap period for two related generating undertakings—

(a) one of those undertakings ("A") has a shortfall amount for the overlap period, and

(b) the other undertaking ("B") has exceptional generation receipts for the overlap period.

(2) To determine if an undertaking has a shortfall amount or exceptional generation receipts for an overlap period, carry out all of the steps in section 279(5) as if the period were a qualifying period, including steps that would normally be ignored because a result of nil or less has already been found.

(3) If the result of Step 5 is less than nil, that result (expressed as a positive number) is a shortfall amount.

(4) Where this section applies, an amount of the shortfall amount of A may be surrendered to B.

(5) Section 299 sets out how much of the shortfall amount may be surrendered by A to B.

(6) Two generating undertakings are related generating undertakings if—

(a) one is—

(i) a joint venture undertaking, or

(ii) a generating undertaking that is a group that has at least one subsidiary member who has at least one significant minority shareholder, and

(b) the other is a relevant shareholder in the other.

(7) A generating undertaking ("C") is a relevant shareholder in another generating undertaking ("D") if—

(a) where D is a joint venture undertaking, C is a participant in the joint venture that comprises, or is the principal member of, the joint venture undertaking, or

(b) where D is a generating undertaking that is a group that has at least one subsidiary member who has at least one significant minority shareholder, C is a significant minority shareholder in a subsidiary member of D.

(8) In this section "overlap period" in relation to two generating undertakings means—

(a) where a qualifying period of one of the generating undertakings wholly corresponds with a qualifying period of the other, such a period, and

(b) where a qualifying period of one generating undertaking does not wholly correspond with a qualifying period of the other, a period—

(i) that commences at the same time as a qualifying period of one of them, and

(ii) that ends with the earlier of the end of that qualifying period or the end of the last qualifying period of the other undertaking to commence on or before that qualifying period.

299 Amount that may be surrendered and use of that amount

(1) Subject to subsection (7), the maximum amount of a shortfall amount that may be surrendered by a generating undertaking ("A") to another ("B") where A is a relevant shareholder in B, is the lesser of the amounts given by subsections (2) and (3).

(2) The amount given by this subsection is the amount of the shortfall amount of A that is, on a fair and reasonable basis, referable to A's interest in the generation attributed to B in the overlap period.

(3) The amount given by this subsection is the amount of the exceptional generation receipts of B for the shortfall period that is, on a fair and reasonable basis, referable to A's interest in the generation attributed to B in the overlap period.

(4) Subject to subsection (7), the maximum amount of a shortfall amount that may be surrendered by a generating undertaking ("C") to another ("D") where D is a relevant shareholder in C is the lesser of the amounts given by subsections (5) and (6).

(5) The amount given by this subsection is the amount of the shortfall amount of C that is, on a fair and reasonable basis, referable to D's interest in the generation attributed to C in the overlap period.

(6) The amount given by this subsection is the amount of the exceptional generation receipts of D for the shortfall period that is, on a fair and reasonable basis, referable to D's interest in the generation attributed to C in the overlap period.

(7) A generating undertaking may only surrender an amount of a shortfall amount relating to an overlap period if the result of Step 5 in section 279(5) for the undertaking for the qualifying period in which the overlap period falls would not exceed nil if—

(a) all of the steps in section 279(5) for that qualifying period were carried out, including steps that would normally be ignored because a result of nil or less has already been found,

(b) the amount surrendered were added to the result of Step 5, and

(c) all other amounts surrendered for overlap periods falling with that period were added to the result of that Step.

(8) Where an amount of a shortfall amount has been surrendered to a generating undertaking, that amount is to reduce the result of Step 5 in section 279(5), but not below nil, for the qualifying period in which the overlap period to which the shortfall amount relates falls.

(9) A surrender of an amount of a shortfall amount is effective only if—

(a) the generating undertaking which is surrendering the amount has consented to surrender that amount to the other generating undertaking, and

(b) the other generating undertaking has made a claim to that amount (see section 305).

Treatment of company as transparent as alternative to attribution and surrender

300 Election to treat certain companies as transparent

(1) A company that is, or is a member of, a generating undertaking may elect that the company is to be treated as transparent while the election is in force. Section 301 sets out the effect of a company being "treated as transparent".

(2) An election under subsection (1)—

(a) must be made by notice to HMRC;

(b) must specify the first day on which the election is to have effect, which must be no earlier than 12 months before the day on which the notice is given;

(c) may only be made if conditions A and B are met.

(3) Condition A is that—

(a) the company is a qualifying joint venture that is, or is a member of, a generating undertaking, or

(b) the company—

(i) is a subsidiary member of a group that is a generating undertaking, and

(ii) has at least one significant minority shareholder.

(4) Condition B is that each shareholder of the company—

(a) has at least a 10% interest in it,

(b) is a company, and

(c) has consented to the making of the election.

(5) Where two or more members of a group are shareholders of the company, they are to be regarded as a single shareholder (and their interests aggregated) for the purposes of determining whether subsection (4)(a) is met (but each must still consent to the making of the election for condition B to be satisfied).

(6) For the purposes of this section and section 301—

(a) a person is a shareholder of a company if—

(i) in the case of a company that has ordinary share capital, the person holds ordinary share capital of the company, or

(ii) in the case of a company that does not have ordinary share capital, the person is beneficially entitled to a share of the company's profits available for distribution to equity holders of it, and

(b) a shareholder's interest in a company is—

(i) in the case of a company that has ordinary share capital, the proportion of the ordinary share capital of the company the shareholder holds, or

(ii) in the case of a company that does not have ordinary share capital, the proportion of the company's profits available for distribution to equity holders of it to which the shareholder is beneficially entitled.

(7) An election under this section has effect from the date specified in accordance with subsection (2)(b) until—

(a) revoked by the company,

(b) revoked by HMRC, or

(c) a person who was not a shareholder of the company at the time the election first took effect becomes a shareholder of the company.

Nothing in this subsection is to be read as preventing a subsequent election being made that commences at any time after the first election ceased to have effect.

(8) An election may be revoked by the company by notice given to HMRC that specifies the date the election is to cease to have effect, which must be no earlier than 12 months before the day on which the notice of revocation is given.

(9) An election may be revoked by HMRC by notice given to the company if HMRC considers that the company or its shareholders have not complied with any obligation under this Part.

(10) A notice under subsection (9)—

(a) must specify the date from which the revocation has effect (including a date which if specified would result in the election never having effect), and

(b) must state the reasons for revocation, and

(c) may be appealed by the company by notice to HMRC.

(11) An appeal under subsection (10)(c) must be made during the period of 30 days beginning with the date on which the notice under subsection (9) was given.

Further provision about appeals is contained in Part 5 of TMA 1970 (which applies in relation to the electricity generator levy as a result of section 302).

301 Effect of company being transparent

(1) This section applies where a company ("C") is treated as transparent as a result of an election under section 300.

(2) C is to be treated for the purposes of this Part as if it were a partnership.

(3) Its shareholders are to be regarded for those purposes as its partners.

(4) Each shareholder's share of the profits of the partnership is equal to its interest in C.

(5) Where C is a generating undertaking, all generation, generation receipts and allowable costs that would (ignoring this section) be attributed to C in accordance with this Part are to be treated instead as if they resulted from the operation of a generating station operated in partnership by C's partners.

(6) Where C is a member of a group that is a generating undertaking, the generation, generation receipts and allowable costs that—

(a) would (ignoring this section) be attributed to the group in accordance with this Part, and

(b) are attributable on a fair and reasonable basis to the activities of C,

are to be treated instead as if they resulted from the operation of a generating station operated in partnership by C's partners.

(7) Where C is, or is treated as, the only shareholder in another company ("D"), the generation, generation receipts and allowable costs that—

(a) would (ignoring this section) be attributed, in accordance with this Part, to the group of which D is a member, and

(b) are attributable on a fair and reasonable basis to the activities of D,

are to be treated instead as if they resulted from the operation of a generating station operated in partnership by C's partners.

(8) C is to be treated as the only shareholder in another company if—

(a) the other company's only shareholder is—

(i) a company in which C is the only shareholder,

(ii) a company in which the only shareholder is a company in which C is the only shareholder, and so on, or

(b) the other company has more than one shareholder, but each of its shareholders is one of the following—

(i) C;

(ii) a company whose only shareholder falls within paragraph (a)(i) or (ii);

(iii) a company that has more than one shareholder each of which is a company falling with sub-paragraph (i) or (ii) or this sub-paragraph.

(9) Where a shareholder of a company, or a generating undertaking of which such a shareholder is a member, is liable to an amount of electricity generator levy as a result of this section—

(a) where the company is a generating undertaking, it is jointly and severally liable to that amount (to the extent it arises as a result of this section), or

(b) where the company is a member of a generating undertaking that is a group, that undertaking is jointly and severally liable to that amount (to the extent it arises as a result of this section).

(10) Where—

(a) a generating undertaking is liable to an amount of electricity generator levy as a result of subsection (9)(a) or (b), and

(b) the qualifying period ("the chargeable period") by reference to which that amount was determined does not wholly correspond to a qualifying period of the undertaking,

the amount is to be apportioned, on a fair and reasonable basis, between the qualifying periods of the undertaking in which the chargeable period falls.

Management and administration

302 General application of corporation tax administration

(1) Where a company is liable to an amount of electricity generator levy, that amount may be charged on the company as if it were an amount of corporation tax chargeable on it.

(2) For the purposes of the collection and management of the electricity generator levy, any provision made by or under an enactment that applies in relation to corporation tax is to apply in relation to the electricity generator levy.

(3) The following are examples of provision that, as a result of subsection (2), apply in relation to the electricity generator levy—

(a) provision relating to returns of information and the supply of accounts, statements and reports;

(b) provision relating to the assessing, collecting and receiving of corporation tax;

(c) provision conferring or regulating a right of appeal;

(d) provision concerning administration, penalties or interest on unpaid amounts of corporation tax;

(e) provision about the priority of amounts owed to the Commissioners for His Majesty's Revenue and Customs in cases of insolvency under the law of any part of the United Kingdom.

(4) Accordingly—

(a) TMA 1970 is to have effect as if any reference to corporation tax included amounts of electricity generator levy that a company is chargeable to, and

(b) Paragraph 1 of Schedule 18 to FA 1998 (company tax returns, assessments and related matters) has effect as if—

(i) the "and" at the end of the paragraph beginning "section 33 of the Finance Act 2022" were omitted, and

(ii) at the end there were inserted "and,

section 302(1) of the Finance (No. 2) Act 2023."

(5) Subsections (1) to (4) are subject to—

(a) any other provision made by or under this Part, and

(b) any necessary modifications.

(6) The Treasury may by regulations make the following provision—

(a) provision that disapplies any provision so far as it would otherwise, as a result of subsection (2), apply in relation to the electricity generator levy;

(b) provision modifying the application of any such provision in relation to the electricity generator levy;

(c) provision about (including provision modifying) the application of any provision of the Tax Acts (that would not otherwise apply to the electricity generator levy as a result of subsection (2)) in relation to the levy.

303 Company tax returns

(1) Where a generating undertaking that is a company is a qualifying generating undertaking for a qualifying period, it must include a statement of the matters mentioned in subsection (4) in its company tax return for the first accounting period that ends on or after the day on which the qualifying period ends (and if it would not otherwise be required to make a company tax return for that period, it must make one).

(2) Where a generating undertaking that is a group is a qualifying generating undertaking for a qualifying period, the lead member in that period must include a statement of the matters mentioned in subsection (4) in its company tax return for the first accounting period that ends on or after the day on which the qualifying period ends (and if it would not otherwise be required to make a company tax return for that accounting period it must make one).

(3) But subsections (1) and (2) do not apply in relation to a qualifying generating undertaking for a qualifying period if it is reasonable to assume that the result of Step 5 in section 279(5) for that period would be significantly less than nil.

(4) The matters that must be stated are as follows—

(a) the amount of generation attributed to the generating undertaking for the qualifying period under this Part,

(b) the amount of generation receipts attributed to that undertaking for that period under section 283,

(c) the amount of any allowable costs attributed to that undertaking for that period under section 284,

(d) the amount of the undertaking's revenue allowance for that period,

(e) in the case of a generating undertaking that is a group, any amount of electricity generator levy that a member of that group must pay as a result of an election under section 290.

(5) Where the lead member of a generating undertaking that is a group fails to comply with the obligation in subsection (2) in relation to a qualifying period, an officer of Revenue and Customs may by notice require another member of the group to make or amend a company tax return that includes the matters mentioned in subsection (4).

(6) Nothing in this section is to be taken to limit the things which must be included in a company tax return as a result of section 302(4)(b) (which has the effect of treating the electricity generator levy as tax for the purposes of company tax returns).

(7) Schedule 18 to FA 1998 (company tax returns etc.) applies in relation to a company required to make, or amend, a company tax return as a result of this section as if, in paragraph 8(1) of that Schedule (calculation of tax payable), at the end there were inserted—

"Sixth step

Add any amount of electricity generator levy the company is liable to in respect of that accounting period under Part 5 of the Finance (No. 2) Act 2023."

(8) For the purposes of that modification, a company is liable to an amount of electricity generator levy in respect of an accounting period if the company tax return for that period must, as a result of this section, include a statement of the matters mentioned in subsection (4) in relation to the qualifying period to which that amount relates.

304 Requirement to provide information about payments

(1) This section applies if—

(a) an amount of electricity generator levy is chargeable on a company as if it were an amount of corporation tax, and

(b) a payment is made (whether or not by the company) that is wholly or partly in respect of that sum.

(2) The responsible company must give notice to an officer of Revenue and Customs, on or before the date the payment is made, of the amount of the payment that is in respect of that sum.

(3) The "responsible company" is—

(a) in the case of an amount of electricity generator levy to which a generating undertaking that is a company is liable, that company, or

(b) in the case of an amount of electricity generator levy to which a generating undertaking that is a group is liable, the lead member of that group.

(4) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.

(5) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).

305 Claims to shortfall amounts

(1) Part 8 of Schedule 18 to FA 1998 applies to a claim to a shortfall amount under section 299 as it applies to a claim for group relief under Part 5 of CTA 2010.

(2) That Part has effect for the purposes of a claim to a shortfall amount as if—

(a) references to "relief" were to the relief from electricity generator levy given by claiming a shortfall amount,

(b) references to "accounting period" were to "qualifying period", except where the context otherwise requires (for example, in references to the company tax return for the accounting period),

(c) references to "company" (apart from in "company tax return") were to "generating undertaking" (and if the context requires in the case of a generating undertaking that is a group, references were to the lead member of the group),

(d) in paragraph 68, sub-paragraphs (3) to (8) were omitted,

(e) in paragraph 69(3), in the first step, "under Part 5 or (as the case may be) Part 5A of the Corporation Tax Act 2010" were omitted,

(f) in paragraph 70—

(i) in sub-paragraph (1), for "Requirement 1 in section 130(2), 135(2), 188CB(3) or (as the case may be) 188CC(3) of the Corporation Tax Act 2010" there were substituted "section 299(9)(a) of the Finance (No. 2) Act 2023", and

(ii) sub-paragraphs (2), (5) and (6) were omitted,

(g) in paragraph 71—

(i) in sub-paragraph (1), for paragraph (e) there were substituted—

"(e) the overlap period to which the shortfall amount relates.", and

(ii) sub-paragraph (1A) were omitted,

(h) paragraphs 71A, 72, 75A, 77 and 77A were omitted, and

(i) such other modifications as are necessary were made.

306 Application of Part 5A of TMA 1970 and Instalment Payments Regulations

(1) Section 59E of TMA 1970 (further provision as to when corporation tax is due and payable) has effect as if, in subsection (11) after paragraph (f) there were inserted—

"(g) to any sum chargeable on a company under section 279 of the Finance (No. 2) Act 2023 (electricity generator levy) as if it were an amount of corporation tax chargeable on the company."

(2) Section 59F of that Act (arrangements for paying corporation tax on behalf of group members) has effect as if, in subsection (6)—

(a) the "and" at the end of paragraph (d) were omitted,

(b) after paragraph (e) there were inserted ", and

(f) to any sum chargeable on a company under section 279 of the Finance (No. 2) Act 2023 (electricity generator levy) as if it were an amount of corporation tax chargeable on the company."

(3) The Instalment Payment Regulations have effect as if—

(a) in paragraph (2), after "company" there were inserted ", other than a company that is, or is a member of a group that is, a generating undertaking (within the meaning of Part 5 of the Finance (No. 2) Act 2023),", and

(b) after that paragraph there were inserted—

"(2ZA) References in these Regulations to profits, in any accounting period, of a company that is, or is a member of a group that is, a generating undertaking (within the meaning of that Part), are to the greater of—

(a) the company's augmented profits within the meaning given by—

(i) in the case of an accounting period beginning before 1 April 2023, section 279G of CTA 2010, or

(ii) in the case of an accounting period beginning on or after that date, sections 18L and 18M of that Act,

(b) where the company is a generating undertaking, its exceptional generation receipts (within the meaning of that Part, and

(c) where the company is a member of a group that is a generating undertaking, the exceptional generation receipts of the undertaking."

(4) If—

(a) electricity generator levy is chargeable on company, and

(b) under the Instalment Payment Regulations one or more instalment payments in respect of the total liability of the company for an accounting period beginning before the day on which this Act is passed

are treated as becoming due and payable before the day on which this Act is passed 2023 ("pre-commencement instalments"),

any amount of electricity generator levy chargeable for that period is to be ignored for the purposes of determining the amount of any pre-commencement instalment.

(5) The first instalment in respect of that liability which is treated as becoming due and payable on or after the day on which this Act is passed is to be increased by the following amount, namely the difference between—

(a) the aggregate amount of the pre-commencement instalments determined in accordance with subsection (4), and

(b) the aggregate amount of those instalments determined ignoring that subsection.

(6) In the Instalment Payment Regulations—

(a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to those Regulations are to be read as including a reference to subsections (4) and (5) (and in regulation 7(2) "the regulation in question", and in regulation 8(2) "that regulation", are to be read accordingly), and

(b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to those subsections.

(7) In this section "the Instalment Payment Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175).

Supplemental

307 Application of Part 5 of CTA 2010 for the purposes of determining interests

(1) Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies for the purposes of determining the interests of persons in companies under the following provisions (each a "relevant provision")—

(a) section 287(4);

(b) section 290(5);

(c) section 292(1)(b)(ii), (3)(b) and (4)(b);

(d) section 293(7)(b);

(e) section 294(5)(b);

(f) section 296(7)(b).

(2) For those purposes that Part has effect as if—

(a) references to section 151(4)(a) and (b) of that Act were references to the relevant provision,

(b) in section 158 of that Act after subsection (2) there were inserted—

"(2A) But for those purposes a person carrying on a business of banking is not treated as a loan creditor of a company in respect

of any loan capital or debt issued or incurred by the company for money lent by the person to the company in the ordinary course of that business.",

(c) sections 171(1)(b) and (3), 173, 174 and 176 to 178 of that Act were omitted, and

(d) in its application for the purposes of paragraph (a) of section 290(5), any reference to company A were to the person referred to in that paragraph.

(3) That Part is to be read, for the purposes mentioned in subsection (1), with all modifications necessary to ensure that—

(a) it applies to a company which does not have share capital, and to holders of corresponding ordinary holdings in such a company, in a way which corresponds to the way it applies to companies with ordinary share capital and holders of ordinary shares in such companies,

(b) it applies to a company which is an unincorporated association in a way which corresponds to the way it applies to companies which are bodies corporate,

(c) it applies in relation to ownership through an entity (other than a company), or any trust or other arrangement, in a way which corresponds to the way it applies to ownership through a company, and

(d) for the purposes of achieving paragraphs (a) to (c), profits or assets are attributed to holders of corresponding ordinary holdings in unincorporated associations, entities, trusts or other arrangements in a manner which corresponds to the way profits or assets are attributed to holders of ordinary shares in a company which is a body corporate.

(4) In subsection (3) "corresponding ordinary holding" in an unincorporated association, entity, trust or other arrangement means a holding or interest which provides the holder with economic rights corresponding to those provided by a holding of ordinary shares in a body corporate.

308 Anti-avoidance

(1) This section applies to arrangements if the main purpose, or one of the main purposes of the arrangements, is to—

(a) reduce or avoid a charge to the electricity generator levy, or

(b) otherwise avoid the effect of any of the provisions of this Part.

(2) Any such reduction or avoidance that would (in the absence of this section) arise from such arrangements is to be counteracted by the making of such adjustments as are just and reasonable.

(3) Where the arrangements result in a change in the composition of a generating undertaking that is a group (including where such a group ceases to exist), those adjustments may include adjustments to secure that the same liability

to electricity generator levy arises, and can be recovered from members of the group, as if the composition of the group had not changed.

(4) 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.

(5) In this section "arrangements" include any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable).

309 Information sharing

(1) This section applies to information that—

(a) is held by the Secretary of State, the Gas and Electricity Markets Authority or the Northern Ireland Authority for Energy Regulation (each "a relevant person"), and

(b) is relevant to the electricity generator levy.

(2) Information to which this section applies may be disclosed by a relevant person (or anyone acting on behalf of that person) to the Commissioners for His Majesty's Revenue and Customs for the purposes of their functions relating to electricity generator levy or any other tax.

(3) Subject to subsection (5), no duty of confidentiality or other restriction on disclosure (however imposed) prevents the disclosure of information in accordance with subsection (2).

(4) This section does not limit the circumstances in which information may be disclosed under—

(a) section 105(2) to (4) of the Utilities Act 2000,

(b) Article 63(2) to (4) of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)), or

(c) any other enactment or rule of law.

(5) Nothing in this section authorises the making of a disclosure which—

(a) contravenes the data protection legislation (save that the power conferred by this section is to be taken into account in determining whether a disclosure contravenes that legislation), or

(b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (save that the power conferred by this section is to be taken into account when determining whether a disclosure is prohibited by those provisions).

310 Interaction of electricity generator levy with corporation tax

(1) In calculating profits or losses for the purposes of corporation tax—

(a) no deduction is allowed in respect of the electricity generator levy, and

(b) no account is to be taken of any amount which is paid by a person to another person for the purposes of meeting or reimbursing the cost of the electricity generator levy.

(2) Subsection (3) applies if—

(a) two related generating undertakings (within the meaning of section 298) have an agreement between them in relation to the surrender of amounts of shortfall amounts (within the meaning of that section),

(b) such an amount is surrendered between them in accordance with section 299, and

(c) as a result of the agreement the undertaking to whom the amount is surrendered makes a payment to the other undertaking that does not exceed the amount surrendered.

(3) The payment—

(a) is not to be taken into account in determining the profits or losses of either company for corporation tax purposes, and

(b) for corporation tax purposes is not to be regarded as a distribution.

311 Regulations under this Part

(1) Regulations under this Part are to be made by statutory instrument.

(2) Regulations under this Part may—

(a) make provision having retrospective effect, provided any such provision does not have the effect of increasing the amount of the electricity generator levy any generating undertaking is liable to;

(b) make different provision for different purposes;

(c) make supplementary, incidental and consequential provision;

(d) make transitional or transitory provision and savings.

(3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.

312 Minor definitions relating to electricity market

In this Part—

"the Balancing and Settlement Code" means the code for the governance of electricity balancing and settlement in Great Britain which is maintained in accordance with the conditions of transmission licences granted under section 6(1)(b) of the Electricity Act 1989 as that code has effect from time to time;

"distribution system" and "transmission system" mean anything which would be such a system for the purposes of—

(a) Part 1 of the Electricity Act 1989, or

(b) Part 2 of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1));

"feed-in tariff export payments" means export payments within the meaning of Schedule A to Condition 33 of the standard conditions of electricity supply licences;

"generation" does not include the release of electricity from a battery;

"licensed distribution system" means a distribution system operated by the holder of a licence under—

(a) section 6(1)(c) of the Electricity Act 1989, or

(b) Article 10(1)(bb) of the Electricity (Northern Ireland) Order 1992;

"licensed transmission system" means a transmission system operated by the holder of a licence under—

(a) section 6(1)(b) of the Electricity Act 1989, or

(b) Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992;

"the SEM Memorandum" means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)).

"settlement code" means—

(a) the Balancing and Settlement Code, or

(b) the Trading and Settlement Code;

"the standard conditions of electricity supply licences" means the standard conditions incorporated in licences under section 6(1)(d) of the Electricity Act 1989 by virtue of section 8A of that Act;

"the Trading and Settlement Code" means the Single Electricity Market Trading and Settlement Code referred to in the SEM Memorandum as that code has effect from time to time.

313 Definitions in this Part

The following table contains a list of terms used in this Part and the provisions that define or explain them.

Term	Provision defining or explaining
accounting period (generally)	section 280(3)
accounting period (of a generating undertaking that is a group)	section 288(1)
allowable costs	section 284(1)
arm's length provision	section 283(9)
Balancing and Settlement Code	section 312
baseline fuel cost	section 285(3)
company	section 280(1)

Term	Provision defining or explaining
company tax return	section 284(3)
distribution system	section 312
electricity generator levy	section 279(2)
exceptional generation fuel costs	section 285(1)
feed-in tariff export payments	section 312
generating undertaking	section 280(1)
generation fuel costs	section 285(2)
generation receipts	section 283(2)
grid connected electricity generation	section 282(3)
group	section 287(1)
HMRC	section 281(3)
joint venture undertaking	section 293(2)
lead member (of a group)	section 288(2)
principal member (of a group)	section 287(2)
qualifying electricity purchase costs	section 284(6)
qualifying joint venture	section 292(1)
qualifying partnership	section 291(1)
qualifying period	section 280(2)
reference period (in relation to the determination of baseline fuel cost)	section 285(4)
relevant generating station	section 280(1)
relevant place	section 280(1)
relevant subsidiary (in sections 290, 296 and 297)	section 290(6)
SEM Memorandum	section 312
settlement code	section 312
significant equity holder	section 286(7)
significant minority shareholder (that is a person)	section 290(5)(a)
significant minority shareholder (that is a group of companies)	section 290(5)(b)

Term	Provision defining or explaining
standard conditions of electricity supply licences	section 312
subject to a contract for difference, an investment contract, a revenue collection contract or feed-in tariff export payments (in relation to a generating station)	section 280(1)
subsidiary member (of a group)	section 287(3)
third party (in relation to a generating undertaking)	section 286(7)
Trading and Settlement Code	section 312
transmission system	section 312

PART 6

OTHER TAXES

Stamp duty land tax

314 Transactions funded with the assistance of a public subsidy

(1) In section 71 of FA 2003 (certain acquisitions by registered social landlord), after subsection (4) insert—

"(5) In this section "public subsidy" also means any grant under section 31 of the Local Government Act 2003 (grants towards expenditure incurred or to be incurred by local authorities) towards expenditure incurred or to be incurred on the provision of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008 (see sections 68 and 72 of that Act)."

(2) The amendment made by subsection (1) has effect in relation to land transactions the effective date of which falls on or after 15 March 2023.

Value added tax

315 Deposit schemes

In Part 3 of VATA 1994 (application of Act in particular cases), after section 55A insert—

"55B Deposit schemes: designation

(1) In sections 55C and 55D "a designated deposit scheme" means a deposit scheme which is designated, for the purposes of this section, by regulations made by the Commissioners.

(2) A "deposit scheme" means a scheme which is established—

(a) by regulations under Schedule 8 to the Environment Act 2021, or

(b) by or under any other enactment that makes similar provision for a returnable deposit to be paid in relation to goods.

(3) In subsection (2)(b), the reference to an "enactment" includes a reference to an enactment comprised in, or in an instrument made under—

(a) an Act of the Scottish Parliament,

(b) a Measure or Act of Senedd Cymru, or

(c) Northern Ireland legislation.

(4) Section 97(5) (statutory instruments: procedure) does not apply to a statutory instrument containing only regulations under subsection (1).

55C Deposit schemes: value of supply

(1) This section applies if—

(a) a taxable person makes a taxable (but not a zero-rated) supply of goods, and

(b) a deposit amount is payable in relation to the goods supplied.

(2) For the purposes of this section and section 55D, a "deposit amount" in relation to goods is an amount that, in accordance with the provisions of a designated deposit scheme—

(a) is added to the price payable for the goods, and

(b) must be repaid by a person, if the conditions for repayment under the scheme are met.

(3) The deposit amount is to be disregarded in determining the amount of the consideration for the purposes of calculating the value of the supply under this Act.

55D Deposit schemes: liability to account for VAT on deposit amounts

(1) For the purposes of this section, a person makes a "relevant deposit scheme supply" if—

(a) the person makes the first supply of goods in relation to which a deposit amount is payable (whether or not another person makes a subsequent supply of those goods in relation to which a deposit amount is payable), and

(b) that supply is a taxable (but not a zero-rated) supply.

(2) A person who makes relevant deposit scheme supplies is liable to account for and pay the VAT in respect of the deposit amount that, on the applicable assumption, would have been charged in relation to the proportion of the supplies that is determined, in accordance with provision made by or under regulations under subsection (4), as being attributable to goods in respect of which no deposit amount is repaid.

(3) The applicable assumption is that, in the case of those goods, section 55C(3) is ignored and the deposit amount and the price payable for the goods are regarded instead as indistinguishable parts of the consideration for the supply of the goods.

(4) The Commissioners may by regulations make provision about accounting for VAT in relation to designated deposit schemes including, in particular, provision—

(a) for the making of financial adjustments in connection with the liability to account for and pay VAT under subsection (2);

(b) specifying the methods for calculating those adjustments;

(c) specifying the methods for determining or estimating the proportion of supplies in respect of which deposit amounts are not repaid;

(d) about the manner in which, and the period within which, adjustments are to be made (including adjustments for the correction of errors);

(e) specifying the conditions subject to which adjustments are to be made;

(f) conferring power on the Commissioners to make provision for the purposes of paragraphs (a) to (e) by means of a notice published in accordance with the regulations.

(5) The power to make regulations under subsection (4) includes power to make (or to enable the Commissioners to make)—

(a) different provision for different purposes;

(b) different provision for different areas;

(c) consequential, supplementary, incidental, transitional, transitory or saving provision."

Import duty

316 Dumping, subsidisation and safeguarding remedies

Schedules 19 and 20 make provision for the purposes of import duty—

(a) requiring the Trade Remedies Authority ("the TRA") to give the Secretary of State notice at certain points in dumping, subsidisation and safeguarding investigations,

(b) enabling the TRA to include more than one option in recommendations to the Secretary of State in relation to such investigations,

(c) authorising the Secretary of State to ask for additional advice from, and act otherwise than in accordance with a recommendation of, the TRA in relation to such investigations,

(d) requiring the TRA to advise the Secretary of State on whether the economic interest test is met in relation to remedies that it recommends in dumping, subsidisation or safeguarding cases,

(e) about reviews of the application of remedies in such cases,

(f) about bilateral safeguards, and

(g) about Part 12 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450).

317 Rulings as to method of valuation of goods

(1) Section 24 of TCTA 2018 (rulings as to application of customs tariff or place of origin) is amended as follows.

(2) In the heading, after "customs tariff" insert ", valuation method".

(3) In subsection (1), after paragraph (a) (but before the "or") insert—

"(aa) determining the value of any goods for the purposes of this Part,".

318 Discharging goods from free-circulation procedure subject to guarantee

(1) In paragraph 17 of Schedule 1 to TCTA 2018 (releasing and discharging goods to and from Customs procedures), after sub-paragraph (5) insert—

"(5A) Sub-paragraph (5B) applies where—

(a) goods are declared for the free-circulation procedure, but

(b) it is impracticable to immediately ascertain the amount of import duty (if any) payable in respect of the goods.

(5B) The discharge of goods from the free-circulation procedure in accordance with sub-paragraph (4) may, if HMRC think fit, be subject to an approved guarantee being given in respect of any liability or potential liability to import duty in respect of the goods."

(2) In CEMA 1979, omit section 119 (delivery of imported goods on giving of security for duty).

(3) The amendments made by subsections (1) and (2) have effect in relation to goods in respect of which a Customs declaration is accepted, for the purposes of TCTA 2018, on or after the day on which this Act is passed (and subsection (2) does not affect the application of section 119 of CEMA 1979 in relation to goods in respect of which a Customs declaration is accepted before that day).

(4) In Schedule 7 to TCTA 2018 (import duty: consequential amendments), omit paragraph 90.

Fuel duties

319 Excepted machines etc

(1) HODA 1979 is amended as follows.

(2) Schedule 1A (excepted machines able to use rebated diesel etc) is amended in accordance with subsections (3) and (4).

(3) In paragraph 6 (vessels)—
(a) in the heading, after "Vessels" insert "etc";
(b) after sub-paragraph (3) insert—

"(4) A tractor or gear owned by a charity and used by it for the purpose of launching or hauling in a lifeboat owned by it."

(4) In paragraph 8 (other machines or appliances)—
(a) in sub-paragraph (1)—
(i) in paragraph (a), after "pisciculture" insert ", arboriculture";
(ii) in paragraph (d), at the beginning insert "primarily";
(iii) in paragraph (e), for "of premises that are used for commercial purposes" substitute "for any premises";
(b) after sub-paragraph (2) insert—

"(3) The Commissioners may publish a notice making provision for the purposes of sub-paragraph (1)(d) about the meaning of—
(a) "primarily", and
(b) "used for commercial purposes"."

(5) In section 14B (rebate on bioblend used as fuel for excepted machines), for subsection (6) substitute—

"(6) In subsection (3)—
"HO%" means the percentage of the bioblend that is heavy oil, and
"BD%" means the percentage of the bioblend that is biodiesel,
where the percentages are by volume to the nearest 0.001%."

(6) The amendments made by subsections (2) to (4) are to be treated as having come into force on 15 March 2023.

Tobacco products duty

320 Rates of tobacco products duty

(1) In Schedule 1 to TDPA 1979 (table of rates of tobacco products duty), for the Table substitute—

"TABLE

1 Cigarettes	An amount equal to the higher of— (a) 16.5% of the retail price plus £294.72 per thousand cigarettes, or (b) £393.45 per thousand cigarettes.
2 Cigars	£367.61 per kilogram
3 Hand-rolling tobacco	£351.03 per kilogram
4 Other smoking tobacco and chewing tobacco	£161.62 per kilogram
5 Tobacco for heating	£302.93 per kilogram"

(2) In consequence of the provision made by subsection (1), in Schedule 2 to the Travellers' Allowances Order 1994 (which provides in certain circumstances for a simplified calculation of excise duty on goods brought into Great Britain)—

(a) in the entry relating to cigarettes, for "£347.86" substitute "£393.45",

(b) in the entry relating to hand rolling tobacco, for "£302.34" substitute "£351.03",

(c) in the entry relating to other smoking tobacco and chewing tobacco, for "£144.17" substitute "£161.62",

(d) in the entry relating to cigars, for "£327.92" substitute "£367.61",

(e) in the entry relating to cigarillos, for "£327.92" substitute "£367.61", and

(f) in the entry relating to tobacco for heating, for "£81.07" substitute "£90.88".

(3) The amendments made by this section are treated as having come into force at 6pm on 15 March 2023.

Soft drinks industry levy

321 Flavour concentrates

Schedule 21 makes amendments of Part 2 of FA 2017 (soft drinks industry levy) in connection with flavour concentrates.

Air passenger duty

322 New bands and rates

(1) Section 30 of FA 1994 (air passenger duty: rates) is amended as follows.

(2) In subsection (1A), after "long haul" insert "and ultra-long haul".

(3) After subsection (1A) insert—

"(1B) If the passenger's journey ends at a place in the United Kingdom—

(a) if the passenger's agreement for carriage provides for standard class travel in relation to every flight on the passenger's journey, the rate is £6.50, and

(b) in any other case, the rate is £13."

(4) In subsection (2) omit "the United Kingdom or".

(5) After subsection (2) insert—

"(2A) If the passenger's journey ends at a place in a territory specified in Part 1A of Schedule 5A—

(a) if the passenger's agreement for carriage provides for standard class travel in relation to every flight on the passenger's journey, the rate is £87, and

(b) in any other case, the rate is £191."

(6) In subsection (4A)—

(a) in paragraph (a), for "£84" substitute "£91";

(b) in paragraph (b), for "£185" substitute "£200".

(7) In subsection (4E)—

(a) before paragraph (a) insert—

"(za) if the rate which (apart from this subsection) would apply is the rate in subsection (1B)(a) or (b), a rate of £78 is to apply instead,";

(b) in paragraph (a), for "equal to six times the rate in subsection (2)(a)" substitute "of £78";

(c) omit the "and" at the end of paragraph (a);

(d) after paragraph (a) insert—

"(aa) if the rate which (apart from this subsection) would apply is the rate in subsection (2A)(a) or (b), a rate of £574 is to apply instead, and";

(e) in paragraph (d), for "equal to 6.6 times the rate in subsection (4A)(a)" substitute "of £601".

(8) In Schedule 5A to FA 1994 (air passenger duty: territories etc)—

(a) in Part 1 (Part 1 territories)—

(i) for "Czech Republic" substitute "Czechia";

(ii) for "Former Yugoslav Republic of" substitute "North";

(b) after Part 1 insert—

"PART 1A

PART 1A TERRITORIES

Afghanistan	Cuba	Kyrgyzstan	Senegal
Angola	Curacao	Lebanon	Seychelles
Anguilla	Djibouti	Liberia	Sierra Leone
Antigua and Barbuda	Dominica	Macau	Sint Eustatius
Armenia	Dominican Republic	Malawi	Sint Maarten
Aruba	Egypt	Maldives	Somalia
Azerbaijan	El Salvador	Mali	South Korea
Bahrain	Equatorial Guinea	Martinique	South Sudan
Bangladesh	Eritrea	Mauritania	Sri Lanka
Barbados	Ethiopia	Mayotte	St Helena, Ascension and Tristan da Cunha
Belize	French Guiana	Mongolia	St Kitts and Nevis
Benin	Gabon	Montserrat	Sudan
Bermuda	Georgia	Namibia	Suriname
Bhutan	Ghana	Nepal	Syria
Bonaire	Grenada	Nicaragua	Tajikistan
Botswana	Guadeloupe	Niger	Tanzania

Brazil	Guatemala	Nigeria	The Bahamas
British Virgin Islands	Guinea	North Korea	The Gambia
Burkina Faso	Guinea-Bissau	Oman	Togo
Burundi	Guyana	Pakistan	Trinidad and Tobago
Cameroon	Haiti	Panama	Turkmenistan
Canada	Honduras	Qatar	Turks and Caicos Islands
Cape Verde	India	Russian Federation, east of the Ural Mountains	Uganda
Cayman Islands	Iran	Rwanda	United Arab Emirates
Central African Republic	Iraq	Saba	United States (including Puerto Rico and U.S. Virgin Islands)
Chad	Israel	Saint Barthélemy	Uzbekistan
China	Ivory Coast	Saint Lucia	Venezuela
Colombia	Jamaica	Saint Martin	Yemen
Comoros	Jordan	Saint Pierre and Miquelon	Zambia
Congo	Kazakhstan	Saint Vincent and the Grenadines	Zimbabwe".
Congo (Democratic Republic)	Kenya	Sao Tome and Principe	
Costa Rica	Kuwait	Saudi Arabia	

(9) In consequence of the amendments made by this section, in Schedule 1 to The Aircraft Operators (Accounts and Records) Regulations 1994 (S.I. 1994/1737) (particulars of an air passenger duty account), in paragraph (e)—

(a) before sub-paragraph (i) insert—

"(ai) chargeable at the rates set out in section 30(1B)(a) and (b) of the Act;";

(b) after sub-paragraph (i) insert—

"(ia) chargeable at the rates set out in section 30(2A)(a) and (b) of the Act;";

(c) in sub-paragraph (viii), for "(a)" substitute "(za), (a), (aa)".

(10) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2023.

323 Northern Ireland rates

(1) Section 30A of FA 1994 (Northern Ireland long haul rates of duty) is amended as follows.

(2) In the heading, after "long haul" insert "and ultra-long haul".

(3) In subsection (5A), in paragraph (c) omit sub-paragraph (ii) and the "or" before it.

(4) After subsection (7) insert—

"(7A) For the purposes of any paragraph, an Act of the Northern Ireland Assembly may set one rate for cases within section 30(2A) and a different rate for cases within section 30(4A)."

(5) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2023.

Vehicle taxes

324 Rates of vehicle excise duty

(1) Schedule 1 to VERA 1994 (annual rates of vehicle excise duty) is amended as follows.

(2) In paragraph 1 (general rate)—

(a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule with engine cylinder capacity exceeding 1,549cc), for "£295" substitute "£325", and

(b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£180" substitute "£200".

(3) In paragraph 1B (graduated rates for light passenger vehicles registered before 1 April 2017), for the Table substitute—

"CO2 Emissions Figure		Rate	
(1)	**(2)**	**(3)**	**(4)**
Exceeding	**Not exceeding**	**Reduced rate**	**Standard Rate**
g/km	**g/km**	**£**	**£**
100	110	10	20
110	120	25	35
120	130	140	150
130	140	170	180
140	150	190	200
150	165	230	240
165	175	280	290
175	185	310	320
185	200	355	365
200	225	385	395
225	255	665	675
255	—	685	695".

(4) In the sentence immediately following the Table in that paragraph, for paragraphs (a) and (b) substitute—

"(a) in column (3), in the last two rows, "385" were substituted for "665" and "685", and

(b) in column (4), in the last two rows, "395" were substituted for "675" and "695"."

(5) In paragraph 1GC (graduated rates for first licence for light passenger vehicles registered on or after 1 April 2017), for Table 1 (vehicles other than higher rate diesel vehicles) substitute—

"CO2 Emissions Figure		Rate	
(1)	**(2)**	**(3)**	**(4)**
Exceeding	**Not exceeding**	**Reduced rate**	**Standard Rate**
g/km	**g/km**	**£**	**£**
0	50	0	10

"CO2 Emissions Figure		Rate	
50	75	20	30
75	90	120	130
90	100	155	165
100	110	175	185
110	130	200	210
130	150	245	255
150	170	635	645
170	190	1030	1040
190	225	1555	1565
225	255	2210	2220
255	–	2595	2605".

(6) In that paragraph, for Table 2 (higher rate diesel vehicles) substitute –

"CO2 Emissions Figure		Rate
(1)	**(2)**	**(3)**
Exceeding	**Not exceeding**	**Rate**
g/km	**g/km**	**£**
0	50	30
50	75	130
75	90	165
90	100	185
100	110	210
110	130	255
130	150	645
150	170	1040
170	190	1565
190	225	2220
225	255	2605
255	–	2605".

(7) In paragraph 1GD(1) (rates for any other licence for light passenger vehicles registered on or after 1 April 2017)—

(a) in paragraph (a) (reduced rate), for "£155" substitute "£170", and

(b) in paragraph (b) (standard rate), for "£165" substitute "£180".

(8) In paragraph 1GE(2) (rates for light passenger vehicles registered on or after 1 April 2017 with a price exceeding £40,000)—

(a) in paragraph (a), for "£510" substitute "£560", and

(b) in paragraph (b), for "£520" substitute "£570".

(9) In paragraph 1J(a) (rates for light goods vehicles that are not pre-2007 or post-2008 lower emission vans), for "£290" substitute "£320".

(10) In paragraph 2(1) (rates for motorcycles)—

(a) in paragraph (a) (engine cylinder capacity not exceeding 150cc), for "£22" substitute "£24",

(b) in paragraph (b) (motorbicycles with engine cylinder capacity exceeding 150cc but not exceeding 400cc), for "£47" substitute "£52",

(c) in paragraph (c) (motorbicycles with engine cylinder capacity exceeding 400cc but not exceeding 600cc), for "£73" substitute "£80", and

(d) in paragraph (d) (other cases), for "£101" substitute "£111".

(11) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2023.

325 Reform of HGV road user levy

Schedule 22 makes provision (including consequential provision) about—

(a) the charging of HGV road user levy in respect of UK-registered and non-UK registered heavy goods vehicles,

(b) the register of HGV road user levy paid or due to be paid, and

(c) the rate of HGV road user levy chargeable in respect of a heavy goods vehicle by reference to the vehicle's revenue weight.

326 End of exempt period for HGV road user levy

(1) In section 88 of FA 2020 (HGV road user levy)—

(a) in the heading, at the end insert ": exempt period";

(b) in subsection (1), at the beginning insert "Subject to section 88A,";

(c) in subsection (3), at the beginning insert "For the purposes of this section and section 88A,".

(2) After that section insert—

"88A HGV road user levy: transitional provision for end of exempt period

(1) This section applies where—

(a) a UK heavy goods vehicle (the "charged vehicle") is charged to vehicle excise duty in respect of more than one period (a

"charged period") beginning within the last 12 months of the exempt period, and

(b) the combined length of the charged periods is more than 12 months.

(2) Section 5(2) of the 2013 Act applies in relation to the charged vehicle in respect of each complete month in the period (the "transitional liability period")—

(a) beginning with the day after the last exempt day in relation to the charged vehicle, and

(b) ending with the end of the charged period during which that last exempt day occurs.

(3) The last exempt day, in relation to a charged vehicle, is the last day of the period of 12 months beginning with the day on which the first charged period beginning within the last 12 months of the exempt period began.

(4) Subsection (5) applies where, in relation to the charged vehicle—

(a) a notification has been made under section 7(2)(c) of the 2013 Act (an "off-road notification") in respect of a period beginning within the last 12 months of the exempt period, and

(b) vehicle excise duty is charged in respect of a period beginning—

(i) after the day on which the off-road notification is made, and

(ii) within the last 12 months of the exempt period.

(5) In calculating the period of 12 months mentioned in subsection (3) ignore the number of whole months in the period beginning with the day on which the off-road notification is made and ending with the first day of the period described in subsection (4)(b).

(6) The Secretary of State, and any person who may exercise powers on behalf of the Secretary of State under section 9 of the 2013 Act (collection of levy), may (in addition to having the powers, duties and liabilities mentioned in that section) give a notice (a "payment notice") to a person liable for HGV road user levy in respect of a transitional liability period.

(7) A payment notice must state—

(a) the amount of HGV road user levy for which the person is liable in respect of the transitional liability period,

(b) how the amount is to be paid, and

(c) that payment must be made within the period of 28 days beginning with the day on which the notice is given.

(8) The amount in subsection (7)(a) is given by—

$$\frac{L \ x \ M}{12}$$

where—

L is the yearly rate of HGV road user levy applicable in relation to the vehicle on the first day of the transitional liability period, and

M is the number of whole months during the transitional liability period.

(9) In relation to the transitional liability period—

(a) a person commits an offence under section 11 of the 2013 Act (offence of using or keeping heavy goods vehicle if levy not paid) only if the person—

(i) has been given a payment notice, and

(ii) has failed to make payment in accordance with that notice, and

(b) section 7(5A) of the Vehicle Excise and Registration Act 1994 has effect as if the reference to HGV road user levy having been paid were a reference to it having been paid in accordance with a payment notice.

(10) In this section "UK heavy goods vehicle" has the same meaning as in the HGV Road User Levy Act 2013 (see section 2 of that Act)."

Environmental taxes

327 Rates of landfill tax

(1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.

(2) In subsection (1)(a) (standard rate), for "£98.60" substitute "£102.10".

(3) In subsection (2) (reduced rate for certain disposals), in the words after paragraph (b)—

(a) for "£98.60" substitute "£102.10", and

(b) for "£3.15" substitute "£3.25".

(4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2023.

328 Rates of climate change levy

(1) Paragraph 42 of Schedule 6 to FA 2000 (climate change levy: amount payable by way of levy) is amended as follows.

(2) In sub-paragraph (1), for the table substitute—

"TABLE

Taxable commodity supplied	*Rate at which levy payable if supply is not a reduced-rate supply*
Electricity	£0.00775 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00775 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.02175 per kilogram
Any other taxable commodity	£0.06064 per kilogram"

(3) In sub-paragraph (1)(c) (reduced-rate supplies in respect of any taxable commodity other than electricity or petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state), for "12" substitute "11".

(4) In consequence of the amendment made by subsection (3), in the definition of "r" in the Notes to paragraph 2 of Schedule 1 to the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838), for "0.88" substitute "0.89".

(5) The amendments made by this section have effect in relation to supplies treated as taking place on or after 1 April 2024.

329 Rate of plastic packaging tax

(1) In section 45(1) of FA 2021 (rate of plastic packaging tax), for "£200" substitute "£210.82".

(2) The amendment made by this section has effect in relation to packaging components produced in, or imported into, the United Kingdom on or after 1 April 2023.

330 Aggregates levy: exemptions and exploitation

(1) Part 2 of FA 2001 (aggregates levy) is amended as follows.

(2) In section 17 (meanings of "aggregate" and "taxable aggregate")—

(a) in subsection (3)—

(i) omit paragraphs (b), (d) and (da);

(ii) omit the "or" at the end of paragraph (e);

(iii) after paragraph (f) insert "; or

(g) it consists wholly of aggregate won by being removed from the ground on the site of any or any proposed structure, or the site of any or any proposed infrastructure relating to transportation or utilities, in the course of excavations lawfully carried out—

(i) in connection with, and necessary for, the construction, modification, maintenance or improvement of the structure or infrastructure, and

(ii) not for the purpose of extracting that aggregate.";

(b) in subsection (4) omit paragraph (e);

(c) in subsection (7) omit the definition of "highway".

(3) In section 19 (commercial exploitation)—

(a) in subsection (3), in paragraph (e), for "site from which it was won" substitute "original site by virtue of it being used for a purpose connected with winning aggregate or other minerals from the site";

(b) after subsection (3A) insert—

"(3B) For the purposes of subsection (3)(e), in relation to a quantity of aggregate, "the original site" means the site from which it was won.";

(c) for subsection (4) substitute—

"(4) Subsection (4A) applies where, at the time when any aggregate is won from any site, a person ("P") is in occupation for relevant purposes of—

(a) that site, or

(b) that site and other land.

(4A) Where this subsection applies, so long as the site mentioned in subsection (4), or that site and the other land, continue to be occupied by P for relevant purposes, subsection (3)(e) has effect as if—

(a) (where relevant) the reference to the land at the original site included the other land, and

(b) the words "by virtue of it being used for a purpose connected with winning aggregate or other minerals from the site" were omitted.

(4B) For the purposes of subsections (4) and (4A) relevant purposes are—

(a) the purposes of the carrying on of any agricultural business, or

(b) the purposes of the carrying on of any forestry business or otherwise for the purposes of forestry."

(4) In consequence of the amendments made by subsection (2), in the Aggregates Levy (Registration and Miscellaneous Provisions) Regulations 2001 (S.I. 2001/4027), in regulation 3 (unconditional exemption from registration), in paragraph (a)—

(a) in sub-paragraph (i), for "(b), (c), (d) or (da)" substitute "(c) or (g)";

(b) in sub-paragraph (ii), for "(c), (d) or (e)" substitute "(c) or (d)".

(5) The amendments made by this section have effect in relation to aggregate won on or after 1 October 2023.

PART 7

MISCELLANEOUS AND FINAL

Freeports and investment zones

331 Designation of sites

(1) Section 113 of FA 2021 (designation of freeport tax sites) is amended as follows.

(2) In subsection (2)(a) and (b), after "a freeport" insert "or an investment zone".

(3) In subsection (3), for "a "freeport tax site"" substitute "a "special tax site"".

(4) For subsection (5) substitute –

"(5) For the purposes of this section any reference to a freeport or an investment zone is to an area which is identified as such in a document published by, or with the consent of, the Treasury for the purposes of this section (and not withdrawn)."

(5) Schedule 23 makes amendments in consequence of the provision made by this section.

332 Sunset date for reliefs

(1) In section 61A of FA 2003 (relief from stamp duty land tax in case of transactions relating to land in designated sites), in subsection (3), for "30 September 2026" substitute "the applicable sunset date in relation to the special tax site concerned (as to which see section 332(4) and (5) of the Finance (No.2) Act 2023)".

(2) In section 45O of CAA 2001 (enhanced capital allowances in case of expenditure on plant or machinery for use in designated sites), in subsection (5), for "30 September 2026" substitute "the applicable sunset date in relation to the special tax site concerned (as to which see section 332(4) and (5) of F(No.2)A 2023)".

(3) In Chapter 2A of Part 2A of CAA 2001 (enhanced structures and building allowances in case of buildings or structures in designated sites) –

(a) in section 270BNA –

(i) in subsection (3)(b), for "30 September 2026" substitute "the applicable sunset date in relation to the special tax site concerned (as to which see section 332(4) and (5) of F(No.2)A 2023)", and

(ii) in subsection (4)(b), for "30 September 2026" substitute "the applicable sunset date in relation to the special tax site concerned", and

(b) in section 270BNB(3), for "30 September 2026" substitute "the applicable sunset date in relation to the special tax site concerned".

(4) For the purposes of section 61A of FA 2003 and sections 45O, 270BNA and 270BNB of CAA 2001 ("the sunset provisions"), the applicable sunset date in relation to a special tax site is—

(a) 30 September 2026, or

(b) such later date as may be specified in relation to the site by regulations made by the Treasury.

(5) The regulations—

(a) may specify different dates for different descriptions of special tax sites, and

(b) may amend the sunset provisions.

(6) Schedule 23 makes amendments in consequence of the provision made by this section.

Administration

333 Right to repayment of income tax to be inalienable

(1) A right of an individual to a repayment of income tax from HMRC may not be assigned.

(2) Every assignment of a right of an individual to a repayment of income tax from HMRC, and every agreement to assign any such right, is void.

(3) Subsection (2) has effect in relation to assignments and agreements to assign of which HMRC receives notice on or after 15 March 2023.

(4) In the application of this section to Scotland the reference to assignment of a right is to be read as a reference to assignation, "assign" being construed accordingly.

(5) In this section "HMRC" means His Majesty's Revenue and Customs.

334 Late payment interest on value added tax

(1) In the Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), in Part 2 (exceptions), before article 2 insert—

"Exception from section 101 of the Finance Act 2009 - late payment interest

1A—(1) Section 101 of the Finance Act 2009 (late payment interest on sums due to HMRC) does not apply to annual accounting scheme instalments.

(2) In paragraph (1) "annual accounting scheme instalment" means an amount payable to HMRC by virtue of regulation 50(2)(a) of the VAT Regulations."

(2) In Part 2 of Schedule 53 to FA 2009 (late payment interest start date), after paragraph 11 insert—

"VAT due after excess payment or credit from HMRC

11ZA (1) This paragraph applies to any amount of value added tax which is due and recoverable from a person by virtue of—

(a) section 73(9) of VATA 1994, in relation to an amount assessed and notified to the person under subsection (2) of that section, or

(b) section 80C(1) of that Act.

(2) The late payment interest start date in respect of that amount is the date on which HMRC paid or credited that amount to the person."

(3) Where, ignoring this subsection, the late payment interest start date in respect of an amount would, by virtue of paragraph 11ZA of Schedule 53 to FA 2009 (inserted by subsection (2)), be a date before 15 March 2023, the late payment interest start date in respect of that amount is instead 15 March 2023.

(4) The amendment made by subsection (1) is treated as having been made under section 101(2)(c) of FA 2009 (power to specify descriptions of amounts payable to HMRC that are not subject to late payment interest).

(5) This section is treated as having come into force on 15 March 2023.

335 Penalties for failure to pay value added tax

(1) Paragraph 1 of Schedule 26 to FA 2021 (penalties for failure to pay tax) is amended in accordance with subsections (2) to (4).

(2) The existing text becomes sub-paragraph (1).

(3) In the table in that sub-paragraph relating to value added tax—

(a) in item 1, in the second column, for "(except an amount within item 2, 3, 4 or 5)" substitute "except an amount within item 3, 4 or 5, or that is an annual accounting scheme instalment";

(b) omit item 2.

(4) After that sub-paragraph insert—

"(2) In the table relating to value added tax, "annual accounting scheme instalment" means an amount payable to HMRC by virtue of regulation 50(2)(a) of the Value Added Tax Regulations 1995 (S.I. 1995/2518)."

(5) The amendments made by this section are treated as always having had effect.

336 VAT credits: repayment interest due where evidence not provided

(1) Paragraph 12E of Schedule 54 to FA 2009 (special provision as to amounts carrying repayment interest etc) is amended as follows.

(2) In sub-paragraph (1), in paragraph (b)—

(a) for "4(1) or (1A)" substitute "4(1A)";

(b) omit "production of evidence and".

(3) In sub-paragraph (2)—

(a) in paragraph (a) omit "production of evidence or";

(b) in paragraph (b) omit "the required evidence or".

(4) The amendments made by this section are to be treated as having come into force immediately after the coming into force of Schedule 29 to FA 2021 in accordance with regulation 2(2)(a) of The Finance Act 2009, Finance (No. 3) Act 2010 and Finance Act 2021 (Value Added Tax) (Interest) (Appointed Days) Regulations 2022 (S.I. 2022/1277).

337 Insurance premium tax: power to make regulations about notifications

In Part 3 of FA 1994 (insurance premium tax), in section 74 (orders and regulations)—

(a) after subsection (6) insert—

"(6A) Regulations under this Part making provision as to the form and manner in which a notification is to be made, or as to the information to be contained in or provided with a notification, may make such provision by reference to a notice published by the Commissioners from time to time.";

(b) in subsection (9), for "(7) and" substitute "(6A) to".

338 Penalties for failure to make payments of plastic packaging tax on time

(1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows—

(a) in paragraph 3(1), after sub-paragraph (a) insert—

"(aza) a payment of tax falling within items 11AA or 11AB in the Table,";

(b) in paragraph 8A(1), for "and 11A to" substitute ", 11A and 11B to".

(2) The amendments made by this section have effect in relation to amounts of plastic packaging tax payable in respect of accounting periods commencing on or after 1 April 2023.

Management of customs and excise

339 Approval of aerodromes

(1) CEMA 1979 is amended as follows.

(2) After section 20(A) insert –

"20B Approval of aerodromes

(1) The Commissioners may approve an aerodrome for the purposes of the customs and excise Acts.

(2) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations –

(a) specify conditions which must be met before an approval is granted, or

(b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.

(3) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.

(4) The Commissioners may at any time for reasonable cause revoke or vary the terms of an approval.

(5) This section does not apply in relation to an aerodrome which is a customs and excise airport.".

(3) Section 21 (control of movement of aircraft, etc into and out of the United Kingdom) is amended in accordance with subsections (4) to (7).

(4) In each of subsections (1), (2), (3)(a) and (b) and (4), for "customs and excise airport", in each place it occurs, substitute "regulated aerodrome".

(5) After subsection (5) insert –

"(5A) A person in control of an unregulated aerodrome must take reasonable steps to secure that no aircraft lands at, or departs from, the aerodrome in circumstances in which there would be a contravention of any of subsections (1) to (3)."

(6) In subsection (6), for "this section" substitute "subsections (1) to (4)".

(7) After subsection (6) insert –

"(6A) For the purposes of this Act each of the following is a "regulated aerodrome" –

(a) a customs and excise airport, and

(b) an aerodrome approved under section 20B,

(and any other aerodrome is an "unregulated aerodrome").".

(8) In section 22 (approval of examination stations at customs and excise airports)—

(a) in the heading, for "customs and excise airports" substitute "regulated aerodromes";

(b) in subsection (1), for "customs and excise airport" substitute "regulated aerodrome".

(9) In section 22A (examination stations), in each of subsections (1)(a), (1A) and (2), for "customs and excise airport" substitute "regulated aerodrome".

340 Approved aerodromes: minor and consequential amendments

(1) CEMA 1979 is amended in accordance with subsections (2) to (4).

(2) In section 1 (interpretation), in subsection (1), insert at the appropriate place—

""regulated aerodrome" has the meaning given by section 21(6A);".

(3) In each of the following provisions, for "customs and excise airport" substitute "regulated aerodrome"—

(a) in section 5(5) (time of importation, exportation, etc);

(b) in section 23(1)(a) (control of movement of hovercraft);

(c) in section 30(1)(a) and (b) (control of movement of uncleared goods within or between port or airport and other places);

(d) in section 34(1)(a) and (b) (power to prevent flight of aircraft or departure of railway vehicles);

(e) in section 42(1)(a) (power to regulate unloading, removal, etc of imported goods);

(f) in section 164(4)(d) (power to search persons).

(4) In section 172 (regulations), in subsection (3), after "20," insert "20B,".

(5) In Schedule 5 to FA 1994 (decisions subject to review and appeal), in paragraph 2(1)—

(a) in paragraph (a)—

(i) for "section 20, 22 or 25 (approved wharf, examination station or temporary storage facility)" substitute "section 20, 20B, 22 or 25 (approved wharf, approved aerodrome, examination station or temporary storage facility)";

(ii) after "subsection (1A)(a) of section 20, 22 or 25" insert ", or subsection (2)(a) of section 20B,";

(iii) for "subsection (1A)(b) of that section" substitute "subsection (1A)(b) of section 20, 22 or 25 or subsection (2)(b) of section 20B";

(b) after paragraph (a) insert—

"(aa) any decision as to whether or not approval of an aerodrome under section 20B is to be given or withdrawn, or as to the conditions or restrictions under

section 20B(3) subject to which any such approval is given;".

(6) In section 26 of FA 2003 (penalty for contravention of a relevant rule), in subsection (5A), after "section 20(1A)," insert "20B(2),".

(7) In section 18 of the Customs and Excise Duties (General Reliefs) Act 1979 (interpretation), in the list of expressions in subsection (2), omit—

""customs and excise airport"".

341 Temporary approvals etc

(1) Section 16B of FA 1994 (temporary approvals etc pending review or appeal: process) is amended as follows.

(2) In subsection (3), for paragraph (b) substitute—

"(b) expires—

(i) on the expiry day determined in accordance with subsection (4), or

(ii) if HMRC are satisfied that it is appropriate in all the circumstances, on a later day determined by HMRC, and".

(3) In subsection (4), for "The day on which a temporary approval expires is" substitute "For the purposes of subsection (3)(b)(i), the expiry day in relation to a temporary approval is".

Conditionality

342 Licensing authorities: requirements to give or obtain tax information

(1) Schedule 33 to FA 2021 (licensing authorities: requirements to give or obtain tax information) is amended as follows.

(2) The table in paragraph 1(2) is amended in accordance with subsections (3) to (8).

(3) After the entry for a licence under section 51 of LG(MP)A 1976 insert—

"A taxi driver's licence (including a temporary licence) under section 13 of CG(S)A 1982	Driving a taxi (Scotland)	A licensing authority (within the meaning of CG(S)A 1982)	1
A private hire car driver's licence (including a temporary licence) under section 13 of CG(S)A 1982	Driving a private hire car (Scotland)	A licensing authority (within the meaning of CG(S)A 1982)	1"

(4) After the entry for a licence under section 13 of PHV(L)A 1998 insert—

"A licence under section 23 of TA(NI) 2008	Driving a taxi (Northern Ireland)	The Department for Infrastructure in Northern Ireland	1"

(5) After the entry for a licence under section 55 of LG(MP)A 1976 insert—

"A licence (including a temporary licence) under Part 1 of CG(S)A 1982 for the activity specified in article 2(2) of LBOO 2009	Use of premises as booking office for taxis or private hire cars (Scotland)	A licensing authority (within the meaning of CG(S)A 1982)	2"

(6) After the entry for a licence under section 3 of PHV(L)A 1998 insert—

"A metal dealer's licence (including a temporary licence) under section 28 of CG(S)A 1982	Carrying on business as a metal dealer (Scotland)	A licensing authority (within the meaning of CG(S)A 1982)	3"

(7) After the entry for a site licence under SMDA 2013 insert—

"An itinerant metal dealer's licence (including a temporary licence) under section 32 of CG(S)A 1982	Carrying on business as an itinerant metal dealer (Scotland)	A licensing authority (within the meaning of CG(S)A 1982)	4"

(8) At the end of the second column of each of the following entries insert "(England and Wales)"—

(a) the entry for a licence under section 46 of TPCA 1847;
(b) the entry for a licence under section 51 of LG(MP)A 1976;
(c) the entry for a licence under section 55 of LG(MP)A 1976;
(d) the entry for a site licence under SMDA 2013;
(e) the entry for a collector's licence under SMDA 2013.

(9) In paragraph 1(3), at the appropriate places, insert the following definitions—

""CG(S)A 1982" means the Civic Government (Scotland) Act 1982;"

""LBOO 2009" means the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (S.S.I. 2009/145);"

""TA(NI) 2008" means the Taxis Act (Northern Ireland) 2008 (c. 4 (N.I.));"

(10) The amendments made by this section have effect in relation to applications made on or after 2 October 2023.

343 Section 342: consequential amendments

(1) The Civic Government (Scotland) Act 1982 is amended as follows.

(2) In section 3 (discharge of functions of licensing authorities)—

(a) in subsection (1)(a), for "date on which the application was made" substitute "relevant date";

(b) after subsection (1) insert—

"(1A) In subsection (1) "the relevant date" means—

(a) the date on which the application is made, or

(b) if, on that date, the licensing authority is prevented from considering the application by paragraph 2(2) or 3(2) of Schedule 33 to the Finance Act 2021 (which contain requirements to be complied with before applications may be considered), the date on which the licensing authority ceases to be so prevented."

(3) Paragraph 7 of Schedule 1 (temporary licenses) is amended in accordance with subsections (4) and (5).

(4) In sub-paragraph (6), before paragraph (a) insert—

"(za) where—

(i) at any time after the application for the licence under paragraph 1 is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and

(ii) at the end of the relevant period, the licensing authority continues to be prevented from considering the application by paragraph 3(2) of that Schedule to that Act,

the end of the relevant period; or".

(5) After sub-paragraph (6) insert—

"(6A) In sub-paragraph (6)(za) "the relevant period" means—

(a) the period of 7 days beginning with the day on which the request under sub-paragraph (6)(za)(i) is made, or

(b) if the final day of that period is earlier than the day on which (disregarding sub-paragraph (6)) the temporary licence expires, the period ending with that later day."

(6) Paragraph 8 of Schedule 1 (duration of licences) is amended in accordance with subsections (7) and (8).

(7) In sub-paragraph (6), before paragraph (a) insert—

"(za) where—

(i) at any time after the application is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and

(ii) at the end of the relevant period, the licensing authority continues to be prevented from considering the application by paragraph 3(2) of that Schedule to that Act,

the end of the relevant period; or".

(8) After sub-paragraph (6) insert—

"(6A) In sub-paragraph (6)(za) "the relevant period" means—

(a) the period of 28 days beginning with the day on which the request under sub-paragraph (6)(za)(i) is made, or

(b) if the final day of that period is earlier than the day on which (disregarding sub-paragraphs (4) and (5)) the licence expires, the period ending with that later day."

Charities and community amateur sports clubs

344 Definition of "charity" restricted to UK charities

(1) In Part 1 of Schedule 6 to FA 2010 (definition of "charity" etc), in paragraph 2 (jurisdiction condition)—

(a) in sub-paragraph (1) omit paragraph (b) (and the "or" before it);

(b) omit sub-paragraphs (3) to (5).

(2) In relation to a body of persons or trust that has asserted its status as a charity, the amendments made by this section have effect—

(a) for the purposes of income tax, for the tax year 2024-25 and subsequent tax years;

(b) for the purposes of capital gains tax, in relation to disposals made on or after 6 April 2024;

(c) for the purposes of corporation tax, in relation to accounting periods beginning on or after 1 April 2024;

(d) for the purposes of value added tax, in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2024;

(e) for the purposes of inheritance tax, in relation to transfers of value made on or after 1 April 2024;

(f) for the purposes of stamp duty, in relation to any instrument executed on or after 1 April 2024;

(g) for the purposes of stamp duty land tax, in relation to any land transaction the effective date of which is on or after 1 April 2024;

(h) for the purposes of stamp duty reserve tax, in relation to any agreement to transfer securities in respect of which the relevant day (within the meaning of section 87(2) of FA 1986) is or is after 1 April 2024;

(i) for the purposes of annual tax on enveloped dwellings, for the chargeable period beginning with 1 April 2024 and subsequent chargeable periods;

(j) for the purposes of diverted profits tax, in relation to accounting periods beginning on or after 1 April 2024.

(3) Notwithstanding subsection (2)(g), the amendments made by this section do not have effect for the purposes of stamp duty land tax in relation to a transaction entered into by a body of persons or trust that has asserted its status as a charity if—

(a) the transaction is effected in pursuance of a contract entered into and substantially performed before 1 April 2024, or

(b) the transaction—

(i) is effected in pursuance of a contract entered into before 15 March 2023, and

(ii) is not excluded for the purposes of this paragraph by subsection (6).

(4) In relation to a body of persons or trust that has not asserted its status as a charity, the amendments made by this section have effect—

(a) for the purposes of income tax—

(i) for the tax year 2022-23 so far as it falls on or after 15 March 2023, and

(ii) for subsequent tax years;

(b) for the purposes of capital gains tax, in relation to disposals made on or after 15 March 2023;

(c) for the purposes of corporation tax, in relation to accounting periods beginning on or after 15 March 2023;

(d) for the purposes of value added tax, in relation to supplies made, and acquisitions and importations taking place, on or after 15 March 2023;

(e) for the purposes of inheritance tax, in relation to transfers of value made on or after 15 March 2023;

(f) for the purposes of stamp duty, in relation to any instrument executed on or after 15 March 2023;

(g) for the purposes of stamp duty land tax, in relation to any land transaction the effective date of which is on or after 15 March 2023;

(h) for the purposes of stamp duty reserve tax, in relation to any agreement to transfer securities in respect of which the relevant day (within the meaning of section 87(2) of FA 1986) is or is after 15 March 2023;

(i) for the purposes of annual tax on enveloped dwellings—

(i) for the chargeable period beginning with 1 April 2022 so far as it falls on or after 15 March 2023, and

(ii) for subsequent chargeable periods;

(j) for the purposes of diverted profits tax, in relation to accounting periods beginning on or after 15 March 2023.

(5) Notwithstanding subsection (4)(g), the amendments made by this section do not have effect for the purposes of stamp duty land tax in relation to a transaction entered into by a body of persons or trust that has not asserted its status as a charity if –

(a) the transaction is effected in pursuance of a contract entered into and substantially performed before 15 March 2023, or

(b) the transaction –

(i) is effected in pursuance of a contract entered into before that date, and

(ii) is not excluded for the purposes of this paragraph by subsection (6).

(6) A transaction is excluded for the purposes of subsection (3)(b) or (5)(b) if –

(a) there is any variation of the contract, or assignment of rights under the contract, on or after 15 March 2023,

(b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or

(c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.

(7) If a company has an accounting period ("the straddling accounting period") that begins before a commencement date and ends on or after that date –

(a) the part of the straddling accounting period that falls before that date, and

(b) the part of the straddling accounting period that falls on or after that date,

are to be treated for relevant purposes as separate accounting periods.

(8) In subsection (7) –

"commencement date" means the date mentioned in subsection (2)(c) or (4)(c);

"relevant purposes" means the purposes of determining the company's liability to any charge to a tax mentioned in subsection (2) or (4), or eligibility for any relief relating to such a tax, that is affected by the company's status as a charity.

(9) An apportionment to different periods which falls to be made as a result of subsection (4)(a)(i) or (i)(i) is to be made on a time basis according to the respective length of the periods.

For the corresponding rule applying to apportionments falling to be made as a result of subsection (7), see section 1172 of CTA 2010.

(10) For the purposes of this section a body of persons or trust has "asserted its status as a charity" if—

(a) immediately before 15 March 2023 it falls within the definition of "charity" in Part 1 of Schedule 6 to FA 2010, and

(b) at any time before that date, it has (under any enactment) made a valid claim to His Majesty's Revenue and Customs in reliance on its status as a charity.

(11) The amendments made by this section are to be ignored in determining—

(a) whether a person who, immediately before 15 March 2023, owns one or more shares forming the ordinary share capital of a UK REIT is, at any later time, an institutional investor in relation to those shares;

(b) whether a person who, immediately before 15 March 2023, is a unit holder in an exempt unauthorised unit trust is, at any later time, an eligible investor in relation to those units;

(c) whether a person who, immediately before 15 March 2023, holds a relevant interest in—

(i) a QAHC, or

(ii) a company that has made an entry notification,

is, at any later time, a relevant qualifying investor in relation to that interest.

(12) In subsection (11)—

(a) expressions used in paragraph (a) have the same meaning as in Part 12 of CTA 2010 (real estate investment trusts);

(b) expressions used in paragraph (b) have the same meaning as in the Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819);

(c) expressions used in paragraph (c), have the same meaning as in Schedule 2 to FA 2022 (qualifying asset holding companies).

(13) The following regulations were made under a power contained in paragraph 2(3) to (5) of Schedule 6 to FA 2010 and are therefore revoked by virtue of subsection (1)(b)—

(a) the Taxes (Definition of Charity) (Relevant Territories) Regulations 2010 (S.I. 2010/1904);

(b) the Taxes (Definition of Charity) (Relevant Territories) (Amendment) Regulations 2014 (S.I. 2014/1807).

345 Definition of "community amateur sports club" restricted to UK clubs

(1) In section 661A of CTA 2010 (community amateur sports clubs: the location condition)—

(a) in subsection (1)—

(i) in paragraph (a), omit "or a relevant territory";

(ii) in paragraph (b), omit "or are all located in a single relevant territory";

(b) omit subsection (2).

(2) In relation to a club that has asserted its status as a CASC, the amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2024.

(3) In relation to a club that has not asserted its status as a CASC, the amendments made by this section have effect in relation to accounting periods beginning on or after 15 March 2023.

(4) If a club has an accounting period ("the straddling accounting period") that begins before a commencement date and ends on or after that date –

(a) the part of the straddling accounting period that falls before that date, and

(b) the part of the straddling accounting period that falls on or after that date,

are to be treated for relevant purposes as separate accounting periods.

(5) In subsection (4) –

"commencement date" means the date mentioned in subsection (2) or (3);

"relevant purposes" means the purposes of determining the club's liability to any charge to tax, or eligibility for any tax relief, that is affected by the club's status as a CASC.

(6) For the purposes of this section a club has "asserted its status as a CASC" if, immediately before 15 March 2023 –

(a) it is registered as a community amateur sports club under section 658 of CTA 2010, or

(b) it is not so registered but is entitled to be so in accordance with that section and has made an application for registration under subsection (2) of that section.

Homes for Ukraine Sponsorship Scheme

346 Exemptions from tax

(1) Schedule 24 makes provision about the Homes for Ukraine Sponsorship Scheme in relation to –

(a) income tax

(b) corporation tax;

(c) annual tax on enveloped dwellings;

(d) stamp duty land tax.

(2) In this section and in Schedule 24, "the Homes for Ukraine Sponsorship Scheme" means the scheme contained in paragraphs UKR 11.1 to UKR 20.2 of Appendix Ukraine Scheme to the immigration rules (within the meaning of the Immigration Act 1971).

Office of Tax Simplification

347 Abolition of the Office of Tax Simplification

(1) The Office of Tax Simplification is abolished.

(2) The amendments in subsections (3) to (8) are made in consequence of subsection (1).

(3) In the House of Commons Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified) omit the entry for the Office of Tax Simplification.

(4) In the Northern Ireland Assembly Disqualification Act 1975, in Part 2 of Schedule 1 (bodies of which all members are disqualified) omit the entry for the Office of Tax Simplification.

(5) In the Freedom of Information Act 2000, in Part 6 of Schedule 1 (other public bodies and offices: general) omit the entry for the Office of Tax Simplification.

(6) In the Equality Act 2010, in Part 1 of Schedule 19 (public authorities: general), under the heading "industry, business, finance etc" omit the entry for the Office of Tax Simplification.

(7) In FA 2016 omit Part 12 and Schedule 25 (Office of Tax Simplification).

(8) In FA 2022 omit section 102 (increase in membership of the OTS) and the italic heading before it.

The dormant assets scheme

348 Pension benefits and inheritance tax

(1) In FA 2004, in Part 4 (pension schemes etc)—

(a) in section 150 (meaning of "pension scheme"), in subsection (5A), for "274B" substitute "274ZA";

(b) in section 251 (information: general requirements), after subsection (5) insert—

"(5A) Regulations under this section may make different provision for different cases.";

(c) section 274B (National Employment Savings Trust and Master Trust schemes) (which appears under the italic heading "National Employment Savings Trust and Master Trust schemes" at the beginning of Chapter 8 and before section 274A) is renumbered section 274ZA;

(d) after section 274ZA (as renumbered by paragraph (c)) insert—

"Dormant pension benefits

274ZB Treatment of pension benefits reclaimed from reclaim fund etc

(1) Subsection (2) applies where an amount is paid out of an authorised reclaim fund in respect of transferred dormant eligible pension benefits.

(2) For the purposes of income tax and this Part, the amount paid out is to be treated as having been paid as a consequence of a right that is the same as the original rights, acquired as the original rights were acquired and having the same characteristics as those rights.

(3) The Commissioners for His Majesty's Revenue and Customs may make regulations in relation to cases where—

(a) an amount is paid out of an authorised reclaim fund in respect of transferred dormant eligible pension benefits,

(b) the registered pension scheme from which the benefits were transferred was wound up before the payment of that amount, and

(c) the payment, or part of the payment, is treated (by virtue of subsection (2)) as being the payment by a registered pension scheme of—

(i) a pension protection lump sum death benefit,

(ii) an annuity protection lump sum death benefit,

(iii) a drawdown pension fund lump sum death benefit, or

(iv) a flexi-access drawdown fund lump sum death benefit.

(4) Regulations under subsection (3) may provide that a person specified in the regulations—

(a) is to be treated as the scheme administrator for the purposes of the operation of section 206;

(b) is responsible for the discharge of all obligations imposed on the scheme administrator by or under this Part so far as related to the liability imposed by that section to pay tax in respect of it.

(5) Regulations under subsection (3) may—

(a) make specific or general provision;

(b) make different provision for different cases.

(6) No liability to income tax arises in respect of income derived from investments or deposits—

(a) that are held by an authorised reclaim fund, and

(b) that relate to an amount transferred to the authorised reclaim fund in respect of transferred dormant eligible pension benefits.

(7) For the purposes of subsection (6), it does not matter when liability to income tax on income within that subsection would otherwise arise.

(8) Subsection (2) of section 186 (income) applies for the purposes of subsection (6) of this section as it applies for the purposes of subsection (1) of that section.

(9) For the purposes of this section—

"authorised reclaim fund" has the same meaning as in the Dormant Assets Acts 2008 to 2022;

"the original rights" are a person's rights against the scheme administrator of a registered pension scheme, in respect of the benefits subsequently transferred by the scheme administrator to an authorised reclaim fund, immediately before the transfer;

"transferred dormant eligible pension benefits" means dormant eligible pensions benefits owing to a person that have been transferred by the scheme administrator of a registered pension scheme to an authorised reclaim fund with the result that section 5 of the Dormant Assets Act 2022 (transfer of eligible pension benefits to reclaim fund) applies (and references to benefits being transferred are to be construed accordingly)."

(2) In the Inheritance Tax Act 1984, in Chapter 5 of Part 5 (miscellaneous reliefs), after section 159 insert—

"Dormant assets

159A Treatment of dormant assets

(1) This section applies where there is a transfer in respect of a dormant asset.

(2) There is a transfer in respect of a dormant asset where an amount is transferred by an institution in respect of an asset—

(a) to an authorised reclaim fund, with the result that section 1 of the 2008 Act or section 2, 5, 8, 12 or 14 of the 2022 Act applies in relation to the asset, or

(b) to an authorised reclaim fund and one or more charities, with the result that section 2 of the 2008 Act applies in relation to the asset.

(3) For the purposes of this Act, rights which a person ("P") acquires under Part 1 of the 2008 Act or Part 1 or sections 22 to 25 of the 2022 Act (as the case may be) after the transfer are to be treated as the same asset as the original rights, acquired as the original rights were acquired and having the same characteristics as those rights.

(4) For the purposes of this section –

"the 2008 Act" means the Dormant Bank and Building Society Accounts Act 2008;

"the 2022 Act" means the Dormant Assets Act 2022;

"asset" means an asset within the scope of the dormant assets scheme (see section 1(6) of the 2022 Act);

"authorised reclaim fund" has the same meaning as in the Dormant Assets Acts 2008 to 2022;

"the original rights" are –

(a) in a case where –

(i) section 8 of the 2022 Act (investment assets) applies in relation to the asset and there has been a conversion as mentioned in section 9(3)(a) of that Act in connection with the transfer, or

(ii) section 14 of the 2022 Act (securities assets) applies in relation to the asset and there has been a conversion as mentioned in section 15(1)(a) of that Act in connection with the transfer,

P's rights against the institution immediately before that conversion;

(b) in any other case, P's rights against the institution immediately before the transfer."

(3) The amendments made by subsection (1) come into force on the day on which this Act is passed.

(4) The amendment made by subsection (2) is treated as having come into force on 6 June 2022.

Other

349 International arrangements for exchanging information

(1) The Treasury may make regulations for, or in connection with, giving effect to international tax compliance arrangements to any extent, subject to such exceptions or modifications as the Treasury consider appropriate.

(2) For the purposes of this section, "international tax compliance arrangements" means any provision of –

(a) arrangements specified in an Order in Council made under section 173 of FA 2006 (international tax enforcement arrangements);

(b) the agreement reached between the Government of the United Kingdom and the Government of the United States of America to improve international tax compliance and to implement the provisions commonly known as the Foreign Account Tax Compliance Act in the enactment of the United States of America called the Hiring Incentives to Restore Employment Act, signed on 12 September 2012;

(c) the guidance on country-by-country reporting contained in the Organisation for Economic Co-operation and Development ("OECD") Guidance on Transfer Pricing Documentation and Country-by-Country Reporting, published in 2014;

(d) the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters, published in 2014;

(e) the OECD Model Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures, published in 2018;

(f) the OECD Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, published on 3 July 2020;

(g) any other arrangements or agreements made in relation to any territory or territories outside the United Kingdom, or documents related to those arrangements or agreements, which make provision corresponding or similar to that made by any arrangements, agreement or document mentioned in any of paragraphs (a) to (f).

(3) A reference in subsection (2) to arrangements, an agreement or another document includes a reference to the arrangements, agreement or other document as modified, supplemented or replaced from time to time.

(4) Regulations under subsection (1) may, in particular—

(a) require persons to disclose information of a specified description, including information about arrangements that they participated in before (as well as after) the coming into force of this section;

(b) require the information to be disclosed—

(i) to HMRC, specified persons or persons of a specified description,

(ii) at specified times,

(iii) in relation to specified periods of time, and

(iv) in a specified form and manner;

(c) impose other obligations on persons in connection with requirements to disclose information, including obligations to provide information to, and obtain information from, other specified persons;

(d) provide for the imposition of penalties in respect of a contravention of, or non-compliance with, a requirement of the regulations, including provision about appeals in relation to the imposition of a penalty;

(e) provide that a reference in the regulations to any international tax compliance arrangements is to be read as a reference to those arrangements as modified, supplemented or replaced from time to time;

(and for the purposes of this subsection "specified" means specified by or under the regulations).

(5) The regulations may –

(a) make different provision for different purposes;

(b) make provision by reference to things specified in a notice published by the Commissioners (as revised or replaced from time to time) in accordance with the regulations;

(c) allow any requirement, obligation or other provision that may be imposed or made by reference to subsection (4)(a) to (c) to be made by specific or general direction given by the Commissioners;

(d) make provision under which the Commissioners or other persons may exercise discretions;

(e) make consequential, supplementary, incidental, transitional or saving provision (including provision amending, repealing or revoking an enactment whenever passed or made).

(6) For the purposes of subsections (4) and (5) –

"arrangements" means any scheme, transaction or series of transactions;

"the Commissioners" means the Commissioners for His Majesty's Revenue and Customs;

"HMRC" means His Majesty's Revenue and Customs;

"participate", in relation to arrangements, includes being involved in, or facilitating, the arrangements in any way (for example, by receiving any benefit from them or by designing, marketing or providing services in connection with them, or arranging for others to do so).

(7) The Treasury may by regulations amend the list of international tax compliance arrangements in subsection (2) by –

(a) adding an entry for any arrangements, agreement or document, by or under which provision is made about the exchange of information;

(b) altering or removing an entry.

(8) Regulations under this section are to be made by statutory instrument.

(9) A statutory instrument containing (whether alone or with other provision) regulations made under subsection (7) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the House of Commons.

(10) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(11) The following provisions are repealed –

(a) section 222 of FA 2013;

(b) section 122 of FA 2015;

(c) section 84 of FA 2019;

(d) section 129 of FA 2021.

(12) Regulations made under any provision listed in subsection (11) are to be treated as if they were made under this section (so far as that would not otherwise be the case).

350 Payment of unclaimed money in court into the Consolidated Fund

In section 38(8) of the Administration of Justice Act 1982 (management and investment of funds in court: rules), after paragraph (f) (but before the "and" at the end) insert—

"(fa) provide for the payment of a sum of money in court into the Consolidated Fund if—

(i) the payment is in respect of funds in court which have been vested in the Accountant General under subsection (1) for at least 30 years, and

(ii) the conditions (if any) prescribed by the rules are met."

351 Financial sanctions regulations: prohibition on certain payments by HMRC

(1) HMRC may not, at any time on or after 15 March 2023, make a payment (whether directly or indirectly) to or for the benefit of a person who is, at that time, a designated person for the purposes of financial sanctions regulations.

(2) The reference in subsection (1) to a payment—

(a) is a reference to a payment, including a repayment or refund, that HMRC would (apart from that subsection) be required or permitted, by or under any enactment, to make to the person, and

(b) includes a reference to a payment that HMRC would (apart from that subsection) be required or permitted to make to the person by way of setting off the amount payable (as a credit) against a liability of the person to pay an amount to HMRC (as a debit).

(3) The reference in subsection (1) to a payment being made (directly or indirectly) to or for the benefit of a person ("P") includes the payment being made to another person who is owned or controlled (directly or indirectly) by P.

(4) Nothing in this section prevents the accrual of interest, in accordance with any enactment, on a withheld amount.

(5) But no other supplementary amount is payable by HMRC under section 79(1) of VATA 1994 (repayment supplement in respect of certain delayed payments or refunds), or any other enactment, by reference to an amount that is (or was) a withheld amount not being paid to a person on or before a particular date (including a date falling before 15 March 2023).

(6) Provision made by or under section 15 of SAMLA 2018 (exceptions and licences), and by section 44 of that Act (protection for acts done for the purposes of compliance), applies (with the necessary modifications) for the

purposes of the prohibition under subsection (1) as it applies for the purposes of prohibitions under financial sanctions regulations.

(7) The Treasury may by regulations made by statutory instrument—

(a) specify further exceptions to the prohibition in subsection (1);

(b) make such other provision as they consider appropriate for the purposes of, or for purposes connected to, any provision made by this section.

(8) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.

(9) References in this section to "financial sanctions regulations" are references to regulations made (whether before or after the passing of this Act) under section 1 of SAMLA 2018, so far as they make provision for or in connection with imposing financial sanctions (within the meaning of section 3 of that Act).

(10) In this section—

"designated person" has the meaning given by section 9 of SAMLA 2018;

"enactment" means any provision made by or under an Act (whether before or after the passing of this Act);

"HMRC" means His Majesty's Revenue and Customs;

"SAMLA 2018" means the Sanctions and Anti-Money Laundering Act 2018;

"a withheld amount" means an amount that HMRC would, apart from this section, be required or permitted to pay to a person.

352 Communications data

(1) Section 12(2) of the Investigatory Powers Act 2016 (restriction of powers to obtain communications data) does not apply to a power falling within subsection (2).

(2) A power falls within this subsection if it is conferred (whether before, on or after the passing of this Act) by or under—

(a) any Finance Act of any year (including this Act and any other numbered Finance Act);

(b) the Taxes Acts (within the meaning of TMA 1970);

(c) the customs and excise Acts (within the meaning of CEMA 1979);

(d) any enactment relating to value added tax;

(e) any enactment, not falling within paragraphs (a) to (d), that relates to tax.

(3) But subsection (1) does not apply in relation to the exercise of such a power by a public authority in the course of a criminal investigation by the authority.

(4) In section 12 of the Investigatory Powers Act 2016, after subsection (2) insert—

"(2A) Subsection (2) is subject to section 352(1) of the Finance (No. 2) Act 2023 (no restriction on tax related powers)."

(5) In Schedule 36 to FA 2008 (information and inspection powers), in paragraph 19, omit sub-paragraphs (4) and (5).

(6) In consequence of the repeal made by subsection (5), omit paragraph 10 of Schedule 2 to the Investigatory Powers Act 2016.

(7) The modification and amendments made by subsections (1) to (6) are to be treated as having always had effect.

(8) Subsections (9) and (10) apply where—

(a) before the day on which this Act is passed, a public authority imposed a requirement on a person under a power falling within subsection (2), and

(b) as a result of section 12(2) of the Investigatory Powers Act 2016 the public authority did not, ignoring this section, have the power to impose it.

(9) The requirement is to be treated as having been imposed on the day on which this Act is passed (and accordingly the period in which it must be complied with is to be treated as starting on that day) unless—

(a) the requirement was withdrawn by the public authority before that day, or

(b) the person complied with the requirement before that day.

(10) Where, before the day on which this Act is passed, the public authority imposed a penalty on the person for contravening the requirement—

(a) the penalty is of no effect, and

(b) if already paid, the authority is liable to repay it.

Final

353 Interpretation

In this Act the following abbreviations are references to the following Acts—

ALDA 1979	Alcoholic Liquor Duties Act 1979
CAA 2001	Capital Allowances Act 2001
CEMA 1979	Customs and Excise Management Act 1979
CTA 2009	Corporation Tax Act 2009
CTA 2010	Corporation Tax Act 2010
FA followed by a year	Finance Act of that year

F(No.2)A followed by a year	Finance (No.2) Act of that year
HODA 1979	Hydrocarbon Oil Duties Act 1979
ICTA	Income and Corporation Taxes Act 1988
ITA 2007	Income Tax Act 2007
ITEPA 2003	Income Tax (Earnings and Pensions) Act 2003
ITTOIA 2005	Income Tax (Trading and Other Income) Act 2005
TCGA 1992	Taxation of Chargeable Gains Act 1992
TCTA 2018	Taxation (Cross-border Trade) Act 2018
TIOPA 2010	Taxation (International and Other Provisions) Act 2010
TMA 1970	Taxes Management Act 1970
TPDA 1979	Tobacco Products Duty Act 1979
VATA 1994	Value Added Tax Act 1994
VERA 1994	Vehicle Excise and Registration Act 1994

354 Short title

This Act may be cited as the Finance (No. 2) Act 2023.

SCHEDULES

SCHEDULE 1

Section 10

RELIEF FOR RESEARCH AND DEVELOPMENT

PART 1

CLAIM NOTIFICATIONS

Requirement to make claim notifications in relation to certain R&D claims

1 (1) Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits) is amended as follows.

(2) In section 104A (R&D expenditure credits), after subsection (5) insert—

"(5A) This section is subject to section 104AA."

(3) After that section insert—

"104AA Requirement to make a claim notification

(1) A company may not make a claim under section 104A(1) (an "RDEC claim") after the end of the claim notification period unless—

(a) the company has made an R&D claim during the period of three years ending with the last day of the claim notification period,

(b) the company makes a claim notification in respect of the RDEC claim within the claim notification period, or

(c) the accounting period in respect of which the RDEC claim is made falls within the same period of account as another accounting period in respect of which the company has made an R&D claim or a claim notification.

(2) For the purposes of subsection (1)(a) ignore any R&D claim for an accounting period beginning before 1 April 2023 that is included in the company's company tax return only by virtue of an amendment made on or after that date (see paragraph 83B(2) of Schedule 18 to FA 1998)."

(4) In section 104Y (interpretation), in subsection (1)—

(a) before the entry for "large company" insert—

""claim notification" (see section 1142A),
"claim notification period" (see section 1142A),";

(b) after the entry for "research and development" insert—

""R&D claim" (see section 1142B),".

2 (1) Part 13 of CTA 2009 (additional relief for expenditure on R&D) is amended as follows.

(2) In section 1044 (additional deduction in calculating profits of trade), in subsection (9), after "subject to" insert "—

(a) section 1045A (requirement to make a claim notification);

(b) ".

(3) Before section 1046 (relief only available where company is going concern) but after the preceding italic heading insert—

"1045A Requirement to make a claim notification

(1) A company may not make a claim under section 1044(6) (an "additional deduction claim") after the end of the claim notification period unless—

(a) the company has made an R&D claim during the period of three years ending with the last day of the claim notification period,

(b) the company makes a claim notification in respect of the additional deduction claim within the claim notification period, or

(c) the accounting period in respect of which the additional deduction claim is made falls within the same period of account as another accounting period in respect of which the company has made an R&D claim or a claim notification.

(2) For the purposes of subsection (1)(a) ignore any R&D claim for an accounting period beginning before 1 April 2023 that is included in the company's company tax return only by virtue of an amendment made on or after that date (see paragraph 83B(2) of Schedule 18 to FA 1998).".

(4) In section 1054 (entitlement to and payment of tax credit), in subsection (5), after "subject to" insert "—

(a) section 1054A (requirement to make a claim notification);

(b) ".

(5) After that section insert—

"1054A Requirement to make a claim notification

(1) A company may not make a claim under section 1054(2) (an "R&D tax credit claim") after the end of the claim notification period unless—

(a) the company has made an R&D claim during the period of three years ending with the last day of the claim notification period,

(b) the company makes a claim notification in respect of the R&D tax credit claim within the claim notification period, or

(c) the accounting period in respect of which the R&D tax credit claim is made falls within the same period of account as another accounting period in respect of which the company has made an R&D claim or a claim notification.

(2) For the purposes of subsection (1)(a) ignore any R&D claim for an accounting period beginning before 1 April 2023 that is included in the company's company tax return only by virtue of an amendment made on or after that date (see paragraph 83B(2) of Schedule 18 to FA 1998)."

(6) After section 1142 ("qualifying body") insert—

"1142A "Claim notification" and "claim notification period"

(1) For the purposes of this Part—

"claim notification" means, in relation to an R&D claim, a notification made by the company to an officer of His Majesty's Revenue and Customs in accordance with regulations under subsection (2);

"claim notification period" means, in relation to an R&D claim, the period—

(a) beginning with the first day of the period of account which is the same as the accounting period in respect of which the claim is made, or within which that accounting period falls, and

(b) ending with the last day of the period of six months beginning with the first day after that period of account.

(2) The Commissioners for His Majesty's Revenue and Customs may by regulations specify, in relation to a claim notification—

(a) information to be provided with the notification;

(b) the form and manner in which the notification is to be made.

1142B "R&D claim"

For the purposes of this Part an "R&D claim" means a claim under—

(a) section 104A (R&D expenditure credits),

(b) section 1044 (relief for SMEs: additional deduction), or

(c) section 1054 (entitlement to R&D tax credit)."

PART 2

R&D EXPENDITURE ON DATA AND CLOUD COMPUTING

Relief for R&D expenditure on data and cloud computing

3 (1) Chapter 9 of Part 13 of CTA 2009 (additional relief for expenditure on R&D: supplementary) is amended as follows.

(2) In the italic heading before section 1125 ("software or consumable items"), after "Software" insert ", data licences, cloud computing services".

(3) In that section—

(a) in the heading, after "Software" insert ", data licences, cloud computing services";

(b) in subsection (1)—

(i) in the words before paragraph (a), for "or consumable items means expenditure on" substitute ", data licences, cloud computing services or consumable items means an amount paid by the company in respect of";

(ii) omit the "or" at the end of that paragraph;

(iii) after that paragraph insert—

"(aa) data licences,

(ab) cloud computing services, or";

(c) after subsection (1) insert—

"(1A) For the purposes of subsection (1)(aa) a data licence is a licence to access and use a collection of digital data.

(1B) For the purposes of subsection (1)(ab) cloud computing services include the provision of access to, and maintenance of, remote—

(a) data storage and hardware facilities;

(b) operating systems and software platforms."

(4) In section 1126 (software or consumable items: attributable expenditure)—

(a) in the heading, after "Software" insert ", data licences, cloud computing services";

(b) in subsections (1), (2), (3), (4), (5) and (6), in each place it appears, after "software" insert ", data licences, cloud computing services".

(5) After section 1126 insert—

"1126ZA Attributable expenditure: special rules for data and cloud computing

(1) Expenditure on data licences or cloud computing services is not to be treated as attributable to relevant research and development if, in connection with the grant of a licence or the provision of a service, a relevant person obtains—

(a) a right to sell data in respect of which the licence is granted or the service is provided (as the case may be);

(b) a right to publish, share or otherwise communicate data in respect of which the licence is granted or the service is provided (as the case may be) to a third party, other than for the purposes of communications reasonably necessary for, or incidental to, the purposes of the relevant research and development.

(2) Expenditure on data licences or cloud computing services is not to be treated as attributable to relevant research and development so far as it is attributable to a qualifying indirect activity.

(3) In this section—

"qualifying indirect activity" means an activity mentioned in paragraph 31 of the Guidelines on the Meaning of Research and Development for Tax Purposes issued on 7 March 2023 and as amended from time to time;

"relevant person" has the meaning given in section 1126A(10)."

(6) In section 1126A (attributable expenditure: special rules), in the heading, after "special rules" insert "for consumable items".

(7) In section 1126B (attributable expenditure: further provision)—

(a) in subsection (1)—

(i) after "expenditure on" insert "data licences, cloud computing services or";

(ii) after "1126" insert ", 1126ZA";

(b) in subsection (2)—

(i) in paragraph (a), after "expenditure on" insert "data licences, cloud computing services or";

(ii) in paragraph (b), after "in which" insert "data licences, cloud computing services or";

(c) in subsection (4), after paragraph (a) insert—

"(aa) section 1126ZA;".

Relief for R&D expenditure on data and cloud computing: consequential amendments

4 CTA 2009 is amended as follows.

5 In Chapter 6A of Part 3 (trade profits: R&D expenditure credits)—

(a) in section 104D (expenditure on sub-contracted R&D undertaken in-house), in subsection (3)(b), after "software" insert ", data licences, cloud computing services";

(b) in section 104G (subsidised qualifying expenditure on in-house direct R&D), in subsection (3)(b), after "software" insert ", data licences, cloud computing services";

(c) in section 104J (qualifying expenditure on in-house direct R&D), in subsection (2)(b), after "software" insert ", data licences, cloud computing services";

(d) in section 104Y (interpretation), in subsection (2), in the description of sections 1125 to 1126B, after "software" insert ", data licences, cloud computing services".

6 In Part 13 (additional relief for expenditure on R&D)—

(a) in Chapter 2 (relief for SMEs: cost of R&D incurred by SME), in section 1052 (qualifying expenditure on in-house direct R&D), in subsection (2)(b), after "software" insert ", data licences, cloud computing services";

(b) in Chapter 9 (supplementary), in section 1134 (qualifying element of sub-contractor payment: connected persons), in subsection (3)(c), after "software" insert ", data licences, cloud computing services".

7 In Schedule 2 (transitionals and savings), in Part 15 (research and development)—

(a) in the italic heading before paragraph 122, after "software" insert ", data licences, cloud computing services";

(b) in paragraph 122(2), after "software" insert ", data licences, cloud computing services".

8 In Schedule 4 (index of defined expressions), in both places it occurs, after "software" insert ", data licences, cloud computing services".

9 In section 357BLB of CTA 2010 (qualifying expenditure on relevant R&D undertaken in-house)—

(a) in subsection (2), in paragraph (b), after "software" insert ", data licences, cloud computing services";

(b) in subsection (7)—

(i) in paragraph (c), after "software" insert ", data licences, cloud computing services";

(ii) in paragraph (d), after "software" insert ", data licences, cloud computing services".

PART 3

AMENDMENTS TO SCHEDULE 18 TO FA 1998

Introduction

10 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

Power of HMRC to collect overpaid R&D tax relief or expenditure credit

11 In paragraph 52 (recovery of excessive repayments etc)—

(a) in sub-paragraph (2) omit paragraphs (bza) and (ba);

(b) for sub-paragraph (2A) substitute—

"(2A) The provisions of paragraphs 41 and 45 to 48 relating to discovery assessments apply to an amount paid to a company by way of—

(a) first-year tax credit under Schedule A1 to the Capital Allowances Act;

(b) R&D expenditure credit under Chapter 6A of Part 3 of the Corporation Tax Act 2009;

(c) R&D tax credit under Chapter 2 or 7 of Part 13 of that Act,

but only to the extent that the company was not, or is no longer, entitled to the credit."

Time limits for R&D claims

12 For paragraph 83E (time limit for claims) substitute—

"83E (1) Except where sub-paragraph (3) applies, a claim to which this Part of this Schedule applies may be made, amended or withdrawn at any time up to the last day of the period of—

(a) two years beginning with the last day of the period of account, in a case where the period of account to which the claim relates is not longer than 18 months, or

(b) 42 months beginning with the first day of the period of account, in any other case.

(2) Sub-paragraph (3) applies where—

(a) a company makes a claim for R&D tax relief under Part 13 of the Corporation Tax Act 2009,

(b) the company is not entitled to the relief, and

(c) an officer of Revenue and Customs exercises the power under paragraph 34(2)(b) or (2A) to make an amendment by removing the claim from the company tax return in which it is made.

(3) The company may make, amend or withdraw a claim for R&D expenditure credit under Chapter 6A of Part 3 of the Corporation Tax Act 2009 in respect of eligible expenditure at any time up to whichever is the last of the following dates—

(a) 30 days after notice of the amendment mentioned in sub-paragraph (2)(c) is issued;

(b) if an appeal is brought against that amendment, 30 days after the date on which the appeal is finally determined.

(4) In this paragraph "eligible expenditure" means expenditure—

(a) to which the claim mentioned in sub-paragraph (2)(a) relates, and

(b) in respect of which the company is entitled to R&D expenditure credit.

(5) A claim to which this Part of this Schedule applies may be made, amended or withdrawn after the end of the period mentioned in sub-paragraph (1) or (3) (as the case may be) if an officer of Revenue and Customs allows it."

Requirement to provide additional information in relation to R&D claims

13 In Part 9A (company tax returns etc: claims for R&D expenditure credits or R&D tax relief), after paragraph 83E (substituted by paragraph 12) insert—

"Additional information to be provided in relation to claim

83EA (1) A claim to which this Part of this Schedule applies is invalid unless the claimant company has provided information to an officer of Revenue and Customs in accordance with regulations under sub-paragraph (2) not later than the date on which the claim is made or amended by the company in accordance with paragraph 83E.

(2) The Commissioners for Revenue and Customs may by regulations specify, in relation to a claim to which this Part of this Schedule applies—

(a) information to be provided by the claimant company;

(b) the form and manner in which the information is to be provided."

Power of HMRC to remove R&D claims made in error from return

14 In Part 9A (claims for R&D expenditure credits or R&D tax relief), after paragraph 83EA (inserted by paragraph 13) insert—

"Removal from return of claims made in error

83EB (1) This paragraph applies, in relation to a claim to which this Part of this Schedule applies (the "original claim"), where an officer of Revenue and Customs—

(a) reasonably believes that a claimant company has failed to comply with a requirement relating to the making of the claim (and accordingly that the claim has been made in error), and

(b) exercises the power under paragraph 16(1) to make a correction by removing the claim from the company tax return in which it is made.

(2) Sub-paragraphs (4) and (5) of paragraph 16 do not apply in relation to the correction (and accordingly the claimant company may not reject the correction).

(3) The claimant company may, within 90 days beginning with the date of the notice issued under paragraph 16(3), send written representations to an officer of Revenue and Customs objecting to the notice on the grounds that a matter stated in the notice was incorrect.

(4) An officer of Revenue and Customs must consider any representations made under sub-paragraph (3).

(5) Having considered the representations, the officer must determine whether to—

(a) confirm the notice, or

(b) withdraw the notice,

and must notify the claimant company accordingly.

(6) Nothing in sub-paragraph (2) prevents the claimant company from amending its company tax return to make a new claim to which this Part of this Schedule would apply in respect of the expenditure to which the original claim related (but see sub-paragraph (7)).

(7) Where, in relation to the original claim—

(a) a claim notification (within the meaning of section 1142A of the Corporation Tax Act 2009) was required to be made, and

(b) no claim notification was made,

the company may not make a new claim to which this Part of this Schedule would apply in respect of the expenditure to which the original claim related."

PART 4

MISCELLANEOUS AMENDMENTS

Amendment of CTA 2009

15 CTA 2009 is amended as follows.

R&D tax relief: circumstances in which enterprises are treated as SMEs

16 (1) In section 1119—

(a) in subsection (1), at the end insert "(and see sections 1120A and 1120B)";

(b) in subsection (2), for "section 1120" substitute "sections 1120 to 1120B".

(2) In section 1120 (qualifications to section 1119)—

(a) after subsection (6) insert—

"(6A) This section is subject to sections 1120A and 1120B.";

(b) in subsection (7), in the words before paragraph (a), after "section" insert "and in sections 1120A and 1120B".

(3) After that section insert—

"1120A Enterprise treated as an SME where related enterprise becomes large

(1) This section applies, in relation to an accounting period, where the following conditions are met.

(2) The first condition is that, for the duration of the accounting period, an enterprise ("E") is related to a partner enterprise or linked enterprise ("F").

(3) The second condition is that, at the start of the accounting period, both E and F are small or medium-sized enterprises.

(4) The third condition is that, at the end of the accounting period, E is not a small or medium-sized enterprise by reason only that F has, during the accounting period, exceeded the employee limit or either of the financial limits.

(5) Both E and F are to be treated as if they were small or medium-sized enterprises for the accounting period.

1120B Enterprise treated as an SME where acquired by an SME

(1) This section applies, in relation to an accounting period, where the following conditions are met.

(2) The first condition is that, at the start of the accounting period, an enterprise ("E") was not a small or medium-sized enterprise by reason only that a partner enterprise or linked enterprise to which E was related exceeded the employee limit or either of the financial limits.

(3) The second condition is that, during the accounting period, control of E was acquired by a company that, at the time of the acquisition, was a small or medium-sized enterprise.

(4) E is to be treated as if it were a small or medium-sized enterprise for the accounting period.

(5) In subsection (3) "control" has the same meaning as in section 1124 of CTA 2010."

Accounts treated as prepared on going concern basis

17 (1) In section 104T (R&D expenditure credits: "going concern"), after subsection (4) insert—

"(4A) For the purposes of this section, where a company ("A") is a member of the same group as another company ("B") and A's latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.

(4B) For the purposes of this section a "relevant group transfer" is a transfer within the accounting period to which the latest published accounts relate by A of its trade and research and development to another member of the group mentioned in subsection (4A)."

(2) In section 1046 (R&D relief for SMEs: relief only available where company is going concern), after subsection (2C) insert—

"(2D) For the purposes of this section, where a company ("A") is a member of the same group as another company ("B") and A's latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.

(2E) For the purposes of this section—

(a) a "relevant group transfer" is a transfer, within the accounting period to which the latest published accounts relate, by A of its trade and research and development to another member of the group mentioned in subsection (2D);

(b) A and B are members of the same group if they are members of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief)."

(3) In section 1057 (R&D relief for SMEs: tax credit only available where company is a going concern), after subsection (4C) insert—

"(4D) For the purposes of this section, where a company ("A") is a member of the same group as another company ("B") and A's latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.

(4E) For the purposes of this section—

(a) a "relevant group transfer" is a transfer, within the accounting period to which the latest published accounts relate, by A of its trade and research and development to another member of the group mentioned in subsection (4D);

(b) A and B are members of the same group if they are members of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief)."

Meaning of expenditure incurred on payments

18 (1) In section 104Y (R&D expenditure credits: interpretation), at the end insert—

"(4) References in this Chapter to expenditure incurred on payments (however expressed) are references to expenditure incurred on payments made before the making of a claim under this Chapter in relation to that expenditure."

(2) Before section 1140 insert—

"1139A Expenditure incurred on payments

(1) References in this Part to expenditure incurred on payments (however expressed) are references to expenditure incurred on payments made before the making of a claim under this Part in relation to that expenditure."

PART 5

COMMENCEMENT

19 The amendment made by paragraph 13 of this Schedule has effect in relation to claims made on or after 1 August 2023.

20 The amendments made by the remaining provisions of this Schedule have effect in relation to accounting periods beginning on or after 1 April 2023.

SCHEDULE 2

Section 29

ESTATES IN ADMINISTRATION AND TRUSTS

PART 1

ESTATES IN ADMINISTRATION

CHAPTER 1

INCOME TAX

The applicable rate for grossing up basic amounts of estate income

1 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 656 (income charged: UK estates), in subsection (2) omit "for that year".

(3) In section 657 (income charged: foreign estates), in subsection (3) omit "for that year".

(4) For section 663 (the applicable rate for grossing up basic amounts of estate income) substitute—

"663 The applicable rate for grossing up basic amounts of estate income

(1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 656 and 657 depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 679 treats the basic amount as having been paid.

(2) If the same rate was borne by all of the income from which section 679 treats the basic amount as having been paid, the applicable rate is that rate.

(3) If different rates were borne by different parts of the income from which section 679 treats the basic amount as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up."

The applicable rate for grossing up for determining shares in an estate in the final tax year

2 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 668 (reduction in share of residuary income of estate)—

(a) in subsection (1), in paragraph (b), for "(grossed up where subsection (5) applies)" substitute "grossed up, where the estate is a UK estate, by the applicable rate (see subsections (5A) to (5C))";

(b) for subsection (5) substitute—

"(5A) The applicable rate by reference to which a sum within subsection (1)(b) is grossed up depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 679A treats the sum as having been paid.

(5B) If the same rate was borne by all the income from which section 679A treats the sum as having been paid, the applicable rate is that rate.

(5C) If different rates were borne by different parts of the income from which section 679A treats the sum as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the sum is grossed up."

(3) After section 679 insert—

"679A Income from which sums within section 668(1)(b) are treated as paid

(1) The part of the aggregate income of the estate from which a sum within section 668(1)(b) is treated as paid is determined by applying assumptions A and B in that order.

(2) Assumption A is that if there are different persons with an absolute interest in the residue of the estate, such apportionments of the aggregate income of the estate in respect of those interests are to be made as are just and reasonable for the different interests.

(3) Assumption B is that sums are paid from the income to which a person's share of the residuary estate relates in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate.

(4) If some, but not all, of the aggregate income of the estate is income within section 680, assumption C is applied before assumptions A and B.

(5) Assumption C is that the basic amount is paid from income that is not within section 680 before it is paid from income within that section.

(6) Assumptions A and B then apply—

(a) first to determine the part of the income not within that section from which the basic amount is paid, and

(b) then to determine the part of the income within that section from which the basic amount is paid."

(4) In section 680 (income treated as bearing income tax), in subsection (1)—

(a) omit the "and" at the end of the entry for section 670;

(b) at the end insert ", and

section 679A (income from which sums within section 668(1)(b) are treated as paid)."

Income from stock dividends etc treated as bearing income tax at 0%

3 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 670 (applicable rate for determining assumed income entitlement (UK estates)) omit subsection (4A).

(3) In section 680 (income treated as bearing income tax)—

(a) in subsection (2), after "within subsection" insert "(2A) or";

(b) after subsection (2) insert—

"(2A) A sum that is part of the aggregate income of the estate because of falling within section 664(2)(c) (stock dividends) or (d) (release of loans to participator in close company: loans and advances to persons who die) is treated as bearing income tax at 0%."

Income treated as dividend income and savings income

4 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.

(2) For section 680A (income treated as dividend income) substitute—

"680A Income treated as dividend income

(1) This section applies to estate income that—

(a) by virtue of section 663 (applicable rate for grossing up basic amounts of estate income) is treated as bearing income tax at the ordinary dividend rate, or

(b) by virtue of that section and section 680(2A) (income treated as bearing income tax: dividends and loans to a participator in close company) is treated as bearing income tax at 0%.

(2) The income is treated as being dividend income."

(3) After that section insert—

"680B Income treated as savings income

(1) This section applies to estate income relating to a person's interest in the residue of an estate so far as that interest relates to income that—

(a) falls within section 664(2)(a) (income of personal representatives charged to UK income tax), and

(b) is savings income (see section 18 of ITA 2007).

(2) The income is treated as being savings income."

Order in which basic amounts are treated as paid from aggregate income

5 In section 679 of ITTOIA 2005 (income from which basic amounts are treated as paid)—

(a) in subsection (3), for the words "in the following order" to the end of paragraph (c) substitute "in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate";

(b) in subsection (4), for "treated under section 680 as bearing income tax" substitute "within section 680".

CHAPTER 2

CORPORATION TAX

The applicable rate for grossing up basic amounts of estate income

6 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 941 (income charged: UK estates), in subsection (2) omit "for the relevant tax year".

(3) In section 942 (income charged: foreign estates), in subsection (3) omit "for the relevant tax year".

(4) For section 946 (applicable rate for grossing up basic amounts of estate income) substitute—

"946 Applicable rate for grossing up basic amounts of estate income

(1) The applicable rate by reference to which a basic amount of estate income is grossed up for the purposes of sections 941 and 942 depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 962 treats the basic amount as having been paid.

(2) If the same rate was borne by all of the income from which section 962 treats the basic amount as having been paid, the applicable rate is that rate.

(3) If different rates were borne by different parts of the income from which section 962 treats the basic amount as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the basic amount is grossed up."

(5) After section 961 insert—

"961A Meaning of "the relevant tax year"

In sections 960 and 961, "the relevant tax year" in relation to an amount of estate income, means the tax year in which the amount of estate income would be treated as arising if—

(a) the references in this Chapter to accounting periods were references to tax years, and

(b) section 950(3) (apportionment between accounting periods) were ignored."

The applicable rate for grossing up for determining shares in an estate in the final tax year

7 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 951 (reduction in share of residuary income of estate)—

(a) in subsection (1), in paragraph (b), for "(grossed up where subsection (5) applies)" substitute "grossed up, where the estate is a UK estate, by the applicable rate (see subsections (5A) to (5C));

(b) for subsection (5) substitute—

"(5A) The applicable rate by reference to which a sum within subsection (1)(b) is grossed up depends on the rate at which income tax was borne by the parts of the aggregate income of the estate from which section 962A treats the sum as having been paid.

(5B) If the same rate was borne by all the income from which section 962A treats the sum as having been paid, the applicable rate is that rate.

(5C) If different rates were borne by different parts of the income from which section 962A treats the sum as having been paid, each of those rates is the applicable rate by reference to which the corresponding part of the sum is grossed up."

(3) After section 962 insert—

"962A Income from which sums within section 951(1)(b) are treated as paid

(1) The part of the aggregate income of the estate from which a sum within section 951(1)(b) is treated as paid is determined by applying assumptions A and B in that order.

(2) Assumption A is that if there are different persons with an absolute interest in the residue of the estate, such apportionments of the aggregate income of the estate in respect of those interests are to be made as are just and reasonable for the different interests.

(3) Assumption B is that sums are paid from the income to which a person's share of the residuary estate relates in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate.

(4) If some, but not all, of the aggregate income of the estate is income within section 963, assumption C is applied before assumptions A and B.

(5) Assumption C is that the basic amount is paid from income that is not within section 963 before it is paid from income within that section.

(6) Assumptions A and B then apply—

(a) first to determine the part of the income not within that section from which the basic amount is paid, and

(b) then to determine the part of the income within that section from which the basic amount is paid."

(4) In section 963 (income treated as bearing income tax)—

(a) omit the "and" at the end of the entry for section 952;

(b) at the end insert ", and

section 962A (income from which sums within section 951(1)(b) are treated as paid)."

Income from stock dividends etc treated as bearing income tax at 0%

8 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 936 (meaning of "UK estate" and "foreign estate"), in subsections (4) and (5), after "section 963(3)" insert ", (3A)".

(3) In section 963 of CTA 2009 (income treated as bearing income tax)—

(a) in subsection (2), after "within subsection (3)" insert ", (3A)";

(b) in subsection (3), omit paragraph (b) (and the "or" immediately before it);

(c) after subsection (3) insert—

"(3A) A sum that is part of the aggregate income of the estate because of falling within section 947(2)(c) (stock dividends) or (d) (release of loans to participator in close company: loans and advances to persons who die) is treated as bearing income tax at 0%."

Order in which basic amounts are treated as paid from aggregate income

9 In section 962 of CTA 2009 (income from which basic amounts are treated as paid)—

(a) in subsection (3), for the words "in the following order" to the end of paragraph (b) substitute "in descending order, starting with the income bearing income tax at the highest rate and ending with the income bearing income tax at the lowest rate";

(b) in subsection (4), for "treated under section 963 as bearing income tax" substitute "within section 963".

PART 2

LOW INCOME TRUSTS AND ESTATES

CHAPTER 1

INCOME TAX

Low income estates and trusts: tax liability of personal representatives and trustees

10 (1) Chapter 3 of Part 2 of ITA 2007 (calculation of income tax liability) is amended as follows.

(2) In section 23 (the calculation of income tax liability), at the end of Step 2 insert—

"See also section 24B which provides that a taxpayer's net income is taken to be £0 in certain cases."

(3) After section 24A insert—

"24B Calculation of net income at Step 2 for low income estates and trusts

(1) Subsection (2) applies in relation to a taxpayer if—

(a) they are the personal representative of a deceased person and, ignoring this section, their net income in that capacity at the end of Step 2 of the calculation in section 23 would be equal to or less than the de minimis estates amount, or

(b) they are the trustee of a settlement ("the relevant settlement") and, ignoring this section, their net income in that capacity at the end of that Step would be equal to or less than the de minimis trusts amount.

(2) The taxpayer's net income in their capacity as a personal representative of a deceased person or trustee of a settlement (as the case may be) at the end of Step 2 of the calculation in section 23 is taken to be £0.

(3) The de minimis estates amount is £500.

(4) The de minimis trusts amount is—

(a) £500, or

(b) in a case where subsection (5) applies, the higher of—

(i) £100, and

(ii) the settlor's threshold amount.

(5) This subsection applies where—

(a) the settlor in relation to the relevant settlement is also the settlor in relation to one or more qualifying settlements,

(b) ignoring this section, the trust rate income (within the meaning of Part 9) for the tax year of the trustees of the relevant settlement would be greater than £0, and

(c) the relevant settlement is a settlement in respect of which each of the conditions mentioned in subsection (9) is met throughout the tax year.

(6) The settlor's threshold amount is the amount given by—

$$\frac{£\,500}{QS + 1}$$

where QS is the total number of qualifying settlements.

(7) If there is more than one settlor in relation to the relevant settlement—

(a) calculate the threshold amount of each of them, and

(b) use the lowest of those threshold amounts for the purposes of subsection (4)(b)(ii).

(8) A settlement is a "qualifying settlement" if—

(a) it is not the relevant settlement,

(b) it is in existence at a time during the tax year,

(c) ignoring this section, the trust rate income (within the meaning of Part 9) for the tax year of the trustees of the settlement would be greater than £0, and

(d) it is a settlement in respect of which each of the conditions mentioned in subsection (9) is met throughout the tax year.

(9) The conditions are—

(a) the property comprised in the settlement is not held for a pensions purpose within the meaning of paragraph 7(3) of Schedule 1C to TCGA 1992 (property comprised in settlements held for a pensions purpose);

(b) no income arising under the settlement is treated as the income of the settlor as a result of section 624 of ITTOIA 2005 (income where settlor retains an interest);

(c) the settlement is not a qualifying trust within the meaning of section 34 or 35 of FA 2005 (trusts for the benefit of disabled persons or relevant minors);

(d) the settlement is not a heritage maintenance settlement within the meaning of Chapter 10 of Part 9 (heritage maintenance settlements) (see section 507(2) and (3))."

Low income estates: tax liability of beneficiaries

11 (1) Chapter 6 of Part 5 of ITTOIA 2005 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 649 (charge to tax on estate income), after subsection (1) insert—

"(1A) But income tax is not charged on estate income so far as that income consists of a basic amount which section 679 treats as having been paid from de minimis aggregate income.

(1B) In subsection (1A), "de minimis aggregate income" means aggregate income of an estate which is treated as bearing income tax at 0% because of section 680(1A)."

(3) In section 656 (income charged: UK estates), in subsection (1), for "tax is charged under section 649" substitute "the charge to tax under section 649 is a charge".

(4) In section 657 (income charged: foreign estates), in subsection (1), for "tax is charged under section 649" substitute "the charge to tax under section 649 is a charge".

(5) In section 679 (income from which basic amounts are treated as paid)—

(a) in subsection (3) (as amended by paragraph 5(a)), at the end insert "(subject to subsection (3A))";

(b) after that subsection insert—

"(3A) For the purposes of assumption B, where those parts include—

(a) income bearing income tax at 0% by virtue of section 680(1A), and

(b) other income bearing income tax at 0%,

payments are to be made from income within paragraph (a) after income within paragraph (b)."

(6) In section 679A (income from which sums within section 668(1)(b) are treated as paid) (inserted by paragraph 2(3))—

(a) in subsection (3), at the end insert "(subject to subsection (3A))";

(b) after that subsection insert—

"(3A) For the purposes of assumption B, where that income includes—

(a) income bearing income tax at 0% by virtue of section 680(1A), and

(b) other income bearing income tax at 0%,

sums are to be paid from income within paragraph (a) after income within paragraph (b)."

(7) In section 680 (income treated as bearing income tax)—

(a) after subsection (1) insert—

"(1A) If, in the case of a UK estate, the aggregate income of the estate for a tax year is equal to or less than the de minimis estates amount (within the meaning of section 24B of ITA 2007), the aggregate income of the estate for that tax year is treated as bearing income tax at 0%.";

(b) for subsection (2) substitute—

"(2) If—

(a) subsection (1A) does not apply to treat the aggregate income of the estate for a tax year as bearing income tax at 0%, and

(b) the aggregate income of the estate for that tax year includes a sum within subsection (2A) or (4),

the sum is treated as bearing income tax at the rate specified for it in that subsection.";

(c) in subsection (5), after "sums within this section" insert "or from aggregate income treated as bearing income tax at 0% by virtue of subsection (1A)".

CHAPTER 2

CORPORATION TAX

Low income estates: tax liability of beneficiaries

12 (1) Chapter 3 of Part 10 of CTA 2009 (beneficiaries' income from estates in administration) is amended as follows.

(2) In section 934 (charge to tax on estate income), after subsection (1) insert—

"(1A) But corporation tax is not charged on estate income so far as that income consists of a basic amount which section 962 treats as having been paid from de minimis aggregate income.

(1B) In subsection (1A), "de minimis aggregate income" means aggregate income of an estate which is treated as bearing income tax at 0% because of section 963(1A)."

(3) In section 941 (income charged: UK estates), in subsection (1), for "tax is charged under section 934" substitute "the charge to tax under section 934 is a charge".

(4) In section 942 (income charged: foreign estates), in subsection (1), for "tax is charged under section 934" substitute "the charge to tax under section 934 is a charge".

(5) In section 962 (income from which basic amounts are treated as paid)—

(a) in subsection (3) (as amended by paragraph 9(a)), at the end insert "(subject to subsection (3A))";

(b) after that subsection insert—

"(3A) For the purposes of assumption B, where those parts include—

(a) income bearing income tax at 0% by virtue of section 963(1A), and

(b) other income bearing income tax at 0%,

payments are to be made from income within paragraph (a) after income within paragraph (b)."

(6) In section 962A (income from which sums within section 951(1)(b) are treated as paid) (inserted by paragraph 7(3))—

(a) in subsection (3), at the end insert "(subject to subsection (3A))";

(b) after that subsection insert—

"(3A) For the purposes of assumption B, where that income includes—

(a) income bearing income tax at 0% by virtue of section 963(1A), and

(b) other income bearing income tax at 0%,

sums are to be paid from income within paragraph (a) after income within paragraph (b)."

(7) In section 963 (income treated as bearing income tax)—

(a) after subsection (1) insert—

"(1A) If, in the case of a UK estate, the aggregate income of the estate for a tax year is equal to or less than the de minimis estates amount (within the meaning of section 24B of ITA 2007), the aggregate income of the estate for that tax year is treated as bearing income tax at 0%.";

(b) for subsection (2) substitute—

"(2) If—

(a) subsection (1A) does not apply to treat the aggregate income of the estate for a tax year as bearing income tax at 0%, and

(b) the aggregate income of the estate for that tax year includes a sum within subsection (3), (3A) or (4),

the sum is treated as bearing income tax at the rate specified for it in that subsection.";

(c) in subsection (5), after "sums within this section" insert "or from aggregate income treated as bearing income tax at 0% by virtue of subsection (1A) ".

PART 3

RATE OF TAX CHARGED ON TRUSTEES' FIRST SLICE OF TRUST RATE INCOME: INCOME TAX

13 (1) ITA 2007 is amended as follows.

(2) Omit Chapter 6 of Part 9 (trustees' first slice of trust rate income).

(3) In consequence of the amendment made by sub-paragraph (2)—

(a) in section 2(9)(b) (overview of Act), for "4, 5 and 6" substitute "4 and 5";

(b) in section 11(2) (income charged at the default basic rate: non-individuals), for "6" substitute "5";

(c) in section 14(2) (income charged at the dividend ordinary rate: other persons), for "6" substitute "5";

(d) in section 15 (income charged at the trust rate and the dividend trust rate), for "6" substitute "5";

(e) in section 16(2) (savings and dividend income to be treated as highest part of total income) omit paragraph (a) (and the "and" after it);

(f) in section 23 (the calculation of income tax liability), in Step 4, for "6" substitute "5";

(g) in section 462 (overview of Part 9) omit subsection (6);

(h) in section 484 (trustees' expenses to be set against trustees' trust rate income) omit subsection (3);

(i) in section 498 (types of income tax for the purposes of section 497) omit Type 4.

PART 4

COMMENCEMENT

14 (1) The amendments made by this Schedule have effect as follows.

(2) In Part 1—

(a) the amendments made by Chapter 1 have effect in relation to the tax year 2023-24 and subsequent tax years;

(b) the amendments made by Chapter 2 have effect in relation to accounting periods beginning on or after 1 April 2023.

(3) In Part 2—

(a) the amendments made by Chapter 1 have effect in relation to the tax year 2024-25 and subsequent tax years;

(b) the amendments made by Chapter 2 have effect in relation to accounting periods beginning on or after 1 April 2024;

(4) The amendments made by Part 3 have effect in relation to the tax year 2024-25 and subsequent tax years.

SCHEDULE 3

Section 34

CORPORATE INTEREST RESTRICTION ETC.

PART 1

AMENDMENTS TO TIOPA 2010

Introduction

1 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

Tax-interest expense amounts of a company: charities

2 In section 382 (the tax-interest expense amounts of a company), after subsection (1) insert—

"(1A) But, in the case of a company which is a charity (as defined in paragraph 1 of Schedule 6 to FA 2010) at the end of the period of

account, references in this Part to a "tax-interest expense amount" of the company do not include references to an amount which meets Condition A, B or C."

First period of account where new holding company

3 In section 395A (carry forward of interest allowance: new holding company), for subsection (3) substitute—

"(3) For the purposes of this Chapter and Chapter 5—

(a) so far as it would not otherwise be the case—

(i) the first period of account of the new group is treated as beginning with the day on which the qualifying takeover occurs (the "takeover day"), and

(ii) the last period of account of the old group is treated as ending on the day before the takeover day;

(b) the interest allowance of the new group is determined as if periods of account of the old group which ended before the beginning of the first period of account of the new group were periods of account of the new group."

4 In section 400A (carry forward of excess debt cap: new holding company), in subsection (3)—

(a) for "the group's fixed ratio debt cap" substitute "the new group's fixed ratio debt cap";

(b) for "ending immediately before the qualifying takeover" substitute "ending on the day before the takeover day (see section 395A(3))".

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

5 (1) Section 407(1) (amounts not brought into account in determining a company's tax-EBITDA) is amended as follows.

(2) At the end of paragraph (a) insert "(or an amount which would, apart from section 388, be a tax-interest income amount);".

(3) After paragraph (g) insert—

"(ga) a reduction under paragraph 37(3)(b) of Schedule 5 to FA 2019 (non-UK resident companies carrying on UK property businesses etc: unrelieved amounts);".

"Relevant expense amount" and "relevant income amount"

6 (1) Section 411 ("relevant expense amount" and "relevant income amount") is amended as follows.

(2) For subsection (1)(j) substitute—

"(j) debits that are brought into account under Part 5 of CTA 2009 as a result of section 481 of that Act (relevant

non-lending relationships), or would be so brought into account if the company in question were within the charge to corporation tax, other than—

(i) exchange losses, or

(ii) impairment losses;".

(3) For subsection (2)(h) substitute—

"(h) credits that are brought into account under Part 5 of CTA 2009 as a result of section 481 of that Act (relevant non-lending relationships), or would be so brought into account if the company in question were within the charge to corporation tax, other than—

(i) exchange gains, or

(ii) the reversal of impairment losses;".

7 In section 412 (interpretation of section 411), in subsection (7), omit the definition of "relevant non-lending relationship".

Adjusted net group-interest expense: debits referable to times before UK property business etc carried on

8 (1) Section 413 (adjusted net group-interest expense) is amended as follows.

(2) In subsection (3) (upward adjustment), after paragraph (c) insert—

"(ca) an amount in respect of a loan relationship that is brought into account by a member of the group, for a relevant accounting period in relation to the period of account, under section 330ZA CTA 2009 (debits referable to times before UK property business etc carried on) so far as that amount has not been included in the adjusted net group-interest expense of the group for any earlier period of account;

(cb) an amount in respect of a relevant derivative contract that would be brought into account by a member of the group, for a relevant accounting period in relation to the period of account, under section 607ZA of CTA 2009, if an election under regulation 6A of the Disregard Regulations (as defined in section 421) had effect in relation to the contract, so far as the relevant amount has not been included in the adjusted net group-interest expense of the group for any earlier period of account;

(cc) a relevant income amount in respect of a loan relationship or a relevant derivative contract to which a member of the group is a party that—

(i) is recognised in the financial statements of the group for the period,

(ii) is not brought into account by a member of the group, for a relevant accounting period in relation to the period of account, and

(iii) is expected to be brought into account, or (in the case of a relevant derivative contract) would, if an election under regulation 6A of the Disregard Regulations had effect in relation to the contract, be expected to be brought into account, by a member of the group, for another accounting period, under section 330ZA or section 607ZA of CTA 2009;".

(3) In subsection (4) (downward adjustment), after paragraph (c) insert—

"(ca) a relevant expense amount, in respect of a loan relationship or a relevant derivative contract to which a member of the group is a party, that—

(i) is recognised in the financial statements of the group for the period,

(ii) is not brought into account by a member of the group, for a relevant accounting period in relation to the period of account, and

(iii) is expected to be brought into account, or (in the case of a relevant derivative contract) would, if an election under regulation 6A of the Disregard Regulations had effect in relation to the contract, be expected to be brought into account, by a member of the group, for another accounting period, under section 330ZA or section 607ZA of CTA 2009;".

(4) At the end insert—

"(7) Subsection (8) applies, unless the reporting company elects otherwise, in relation to a period of account of a worldwide group—

(a) ending on or after 6 April 2020, and

(b) beginning before 1 April 2023.

(8) In relation to the period of account—

(a) no amount within any of paragraphs (ca) to (cc) of subsection (3) is to be treated as an "upward adjustment", and

(b) no amount within paragraph (ca) of subsection (4) is to be treated as a "downward adjustment"."

Adjusted net group-interest expense: debits in respect of pre-trading expenditure

9 (1) Section 413 (adjusted net group-interest expense) is amended as follows.

(2) In subsection (3) (upward adjustment), after paragraph (cc) (inserted by paragraph 8 of this Schedule) insert—

"(cd) an amount that is brought into account by a member of the group, for a relevant accounting period in relation to the period of account, under section 330(3) of CTA 2009 (debits in respect of pre-trading expenditure) in accordance with an election made under section 330(1)(b) of that Act, so far as that amount has not been included in the adjusted net group-interest expense of the group for any earlier period of account;".

(3) In subsection (4) (downward adjustment), after paragraph (ca) (inserted by paragraph 8 of this Schedule) insert—

"(cb) an amount, in respect of a loan relationship to which a member of the group is a party, that—

(i) is recognised in the financial statements of the group for the period, but

(ii) is prevented from being brought into account in accordance with an election made under section 330(1)(b) of CTA 2009 (debits in respect of pre-trading expenditure);".

Qualifying net group-interest expense: meaning of "equity notes"

10 In section 414 (qualifying net-group interest expense), in subsection (3), at the beginning of paragraph (c) insert "relevant".

11 In section 415 (qualifying net group-interest expense: interpretation), for subsection (7) substitute—

"(7) For the purposes of section 414(3)(c), a "relevant equity note" is a security that—

(a) is an equity note within the meaning of section 1016 of CTA 2010, by reference to satisfying a test in subsection (2) of that section, and

(b) would satisfy that test if the "permitted period" for the purposes of that section were the period of 100 years beginning with the date of the security's issue."

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

12 (1) Section 423 (capitalised interest brought into account for tax purposes in accordance with GAAP) is amended as follows.

(2) After subsection (2A) insert—

"(2AA) Section 413 has effect, in the case of a GAAP-taxable asset within subsection (2AB), as if—

(a) the definition of "upward adjustment" included so much of its carrying value as is attributable to a relevant expense amount (whether or not that amount is brought into account in the group's financial statements for the relevant period of account); and

(b) the definition of "downward adjustment" included so much of its carrying value as is attributable to a relevant income amount (whether or not that amount is brought into account in the group's financial statements for the relevant period of account).

(2AB) A GAAP-taxable asset is within this subsection if it is (or, under section 173 of TCGA 1992, is treated as being) appropriated, in a relevant accounting period in relation to a period of account, from trading stock to fixed assets."

(3) In subsection (3), for "(2)(b) and (2A)" substitute "(2)(b), (2A) and (2AA)".

Interest allowance (non-consolidated investment) election: "non-consolidated associate"

13 (1) Section 429 (meaning of "non-consolidated associate") is amended as follows.

(2) In subsection (1), for "or C" substitute ", C or D".

(3) In subsection (2), in the words before paragraph (a), for "the entity" substitute "the ultimate parent's interest in the entity".

(4) After subsection (4) insert—

"(4A) Condition D is that—

(a) the entity is—

(i) a partnership, or

(ii) a transparent entity (other than a partnership), and

(b) the ultimate parent's interest in the entity is accounted for in the financial statements of the group for the relevant period of account on the basis of fair value accounting."

(5) For subsection (6) substitute—

"(6) For the purposes of this section—

(a) "entity" includes anything which may be treated as an entity for accounting purposes (regardless of whether it has a legal personality as a body corporate);

(b) an entity is "transparent" if—

(i) it is not chargeable to corporation tax or income tax as a person (ignoring any exemptions), or

(ii) it is a collective investment vehicle which is "transparent for income tax purposes" for the purposes of paragraph 8 of Schedule 5AAA to TCGA 1992 (see paragraph 8(7) of that Schedule)."

Public infrastructure

14 (1) Section 435 (group elections modifying the operation of sections 433 and 434) is amended as follows.

(2) In subsection (1), after "worldwide group" insert ", and have each made an election under section 433,".

(3) In subsection (2)—

(a) before paragraph (a) insert—

"(aa) must be made before the end of the earliest elected accounting period (see subsection (11));";

(b) in paragraph (a), after "election" insert ", which may not be before the first day of the earliest elected accounting period".

(4) In subsection (3), for "an election, revocation" substitute "a revocation".

(5) At the end insert—

"(11) The "earliest elected accounting period" is the accounting period which—

(a) is the first elected accounting period of an elected company, and

(b) begins no later than the first elected accounting period of each other elected company.

(12) For the purposes of subsection (11), the "first elected accounting period" of an elected company is the first of the company's accounting periods in relation to which the election is to have effect.

(13) If there is more than one earliest elected accounting period under subsection (11) and those periods (the "relevant periods") do not all end on the same date, the "earliest elected accounting period" is the relevant period that ends no later than each of the other relevant periods."

15 (1) Section 436 (meaning of "qualifying infrastructure activity") is amended as follows.

(2) In subsection (5), for paragraphs (a) and (b) substitute—

"(a) the building or part is, or is to be, let on a short-term basis—

(i) within a UK property business carried on by the company, or another member of the worldwide group of which it is a member at that time, and

(ii) to persons who, at that time, are not related parties of the company or member."

(3) After subsection (5) insert—

"(5A) But a building, or part of a building, is not a public infrastructure asset in relation to a company at a particular time if, were the building or part to be disposed of at that time, profits arising from the disposal would be charged to corporation tax as profits of a trade."

16 After section 438 insert—

"438A Application of section 438: certain creditors treated as qualifying infrastructure companies

(1) This section applies where—

(a) a company ("C"), at a time in the period mentioned in subsection (1) of section 438—

(i) is a member of the worldwide group of which the qualifying infrastructure company mentioned in that subsection is a member, but

(ii) is not a UK group company; and

(b) C is a creditor in relation to an amount which—

(i) is a relevant loan relationship debit (as defined in section 383) for the debtor company, or

(ii) would be a relevant loan relationship debit if the debtor company were UK resident.

(2) For the purposes of section 438, C is treated in relation to the amount mentioned in subsection (1)(b) (the "relevant loan amount") as a qualifying infrastructure company if—

(a) throughout the period mentioned in section 438(1), C—

(i) meets the public infrastructure income test for the accounting period (see subsections (2) to (4) of section 433) and subsection (3) of this section), and

(ii) meets the public infrastructure assets test for the accounting period (see subsections (5) to (10) of that section and subsection (4) of this section),

(but does not satisfy the conditions in subsection (1)(c) and (d) of section 433);

(b) the loan to which the relevant loan amount relates (the "relevant loan") is fully funded by another loan (the "corresponding loan") made to C for that purpose and on substantially the same terms as the relevant loan; and

(c) amounts arising to C in respect of the corresponding loan would, if section 438(2) applied to C, qualify as "exempt amounts" within the meaning of that subsection.

(3) For the purposes of subsection (2)(a)(i), C is also treated as meeting the public infrastructure income test for an accounting period if all,

or all but an insignificant proportion, of its income for the period derives from—

(a) anything listed in any of paragraphs (a) to (c) of section 433(2),

(b) shares in, or debt issued by, a company that meets the test in section 433(2) for that period,

(c) shares in or debt issued by a company that is treated as meeting the public infrastructure income test for that period by reason of this subsection.

(4) For the purposes of subsection (2)(a)(ii), C is also treated as meeting the public infrastructure assets test for an accounting period if all, or all but an insignificant proportion, of the total value of the company's assets recognised in an appropriate balance sheet on each day in that period derives from—

(a) anything listed in any of paragraphs (a) to (e) of section 433(5),

(b) shares in, or debt issued by, a company that meets the test in section 433(5) for that period,

(c) shares in or debt issued by a company that is treated as meeting the public infrastructure assets test for that period by reason of this subsection.

(5) For the purposes of determining whether amounts arising to C would qualify as exempt amounts under section 438(2) (for the purposes of subsection (2)(c) of this section), the recourse of a creditor is treated as being limited to relevant infrastructure matters if, in the event that C fails to perform its obligations in question, the recourse of the creditor is limited to—

(a) anything listed in paragraphs (a) to (c) of section 438(4),

(b) shares in or debt issued by a company whose income and assets consist wholly of income and assets within those paragraphs,

(c) shares in or debt issued by a company whose income and assets consist wholly of income and assets within paragraphs (a) or (b) of this subsection, or

(d) shares in or debt issued by a company whose income and assets consists wholly of income and assets within paragraphs (a) to (c) of this subsection, and so on.

(6) For the purposes of subsection (5), in determining whether a company's income and assets consists wholly of income and assets of a particular description, any source of income or any asset is ignored if, having regard to all the circumstances, it is reasonable to regard as insignificant the amount of income arising from the source, or (as the case may be) the value of the asset recognised, in the accounting period."

Partnerships and other transparent entities

17 In section 447 (partnerships and other transparent entities), for subsection (6) substitute—

"(6) For the purposes of this section an entity is "transparent" if—

(a) it is not chargeable to corporation tax or income tax as a person (ignoring any exemptions), or

(b) it is a collective investment vehicle which is "transparent for income tax purposes" for the purposes of paragraph 8 of Schedule 5AAA to TCGA 1992 (see paragraph 8(7) of that Schedule)."

Investments held by investment managers

18 (1) Section 454A (investments held by investment managers) is amended as follows.

(2) In subsection (1)(a), for "is a member of a worldwide group" substitute "would, apart from this section, be a member of a worldwide group".

(3) After subsection (1) insert—

"(1A) Except in a case within subsection (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."

(4) In subsection (2), for "For the purposes of this Part" substitute "Where S is a partnership or another transparent entity, for the purposes of this Part".

Determining the worldwide group: "non-consolidated subsidiary" and "consolidated subsidiary"

19 (1) Section 475 (meaning of "non-consolidated subsidiary" and "consolidated subsidiary") is amended as follows.

(2) In subsection (1)(b), omit "or on the basis that X were an asset held for sale or held for distribution to owners".

(3) For subsection (3) substitute—

"(3) In this section "subsidiary" has the meaning given by international accounting standards."

Appointment of a reporting company by Revenue and Customs

20 In paragraph 4 of Schedule 7A (appointment of a reporting company by Revenue and Customs), in sub-paragraph (5)(a) for "36 months" substitute "4 years".

Revised interest restriction return

21 (1) Paragraph 8 of Schedule 7A (revised interest restriction return) is amended as follows.

(2) For sub-paragraph (4) substitute –

"(4) Where any of the figures contained in the previous interest restriction return have become incorrect (whether or not as a result of a member of the group amending, or being treated as amending, its company tax return), the reporting company must submit a revised interest restriction return (for the purpose of correcting those figures) to an officer of Revenue and Customs."

(3) For sub-paragraph (5) substitute –

"(5) A revised interest restriction return submitted under sub-paragraph (4) is of no effect unless it is received by an officer of Revenue and Customs before the end of –

(a) the period of 3 months beginning with the relevant day, or

(b) in a case where sub-paragraph (5B) applies, such longer period as an officer of Revenue and Customs may allow.

(5A) For the purposes of sub-paragraph (5), the "relevant day" is –

(a) where the figures contained in the previous interest restriction return have become incorrect as the result of a member of the group amending, or being treated as amending, an amount stated in its company tax return, the first day on which that amount can no longer be altered (within the meaning of paragraph 88(3) to (5) of Schedule 18 to FA 1998);

(b) in any other case, the day on which the figures contained in the previous interest restriction return were found to have become incorrect.

(5B) This sub-paragraph applies where an officer of Revenue and Customs considers that, as a result of an enquiry into a company tax return of another member of the group, the reporting company may subsequently be required to submit another revised interest restriction return under sub-paragraph (4).

(5C) A revised interest restriction return submitted under sub-paragraph (4) may differ from the previous return only so far as the differences are in consequence of the correction referred to in that sub-paragraph."

22 (1) Paragraph 29 of Schedule 7A (penalty for failure to deliver a return) is amended as follows.

(2) In sub-paragraph (1) –

(a) in paragraph (a), after "paragraph 7" insert ", or a revised interest restriction return under paragraph 8(4),";

(b) in paragraph (b), omit "(see sub-paragraph (5) of that paragraph)".

(3) After sub-paragraph (1), insert—

"(1A) In subsection (1)(b), the reference to the "filing date" in relation to a period of account is—

(a) in relation to an interest restriction return under paragraph 7, a reference to the filing date for the purposes of that paragraph (see paragraph 7(5) and (5A));

(b) in relation to a revised interest restriction return under paragraph 8(4), a reference to the end of the period within which the return may have effect (see paragraph 8(5))."

Enquiry into interest restriction return

23 In paragraph 41 of Schedule 7A (normal time limits for opening enquiry), in sub-paragraph (2)—

(a) omit paragraph (b) (but not the "and" at the end), and

(b) in paragraph (c), after "receives the" insert "return or".

Determinations by officers of Revenue and Customs

24 (1) Paragraph 56 of Schedule 7A (power of Revenue and Customs to make determinations where no return filed etc) is amended as follows.

(2) For sub-paragraph (1)(b) (but not the "and" at the end) substitute—

"(b) the filing date in relation to the relevant period of account has passed (see paragraph 7(5)),".

(3) In sub-paragraph (1)(c)—

(a) omit "A,";

(b) for "or C" substitute ", C or D".

(4) Omit sub-paragraphs (2) and (3).

(5) After sub-paragraph (5) insert—

"(5A) Condition D is that—

(a) the appointment of a reporting company has effect in relation to the relevant period of account,

(b) the reporting company is required to submit a revised interest restriction return for the period under paragraph 8(4), and

(c) the time limit in paragraph 8(5) for the submission of the revised return has passed without the revised return being received by an officer of Revenue and Customs."

(6) In sub-paragraph (9)—

(a) after "made" insert "—

(a) in a case where Condition D is met, after the end of the period of 12 months beginning with the expiry of the time limit mentioned in paragraph 8(5), and

(b) in any other case,";

(b) for "the determination date" substitute "the filing date referred to in sub-paragraph (1)(b)".

Consequential claims to company tax returns

25 In paragraph 72 of Schedule 7A (consequential claims to company tax returns), in sub-paragraph (1)(a) omit "56 or".

PART 2

OTHER AMENDMENTS

Penalties for errors: CIR alterations to be ignored in calculating potential lost revenue

26 (1) Paragraph 5 of Schedule 24 to FA 2007 (penalties for errors: calculating potential lost revenue) is amended as follows.

(2) In sub-paragraph (4), before paragraph (a) insert—

"(za) any CIR alteration, other than a permitted reduction, in respect of the tax period to which the document relates,".

(3) At the end insert—

"(5) For the purposes of sub-paragraph (4)(za)—

(a) a "CIR alteration" means an alteration made to an amount disallowed, or reactivated, under Part 10 of the Taxation (International and Other Provisions) Act 2010 as a result of the submission of a revised interest restriction return under paragraph 8(4) of Schedule 7A to that Act;

(b) a CIR alteration is a "permitted reduction" if it has the effect of—

(i) reducing the allocated disallowance of a company by no more than the relevant proportion, or

(ii) increasing the allocated reactivation of a company by no more than the relevant proportion.

(c) the "relevant proportion" is—

(i) for the purposes of paragraph (b)(i), the proportion by which the total disallowed amount of the worldwide group for the period is reduced, as a result of the submission of the revised interest restriction return;

(ii) for the purposes of paragraph (b)(ii) the proportion by which the interest reactivation cap of the

worldwide group is increased, as a result of the submission of the revised interest restriction return.

(6) In sub-paragraph (5), the following terms have the same meaning as in Part 10 of the Taxation (International and Other Provisions) Act 2010—

"allocated disallowance" (see paragraph 22(2) of Schedule 7A to that Act);

"allocated reactivation" (see paragraph 25(2) of that Schedule);

"total disallowed amount of the worldwide group" and "interest reactivation cap of the worldwide group" (see section 373 of that Act)."

Disapplication of carry forward rule for deficits

27 (1) Section 457 of CTA 2009 (basic rule for deficits: carry forward to accounting periods after deficit period) is amended as follows.

(2) In subsection (1), after "section 458" insert "(subject to subsection (2A))".

(3) After subsection (2) insert—

"(2A) If the company is a charity at the end of the deficit period, the deficit may not be carried forward and set off against non-trading profits (as described in subsection (1)) for an accounting period (and, accordingly, the deficit may not be surrendered as group relief under Part 5 of CTA 2010 for the purposes of subsection (2)(a))."

Defined expressions used in Part 10 of TIOPA 2010: "insurance company"

28 (1) In section 494 of TIOPA 2010 (other interpretation), at the end insert—

"(3) The definition of "insurance company" in section 65 of FA 2012 (which is applicable to this Part as a result of section 141(2) of that Act) has effect for the purposes of this Part as if, in subsection (2)(a), the reference to Part 4A of the Financial Services and Markets Act 2000 included a reference to the law of a territory outside the United Kingdom which is similar to or corresponds to that Part."

(2) In Part 7 of Schedule 11 to that Act (index of defined expressions), in the entry relating to an insurance company, in the second column, for "section 141 of FA 2012" substitute "section 494(3)".

Determining the worldwide group: consequential amendment

29 In Part 1 of Schedule 8 to FA 2018 (corporate interest restriction: amendments of Part 10 of TIOPA 2010), omit paragraph 13.

PART 3

PARTS 1 AND 2: COMMENCEMENT AND TRANSITIONAL PROVISION

30 Except as provided in paragraphs 31 to 35, the amendments made by Parts 1 and 2 of this Schedule have effect for periods of account of worldwide groups that begin on or after 1 April 2023.

31 The amendments made by paragraph 5(1) and (3) have effect for periods of account of worldwide groups ending on or after 6 April 2020.

32 (1) The amendments made by paragraph 8 have effect for periods of account of worldwide groups ending on or after 6 April 2020.

(2) Sub-paragraph (3) applies if –

(a) in accordance with Schedule 7A to TIOPA 2010, a reporting company has submitted an interest restriction return for a period of account of a worldwide group ending –

(i) on or after 6 April 2020, but

(ii) before the day on which this Act is passed; and

(b) any of the figures in the interest restriction return have become incorrect as a result of the amendments made by paragraph 8 (including as a result of an election made under section 413(7) of TIOPA 2010).

(3) A revised interest restriction return submitted under paragraph 8 of Schedule 7A to TIOPA 2010 has effect (so far as that would not otherwise be the case) if it is received before the end of the period of 3 months beginning with the day on which this Act is passed.

33 The amendments made by paragraph 9 have effect for periods of account of worldwide groups in relation to which an election under section 330 of CTA 2009 is made, in respect of a relevant accounting period, on or after the day on which this Act is passed.

34 The amendments made by paragraphs 2, 14 to 16, and 27, have effect for accounting periods that begin on or after 1 April 2023.

35 The amendment made by paragraph 20 has effect in relation to appointments of reporting companies made, and the amendments made by paragraph 24(1), (2), (3)(a), (4) and (6)(b) have effect in relation to determinations made, on or after the day on which this Act is passed.

36 References in this Part of this Schedule to periods of account of worldwide groups have the same meaning as in Part 10 of TIOPA 2010 (see section 480 of that Act).

PART 4

TAX TREATMENT OF FINANCING COSTS AND INCOME

37 This Part of this Schedule applies if –

(a) a company ("C") was, for the purposes of Part 7 of TIOPA 2010, a member of a worldwide group in a period of account of the group beginning before 1 April 2017,

(b) the reporting body has, in relation to that period of account, submitted—

(i) a statement of disallowances under section 278 or 279 of TIOPA 2010, and

(ii) a statement of allocated exemptions under section 290 or 291 of that Act,

(c) after the submission of the statement mentioned in sub-paragraph (b), the total disallowed amount of the worldwide group for that period of account is reduced (as a result of an enquiry into C's company tax for a relevant accounting period or otherwise),

(d) as a result of the reduction in the total disallowed amount, the sum of the amounts specified in the statement of allocated exemptions under section 292(4)(b) of TIOPA 2010 exceeds the limit specified in section 292(6) of that Act,

(e) on or after 15 March 2023, the reporting body submits a revised statement of disallowances under section 279 of TIOPA 2010, and

(f) the revised statement of disallowances is treated, under regulation 13 of the 2009 Regulations, as if it had been received by HMRC by the time specified in section 279(2) of TIOPA 2010.

38 (1) Part 7 of TIOPA 2010 has effect in relation to the worldwide group as if the revised statement of disallowances had not been submitted unless—

(a) on or after 15 March 2023, the reporting body also submits a revised statement of allocated exemptions under section 291 of TIOPA 2010, and

(b) the revised statement of allocated exemptions is treated, under regulation 28 of the 2009 Regulations or under sub-paragraph (2), as if it had been received by HMRC by the time specified in section 291(2) of TIOPA 2010.

(2) Where the revised statement of allocated exemptions mentioned in sub-paragraph (1)(a) is received by HMRC before the end of the period of 30 days beginning with the day on which this Act comes into force, it is treated for the purposes of this Part (and of the application of Part 7 of TIOPA 2010 for the purposes of this Part) as if it had been received by HMRC by the time specified in section 291(2) of TIOPA 2010.

(3) If the revised statement of disallowances referred to in paragraph 37(e) specifies that no financing expense amounts for the relevant period of account are to be disallowed, the requirement in section 280(4) of TIOPA 2010 does not apply in relation to the statement.

(4) If the revised statement of allocated exemptions referred to in sub-paragraph (1)(a) specifies that no financing income amounts for the relevant period

of account are to be exempted, the requirement in section 292(4) of TIOPA 2010 does not apply in relation to the statement.

39 For the purposes of this Part (and of the application of Part 7 of TIOPA 2010 for the purposes of this Part) references to the "reporting body" include references to C unless—

(a) the ultimate parent of the worldwide group notifies HMRC that another company is the reporting body for those purposes,

(b) the other company is—

(i) for the purposes of paragraph 37, a company to which Chapter 3 of Part 7 of TIOPA 2010 applies, or

(ii) for the purposes of paragraph 38(1), a company to which Chapter 4 of Part 7 of TIOPA 2010 applies, and

(c) the notice is given before the end of the period within which the revised statement of disallowances mentioned in paragraph 37(f) would be treated, under regulation 13 of the 2009 Regulations, as if it had been received by HMRC by the time specified in section 279(2) of TIOPA 2010.

40 (1) References in this Part to any provision of Part 7 of TIOPA 2010, or of the 2009 Regulations, are references to that provision as it continues to have effect in relation to—

(a) periods of account of the worldwide group ending before 1 April 2017, and

(b) where financial statements of the worldwide group are drawn up in respect of a period that begins before, and ends on or after, 1 April 2017, the period—

(i) beginning at the time the straddling period of account (as defined in paragraph 26(3)(b) of Schedule 5 to F(No.2)A 2017) begins, and

(ii) ending with 31 March 2017.

(2) In this Part, the "2009 Regulations" means the Corporation Tax (Financing Costs and Income) Regulations 2009 (S.I. 2009/3173).

(3) Terms used in this Part and in Part 7 of TIOPA 2010 have the same meaning as in that Part of that Act.

SCHEDULE 4

Section 35

INVESTMENT VEHICLES

PART 1

UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

Genuine diversity of ownership

1 (1) Schedule 5AAA to TCGA 1992 is amended as follows.

(2) In paragraph 7 (appropriate connection)—

(a) in sub-paragraph (5)—

(i) in paragraph (a), for "it meets" substitute "the vehicle meets or, if the vehicle is part of multi-vehicle arrangements, the arrangements meet";

(ii) in paragraph (b), for "it meets" substitute "the vehicle meets, or those multi-vehicle arrangements meet,";

(iii) omit the words after paragraph (b);

(b) after that sub-paragraph insert—

"(5A) For the purposes of sub-paragraph (5), those Regulations have effect as if references to a fund included—

(a) multi-vehicle arrangements, and

(b) a collective investment vehicle which is not an offshore fund.";

(c) after sub-paragraph (7) insert—

"(8) In this Schedule "multi-vehicle arrangements" means arrangements comprising two or more vehicles under which an investor in one of those vehicles would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular vehicle."

(3) In paragraph 13 (qualifying conditions)—

(a) in sub-paragraph (3)—

(i) in paragraph (a), for "it meets" substitute "the scheme meets or, if the scheme is part of multi-vehicle arrangements, the arrangements meet";

(ii) in paragraph (b), for "it meets" substitute "the scheme meets, or those multi-vehicle arrangements meet,";

(iii) omit the words after paragraph (b);

(b) after that sub-paragraph insert—

"(3A) For the purposes of sub-paragraph (3), those Regulations have effect as if references to a fund included—

(a) multi-vehicle arrangements, and

(b) a collective investment scheme which is not an offshore fund."

(4) In paragraph 46 (meaning of qualifying investor etc)—

(a) in sub-paragraph (4)—

(i) in paragraph (a), for "it meets" substitute "the vehicle meets or, if the vehicle is part of multi-vehicle arrangements, the arrangements meet";

(ii) in paragraph (b), for "it meets" substitute "the vehicle meets, or those multi-vehicle arrangements meet,";

(iii) omit the words after paragraph (b);

(b) after that sub-paragraph insert—

"(4A) For the purposes of sub-paragraph (4), those Regulations have effect as if references to a fund included—

(a) multi-vehicle arrangements, and

(b) a collective investment vehicle which is not an offshore fund."

(5) In paragraph 46A (application of diversity of ownership condition), after sub-paragraph (3) insert—

"(4) Where the collective investment vehicle is part of multi-vehicle arrangements, sub-paragraphs (2) and (3) apply as if references to the vehicle included the multi-vehicle arrangements."

(6) In paragraph 47 (other definitions), in sub-paragraph (1) at the appropriate place insert—

""multi-vehicle arrangements" has the meaning given by paragraph 7(8);".

(7) In paragraph 51 (genuine diversity of ownership condition in case of funds existing before 6 April 2020), after sub-paragraph (2) insert—

"(3) Where the collective investment vehicle is part of multi-vehicle arrangements, sub-paragraph (2) applies as if references to the vehicle included the multi-vehicle arrangements."

PART 2

REAL ESTATE INVESTMENT TRUSTS

Amendment of CTA 2010

2 CTA 2010 is amended in accordance with paragraphs 3 to 5.

REITs involving single commercial property

3 (1) In section 527 (being a UK REIT in relation to an accounting period)—

(a) in subsection (2)(b), after "met" insert "or in relation to which condition C is met";

(b) in subsection (3)(b) after "met" insert "or in relation to which condition C is met".

(2) In section 529 (conditions as to property rental business)—

(a) after subsection (2) insert—

"(2A) Condition C is that the property rental business involves at least 1 property—

(a) the value of which is equal to, or exceeds, £20 million at the relevant time, and

(b) which is designed, fitted or equipped for the purpose of being rented, and is rented or available for rent, as a commercial unit.

(2B) For the purposes of subsection (2A) the "relevant time" means—

(a) where the group or company is a UK REIT and its property rental business previously met conditions A and B, the first day on which at least one of those conditions ceased to be met, or

(b) otherwise, entry.";

(b) in subsection (3), for "and B" substitute "to C";

(c) in subsection (4), in the words before paragraph (a), for "and B" substitute "to C".

(3) In section 561—

(a) in subsection (3) for "conditions A and B in section 529 (property rental business)" substitute "the property rental business condition";

(b) after that subsection insert—

"(3A) For the purposes of this section, and sections 563 and 575, the "property rental business condition" is met if either conditions A and B or condition C in section 529 (property rental business) are met."

(4) In section 563 (breach of conditions as to property rental business)—

(a) in the heading, for "conditions as to property rental business" substitute "property rental business condition";

(b) in subsection (1), for "condition A or B in section 529 (property rental business)" substitute "the property rental business condition (see section 561(3A))".

(5) In section 575 (breach of conditions as to property rental business)—

(a) in subsection (1), for "condition A or B in section 529 (property rental business)" substitute "the property rental business condition (see section 561(3A))";

(b) in subsection (2)—

(i) omit the "or" after paragraph (a);
(ii) at the end of paragraph (b) insert ", or

(c) more than twice in relation to Condition C in that section.";

(c) in subsection (4), in Rule 2, for "condition A or B in section 529" substitute "the property rental business condition".

3-year development rule

4 (1) Section 556 (disposal of assets) is amended as follows.

(2) In subsection (3), in paragraph (b)—
(a) omit "fair", and
(b) omit the words from "(determined" to the end.

(3) After that subsection insert—

"(3ZA) For the purposes of subsection (3)(b) the value of a property is to be treated as its fair value (determined in accordance with international accounting standards) at whichever of the following times that value is the greatest—
(a) on entry;
(b) when the property was acquired;
(c) the beginning of the accounting period in which the development commenced."

(4) In subsection (3A), in paragraph (b)—
(a) omit "fair", and
(b) omit the words from "(determined" to the end.

(5) After that subsection insert—

"(3AA) For the purposes of subsection (3A)(b) the value of a property is to be treated as its fair value (determined in accordance with international accounting standards) at whichever of the following times that value is the greatest—
(a) on entry;
(b) when the property was acquired;
(c) the beginning of the accounting period in which the development commenced."

(6) The amendments made by this paragraph have effect in relation to disposals of assets made on or after 1 April 2023.

Genuine diversity of ownership

5 (1) Section 528ZB of CTA 2010 is amended as follows.

(2) In subsection (2)—

(a) in the words before paragraph (a), for "it meets" substitute "the scheme meets or, if the scheme is part of multi-vehicle arrangements, the arrangements meet";

(b) omit the words after paragraph (b).

(3) After that subsection insert—

"(2A) For the purposes of subsection (2), those Regulations have effect as if references to a fund included—

(a) multi-vehicle arrangements, and

(b) a collective investment scheme which is not an offshore fund."

(4) In subsection (3), for "the vehicle" substitute "the scheme".

(5) In subsection (4), for "vehicle", in both places it occurs, substitute "scheme".

(6) After subsection (5) insert—

"(6) Where the collective investment scheme is part of multi-vehicle arrangements, subsections (3) to (5) apply as if references to "the scheme" included the multi-vehicle arrangements.

(7) In this section "multi-vehicle arrangements" means arrangements comprising two or more schemes under which an investor in one of those schemes would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular scheme."

Amendment of the Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006

6 (1) The Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006 (S.I. 2006/2867) are amended as follows.

(2) After regulation 7 insert—

"Partial gross payment of distributions to partnerships

7A—(1) This regulation applies to the payment of a relevant distribution by a company if—

(a) the company reasonably believes that the recipient is a partnership whose partners include a person or body—

(i) to which paragraph (2) or (3) of regulation 7 applies, or

(ii) to which paragraph (4) of that regulation applies where the partner's share of the partnership profits are to be applied for the purposes of the fund, scheme, account or plan in respect of which that partner has duties,

(b) the company has a reasonable belief as to the share of partnership profits that each partner is entitled to,

(c) the company reasonably believes that arrangements exist that will result in each partner's share of the partnership profits reflecting whether or not tax was deducted in relation to that partner (as a result of regulation 3(2) and this regulation), and

(d) the company elects to make the payment in accordance with paragraph (2) (by making it in accordance with that paragraph).

(2) The relevant proportion of the relevant distribution is to be paid without deduction of income tax.

(3) The relevant proportion is equal to the sum of the shares of the partnership profits (expressed as proportions) to which each partner who falls within paragraph (1)(a)(i) or (ii) is entitled.

(4) But—

(a) paragraph (2) is subject to the qualification in paragraph (7) of regulation 7, and

(b) if the company's belief as to any of the matters referred to in paragraph (1) is incorrect, these Regulations apply to the payment as if it were never one to which this regulation applied.

(5) Upon discovering that a payment that was made in accordance with paragraph (2) should not have been made in accordance with that paragraph (as a result of paragraph (4) or otherwise), the company who made it must deliver an amended return in accordance with regulation 11.

(6) Where this paragraph applies to the payment of a relevant distribution, the company making it must (in addition to its duty under regulation 6(1)) furnish the partnership with a statement in writing in respect of each partner that is not a partner who falls within paragraph (1)(a)(i) or (ii) showing the amount of tax deducted in relation to each such partner.

(7) The duty imposed by paragraph (6) is enforceable at the suit or instance of the partnership."

(3) In regulation 3(2) (deduction of tax), after "regulation 7" insert "or 7A".

PART 3

QUALIFYING ASSET HOLDING COMPANIES

Amendment of Schedule 2 to FA 2022

7 Schedule 2 to FA 2022 (qualifying asset holding companies) is amended as follows.

Securitisation companies unable to be QAHCs

8 (1) In paragraph 2(1) (conditions for being a QAHC), in paragraph (e) for "not" substitute "neither a securitisation company nor".

(2) In paragraph 58(1) (interpretation), at the appropriate place insert—

""securitisation company" means a company whose profits are brought into account, for corporation tax purposes, in accordance with regulation 14 of the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296);".

(3) The amendments made by this paragraph are treated as having come into force on 15 March 2023.

(4) Those amendments are not to have effect in relation to a securitisation company that was a QAHC immediately before that date for so long as it continuously remains a QAHC.

Beneficial entitlement held only through QAHCs

9 (1) In paragraph 4 (only direct and certain indirect interests to constitute "relevant interests"), after sub-paragraph (2) insert—

"(2A) For the purposes of sub-paragraph (1)(b)(i), a beneficial entitlement of T or C held solely through one or more QAHCs is to be treated as held by that person directly."

(2) The amendment made by this paragraph is treated as having come into force on 20 July 2022.

(3) But the amendment is not to have effect in relation to a QAHC that became a QAHC before that date if the effect of the amendment would, by itself, cause the QAHC to cease to meet the ownership condition on that date, ignoring—

(a) any provision of Schedule 2 to FA 2022 that would, in some circumstances, treat the ownership condition as met or a breach of the condition as having not occurred, and

(b) any prior breach of that condition.

Determining relevant interests

10 In paragraph 5(4) (determining relevant interests), after paragraph (h) insert—

"(ha) in sections 170(3) and 172(3) (shares or securities with limited or temporary rights), for "less than" there were substituted "more than",

(hb) in section 174 (option arrangements)—

(i) in subsection (1), in Step 4, for "lowest proportion" there were substituted "highest proportion", and

(ii) in subsection (2), for "less than" there were substituted "more than",

(hc) in sections 175(3), 176(3), 177(3) and 178(3) (cases in which more than one of sections 170, 172, and 174 apply), for

"lowest proportion" there were substituted "highest proportion",".

Dealing with bodies corporate without share capital

11 (1) In paragraph 9 (qualifying funds)—

(a) in sub-paragraph (2)(a), in the words before sub-paragraph (i), after "scheme" insert ", or is an AIF that is not a collective investment scheme only by reason of it being a body corporate,";

(b) in sub-paragraph (5)—

(i) in paragraph (a), after "company", in the first place it occurs, insert "that has share capital";

(ii) in paragraph (b)(i), after "company" insert "that has share capital";

(c) in sub-paragraph (6), after "collective investment scheme" insert ", or is an AIF that is not a collective investment scheme only by reason of it being a body corporate,".

(2) Schedule 2 to FA 2022 has effect, and is to be deemed always to have had effect, with the amendment made by this paragraph.

Genuine diversity of ownership

12 (1) Paragraph 9 is amended as follows.

(2) In sub-paragraph (2)(a)—

(a) in sub-paragraph (i), for "it meets" substitute "the fund meets or, if the fund is part of multi-vehicle arrangements, the arrangements meet";

(b) in sub-paragraph (ii), for "it" substitute "the fund or those multi-vehicle arrangements".

(3) In sub-paragraph (3)—

(a) before paragraph (a) insert—

"(za) the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) have effect as if references to a fund included—

(i) multi-vehicle arrangements,

(ii) a collective investment scheme which is not an offshore fund, and

(iii) an AIF that is not a collective investment scheme only by reason of it being a body corporate (and which is not an offshore fund);";

(b) in paragraph (a), in the words before sub-paragraph (i)—

(i) for "the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)" substitute "those Regulations";

(ii) after "a fund" insert "or multi-vehicle arrangements";

(iii) after "the fund", in both places it occurs, insert "or multi-vehicle arrangements";

(c) in that paragraph—

(i) in sub-paragraphs (i) and (ii), after "fund" insert "or multi-vehicle arrangements";

(ii) in sub-paragraph (ii), after "fund" insert "or multi-vehicle arrangements";

(iii) in sub-paragraph (iii), for "vehicle" substitute "fund or multi-vehicle arrangements";

(d) in paragraph (b), after "fund" insert "or multi-vehicle arrangements".

(4) In sub-paragraph (4) after "fund", in each place it occurs, insert "or multi-vehicle arrangements".

(5) In sub-paragraph (10), at the end insert—

""multi-vehicle arrangements" means arrangements comprising two or more funds under which an investor in one of those funds would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular fund;".

Investment strategy condition

13 (1) In paragraph 13 (activity and investment strategy conditions), after sub-paragraph (2) insert—

"(3) A company ("C") may make an election under this sub-paragraph that all relevant equity securities held by C are to be treated as if they were not equity securities listed or traded on a recognised stock exchange or any other public market or exchange for the purposes of—

(a) the investment strategy condition as it applies to C, and

(b) that condition as it applies to any other company with a relevant interest in C.

(4) Equity securities are "relevant" if—

(a) they are listed or traded on a recognised stock exchange or any other public market or exchange,

(b) they are held directly by C,

(c) they were not acquired at a time when the election had effect from a company that is a member of the same group as C, other than a company that was a QAHC at the time of the acquisition, and

(d) where C has previously been and ceased being a QAHC, they were acquired after the most recent occasion on which C became a QAHC.

(5) An election under sub-paragraph (3)—

(a) must be notified to HMRC,

(b) has effect only while the company is a QAHC,

(c) is revoked on the company ceasing to be a QAHC, and

(d) may not otherwise be revoked.

(6) Where an election under sub-paragraph (3) has effect, any dividend or other distribution received by C in respect of relevant equity securities that would otherwise be exempt for the purposes of section 931A(1) of CTA 2009 (charge to tax on distributions received) is to be treated as not exempt for the purposes of that section.

(7) Where—

(a) C disposes of relevant equity securities ("the dispossessed securities"), and

(b) within the period of thirty days after the disposal, C acquires securities ("the acquired securities") of the same class,

any dividend or other distribution received by a person in respect of holding the acquired securities in the period ("the dispossession period") commencing with the disposal by C of the dispossessed securities and ending with the acquisition by C of the acquired securities is to be treated as having been received by C for Corporation Tax purposes.

(8) But the amount of any dividend or other distribution treated as received by C as a result of sub-paragraph (7) is limited to the amount of the dividend or other distribution C would have received had C held the dispossessed securities throughout the dispossession period.

(9) Equity securities are not to be treated as being of the same class unless they are so treated by the practice of the recognised stock exchange, other public market or exchange they are listed or traded on."

(2) Omit paragraph 35 (and the italic heading before it).

(3) In paragraph 58, after sub-paragraph (2) insert—

"(3) In this Schedule, apart from in paragraphs 42 and 43 (worldwide groups), references to a company being a member of a group of companies are to be read in accordance with section 170 of TCGA 1992 (interpretation of sections 171 to 181 of that Act: groups)."

Disposal of derivatives where underlying subject matter is shares

14 (1) In paragraph 53 (no chargeable gain on disposal of overseas land or certain shares), in sub-paragraph (4), at the appropriate place insert—

""derivative contract" means—

(a) a derivative contract within the meaning of Part 7 of CTA 2009 (see section 576 of that Act), or

(b) a contract which is not a derivative contract within the meaning of that Part only as a result of section 589(2)(b) of that Act (general exclusion of contracts whose underlying subject matter consists of shares);".

(2) That paragraph has effect, and is to be deemed always to have had effect, with the amendment made by sub-paragraph (1).

Alternative finance arrangements

15 (1) After paragraph 58 insert—

"Alternative finance arrangements

59 (1) Sub-paragraph (2) applies for the purposes of determining the amounts of relevant interests in companies in accordance with paragraphs 3 to 6 and the provisions of Chapter 6 of Part 6 of CTA 2010 applied by those paragraphs.

(2) Where a person has (in substance) a beneficial entitlement to the profits of a company as a result of qualifying alternative finance arrangements—

(a) that entitlement is to be treated as an entitlement to a proportion of the profits of that company available for distribution to equity holders of the company, and

(b) that person is to be treated as an equity holder.

(3) "Qualifying alternative finance arrangements" means arrangements—

(a) that constitute alternative finance arrangements for the purposes of Chapter 6 of Part 6 of CTA 2009 (alternative finance arrangements), or

(b) that do not constitute alternative finance arrangements only as a result of section 508 of that Act (exclusion provision not at arms length).

(4) But arrangements that are analogous to a normal commercial loan are not qualifying alternative finance arrangements.

(5) Arrangements are analogous to a normal commercial loan if, were the arrangements structured as a loan that resulted in the same or similar entitlements of the parties to the arrangements, they

would constitute a normal commercial loan within the meaning of section 162 of CTA 2010."

(2) In paragraph 3, after sub-paragraph (5) insert—

"(5A) See also paragraph 59, which makes provision for parties to alternative finance arrangements who are equivalent to equity holders to be treated as such."

(3) In paragraph 58(1), in the definition of "equity holder" at the end insert ", but see also paragraph 59 of this Schedule".

SCHEDULE 5

Section 37

RECORDS RELATING TO TRANSFER PRICING

PART 1

AMENDMENTS RELATING TO CORPORATION TAX

Records to be kept for the purposes of corporation tax

1 (1) In Part 3 of Schedule 18 to FA 1998 (duty to keep and preserve records), paragraph 21 is amended as follows.

(2) After sub-paragraph (5A) insert—

"(5AA) Regulations under this paragraph may make provision, in relation to relevant transfer pricing records specified, or of a description specified, in the regulations—

(a) as to the form or manner in which those records are to be kept and preserved;

(b) by reference to things specified in the transfer pricing guidelines (within the meaning of section 164 of TIOPA 2010 (interpretation in accordance with OECD principles))."

(3) For sub-paragraph (6) substitute—

"(6) For the purposes of this paragraph—

(a) records are "relevant transfer pricing records" if the Commissioners for His Majesty's Revenue and Customs reasonably consider that the records may relate to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing);

(b) "supporting documents" includes accounts, books, deeds, contracts, vouchers and receipts."

Assessments relating to corporation tax

2 In Part 5 of Schedule 18 to FA 1998 (determinations and assessments), after paragraph 49 insert—

"Transfer pricing records: carelessness

49A (1) This paragraph applies where—

(a) the situation mentioned in paragraph 41(1) or (2) has been brought about by a person within any of paragraphs (a) to (c) of paragraph 43 ("P") as regards a relevant accounting period of a company,

(b) the situation relates to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing) for the purposes of that period, and

(c) the company has failed to comply, in relation to specified relevant transfer pricing records that relate to the calculation, with either or both of—

(i) paragraph 21 (duty to keep and preserve records), and

(ii) an information notice (within the meaning of Schedule 36 to the Finance Act 2008 (information and inspection powers)).

(2) It is to be presumed for the purposes of this Part of this Schedule that the situation mentioned in paragraph 41(1) or (2) was brought about carelessly by P, unless—

(a) the situation was brought about deliberately by P, or

(b) the company satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that P took reasonable care to avoid the situation.

(3) For the purposes of this paragraph—

(a) "relevant accounting period of a company" means an accounting period in respect of which—

(i) the company, together with one or more other enterprises, constitutes an MNE Group within the meaning of the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 (S.I. 2016/237) (see regulation 2(3) of those Regulations), and

(ii) the MNE Group meets the threshold requirement within the meaning of those Regulations (see regulations 3(2) to (4) of those Regulations);

(b) records are "specified relevant transfer pricing records" if—

(i) they are relevant transfer pricing records specified, or of a description specified, in regulations under

paragraph 21 (duties to keep and preserve records), and

(ii) the company is required to keep and preserve those records under that paragraph."

PART 2

AMENDMENTS RELATING TO INCOME TAX

Records to be kept for the purposes of income tax

3 (1) In Part 2 of TMA 1970 (records), section 12B (records to be kept for purposes of returns) is amended as follows.

(2) After subsection (5B) insert—

"(5BA) Regulations under this section may make provision, in relation to relevant transfer pricing records specified, or of a description specified, in the regulations—

(a) as to the form or manner in which those records are to be kept and preserved;

(b) by reference to things specified in the transfer pricing guidelines (within the meaning of section 164 of TIOPA 2010 (interpretation in accordance with OECD principles))."

(3) In subsection (6)—

(a) omit the "and" after paragraph (a);

(b) after that paragraph insert—

"(aa) records are "relevant transfer pricing records" if the Commissioners for His Majesty's Revenue and Customs reasonably consider that the records may relate to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing);".

Assessments relating to income tax

4 In Part 4 of TMA 1970 (assessment and claims), after section 30B insert—

"30C Transfer pricing records: carelessness for the purposes of section 29

(1) This section applies where—

(a) the situation mentioned in section 29(1) has been brought about by a relevant trustee, or a person acting on their behalf, as regards a relevant year of assessment,

(b) the situation relates to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing) for the purposes of that year, and

(c) the relevant person has failed to comply, in relation to specified relevant transfer pricing records that relate to the calculation, with either or both of—

(i) section 12B (records to be kept for the purposes of returns), and

(ii) an information notice (within the meaning of Schedule 36 to the Finance Act 2008 (information and inspection powers)).

(2) It is to be presumed for the purposes of section 29 that the situation mentioned in section 29(1) was brought about carelessly by the relevant trustee, or the person acting on their behalf, unless—

(a) the situation was brought about deliberately by the relevant trustee, or the person acting on their behalf, or

(b) the relevant trustee satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that they, or the person acting on their behalf, took reasonable care to avoid the situation.

(3) For the purposes of this paragraph—

(a) "relevant person" means a person who was required by a notice under section 8A to make and deliver the return in respect of the relevant year of assessment;

(b) "relevant year of assessment" means a year of assessment in respect of which—

(i) the trustees of the trust concerned, together with one or more other enterprises, constitutes an MNE Group within the meaning of the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 (S.I. 2016/237) (see regulation 2(3) of those Regulations), and

(ii) the MNE Group meets the threshold requirement within the meaning of those Regulations (see regulations 3(2) to (4) of those Regulations);

(c) records are "specified relevant transfer pricing records" if—

(i) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B, and

(ii) the relevant person is required to keep and preserve those records under that section.

30D Transfer pricing records: carelessness for the purposes of section 30B

(1) This section applies where—

(a) the situation mentioned in section 30B(1) has been brought about by a person within section 30B(5) ("P") as regards a partnership statement in respect of a relevant period,

(b) the situation relates to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing) for the purposes of that period, and

(c) the relevant person (whether or not P) has failed to comply, in relation to specified relevant transfer pricing records that relate to the calculation, with either or both of—

(i) section 12B (records to be kept for the purposes of returns), and

(ii) an information notice (within the meaning of Schedule 36 to the Finance Act 2008 (information and inspection powers)).

(2) It is to be presumed for the purposes of section 30B that the situation mentioned in section 30B(1) was brought about carelessly by P, unless—

(a) the situation was brought about deliberately by P, or

(b) the relevant person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that P took reasonable care to avoid the situation.

(3) For the purposes of this paragraph—

(a) "relevant period" means a period in respect of which—

(i) the partnership to which the partnership statement relates, together with one or more other enterprises, constitutes an MNE Group within the meaning of the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 (S.I. 2016/237) (see regulation 2(3) of those Regulations), and

(ii) the MNE Group meets the threshold requirement within the meaning of those Regulations (see regulations 3(2) to (4) of those Regulations);

(b) "relevant person" means a person who was required by a notice under section 12AA to make and deliver the return in respect of the relevant period;

(c) records are "specified relevant transfer pricing records" if—

(i) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B, and

(ii) the relevant person is required to keep and preserve those records under that section."

PART 3

AMENDMENTS RELATING TO CORPORATION TAX AND INCOME TAX

Penalties for errors

5 (1) Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

(2) In Part 1 (liability for penalty), after paragraph 3B insert—

"Errors related to transfer pricing records

3C (1) This paragraph applies where—

(a) a document of a kind listed in the Table in paragraph 1 relating to a relevant tax period is given to HMRC by a person ("P"),

(b) the document contains an inaccuracy—

(i) which falls within paragraph 1(2), and

(ii) which involves the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing) for the purposes of that period, and

(c) the relevant person (whether or not P) failed to comply, in relation to specified relevant transfer pricing records that relate to the inaccuracy, with one or more of—

(i) section 12B of TMA 1970 (records to be kept for the purposes of returns),

(ii) paragraph 21 of Schedule 18 to FA 1998 (duty to keep and preserve records), and

(iii) an information notice (within the meaning of Schedule 36 to FA 2008 (information and inspection powers)).

(2) It is to be presumed that the inaccuracy was careless, within the meaning of paragraph 3, unless—

(a) the inaccuracy was deliberate on P's part, or

(b) P satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that P took reasonable care to avoid the inaccuracy.

(3) Sub-paragraphs (4) to (6) apply for the purposes of this paragraph.

(4) "Relevant person", in relation to a document of a kind listed in the Table in paragraph 1, means—

(a) the person to whose tax liability the document relates,

(b) in the case of a return under section 8A of TMA 1970 (trustee's return), a relevant trustee (within the meaning of that Act), or

(c) in the case of a partnership return, or a statement, declaration or accounts in connection with a partnership

return, a person who was required by a notice under section 12AA of TMA 1970 (partnership return) to make and deliver a return in respect of relevant tax period.

(5) "Relevant tax period" means a tax period—

(a) in respect of which—

(i) the person mentioned in sub-paragraph (4)(a),

(ii) in the case mentioned in sub-paragraph (4)(b), the trustees of the trust concerned, or

(iii) in the case mentioned in sub-paragraph (4)(c), the partnership to which the partnership return relates,

together with one or more other enterprises, constitutes an MNE Group within the meaning of the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 (S.I. 2016/237) (see regulation 2(3) of those Regulations), and

(b) in respect of which the MNE Group meets the threshold requirement within the meaning of those Regulations (see regulations 3(2) to (4) of those Regulations).

(6) Records are "specified relevant transfer pricing records" if—

(a) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and

(b) the relevant person is required to keep and preserve those records under either or both of those provisions."

(3) In Part 4 (miscellaneous), in paragraph 18 (agency), in sub-paragraph (6)—

(a) for "Paragraph 3A applies" substitute "Paragraphs 3A and 3C apply";

(b) for "it applies" substitute "they apply".

Information and inspection powers

6 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

(2) In Part 4 (restrictions on powers), in paragraph 21 (taxpayer notices following tax return)—

(a) in sub-paragraph (3), for "D" substitute "E";

(b) after sub-paragraph (8) insert—

"(8A) Condition E is that the notice is given for the purpose of obtaining any specified relevant transfer pricing information or documents.

(8B) For the purposes of Condition E, information or documents are "specified relevant transfer pricing information or documents" if—

(a) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and

(b) the relevant person is required to keep and preserve those records under either or both of those provisions.

(8C) For the purposes of subsection (8B), the "relevant person" means—

(a) in the case of a tax return made in respect of a chargeable period under section 8A or 12AA of TMA 1970 (trustee's and partnership returns)—

(i) the person, or

(ii) a person who was required by a notice under the section concerned to make and deliver the return;

(b) in any other case, the person.";

(3) In Part 6 (special cases), after paragraph 37B insert—

"Specified relevant transfer pricing documents

37C (1) This paragraph applies to an information notice given to a relevant person in an MNE Group ("A") to the extent that the notice refers to specified relevant transfer pricing documents.

(2) Paragraph 18 (documents not in person's possession or power) does not apply in relation to a specified relevant transfer pricing document that—

(a) is not in A's possession or power, but

(b) is in the power or possession of another relevant person in the MNE Group concerned ("B"),

(and accordingly the information notice may require A to produce the document).

(3) For the purposes of this paragraph—

(a) documents are "specified relevant transfer pricing documents" if—

(i) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and

(ii) A is required to keep and preserve those records under either or both of those provisions;

(b) "MNE Group" has the same meaning as in the Taxes (Base Erosion and Profit Shifting) (Country-by-Country

Reporting) Regulations 2016 (S.I. 2016/237) (see regulation 2(3) of those Regulations);

(c) "relevant person in an MNE Group" means—

(i) a company,

(ii) a trustee of a trust, or

(iii) a partner in a partnership,

where that company, the trustees or the partnership, together with one or more other enterprises, constitutes an MNE Group."

PART 4

COMMENCEMENT

7 Regulations made under—

(a) paragraph 21 of Schedule 18 to FA 1998 by virtue of the amendments made by paragraph 1 of this Schedule, or

(b) section 12B of TMA 1970 by virtue of the amendments made by paragraph 3 of this Schedule,

have effect in relation to such accounting periods or tax years beginning on or after 1 April 2023 as are specified in the regulations.

SCHEDULE 6

Section 44

CATEGORIES OF ALCOHOLIC PRODUCTS: INTERPRETATION

Spirits

1 "Spirits" means—

(a) spirits of any description, and

(b) any mixture or compound made with spirits (including, subject to the following provisions of this Schedule, mixtures that also contain other alcoholic products).

2 The extraction of spirits absorbed in a wooden cask is treated, for the purposes of this Part, as the production of spirits.

Beer

3 "Beer" means—

(a) ale,

(b) porter,

(c) stout,

(d) any other type of beer, and

(e) any other product which is made or sold as beer or as a substitute for beer.

4 (1) A qualifying beer-based beverage is treated as beer for the purposes of this Part.

(2) "Beer-based beverage" means a beverage which is a mixture of beer and any of the following—

(a) fruit or ginger—

(i) cordial,

(ii) carbonated water,

(iii) juice, or

(iv) squash;

(b) lemonade or limeade;

(c) unfermented ginger beer;

(d) any alcoholic product or other alcoholic substance.

(3) A beer-based beverage is "qualifying" if—

(a) it would, apart from this paragraph, fall within paragraph 12 (other fermented products), and

(b) it is of an alcoholic strength not exceeding 5.5%.

Cider

5 "Cider" means a product which—

(a) is obtained from the fermentation of apple juice or pear juice,

(b) has been produced without the addition, at any time, of—

(i) another alcoholic product, or

(ii) anything, other than a permitted substance, which communicates colour or flavour,

(c) satisfies the juice content requirements (see paragraph 7), and

(d) is of an alcoholic strength of less than 8.5%.

6 In paragraph 5, "permitted substance" means a substance that—

(a) appears to the Commissioners to be necessary for the purposes of producing cider, and

(b) is specified in a notice published by the Commissioners for the purposes of this Schedule.

7 (1) For the purposes of paragraph 5, the juice content requirements are satisfied in relation to a product if—

(a) qualifying fruit juice comprises at least 35% of the volume of the pre-fermentation mixture for the product, and

(b) the total of—

(i) the volume of qualifying fruit juice included in the pre-fermentation mixture, and

(ii) the volume of qualifying fruit juice added after fermentation begins,

comprises at least 35% of the end product.

(2) "Qualifying fruit juice" means apple or pear juice of a gravity of at least 1033 degrees.

(3) The "gravity" of apple or pear juice in degrees is determined by—

(a) calculating the ratio of the weight of the volume of the juice to the weight of an equal volume of distilled water (both as at 20°C), and

(b) multiplying that ratio by 1000.

(4) "Pre-fermentation mixture" means the mixture of juice and other ingredients in which the fermentation (from which the cider is obtained) takes place, as that mixture exists immediately before the fermentation process begins.

(5) If the cider consists of a blend of two or more products, each constituting cider, references in sub-paragraph (4) to the pre-fermentation mixture are to the pre-fermentation mixtures for each of those products taken as a whole.

8 (1) "Sparkling cider" means cider which—

(a) if it is packaged in a closed bottle, either—

(i) due to the presence of carbon dioxide, the pressure in the bottle, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure, or

(ii) (regardless of the pressure) the bottle has a mushroom-shaped stopper held in place by a tie or fastening;

(b) if it is not packaged in a closed bottle, has characteristics similar to those of cider which (while packaged in a closed bottle) falls within paragraph (a)(i).

(2) Cider is to be regarded as having been rendered sparkling if—

(a) as a result of aeration, fermentation or any other process, it falls within sub-paragraph (1), or

(b) (if not previously rendered sparkling under paragraph (a)) it is transferred into a closed bottle which has, or the stopper of its bottle is exchanged for, a stopper of the kind mentioned in sub-paragraph (1)(a)(ii).

9 Rendering cider sparkling, at any time after the excise duty point in relation to that cider, is treated for the purposes of this Part as producing sparkling cider.

10 "Still cider" means cider that is not sparkling cider.

Wine

11 "Wine" means any product obtained from the alcoholic fermentation of fresh grapes or of the must of fresh grapes (whether or not the product is fortified with spirits).

Other fermented products

12 "Other fermented product" means a product which—

(a) is either—

(i) obtained from the alcoholic fermentation of any substance, or

(ii) obtained by mixing a product obtained from the alcoholic fermentation of any substance, or anything derived from that product, with anything else; but

(b) is not beer, cider, wine or spirits.

SCHEDULE 7

Section 48

RATES OF ALCOHOL DUTY

TABLE 1

Alcoholic strength of alcoholic product	**Rate of duty per litre of alcohol in the product**
Less than 3.5%	£9.27
At least 3.5% but less than 8.5%	See Table 2
At least 8.5% but not exceeding 22%	£28.50
Exceeding 22%	£31.64

TABLE 2

Description of alcoholic product (of an alcoholic strength of at least 3.5% but less than 8.5%)	**Rate of duty per litre of alcohol in the product**
(a) Still cider (b) Sparkling cider of an alcoholic strength not exceeding 5.5%	£9.67
Beer	£21.01
(a) Spirits, wine and other fermented products (b) Sparkling cider of an alcoholic strength exceeding 5.5%	£24.77

SCHEDULE 8

Section 50

QUALIFYING DRAUGHT PRODUCTS: REDUCED RATES

Description of alcoholic product	**Rate of duty per litre of alcohol in the product**
Alcoholic products of an alcoholic strength of less than 3.5%	£8.42
(a) Still cider of an alcoholic strength of at least 3.5% (b) Sparkling cider of an alcoholic strength of at least 3.5% but not exceeding 5.5%	£8.78
(a) Beer, spirits, wine and other fermented products of an alcoholic strength of at least 3.5% (but less than 8.5%) (b) Sparkling cider of an alcoholic strength exceeding 5.5%	£19.08

SCHEDULE 9

Section 59

SMALL PRODUCER ALCOHOLIC PRODUCTS: DUTY DISCOUNT

PART 1

ALCOHOLIC PRODUCTS, OTHER THAN QUALIFYING DRAUGHT PRODUCTS, OF AN ALCOHOLIC STRENGTH OF LESS THAN 8.5%

Alcoholic products, other than spirits, of an alcoholic strength of less than 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	9.27	-
2	5	50	2.32	46.35
3	50	100	1.39	150.75
4	100	200	0.46	220.25
5	200	600	-	266.25
6	600	1000	-	266.25
7	1000	4500	-0.08	266.25

Spirits of an alcoholic strength of less than 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	6.03	-
2	5	50	2.32	30.15
3	50	100	1.39	134.55
4	100	200	0.46	204.05
5	200	600	-	250.05
6	600	1000	-	250.05
7	1000	4500	-0.07	250.05

Still cider of an alcoholic strength of at least 3.5%; sparkling cider of an alcoholic strength of at least 3.5% but not exceeding 5.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	9.67	-
2	5	50	2.42	48.35
3	50	100	1.45	157.25
4	100	200	0.48	229.75
5	200	600	-	277.75
6	600	1000	-	277.75
7	1000	4500	-0.08	277.75

Beer of an alcoholic strength of at least 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	18.91	-
2	5	112.5	10.51	94.55
3	112.5	225	9.45	1224.38
4	225	450	5.25	2287.50
5	450	900	3.15	3468.75

Beer of an alcoholic strength of at least 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
6	900	1350	-	4886.25
7	1350	4500	-1.55	4886.25

Wine and other fermented products of an alcoholic strength of at least 3.5%; sparkling cider of an alcoholic strength exceeding 5.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	24.77	-
2	5	50	2.48	123.85
3	50	100	2.48	235.45
4	100	200	1.24	359.45
5	200	600	-	483.45
6	600	1000	-	483.45
7	1000	4500	-0.14	483.45

Spirits of an alcoholic strength of at least 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	19.82	-
2	5	50	2.48	99.10
3	50	100	2.48	210.70
4	100	200	1.24	334.70
5	200	600	-	458.70
6	600	1000	-	458.70
7	1000	4500	-0.13	458.70

PART 2

QUALIFYING DRAUGHT PRODUCTS OF AN ALCOHOLIC STRENGTH OF LESS THAN 8.5%

Alcoholic products, other than spirits, of an alcoholic strength of less than 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	8.42	-
2	5	50	2.11	42.10
3	50	100	1.26	137.05
4	100	200	0.42	200.05
5	200	600	-	242.05
6	600	1000	-	242.05
7	1000	4500	-0.07	242.05

Spirits of an alcoholic strength of less than 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	5.47	-
2	5	50	2.11	27.35
3	50	100	1.26	122.30
4	100	200	0.42	185.30
5	200	600	-	227.30
6	600	1000	-	227.30
7	1000	4500	-0.06	227.30

Still cider of an alcoholic strength of at least 3.5%; sparkling cider of an alcoholic strength of at least 3.5% but not exceeding 5.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	8.78	-
2	5	50	2.19	43.90
3	50	100	1.32	142.45

Still cider of an alcoholic strength of at least 3.5%; sparkling cider of an alcoholic strength of at least 3.5% but not exceeding 5.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
4	100	200	0.44	208.45
5	200	600	-	252.45
6	600	1000	-	252.45
7	1000	4500	-0.07	252.45

Beer of an alcoholic strength of at least 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	17.17	-
2	5	112.5	9.54	85.85
3	112.5	225	8.59	1111.40
4	225	450	4.77	2077.78
5	450	900	2.86	3151.03
6	900	1350	-	4438.03
7	1350	4500	-1.41	4438.03

Wine and other fermented products of an alcoholic strength of at least 3.5%; sparkling cider of an alcoholic strength exceeding 5.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	19.08	-
2	5	50	1.91	95.40
3	50	100	1.91	181.35
4	100	200	0.95	276.85
5	200	600	-	371.85
6	600	1000	-	371.85
7	1000	4500	-0.11	371.85

Spirits of an alcoholic strength of at least 3.5%				
Discount band	Start threshold (hectolitres)	End threshold (hectolitres)	Marginal discount (£)	Cumulative discount (£)
1	0	5	15.26	-
2	5	50	1.91	76.30
3	50	100	1.91	162.25
4	100	200	0.95	257.75
5	200	600	-	352.75
6	600	1000	-	352.75
7	1000	4500	-0.10	352.75

SCHEDULE 10

Section 105

PENALTIES FOR CONTRAVENTIONS OF ALCOHOL WHOLESALING PROVISIONS

Liability to penalty

1 A penalty is payable by a person ("P") who contravenes section 100(1) or 103(1).

Amount of penalty

2 (1) If the contravention is deliberate and concealed, the amount of the penalty is the maximum amount (see paragraph 10).

(2) If the contravention is deliberate but not concealed, the amount of the penalty is 70% of the maximum amount.

(3) In any other case, the amount of the penalty is 30% of the maximum amount.

(4) The contravention is—

(a) "deliberate and concealed" if the contravention is deliberate and P makes arrangements to conceal the contravention, and

(b) "deliberate but not concealed" if the contravention is deliberate but P does not make arrangements to conceal the contravention.

Reductions for disclosure

3 (1) Paragraph 4 provides for reductions in penalties under this Schedule where P discloses a contravention.

(2) P discloses a contravention by—

(a) telling the Commissioners about it,

(b) giving the Commissioners reasonable help in identifying any other contraventions of section 100(1) or 103(1) of which P is aware, and

(c) allowing the Commissioners access to records for the purpose of identifying such contraventions.

(3) Disclosure of a contravention—

(a) is "unprompted" if made at a time when P has no reason to believe that the Commissioners have discovered or are about to discover the contravention, and

(b) otherwise, is "prompted".

(4) In relation to disclosure "quality" includes timing, nature and extent.

4 (1) Where P discloses a contravention, the Commissioners must reduce the penalty to one that reflects the quality of the disclosure.

(2) If the disclosure is prompted, the penalty may not be reduced below—

(a) in the case of a contravention that is deliberate and concealed, 50% of the maximum amount,

(b) in the case of a contravention that is deliberate but not concealed, 35% of the maximum amount, and

(c) in any other case, 20% of the maximum amount.

(3) If the disclosure is unprompted, the penalty may not be reduced below—

(a) in the case of a contravention that is deliberate and concealed, 30% of the maximum amount,

(b) in the case of a contravention that is deliberate but not concealed, 20% of the maximum amount, and

(c) in any other case, 10% of the maximum amount.

Special reduction

5 (1) If the Commissioners think it right because of special circumstances, they may reduce a penalty under this Schedule.

(2) In sub-paragraph (1) "special circumstances" does not include ability to pay.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—

(a) staying a penalty, and

(b) agreeing a compromise in relation to proceedings for a penalty.

Assessment

6 (1) Where P becomes liable for a penalty under this Schedule, the Commissioners must—

(a) assess the penalty,

(b) notify P, and

(c) state in the notice the contravention in respect of which the penalty is assessed.

(2) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment is to be treated as an amount of duty due from P under this Act and may be recovered accordingly.

(4) An assessment of a penalty under this Schedule may not be made later than one year after evidence of facts sufficient in the opinion of the Commissioners to indicate the contravention comes to their knowledge.

(5) Two or more contraventions may be treated by the Commissioners as a single contravention for the purposes of assessing a penalty under this Schedule.

Reasonable excuse

7 (1) Liability to a penalty does not arise under this Schedule in respect of a contravention which is not deliberate if P satisfies the Commissioners or (on an appeal made to the appeal tribunal) the tribunal that there is a reasonable excuse for the contravention.

(2) For the purposes of sub-paragraph (1), where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the contravention.

Companies: officer's liability

8 (1) Where a penalty under this Schedule is payable by a company in respect of a contravention which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as the Commissioners may specify by written notice to the officer.

(2) Sub-paragraph (1) does not allow the Commissioners to recover more than 100% of a penalty.

(3) In the application of sub-paragraph (1) to a body corporate other than a limited liability partnership, "officer" means—

(a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),

(b) a manager, and

(c) a secretary.

(4) In the application of sub-paragraph (1) to a limited liability partnership, "officer" means a member.

(5) In the application of sub-paragraph (1) in any other case, "officer" means—

(a) a director,

(b) a manager,

(c) a secretary, and

(d) any other person managing or purporting to manage any of the company's affairs.

(6) Where the Commissioners have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—

(a) paragraph 5 applies to the specified portion as to a penalty,

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

(c) sub-paragraphs (3) to (5) of paragraph 6 apply as if the notice were an assessment of a penalty, and

(d) paragraph 9 applies as if the officer were liable to a penalty.

(7) In this paragraph "company" means any body corporate or unincorporated association, but does not include a partnership.

Double jeopardy

9 P is not liable to a penalty under this Schedule in respect of a contravention in respect of which P has been convicted of an offence.

The maximum amount

10 (1) In this Schedule, "the maximum amount" means £10,000.

(2) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, the Treasury may by regulations substitute for the sum for the time being specified in sub-paragraph (1) such other sum as appears to them to be justified by the change.

(3) In sub-paragraph (2), "relevant date" means—

(a) the date on which the Finance (No. 2) Act 2023 is passed, and

(b) each date on which the power conferred by that sub-paragraph has been exercised.

(4) Regulations under this paragraph do not apply to any contravention which occurred before the date on which they come into force.

Appeal tribunal

11 In this Schedule "appeal tribunal" has the same meaning as in Chapter 2 of Part 1 of the FA 1994.

SCHEDULE 11

Section 108

ALCOHOL DUTY: REVIEWS AND APPEALS

1 (1) Section 13A(2) of FA 1994 (meaning of "relevant decision") is amended as follows.

(2) In paragraph (c), for "section 8, 10, 11 or 36G of the Alcoholic Liquor Duties Act 1979," substitute "section 52, 60, 78 or 79 of Part 2 of the Finance (No. 2) Act 2023 (alcohol duty),".

(3) In paragraph (ea), for sub-paragraphs (i) and (ii) substitute—

"(i) regulations under section 102 of Part 2 of the Finance (No. 2) Act 2023 (alcohol duty), or

(ii) Schedule 12 to that Act;".

(4) In paragraph (f), for "paragraph 4(2)(h) of Schedule 2A to the Alcoholic Liquor Duties Act 1979 (duty stamps)" substitute "paragraph 4(2)(h) of Schedule 12 to the Finance (No. 2) Act 2023 (alcohol duty: duty stamps)".

2 In Schedule 5 to FA 1994 (decisions subject to review and appeal), for paragraph 3 (and the heading immediately preceding it) substitute—

"Part 2 of the Finance (No. 2) Act 2023 (alcohol duty)

3 (1) The following decisions under or for the purposes of Part 2 of the Finance (No. 2) Act 2023 (alcohol duty)—

(a) any decision as to whether or not any duty is to be remitted or repaid under section 73 (research and experiments) or 74 (spoilt alcoholic products) as to the conditions subject to which the duty is to be remitted or repaid;

(b) any decision—

(i) on a claim under section 75 for repayment of duty (alcoholic ingredients relief), or

(ii) as to whether or not to remit duty under that section;

(c) any decision for the purposes of section 76 (imported medical articles) or section 78 (authorised use for certain purposes) as to whether or not to recognise any article as used for medical purposes;

(d) any decision for the purposes of section 78 (authorised use for certain purposes)—

(i) as to the use to which any article is or is to be put, or as to the purposes for which it is or is to be used,

(ii) as to whether or not permission or authorisation for any person to receive, or for the delivery of,

any spirits without payment of duty is to be granted or withdrawn, or

(iii) as to the conditions subject to which the permission or authorisation is granted;

(e) any decision for the purposes of section 79 (imported goods not for human consumption) as to whether or not any goods are for human consumption;

(f) any decision for the purposes of section 82 (approval requirement: producers) or 83 (supplementary provision about approvals)—

(i) as to whether or not, and in respect of which alcoholic products, premises or activities, an approval is given,

(ii) the period for which, or conditions subject to which, an approval is given,

(iii) as to the revocation or variation of an approval, or

(iv) as to whether a person is exempt from the approval requirement;

(g) any decision as to the application of an exemption under section 86 (mixing alcoholic products);

(h) any decision as to whether or not a licence for the purposes of section 91 (licence to manufacture and deal wholesale in denatured alcohol) is to be granted to a person, or as to the revocation or suspension of a licence for the purposes of that section;

(i) any decision for the purposes of any provision of Chapter 7 (wholesaling of controlled alcoholic products) as to whether or not, and in which respects, a person is to be, or to continue to be, approved and registered or as to the conditions or restrictions subject to which a person is to be approved and registered;

(j) any decision for the purposes of section 111 as to whether or not any drawback is to be set against an amount chargeable in respect of alcohol duty or as to the conditions subject to which drawback is set against that amount.

(2) Any decision which—

(a) is made under or for the purposes of any regulations under section 88 (alcoholic products regulations) of the Finance (No. 2) Act 2023, and

(b) is a decision as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, the security.

(3) Any decision which is made under or for the purposes of any regulations under section 90 (denatured alcohol) or section 92 (regulations relating to denatured alcohol) of the Finance (No. 2) Act 2023 and is a decision—

(a) as to whether or not any process is to be, or to continue to be, approved for any purposes;

(b) as to the conditions subject to which the approval is given;

(c) as to the revocation or variation of an approval;

(d) as to whether or not a person is to be required to give security for the fulfilment of an obligation or as to the form or amount of, or the conditions of, the security.

(4) Any decision which—

(a) is made under paragraph 1 of Schedule 3 to the Finance Act 2001, and

(b) relates to Part 2 of the Finance (No. 2) Act 2023."

SCHEDULE 12

Section 112

ALCOHOL DUTY: DUTY STAMPS

Retail containers to be stamped

1 (1) Retail containers of alcoholic products to which this Schedule applies are to be stamped—

(a) in such cases and circumstances, and with a duty stamp of such a type, as may be prescribed; but

(b) subject to such exceptions as may be prescribed.

(2) In this Schedule "retail container", in relation to an alcoholic product, means a container—

(a) of a capacity of 35 centilitres or more, and

(b) in which, or from which, the alcoholic product is intended to be sold by retail.

(3) This Schedule applies to alcoholic products that are—

(a) spirits, wine or other fermented products, and

(b) of an alcoholic strength of at least 30%.

(4) For the purposes of this Schedule a retail container is "stamped" if—

(a) it carries a type A stamp or a label which incorporates a type B stamp, and

(b) the stamp or label mentioned in paragraph (a) has been affixed to the container in a way that complies with the requirements of regulations under this Schedule.

(5) In this Schedule "duty stamp" means any of the following—

(a) a document (a "type A stamp") issued by or on behalf of the Commissioners which—

(i) is designed to be affixed to a retail container of an alcoholic product, and

(ii) indicates that the appropriate duty, or an amount representing some or all of the appropriate duty, has been (or is to be) paid;

(b) a part of a label for a retail container of an alcoholic product (a "type B stamp") which—

(i) is incorporated in the label under the authority of the Commissioners, and

(ii) indicates that the appropriate duty, or an amount representing some or all of the appropriate duty, has been (or is to be) paid.

(6) In sub-paragraph (5) "the appropriate duty" means the duty chargeable on the quantity and description of the alcoholic product contained, or to be contained, in the retail container to which the stamp, or the label incorporating the stamp, is, or is to be, affixed.

Power to alter alcoholic products, and capacity of containers, to which this Schedule applies

2 (1) The Treasury may by regulations amend paragraph 1(2)(a) for the purpose of varying the capacity from time to time specified in that provision.

(2) The Treasury may by regulations amend paragraph 1(3) so that this Schedule—

(a) applies to any description of alcoholic product to which it does not apply, or

(b) ceases to apply to any description of alcoholic product to which it does apply.

Acquisition of, and payment for, duty stamps

3 (1) The Commissioners may by regulations make provision as to the terms and conditions on which a person may obtain—

(a) a type A stamp,

(b) authority to incorporate in a label a type B stamp,

(c) authority to obtain a label incorporating a type B stamp (a "type B label"),

(d) authority to affix a type B label to a retail container of an alcoholic product.

(2) Regulations under sub-paragraph (1) may in particular make provision for or in connection with—

(a) requiring a person in prescribed cases or circumstances to pay, or agree to pay, the prescribed amount to the Commissioners or to a person authorised by the Commissioners for this purpose;

(b) requiring a person in prescribed cases or circumstances to provide to the Commissioners such security as they may require in respect of payment of the appropriate duty.

(3) An amount prescribed for the purposes of sub-paragraph (2)(a) must not exceed the aggregate of—

(a) an amount representing the appropriate duty, and

(b) in the case of a type A stamp, the cost of issuing the stamp.

(4) Regulations under sub-paragraph (1) may also in particular make provision for or in connection with requiring or enabling the Commissioners to bear, in prescribed circumstances, in the case of a type B stamp, all or part of so much of the cost of producing the label as is attributable to the incorporation in it of the stamp.

(5) The whole of an amount payable for a duty stamp shall be treated for the purposes of the customs and excise Acts as an amount due by way of excise duty.

(6) In this paragraph "the appropriate duty" means the duty chargeable on the quantity and description of alcoholic product contained, or to be contained, in the retail container to which the stamp, or the label incorporating the stamp, is to be affixed.

Regulations

4 (1) The Commissioners may by regulations make provision about matters relating to duty stamps.

(2) The regulations may, in particular, make provision about—

(a) the times at which a retail container must bear a duty stamp;

(b) the type of duty stamp (see paragraph 1(5)) with which a retail container is to be stamped in any particular case or circumstances;

(c) the design and appearance of a duty stamp (including the production of a type B label);

(d) the information that is to appear on a duty stamp;

(e) the cost of issuing a type A stamp for the purposes of paragraph 3(3)(b);

(f) the procedure for obtaining—

(i) a type A stamp,

(ii) authority to incorporate in a label a type B stamp,

(iii) authority to obtain a type B label,

(iv) authority to affix a type B label to a retail container of an alcoholic product,

(including provision setting periods of notice);

(g) where on the container a type A stamp, or a type B label, is to be affixed;

(h) repayment of, or credit for, in prescribed circumstances and subject to such conditions as may be prescribed, all or part of a payment made under or by reason of this Schedule to the Commissioners or to a person authorised by the Commissioners;

(i) liability to forfeiture in prescribed circumstances of some or all of a payment made, or security provided, under or by reason of this Schedule to the Commissioners or to a person authorised by the Commissioners.

(3) The regulations may also, in particular, make provision for or in connection with preventing a type A stamp, or a type B label, from being used by a person other than—

(a) in the case of a type A stamp, the person to or for whom the stamp was issued or a person authorised by that person to affix the stamp to a retail container of an alcoholic product;

(b) in the case of a type B stamp, the person to or for whom authority to obtain the type B label, or to affix that label to a retail container of an alcoholic product, was given by the Commissioners.

(4) The regulations may also, in particular, make provision—

(a) for or in connection with requiring a person ("P") who is not established, and does not have any fixed establishment, in the United Kingdom, in prescribed circumstances, to appoint another person (a "duty stamps representative") to act on P's behalf in relation to duty stamps, and

(b) as to the rights, obligations or liabilities of duty stamps representatives.

(5) The Commissioners may, with a view to the protection of the revenue, make regulations for securing and collecting duty payable in accordance with this Schedule.

Offences of possession, sale etc of unstamped containers

5 (1) Except in such cases as may be prescribed, it is an offence for a person to—

(a) possess, transport or display, or

(b) sell, offer for sale or otherwise deal in,

unstamped retail containers containing alcoholic products to which this Schedule applies.

(2) It is a defence for a person charged with an offence under this paragraph to prove that the retail containers in question were not required to be stamped.

(3) A person who commits an offence under this paragraph is liable—

(a) on summary conviction in England and Wales, to a fine not exceeding £20,000;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(4) A retail container in relation to which an offence under this paragraph is committed is liable to forfeiture (together with its contents).

Offence of using premises for sale of alcoholic products in or from unstamped containers

6 (1) It is an offence for a manager of premises to cause or permit the premises to be used for the sale of alcoholic products, to which this Schedule applies, in or from an unstamped retail container.

(2) It is a defence for a person charged with an offence under this section to prove that the retail container in question was not required to be stamped.

(3) A person who commits an offence under this paragraph is liable—

(a) on summary conviction in England and Wales, to a fine not exceeding £20,000;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(4) Where an offence under this paragraph is committed, all unstamped retail containers of alcoholic products on the premises at the time of the offence are liable to forfeiture (together with their contents).

(5) For the purposes of this Schedule, a person is a "manager" of premises if the person—

(a) is entitled to control their use,

(b) is entrusted with their management, or

(c) is in charge of them.

Alcohol sales ban following conviction for an offence under paragraph 6

7 (1) A court by or before which a person is convicted of an offence under paragraph 6 may make an order prohibiting the use of the premises, in respect of which the offence was committed, for the sale of alcoholic products during a period specified in the order.

(2) The period—

(a) begins on the day specified in the order, and

(b) may not exceed 6 months.

(3) It is an offence for a manager of premises to cause or permit the premises to be used in breach of an order under this paragraph.

(4) A person who commits an offence under this paragraph is liable—

(a) on summary conviction in England and Wales, to a fine not exceeding £20,000;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Penalty for altering duty stamps

8 (1) This paragraph applies where a person, otherwise than in accordance with regulations under this Schedule—

(a) alters a type A stamp after it has been issued, or

(b) alters a type B stamp after the label in which it is incorporated has been produced.

(2) The alteration is conduct which attracts a penalty under section 9 of FA 1994 (civil penalties).

(3) The stamp, or the label in which it is incorporated, is liable to forfeiture.

Penalty for affixing wrong, altered or forged stamps, or over-labelling

9 (1) This paragraph applies where a person affixes to a retail container that is required to be stamped any of the items mentioned in sub-paragraphs (2) to (5).

(2) The first is—

(a) a type A stamp, or

(b) a label incorporating a type B stamp,

if the stamp is not a correct stamp for that container in accordance with regulations under this Schedule.

(3) The second is—

(a) a type A stamp that has been altered, otherwise than in accordance with regulations under this Schedule, after it has been issued, or

(b) a label incorporating a type B stamp if the stamp has been altered, otherwise than in accordance with regulations under this Schedule, after the label has been produced.

(4) The third is an item that purports to be (but is not)—

(a) a type A stamp, or

(b) a label incorporating a type B stamp.

(5) The fourth is any label or other item affixed in such a way as to cover up all or part of—

(a) a type A stamp affixed to the container, or

(b) a type B stamp incorporated in a label affixed to the container,

except where the label or other item is so affixed in accordance with regulations under this Schedule.

(6) The person's conduct attracts a penalty under section 9 of FA 1994 (civil penalties).

(7) The retail container is liable to forfeiture (together with its contents).

Penalty for failing to comply with regulations

10 (1) If a person fails to comply with a requirement imposed by or under regulations under this Schedule—

(a) the person's conduct attracts a penalty under section 9 of FA 1994;

(b) any article in respect of which the person fails to comply with the requirement is liable to forfeiture (including, in the case of a container, its contents).

(2) Regulations under this Schedule may make provision as to the amount by reference to which the penalty under sub-paragraph (1)(a) is to be calculated.

Forfeiture of forged, altered or stolen duty stamps

11 (1) The following items are liable to forfeiture.

(2) The first is an item that purports to be (but is not)—

(a) a type A stamp, or

(b) a label incorporating a type B stamp.

(3) The second is—

(a) a type A stamp that has been altered, otherwise than in accordance with regulations under this Schedule, after it has been issued, or

(b) a label incorporating a type B stamp if the stamp has been altered, otherwise than in accordance with regulations under this Schedule, after the label has been produced.

(4) The third is—

(a) a type A stamp, or

(b) a label incorporating a type B stamp,

that is in a person's possession unlawfully.

Interpretation

12 In this Schedule—

"duty stamp" has the meaning given by paragraph 1(5);

"prescribed" means prescribed in regulations made by the Commissioners;

"retail container" has the meaning given by paragraph 1(2);

"stamped" and "unstamped" are to be read in accordance with paragraph 1(4);

"type A stamp" has the meaning given by paragraph 1(5)(a);

"type B stamp" has the meaning given by paragraph 1(5)(b).

SCHEDULE 13

Section 114

ALCOHOL DUTY: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

GENERAL

CEMA 1979

1 CEMA 1979 is amended in accordance with paragraphs 2 to 5.

2 (1) Section 1 (interpretation) is amended as follows.

(2) In subsection (1), in the definition of "the Customs and Excise Acts 1979", after "the Tobacco Products Duty Act 1979" insert—

"and references (however expressed) to the Customs and Excise Acts 1979, or to the group of Acts included in the Customs and Excise Acts 1979, include references to Part 2 of the Finance (No. 2) Act 2023 (alcohol duty);"

(3) In subsection (3), omit "Alcoholic Liquor Duties Act 1979" and the list of expressions relating to that Act.

(4) After subsection (3) insert—

"(3ZA) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by Part 2 of the Finance (No. 2) Act 2023 (alcohol duty) has, except where the context otherwise requires, the same meaning in this Act or any such instrument as in that Part; and for ease of reference the following is a list of the expressions concerned—

"alcoholic product"
"beer"
"cider"
"other fermented product"
"spirits"
"wholesaler"
"wine"."

3 In section 112 (power of entry upon premises, etc of revenue traders), in subsection (5), for "dutiable alcoholic liquors" substitute "alcoholic products".

4 (1) Section 114 (power to prohibit use of certain substances in exciseable goods) is amended as follows.

(2) In subsections (1) and (2), for "or liquor", in each place it occurs, substitute ", product or liquid".

(3) In subsection (3)—

(a) for "or liquor" substitute ", product or liquid";

(b) for "substance or liquid" substitute "substance, product or liquid".

5 In section 163A (power to search articles), in subsection (2), in the words before paragraph (a), for "dutiable alcoholic liquor" substitute "alcoholic products".

Customs and Excise Duties (General Reliefs) Act 1979

6 In section 18 of the Customs and Excise Duties (General Reliefs) Act 1979 (interpretation) in subsection (2), for "Alcoholic Liquor Duties Act 1979" substitute "Part 2 of the Finance (No. 2) Act 2023".

Excise Duties (Surcharges or Rebates) Act 1979

7 In section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (surcharges or rebates of amounts due for excise duties), in subsection (1), for paragraph (a) substitute—

"(a) that chargeable in respect of alcoholic products;".

FA 1994

8 FA 1994 is amended in accordance with paragraphs 9 to 14.

9 In section 12 (assessments to excise duty), in subsection (2)(ca), for "Schedule 2A to the Alcoholic Liquor Duties Act 1979" substitute "Schedule 12 to the Finance (No. 2) Act 2023".

10 In section 12A (other assessments relating to excise duty matters), in subsection (3), for paragraph (bb) substitute—

"(bb) section 60, 78 or 79 of the Finance (No. 2) Act 2023,".

11 (1) Section 12B (section 12A: supplementary provisions) is amended as follows.

(2) In subsection (2), for paragraphs (ea) and (eb) substitute—

"(ea) in the case of an assessment under section 78 of the Finance (No. 2) Act 2023, the time of delivery from the relevant premises (as defined in that section);

(eb) in the case of an assessment under section 79 of that Act, the time of importation;".

(3) In subsection (2)(ec), for "section 36G of that Act" substitute "section 60 of that Act".

12 In section 16 (appeals to a tribunal), in subsection (3A), for "section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979" substitute "section 78 or 79 of the Finance (No. 2) Act 2023 (alcohol duty: certain reliefs or exemptions for spirits)".

13 In section 16A (temporary approvals etc. pending review or appeal), in subsection (2)(c) for "section 88C ALDA 1979" substitute "section 100 of the Finance (No. 2) Act 2023".

14 In Schedule 5 (decisions subject to review and appeal)—

(a) in the shoulder reference, for "Section 14" substitute "Section 13A";
(b) omit paragraph 9ZA (and the heading preceding it).

VATA 1994

15 (1) In Part 2 of Schedule 8 to VATA 1994 (zero-rating: groups), Group 1 (food) is amended as follows.

(2) In excepted item 3, for the words from "any duty" to "made-wine" substitute "alcohol duty under Part 2 of the Finance (No. 2) Act 2023".

(3) In excepted item 7, in paragraph (c), for "made-wine" substitute "other fermented products (as defined in Part 2 of the Finance (No. 2) Act 2023)".

FA 2001

16 In paragraph 1(2) of Schedule 3 to FA 2001 (excise duty: payments by the Commissioners in case of error or delay)—

(a) in paragraph (a), for "section 8(1) or 10(1) of the Alcoholic Liquor Duties Act 1979" substitute "section 78 of the Finance (No. 2) Act 2023 (alcohol duty: authorised use for certain purposes)";
(b) omit paragraph (b).

FA 2007

17 In Schedule 24 to FA 2007 (penalties for errors), in the Table in paragraph 1, for the entry relating to alcoholic liquor duties and statements or declarations in connection with a claim for repayment of duty under section 4(4) of FA 1995 substitute—

"Alcohol duty	Statement or declaration in connection with a claim for repayment of duty under section 75 of F(No. 2)A 2023."

FA 2008

18 (1) Schedule 41 to FA 2008 (penalties: failure to notify etc.) is amended as follows.

(2) In the Table in paragraph 1, for the entry relating to alcohol liquor duties and the obligation to be authorised and registered to obtain and use duty stamps under regulations under ALDA 1979 substitute—

"Alcohol duty	Obligations under section 91 of F(No. 2)A 2023 (licence to manufacture and deal wholesale in denatured alcohol).
Alcohol duty	Obligation to be authorised and registered to obtain and use duty stamps under regulations under

	paragraph 4 of Schedule 12 to F(No. 2)A 2023 (duty stamps)."

(3) In the Table in paragraph 3, for the three entries relating to ALDA 1979 substitute—

"Part 2 of F(No. 2)A 2023 (alcohol duty), section 53(2)	Unauthorised repackaging of qualifying draught products.
Part 2 of F(No. 2)A 2023 (alcohol duty), section 78(8)	Spirits: authorised use for certain purposes.
Part 2 of F(No. 2)A 2023 (alcohol duty), section 79(2)	Spirits: imported goods not for human consumption."

TCTA 2018

19 (1) TCTA 2018 is amended as follows.

(2) In section 49 (sections 44 to 48: interpretation), in the definition of "excise duty", for paragraph (a) substitute—

"(a) Part 2 of the Finance (No. 2) Act 2023 (alcohol duty),".

(3) In section 53 (meaning of "excise duty"), for paragraph (a) substitute—

"(a) Part 2 of the Finance (No. 2) Act 2023 (alcohol duty),".

Taxation (Post-transition Period) Act 2020

20 In section 4(2) of the Taxation (Post-transition Period) Act 2020 ("relevant excise duty provision"), for paragraphs (a) to (f) substitute—

"(a) section 42 of F(No.2) A 2023 (alcohol);".

PART 2

APPROVALS ETC.

CEMA 1979

21 CEMA 1979 is amended in accordance with paragraphs 22 to 27.

22 (1) Section 1(1) (interpretation:defined terms) is amended as follows.

(2) In the definition of "the Customs and Excise Acts 1979", omit "the Alcoholic Liquor Duties Act 1979,".

(3) In the definition of "excise warehouse", omit ", and, except in that section, also includes a distiller's warehouse".

(4) In the definition of "warehouse"—

(a) for "expressions" substitute "expression";

(b) omit "and "distiller's warehouse"";

(c) omit "and, except in that section, also includes a distiller's warehouse".

23 (1) Section 112 (power of entry upon premises, etc of revenue traders) is amended as follows.

(2) In subsection (3), for the words from "distiller" to "occupier" substitute "a person who produces alcoholic products or an occupier".

(3) In subsection (6), for "a distiller" substitute "a person who produces alcoholic products".

24 In section 113 (power to search for concealed pipes etc), in subsection (6), for the words for the words from "distillers" to "cider" substitute "persons who produce alcoholic products".

25 In section 136 (offences in connection with claims for drawback etc), in subsection (5), for paragraph (b) substitute—

"(b) section 74 of the Finance (No. 2) Act 2023 (remission or repayment of duty on spoilt alcoholic products)."

26 (1) Section 160 (power to take samples) is amended as follows.

(2) In subsection (2), for the words from "any of the following" to "cider" substitute "a revenue trader to whom this subsection applies".

(3) After subsection (2) insert—

"(2A) The revenue traders to whom subsection (2) applies are persons who produce alcoholic products."

27 In section 178 (citation) in subsection (2), omit "the Alcoholic Liquor Duties Act 1979,".

FA 1994

28 In section 16A of FA 1994 (temporary approvals etc. pending review or appeal), at the end of subsection (2) insert—

"(g) approved under section 82 of the Finance (No. 2) Act 2023 (approval to produce alcoholic products)."

FA 2007

29 (1) The Table in paragraph 1 of Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

(2) Omit the entry relating to alcoholic liquor duties and returns under regulations under section 13, 49, 56 or 62 of ALDA 1979.

(3) After the entry relating to alcohol duty (inserted by paragraph 17 of this Schedule) insert—

"Alcohol duty	Return under regulations under section 88 of F(No. 2)A 2023."

FA 2008

30 (1) The Table in paragraph 1 of Schedule 41 to FA 2008 (penalties: failure to notify etc.) is amended as follows.

(2) After the entry relating to air passenger duty insert—

"Alcohol duty	Obligations under section 88 of F(No. 2)A 2023 (approval requirement: producers)."

(3) Omit—

(a) the entry relating to alcohol liquor duties and obligations under sections 12(1), 47(1), 54(2), 55(2) and 62(2) of ALDA 1979 (obligations to hold licence to manufacture spirits, register to brew beer, hold licence to produce wine or made-wine and register to make cider), and

(b) the entry relating to alcohol liquor duties and the obligation to have plant and processes approved for the manufacture of spirits under regulations under section 15(6) of ALDA 1979 (distillers' warehouses).

FA 2009

31 FA 2009 is amended in accordance with paragraphs 32 and 33.

32 (1) In Schedule 55 (penalty for failure to make returns etc), in the Table in paragraph 1, for item 18 substitute—

"18	Alcohol duty	Return under regulations under section 88 of F(No.2)A 2023".

(2) In subsections (2) and (4) of section 106 (penalties for failure to make returns: commencement) references to Schedule 55 to that Act have effect as references to that Schedule as amended by this paragraph.

33 (1) In Schedule 56 (penalty for failure to make payments on time), in the Table in paragraph 1, for item 11E substitute—

"11E	Alcohol duty	Amount payable under regulations under section 88 of F(No. 2)A 2023 (except an amount falling within item 17A, 23 or 24)	The date determined by or under regulations under section 88 of F(No. 2)A 2023 as the date by which the amount must be paid".

(2) In subsections (2) and (4) of section 107 (penalties for failure to pay tax) references to Schedule 56 to that Act have effect as references to that Schedule as amended by this paragraph.

SCHEDULE 14

Section 125

ADMINISTRATION OF MULTINATIONAL TOP-UP TAX

PART 1

OVERVIEW

1 (1) The Commissioners for His Majesty's Revenue and Customs are responsible for the collection and management of multinational top-up tax.

(2) This Schedule—

(a) contains provision to enable HMRC to determine when a person is chargeable to multinational top-up tax for an accounting period;

(b) contains requirements to provide information to HMRC for the purposes of multinational top-up and taxes under the law of other territories that are equivalent to multinational top-up tax;

(c) allows for the assessment of amounts of multinational top-up tax;

(d) sets out associated administrative provisions;

(e) makes consequential and other amendments to other enactments.

(3) This Schedule makes provision about a "filing member" of a multinational group (see Part 2) and contains provision requiring such a member to—

(a) register with HMRC (see Part 3);
(b) submit an information return to HMRC (see Part 4);
(c) submit a self-assessment return to HMRC (see Part 5);
(d) keep and preserve records (see Part 9).

(4) Part 10 of this Schedule makes provision for when and how payment of multinational top-up tax payable is to be made.

(5) This Schedule makes provision for—
(a) penalties (see Part 11);
(b) appeals and claims for repayment of overpaid tax (see Part 12).

PART 2

MEANING OF "FILING MEMBER"

2 (1) The filing member of a multinational group is the ultimate parent of that group, unless a nomination under sub-paragraph (2) is in force.

(2) The nomination referred to in sub-paragraph (1) is a nomination by the ultimate parent of the group that another person should act as the filing member.

(3) The ultimate parent may only nominate a person if—
(a) the person is a member of the group, and
(b) the person is a company.

(4) If the ultimate parent nominates a person under sub-paragraph (2), they must—
(a) nominate the same person as the filing member for the purposes of Schedule 18;
(b) if the nomination ceases to be in force, revoke the nomination referred to in paragraph (a);
(c) if the nomination referred to in paragraph (a) ceases to be in force, revoke the nomination.

(5) The ultimate parent must provide the person nominated with everything the person may reasonably require in order to comply with the obligations of a filing member under this Schedule.

(6) While a nomination under sub-paragraph (2) is in force, the filing member of a multinational group is the person nominated.

(7) A nomination is in force from the time it is made until any of the following events occurs—
(a) the ultimate parent nominates another person;
(b) the person nominated ceases to be a member of the group;
(c) the person nominated ceases to be a company;
(d) the ultimate parent revokes the nomination;
(e) an officer of Revenue and Customs revokes the nomination.

(8) An officer of Revenue and Customs may revoke a nomination if the officer considers that—

(a) the ultimate parent is not complying with its obligation under sub-paragraph (5), or

(b) the person nominated is not complying with the obligations of a filing member under this Schedule.

(9) An officer of Revenue and Customs revokes a nomination by notifying the ultimate parent and the nominated person of the revocation.

(10) The revocation has effect when the notification is issued.

(11) Any nomination, or revocation of a nomination, must be in writing.

(12) Paragraph 3 makes provision for circumstances in which the ultimate parent is the filing entity but is not a company.

(13) Paragraph 4 makes specific provision for a multinational group that is part of a multi-parent group.

(14) Paragraph 5 makes provision for the effect of the filing member of a multinational group changing.

3 (1) This paragraph applies where—

(a) the filing member of a multinational group is its ultimate parent, and

(b) the ultimate parent is not a company.

(2) The obligations of the filing member under this Schedule may be met by—

(a) in the case of a partnership other than a limited partnership or a limited liability partnership, any partner;

(b) in the case of a limited partnership, any general partner;

(c) in the case of a limited liability partnership, the limited liability partnership;

(d) in the case of a trust, any trustee;

(e) in the case of any other arrangement, any person responsible for preparing the separate financial accounts.

(3) In this paragraph, "partnership", "limited partnership", "limited liability partnership" and "trust" mean a partnership, limited partnership, limited liability partnership or trust (as the case may be) established under the law of a part of the United Kingdom, or an equivalent entity established under the law of a different country or territory.

4 (1) The obligations of a filing member of a multinational group that is part of a multi-parent group may be met by the filing member of any of the groups that are part of that multi-parent group, subject to sub-paragraph (2).

(2) The obligations of the filing member may not be met by a person nominated under paragraph 2(2) unless the ultimate parent of each group forming the multi-parent group has authorised the nomination.

(3) Any authorisation must be in writing.

5 (1) This paragraph applies if at any time ("the relevant time") a person ("the new filing member") becomes the filing member of a multinational group in place of another person ("the old filing member").

(2) The obligations and liabilities of the new filing member under this Schedule include any obligations and liabilities the old filing member had under this Schedule.

(3) Anything done as the filing member of the group by or in relation to the old filing member, before the relevant time, is treated as having been done by or in relation to the new filing member.

(4) Accordingly, a penalty may be imposed on the new filing member in respect of anything done before the relevant time if, at that time, a penalty could have been imposed on the old filing member in respect of the thing done.

(5) Anything done by HMRC in relation to the old filing member under this Schedule, before the end of the day the change is notified, is treated for all purposes under this Schedule as done in relation to the new filing member.

(6) Anything that, at any time during the period beginning with the relevant time and ending with the day the change is notified, is in the process of being done under this Schedule in relation to the old filing member may be continued in relation to the new filing member.

(7) Accordingly, any reference in an enactment or other instrument to the filing member of the group is to be read, so far as necessary for the purposes of giving effect to any of sub-paragraphs (2) to (6), as being or including a reference to the new filing member.

(8) In this paragraph—

(a) any reference to an act includes an omission;

(b) any reference to the day the change is notified is to the day on which an officer of Revenue and Customs receives notification that the new filing member has become the filing member of the group.

(9) Nothing in this paragraph—

(a) prevents HMRC or anyone else, after the relevant time, from imposing a penalty, exercising any other power, or doing anything else, in relation to the old filing member in respect of anything done before the relevant time, or

(b) affects the validity of anything done before the relevant time.

PART 3

REGISTRATION

6 (1) The filing member of a multinational group must register with HMRC if the group becomes a qualifying multinational group.

(2) For the purposes of sub-paragraph (1), a multinational group becomes a qualifying multinational group on the first day of the first accounting period it is a qualifying multinational group (the "trigger day").

(3) A filing member registers with HMRC by providing specified information to HMRC.

(4) The specified information is—

(a) the name of the filing member;

(b) the name of the ultimate parent (if different to the filing member);

(c) the date of the trigger day;

(d) the date on which the accounting period in which the trigger day occurs will end or has ended;

(e) any other information that may be specified in a notice published by HMRC.

(5) The information must be provided in the way specified in a notice published by HMRC.

(6) The information must be provided by the end of the period of six months beginning with the day after the accounting period in which the trigger day occurs ends.

(7) In this Schedule, a "registered group" means a multinational group that is registered under this paragraph.

(8) A multinational group is registered under this paragraph if—

(a) the filing member of the group has registered under this paragraph, and

(b) a notice of de-registration is not in force in relation to the registration (see paragraph 7).

(9) Paragraphs 8 and 9 provide further notification requirements in relation to a registered group.

7 (1) This paragraph applies where the filing member of a multinational group has registered under paragraph 6.

(2) An officer of Revenue and Customs may issue the filing member with a notice of de-registration in relation to the registration.

(3) The effect of an officer issuing a notice of de-registration is that, beginning with the effective date, the registration to which the notice relates is not to be treated as a registration under paragraph 6.

(4) "The effective date" is a date specified in or determined by reference to the notice as the date on which the notice takes effect.

(5) But a notice of de-registration does not affect the validity of a registration for the purposes of any obligation arising before the effective date.

(6) An officer or Revenue and Customs may issue a notice of de-registration only if—

(a) the filing member has applied for such a notice, and

(b) it appears to the officer that the group will not be a qualifying multinational group for any accounting period beginning with the period in which the effective date falls.

8 (1) This paragraph applies where the filing member of a registered group changes.

(2) The new filing member must notify HMRC of the change before the end of the period of 6 months beginning with the day the change occurs.

(3) But, if the change occurs before the end of the period referred to in paragraph 6(6), the new filing member may notify HMRC of the change at any time before the end of that period even if later than the end of the period in sub-paragraph (2).

(4) The notification must be given in the way specified in a notice published by HMRC.

9 (1) The filing member of a registered group must notify HMRC of any other change to the information provided under paragraph 6.

(2) The notification must be given before the end of the period of 6 months beginning with the day on which the change occurs.

(3) But, if the change occurs before the end of the period referred to in paragraph 6(6), the filing member may notify HMRC of the change at any time before the end of that period even if later than the end of the period in sub-paragraph (2).

(4) The notification must be given in the way specified in a notice published by HMRC.

PART 4

INFORMATION RETURNS

10 (1) The filing member of a registered group must submit an information return to HMRC for each accounting period in which the group is a qualifying multinational group, unless sub-paragraph (4) applies.

(2) An "information return" is a return containing the following information—

(a) identification of the members of the group;

(b) information on the overall corporate structure of the group;

(c) information relevant to the determination of effective tax rates, top-up amounts or allocation of top-up amounts;

(d) such other information specified in a notice published by HMRC as HMRC may consider relevant to the sharing of information between Pillar Two territories in connection with the Pillar Two rules.

(3) HMRC may specify in a notice the particular items of information to be submitted as part of an information return.

(4) This sub-paragraph applies if an information return has been submitted for that period to another qualifying authority.

(5) A "qualifying authority" is an authority outside the United Kingdom with which HMRC has an agreement under which the authority will share the information contained in information returns submitted to that authority with HMRC.

(6) If sub-paragraph (4) applies, the filing member must notify HMRC (an "overseas return notification").

(7) An information return or overseas return notification must be submitted in the way specified in a notice published by HMRC.

(8) HMRC may specify in a notice that other information is to be provided together with an overseas return notification.

(9) An information return or overseas return notification must be submitted by the end of the period of 15 months beginning with the day after the end of the accounting period in respect of which the return or notification is being submitted.

(10) But the longer period in sub-paragraph (11) applies if the return or notification is being submitted in respect of the first accounting period in relation to which the group is a registered group.

(11) Where this sub-paragraph applies, the information return or overseas return notification must be submitted by the end of the period of 18 months beginning with the day after the end of the accounting period.

11 (1) The filing member may amend a return submitted under paragraph 10 by notice to HMRC.

(2) The filing member may further amend a return previously amended by further notice to HMRC.

(3) No amendment may be made after the end of the period of 12 months beginning with the day after the latest date by which the return or notification was required to be submitted under paragraph 10.

(4) An amendment must be submitted in the way specified in a notice published by HMRC.

12 HMRC may take into account an information return in performing any of its functions.

PART 5

SELF-ASSESSMENT RETURNS

13 (1) The filing member of a registered group must submit a self-assessment return to HMRC for each accounting period, unless sub-paragraph (3) applies.

(2) A "self-assessment return" is a return containing—

(a) an assessment by the filing member as to—

(i) which members of the group are chargeable to multinational top-up tax, and

(ii) the amount of multinational top-up tax is chargeable to each such member, and

(b) such other information as may be specified in a notice published by HMRC.

(3) This sub-paragraph applies if—

(a) the conditions in sub-paragraph (5) are met in relation to the group for the accounting period,

(b) the filing member has submitted a below-threshold notification to HMRC, and

(c) the filing member has not withdrawn the below-threshold notification.

(4) A "below-threshold notification" is a notification that the filing member—

(a) considers that the conditions in sub-paragraph (5) are met for an accounting period, and

(b) does not expect that the conditions will cease to be met for that accounting period or any subsequent accounting period.

(5) The conditions are that—

(a) the group was not a qualifying multinational group in the accounting period, and

(b) the group is unlikely to be a qualifying multinational group in the next two accounting periods.

(6) A self-assessment return or below-threshold notification must be submitted in the way specified in a notice published by HMRC.

(7) HMRC may specify in a notice that other information is to be provided together with a below-threshold notification.

(8) A self-assessment return or below-threshold notification must be submitted by the end of the period of 15 months beginning with the day after the end of the accounting period in respect of which the return or notification is being submitted.

(9) But the longer period in sub-paragraph (10) applies if a self-assessment return is being submitted in respect of the first accounting period in relation to which the group is a registered group.

(10) Where this sub-paragraph applies, the self-assessment return must be submitted by the end of the period of 18 months beginning with the day after the end of the accounting period.

14 (1) The filing member may amend a return submitted under paragraph 13 by notice to HMRC.

(2) The filing member may further amend a return previously amended by further notice to HMRC.

(3) No amendment may be made after the end of the period of 12 months beginning with the day after the latest date by which the return or notification was required to be submitted under paragraph 13.

(4) An amendment must be submitted in the way specified in a notice published by HMRC.

PART 6

ENQUIRIES INTO A SELF-ASSESSMENT RETURN

15 (1) This Part of this Schedule applies if the filing member of a multinational group has submitted a self-assessment return under paragraph 13 for an accounting period.

(2) In this Part "return" means a self-assessment return (including as amended under paragraph 14).

16 (1) An officer of Revenue and Customs may enquire into the return if, within the time allowed, the officer gives notice to the filing member of the officer's intention to do so.

(2) The time allowed is—

(a) if the return was submitted on or before the submission date, up to the end of the period of 12 months after the submission date;

(b) if the return was submitted after the submission date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;

(c) if the return is amended under paragraph 14, up to and including the quarter day next following the first anniversary of the day on which the return was amended.

(3) The submission date is the day ending the period for submission of the return referred to in paragraph 13(8) (or the longer period referred to in paragraph 13(10) where applicable).

(4) The quarter days are 31 January, 30 April, 31 July and 31 October.

(5) A notice under this paragraph is referred to in this Part of this Schedule as a "notice of enquiry".

(6) A return that has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment of the return.

17 (1) An enquiry may extend to anything contained in the return, or required to be contained in the return, including anything that relates—

(a) to the question of whether multinational top-up tax is chargeable in respect of the accounting period, or

(b) to the amount of tax so chargeable.

(2) But, where the notice of enquiry is given in consequence of an amendment of a return—

(a) at a time when it is no longer possible to give a notice of enquiry under paragraph 16(2)(a) or (b),

(b) after a partial closure notice (see paragraph 22(1)) has been issued in relation to the matters to which the amendment relates or which are affected by the amendment, or

(c) after an enquiry into a return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or that are affected by the amendment.

18 (1) For the purposes of this Part an enquiry is in progress into a return for the whole of the period—

(a) beginning with the day on which notice of enquiry is given in relation to that return, and

(b) ending with the day on which the enquiry is completed.

(2) The enquiry is completed on the day a final closure notice is given (see paragraph 22(2)).

19 (1) If at a time when an enquiry is in progress into a return an officer of Revenue and Customs forms the opinion—

(a) that an amount stated in the return as the amount of multinational top-up tax payable by a member of the group is insufficient, and

(b) that unless the assessment in the return is immediately amended there is likely to be a loss of tax to the Crown,

the officer may by notice in writing to the filing member amend the assessment to make good the deficiency.

(2) In the case of an enquiry that under paragraph 17(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) applies only so far as the deficiency is attributable to the amendment.

(3) In the case of an enquiry in relation to which one or more partial closure notices have been given, sub-paragraph (1) applies only so far as the deficiency is attributable to matters not addressed by those notices.

20 (1) This paragraph applies if a return is amended at a time when an enquiry is in progress into the return.

(2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry (whether or not the amendment takes effect under sub-paragraph (4)).

(3) Sub-paragraph (4) applies where the amendment is made otherwise than under paragraph 19.

(4) So far as the amendment affects the amount stated in the return as the amount of tax payable, the amendment does not take effect, in relation to any matter to which it relates or which is affected by it, while the enquiry is in progress, except to the extent that—

(a) a partial closure notice has been given in relation to a matter to which the amendment relates or which is affected by it, and

(b) the notice states that the amendment is to take effect.

(5) The final closure notice—

(a) must state whether and to what extent an amendment whose effect is deferred under sub-paragraph (4) is to take effect;

(b) may state that an amendment made under paragraph 19, and whose effect is not terminated or amended by a partial closure notice, is to cease to have effect or is to be amended as specified in the notice.

21 (1) At any time when an enquiry is in progress into a return any question arising in connection with the subject-matter of the enquiry may be referred to the tribunal for determination.

(2) Notice of the referral must be given to the tribunal jointly by the filing member and an officer of Revenue and Customs.

(3) More than one notice of referral may be given in relation to an enquiry.

(4) An officer of Revenue and Customs or the filing member may withdraw a notice of referral.

(5) The effect of the notice being withdrawn is that the questions referred are not (unless they have already been finally determined) to be finally determined by the tribunal.

(6) While proceedings on a referral are in progress in relation to an enquiry—

(a) no closure notice may be given in relation to the enquiry, and

(b) no application may be made for a direction to give such a notice.

(7) Proceedings are in progress where—

(a) notice of referral has been given,

(b) the notice has not been withdrawn, and

(c) the questions referred have not been finally determined.

(8) In this paragraph, a question referred is finally determined when—

(a) it has been determined by the tribunal, and

(b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

(9) The determination of a question referred to the tribunal is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal under Part 12 of this Schedule.

(10) The determination must be taken into account by an officer of Revenue and Customs—

(a) in reaching the officer's conclusions on the enquiry, and

(b) in formulating any amendments of the return required to give effect to those conclusions.

(11) The question determined may not be reopened on an appeal under Part 12 of this Schedule, except to the extent that it could be reopened if it had been determined as a preliminary issue in that appeal.

22 (1) Any matter to which an enquiry into a return relates is completed by an officer of Revenue and Customs giving the filing member a partial closure notice.

(2) An enquiry into a return is completed by an officer of Revenue and Customs giving the filing member a final closure notice.

(3) In this Part of this Schedule, "closure notice" means a partial closure notice or a final closure notice.

(4) A closure notice is a notice stating—

(a) that the enquiry, or the enquiry in so far as it relates to a particular matter, is complete;

(b) the conclusion reached in the enquiry.

(5) The conclusion must be one of the following—

(a) that no amendment of the return is required, or

(b) that the amendments of the return specified in the notice are to be made.

(6) A closure notice takes effect when it is given to the filing member.

(7) The officer—

(a) must provide additional information together with the notice as to the basis for the conclusion;

(b) may provide such other information as the officer thinks fit.

(8) A final closure notice may not, in relation to a matter to which a partial closure notice relates, state a different conclusion in respect of that matter to that stated in the partial closure notice.

23 (1) The filing member may apply to the tribunal for a direction that an officer of Revenue and Customs give a closure notice within a specified period.

(2) The tribunal hearing the application must give a direction unless satisfied that HMRC has reasonable grounds for not giving a closure notice within a specified period.

(3) An application under this paragraph is to be treated as an appeal under Part 12 of this Schedule.

PART 7

DETERMINATIONS WHERE SELF-ASSESSMENT RETURN NOT SUBMITTED

24 This Part of this Schedule applies if the filing member of a multinational group has not submitted a self-assessment return under paragraph 13 for an accounting period.

25 (1) An officer of Revenue and Customs may make a determination if—

(a) the group is not a registered group and the officer has reasonable grounds to believe the group should be, or

(b) the officer has reasonable grounds to believe the filing member should have submitted a self-assessment return.

(2) A "determination" is a determination by the officer to the best of the officer's knowledge and belief as to the total amount of tax payable by a member of the group for the accounting period.

(3) The officer must give notice of the determination to the filing member.

(4) The notice must state the date on which it was issued.

(5) No determination may be made—

(a) on or before the last date on which the return was required to be submitted or would have been so required had the group been a registered group;

(b) more than 3 years after that date.

26 (1) If, after a determination has been made—

(a) a self-assessment return is submitted for the accounting period, and

(b) an information return or overseas return notification has been submitted for that period,

the assessment in the self-assessment return supersedes the assessment in the determination.

(2) Sub-paragraph (1) does not apply to a self-assessment return delivered after the later of—

(a) the day 3 years after the day on which the power to make the determination first became exercisable, and

(b) the day 12 months after the date of the determination.

(3) Where—

(a) proceedings have begun for the recovery of any tax assessed in a determination, and

(b) before the proceedings are concluded the determination is superseded under sub-paragraph (1),

the proceedings may be continued as if they were proceedings for the recovery of so much of the tax assessed in the self-assessment return as is due and payable and has not been paid.

(4) Where—

(a) action is being taken under Part 1 of Schedule 8 to the F(No.2)A 2015 (enforcement of deduction from accounts) for the recovery of an amount ("the original amount") of tax assessed in a determination, and

(b) before that action is concluded the determination is superseded under sub-paragraph (1),

that action may be continued as if it were an action for the recovery of so much of the tax assessed in the return as is due and payable, has not been paid and does not exceed the original amount.

PART 8

DISCOVERY ASSESSMENTS

27 (1) If, in respect of an accounting period, an officer of Revenue and Customs discovers that—

(a) an amount of multinational top-up tax that ought to have been assessed in respect of a multinational group has not been assessed, or

(b) an assessment to tax is or has become insufficient,

the officer may make an assessment (a "discovery assessment") in the amount which ought in the officer's opinion to be charged in order to make good to the Crown the loss of tax.

(2) This is subject to the restrictions in paragraph 28.

28 (1) This paragraph applies where the filing member of the group has submitted a self-assessment return under paragraph 13 for the accounting period in respect of which the officer makes a discovery assessment.

(2) Where this paragraph applies, the power to make a discovery assessment—

(a) may only be made in the two cases specified in sub-paragraphs (3) and (4), and

(b) may not be made in the circumstances specified in sub-paragraph (6).

(3) The first case is where the situation mentioned in paragraph 27(1) was brought about carelessly or deliberately on the part of—

(a) a member of the group of which the person forms part, or

(b) a person acting on behalf of a member of the group.

(4) The second case is where an officer of Revenue and Customs, at the time the officer—

(a) ceased to be entitled to give a notice of enquiry into the return submitted in respect of the group for the accounting period, or

(b) completed an enquiry into the return,

could not have been reasonably expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in paragraph 27(1).

(5) For this purpose information is regarded as made available to the officer of Revenue and Customs if—

(a) it is contained in a self-assessment return, an information return, an overseas return notification or a below-threshold notification for the accounting period in question or either of the two immediately preceding accounting periods,

(b) it is contained in any documents produced or information provided by the filing member for the purposes of an enquiry into any such return or notification, or

(c) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 27(1)—

(i) could reasonably be expected to be inferred by the officer of Revenue and Customs from information falling within paragraph (a) or (b), or

(ii) are notified in writing to an officer of Revenue and Customs by the filing member or another person acting on the filing member's behalf.

(6) No discovery assessment may be made if—

(a) the situation mentioned in paragraph 27(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and

(b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time it was made.

29 (1) The general rule is that no discovery assessment may be made more than 4 years after the end of the accounting period to which it relates.

(2) A discovery assessment in a case involving a loss of tax brought about carelessly by a member of the group (or a person acting on their behalf) may be made at any time not more than 6 years after the end of the accounting period to which it relates.

(3) A discovery assessment in a case involving a loss of tax brought about deliberately by a member of the group (or a person acting on their behalf) may be made at any time not more than 20 years after the end of the accounting period to which it relates.

(4) A discovery assessment in a case involving a loss of tax brought about as a result of a failure of a filing member to register with HMRC under paragraph 6 may be made at any time not more than 20 years after the end of the accounting period to which it relates.

30 (1) The officer of Revenue and Customs must give notice of a discovery assessment to the filing member.

(2) The notice must state—

(a) the tax due,

(b) the date on which the notice is issued, and

(c) the time within which any appeal against the assessment must be made.

(3) After notice of the assessment has been served under this paragraph, the assessment may not be altered except as provided for by or under this Schedule.

(4) Where an officer of Revenue and Customs has—

(a) decided to make an assessment to tax, and
(b) taken all other decisions needed for arriving at the amount of the assessment,

the officer may entrust to another officer of Revenue and Customs the responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

PART 9

RECORD-KEEPING REQUIREMENTS

31 (1) The filing member of the group must—
(a) keep such records as may be needed to enable it to deliver correct and complete returns if required, and
(b) preserve those records in accordance with this paragraph.

(2) The records must be preserved until the end of the relevant day.

(3) "The relevant day" means—
(a) the later of—
(i) the ninth anniversary of the last day of the accounting period to which the records relate, and
(ii) if a self-assessment return relating to that accounting period is submitted and a notice of enquiry into that return has been given before the anniversary referred to in sub-paragraph (i), the day at the end of the period of six months beginning with the day the enquiry is completed;
(b) such earlier day as may be specified in a notice published by HMRC (and different days may be specified for different cases).

(4) The duty to preserve records may be satisfied—
(a) by preserving them in any form and by any means, or
(b) by preserving the information contained in them in any form and by any means,

subject to any conditions or exceptions specified in a notice published by HMRC.

PART 10

PAYMENTS OF MULTINATIONAL TOP-UP TAX

Timing of payments

32 (1) Multinational top-up tax due must be paid by the end of the period of 15 months beginning with the day after the end of the accounting period.

(2) But the longer period in sub-paragraph (3) applies if the liability to pay tax arises in respect of the first accounting period in relation to which a group is a qualifying multinational group.

(3) Where this sub-paragraph applies, multinational top-up tax due must be paid by the end of the period of 18 months beginning with the day after the end of the accounting period.

(4) A person's liability to pay multinational top-up tax may be discharged by another member of the multinational group to which the liability relates (but see paragraph 37).

33 (1) Interest is to accrue on amounts payable under paragraph 32, but not paid, from the day after the latest date on which the amounts were required to be paid.

(2) The rate of interest is to be as provided in regulations under section 178 of FA 1989.

Group payment notices

34 (1) An officer of Revenue and Customs may issue a group payment notice if an amount payable by a member of a multinational group of multinational top-up tax (including any interest on that amount) is not paid by the end of the period of three months beginning with the relevant date.

(2) A group payment notice may be issued to any person who is a member of the group or who was a member of the group at the time the liability to tax arose (wherever in the world they are located), subject to paragraph 35 where the group contains ring-fenced entities.

(3) A group payment notice is a notice requiring the recipient to pay an outstanding amount of multinational top-up tax payable by a member of the group by a date specified in the notice.

(4) The notice may not specify a date earlier than the date 30 days after the notice is issued.

(5) A group payment notice must state—

(a) the amount of any tax that remains unpaid,

(b) the date any tax first became payable, and

(c) the member's right of appeal (see paragraph 36(3)).

(6) A group payment notice may not be issued more than 3 years and 6 months after the relevant date.

(7) If the amount payable is as assessed in a self-assessment return, the relevant date is the later of—

(a) the date on which multinational top-up tax must be paid;

(b) in a case where the return is delivered after the submission date, the date on which the return is delivered;

(c) if notice of enquiry is given, the date on which the enquiry is completed;

(d) if as a result of such an enquiry the return is amended, the date of the closure notice in relation to that enquiry;

(e) if there is an appeal against the closure notice, the date on which the appeal is finally determined.

(8) If the amount payable is as assessed in a discovery assessment, the relevant date is—

(a) if there is no appeal against the assessment, the date on which the notice of assessment is issued, or

(b) if there is such an appeal, the date on which the appeal is finally determined.

(9) If the amount payable is as assessed in a determination that has not been superseded, the relevant date is the date on which notice of the determination was issued.

35 (1) Where the multinational group contains ring-fenced entities, a group payment notice may not be issued to a ring-fenced entity in respect of a liability relating to a responsible member of the group which is not a ring-fenced entity.

(2) A ring-fenced entity is a body corporate which is—

(a) a ring-fenced body, or

(b) a member of a ring-fenced body sub-group.

(3) "Ring-fenced body" has the same meaning as in section 142A of the Financial Services and Markets Act 2000.

(4) A "ring-fenced body sub-group" is a group of entities consisting of—

(a) an RFB parent undertaking and its subsidiaries, or

(b) a ring-fenced body, which is not a subsidiary of an RFB parent undertaking, and the ring-fenced body's subsidiaries.

(5) "RFB parent undertaking" means a body corporate which is subject to rules made under section 192JA of the Financial Services and Markets Act 2000 (rules applying to parent undertakings of ring-fenced bodies).

36 (1) The effect of a group payment notice being issued under paragraph 34 is that the recipient is treated as if—

(a) a liability of a member other than the recipient were a liability of the recipient ("the deemed liability"),

(b) the deemed liability became due and payable when the relevant liability became due and payable, and

(c) any payments made in respect of the relevant liability were made in respect of the deemed liability.

(2) Nothing in this paragraph gives the recipient a right to appeal against any assessment, determination or other decision giving rise to a liability of a member other than the recipient (or against the deemed liability).

(3) The recipient may appeal against the notice, within the period of 30 days beginning with the date on which it is given, on the ground that the person in respect of which the notice is given is not a member of the group or was not a member of the group at the time the liability arose.

(4) Where an appeal is made, anything required by the notice to be paid is due and payable as if there had been no appeal.

Effect of group payment for tax purposes

37 (1) This paragraph applies where a member of a multinational group (the "payer") makes a payment in respect of the liability to pay multinational top-up tax of another member of the same group (the "payee") (whether or not in consequence of a group payment notice).

(2) The payer may recover the amount from the payee.

(3) In calculating the payer's income, profits or losses for tax purposes—

(a) the payment is not allowed as a deduction, and

(b) the reimbursement of any such payment is not to be regarded as a receipt.

(4) The payment—

(a) is not to be taken into account in calculating the profits or losses of either the payer or payee for corporation tax or income tax purposes of either the payer or the payee, and

(b) is not to be regarded as a distribution for corporation tax purposes.

(5) The amount paid by the payer is to be taken into account in calculating—

(a) the amount unpaid by the payee for tax purposes, and

(b) the amount due by virtue of a group payment notice relating to the amount unpaid.

(6) Similarly, any payment by the payer of any of the amount unpaid is to be taken into account in calculating the amount due by virtue of a group payment notice (or by virtue of any other group payment notice relating to the amount unpaid).

(7) In this paragraph, "for tax purposes" means for the purposes of income tax, corporation tax, multinational top-up tax or domestic top-up tax.

Recovery

38 (1) Any amount due by way of multinational top-up tax liability is recoverable as a debt due to the Crown.

(2) "Multinational top-up tax liability", in relation to a multinational group for an accounting period, means—

(a) a liability of any person who was a member of the group in the period to multinational top-up tax in respect of the period;

(b) a liability of a person to a penalty referred to in paragraph 40 for anything done (or not done) in respect of the period.

Power to make regulations

39 (1) The Treasury may by regulations make further provision about the payment of multinational top-up tax in circumstances where—

(a) a member of a group makes a payment on behalf of another member of the group, or

(b) a member of a group is also liable to pay domestic top-up tax.

(2) The regulations may in particular make provision for—

(a) deeming a payment made by one member of a group to have been made by another;

(b) deeming a payment made in respect of multinational top-up tax to have been made in respect of domestic top-up tax.

PART 11

PENALTIES

Penalties payable in connection with this Schedule

40 This Part of this Schedule sets out penalties payable in connection with this Schedule, as follows—

(a) paragraph 41 amends Schedule 41 to FA 2008 to impose a penalty on a filing member of a multinational group that fails to register with or otherwise notify HMRC under Part 3 of this Schedule;

(b) paragraph 42 imposes a penalty on a filing member of a registered group that fails to submit an information return or overseas return notification under Part 4 of this Schedule;

(c) paragraph 43 imposes a penalty on a filing member of a registered group that fails to submit a self-assessment return or below-threshold notification under Part 5 of this Schedule;

(d) paragraph 45 amends Schedule 24 to FA 2007 to impose a penalty on a filing member of a multinational group that provides inaccurate information to HMRC;

(e) paragraph 46 imposes a penalty on a filing member of a multinational group that fails to keep or preserve records under Part 9 of this Schedule.

41 In paragraph 1 of Schedule 41 to FA 2008 (penalties for failure to notify etc), in the table after the entry relating to digital services tax insert—

"Multinational top-up tax	Obligation of a filing member of a multinational group under Part 3 of Schedule 14 to FA 2023.".

42 (1) A penalty is payable if the filing member fails to submit an information return or overseas return notification by the submission date, unless paragraph 44 (reasonable excuse) applies.

(2) The penalty is—

(a) £100, if the return or notification is submitted within three months after the submission date;

(b) £200, if the return or notification is submitted within six months after the submission date;

(c) £200 plus the additional penalty amount, in any other case.

(3) For a third successive failure, the amount referred to in—

(a) sub-paragraph (2)(a) is increased to £500;

(b) sub-paragraph (2)(b) and (c) is increased to £1,000.

(4) For this purpose, a "third successive failure" occurs where—

(a) the duty to submit a return or notification applies in relation to a group for three successive accounting periods,

(b) the member was liable to a penalty under this paragraph in respect of each of the first two accounting periods, and

(c) the member is liable to a penalty under this paragraph in respect of the third accounting period.

(5) The additional penalty amount is £60 multiplied by the number of days, after the day six months after the submission date, on which the filing member fails to submit the return or notification.

(6) The submission date is the last date the filing member is permitted to submit the return or notification under Part 4 of this Schedule.

43 (1) A penalty is payable if the filing member fails to submit a self-assessment return or below-threshold notification by the submission date, unless paragraph 44 (reasonable excuse) applies.

(2) The penalty is—

(a) £100, if the return or notification is submitted within three months after the submission date;

(b) £200, if the return or notification is submitted within six months after the submission date;

(c) the higher of £200 and 10% of the unpaid tax, if the return or notification is submitted within twelve months after the submission date;

(d) the higher of £200 and 20% of the unpaid tax, in any other case.

(3) For a third successive failure, the amount referred to in—

(a) sub-paragraph (2)(a) is increased to £500;

(b) sub-paragraph (2)(b), (c) and (d) is increased to £1,000.

(4) For this purpose, a "third successive failure" occurs where—

(a) the duty to submit a return or notification applies in relation to a group for three successive accounting periods,

(b) the member was liable to a penalty under this paragraph in respect of each of the first two accounting periods, and

(c) the member is liable to penalty under this paragraph in respect of the third accounting period.

(5) The "unpaid tax" means the total amount of tax payable by members of the group for the accounting period which remains unpaid on the date when the liability to the penalty under this paragraph arises.

(6) The submission date is the last date the filing member is permitted to submit the return or notification under Part 5 of this Schedule.

44 (1) This paragraph applies if the filing member satisfies HMRC or (on appeal) the tribunal that there is a reasonable excuse for the failure to submit the return or notification (as the case may be).

(2) For that purpose—

(a) an insufficiency of funds is not a reasonable excuse,

(b) where the member relies on any other person to do anything, that is not a reasonable excuse unless the member took reasonable care to avoid the failure, and

(c) where the member had a reasonable excuse for the failure but the excuse has ceased, the member is to be treated as having continued to have the excuse only if the failure is remedied without unreasonable delay after the excuse ceased.

45 In paragraph 1 of Schedule 24 to FA 2007 (penalties for errors etc), in the table after the entry relating to digital services tax returns insert—

"Multinational top-up tax	Overseas return notification and information provided with it
Multinational top-up tax	Self-assessment return and information provided with it
Multinational top-up tax	Below-threshold notification and information provided with it".

46 (1) A penalty is payable if—

(a) the member breaches their obligations under Part 9 of this Schedule in relation to an accounting period, and

(b) HMRC is not satisfied that any facts which HMRC reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to HMRC.

(2) The penalty is £3,000.

Penalties under paragraphs 42, 43 and 46: administration and supplemental provision

47 Paragraphs 48 and 49 apply in relation to a penalty payable under paragraph 42, 43 or 46.

48 (1) HMRC must—

(a) assess the penalty, and

(b) notify the member of the assessment.

(2) The assessment of a penalty—

(a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Schedule),

(b) may be enforced as if it were an assessment to tax (save that interest is not to accrue on a penalty under paragraph 33), and

(c) may be combined with an assessment to tax.

(3) A supplementary assessment may be made in respect of a penalty if an earlier assessment is based on an amount of tax due and payable that is found by HMRC to be an underestimate or insufficient.

(4) Sub-paragraph (5) applies if—

(a) an assessment in respect of a penalty is based on a liability to tax shown in a self-assessment return, and

(b) that liability is found by HMRC to be excessive.

(5) HMRC may by notice amend the assessment so it is based on the correct amount.

(6) An amendment under sub-paragraph (5)—

(a) does not affect when the penalty must be paid;

(b) may be made after the last day on which the assessment in question could have been made (under sub-paragraph (7)).

(7) An assessment of a penalty must be made before the end of the period of 12 months beginning with—

(a) the end of the appeal period for the assessment of the liability to tax shown in the self-assessment return, or

(b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.

(8) In sub-paragraph (7) "appeal period" means the period during which—

(a) an appeal could be brought, or

(b) an appeal that has been brought has not been determined or withdrawn.

(9) A penalty must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

49 (1) If HMRC thinks it right because of special circumstances, HMRC may reduce the penalty.

(2) In sub-paragraph (1) "special circumstances" does not include—

(a) ability to pay, or

(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—

(a) staying a penalty, and

(b) agreeing a compromise in relation to proceedings in respect of a penalty.

Multiple penalties in respect of same accounting period

50 (1) This paragraph applies where a person incurs more than one penalty in respect of multinational top-up tax in the same accounting period.

(2) The amount of each penalty after the first is to be reduced so that the total amount of all such penalties in the period does not exceed the greatest amount incurred for any such penalty.

PART 12

APPEALS AND CLAIMS

Claims in relation to overpaid tax

51 (1) A person (a "claimant") who has paid an amount by way of multinational top-up tax may make a claim to the Commissioners for repayment of tax that was not due.

(2) The claim must—

(a) be made on or before the overpayment claim date,

(b) be in the form and contain information specified in a notice published by HMRC, and

(c) not be submitted at the same time as a self-assessment return.

(3) The overpayment claim date is the date four years after the end of the accounting period in respect of which the amount was paid.

(4) The Commissioners must give effect to a claim as made, unless—

(a) a condition in sub-paragraph (2) is not met in relation to the claim,

(b) paragraph 52 applies, or

(c) the claim is amended following an enquiry under paragraph 53.

(5) The Commissioners are not otherwise, in the absence of a claim under this paragraph, liable to repay any amount paid by way of multinational top-up tax by reason of the fact it was not tax due.

(6) The Commissioners may however repay an amount paid that was not tax due to the person who paid that amount.

(7) An amount that may be repaid by the Commissioners under this paragraph, but is not repaid, incurs interest at the rate provided for in regulations made under section 178 of FA 1989 from the later of—

(a) the day after the latest day (under paragraph 32) by which the amount paid would have been required to be paid as multinational top-up tax if it were due, and

(b) the day on which the amount was paid.

(8) Paragraph 54 makes further provision in relation to amounts repaid.

52 (1) This paragraph applies where one or more of Cases A to D apply.

(2) Case A applies where a member of the claimant's group has an unpaid liability to tax.

(3) Case B applies where the claimant is seeking or will be able to seek relief by taking other steps under this Part of this Act.

(4) Case C applies where the claimant—

(a) could have sought relief by taking such steps within a period that has now expired, and

(b) knew, or ought reasonably to have known, before the end of that period that such relief was available.

(5) Case D applies where—

(a) the amount paid is excessive by reason of a mistake in calculating the amount of tax payable by members of the claimant's group for the accounting period, and

(b) the amount was calculated in accordance with the practice generally prevailing at the time.

(6) Where this paragraph applies, the Commissioners are not liable to repay any amount paid by way of multinational top-up tax by reason of the fact it was not tax due.

53 (1) An officer of Revenue and Customs may enquire into a claim if, within the time allowed, the officer gives notice to the claimant of the officer's intention to do so.

(2) The time allowed is the period ending with the quarter day next following the first anniversary of the day on which the claim was made.

(3) The quarter days are 31 January, 30 April, 31 July and 31 October.

(4) A claim enquired into under sub-paragraph (1) may not be the subject of a further notice under that sub-paragraph.

(5) An enquiry is completed when the officer by notice (a "closure notice") informs the claimant that the enquiry is complete and states the conclusion reached in the enquiry.

(6) The conclusion must be one of the following—

(a) that no amendment of the claim is required, or

(b) that the amendments of the claim specified in the notice are to be made.

(7) A closure notice takes effect when it is issued.

(8) The officer must give effect to any amendments made by the closure notice by making such adjustments as may be necessary whether—

(a) by way of assessment, or

(b) by discharge or repayment of tax.

(9) The adjustments must be made within 30 days of the date of issue of the closure notice.

(10) Paragraph 23 (direction to complete enquiry) applies in relation to an enquiry under this paragraph as it applies in relation to an enquiry under paragraph 16.

54 (1) This paragraph applies where—

(a) an amount has been paid by way of a repayment of tax, and

(b) the amount paid exceeded the amount which the Commissioners were or could be liable at that time to repay.

(2) The Commissioners may—

(a) to the best of their judgment, assess the amount of the excess, and

(b) notify the amount to the person to whom the repayment was made.

(3) Sub-paragraph (4) applies where—

(a) an assessment has been notified under sub-paragraph (2), and

(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(4) The Commissioners may—

(a) on or before the last day on which the assessment could have been made, make a supplementary assessment of the amount of tax due, and

(b) notify the amount to the person to whom the repayment was made.

(5) An amount assessed and notified under sub-paragraph (2) or (4) counts as a liability to multinational top-up tax for the purposes of this Part of this Act.

(6) But sub-paragraph (5) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

(7) An assessment under this paragraph may not be made more than 4 years after the end of the accounting period in which evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

Appeals of decisions: general

55 (1) An appeal may be brought against—
(a) an amendment of a self-assessment return under paragraph 19 (amendment during enquiry to prevent loss of tax);
(b) an amendment made by a closure notice under paragraph 22;
(c) a discovery assessment;
(d) an assessment of a penalty under paragraph 42, 43 or 46;
(e) an amendment made by a closure notice under paragraph 53;
(f) an assessment made under paragraph 54.

(2) Any such appeal is to be brought by the filing member ("the appellant").

(3) Notice of the appeal must be given to HMRC—
(a) in writing, and
(b) within 30 days after the specified date.

(4) "Specified date" means—
(a) in relation to an appeal under sub-paragraph (1)(a), the date on which the notice of amendment was issued;
(b) in relation to an appeal under sub-paragraph (1)(b) or (e), the date on which the closure notice was issued;
(c) in relation to an appeal under sub-paragraph (1)(c), (d) or (f), the date on which the notice of assessment was issued.

(5) The notice of appeal must specify the grounds of appeal.

(6) Notice may be given after the time limit in sub-paragraph (3)(b) if—
(a) HMRC agrees, or
(b) where HMRC does not agree, the tribunal gives permission.

(7) HMRC must agree to notice being given after the time limit if the appellant has requested in writing that HMRC do so and HMRC is satisfied—
(a) that there was a reasonable excuse for not giving the notice before the time limit, and
(b) that the request has been made without unreasonable delay.

(8) If a request of the kind mentioned in sub-paragraph (7) is made, HMRC must notify the appellant of whether or not HMRC agrees to the request.

56 (1) The effect of a notice of appeal being given is that—
(a) a review may be conducted by HMRC into the matter to which the appeal relates;
(b) HMRC and the appellant may settle the appeal by agreement;
(c) the appeal may be determined by the tribunal;
(d) a payment of multinational top-up tax may be postponed pending determination of the appeal.

(2) But if—

(a) the appeal is an appeal under paragraph 55(1)(a) against an amendment of a self-assessment, and

(b) the appeal is made while an enquiry into the return is in progress,

sub-paragraphs (1)(a) and (c) do not apply in relation to the appeal until the enquiry is completed.

(3) See also paragraph 67 for special provision relating to the appeal of a penalty under paragraph 42, 43 or 46.

Reviews by HMRC

57 (1) A review is to be conducted by HMRC if—

(a) the appellant notifies HMRC that it requires HMRC to review the matter, or

(b) HMRC offers to review the matter and the appellant accepts the offer within the period of 30 days beginning with the date of the offer (the "acceptance period").

(2) The appellant may not notify HMRC that the appellant requires HMRC to review the matter if—

(a) the appellant has already done so in relation to the same matter,

(b) HMRC has offered to review the matter, or

(c) the appellant has notified the appeal to the tribunal.

(3) HMRC may not offer to review the matter if—

(a) HMRC has already done so in relation to the same matter,

(b) the appellant has notified HMRC that the appellant requires HMRC to review the matter, or

(c) the appellant has notified the appeal to the tribunal.

(4) An offer by HMRC to review the matter must—

(a) be made in writing, and

(b) contain a statement of HMRC's view of the matter.

(5) If the appellant does not accept the offer within the acceptance period—

(a) HMRC's view of the matter is to be treated as if it were contained in a settlement agreement under paragraph 61, but

(b) the right to withdraw from such an agreement does not apply in relation to that notional agreement.

(6) Sub-paragraph (5) does not apply to the matter if, or to the extent that, the appellant notifies the appeal to the tribunal.

(7) The appellant may notify the appeal to the tribunal—

(a) within the acceptance period;

(b) after the end of that period only if the tribunal gives permission.

58 (1) The review is to be conducted as follows.

(2) If the appellant required the review, HMRC must notify the appellant of HMRC's view of the matter within—

(a) the period of 30 days beginning with the day on which HMRC received notification of the requirement to review from the appellant, or

(b) such longer period as is reasonable.

(3) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(4) For the purpose of sub-paragraph (3), HMRC must, in particular, have regard to steps taken before the beginning of the review—

(a) by HMRC in deciding the matter, and

(b) by any person in seeking to resolve disagreement about the matter.

(5) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

59 (1) The review may conclude that HMRC's view of the matter (as notified to the appellant under paragraph 57(4) or 58(2)) is to be—

(a) upheld,

(b) varied, or

(c) cancelled.

(2) HMRC must notify the appellant of the conclusions of the review and the reasoning for those conclusions within—

(a) the period of 45 days beginning with the relevant day, or

(b) such other period as may be agreed.

(3) In sub-paragraph (2) "relevant day" means—

(a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC's view of the matter;

(b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant's acceptance of the offer.

(4) If HMRC do not give notice of the conclusions of the review within the period specified in sub-paragraph (3), the review is treated as having concluded that HMRC's view of the matter in question is upheld.

(5) If sub-paragraph (4) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

(6) The conclusions of a review are to be treated as if they were contained in a settlement agreement under paragraph 61, but the right to withdraw from such an agreement does not apply in relation to that notional agreement.

(7) Sub-paragraph (6) does not apply to the matter if, or to the extent that, the appellant notifies the appeal to the tribunal.

(8) The appellant may notify the appeal to the tribunal—

(a) within the post-review period;

(b) after the end of that period only if the tribunal gives permission.

(9) The post-review period is—

(a) if HMRC has notified the appellant of the conclusions of the review in accordance with sub-paragraph (2), the period of 30 days beginning with that notice;

(b) if HMRC has not so notified the appellant, the period beginning with the day following the last day of the period specified in sub-paragraph (2) and ending 30 days after the date on which HMRC gives notice in accordance with sub-paragraph (5).

60 (1) In paragraphs 57 to 59, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

(a) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 57;

(b) notification of HMRC's view under paragraph 58(2)(a);

(c) notification of the conclusions of a review under paragraph 59(2) or (5).

(2) But if any such notification is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.

(3) A notification in connection with a review must be given in writing.

Settlement agreements

61 (1) "Settlement agreement" means an agreement in writing between the appellant and an officer of Revenue and Customs that is—

(a) entered into before the appeal is determined, and

(b) to the effect that the decision appealed against should be upheld without variation, varied in a particular manner or discharged or cancelled.

(2) Where a settlement agreement is entered into in relation to an appeal, the consequences are to be the same (for all purposes) as if, at the time the agreement was entered into, the tribunal had decided the appeal and had upheld the decision without variation, varied it in that manner or discharged or cancelled it, as the case may be.

(3) Sub-paragraph (2) does not apply if, within 30 days beginning with the date on which the settlement agreement was entered into, the appellant gives notice in writing to HMRC that it wishes to withdraw from the agreement.

(4) Sub-paragraph (5) applies where notice of an appeal has been given and—

(a) the appellant notifies HMRC, orally or in writing, that the appellant does not wish to proceed with the appeal, and

(b) HMRC does not, within 30 days after that notification, give the appellant notice in writing indicating that HMRC is unwilling that the appeal should be withdrawn.

(5) Sub-paragraphs (1) to (3) have effect as if, at the date of the appellant's notification, the appellant and an officer of Revenue and Customs had agreed that the decision under appeal should be upheld without variation.

Determination by tribunal

62 (1) The appellant may notify the appeal to the tribunal.

(2) If the tribunal decides that a person is overcharged to multinational top-up tax, the assessment must be reduced accordingly.

(3) If the tribunal decides that a person is undercharged to multinational top-up tax, the assessment must be increased accordingly.

(4) In a case where neither sub-paragraph (2) or (3) apply, the assessment is to stand good.

(5) On the determination of the appeal—

(a) any tax overpaid must be repaid as if a claim had been made under paragraph 51 on the day notice of the appeal was given to HMRC;

(b) any tax payable in accordance with the determination is payable in accordance with paragraph 32.

(6) Interest is to be incurred on amounts payable in accordance with those paragraphs.

(7) Where a party to an appeal to the tribunal makes a further appeal, tax is to be payable or repayable in accordance with the determination of the tribunal or court (as the case may be), even though the further appeal is pending.

(8) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court, then—

(a) if too much tax has been paid, the amount overpaid must be refunded, with any interest allowed by the order or judgment, and

(b) if too little tax has been charged, the tax is payable in accordance with paragraph 32.

(9) The determination of the tribunal is final and conclusive except as otherwise provided in sections 10 to 16 of the Tribunals, Courts and Enforcement Act 2007.

Postponement of payment pending appeal

63 (1) The general rule is that an appeal under this Part of this Schedule does not postpone any liability to pay multinational top-up tax.

(2) Accordingly, the periods within which tax is payable under paragraph 32 continue to apply notwithstanding an appeal.

(3) But a liability may be postponed if—

(a) a determination is made by HMRC to that effect;

(b) a direction is made by a tribunal to that effect;

(c) HMRC and the appellant agree to a postponement.

(4) The effect of a liability being postponed is that the period within which the tax is payable is extended by the period of the postponement.

(5) The period of the postponement—

(a) may not begin after the date the appeal is determined;

(b) is to end on the date the appeal is determined.

64 (1) The appellant may apply to HMRC for a determination if the appellant has grounds to believe that—

(a) a person has been overcharged to multinational top-up tax;

(b) an amount of tax postponed under a previous determination is excessive or insufficient.

(2) An application must be made within 30 days after the specified date (see paragraph 55(4)), unless sub-paragraph (3) applies.

(3) This sub-paragraph applies if—

(a) there is a change in the circumstances of the case as a result of which the appellant has grounds to believe the matter in sub-paragraph (1), or

(b) the application could, if it were a notice of appeal, be given at a later date under paragraph 55(6).

(4) The application must state the amount believed to be overcharged and the grounds for that belief.

(5) HMRC may determine—

(a) whether any amount of tax is to be postponed, and

(b) the amount of any tax postponed.

(6) The amount of any tax postponed is to be determined as the amount (if any) by which it appears that there are reasonable grounds for believing that the person is overcharged.

65 (1) The appellant may apply to the tribunal for a direction if—

(a) the appellant has applied to HMRC for a determination,

(b) HMRC has made a determination, and

(c) the appellant does not agree with the determination.

(2) The tribunal may direct whether the determination of HMRC was correct.

(3) A decision of the tribunal under this paragraph is final and conclusive (despite the provisions of sections 12 and 15 of the Tribunals, Courts and Enforcement Act 2007).

66 (1) HMRC and the appellant may agree that payment of an amount of tax should be postponed pending the determination of the appeal.

(2) The agreement may modify a determination by HMRC under paragraph 64.

(3) Where the agreement does so, it is to be treated in the same way as a settlement agreement under paragraph 61.

(4) The consequences of an agreement are to be the same as if the tribunal had, at the time when the agreement was entered into, made a direction to the same effect as the agreement.

(5) The existence of an agreement does not preclude a further determination by HMRC or direction by the tribunal modifying the agreement.

(6) An agreement—

(a) must be made in writing;

(b) may be made with a person acting on behalf of the appellant in relation to the appeal.

Special provisions as to penalties

67 (1) This paragraph applies to an appeal as to—

(a) whether a penalty under paragraph 42, 43 or 46 is payable;

(b) the amount of such a penalty.

(2) Payment of the penalty is always postponed pending determination of the appeal.

(3) Accordingly—

(a) paragraphs 63(1) to (3) and 64 to 66 do not apply to such an appeal;

(b) paragraphs 63(4) and (5) always apply to such an appeal.

(4) If the appeal is notified to the tribunal, the tribunal may—

(a) confirm a decision of HMRC;

(b) substitute for the decision another decision that HMRC had power to make.

(5) The tribunal may only make a decision that HMRC had power to make under paragraph 49 (reduction of penalties) if the tribunal considers HMRC's decision to have been flawed when considered in light of the principles applicable in proceedings for judicial review.

(6) On determination of the appeal, where a penalty is payable it is to be paid before the end of 30 days beginning with the day on which the determination was issued.

PART 13

OTHER AMENDMENTS

68 (1) In section 1(1) of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax etc) after "digital services tax," insert "multinational top-up tax,".

(2) In section 178(2) of FA 1989 (setting of interest rates), at the end insert—

"(x) paragraphs 33 and 51 of Schedule 14 to the Finance Act 2023.".

(3) In paragraph 63(1) of Schedule 36 to FA 2008 (information and inspection powers), after paragraph (cc) insert—

"(cd) multinational top-up tax;".

(4) In section 206(3) of FA 2013, at the end insert—

"(h) multinational top-up tax.".

SCHEDULE 15

Section 127(9)

MULTINATIONAL TOP-UP TAX: ELECTIONS

Long term elections

1 (1) This paragraph applies to an election under the following provisions of Part 3—

(a) section 127(8);
(b) section 161;
(c) section 162;
(d) section 164;
(e) section 165;
(f) section 166;
(g) section 187;
(h) section 213;
(i) section 214.

(2) An election to which this paragraph applies—

(a) must specify the first accounting period for which it is to have effect ("the first election period"),
(b) must be made no later than the date by which the information return or overseas return notification in respect of that period is due,
(c) must be included in an information return submitted to HMRC or a qualifying authority in respect of that period, and
(d) has effect for the first election period and each subsequent accounting period until the commencement of the first accounting period for which a revocation of the election has effect.

(3) A revocation of an election to which this paragraph applies is to be made by the filing member of a multinational group and—

(a) must specify the first accounting period for which it is to have effect,

(b) must be made no later than the date by which the information return or overseas return notification in respect of that period is due, and

(c) must be included in an information return submitted to HMRC or a qualifying authority in respect of that period.

(4) But a revocation of an election to which this paragraph applies may not be made that has effect for the first election period or any of the next 4 accounting periods.

(5) Where an election to which this paragraph applies has been revoked, no further election of the same type may be made that has effect for the first accounting period for which the revocation has effect or any of the next 4 accounting periods.

Annual elections

2 (1) This paragraph applies to an election under the following provisions of Part 3—

(a) section 186;

(b) section 163;

(c) section 182(8);

(d) section 189;

(e) section 195(2);

(f) section 205;

(g) section 217(8);

(h) section 221(4);

(i) paragraph 2(9) of Schedule 16;

(j) paragraph 3 of Schedule 16.

(2) An election to which this paragraph applies—

(a) must specify the accounting period for which it is to have effect,

(b) must be made no later than the date by which the information return or overseas return notification in respect of that period is due, and

(c) must be included in an information return submitted to HMRC or a qualifying authority in respect of that period.

SCHEDULE 16

Section 260

MULTINATIONAL TOP-UP TAX: TRANSITIONAL PROVISION

PART 1

GENERAL TRANSITIONAL MEASURES

Transitional relief for substance-based income exclusion

1 (1) Section 195(4) (payroll carve-out amount) has effect for an accounting period that commences in a year listed in following table as if for "5%" there were substituted the specified percentage for that year—

Year	Specified percentage
2023	10%
2024	9.8%
2025	9.6%
2026	9.4%
2027	9.2%
2028	9.0%
2029	8.2%
2030	7.4%
2031	6.6%
2032	5.8%

(2) Section 195(5) (tangible asset carve-out amount) has effect for an accounting period that commences in a year listed in following table as if for "5%" there were substituted the specified percentage for that year—

Year	Specified percentage
2023	8%
2024	7.8%
2025	7.6%
2026	7.4%
2027	7.2%
2028	7.0%

Year	Specified percentage
2029	6.6%
2030	6.2%
2031	5.8%
2032	5.4%

Intra-group transfers before entry into regime

2 (1) Sub-paragraph (3) applies where—

(a) assets are transferred from one member of a multinational group to another member of that group,

(b) either—

(i) the Pillar Two rules do not apply to the transferor for the accounting period in which the transfer takes place, or

(ii) an election under paragraph 3(1) (transitional safe harbour) applies in relation to the transferor for that period, and

(c) the transfer took place on or after 1 December 2021.

(2) But sub-paragraph (3) does not apply in relation to a transfer of assets manufactured, or of a class or description sold, in the course of carrying on a trade by the transferor or the transferee.

(3) Where this sub-paragraph applies, for the purposes of Part 3 of this Act—

(a) the value of the assets at the relevant time is the carrying value of the assets in the hands of the transferor immediately before the transfer, and

(b) any deferred tax asset that would arise in relation to the assets in the underlying profits of the transferee is limited to the tax paid amount in relation to the transfer of assets.

(4) For the purposes of this paragraph "the relevant time" means the later of—

(a) the date of the transfer, and

(b) the commencement of the first accounting period in which—

(i) the Pillar Two rules apply to the transferee, and

(ii) an election under paragraph 3(1) (transitional safe harbour) does not apply in relation to the transferee.

(5) Where the relevant time is after the date of the transfer—

(a) the value of the assets at the relevant time is to be adjusted to reflect—

(i) capitalised expenditure incurred in respect of the assets in the period between the date of the transfer and the relevant time, and

(ii) amortisation and depreciation of the assets that, had the transfer not occurred, would have been recognised by the transferor if the transferor had continued to use the accounting policies and rates for amortisation and depreciation of the assets previously used, and

(b) the tax paid amount in relation to the transfer of the assets is to be adjusted to reflect the matters referred to in paragraph (a)(i) and (ii).

(6) To determine the "tax paid amount" in relation to a transfer of assets take the following steps—

Step 1

Determine the amount of the tax expense of the transferor in relation to the transfer of the assets that relates to covered taxes.

Step 2

Determine the amount, if any, of qualifying current tax expense relating to the transfer of the assets that would have been allocated to the transferor as a result of section 177 or 179 (permanent establishments and controlled foreign company regimes) if—

(a) the Pillar Two rules had applied to the group in the accounting period in which the transfer occurred, and

(b) section 179(2) (restriction of allocation of mobile income) were ignored.

Step 3

Add together the amounts determined under Steps 1 and 2.

(7) But the tax paid amount is not to exceed the cap amount.

(8) The "cap amount" in relation to a transfer of assets is the amount given by—

(a) dividing—

(i) the amount of tax expense determined under Step 1 in sub-paragraph (6), by

(ii) the nominal rate of tax to which that expense relates, and

(b) multiplying the result of paragraph (a) by 15%.

(9) Where, ignoring sub-paragraph (7), the tax paid amount in relation to the transfer of assets would exceed the cap amount in relation to it, the filing member may elect that sub-paragraph (3) does not apply in relation to the transfer of assets.

(10) Paragraph 2 of Schedule 15 (annual elections) applies to an election under sub-paragraph (9).

(11) For the purposes of this paragraph, "a transfer of assets" includes a transaction that relates to assets that does not result in a change in their ownership if the transaction has substantially the same economic effect as a change in ownership of those assets.

PART 2

TRANSITIONAL SAFE HARBOUR

CHAPTER 1

TRANSITIONAL SAFE HARBOUR ELECTION

Election

3 (1) The filing member of a multinational group may elect that all of the standard members of the group located in a territory specified in the election do not have top-up amounts or additional top-up amounts for an accounting period.

(2) An election may only be made for an accounting period if—

(a) the period commences on or before 31 December 2026 and ends on or before 30 June 2028,

(b) a qualifying country-by-country report has been prepared in relation to the territory for the period,

(c) the election has been made in respect of the territory for each preceding accounting period—

(i) that commenced on or after 31 December 2023, and

(ii) in which the Pillar Two rules applied to members of the group in the territory,

(d) an election under section 189 (deemed distribution tax election) has not been made in respect of the territory for the accounting period, and

(e) at least one of the following tests are met for the territory in accounting period—

(i) the threshold test (see paragraph 7),

(ii) the simplified effective tax rate test (see paragraph 8), or

(iii) the routine profits test (see paragraph 9).

(3) An election may not be made in respect of the territory of the ultimate parent of a multinational group for an accounting period if the ultimate parent is a flow-through entity unless, were the adjusted profits of the ultimate parent determined for that period in accordance with Part 3—

(a) its adjusted profits would be nil as a result of the application of section 170 (adjustments for ultimate parent that is a flow-through entity), or

(b) all of the ultimate parent's adjusted profits would be attributable to one or more permanent establishments (see section 159) and no amount of income or expense of any permanent establishment would be treated, as a result of section 160 (attribution of losses between permanent establishment and main entity), as income or expense of the ultimate parent.

(4) Where a multinational group was not a qualifying multinational group in an accounting period only as a result of not meeting condition B in section 129(3) (requirement that at least one member is located in the United Kingdom), the condition in sub-paragraph (2)(c) is to be treated as met in relation to that period if an election corresponding to an election under this paragraph has been made in respect of the territory for the purposes of a tax imposed by a Pillar Two territory that is equivalent to multinational top-up tax.

(5) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph.

(6) The information return in which the election is made must set out which of the tests referred to in sub-paragraph (2)(e) are being relied on and include evidence of how any that is relied on is met.

(7) In this Part of this Schedule "qualifying country-by-country report" in relation to a territory means a country-by-country report in respect of a multinational group—

(a) that is in accordance with the OECD's guidance on country-by-country reporting (within the meaning of section 122 of FA 2015),

(b) that is filed in accordance with legislation implementing that guidance, and

(c) in which information relating to the territory is prepared on the basis of qualified financial statements of the multinational group (see paragraph 4).

(8) Reference to a qualifying country-by-country report in respect of a multinational group that is a multi-parent group is reference to a report in respect of all of the constituent groups.

Qualified financial statements and basis of calculations

4 (1) For the purposes of this Part of this Schedule "qualified financial statements" of a multinational group means—

(a) the accounts used to prepare the consolidated financial statement of the ultimate parent, or

(b) financial statements of members of the group prepared in accordance with acceptable accounting standards or an authorised accounting standard.

(2) Where a member of a multinational group is not included in consolidated financial statements of any member of the group on a line-by-line basis solely due to size or materiality grounds, the financial accounts of that member that are used for preparation of the group's country-by-country report are to be regarded as forming part of the qualified financial statements of the group.

(3) For the purposes of establishing whether the tests in paragraphs 7 to 9 are met in relation to members of a multinational group in a territory, the basis for that determination is to be the information derived from qualified financial statements as to—

(a) revenue,

(b) profit (loss) before income tax, and

(c) qualifying income tax expense (see paragraph 5).

(4) Information derived from qualified financial statements as to revenue or profit (loss) before income tax must be adjusted—

(a) as the information was adjusted for the purposes of its inclusion in a qualifying country-by-country report in relation to the territory, or

(b) if the information was not included in such a report, as it would have been adjusted had it been included in such a report.

See also paragraph 6 which provides for circumstances in which further adjustments are required to profit (loss) before income tax and circumstances in which adjustments are required to qualifying income tax expense.

(5) The information described in sub-paragraph (3)(a) to (c) that must be used to determine whether the tests in paragraphs 7 to 9 are met in relation to members of a multinational group in a territory must be derived from whichever of the following was used to prepare the qualifying country-by-country report in relation to the territory—

(a) qualified financial statements falling within sub-paragraph (1)(a), along with any financial accounts treated as qualified financial statements as a result of sub-paragraph (2), or

(b) qualified financial statements falling within sub-paragraph (1)(b), along with any financial accounts treated as qualified financial statements as a result of sub-paragraph (2).

(6) Where that information in respect of a territory is not available in qualified financial statements of a multinational group, no election may be made in respect of that territory.

Qualifying income tax expense

5 In this Part of this Schedule, "qualifying income tax expense" means income tax expense adjusted to exclude—

(a) any amount that does not relate to covered taxes, and

(b) any amount that relates to an uncertain tax position.

Adjustments

6 (1) Sub-paragraph (2) applies where the adjusted profits of the ultimate parent of a multinational group for an accounting period would be reduced as a result of section 171(1) (ultimate parent subject to deductible dividend regime).

(2) Where this sub-paragraph applies the profit (loss) before income tax of the ultimate parent for that period is to be reduced (but not below nil) by the amount referred to in section 171(1).

(3) Sub-paragraph (4) applies where—

(a) the standard members of a multinational group in a territory have a net unrealised fair value loss for an accounting period, and

(b) that loss exceeds 50 million euros.

(4) Where this sub-paragraph applies, those losses are to be excluded from the aggregate profit (loss) before income tax of those members.

(5) For the purposes of sub-paragraph (3), the standard members of a multinational group in a territory have a net unrealised fair value loss for an accounting period to the extent their losses that arise from changes in fair value of relevant ownership interests exceed gains arising from changes in fair value of relevant ownership interests.

(6) An ownership interest in an entity is relevant if, at the end of the accounting period, the members of the multinational group do not between them have ownership interests that entitle them to 10% or more of the entity's —

(a) profits,

(b) capital,

(c) reserves, and

(d) voting rights.

(7) Amounts of profits and qualifying tax expense allocated, for the purposes of Part 3, to a member of a multinational group from an investment entity as a result of an election under section 213 (investment entity tax transparency election) are to be reflected (to the extent they are not already) in the member's profit (loss) before income tax and qualifying tax expense used for the purposes of applying the tests in paragraphs 7 to 9.

(8) Amounts that are to be included or otherwise taken account of, for the purposes of Part 3, in the adjusted profits and covered tax balance of a member of a multinational group as a result of an election under section 214 (taxable distribution method election) are to be reflected (to the extent they are not already) in the member's profit (loss) before income tax and qualifying tax expense used for the purposes of applying the tests in paragraphs 7 to 9.

Threshold test

7 (1) The threshold test is met for a territory in an accounting period if—

(a) the revenue of the standard members in that territory for the period is less than 10 million euros, and

(b) the aggregate profit (loss) before income tax of those members for that period is less than 1 million euros.

(2) Where those members include members that are held for sale and the revenue of those members is not otherwise included in the amount determined for the purposes of sub-paragraph (1)(a), that revenue is to be so included.

Simplified effective tax rate test

8 (1) The simplified effective tax rate test is met for a territory in an accounting period if the simplified effective tax rate of the standard members of the group in that territory is—

(a) in the case of an accounting period beginning before 1 January 2025, at least 15%,

(b) in the case of an accounting period beginning in 2025, at least 16%, or

(c) in the case of an accounting period beginning on or after 1 January 2026, at least 17%.

(2) The simplified effective tax rate of the standard members of a multinational group in a territory in an accounting period is the amount (expressed as a percentage) given by dividing—

(a) the aggregate qualifying income tax expense of those members for that period, by

(b) the aggregate profit (loss) before income tax of those members for that period.

Routine profits test

9 (1) The routine profits test is met for a territory in an accounting period if—

(a) the qualified substance based income exclusion amount for that territory for that period is equal to or greater than the aggregate profit (loss) before income tax for that period of the standard members of the group located in that territory, or

(b) the aggregate profit (loss) before income tax of those members for that period is nil or reflects an overall loss.

(2) The "qualified substance based income exclusion amount" for a territory for an accounting period is the substance based exclusion determined for the territory for the period in accordance with section 195 (and see also paragraph 1 of this Schedule) ignoring any payroll carve-out amount or tangible asset carve-out amount of any standard member of the group in that territory—

(a) that is not regarded as a constituent entity of the multinational group for the purposes of the group's country-by-country report, or

(b) that is not regarded as located in the territory for the purposes of that report.

CHAPTER 2

APPLICATION TO JOINT VENTURES ETC

Application in the case of joint venture group

10 For the purpose of applying Chapter 1 of this Part of this Schedule to a joint venture group (see section 226 which applies this Schedule generally, with modifications, to joint venture groups)—

(a) paragraph 3(2)(c) were omitted (requirement for qualifying country-by-country report),

(b) the reference in paragraph 4(2) to "the financial accounts of that member that are used for preparation of the group's country-by-country report" were to the financial accounts that would be used if a qualifying country-by-country report had been prepared in respect of the joint venture group, and

(c) in paragraph 9(2), the words from "ignoring" to the end were omitted.

Application to investment entities in same territory as owners

11 (1) Subsection (2) applies where—

(a) an investment entity that is a member of a multinational group, and

(b) all of the members of a multinational group with direct ownership interests in it,

are located in the same territory.

(2) The investment entity is to be treated as a standard member of that group for the purposes of this Part of this Schedule.

Minority owned members

12 For the purposes of this Part of this Schedule, references to the standard members of a multinational group include minority owned members.

SCHEDULE 17

Section 261

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SCHEDULE 18

Section 275

ADMINISTRATION OF DOMESTIC TOP-UP TAX

Introduction

1 (1) The Commissioners for His Majesty's Revenue and Customs are responsible for the collection and management of domestic top-up tax.

(2) This Schedule applies (with modifications) Schedule 14 (administration of multinational top-up tax) for the purposes of administering domestic top-up tax.

Meaning of "filing member"

2 Part 2 of Schedule 14 applies, save that—

(a) where a qualifying entity is not part of a group, Part 2 of Schedule 14 does not apply, and references to "filing member" in Schedule 14 apply as if they were references to the qualifying entity;

(b) where a qualifying entity is part of a group—

(i) references to a "multinational group" apply as if they were references to a group;

(ii) the reference in paragraph 2(4)(a) of Schedule 14 to this Schedule applies as if it were a reference to Schedule 14.

Registration

3 Part 3 of Schedule 14 applies as if—

(a) for paragraph 6(1) and (2) there were substituted—

"(1) A filing member must register with HMRC if the filing member or, if the filing member is a member of a group, a member of that group—

(a) is located in the United Kingdom and

(b) is a qualifying entity.

(2) For the purposes of sub-paragraph (1), a qualifying entity becomes a qualifying entity on the first day of the first accounting period it is a qualifying entity (the "trigger day").";

(b) references to a "multinational group" were references to a group.

Other administrative provisions

4 (1) Subject to paragraph 5, Parts 4 to 12 of Schedule 14 apply as if—

(a) references to "multinational top-up tax" were to domestic top-up tax;

(b) references to "domestic top-up tax" were to multinational top-up tax;

(c) references to a "multinational group" were references to a group;

(d) where an entity registered under Part 3 of that Schedule (or which should have been registered) is not part of a group—

(i) references to a group or its members (however framed) were references to the entity or an entity (as the context requires);

(ii) references to "the filing member of a group" were references to the entity.

(2) In particular, the Treasury's power to make regulations under paragraph 39 applies in relation to payments of domestic top-up tax.

5 (1) In Part 11 of Schedule 14 (penalties), only paragraphs 40(b), (c) and (e), 42 to 44, and 46 to 50 apply.

(2) The reference in paragraph 38 of Schedule 14 (as applied by paragraph 4) to a penalty referred to in paragraph 40 of that Schedule applies as if, instead of referring to the penalties referred to in paragraph 40(a), (b) and (d) of that Schedule, it referred to the penalties inserted by paragraph 6.

Amendments: penalties

6 (1) In paragraph 1 of Schedule 41 to FA 2008 (penalties for failure to notify etc), in the table after the entry relating to multinational top-up tax (as inserted by paragraph 41 of Schedule 14), insert—

"Domestic top-up tax	Obligation of a filing member to register under paragraph 6 of Schedule 14 to F(No.2)A 2023, as applied by paragraph 3 of Schedule 18 to F(No.2)A 2023"

(2) In paragraph 1 of Schedule 24 to FA 2007 (penalties for errors etc), in the table after the entry relating to multinational top-up tax (as inserted by paragraph 45 of Schedule 14), insert—

"Domestic top-up tax	Overseas return notification and information provided with it
Domestic top-up tax	Self-assessment return and information provided with it
Domestic top-up tax	Below-threshold notification and information provided with it"

Other amendments

7 (1) In section 1(1) of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax etc) after "multinational top-up tax," (as inserted by paragraph 68(1) of Schedule 14) insert "domestic top-up tax,".

(2) In section 178(2) of FA 1989 (setting of interest rates), after paragraph (x) (as inserted by paragraph 68(2) of Schedule 14) insert—

"(y) paragraphs 33 and 51 of Schedule 14 to the Finance (No.2) Act 2023, as applied in relation to domestic top-up tax by paragraph 4 of Schedule 18 to that Act."

(3) In paragraph 63(1) of Schedule 36 to FA 2008 (information and inspection powers), after paragraph (cd) (as inserted by paragraph 68(3) of Schedule 14) insert—

"(ce) domestic top-up tax;"

(4) In section 206(3) of FA 2013, after paragraph (h) (as inserted by paragraph 68(4) of Schedule 14) insert—

"(i) domestic top-up tax."

SCHEDULE 19

Section 316

DUMPING, SUBSIDISATION AND SAFEGUARDING REMEDIES

PART 1

DUMPING AND SUBSIDISATION REMEDIES

Introduction

1 Schedule 4 to TCTA 2018 (dumping of goods or foreign subsidies causing injury to UK industry) is amended as follows.

Notification etc

2 (1) In paragraph 9 (initiation of a dumping or subsidisation investigation)—

(a) after sub-paragraph (3) insert—

"(3A) Where the TRA receives an application under sub-paragraph (1)(a)(i), the TRA must notify the Secretary of State of the application before the end of the second working day after the day on which it receives the application.";

(b) in sub-paragraph (5), in the words before paragraph (a), after "must" insert "notify the Secretary of State that it intends to initiate a dumping investigation and, after the relevant interval, must take the following steps in the order in which they are set out";

(c) in sub-paragraph (6)—

(i) in the words before paragraph (a), after "must" insert "notify the Secretary of State that it intends to initiate a subsidisation investigation and, after the relevant interval, must take the following steps in the order in which they are set out";

(ii) after paragraph (a) insert—

"(aa) invite the governments of the relevant foreign countries or territories to participate in consultations,";

(iii) in paragraph (b) omit the words from "after" to "consultations,";

(d) after sub-paragraph (6) insert—

"(6A) In sub-paragraphs (5) and (6), the "relevant interval" is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the investigation.";

(e) after sub-paragraph (9) insert—

"(10) In this paragraph, "working day" means any day other than a Saturday, a Sunday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."

(2) In paragraph 10 (regulations about the conduct of a dumping or subsidisation investigation), in sub-paragraph (2)—

(a) in paragraph (i), at the end insert "or the Secretary of State";

(b) at the end insert—

"(k) the Secretary of State requiring the TRA to reassess a proposal to terminate an investigation."

(3) In paragraph 11 (provisional affirmative determinations and final affirmative or negative determinations), in sub-paragraph (5), at the end insert "(but see paragraph 12A for a requirement to give notice to the Secretary of State in certain cases)".

(4) In paragraph 12 (termination of a dumping or a subsidisation investigation)—

(a) omit paragraph (b);

(b) in paragraph (c), after "20(4)(a)" insert "or the Secretary of State publishes notice of a decision under paragraph 20A(2)".

(5) After paragraph 12 insert—

"Requirement to give notice to the Secretary of State in certain cases

12A(1) This paragraph applies where the TRA proposes to make a final negative determination.

(2) The TRA must notify the Secretary of State of its proposed determination.

(3) Where the Secretary of State has been notified in accordance with sub-paragraph (2), the Secretary of State may, within the relevant period (and subject to sub-paragraph (4)), request that the TRA reassess its proposed determination by reference to any matters specified in the request.

(4) The Secretary of State may only make a request under sub-paragraph (3) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the proposed determination,

(b) the TRA has made an error in relation to its proposed determination, or

(c) exceptional circumstances make the request appropriate.

(5) The TRA must comply with a request under sub-paragraph (3).

(6) The TRA may not make its proposed determination until—

(a) the relevant period has ended, or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under sub-paragraph (3), the time when the TRA receives that information.

(7) For the purposes of this paragraph, the relevant period is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination."

Provisional remedies

3 (1) In paragraph 13 (TRA's duty to recommend requiring guarantees)—

(a) in sub-paragraph (4) omit paragraph (b) (and the "and" at the end of paragraph (a));

(b) after sub-paragraph (8) insert—

"(8A) Where the TRA makes a recommendation under sub-paragraph (3), it must advise the Secretary of State whether and why it considers that requiring importers to give a guarantee in accordance with the recommendation would meet the economic interest test (see paragraph 25)."

(2) In paragraph 15 (Secretary of State's power to require a guarantee)—

(a) in sub-paragraph (3), for the words from "accept" to the end substitute "have regard to the TRA's advice on whether requiring a guarantee in accordance with the recommendation would meet the economic interest test (see paragraph 25).";

(b) after sub-paragraph (3) insert—

"(3A) Sub-paragraph (3B) applies if the recommendation is rejected.

(3B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that importers of relevant goods should be required to give a guarantee other than in accordance with the recommendation.

(3C) But the Secretary of State may make a decision under sub-paragraph (3B) only if a recommendation under paragraph 13(3) to the same effect as the decision (ignoring any restrictions in paragraph 13 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 14.

(3D) Where the Secretary of State makes a decision under sub-paragraph (3B), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 32(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.";

(c) in sub-paragraph (4), after "rejected" insert "and the Secretary of State does not make a decision under sub-paragraph (3B)".

Definitive remedies

4 (1) In paragraph 17 (TRA's duty to recommend an anti-dumping amount or countervailing amount)—

(a) in sub-paragraph (3), in the words before paragraph (a), for "may" substitute "must";

(b) in sub-paragraph (4), in the words before paragraph (a), for "may" substitute "must";

(c) omit sub-paragraph (5);

(d) in sub-paragraph (7)—

(i) omit "But";

(ii) at the end insert "(but a recommendation may include two or more options in accordance with sub-paragraph (8A))";

(e) after sub-paragraph (8) insert—

"(8A) Where the TRA considers that there are two or more options which it could recommend under sub-paragraph (3) or (4), as the case may be, in relation to relevant goods or descriptions of relevant goods, it may give the Secretary of State each of those options as part of its recommendation.

(8B) The Secretary of State may by regulations make provision requiring the TRA, in specified circumstances, to consider whether it could give the Secretary of State two or more options as part of its recommendation under sub-paragraph (3) or (4) in relation to relevant goods or descriptions of relevant goods.

(8C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with regulations under sub-paragraph (8B), the TRA considers that there is only one option which it could recommend under sub-paragraph (3) or (4), as the case maybe, in relation to relevant goods or descriptions of relevant goods, it must give the Secretary of State its reasons for reaching that conclusion.

(8D) Where the TRA gives the Secretary of State options, it must—

(a) give the Secretary of State its reasons for including each option, and

(b) inform the Secretary of State which option it prefers and why.

(8E) Where the TRA makes a recommendation under sub-paragraph (3) or (4) it must advise the Secretary of State whether and why it considers that applying an anti-dumping amount or a countervailing amount, as the case may be, in accordance with—

(a) the recommendation, or

(b) where the recommendation contains options given under sub-paragraph (8A), each option,

would meet the economic interest test (see paragraph 25).";

(f) omit sub-paragraph (9);

(g) omit sub-paragraph (10).

(2) In paragraph 18 (TRA's recommendations about an anti-dumping amount or a countervailing amount), after sub-paragraph (8) insert—

"(9) This paragraph has effect in relation to an option given by the TRA under paragraph 17(8A) as it has effect in relation to a recommendation by the TRA under paragraph 17(3) or (4)."

(3) In paragraph 19 (regulations about TRA's recommendations), after sub-paragraph (5) insert—

"(6) Regulations under this paragraph may make any provision in relation to an option given by the TRA under paragraph 17(8A) that they may make in relation to a recommendation by the TRA under paragraph 17(3) or (4)."

(4) In the italic heading before paragraph 20 (Secretary of State's power to accept or reject a recommendation), for "power to accept or reject" substitute "powers in relation to".

(5) In paragraph 20—

(a) in sub-paragraph (1)—

(i) the words from "decide" to the end become paragraph (a);

(ii) at the end of that paragraph insert ", or

(b) request that the TRA reassess the recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation.";

(b) after sub-paragraph (1) insert—

"(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 17(8A), the Secretary of State must decide which of those options to adopt.";

(c) in sub-paragraph (3), for the words from "accept" to the end substitute "have regard to the TRA's advice on whether the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 25)";

(d) in sub-paragraph (4), after "rejected" insert "and the Secretary of State does not make a decision under paragraph 20A(2)";

(e) in sub-paragraph (5), in paragraph (a), after "recommendation" insert ", including any particular option adopted by the Secretary of State,";

(f) after sub-paragraph (5) insert—

"(5A) The Secretary of State may only make a request under sub-paragraph (1)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the recommendation,

(b) the TRA has made an error in relation to its recommendation, or

(c) exceptional circumstances make the request appropriate.

(5B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

(5C) Where the Secretary of State makes a request under sub-paragraph (1)(b), the TRA must—

(a) comply with the request, and

(b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request."

(6) After paragraph 20 insert—

"Secretary of State's power to apply an alternative remedy

20A(1) This paragraph applies where the Secretary of State rejects a recommendation under paragraph 20.

(2) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to apply an anti-dumping amount or a countervailing amount in relation to relevant goods or descriptions of relevant goods to which the TRA's recommendation related, other than in accordance with the recommendation.

(3) But the Secretary of State may make a decision under sub-paragraph (2) only if a recommendation under paragraph 17(3) or (4) to the same effect as the decision (ignoring any restrictions in paragraph 17 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 18.

(4) Where the Secretary of State makes a decision under sub-paragraph (2), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 32(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision."

Reviews etc

5 (1) In paragraph 21 (reviews of continuing application of an anti-dumping amount or a countervailing amount)—

(a) in sub-paragraph (4)—

(i) after sub-paragraph (c) insert—

"(ca) provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation investigations, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(cb) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA;";

(ii) at the end insert—

"(e) provision for the Secretary of State to provide by public notice, in a case where a review in relation to the application of an anti-dumping amount or a countervailing amount has been completed, for—

(i) the application of the amount to be treated as having expired at the end of the specified period (see paragraph 17(3) and (4)) set out in the public notice under section 13 relating to the amount;

(ii) where the application of the amount was not suspended in connection with a review, a person to be entitled to a repayment of the amount that they paid after applying for the review;

(iii) where the application of the amount was suspended in connection with a review, a person to be liable for the amount that they would have been liable to pay if the review had not taken place.";

(b) in sub-paragraph (6)—

(i) omit the "and" at the end of paragraph (a);

(ii) after that paragraph insert—

"(aa) the TRA giving the Secretary of State options as part of a recommendation,";

(iii) for paragraph (b) substitute—

"(b) the Secretary of State's powers in relation to such a recommendation, and

(c) the date from which any variation or revocation may have effect, which may be a date before the date of the recommendation by the TRA or decision by the Secretary of State.";

(c) in sub-paragraph (7)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision";

(d) in sub-paragraph (8), after "State" insert ", or which the Secretary of State may decide to make other than in accordance with a recommendation,";

(e) in sub-paragraph (9)—

(i) for "the TRA may recommend" substitute "the Secretary of State may decide, whether or not in response to a recommendation of the TRA,";

(ii) for "the recommendation" substitute "the decision";

(f) in sub-paragraph (10) for "recommendation" substitute "decision".

(2) In paragraph 22 (variation or revocation following an international dispute decision)—

(a) in sub-paragraph (1)(b), for "the Secretary of State accepting or rejecting" substitute "the Secretary of State's powers in relation to";

(b) in sub-paragraph (2), at the end insert—

"(d) make provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation investigations, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(e) make provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.";

(c) in sub-paragraph (4)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

(3) In paragraph 26 (suspension of anti-dumping or anti-subsidy remedies)—

(a) in sub-paragraph (1)(b), for "the Secretary of State accepting or rejecting" substitute "the Secretary of State's powers in relation to";

(b) in sub-paragraph (4), at the end insert—

"(e) provision corresponding or similar to any provision made by or under this Schedule in relation to dumping or subsidisation investigations, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(f) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.";

(c) in sub-paragraph (6)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

Revocation in the public interest

6 After paragraph 22 insert—

"Revocation in the public interest

22A(1) The Secretary of State may decide to revoke the application of an anti-dumping amount or a countervailing amount to goods in the absence of a recommendation from the TRA where the Secretary of State considers that it is in the public interest to do so.

(2) Before making a decision under sub-paragraph (1) the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) Where the Secretary of State makes a decision under sub-paragraph (1), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 32(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision."

Power to request assistance etc

7 After paragraph 22A (as inserted by paragraph 6) insert—

"Power to request assistance etc

22B(1) The Secretary of State may request that the TRA give advice, information or other support to the Secretary of State for the purpose of allowing the Secretary of State to decide whether to make a decision under any of the following—

(a) paragraph 15(3B) (decision to require a guarantee other than in accordance with a recommendation);

(b) paragraph 20A(2) (decision to apply a final remedy other than in accordance with a recommendation);

(c) paragraph 22A(1) (decision to revoke a final remedy in the absence of a recommendation).

(2) The Secretary of State may include in a request under sub-paragraph (1) a requirement that the TRA investigate and provide a report on any matter specified in the request.

(3) Before making a request under sub-paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under sub-paragraph (1)."

PART 2

SAFEGUARDING REMEDIES

Introduction

8 Schedule 5 to TCTA 2018 (increase in imports causing serious injury to UK producers) is amended as follows.

Notification etc

9 (1) In paragraph 7 (initiation of a safeguarding investigation)—

(a) after sub-paragraph (4) insert—

"(4A) Where the TRA receives an application under sub-paragraph (1)(a)(i), the TRA must notify the Secretary of State of the application before the end of the second working day after the day on which it receives the application";

(b) in sub-paragraph (6), in the words before paragraph (a), after "must" insert "notify the Secretary of State that it intends to initiate a safeguarding investigation and, after the relevant interval, must take the following steps in the order in which they are set out";

(c) after sub-paragraph (6) insert—

"(6A) In sub-paragraph (6), the "relevant interval" is the period of two working days beginning with the first working day after the day on which the TRA notifies the Secretary of State of its intention to initiate the safeguarding investigation.";

(d) after sub-paragraph (7) insert—

"(8) In this paragraph, "working day" means any day other than a Saturday, a Sunday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."

(2) In paragraph 9 (provisional affirmative determinations and final affirmative or negative determinations), in sub-paragraph (5), at the end insert "(but see paragraph 10A for a requirement to give notice to the Secretary of State in certain cases)".

(3) In paragraph 10 (termination of a safeguarding investigation)—

(a) in paragraph (b), at the end insert "(and see paragraph 10A for a requirement to give notice to the Secretary of State before making the determination)";

(b) in paragraph (c), after "20(3)(a)" insert "or the Secretary of State publishes notice of a decision under paragraph 19(2C) or 20(2C)";

(4) After paragraph 10 insert—

"Requirement to give notice to the Secretary of State in certain cases

10A(1) This paragraph applies where the TRA—

(a) proposes to make a final negative determination, or

(b) proposes to make a final affirmative determination in relation to goods and to determine that there is not a recommendation which it could make under paragraph 16(3) in relation to them.

(2) The TRA must notify the Secretary of State of its proposed determination.

(3) Where the Secretary of State has been notified in accordance with sub-paragraph (2), the Secretary of State may, within the relevant period (and subject to sub-paragraph (4)), request that the TRA reassess its proposed determination by reference to any matters specified in the request.

(4) The Secretary of State may only make a request under sub-paragraph (3) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the proposed determination,

(b) the TRA has made an error in relation to its proposed determination, or

(c) exceptional circumstances make the request appropriate.

(5) The TRA must comply with a request under sub-paragraph (3).

(6) The TRA may not make its proposed determination until—

(a) the relevant period has ended, or

(b) if the Secretary of State informs the TRA within the relevant period that the Secretary of State will not make a request under sub-paragraph (3), the time when the TRA receives that information.

(7) For the purposes of this paragraph, the relevant period is the period of 21 days beginning with the day on which the TRA notifies the Secretary of State that it proposes to make the determination."

Provisional remedies

10 (1) In paragraph 11 (TRA's duty to recommend a provisional safeguarding amount or a provisional tariff rate quota)—

(a) in sub-paragraph (5) omit paragraph (b) (and the "and" at the end of paragraph (a));

(b) after sub-paragraph (8) insert—

"(8A) Where the TRA makes a recommendation under sub-paragraph (3), it must advise the Secretary of State whether and why it considers that applying a provisional safeguarding amount to relevant goods, or making relevant goods subject to a provisional tariff rate quota, in accordance with the recommendation, would meet the economic interest test (see paragraph 23)."

(2) In paragraph 14 (Secretary of State's power to apply a provisional safeguarding amount)—

(a) in sub-paragraph (2), for paragraphs (a) and (b) (and the "—" before paragraph (a)) substitute "it is not in the public interest to accept it.";

(b) after sub-paragraph (2) insert—

"(2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a provisional safeguard amount to relevant goods in accordance with the recommendation would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) a provisional safeguarding amount should be applied to all the relevant goods, or to specified relevant goods, other than in accordance with the recommendation, or

(b) all the relevant goods, or specified relevant goods, should be subject to a provisional tariff rate quota for a specified period.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 11(3) to the same effect as the decision (ignoring

any restrictions in paragraph 11 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 12 or 13, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.";

(c) in sub-paragraph (3), after "rejected" insert "and the Secretary of State does not make a decision under sub-paragraph (2C)".

(3) In paragraph 15 (Secretary of State's power to subject goods to a provisional tariff rate quota)—

(a) in sub-paragraph (2), for paragraphs (a) and (b) (and the "—" before paragraph (a)) substitute "it is not in the public interest to accept it";

(b) after sub-paragraph (2) insert—

"(2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a provisional tariff rate quota to relevant goods in accordance with the recommendation would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) all the relevant goods, or specified relevant goods, should be subject to a provisional tariff rate quota, other than in accordance with the recommendation, or

(b) a provisional safeguarding amount should be applied for a specified period to all the relevant goods or, to specified relevant goods.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 11(3) to the same effect as the decision (ignoring any restrictions in paragraph 11 on the ability of the TRA to make such a recommendation) would have complied

with the requirements set out in paragraph 12 or 13, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.";

(c) in sub-paragraph (3), after "rejected" insert "and the Secretary of State does not make a decision under sub-paragraph (2C)".

Definitive remedies

11 (1) In paragraph 16 (TRA's duty to recommend a definitive safeguarding amount or tariff rate quota)—

(a) omit sub-paragraph (5)(a) (and the "and" at the end of that sub-paragraph);

(b) after sub-paragraph (10) insert—

"(10A) Where the TRA considers that there are two or more options which it could recommend under sub-paragraph (3)(a) or (b), in relation to relevant goods or descriptions of relevant goods, it may give the Secretary of State each of those options as part of its recommendation.

(10B) The Secretary of State may by regulations make provision requiring the TRA, in specified circumstances, to consider whether it could give the Secretary of State two or more options as part of its recommendation under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods.

(10C) Where, after considering whether it could give the Secretary of State two or more options as part of its recommendation in accordance with regulations under sub-paragraph (10B), the TRA considers that there is only one option which it could reasonably recommend under sub-paragraph (3)(a) or (b) in relation to relevant goods or descriptions of relevant goods, it must give the Secretary of State its reasons for reaching that conclusion.

(10D) Where the TRA gives the Secretary of State options, it must—

(a) give the Secretary of State its reasons for including each option, and

(b) inform the Secretary of State which option it prefers and why.

(10E) Where the TRA makes a recommendation under sub-paragraph (3) it must advise the Secretary of State whether and why it considers that applying a definitive safeguarding amount or making relevant goods subject to a quota in accordance with—

(a) its recommendation, or

(b) where the recommendation contains options given under sub-paragraph (10A), each option,

would meet the economic interest test (see paragraph 23)."

(2) In paragraph 17 (TRA's recommendations about a definitive safeguarding amount)—

(a) in sub-paragraph (8), at the end insert "or, where the TRA's recommendation contained options proposing different lengths, the length adopted by the Secretary of State";

(b) after sub-paragraph (10) insert—

"(11) This paragraph has effect in relation to an option given by the TRA under paragraph 16(10A) as it has effect in relation to a recommendation by the TRA under paragraph 16(3)(a)."

(3) In paragraph 18 (TRA's recommendations regarding tariff rate quotas), after sub-paragraph (11) insert—

"(11) This paragraph has effect in relation to an option given by the TRA under paragraph 16(10A) as it has effect in relation to a recommendation by the TRA under paragraph 16(3)(b)."

(4) In the italic heading before paragraph 19 (Secretary of State's power to apply a definitive safeguarding amount), for "power" substitute "powers in relation to a recommendation".

(5) In paragraph 19—

(a) in sub-paragraph (1)—

(i) the words from "decide" to the end become paragraph (a);

(ii) at the end of that paragraph insert ", or

(b) request that the TRA reassess its recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation.";

(b) after sub-paragraph (1) insert—

"(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 16(10A), the Secretary of State must decide which of those options to adopt.";

(c) in sub-paragraph (2), for paragraphs (a) and (b) (and the "—" before them) substitute "it is not in the public interest to accept it";

(d) after sub-paragraph (2) insert—

"(2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a definitive safeguarding amount in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) a definitive safeguarding amount should be applied to all the relevant goods, or to specified relevant goods, other than in accordance with the recommendation, or

(b) all the relevant goods, or specified relevant goods, should be subject to a tariff rate quota for a specified period.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 16 to the same effect as the decision (ignoring any restrictions in paragraph 16 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 17 or 18, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.";

(e) in sub-paragraph (3), after "rejected" insert "and the Secretary of State does not make a decision under sub-paragraph (2C)";

(f) in sub-paragraph (4), in paragraph (a), after "recommendation" insert ", including any particular option adopted by the Secretary of State,";

(g) after sub-paragraph (4) insert—

"(4A) The Secretary of State may only make a request under sub-paragraph (1)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the recommendation,

(b) the TRA has made an error in relation to its recommendation, or

(c) exceptional circumstances make the request appropriate.

(4B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

(4C) Where the Secretary of State makes a request under sub-paragraph (1)(b), the TRA must—

(a) comply with the request, and

(b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request."

(6) In the italic heading before paragraph 20 (Secretary of State's power to subject goods to a tariff rate quota), for "power" substitute "powers in relation to a recommendation".

(7) In paragraph 20—

(a) in sub-paragraph (1)—

(i) the words from "decide" to the end become paragraph (a);

(ii) at the end of that paragraph insert ", or

(b) request that the TRA reassess its recommendation with a view to amending or replacing the recommendation.";

(b) after sub-paragraph (1) insert—

"(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 16(10A), the Secretary of State must decide which of those options to adopt.";

(c) in sub-paragraph (2), for paragraphs (a) and (b) (and the "—" before them) substitute "it is not in the public interest to accept it";

(d) after sub-paragraph (2) insert—

"(2A) In considering that, the Secretary of State must have regard to the TRA's advice on whether applying a tariff rate quota in accordance with the recommendation, or in accordance with each option, as the case may be, would meet the economic interest test (see paragraph 23).

(2B) Sub-paragraph (2C) applies if the recommendation is rejected.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that—

(a) all the relevant goods, or specified relevant goods, should be subject to a tariff rate quota, other than in accordance with the recommendation, or

(b) a definitive safeguarding amount should be applied for a specified period to all the relevant goods, or to specified relevant goods.

(2D) But the Secretary of State may make a decision under sub-paragraph (2C) only if a recommendation under paragraph 16 to the same effect as the decision (ignoring any restrictions in paragraph 16 on the ability of the TRA to make such a recommendation) would have complied with the requirements set out in paragraph 17 or 18, as the case may be.

(2E) Where the Secretary of State makes a decision under sub-paragraph (2C), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision.";

(e) in sub-paragraph (3), after "rejected" insert " and the Secretary of State does not make a decision under sub-paragraph (2C)";

(f) in sub-paragraph (4), in paragraph (a), after "recommendation" insert ", including any particular option adopted by the Secretary of State,";

(g) after sub-paragraph (4) insert—

"(4A) The Secretary of State may only make a request under sub-paragraph (1)(b) where the Secretary of State considers that—

(a) there is information that the TRA did not take into account in its investigation that is relevant to the recommendation,

(b) the TRA has made an error in relation to its recommendation, or

(c) exceptional circumstances make the request appropriate.

(4B) Before making a request under sub-paragraph (1)(b), the Secretary of State must consult the TRA.

(4C) Where the Secretary of State makes a request under sub-paragraph (1)(b), the TRA must—

(a) comply with the request, and

(b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request."

Reviews etc

12 (1) In paragraph 21 (reviews)—

(a) in sub-paragraph (4), after paragraph (b) insert—

"(ba) provision corresponding or similar to any provision made by or under this Schedule in relation to a safeguarding investigation, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(bb) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA;";

(b) in sub-paragraph (6)—

(i) omit the "and" at the end of paragraph (a);

(ii) after that paragraph insert—

"(aa) the TRA giving the Secretary of State options as part of a recommendation, and";

(iii) in paragraph (b), for "the Secretary of State accepting or rejecting" substitute "the Secretary of State's powers in relation to".

(c) in sub-paragraph (7)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

(d) in sub-paragraph (8), after "State" insert ", or which the Secretary of State may decide to make other than in accordance with a recommendation,";

(e) in sub-paragraph (9), after "State" insert ", or which the Secretary of State may decide to make other than in accordance with a recommendation,";

(f) in sub-paragraph (10)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

(2) In paragraph 22 (variation or revocation following an international dispute decision)—

(a) in sub-paragraph (1)(b), for "the Secretary of State accepting or rejecting" substitute "the Secretary of State's powers in relation to";

(b) in sub-paragraph (2), at the end insert—

"(d) make provision corresponding or similar to any provision made by or under this Schedule in relation to safeguarding investigations, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(e) make provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.";

(c) in sub-paragraph (4)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

(3) In paragraph 24 (suspension of safeguarding remedies)—

(a) in sub-paragraph (1), in paragraph (b), for "the Secretary of State accepting or rejecting" substitute "the Secretary of State's powers in relation to";

(b) in sub-paragraph (4), at the end insert—

"(e) provision corresponding or similar to any provision made by or under this Schedule in relation to a safeguarding investigation, including any of the powers or duties of the TRA or the Secretary of State in respect of those investigations and any recommendations or decisions resulting from them;

(f) provision conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the TRA.";

(c) in sub-paragraph (6)—

(i) in the words before paragraph (a), for "accepts a recommendation" substitute "decides";

(ii) in paragraph (a), for "recommendation and of the acceptance of it" substitute "decision";

(iii) in paragraph (c), for "recommendation" substitute "decision".

Revocation in the public interest

13 After paragraph 22 insert—

"Revocation in the public interest

22A(1) The Secretary of State may decide that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, is to be revoked in the absence of a recommendation from the TRA where the Secretary of State considers that revocation is in the public interest.

(2) Before making a decision under sub-paragraph (1) the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) Where the Secretary of State makes a decision under sub-paragraph (1), the Secretary of State—

(a) must publish notice of the decision,

(b) must notify interested parties (see paragraph 31(3)) accordingly,

(c) must lay a statement before the House of Commons setting out the reasons for making the decision, and

(d) is required under section 13 to make provision by public notice to give effect to the decision."

Power to request assistance etc

14 After paragraph 22A (as inserted by paragraph 13) insert—

"Power to request assistance etc

22B(1) The Secretary of State may request that the TRA give advice, information or other support to the Secretary of State for the purpose of allowing the Secretary of State to decide whether to make a decision under any of the following—

(a) paragraphs 14(2C) and 15(2C) (decisions to adopt a provisional remedy other than in accordance with a recommendation);

(b) paragraphs 19(2C) and 20(2C) (decisions to adopt a final remedy other than in accordance with a recommendation);

(c) paragraph 22A(1) (decision to revoke a final remedy in the absence of a recommendation).

(2) The Secretary of State may include in a request under sub-paragraph (1) a requirement that the TRA investigate and provide a report on any matter specified in the request.

(3) Before making a request under sub-paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under sub-paragraph (1)."

PART 3

CONSEQUENTIAL AND RELATED PROVISION

15 In section 13 of TCTA 2018 (dumping of goods, foreign subsidies and increases in imports)—

(a) in subsection (2)—

(i) for "accepts a recommendation by the TRA" substitute "decides";

(ii) for "the recommendation" substitute "the decision".

(b) in subsection (3)—

(i) for "accepts a recommendation by the TRA" substitute "decides";

(ii) for "the recommendation" substitute "the decision".

(c) in subsection (4)—

(i) for "accepts a recommendation by the TRA" substitute "decides";

(ii) for "the recommendation" substitute "the decision".

16 (1) The Treasury or the Secretary of State may by regulations made by statutory instrument make such provision as the Treasury or the Secretary of State, as the case may be, considers appropriate in relation to trade remedies measures transitioned under Part 12 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450), including provision—

(a) in relation to exemptions that has effect from IP completion day (or any later day);

(b) conferring functions (including functions involving the exercise of a discretion) on the Secretary of State or the Trade Remedies Authority.

(2) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of the House of Commons.

PART 4

COMMENCEMENT

17 (1) Any power to make regulations under or by virtue of this Schedule comes into force on the day on which this Act is passed.

(2) The remaining provisions of this Schedule come into force on such day as the Secretary of State may by regulations appoint.

(3) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Schedule.

(4) The power to make regulations under sub-paragraph (3) includes power to make different provision for different purposes.

(5) Regulations under this paragraph are to be made by statutory instrument.

SCHEDULE 20

Section 316

BILATERAL SAFEGUARDING REMEDIES

PART 1

AMENDMENTS TO TCTA 2018

1 (1) Section 13 of TCTA 2018 is amended as follows.

(2) In subsection (1) –

(a) omit the "and" at the end of paragraph (a);

(b) at the end insert ", and

(c) Schedule 5A (increase in imports as a result of free trade agreement causing serious injury to UK producers)."

(3) In subsection (2), for "Schedule 4 or 5" substitute "Schedule 4, 5 or 5A".

(4) In subsection (3), after "Schedule 5" insert "or 5A"

(5) In subsection (4), in the words before paragraph (a), for "Schedule 4 or 5" substitute "Schedule 4, 5 or 5A".

2 After Schedule 5 of that Act insert –

"SCHEDULE 5A

Section 13

INCREASE IN IMPORTS AS A RESULT OF FREE TRADE AGREEMENT CAUSING SERIOUS INJURY TO UK PRODUCERS

Application of this Schedule

1 (1) Schedule 5 (increase in imports causing serious injury to UK producers) applies in relation to a relevant increase in imports subject to the following paragraphs of this Schedule.

(2) For the purposes of sub-paragraph (1) a "relevant increase in imports" occurs where –

(a) goods have been or are being, or may have been or may be being, imported into the United Kingdom in increased quantities,

(b) the importation of the goods in increased quantities was or is, or may have been or may be being, caused by the reduction or elimination of import duty as a result of a free trade agreement, and

(c) the importation of the goods in increased quantities has caused or is causing, or may have caused or may be causing, serious injury to UK producers of those goods.

(3) In sub-paragraph (2)(c) "serious injury" and "UK producers" have the meaning that they have for the purposes of Schedule 5 (see paragraphs 2 and 3 of that Schedule).

TRA and Secretary of State required to have regard to relevant free trade agreement

2 In applying the provisions of Schedule 5 in accordance with this Schedule the TRA and the Secretary of State must have regard to the relevant free trade agreement.

Meaning of importation in "increased quantities"

3 Paragraph 1 of Schedule 5 (meaning of importation in "increased quantities") is to be read as if, in paragraph (c) of sub-paragraph (2), the words from "including provision" to the end were omitted.

Bilateral safeguarding investigation

4 Paragraph 6 of Schedule 5 (safeguarding investigation) is to be read as if, in sub-paragraph (1)—

(a) the "and" at the end of paragraph (a) were omitted;

(b) after that paragraph there were inserted—

"(aa) whether the importation of the goods in increased quantities was or is being caused by the reduction or elimination of import duty as a result of a free trade agreement, and"

Initiation of a bilateral safeguarding investigation

5 (1) Paragraph 7 of Schedule 5 (initiation of a safeguarding investigation) is to be read subject to the following modifications.

(2) Sub-paragraph (1) is to be read as if—

(a) in the words before paragraph (a), for "The TRA may initiate" there were substituted "The Secretary of State may request that the TRA initiates";

(b) paragraph (a) were omitted;

(c) in paragraph (b)—

(i) in the words before sub-paragraph (i), for "it is satisfied that the application contains" there were substituted "the Secretary of State is satisfied that there is";

(ii) the "and" at the end of sub-paragraph (i) were omitted;

(iii) after that sub-paragraph there were inserted—

"(ia) the importation of the goods in increased quantities was or is being caused by the reduction or elimination of import duty as a result of the relevant free trade agreement, and";

(d) in paragraph (c)—

(i) for "the TRA" there were substituted "the Secretary of State";

(ii) for "application" there were substituted "request";

(e) in paragraph (d)—

(i) for "application", in both places it appears, there were substituted "request";

(ii) for "the TRA" there were substituted "the Secretary of State".

(3) Sub-paragraph (2) is to be read as if—

(a) paragraph (a) were omitted;

(b) in paragraph (b), for the words from "in the case" to "the TRA" there were substituted "the Secretary of State".

(4) Sub-paragraph (3) is to be read as if—

(a) paragraph (a) were omitted;

(b) in paragraph (b), the words "in the case" to "sub-paragraph (1)(a)(ii)" were omitted.

(5) The remaining provisions of paragraph 7 are to be read as if—

(a) in sub-paragraph (4), paragraphs (a) to (d) were omitted;

(b) sub-paragraphs (4A) and (5) were omitted;

(c) in sub-paragraph (6)—

(i) for the words before paragraph (a) there were substituted "Where the Secretary of State makes a request under sub-paragraph (1) the TRA must—";

(ii) in paragraph (a) the words "accept the application and" were omitted;

(iii) in paragraph (b), for "of its decision to initiate" substitute "that it has initiated";

(d) sub-paragraph (6A) were omitted;

(e) sub-paragraph (8) were omitted.

Provisional affirmative determinations and final affirmative or negative determinations

6 Paragraph 9 of Schedule 5 (provisional affirmative determinations and final affirmative or negative determinations) is to be read as if –

(a) in sub-paragraph (1) –

(i) the "and" at the end of paragraph (a) were omitted;

(ii) after that paragraph there were inserted –

"(aa) the importation of the goods in increased quantities was or is being caused by the reduction or elimination of import duty as a result of the relevant free trade agreement, and";

(b) sub-paragraph (3) were omitted;

(c) for sub-paragraph (7) there were substituted –

"(7) Where the TRA makes a final negative determination or final negative determinations under sub-paragraph (4) –

(a) the TRA must notify the Secretary of State of the determination or determinations;

(b) the Secretary of State must notify interested parties (see paragraph 31(3)) that the Secretary of State will not apply a bilateral safeguarding remedy to the goods;

(c) the Secretary of State may produce and publish a report or update in relation to the investigation;

(d) the Secretary of State may request that the TRA produces a report or update in relation to the investigation.

(8) Where the Secretary of State makes a request under sub-paragraph (7)(d) –

(a) the TRA must produce a report or update (as the case may be) in accordance with the request, and

(b) the Secretary of State may publish the report or update (as the case may be).".

Termination of a bilateral safeguarding investigation

7 Paragraph 10 of Schedule 5 (termination of a safeguarding investigation) is to be read as if—

(a) in paragraph (a), for "notice of that determination is published" there were substituted "the TRA notifies the Secretary of State of that determination";

(b) in paragraph (b), for the words from "notice of that determination" to the end there were substituted "the TRA notifies the Secretary of State of its final affirmative determination in relation to the goods under paragraph 16(11)(a)";

(c) in paragraph (c), for the words "the notice of rejection" there were substituted "notice of a decision of the Secretary of State not to apply a bilateral safeguarding remedy".

TRA's duty to recommend provisional measures

8 (1) Paragraph 11 of Schedule 5 (TRA's duty to recommend a provisional safeguarding amount or provisional tariff rate quota) is to be read as if—

(a) in sub-paragraph (3), after paragraph (a) there were inserted—

"(aa) that any reduction in the rate of import duty applicable to all the relevant goods or to specified relevant goods as a result of the relevant free trade agreement should be suspended for a specified period (referred to in this Schedule as a "provisional suspension of tariff rate reduction");"

(b) for sub-paragraph (9) there were substituted—

"(9) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3)—

(a) the TRA must notify the Secretary of State of its provisional affirmative determination in relation to the goods, and

(b) the Secretary of State must notify interested parties (see paragraph 31(3)) that the Secretary of State will not apply a provisional bilateral safeguarding amount, a provisional suspension of tariff rate reduction or a provisional tariff rate quota to the goods."

(2) In consequence of the modification made by sub-paragraph (1)(a)—

(a) references in Schedule 5 to paragraphs (a) and (b) of sub-paragraph (3) of paragraph 11 of that Schedule are to be read as references to paragraphs (a), (aa) and (b) of that sub-paragraph;

(b) references in Schedule 5 to paragraph (a) of that sub-paragraph are to be read as references to paragraph (a) or (aa) of that sub-paragraph (and accordingly references to paragraph (a) or (b) of that sub-paragraph are to be read as references to paragraph (a), (aa) or (b) of that sub-paragraph).

TRA's recommendations about provisional measures

9 Paragraph 12 of Schedule 5 (TRA's recommendations about a provisional safeguarding amount) is to be read as if, in sub-paragraph (2), for paragraph (a) there were substituted—

"(a) is to be such period as the TRA may determine, having regard to the relevant free trade agreement, and"

10 Paragraph 13 of Schedule 5 (TRA's recommendations regarding provisional tariff rate quotas) is to be read as if, in sub-paragraph (2), for paragraph (a) there were substituted—

"(a) is to be such period as the TRA may determine, having regard to the relevant free trade agreement, and"

TRA's duty to recommend a definitive measure

11 (1) Paragraph 16 of Schedule 5 (TRA's duty to recommend a definitive safeguarding amount or tariff rate quota) is to be read as if—

(a) in sub-paragraph (3), after paragraph (a) there were inserted—

"(aa) that any reduction in the rate of import duty applicable to all the relevant goods or to specified relevant goods as a result of the relevant free trade agreement should be suspended for a specified period (referred to in this Schedule as a "definitive suspension of tariff rate reduction");"

(b) sub-paragraphs (5), (6) and (7) were omitted;

(c) for sub-paragraph (11) there were substituted—

"(11) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3)—

(a) the TRA must notify the Secretary of State of its final affirmative determination in relation to the goods,

(b) the Secretary of State must notify interested parties (see paragraph 31(3)) that the Secretary of State will not apply a definitive safeguarding amount, a definitive suspension of tariff rate reduction or a tariff rate quota to the goods."

(2) In consequence of the modification made by sub-paragraph (1)(a)—

(a) references in Schedule 5 to paragraphs (a) and (b) of sub-paragraph (3) of paragraph 16 of that Schedule are to be read as references to paragraphs (a), (aa) and (b) of that sub-paragraph;

(b) references in Schedule 5 to paragraph (a) of that sub-paragraph are to be read as references to paragraph (a) or (aa) of that sub-paragraph (and accordingly references to paragraph (a) or (b) of that sub-paragraph are to be read as references to paragraph (a), (aa) or (b) of that sub-paragraph).

(3) In consequence of the modification made by sub-paragraph (1)(b), paragraph 21 of Schedule 5 (reviews) is to be read as if, in sub-paragraph (3), paragraph (d) were omitted.

TRA's recommendations about definitive measures

12 Paragraph 17 of Schedule 5 (TRA's recommendations about a definitive safeguarding amount) is to be read as if—

(a) in sub-paragraph (2), in paragraph (b), for "must not exceed 4 years" there were substituted "is to be such period as the TRA may determine, having regard to the relevant free trade agreement".

(b) in sub-paragraph (4), paragraph (b) (and the ", and" at the end of paragraph (a)) were omitted;

(c) after sub-paragraph (5) there were inserted—

"(5A) In making a recommendation under paragraph 16(3)(a) or (aa), the TRA must have regard to any provision of the relevant free trade agreement under or by virtue of which the definitive bilateral

safeguarding amount or the definitive suspension of tariff rate reduction (as the case may be) applicable to goods is to become progressively smaller as the specified period referred to in paragraph 16(3)(a) or (aa) (as the case may be) progresses.";

(d) sub-paragraphs (7) to (10) were omitted.

13 Paragraph 18 of Schedule 5 (TRA's recommendations regarding tariff rate quotas) is to be read as if—

(a) in sub-paragraph (2), in paragraph (b), for "must not exceed 4 years" there were substituted "is to be such period as the TRA may determine, having regard to the relevant free trade agreement".

(b) in sub-paragraph (5), paragraph (b) (and the ", and" at the end of paragraph (a)) were omitted;

(c) after sub-paragraph (6) there were inserted—

"(6A) In making a recommendation under paragraph 16(3)(b), the TRA must have regard to any provision of the relevant free trade agreement under or by virtue of which the amount of import duty applicable to goods subject to the quota is to become progressively smaller as the specified period referred to in that paragraph progresses."

(d) sub-paragraphs (7) to (10) were omitted.

Meaning of "international dispute decision"

14 Paragraph 22 of Schedule 5 (variation or revocation following an international dispute decision) is to be read as if, in sub-paragraph (6), for paragraph (a) there were substituted—

"(a) a decision under the dispute settlement procedures of the relevant free trade agreement, or"

No suspension of bilateral safeguarding remedies

15 Paragraph 24 of Schedule 5 (suspension of safeguarding remedies) does not apply.

Exceptions

16 Sub-paragraph (2) of paragraph 25 of Schedule 5 (exceptions) does not apply.

No restriction on successive safeguarding remedies

17 (1) Paragraph 26 of Schedule 5 (restrictions on successive safeguarding remedies) is to be read as if—

(a) in sub-paragraph (2), in the words before paragraph (a), for ""previous safeguarding remedy"" there were substituted ""previous bilateral safeguarding remedy"";

(b) for sub-paragraphs (3) to (5) there were substituted—

"(3) The Secretary of State may reject the recommendation if—

(a) the relevant free trade agreement contains provision restricting the circumstances in which a bilateral safeguarding remedy can be applied to goods to which a previous bilateral safeguarding remedy has been applied, and

(b) the Secretary of State considers that the acceptance of the recommendation would or might result in a breach of that provision."

No interaction with anti-dumping remedies and anti-subsidy remedies

18 Paragraph 27 (interaction with anti-dumping remedies and anti-subsidy remedies) does not apply.

Registration

19 Schedule 5 applies as if after paragraph 28 (investigations regarding repayments) there were inserted—

"Registration

28A(1) The Secretary of State may publish a notice of goods—

(a) which are the subject of an investigation or other proceedings under provision made by or under this Schedule, and

(b) to which a provisional or definitive bilateral safeguarding amount or a provisional or definitive suspension of tariff rate reduction may be applied or the existing application of such an amount or reduction to which may be varied.

(2) HMRC must register goods in respect of which such a notice is published.

(3) Regulations may make provision for, or in connection with, the registration by HMRC of the goods—

(a) to which a provisional or definitive bilateral safeguarding amount or a provisional or definitive suspension of tariff rate reduction may be applied, or

(b) the existing application of a provisional or definitive bilateral safeguarding amount or a provisional or definitive suspension of tariff rate reduction to which may be varied."

Reports and updates by the TRA and Secretary of State

20 (1) This paragraph applies where, in accordance with Schedule 5 as applied by this Schedule—

(a) the Secretary of State accepts or rejects a recommendation made by the TRA under any provision of that Schedule;

(b) the TRA determines that there is no recommendation which it could make.

(2) The Secretary of State may—

(a) produce and publish a report or update in relation to the bilateral safeguarding investigation concerned;

(b) request that the TRA produces such a report or update.

(3) Where the Secretary of State makes a request under sub-paragraph (2)(b)—

(a) the TRA must produce a report or update (as the case may be) in accordance with the request, and

(b) the Secretary of State may publish the report or update.

Secretary of State required to publish notice of decision about whether to apply remedy

21 (1) Any provision of Schedule 5 requiring the Secretary of State to publish notice of a determination of the TRA, of a recommendation under paragraph 11(3)(a), (aa) or (b) of that Schedule and of the acceptance or rejection of it is to be read instead as requiring the Secretary of State to publish notice of the Secretary of State's decision to apply, or not to apply, a provisional bilateral safeguarding amount, a provisional suspension of tariff rate reduction, or a provisional tariff rate quota.

(2) Any provision of Schedule 5 requiring the Secretary of State to publish notice of a determination of the TRA, of a recommendation under paragraph 16(3)(a), (aa) or (b) of that Schedule and of the acceptance or rejection of it is to be read instead as requiring the Secretary of State to publish notice of the Secretary of State's decision to apply, or not to apply, a definitive

bilateral safeguarding amount, a definitive suspension of tariff rate reduction, or a tariff rate quota.

Secretary of State not required to lay statements before the House of Commons

22 The provisions of Schedule 5 imposing a requirement on the Secretary of State to lay a statement before the House of Commons do not apply in relation to any matter concerning a bilateral safeguarding investigation (and accordingly the Secretary of State is not required to lay such a statement).

Interpretation

23 (1) Paragraph 31 of Schedule 5 (interpretation) applies subject to sub-paragraph (2).

(2) In Schedule 5 as applied by this Schedule—

(a) references to a definitive safeguarding amount are to be read as references to a definitive bilateral safeguarding amount or a definitive suspension of tariff rate reduction (as the case may be);

(b) references to a provisional safeguarding amount are to be read as references to a provisional bilateral safeguarding amount or a provisional suspension of tariff rate reduction (as the case may be);

(c) references to a safeguarding investigation are to be read as references to a bilateral safeguarding investigation;

(d) references to a safeguarding remedy are to be read as references to a bilateral safeguarding remedy.

24 For the purposes of this Schedule and of Schedule 5 as applied by this Schedule—

"bilateral safeguarding investigation" means an investigation under paragraph 6 of Schedule 5 as that provision applies by virtue of this Schedule;

"bilateral safeguarding remedy" has the meaning given in paragraph 23(4)(a) of Schedule 5 as that provision applies by virtue of this Schedule;

"definitive bilateral safeguarding amount" means the additional amount of import duty mentioned in paragraph 16(3)(a) of Schedule 5 as that provision applies by virtue of this Schedule.

"definitive suspension of tariff rate reduction" has the meaning given in paragraph (aa) of paragraph 16(3) of Schedule 5 (see paragraph 11(1)(a));

"free trade agreement" has the meaning given in section 5(1) of the Trade Act 2021;

"provisional bilateral safeguarding amount" means the additional amount of import duty mentioned in paragraph (11)(3)(a) of Schedule 5 as that provision applies by virtue of this Schedule;

"provisional suspension of tariff rate reduction" has the meaning given in paragraph (aa) of paragraph 11(3) of Schedule 5 (see paragraph 8(1)(a));

"relevant free trade agreement", in relation to a bilateral safeguarding investigation, means the free trade agreement mentioned in paragraph 6(aa) of Schedule 5 (see paragraph 4(b))."

PART 2

COMMENCEMENT

3 (1) Any power to make regulations under or by virtue of this Schedule comes into force on the day on which this Act is passed.

(2) The remaining provisions of this Schedule come into force on such day as the Secretary of State may by regulations appoint.

(3) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Schedule.

(4) The power to make regulations under sub-paragraph (3) includes power to make different provision for different purposes.

(5) Regulations under this paragraph are to be made by statutory instrument.

SCHEDULE 21

Section 321

SOFT DRINKS INDUSTRY LEVY: FLAVOUR CONCENTRATES

Introduction

1 Part 2 of FA 2017 (soft drinks industry levy) is amended as follows.

Meaning of "soft drink" and "package"

2 (1) Section 26 ("soft drink" and "package") is amended as follows.

(2) At the end of subsection (1) insert ";

(c) a liquid flavouring (a "flavour concentrate") which, when processed in a specified manner in a dispensing machine, constitutes a beverage within that paragraph."

(3) After subsection (2) insert—

"(2A) A flavour concentrate is processed in a specified manner if—

(a) it is combined with added sugar ingredients, with or without—

(i) artificial sweeteners, or

(ii) one or more other flavour concentrates; and

(b) the flavour concentrate (or combination) is prepared in a specified manner.

(2B) A "dispensing machine" is a machine designed to—

(a) combine, process or prepare ingredients so as to produce a beverage, and

(b) supply the beverage directly to a consumer.

(2C) In subsection (2A)(a), "added sugar ingredients" means anything within paragraph (a) or (b) of section 29(2)."

(4) In subsection (3)—

(a) omit the "and" at the end of paragraph (a);

(b) after paragraph (b) insert "and

(c) in the case of a soft drink within subsection (1)(c)—

(i) it is suitable to be consumed when processed in a specified manner in a dispensing machine (and without any other processing or preparation), and

(ii) it is ready for use in a dispensing machine;".

Meaning of "prepared drinks"

3 (1) Section 27 (meaning of "prepared drink") is amended as follows.

(2) At the end of subsection (1) insert ";

(c) a beverage that would result from—

(i) processing a flavour concentrate within subsection (1)(c) of that section in a specified manner in a dispensing machine, and

(ii) in accordance with the relevant dispensing instructions."

(3) In subsection (2)(b), for "subsection (3)" substitute "subsection (3)(a)".

(4) After subsection (2) insert—

"(2A) The "relevant dispensing instructions" means—

(a) the instructions for use of the flavour concentrate provided with, or for the purposes of use with, the concentrate or a dispensing machine with which it is designed to be used;

(b) where subsection (3)(b) or (4A) applies, the dispensing instructions determined by the Commissioners."

(5) For subsection (3) substitute—

"(3) This subsection applies where—

(a) in a case within subsection (1)(b), the packaging of the soft drink states neither the dilution ratio nor information by reference to which the dilution ratio can be calculated;

(b) in a case within subsection (1)(c), no dispensing instructions are provided with, or for the purposes of use with, the flavour concentrate or with any dispensing machine with which it is designed to be used."

(6) After subsection (4) insert—

"(4A) This subsection applies where—

(a) dispensing instructions are provided, and

(b) it is reasonable to assume that the main purpose, or one of the main purposes, of providing those particular dispensing instructions is avoiding or reducing liability for soft drinks industry levy."

(7) In subsection (5)—

(a) after paragraph (a) insert—

"(aa) determining dispensing instructions for the purposes of subsection (2A)(b);";

(b) for paragraph (b) substitute—

"(b) determining whether the main purpose, or one of the main purposes, of—

(i) stating a particular dilution ratio or information, or

(ii) providing particular dispensing instructions;

is avoiding or reducing liability for soft drinks industry levy."

Sugar content condition

4 In section 29 (sugar content condition), in subsection (1)—

(a) in the words before paragraph (a), omit "it contains";

(b) for paragraph (a) (but not the "and" at the end) substitute—

"(a) either—

(i) it is a soft drink within section 26(1)(c), or

(ii) it contains added sugar ingredients;";

(c) at the beginning of paragraph (b) insert "it contains".

Exempt soft drinks

5 In section 30 (exempt soft drinks), in subsection (1)—

(a) omit the "and" at the end of paragraph (c);

(b) after paragraph (d) insert ", and

(e) soft drinks within section 26(1)(c) (flavour concentrates) that meet such conditions as may be specified."

Levy rates

6 After section 36 (levy rates) insert—

"36A Determining levy rate for flavour concentrates

(1) This section applies where—

(a) two or more flavour concentrates are formulated so as to be combined with one another in a dispensing machine (see section 26(2A)(a)(ii)), and

(b) each of those flavour concentrates is a chargeable soft drink.

(2) The references in section 36(1) to a litre of prepared drink are treated, in relation to each of the flavour concentrates, as references to the relevant proportion of a litre of prepared drink.

(3) Subject to subsection (4), the "relevant proportion" is—

$$\frac{1}{N}$$

where N is the number of flavour concentrates that are designed to be combined.

(4) The Commissioners may by regulations make provision for determining the relevant proportion (otherwise than in accordance with subsection (3)) in cases where the flavour concentrates mentioned in subsection (1)(a) are formulated so as to be combined in a dispensing machine—

(a) in unequal proportions, or

(b) in different combinations for different beverages."

Tax credits

7 (1) Section 39 (tax credits) is amended as follows.

(2) In subsection (1), after paragraph (b) insert ";

(c) in the case of soft drinks within section 26(1)(c), the flavour concentrate—

(i) has not been combined with added sugar ingredients (but has been prepared in a specified manner), or

(ii) has been processed in a specified manner so as to result in a beverage that contains less than 5 grams of sugars per 100 millilitres of prepared drink."

(3) In subsection (2)(a) for "exported or (as the case may be) lost or destroyed" substitute "that fall within subsection (1)(a), (b) or (c) (as the case may be)".

Commencement

8 The amendments made by this Schedule come into force on 1 April 2023 in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after that date.

SCHEDULE 22

Section 325

REFORMS OF HGV ROAD USER LEVY

1 The HGV Road User Levy Act 2013 is amended as follows.

2 In section 1(1) (charge to HGV road user levy), for the words "any heavy goods vehicle" to the end substitute "—

(a) any UK heavy goods vehicle that is used or kept on a road to which this Act applies by virtue of section 3(1A)(a), and

(b) any non-UK heavy goods vehicle that is used on a road to which this Act applies by virtue of section 3(1A)(b)."

3 (1) Section 3 (roads to which this Act applies) is amended as follows.

(2) For subsection (1) substitute—

"(1A) Subject to subsection (2), this Act applies—

(a) in relation to UK heavy goods vehicles, to all public roads in the United Kingdom, and

(b) in relation to non-UK heavy goods vehicles, to any road which, under the system for assigning identification numbers to roads administered by the Secretary of State, Northern Ireland Ministers, Scottish Ministers or Welsh Ministers, has been assigned a number prefixed by A or M."

(3) In subsection (2), in the words before paragraph (a), after "may by order provide" insert "in respect of UK heavy goods vehicles or non-UK heavy goods vehicles (or both)".

(4) In subsection (4), for "this section" substitute "subsection (1A)(a)".

4 In section 5(7) (payment of levy for UK heavy goods vehicles) for "paragraphs 2 to 4 of that Schedule and Tables 2 to 5" substitute "paragraph 1(3) of that Schedule and Table 1B".

5 (1) Section 6 (payment of levy for non-UK heavy goods vehicles) is amended as follows.

(2) In subsection (2)—

(a) omit "or kept";

(b) after "this Act applies" insert "by virtue of section 3(1A)(b)".

(3) In subsection (9) for "paragraphs 2 to 4 of that Schedule and Tables 2 to 5" substitute "paragraph 1(3) of that Schedule and Table 1B".

6 In section 7(2) (rebate of levy), for paragraph (c) substitute—

"(c) the person who paid the levy notifies the Secretary of State that—

(i) in the case of a UK heavy goods vehicle, the vehicle is not intended to be used or kept on a road to which this Act applies by virtue of section 3(1A)(a) at any time during the rest of the levy period, or

(ii) in the case of a non-UK heavy goods vehicle, the vehicle is not intended to be used on a road to which this Act applies by virtue of section 3(1A)(b) at any time during the rest of the levy period."

7 In section 11 (offence of using or keeping heavy goods vehicle if levy not paid), in subsection (1), for the words before paragraph (a) substitute—

"If a person uses or keeps a UK heavy goods vehicle on a road to which this Act applies by virtue of section 3(1A)(a), or uses a non-UK heavy goods vehicle on a road to which this Act applies by virtue of section 3(1A)(b), on a day in respect of which the HGV road user levy charged in respect of the vehicle has not been paid—".

8 (1) Section 14 (register of levy paid or due to be paid) is amended as follows.

(2) In subsection (1), for "must" substitute "may".

(3) After subsection (1) insert—

"(1A) Subsections (2) to (5) apply in relation to any register set up and kept under subsection (1)."

(4) In subsection (4), at the end insert "but need not be accessible to all members of the public".

9 In section 19 (interpretation), in subsection (1), in the definition of "revenue weight", at the end insert ", subject to paragraph 5(2) of Schedule 1".

10 (1) Schedule 1 (rates of HGV road user levy) is amended as follows.

(2) In paragraph 1, for sub-paragraph (3) substitute—

"(3) Table 1B sets out the Bands for the purposes of Tables 1 and 1A (and those Bands depend on the revenue weight of the vehicle)."

(3) Omit paragraphs 2 to 4.

(4) In paragraph 5—

(a) the existing text becomes sub-paragraph (1);

(b) in that sub-paragraph, in paragraph (a)—

(i) omit ""axle", ";

(ii) omit "and "tractive unit" each";

(c) after that sub-paragraph insert—

"(2) For the purposes of this Schedule—

(a) in calculating the revenue weight of a rigid goods vehicle drawing a trailer weighing less than 4,000 kilograms, the weight of the trailer is to be ignored;

(b) in calculating the revenue weight of a rigid goods vehicle drawing a trailer weighing 4,000 kilograms or more, the weight of the trailer is to be added to the revenue weight of the vehicle."

(5) For Table 1 substitute—

"TABLE 1: VEHICLES MEETING EURO 6 EMISSIONS STANDARDS — RATES FOR EACH BAND

Band	*Daily rate*	*Weekly rate*	*Monthly rate*	*Half-yearly rate*	*Yearly rate*
A	£3.00	£7.50	£15.00	£90.00	£150.00
B	£7.20	£18.00	£36.00	£216.00	£360.00
C	£9.00	£28.80	£57.60	£345.60	£576.00".

(6) For Table 1A substitute—

"TABLE 1A: VEHICLES NOT MEETING EURO 6 EMISSIONS STANDARDS — RATES FOR EACH BAND

Band	*Daily rate*	*Weekly rate*	*Monthly rate*	*Half-yearly rate*	*Yearly rate*
A	£3.90	£9.75	£19.50	£117.00	£195.00
B	£9.36	£23.40	£46.80	£280.80	£468.00
C	£10.00	£37.45	£74.90	£449.40	£749.00".

(7) After Table 1A insert—

"TABLE 1B: BANDS FOR THE PURPOSES OF TABLES 1 AND 1A

Revenue weight of vehicle	*Band*
More than 11,999kgs but not more than 31,000kgs	A
More than 31,000kgs but not more than 38,000kgs	B
More than 38,000kgs	C".

(8) Omit Tables 2 to 5.

11 (1) In consequence of the amendments made by paragraph 10, in Part 8 of Schedule 1 to VERA 1994 (annual rates of duty: goods vehicles), paragraph 10 (relevant rigid goods vehicles) is amended as follows.

(2) After sub-paragraph (2) insert—

"(2A) In this paragraph, references to "the tables" are to the tables mentioned in sub-paragraph (6)."

(3) In sub-paragraph (3)—

(a) in the opening words omit "following";

(b) in paragraph (c), for "appropriate HGV road user levy band" substitute "vehicle excise duty band".

(4) For sub-paragraph (5) substitute—

"(5A) The "vehicle excise duty band" in relation to a vehicle is determined in accordance with the following table—

Revenue weight of vehicle		***2 axle vehicle***	***3 axle vehicle***	***4 or more axle vehicle***
Exceeding	***Not exceeding***			
kgs	***kgs***	***Band***	***Band***	***Band***
11,999	15,000	B(T)	B(T)	B(T)
15,000	21,000	D(T)	B(T)	B(T)
21,000	23,000	E(T)	C(T)	B(T)
23,000	25,000	E(T)	D(T)	C(T)
25,000	27,000	E(T)	D(T)	D(T)
27,000	44,000	E(T)	E(T)	E(T)".

(5) In each of the tables after sub-paragraph (6), in the headings to column 1, for "Appropriate HGV road user levy band" substitute "Vehicle excise duty band".

12 The amendments made by this Schedule come into force on 1 August 2023.

SCHEDULE 23

Sections 331 and 332

FREEPORTS AND INVESTMENT ZONES: CONSEQUENTIAL AMENDMENTS

FA 2003

1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

2 In section 61A –

(a) in subsection (1), for "freeport tax site" substitute "special tax site",

(b) in subsection (5)(a), for "14 October 2027" substitute "the period of one year and 14 days beginning with the end of the applicable sunset date in relation to the special tax site in which the transaction land is situated",

(c) in subsection (6), for the words from ""freeport tax site"" to the end substitute ""special tax site" means an area for the time being designated under section 113 of the Finance Act 2021", and

(d) in the heading, for "freeport tax sites" substitute "special tax sites".

3 In section 81 –

(a) in subsection (1A)(aa), for "freeport tax sites" substitute "special tax sites", and

(b) in subsection (1B)(eb) –

(i) for "freeport tax sites" substitute "special tax sites", and

(ii) for "qualifying freeport land" substitute "qualifying land".

4 In section 81ZA –

(a) in subsection (1), for "freeport tax sites" substitute "special tax sites", and

(b) in subsection (3)(c), for "qualifying freeport land" substitute "qualifying land".

5 In section 85(3), for "freeport tax sites" substitute "special tax sites".

6 In section 86(2)(zb) and (2A), for "freeport tax sites" substitute "special tax sites".

7 In section 87(3)(azaa) and (azab), for "freeport tax sites" substitute "special tax sites".

8 In Schedule 6C –

(a) for paragraph 2 and the italic heading before it substitute—

"Qualifying land

2 For the purposes of this Schedule, transaction land is "qualifying land" if, on the effective date of the transaction—

(a) it is situated in a special tax site, and

(b) the purchaser intends it to be used exclusively in a qualifying manner.",

(b) for "qualifying freeport land", in each place (other than paragraph 2), substitute "qualifying land",

(c) for "freeport tax site", in each place, substitute "special tax site",

(d) in paragraph 7—

(i) in sub-paragraph (2), for "("the freeport consideration")" substitute "("the relevant consideration")", and

(ii) in sub-paragraphs (3) and (4), for "the freeport consideration" substitute "the relevant consideration", and

(e) in the heading, for "freeport tax sites" substitute "special tax sites".

CAA 2001

9 CAA 2001 is amended as follows.

10 In section 3—

(a) in subsection (2ZZA), for "freeport tax sites" substitute "special tax sites", and

(b) in subsection (2ZA)(b), for "freeport qualifying expenditure" substitute "special tax site qualifying expenditure".

11 In the following provisions of Part 2 (plant and machinery allowances)—

(a) section 39,

(b) sections 45O to 45R,

(c) section 46(1), and

(d) section 52(3),

for "freeport tax site" and for "freeport tax sites" (in each place) substitute "special tax site" and "special tax sites" respectively.

12 In section 45Q—

(a) in subsection (1)(b), for "the "non-freeport part" of" substitute "the "non-qualifying part" of", and

(b) in subsections (2) and (3), for "non-freeport part" substitute "non-qualifying part".

13 In the following provisions of Part 2A (structures and building allowances)—

(a) section 270AA,

(b) Chapter 2A,

(c) section 270IA(5),

for "freeport qualifying expenditure", in each place, substitute "special tax site qualifying expenditure".

14 In the following provisions of that Part—

(a) section 270BJ(2A), and

(b) Chapter 2A,

for "freeport tax site", in each place, substitute "special tax site".

15 For section 573A substitute—

"573A Special tax sites

In this Act "special tax site" means an area for the time being designated under section 113 of FA 2021."

16 In Part 2 of Schedule 1—

(a) omit the definition of "freeport tax site", and

(b) at the appropriate place insert—

"special tax site	section 573A"

FA 2021

17 Part 4 of FA 2021 is amended as follows.

18 In the italic heading before section 113 at the end insert "and investment zones".

19 In the heading for section 113 (designation of freeport tax sites), for "freeport tax sites" substitute "special tax sites".

National Insurance Contributions Act 2022

20 The National Insurance Contributions Act 2022 is amended as follows.

21 In the italic heading before section 1, for "Freeports" substitute "Special tax sites".

22 In section 1—

(a) in subsections (1)(b) and (6), for "freeport conditions" substitute "applicable conditions", and

(b) in the heading, for "freeport tax sites" substitute "special tax sites".

23 In section 2—

(a) in subsection (1)—

(i) for "The freeport conditions" substitute "The applicable conditions",

(ii) in paragraph (a)(ii), for "5 April 2026" substitute "the applicable sunset date", and

(iii) in paragraph (d), for "freeport tax site" substitute "special tax site",

(b) after subsection (2) insert—

"(2A) For the purposes of this section "the applicable sunset date", in relation to a special tax site, means —

(a) 5 April 2026, or

(b) such later date as may be specified under section 332(4)(b) of the Finance (No.2) Act 2023 as the applicable sunset date in relation to the site concerned for the purposes of the provisions mentioned in subsection (4) of that section.",

(c) in subsection (4)(b), for "freeport tax site" substitute "special tax site",

(d) for subsection (6) substitute—

"(6) The relevant end date is the last day of the period of three years beginning with the day after the applicable sunset date.", and

(e) in the heading, for "Freeport conditions" substitute "Applicable conditions".

24 In section 3—

(a) omit subsection (1),

(b) in subsection (2), for "a freeport" substitute "an applicable",

(c) in subsection (3), for "freeport" substitute "applicable", and

(d) in the heading, for "Freeport conditions" substitute "Applicable conditions".

25 In section 5, in the heading, for "freeport tax sites" substitute "special tax sites".

26 In section 12(2), omit paragraph (a).

27 In section 13(2)—

(a) omit the definition of "freeport tax site", and

(b) at the end insert—

""special tax site" has the meaning given by section 113 of the Finance Act 2021 (designation of special tax sites)."

SCHEDULE 24

Section 346

HOMES FOR UKRAINE SPONSORSHIP SCHEME: EXEMPTIONS FROM TAX

Income tax and corporation tax

1 (1) No liability to income tax or corporation tax arises in respect of a payment which is made by a local authority to a person ("S") by reason of S—

(a) being an approved sponsor under the Homes for Ukraine Sponsorship Scheme, and

(b) providing accommodation to a person granted entry clearance or permission to stay under that scheme.

(2) This paragraph has effect in relation to payments made on or after 14 March 2022.

Annual tax on enveloped dwellings

2 (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is modified as follows.

(2) That Part has effect as if after section 133 there were inserted—

"133A Deemed property rental business: Homes for Ukraine Sponsorship Scheme

(1) A day in a chargeable period ("day X") is to be treated as relievable in relation to a single-dwelling interest by virtue of section 133(1) (property rental business) if (ignoring this section) day X is not relievable by virtue of any of the provisions listed in section 132(3) and—

(a) in a case where the day immediately before day X was relievable in relation to a single-dwelling interest by virtue of section 133(1) (including by virtue of this section), Condition A or B is met in relation the dwelling on day X, or

(b) in a case where the day immediately before day X was not relievable in relation to a single-dwelling interest by virtue of section 133(1), Condition A is met in relation to the dwelling on day X.

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

(a) Condition A is that the dwelling is exclusively occupied by an individual (or individuals) granted entry clearance, or permission to stay, under the Homes for Ukraine Sponsorship Scheme;

(b) Condition B is that reasonable steps are being taken to secure that the dwelling will, without undue delay, be so occupied.

(3) A day is not relievable by virtue of this section in the case of a single-dwelling interest if on that day a non-qualifying individual is permitted to occupy the dwelling.

(4) In subsection (2)(b), "without undue delay" means without delay except so far as delay is justified by commercial considerations or cannot be avoided."

(3) Section 138 (property developers) has effect as if for subsection (2) there were substituted—

"(2) If the property developer holds an interest for the purpose mentioned in subsection (1)(b), any additional purpose the property developer may have of—

(a) exploiting the interest as a source of rents or other receipts in the course of a qualifying property rental business (after developing the land and before reselling it), or

(b) permitting an individual granted entry clearance, or permission to stay, under the Homes for Ukraine Sponsorship Scheme to occupy the dwelling,

is treated as not being a separate purpose in applying the test in subsection (1)(b)."

(4) Section 141 (property traders) has effect as if, after subsection (2), there were inserted—

"(2A) If the person holds an interest for the purpose mentioned in subsection (1)(b), any additional purpose the person may have of permitting an individual, other than a non-qualifying individual, who is granted entry clearance, or permission to stay, under the Homes for Ukraine Sponsorship Scheme to occupy the dwelling is treated as not being a separate purpose in applying the test in subsection (1)(b)."

(5) Section 174 (general interpretation) has effect as if, in subsection (1), at the appropriate place, there were inserted—

""the Homes for Ukraine Sponsorship Scheme" means the scheme contained in paragraphs UKR 11.1 to UKR 20.2 of Appendix Ukraine Scheme to the immigration rules (within the meaning of the Immigration Act 1971);".

(6) The modifications made by this paragraph have effect in relation to days falling in the period—

(a) beginning with 1 April 2022, and

(b) ending with such date as may be specified in regulations made by the Treasury by statutory instrument.

Stamp duty land tax

3 (1) Schedule 4A to FA 2003 (stamp duty land tax: higher rate for certain transactions) is modified as follows.

(2) Paragraph 5 (businesses of letting, trading in or redeveloping properties) has effect as if after sub-paragraph (2) there were inserted—

"(2A) In determining whether a chargeable interest has been acquired exclusively for one or more of those purposes, any intention to permit an individual, other than a non-qualifying individual, who is granted entry clearance, or permission to stay, under the Homes for Ukraine Sponsorship Scheme to occupy any dwelling on the land is to be ignored."

(3) In paragraph 5G (withdrawal of relief allowed under paragraph 5), sub-paragraph (4) has effect as if—

(a) the words from "because of a change of circumstances" to the end become paragraph (a);

(b) after that paragraph there were inserted—

"(b) any dwelling on the land is occupied by an individual granted entry clearance, or permission to stay, under the Homes for Ukraine Sponsorship Scheme, or

(c) the purchaser is taking reasonable steps to ensure that any dwelling on the land will be so occupied without delay (except so far as delay may be justified by commercial considerations or cannot be avoided)";

(4) Paragraph 9 (interpretation) has effect as if, at the appropriate place, there were inserted—

""the Homes for Ukraine Sponsorship Scheme" means the scheme contained in paragraphs UKR 11.1 to UKR 20.2 of Appendix Ukraine Scheme to the immigration rules (within the meaning of the Immigration Act 1971);".

(5) The modification made by sub-paragraph (2) has effect in relation to any land transaction the effective date of which is in the period—

(a) beginning with 31 March 2022, and

(b) ending with such date as may be specified in regulations made by the Treasury by statutory instrument.

(6) The modifications made by sub-paragraph (3) and (4) have effect in relation to any time in the period mentioned in sub-paragraph (5).

Regulations

4 A statutory instrument containing regulations under the following provisions of this Schedule may not be made unless a draft of the

instrument has been laid before, and approved by a resolution of, the House of Commons—

(a) paragraph 2(6)(b);

(b) paragraph 3(5)(b).

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