

Mode: All, Ignoring Unimportant

Left file: T:\Source - FB Tracking Service (03XE)\FBTS 2017\Draft FB17 Schedules.pdf

Right file: T:\Source - FB Tracking Service (03XE)\FBTS 2017\FB17 schedules.pdf

90 Draft provisions for Finance Bill 2017	<>	128 Finance (No. 2) Bill
Schedule 1 – Workers' services provided to public sector through intermediaries	=	Schedule 1 – Workers' services provided to public sector through intermediaries
SCHEDULES		SCHEDULES
SCHEDULE 1 Section 1	<>	SCHEDULE 1 Section 7
WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES	=	WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES
PART 1		PART 1
PRELIMINARY AMENDMENTS	<>	PRELIMINARY AMENDMENTS 5
1 ITEPA 2003 is amended as follows. 2 In section 48 (scope of Chapter 8 of Part 2: workers' services provided through intermediaries)– (a) in subsection (1), after “through an intermediary” insert “, but not where the services are provided to a public authority”, and	=	1 ITEPA 2003 is amended as follows. 2 In section 48 (scope of Chapter 8 of Part 2: workers' services provided through intermediaries)– (a) in subsection (1), after “through an intermediary” insert “, but not where the services are provided to a public authority”, and 10
(b) after subsection (2) insert– “(3) In this Chapter “public authority” has the same meaning as in Chapter 10 of this Part (see section 61L).” 3 In section 49(1) (engagements to which Chapter applies), after paragraph (a) insert–	=	(b) after subsection (2) insert– “(3) In this Chapter “public authority” has the same meaning as in Chapter 10 of this Part (see section 61L).” 3 In section 49(1) (engagements to which Chapter applies), after paragraph (a) insert– 15
“(aa) the client is not a public authority.”. 4 In section 52(2)(b) and (c) (conditions of liability under Chapter 8 where intermediary is a partnership), for “this Chapter” substitute “one or other of this Chapter and Chapter 10”.	=	“(aa) the client is not a public authority.”. 4 In section 52(2)(b) and (c) (conditions of liability under Chapter 8 where intermediary is a partnership), for “this Chapter” substitute “one or other of this Chapter and Chapter 10”.
5 In section 61(1) (interpretation of Chapter 8), before the definition of “engagement to which this Chapter applies” insert– ““engagement to which Chapter 10 applies” has the meaning	<>	5 In section 61(1) (interpretation of Chapter 8), before the definition of 20 “engagement to which this Chapter applies” insert– ““engagement to which Chapter 10 applies” has the meaning

given by section 61M(4);”.	<>	given by section 61M(5);”.
		<p>6 In section 61A (scope of Chapter 9 of Part 2: workers' services provided by managed service companies), after subsection (2) insert-</p> <p style="text-align: center;">25</p> <p>“(3) See also section 61D(4A) (disapplication of this Chapter if Chapter 10 applies).”</p> <p>7 In section 61D (deemed earnings where worker's services provided by managed service company), after subsection (4) insert-</p> <p>“(4A) This section does not apply where the provision of the relevant services gives rise (directly or indirectly) to an engagement to which Chapter 10 applies, and for this purpose it does not matter whether the client is also “the client” for the purposes of section 61M(1).”</p> <p>8 In section 61J(1) (interpretation of Chapter 9), before the definition of Finance (No. 2) Bill</p>
	=	<p>129 Schedule 1 – Workers' services provided to public sector through intermediaries</p> <p>Part 1 – Preliminary amendments</p>
	-+	<p>“managed service company” insert</p> <p>–</p> <p>““engagement to which Chapter 10 applies” has the meaning given by section 61M(5).”.</p>
PART 2	=	PART 2
NEW CHAPTER 10 OF PART 2 OF ITEPA 2003	<>	NEW CHAPTER 10 OF PART 2 OF ITEPA 2003
	=	<p style="text-align: center;">5</p>
6 In Part 2 of ITEPA 2003 (employment income: charge to tax), after Chapter 9	<>	<p>9 In Part 2 of ITEPA 2003 (employment income: charge to tax), after Chapter 9</p>
insert–	=	insert–
“CHAPTER 10		“CHAPTER 10
WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES		WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES
61K Scope of this Chapter	<>	<p>61K Scope of this Chapter</p> <p style="text-align: center;">10</p>
(1) This Chapter has effect with respect to the provision of services to a public authority through an intermediary.	=	<p>(1) This Chapter has effect with respect to the provision of services to a public authority through an intermediary.</p>
Draft provisions for Finance Bill 2017	+-	

Schedule 1 – Workers’ services provided to public sector through intermediaries
 Part 2 – New Chapter 10 of Part 2 of ITEPA 2003

(2) Nothing in this Chapter– <ol style="list-style-type: none"> (a) affects the operation of Chapter 7 of this Part (agency workers), <ol style="list-style-type: none"> (b) applies to services provided by a managed service company (within the meaning of Chapter 9 of this Part), or (c) applies to payments or transfers to which section 966(3) or (4) 	=	(2) Nothing in this Chapter– <ol style="list-style-type: none"> (a) affects the operation of Chapter 7 of this Part (agency workers), or
of ITA 2007 applies (visiting performers: duty to deduct and account for sums representing income tax). 61L Meaning of “public authority”	=	of ITA 2007 applies (visiting performers: duty to deduct and account for sums representing income tax). 61L Meaning of “public authority”
(1) In this Chapter “public authority” means– <ol style="list-style-type: none"> (a) a public authority as defined by the Freedom of Information Act 2000, or (b) a Scottish public authority as defined by the Freedom of 	 <ol style="list-style-type: none"> (1) In this Chapter “public authority” means– 	 <ol style="list-style-type: none"> (a) a public authority as defined by the Freedom of Information Act 2000, (b) a Scottish public authority as defined by the Freedom of
Information (Scotland) Act 2002 (asp 13).	 <ol style="list-style-type: none"> (c) the Corporate Officer of the House of Commons, 25 (d) the Corporate Officer of the House of Lords, (e) the National Assembly for Wales Commission, or (f) the Northern Ireland Assembly Commission. 	Information (Scotland) Act 2002 (asp 13), <ol style="list-style-type: none"> (c) the Corporate Officer of the House of Commons, 25 (d) the Corporate Officer of the House of Lords, (e) the National Assembly for Wales Commission, or (f) the Northern Ireland Assembly Commission.
(2) An authority within paragraph (a) or (b) of subsection (1) is a public authority for the purposes of this Chapter in relation to all its	=	(2) An authority within paragraph (a) or (b) of subsection (1) is a public authority for the purposes of this Chapter in relation to all its
activities even if provisions of the Act mentioned in that paragraph do not apply to all information held by the authority. 61M Engagements to which Chapter applies (1) Sections 61N to 61R apply where– <ol style="list-style-type: none"> (a) an individual (“the worker”) personally performs, or is under 	=	activities even if provisions of the Act mentioned in that paragraph do not apply to all information held by the authority. 61M Engagements to which Chapter applies (1) Sections 61N to 61R apply where– <ol style="list-style-type: none"> (a) an individual (“the worker”) personally performs, or is under
an obligation personally to perform, services for another	=	an obligation personally to perform, services for another

person ("the client"), (b) the client is a public authority, (c) the services are provided not under a contract directly	person ("the client"), (b) the client is a public authority, (c) the services are provided not under a contract directly
between the client and the worker but under arrangements involving a third party ("the intermediary"), and (d) the circumstances are such that-	<> between the client and the worker but under arrangements = involving a third party ("the intermediary"), and (d) the circumstances are such that-
	-+ 130 Finance (No. 2) Bill Schedule 1 – Workers' services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003
(i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client,	= (i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client,
or	<> or 5
(ii) the worker is an office-holder who holds that office under the client and the services relate to the office. (2) The reference in subsection (1)(c) to a "third party" includes a partnership or unincorporated association of which the worker is a member.	= (ii) the worker is an office-holder who holds that office under the client and the services relate to the office. (2) The reference in subsection (1)(c) to a "third party" includes a partnership or unincorporated association of which the worker is a member.
(3) The circumstances referred to in subsection (1)(d) include the terms on which the services are provided, having regard to the terms of the contracts forming part of the arrangements under which the services are provided.	= (3) The circumstances referred to in subsection (1)(d) include the terms on which the services are provided, having regard to the terms of the contracts forming part of the arrangements under which the services are provided.
	<> (4) Holding office as statutory auditor of the client does not count as holding office under the client for the purposes of subsection (1)(d), and here "statutory auditor" means a statutory auditor within the

<p>(4) In this Chapter “engagement to which this Chapter applies” means</p> <p>any such provision of services as is mentioned in subsection (1). 61N Worker treated as receiving earnings from employment (1) If one of Conditions A to C is met, identify the chain of two or more persons where—</p>	<p>meaning of Part 42 of the Companies Act 2006 (see section 1210 of that Act).</p> <p>(5) In this Chapter “engagement to which this Chapter applies” means</p> <p>any such provision of services as is mentioned in subsection (1). 61N Worker treated as receiving earnings from employment (1) If one of Conditions A to C is met, identify the chain of two or more persons where—</p>
<p>92</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>	<p>any such provision of services as is mentioned in subsection (1). 61N Worker treated as receiving earnings from employment (1) If one of Conditions A to C is met, identify the chain of two or more persons where—</p>
<p>(a) the highest person in the chain is the client,</p> <p>(b) the lowest person in the chain is the intermediary, and</p> <p>(c) each person in the chain above the lowest makes a chain payment to the person immediately below them in the chain.</p>	<p>(a) the highest person in the chain is the client, 25</p> <p>(b) the lowest person in the chain is the intermediary, and (c) each person in the chain above the lowest makes a chain payment to the person immediately below them in the chain.</p>
<p>(2) In this section and sections 610 to 61R–</p> <p>“chain payment” means a payment, or money’s worth or any other benefit, that can reasonably be taken to be for the worker’s services to the client,</p> <p>“make”–</p>	<p>(See section 61U for cases where one of Conditions A to C is treated as being met.)</p> <p>30</p> <p>(2) In this section and sections 610 to 61S–</p> <p>“chain payment” means a payment, or money’s worth or any other benefit, that can reasonably be taken to be for the worker’s services to the client,</p> <p>“make”–</p> <p>35</p>
<p>(a) in relation to a chain payment that is money’s worth, means transfer, and</p> <p>(b) in relation to a chain payment that is a benefit other than a payment or money’s worth, means provide,</p> <p>and</p>	<p>(a) in relation to a chain payment that is money’s worth, means transfer, and</p> <p>(b) in relation to a chain payment that is a benefit other than a payment or money’s worth, means provide,</p> <p>and</p>
<p>“the fee-payer” means the person in the chain immediately above the lowest.</p> <p>(3) The fee-payer is treated as making to the worker, and the worker is treated as receiving, a payment which is to be treated as earnings</p>	<p>“the fee-payer” means the person in the chain immediately above the lowest.</p> <p>(3) The fee-payer is treated as making to the worker, and the worker is treated as receiving, a payment which is to be treated as earnings</p>
<p>from an employment (“the deemed</p>	<p>from an employment (“the</p>

<p>direct payment”), but this is subject to subsections (5) to (7) and sections 61T and 61U.</p>	<p>deemed direct payment”), but this is subject to subsections (5) to (7) and sections 61T and 61V.</p> <p>Finance (No. 2) Bill</p> <p>131 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>
<p>(4) The deemed direct payment is treated as made at the same time as the chain payment made by the fee-payer.</p>	<p>(4) The deemed direct payment is treated as made at the same time as the chain payment made by the fee-payer.</p>
<p>(5) Subsections (6) and (7) apply, subject to sections 61S and 61T, if the fee-payer—</p>	<p>(5) Subsections (6) and (7) apply, subject to sections 61T and 61V, if the fee-payer—</p>
<p>(a) is not the client, (b) is not resident in the United Kingdom, and (c) does not have a place of business in the United Kingdom.</p> <p>(6) If each person in the chain below the highest and above the lowest— (a) is not resident in the United Kingdom, and (b) does not have a place of business in the United Kingdom, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client.</p>	<p>(a) is not the client, and 5 (b) is not a qualifying person.</p> <p>(6) If there is no person in the chain below the highest and above the lowest who is a qualifying person, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client.</p> <p>10</p>
<p>(7) Otherwise, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the person in the chain who— (a) is above the lowest,</p>	<p>(7) Otherwise, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the person in the chain who— (a) is above the lowest,</p>
<p>(b) is resident in the United Kingdom or has a place of business in the United Kingdom, and</p>	<p>(b) is a qualifying person, and 15</p>
<p>(c) is lower in the chain than any other person in the chain who— (i) is above the lowest, and</p>	<p>(c) is lower in the chain than any other person in the chain who— (i) is above the lowest, and</p>
<p>(ii) is resident in the United Kingdom or has a place of business in the</p>	<p>(ii) is a qualifying person.</p> <p>(8) In subsections (5) to (7) a “qualifying person” is a person who— 20 (a) is resident in the United Kingdom or has a place of business in the United</p>

United Kingdom.

	<p>Kingdom,</p> <p>(b) is not a person who is controlled by—</p> <p>(i) the worker, alone or with one or more associates of the worker, or</p> <p>25</p> <p>(ii) an associate of the worker, with or without other associates of the worker, and</p> <p>(c) if a company, is not one in which—</p> <p>(i) the worker, alone or with one or more associates of the worker, or</p> <p>30</p> <p>(ii) an associate of the worker, with or without other associates of the worker,</p> <p>has a material interest (within the meaning given by section 51(4) and (5)).</p> <p>(9) Condition A is that—</p> <p>35</p>
<p>(8) Condition A is that—</p> <p>(a) the intermediary is a company, and</p> <p>(b) the conditions in section 610 are met in relation to the intermediary.</p>	<p>=</p> <p>(a) the intermediary is a company, and</p> <p>(b) the conditions in section 610 are met in relation to the intermediary.</p>
<p>Draft provisions for Finance Bill 2017</p> <p>93</p> <p>Schedule 1 – Workers' services provided to public sector through intermediaries</p> <p>Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>	<p>+-</p>
	<p>=</p>
<p>(9) Condition B is that—</p> <p>(a) the intermediary is a partnership,</p>	<p><></p> <p>(10) Condition B is that—</p> <p>(a) the intermediary is a partnership,</p>
<p>(b) the worker is a member of the partnership,</p> <p>(c) the provision of the services is by the worker as a member of the partnership, and</p> <p>(d) the condition in section 61P is met in relation to the</p>	<p>=</p> <p>(b) the worker is a member of the partnership,</p> <p>(c) the provision of the services is by the worker as a member of the partnership, and</p> <p>(d) the condition in section 61P is met in relation to the</p>
<p>(10) Condition C is that the intermediary is an individual.</p>	<p><></p> <p>intermediary.</p> <p>45</p> <p>(11) Condition C is that the intermediary is an individual.</p> <p>132</p> <p>Finance (No. 2) Bill</p> <p>Schedule 1 – Workers' services provided to public sector</p>

“associated company” has the meaning given by		“associated company” has the meaning given by
section 449 of CTA 2010.	<>	section 449 of CTA 2010. 30
61P Conditions where intermediary is a partnership	=	61P Conditions where intermediary is a partnership
(1) The condition mentioned in section 61N(9)(d) is—	<>	(1) The condition mentioned in section 61N(10)(d) is—
(a) that the worker, alone or with one or more relatives, is entitled to 60% or more of the profits of the partnership, or	=	(a) that the worker, alone or with one or more relatives, is entitled to 60% or more of the profits of the partnership, or
(b) that most of the profits of the partnership derive from the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies—	<>	(b) that most of the profits of the partnership derive from the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies—
(i) to a single client, or		(i) to a single client, or
94 Draft provisions for Finance Bill 2017 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003	+-	
(ii) to a single client together with associates of that client,	=	(ii) to a single client together with associates of that client,
or	<>	or
(c) that under the profit sharing arrangements the income of any of the partners is based on the amount of income generated by that partner by the provision of services under engagements to which one or other of this Chapter and	=	(c) that under the profit sharing arrangements the income of any of the partners is based on the amount of income generated by that partner by the provision of services under engagements to which one or other of this Chapter and
Chapter 8 applies.	<>	Chapter 8 applies. 45
(2) In subsection (1)(a) “relative” means spouse or civil partner, parent or child or remoter relation in the direct line, or brother or sister.	=	(2) In subsection (1)(a) “relative” means spouse or civil partner, parent or child or remoter relation in the direct line, or brother or sister.
	-+	Finance (No. 2) Bill 133 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003
	=	
	-+	(3) Section 61(4) and (5) apply for the purposes of this section as they

		apply for the purposes of Chapter 8.
61Q Calculation of deemed direct payment (1) The amount of the deemed direct payment is the amount resulting from the following steps–	=	61Q Calculation of deemed direct payment (1) The amount of the deemed direct payment is the amount resulting from the following steps–
Step 1 Identify the amount or value of the chain payment made by the person who is treated as making the deemed direct payment, and deduct from that amount so much of it (if any) as is in respect of value added tax.	=	Step 1 Identify the amount or value of the chain payment made by the person who is treated as making the deemed direct payment, and deduct from that amount so much of it (if any) as is in respect of value added tax.
Step 2 Deduct, from the amount resulting from Step 1, so much of that amount as represents the direct cost to any person of materials used , or to be used, in the performance of the services.	=	Step 2 Deduct, from the amount resulting from Step 1, so much of that amount as represents the direct cost to the intermediary of materials used , or to be used, in the performance of the services.
Step 3 Deduct, from the amount resulting from Step 2, so much of that amount as represents expenses met by the intermediary that would have been deductible from the taxable earnings from the employment if–	=	Step 3 Deduct, at the option of the person treated as making the deemed direct payment, from the amount resulting from Step 2, so much of that amount as represents expenses met by the intermediary that would have been deductible from the taxable earnings from the employment if–
(a) the worker had been employed by the client, and (b) the expenses had been met by the worker out of those earnings.	=	(a) the worker had been employed by the client, and (b) the expenses had been met by the worker out of those earnings.
Step 4 If the amount resulting from Step 3 is nil or negative, there is no deemed direct payment. Otherwise, that amount is the amount of the deemed direct payment.	=	If the amount resulting from the preceding Steps is nil or negative, 25 there is no deemed direct payment. Otherwise, that amount is the amount of the deemed direct payment.
		(2) For the purposes of Step 1 of subsection (1), any part of the amount or value of the chain payment which is employment income of the worker by virtue of section 863G(4) of ITTOIA 2005 (salaried members of limited

<p>(2) In Step 3 of subsection (1), the reference to expenses met by the intermediary includes—</p> <p>(a) expenses met by the worker and reimbursed by the intermediary, and</p> <p>(b) where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the partnership.</p>	<p>liability partnerships: anti-avoidance) is to be ignored.</p> <p>(3) In subsection (1), the reference to the amount or value of the chain payment means the amount or value of that payment before the deduction (if any) permitted under section 61S.</p> <p>(4) If the actual amount or value of the chain payment mentioned in Step 1 of subsection (1) is such that its recipient bears the cost of amounts due under PAYE regulations or contributions regulations in respect of the deemed direct payment, that Step applies as if the amount or value of that chain payment were what it would be if the burden of that cost were not being passed on through the setting of the level of the payment.</p> <p>(5) In Step 3 of subsection (1), the reference to expenses met by the intermediary includes—</p> <p>(a) expenses met by the worker and reimbursed by the intermediary, and</p> <p>(b) where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the partnership.</p>
<p>-+</p>	<p>134</p> <p>Finance (No. 2) Bill</p> <p>Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>
<p>=</p>	<p>(6) In subsection (4) “contributions regulations” means regulations under the Contributions and Benefits Act providing for primary Class 1 contributions to be paid in a similar manner to income tax in relation to which PAYE regulations have effect (see, in particular, paragraph 6(1) of Schedule 1 to the Act); and here “primary Class 1 contribution” means a</p>

		primary Class 1 contribution within the meaning of Part 1 of the Contributions and Benefits Act.
61R Application of Income Tax Acts in relation to deemed employment (1) The Income Tax Acts (in particular, Part 11 and PAYE regulations)	=	61R Application of Income Tax Acts in relation to deemed employment (1) The Income Tax Acts (in particular, Part 11 and PAYE regulations)
apply in relation to deemed direct payment as follows.	<>	apply in relation to the deemed direct payment as follows. 10
(2) They apply as if– (a) the worker were employed by the person treated as making the deemed direct payment, and	=	(2) They apply as if– (a) the worker were employed by the person treated as making the deemed direct payment, and
Draft provisions for Finance Bill 2017 95 Schedule 1 – Workers' services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003	+-	
(b) the services were performed, or to be performed, by the worker in the course of performing the duties of that	=	(b) the services were performed, or to be performed, by the worker in the course of performing the duties of that 15
employment. (3) The deemed direct payment is treated in particular– (a) as taxable earnings from the employment for the purpose of securing that any deductions under Chapters 2 to 6 of Part 5	=	employment. (3) The deemed direct payment is treated in particular– (a) as taxable earnings from the employment for the purpose of securing that any deductions under Chapters 2 to 6 of Part 5
do not exceed the deemed direct payment, and	<>	do not exceed the deemed direct payment, and 20
(b) as taxable earnings from the employment for the purposes of section 232. (4) The worker is not chargeable to tax in respect of the deemed direct payment if, or to the extent that, by reason of any combination of the	=	(b) as taxable earnings from the employment for the purposes of section 232. (4) The worker is not chargeable to tax in respect of the deemed direct payment if, or to the extent that, by reason of any combination of the
factors mentioned in subsection (5), the worker would not be	<>	factors mentioned in subsection (5), the worker would not be 25
chargeable to tax if– (a) the client employed the worker, (b) the worker performed the services in the course of that employment, and	=	chargeable to tax if– (a) the client employed the worker, (b) the worker performed the services in the course of that employment, and
(c) the deemed direct payment were a payment by the client of	<>	(c) the deemed direct payment were a payment by the client of 30
earnings from that employment. (5) The factors are– (a) the worker being resident or domiciled outside the United	=	earnings from that employment. (5) The factors are– (a) the worker being resident or domiciled outside the United

Kingdom or meeting the requirement of section 26A,		Kingdom or meeting the requirement of section 26A,
(b) the client being resident outside, or not resident in, the United Kingdom,	<>	(b) the client being resident outside, or not resident in, the United Kingdom, and
and (c) the services being provided outside the United Kingdom.	=	(c) the services being provided outside the United Kingdom.
(6) Where the intermediary is a partnership or unincorporated association, the deemed direct payment is treated as received by the worker in the worker's personal capacity and not as income of the partnership or association.	<>	(6) Where the intermediary is a partnership or unincorporated association, the deemed direct payment is treated as received by the worker in the worker's personal capacity and not as income of the partnership or association.
(7) Where- (a) the client is the person treated as making the deemed direct payment,	<>	(7) Where- (a) the client is the person treated as making the deemed direct payment,
(b) the worker is resident in the United Kingdom,	<>	(b) the worker is resident in the United Kingdom,
(c) the services are provided in the United Kingdom, (d) the client is not resident in the United Kingdom, and	=	(c) the services are provided in the United Kingdom, (d) the client is not resident in the United Kingdom, and
	-+	Finance (No. 2) Bill 135 Schedule 1 – Workers' services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003
(e) the client does not have a place of business in the United Kingdom, the client is treated as resident in the United Kingdom.	=	(e) the client does not have a place of business in the United Kingdom, the client is treated as resident in the United Kingdom.
	<>	61S Deductions from chain payments (1) This section applies if, as a result of section 61R, a person who is treated as making a deemed direct payment is required under PAYE Regulations to pay an amount to the Commissioners for Her Majesty's Revenue and Customs (the Commissioners) in respect of the payment. (But see subsection (4)). 10 (2) The person may deduct from the underlying chain payment an amount which is equal to the amount payable to the Commissioners, but where the amount or value of the underlying chain payment is treated by section 610(4) as increased by the cost of any amount due

<p>61S Information to be provided by clients and consequences of failure</p>	<p>under PAYE Regulations, the amount that may be deducted is 15 limited to the difference (if any) between the amount payable to the Commissioners and the amount of that increase. (3) Where a person in the chain other than the intermediary receives a chain payment from which an amount has been deducted in reliance on subsection (2) or this subsection, that person may deduct the same 20 amount from the chain payment made by them. (4) This section does not apply in a case to which 61V(2) applies (services-provider treated as making deemed direct payment). (5) In subsection (2) “the underlying chain payment” means the chain payment whose amount is used at Step 1 of section 61Q(1) as the 25 starting point for calculating the amount of the deemed direct payment.</p>
<p>(1) If the conditions in section 61M(1)(a) to (c) are met in any case, and a person as part of the arrangements mentioned in section 61M(1)(c)</p>	<p>= (1) If the conditions in section 61M(1)(a) to (c) are met in any case, and a</p>
<p>person as part of the arrangements mentioned in section 61M(1)(c)</p> <p>enters into a contract with the client, the client must inform that person (in the contract or otherwise) of which one of the following is applicable– (a) the client has concluded that the condition in section 61M(1)(d) is met in the case;</p>	<p><> person as part of the arrangements mentioned in section 61M(1)(c) 30 enters into a contract with the client, the client must inform that person (in the contract or otherwise) of which one of the following is applicable– (a) the client has concluded that the condition in section</p>
<p>61M(1)(d) is met in the case; (b) the client has concluded that the condition in section 61M(1)(d) is not met in the case.</p>	<p><> 61M(1)(d) is met in the case; 35 (b) the client has concluded that the condition in section 61M(1)(d) is not met in the case.</p>
<p>96 Draft provisions for Finance Bill 2017</p>	<p><> (2) If the contract is entered into on or after 6 April 2017, the duty under subsection (1) must be complied with– (a) on or before the time of entry into the contract, or 40 (b) if the services begin to be performed at a later time, before that later time. (3) If the contract is entered into before 6 April 2017, the duty under</p>

	<p>subsection (1) must be complied with on or before the date of the first payment made under the contract on or after 6 April 2017.</p> <p style="text-align: center;">45</p> <p>(4) If the information which subsection (1) requires the client to give to a person has been given (whether in the contract, as required by 136</p> <p>Finance (No. 2) Bill</p>
<p>Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>	<p>Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 2 – New Chapter 10 of Part 2 of ITEPA 2003</p>
<p>(2) If the information which subsection (1) requires the client to give to a person has not been given, the client must, on a written request by the person, provide the person with a written response giving the information.</p> <p>(3) If the information which subsection (1) requires the client to give to a person has been given (whether in the contract, as required by subsection (2) or otherwise), the client must, on a written request by the person, provide the person with a written response to any questions raised by the person about the client’s reasons for reaching the conclusion identified in the information.</p> <p>(4) A response required by subsection (2) or (3) must be provided before</p>	<p><> subsection (2) or (3) or otherwise), the client must, on a written request by the person, provide the person with a written response to any questions raised by the person about the client’s reasons for reaching the conclusion identified in the information.</p> <p>(5) A response required by subsection (4) must be provided before the end of 31 days beginning with the day the request for it is received by the client.</p> <p>(6) If–</p> <p>(a) the client fails to comply with the duty under subsection (1) within the time allowed by subsection (2) or (3),</p> <p>(b) the client fails to provide a response required by subsection (4) within the time allowed by subsection (5), or</p> <p>(c) the client complies with the duty under subsection (1) but fails to take reasonable care in coming to its conclusion as to whether the condition in section 61M(1)(d) is met in the case,</p> <p>section 61N(3) and (4) have effect in the case as if for any reference to the fee-payer there were substituted a reference to the client, but this is subject to section 61V.</p> <p>61U Information to be provided by worker and consequences of failure</p>

the end of 31 days beginning with the day the request for it is

(1) In the case of an engagement to which this Chapter applies, the 20 worker must inform the potential deemed employer of which one of the following is applicable—
(a) that one of conditions A to C in section 61N is met in the case;
(b) that none of conditions A to C in section 61N is met in the case.

received by the client.
(5) If the client fails to provide a response required by subsection (2) within the time allowed by subsection (4), section 61N(3) and (4) have effect in the case as if for any reference to the fee-payer there were substituted a reference to the client, but this is subject to section 61T.

61T Consequences of providing fraudulent information

25
(2) If the worker has not complied with subsection (1), then for the purposes of section 61N(1), one of conditions A to C in section 61N is to be treated as met.
(3) In this section, “the potential deemed employer” is the person who, if one of conditions A to C in section 61N were met, would be treated 30 as making a deemed direct payment to the worker under section 61N(3).

61V Consequences of providing fraudulent information

(1) Subsection (2) applies if in any case— (a) a person (“the deemed employer”) would, but for this section, be treated by section 61N(3) as making a payment to another person (“the services-provider”), and (b) the fraudulent documentation condition is met. (2) Section 61N(3) has effect in the case as if the reference to the fee-payer were a reference to the services-provider, but— (a) section 61N(4) continues to have effect as if the reference to the fee-payer were a reference to the deemed employer, and (b) Step 1 of section 61Q(1) continues to have effect as referring to the chain payment made by the deemed employer.	=	(1) Subsection (2) applies if in any case— (a) a person (“the deemed employer”) would, but for this 35 section, be treated by section 61N(3) as making a payment to another person (“the services-provider”), and (b) the fraudulent documentation condition is met. (2) Section 61N(3) has effect in the case as if the reference to the fee-payer were a reference to the services-provider, but— (a) section 61N(4) continues to have effect as if the reference to the fee-payer were a reference to the deemed employer, and (b) Step 1 of section 61Q(1) continues to have effect as referring to the chain payment made by the deemed employer.
(3) Subsection (2) has effect even though that involves the services-provider being treated as both employer and employee in relation to the deemed employment under section 61N(3).	=	(3) Subsection (2) has effect even though that involves the services-provider being treated as both employer and employee in relation to the deemed employment under section 61N(3).
	-+	Finance (No. 2) Bill

		public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003
	=	
(4) “The fraudulent documentation condition” is that the services-provider, or a person connected with the services-provider, provided any person with a fraudulent document intended to constitute evidence that section 61N(3) did not apply in the case.	<>	(4) “The fraudulent documentation condition” is that a relevant person provided any person with a fraudulent document intended to constitute evidence— (a) that the case is not an engagement to which this Chapter applies, or 5 (b) that none of conditions A to C in section 61N is met in the case.
61U Prevention of double charge to tax and allowance of certain deductions	=	(5) A “relevant person” is— (a) the services-provider; (b) a person connected with the services-provider; 10 (c) if the intermediary in the case is a company, an office-holder in that company.
(1) Subsection (2) applies where—	<>	61W Prevention of double charge to tax and allowance of certain deductions
(a) a person (“the payee”) receives a payment or benefit (“the end-of-line remuneration”) from another person (“the paying intermediary”), (b) the end-of-line remuneration can reasonably be taken to represent remuneration for services of the payee to a public authority,	=	(a) a person (“the payee”) receives a payment or benefit (“the end-of-line remuneration”) from another person (“the paying intermediary”), (b) the end-of-line remuneration can reasonably be taken to represent remuneration for services of the payee to a public 20 authority,
Draft provisions for Finance Bill 2017	+-	
97 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003		
(c) a payment (“the deemed payment”) has been treated by section 61N(3) as made to the payee, (d) the underlying chain payment can reasonably be taken to be for the same services of the payee to that public	=	(c) a payment (“the deemed payment”) has been treated by section 61N(3) as made to the payee, (d) the underlying chain payment can reasonably be taken to be for the same services of the payee to that public

authority,		authority, 25	
and	=	and	
(e) the person treated by section 61N(3) as making the deemed payment has paid any amounts due from that person under PAYE regulations in respect of the deemed payment.	<>	(e) the recipient of the underlying chain payment has (whether by deduction from that payment or otherwise) borne the cost of any amounts due, under PAYE regulations and contributions regulations in respect of the deemed payment, 30 from the person treated by section 61N(3) as making the deemed payment.	
(2) For income tax purposes, the paying intermediary may treat the amount of the end-of-line remuneration as reduced (but not below nil) by any one or more of the following—		(2) For income tax purposes, the paying intermediary and the payee may treat the amount of the end-of-line remuneration as reduced (but not below nil) by any one or more of the following— 35	
(a) the amount (see section 61Q) of the deemed payment; (b) the amount of any capital allowances in respect of expenditure incurred by the paying intermediary that could have been deducted from employment income under section	=	(a) the amount (see section 61Q) of the deemed payment; (b) the amount of any capital allowances in respect of expenditure incurred by the paying intermediary that could have been deducted from employment income under section	
262 of CAA 2001 if the payee had been employed by the public authority and had incurred the expenditure; (c) the amount of any contributions made, in the same tax year as the end-of-line payment, for the benefit of the payee by the paying intermediary to a registered pension scheme that if made by an employer for the benefit of an employee would not be chargeable to income tax as income of the employee.	<>	262 of CAA 2001 if the payee had been employed by the 40 public authority and had incurred the expenditure; (c) the amount of any contributions made, in the same tax year as the end-of-line remuneration, for the benefit of the payee by the paying intermediary to a registered pension scheme that if made by an employer for the benefit of an employee 45 would not be chargeable to income tax as income of the employee.	
(3) Subsection (2)(c) does not apply to— (a) excess contributions paid and later repaid,	=	(3) Subsection (2)(c) does not apply to— (a) excess contributions paid and later repaid,	
	-+	138 Finance (No. 2) Bill Schedule 1 – Workers' services provided to public sector through intermediaries Part 2 – New Chapter 10 of Part 2 of ITEPA 2003	
(b) contributions	=	(b) contributions set	

set under subsection (2) against another payment by the paying intermediary, or (c) contributions deductible at Step 5 of section 54(1) in calculating the amount of the payment (if any) treated by section 50 as made in the tax year concerned by the paying intermediary to the payee.	<>	under subsection (2) against another payment by the paying intermediary, or (c) contributions deductible at Step 5 of section 54(1) in calculating the amount of the payment (if any) treated by section 50 as made in the tax year concerned by the paying intermediary to the payee.
(4) For the purposes of subsection (3)(c), the contributions to which Step 5 of section 54(1) applies in the case of the particular calculation are “deductible” at that Step so far as their amount does not exceed the result after Step 4 in that calculation.	=	(4) For the purposes of subsection (3)(c), the contributions to which Step 5 of section 54(1) applies in the case of the particular calculation are “deductible” at that Step so far as their amount does not exceed the result after Step 4 in that calculation.
(5) In subsection (1)(d) “the underlying chain payment” means the chain payment whose amount is used at Step 1 of section 61Q(1) as the starting point for calculating the amount of the deemed payment.	=	(5) In subsection (1)(d) “the underlying chain payment” means the chain payment whose amount is used at Step 1 of section 61Q(1) as the starting point for calculating the amount of the deemed payment.
(6) Subsection (2) applies whether the end-of-line payment— (a) is earnings of the payee,	<>	(6) Subsection (2) applies whether the end-of-line remuneration— (a) is earnings of the payee,
(b) is a distribution of the paying intermediary, or (c) takes some other form.	=	(b) is a distribution of the paying intermediary, or (c) takes some other form.
61V Interpretation	<>	61X Interpretation
In this Chapter—	=	In this Chapter—
“associate” has the meaning given by section 60;	<>	“associate” has the meaning given by section 60;
“company” means a body corporate or unincorporated association, and does not include a partnership; “engagement to which Chapter 8 applies” has the meaning given by section 49(5).”	=	“company” means a body corporate or unincorporated association, and does not include a partnership; “engagement to which Chapter 8 applies” has the meaning given by section 49(5).”
98 Draft provisions for Finance Bill 2017 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 3 – Consequential amendments	+-	
PART	=	
3	<>	PART 3
	=	

CONSEQUENTIAL AMENDMENTS		CONSEQUENTIAL AMENDMENTS
7 In section 7(5)(a) of ITEPA 2003 (amounts treated as earnings by Chapters 7 to 9 of Part 2 are “employment income” and “general earnings”), for “9” substitute “10”.	<>	10 In section 7(5)(a) of ITEPA 2003 (amounts treated as earnings by Chapters 7 to 9 of Part 2 are “employment income” and “general earnings”), for “9” substitute “10”.
8 In section 339A of ITEPA 2003 (travel for employment involving intermediaries), after subsection (6) insert- “(6A) Subsection (3) does not apply in relation to an engagement if- (a) sections 61N to 61R in Chapter 10 of Part 2 apply in relation to the engagement, (b) one of Conditions A to C in section 61N is met in relation to the employment intermediary, and	=	11 In section 49 of ITEPA 2003 (engagements to which Chapter 8 of Part 2 applies), after subsection (4) insert – “(4A) Holding office as statutory auditor of the client does not count as holding office under the client for the purposes of subsection (1) (c), and here “statutory auditor” means a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (see section 1210 of that Act).”
	<>	12 In section 339A of ITEPA 2003 (travel for employment involving intermediaries), after subsection (6) insert- “(6A) Subsection (3) does not apply in relation to an engagement if- (a) sections 61N to 61R in Chapter 10 of Part 2 apply in relation to the engagement, (b) one of Conditions A to C in section 61N is met in relation to the employment intermediary, and
	-+	Finance (No. 2) Bill 139 Schedule 1 – Workers’ services provided to public sector through intermediaries Part 3 – Consequential amendments
(c) the employment intermediary is not a managed service company. (6B) This section does not apply in relation to an engagement if- (a) sections 61N to 61R in Chapter 10 of Part 2 do not apply in relation to the engagement because the circumstances in section 61M(1)(d) are not met, (b) assuming those circumstances were met, one of Conditions A to C in section 61N would be met in relation to the employment intermediary, and	=	(c) the employment intermediary is not a managed service company. (6B) This section does not apply in relation to an engagement if- (a) sections 61N to 61R in Chapter 10 of Part 2 do not apply in relation to the engagement because the circumstances in section 61M(1)(d) are not met, (b) assuming those circumstances were met, one of Conditions A to C in section 61N would be met in relation to the employment intermediary, and
(c) the employment intermediary is not a managed service	<>	(c) the employment intermediary is not a managed service

<p>company.</p> <p>(6C) In determining for the purposes of subsection (6A) or (6B) whether one of Conditions A to C in section 61N is or would be met in relation to the employment intermediary, read references to the intermediary as references to the employment intermediary.”</p>	<p>company.</p> <p>(6C) In determining for the purposes of subsection (6A) or (6B) whether one of Conditions A to C in section 61N is or would be met in relation to the employment intermediary, read references to the intermediary</p>
<p>9 In Part 3 of CTA 2009 (trading income), after section 139 insert–</p>	<p>15 13 In Chapter 11 of Part 2 of ITTOIA 2005 (trade profits: specific trades), after section 164A insert–</p>
<p>“140A Intermediary where worker engaged by public authority</p> <p>(1) Subsection (2) applies where–</p> <p>(a) a person (“the payee”) receives a payment or benefit (“the end-of-line remuneration”) from another person (“the paying intermediary”),</p>	<p>164B Intermediaries providing worker’s services to public sector</p> <p>(1) This section applies for the purposes of calculating the trading profits of a person</p> <p>where–</p>
<p>(b) the end-of-line remuneration can reasonably be taken to represent remuneration for services of the payee to a public authority,</p>	<p>(a) the person is the intermediary in a chain identified under section 61N of ITEPA 2003 (see section 61N(1)(b)),</p> <p>(b) a deemed direct payment is treated as made under subsection (3) of that section, and</p>
<p>(c) a payment (“the deemed payment”) has been treated by section 61N(3) of ITEPA 2003 as made to the payee,</p> <p>(d) the underlying chain payment can reasonably be taken to be</p>	<p>(c) the person receives a payment which can reasonably be taken to be in respect of the same services as those in respect of which the underlying chain payment is made.</p> <p>(2) The payment mentioned in subsection (1)(c) is not required to be brought into account in calculating the profits of the trade.</p>
<p>(e) the end-of-line</p>	<p>30 (3) In this section “underlying chain payment” means the payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed direct payment mentioned in subsection (1)(b).”</p> <p>14 In Chapter 9 of Part 3 of CTA 2009 (trade profits: specific trades), after section 141 insert–</p>
<p>for the same services of the payee to that public authority, and</p> <p>(e) the end-of-line</p>	<p>35 “Worker’s services provided to public sector through intermediary</p> <p>141A Intermediaries providing worker’s services to public sector</p> <p>(1) This section applies</p>

<p>remuneration is paid by the paying intermediary in connection with a trade carried on the paying intermediary.</p> <p>(2) For the purposes of calculating the profits of that trade, a deduction is allowed for an amount equal to—</p> <p>Draft provisions for Finance Bill 2017</p> <p>99</p>	<p>for the purposes of calculating the trading profits of a person where—</p> <p>40</p> <p>(a) the person is the intermediary in a chain identified under section 61N of ITEPA 2003 (see section 61N(1)(b)),</p> <p>(b) a deemed direct payment is treated as made under subsection (3) of that section, and</p> <p>140</p> <p>Finance (No. 2) Bill</p>
<p>Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 3 – Consequential amendments</p>	<p>= Schedule 1 – Workers’ services provided to public sector through intermediaries</p> <p>Part 3 – Consequential amendments</p>
<p>(a) the deemed payment, less—</p> <p>(b) any amounts—</p> <p>(i) due under PAYE regulations in respect of the deemed payment from the person treated by section 61N(3) of ITEPA 2003 as making it, or</p> <p>(ii) due under contributions regulations from that person in respect of primary Class 1 contributions in respect of the deemed payment.</p> <p>(3) The deduction is allowed for the period of account in which the end-of-line remuneration is paid or provided.</p> <p>(4) If the paying intermediary is a firm—</p> <p>(a) the amount of the deduction is limited to the amount that reduces the profits of the firm of the period of account to nil,</p> <p>and</p> <p>(b) the expenses of the firm in connection with the services are limited to the amount deductible at Step 3 of section 61Q(1) of ITEPA 2003 in the calculation of the deemed payment.</p> <p>(5) Except in accordance with this section, no deduction may be made in respect of so much of the deemed payment as is deductible because of subsection (2).</p>	<p><></p> <p>(c) the person receives a payment which can reasonably be taken to be in respect of the same services as those in respect of which the underlying chain payment is made.</p> <p>(2) The payment mentioned in subsection (1)(c) is not required to be brought into account in calculating the profits of the trade.</p> <p>5</p>

(6) In subsection (1)(d) “the underlying chain payment” means the chain payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed payment.

(7) In this section—
“the 1992 Acts” means the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, “contributions regulations” means regulations under either of the 1992 Acts providing for primary Class 1 contributions to be paid in a similar manner to income tax in relation to which PAYE regulations have effect (see, in particular, paragraph 6(1) of Schedule 1 to each of the 1992 Acts), “primary Class 1 contribution” means a primary Class 1 contribution within the meaning of Part 1 of either of the 1992 Acts, and “public authority” has the same meaning as in Chapter 10 of Part 2 of ITEPA 2003 (see section 61L of that Act).”

(3) In this section “underlying chain payment” means the payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed direct payment mentioned in subsection (1)(b).”

PART 4

COMMENCEMENT

10 The amendments made in ITEPA 2003 by Parts 1 and 3 of this Schedule have effect for the tax year 2017-18 and subsequent tax years.

11 The amendments made by Part 2 of this Schedule have effect in relation to deemed direct payments treated as made on or after 6 April 2017, even if relating to services provided before that date.

100 Draft provisions for Finance Bill 2017

Schedule 1 – Workers’ services provided to public sector through intermediaries

PART 4

10

COMMENCEMENT

15 The amendments made in ITEPA 2003 by Parts 1 and 3 of this Schedule have effect for the tax year 2017-18 and subsequent tax years.

16 The amendment made by Part 2 of this Schedule has effect in relation to deemed direct payments treated as made on or after 6 April 2017, and does 15 so even if relating to services provided before that date.

17 The payments to which the amendments made in ITTOIA 2005 and CTA

- Commencement	=	
12 The amendment made in CTA 2009 by Part 3 of this Schedule has effect in relation to end-of-line remuneration (see new section 140A(1)) paid or provided on or after 6 April 2017.	<>	2009 by Part 3 of this Schedule apply include payments made before the passing of this Act.
	=	
SCHEDULE 2 Section 2	<>	SCHEDULE 2 Section 8 20
OPTIONAL REMUNERATION ARRANGEMENTS Optional remuneration arrangements 1 In Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings), in Chapter 2 (taxable benefits: the benefits code), after section 69 insert-	=	OPTIONAL REMUNERATION ARRANGEMENTS Optional remuneration arrangements 1 In Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings), in Chapter 2 (taxable benefits: the benefits code), after section 69 insert-
		25
“69A Optional remuneration arrangements (1) For the purposes of the benefits code a benefit provided for an employee is provided under “optional remuneration arrangements” if it is provided under arrangements of type A or B.	<>	(1) Subsections (2) to (7) have effect for the purposes of the benefits code. (2) A benefit provided for an employee is provided under “optional remuneration arrangements” so far as it is provided under arrangements of type A or B (regardless of whether those arrangements are made before or after the beginning of the person’s employment). (3) “Type A arrangements” are arrangements under which, in return for the benefit, the employee gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3.
		30 (4) “Type B arrangements” are arrangements (other than type A arrangements) under which the employee agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3.
	=	the benefit, the employee gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3.
	<>	receive an amount of earnings within Chapter 1 of Part 3.
		35 (4) “Type B arrangements” are arrangements (other than type A arrangements) under which the employee agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3.
	-+	Finance (No. 2) Bill 141 Schedule 2 – Optional remuneration arrangements
	=	
	<>	(5) A benefit provided for an employee is to be regarded as provided under optional

(4) In this section
“benefit” includes any benefit or facility,
regardless of

its form and the manner
of providing it.

69B The “amount foregone”

remuneration arrangements (whether of type A
or

type B) so far as it is
just and reasonable to attribute the
provision of
the benefit to the
arrangements in question.

(6) Where a benefit is
provided for an employee under any
5

arrangements, the mere
fact that under the arrangements the
employee makes good, or
is required to make good, any part of the
cost of provision is not
to be taken to show that the benefit is (to any
extent) provided
otherwise than under optional remuneration
arrangements.

10

(7) Where a benefit is
provided for an employee partly under
optional
remuneration
arrangements and partly otherwise than under
such

arrangements, the
benefits code is to apply with any
modifications
(including provision for
just and reasonable apportionments) that
may be required for
ensuring that the benefit is treated—
15

(a) in accordance
with the relevant provision in the column 2
of

the table so far
as it is provided under optional
remuneration

arrangements, and
(b) in accordance
with the relevant provision in column 1 of
the

table so far as
it is provided otherwise than under such
20
arrangements.

=		
-+	Column 2	Column 1
=		
-+	Section	Section
=		
-+	81(1A)(b)	81(1)
		87(1)
	87A(1)(a)	
	25	
		94(1)
	94A(1)(a)	
		102(1A)
	102(1B)(b)	
		120(1)
	120A(1)(a)	

		149A(2)(a) 154A(1)(a) 30 160A(2)(a) 175(1A)(b) 203A(1)(a)	149(1) 154(1) 160(1) 175(1) 203(1)
	=		
	<>	69B Optional remuneration arrangements: supplementary (1) For the purposes of the benefits code "the amount foregone"— 35 (a) in relation to a benefit provided for an employee under type A arrangements means the amount of earnings mentioned in section 69A(3); 142 Finance (No. 2) Bill Schedule 2 – Optional remuneration arrangements	
	=		
	-+	(b) in relation to a benefit provided for an employee under type B arrangements means the amount of earnings mentioned in section 69A(4); (c) in relation to a benefit provided for an employee partly under type A arrangements and partly under type B arrangements, 5 means the sum of the amounts foregone under the arrangements of each type.	
(2) Subsection (3) applies where, in order to determine the amount foregone in relation to a particular benefit mentioned in section 69A(2) or (3), it is necessary to apportion an amount of earnings to the benefit.	=	(2) Subsection (3) applies where, in order to determine the amount foregone with respect to a particular benefit mentioned in section 69A(3) or (4), it is necessary to apportion an amount of earnings to 10	
(3) The apportionment is to be made on a just and reasonable basis.	=	the benefit. (3) The apportionment is to be made on a just and reasonable basis.	
(4) In this section— “benefit” has the same meaning as in section 69A;	<>	(4) In this section and section 69A references to a benefit provided for an employee include a benefit provided for a member of an employee's family or household. 15 (5) In this section and section 69A— “benefit” includes any benefit or facility, regardless of its form	

			and the manner of providing it;
“earnings” means earnings within Chapter 1 of Part 3 (and includes a reference to amounts which would have been such	=	“earnings” means earnings within Chapter 1 of Part 3 (and includes a reference to amounts which would have been such	20
earnings if the employee had received them).”	=	earnings if the employee had received them).”	
Benefits in kind: amount treated as earnings		Benefits in kind: amount treated as earnings	
2 Part 3 of ITEPA 2003 (employment income: earnings and benefits in kind etc treated as earnings) is amended as follows.		2 Part 3 of ITEPA 2003 (employment income: earnings and benefits in kind etc treated as earnings) is amended as follows.	
Draft provisions for Finance Bill 2017	+-		
101			
Schedule 2 – Optional remuneration arrangements			
3 In section 81 (benefit of cash voucher treated as earnings), after subsection	=	3 (1) Section 81 (benefit of cash voucher treated as earnings) is amended as follows.	25
(1) insert–		(2) After subsection (1) insert–	
“(1A) Where a cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements–	=	“(1A) Where a cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements–	
(a) subsection (1) does not apply, and	<>	(a) subsection (1) does not apply, and	30
(b) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received by the employee.	=	(b) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received by the employee.	
(1B) In subsection (1A) “the relevant amount” means the greater of–	<>	(1B) In this section “the relevant amount” means–	
(a) the cash equivalent, and		(a) the cash equivalent, or	35
(b) the amount foregone in relation to the benefit of the voucher		(b) if greater, the amount foregone with respect to the benefit of	
(see section 69B).”		the voucher (see section 69B).”	
4 In section 87 (benefit of non-cash voucher treated as earnings) after		(3) At the end insert–	
		“(3) For the purposes of subsection (1B), assume that the cash equivalent	
		is zero if the condition in subsection (4) is met.	40
		(4) The condition is that the benefit of the voucher would be exempt from income tax but for section 228A (exclusion of certain exemptions).”	
		Finance (No. 2) Bill	
		143	
		Schedule 2 – Optional remuneration arrangements	
subsection (1) insert–	=	4 After section 87 insert–	

<p>“(1A) Where a non-cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements–</p> <p>(a) subsection (1) does not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received by the employee.</p>	<p>“87A Benefit of non-cash voucher treated as earnings: optional remuneration arrangements</p> <p>(1) Where a non-cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements–</p> <p>5</p> <p>(a) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received</p>
<p>(1B) In subsection (1A) “the relevant amount” means the greater of–</p> <p>(a) the cost of provision, and</p> <p>(b) the amount foregone in relation to the benefit of the voucher (see section 69B).”</p>	<p><></p> <p>by the employee, and</p> <p>(b) section 87(1) does not apply.</p> <p>(2) To find the relevant amount, first determine which (if any) is the greater of–</p> <p>(a) the cost of provision (see section 87(3)), and</p> <p>(b) the amount foregone with respect to the benefit of the voucher (see section 69B).</p>
<p>5 In section 94 (benefit of credit token treated as earnings), after subsection (2)</p>	<p>(3) If the cost of provision is greater than or equal to the amount foregone, the “relevant amount” is the cash equivalent of the benefit of the non-cash voucher (see section 87(2)).</p>
<p>insert–</p> <p>“(2A) Where a credit-token to which this Chapter applies is provided to the</p>	<p>(4) Otherwise, the “relevant amount” is the difference between–</p> <p>(a) the amount foregone, and</p> <p>(b) any part of the cost of provision that is made good by the employee, to the person incurring it, on or before 6 July following the relevant tax year.</p>
	<p>(5) If the voucher is a non-cash voucher other than a cheque voucher, the relevant tax year is–</p> <p>(a) the tax year in which the cost of provision is incurred, or</p> <p>25</p> <p>(b) if later, the tax year in which the employee receives the voucher.</p> <p>(6) If the voucher is a cheque voucher, the relevant tax year is the tax year in which the voucher is handed over in exchange for money, goods or services.</p> <p>30</p> <p>(7) For the purposes of subsections (2) and (3), assume that the</p>

employee pursuant to optional remuneration arrangements relating

to the use of the credit-token in a period which is or includes the

whole or part of a tax year—
(a) subsection (1) does not apply, and

(b) the relevant amount is to be treated as earnings from the employment for the tax year.

(2B) In subsection (2A) “the relevant amount” means the greater of—
(a) the relevant cost of provision for the tax year, and
(b) so much of the amount foregone as is attributable (on a just and reasonable basis) to the use of the credit-token by the employee in the tax year to obtain money, goods and services.

cost of provision is zero if the condition in subsection (8) is met.
(8) The condition is that the non-cash voucher would be exempt from income tax but for section 228A (exclusion of certain exemptions).
5 In section 88 (year in which earnings treated as received)—
35 (a) in subsection (1), after “87” insert “or 87A”;
(b) in subsection (2), after “87” insert “or 87A.”
6 After section 94 insert—
“94A Benefit of credit-token treated as earnings: optional remuneration arrangements
40 (1) If the conditions in subsections (2) and (3) are met in relation to any occasions on which a credit-token to which this Chapter applies is used by the employee in a tax year to obtain money, goods or services—
144 Finance (No. 2) Bill
Schedule 2 – Optional remuneration arrangements

=
<> (a) the relevant amount is to be treated as earnings from the employment for that year, and
(b) section 94(1) does not apply in relation to the use of the credit-token on those occasions.
(2) The condition in this subsection is that the credit-token is used pursuant to optional remuneration arrangements.
5 (3) The condition in this subsection is that AF is greater than the relevant cost of provision for the tax year.
In this section “AF” means so much of the amount foregone (see section 69B) as is attributable on a just and reasonable basis to the use of the credit-token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services.
<> (4) The “relevant amount” is the difference between—

(2C) For the purposes of subsection (2B), the “relevant cost of provision for the tax year” is determined as follows—

Step 1

Find the cost of provision with respect to each occasion on which the credit-token is used by the employee in the tax year to obtain money, goods or services.

Step 2

102 Bill 2017 Draft provisions for Finance

(a) AF, and

15

(b) any part of the relevant cost of provision for the tax year that is made good by the employee, to the person incurring it, on or before 6 July following the tax year which contains the occasion of use of the credit-token to which the making good relates.

20

(5) But the relevant amount is taken to be zero if the amount given by paragraph (b) of subsection (4) exceeds AF.

(6) For the purposes of this section the “relevant cost of provision for the tax year” is determined as follows—

Step 1

Find the cost of provision with respect to each occasion of use of the credit-token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services.

Step 2

25

The total of those amounts is the relevant cost of provision for the tax year.

(7) But the relevant cost of provision for the tax year is to be taken to be zero if the condition in subsection (8) is met.

(8) The condition is that use of the credit token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(9) In this section “cost of provision” has the same meaning as in section 94.

30

7 In section 97 (living accommodation to which Chapter 5 applies), in subsection (1A)(b), for “the cash equivalent of” substitute “an amount in respect of”.

8 In section 98 (accommodation provided

35

40

	<p>by local authority), in the words before paragraph (a), for “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation Finance (No. 2) Bill</p> <p>145</p>
<p>Schedule 2 – Optional remuneration arrangements</p>	<p>= Schedule 2 – Optional remuneration arrangements</p>
<p>The total of those amounts is the relevant cost of provision for the tax year.”</p> <p>6 (1) Section 102 (benefit of living accommodation treated as earnings) is amended as follows.</p>	<p><> provided otherwise than pursuant to optional remuneration arrangements”.</p> <p>9 (1) Section 99 (accommodation provided for performance of duties) is amended as follows.</p> <p>(2) In subsection (1), for “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements)”.</p> <p>(3) In subsection (2), for “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A)”.</p> <p>10 In section 100 (accommodation provided as result of security threat), in the words before paragraph (a), for “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements)”.</p> <p>15</p> <p>11 In section 100A (homes outside UK owned by company etc), in subsection (1), for “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements)”.</p> <p>12 In section 101 (Chevening House), in the words before paragraph (a), for</p> <p>20 “This Chapter” substitute “In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements)”.</p> <p>13 (1) Section 102 (benefit of living accommodation treated as earnings) is amended as follows.</p>

<p>(2) For subsection (1) substitute–</p> <p>“(1) This section applies where living accommodation to which this Chapter applies is provided in any period–</p> <p>(a) which consists of the whole or part of a tax year, and</p> <p>(b) throughout which the employee holds the employment.”</p> <p>(3) After subsection (2) insert–</p> <p>“(2A) The cash equivalent of the benefit of the accommodation is to be treated as earnings from the employment for the tax year.</p> <p>(2B) If the benefit of the accommodation is provided pursuant to optional</p>	<p>25</p> <p>(2) In subsection (1), for the words before paragraph (a) substitute “This section applies if living accommodation to which this Chapter applies is provided in any period (“the taxable period””).</p> <p>(3) The words in subsection (1) from “the cash equivalent” to the end become subsection (1A).</p> <p>30</p> <p>(4) After subsection (1A) insert–</p> <p>“(1B) If the benefit of the accommodation is provided pursuant to optional</p>
<p>remuneration arrangements–</p> <p>(a) subsection (2A) does not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employment for that tax year.</p> <p>(2C) In subsection (2B) “the relevant amount” means the greater of–</p>	<p>=</p> <p>remuneration arrangements–</p> <p>(a) subsection (1A) does not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employment for that tax year.”</p> <p>(5) Omit subsection (2).</p> <p>(6) At the end insert–</p> <p>“(4) Section 103A indicates how the relevant amount is determined.”</p> <p>14 In section 103 (method of calculating cash equivalent), in subsection (3), for 40 “102(2)” substitute “102(1”).</p> <p>146 Finance (No. 2) Bill</p> <p>Schedule 2 – Optional remuneration arrangements</p>
	<p>=</p> <p>-+ 15 After section 103 insert–</p> <p>“103A Accommodation provided pursuant to optional remuneration arrangements: relevant amount</p> <p>(1) To find the relevant amount, first determine which (if any) is the greater of–</p> <p>5</p>
<p>(a) the modified cash equivalent of the benefit of the accommodation (see section 103A), and</p>	<p>=</p> <p>(a) the modified cash equivalent of the benefit of the accommodation (see sections 105(2A) and 106(2A)), and</p>
<p>(b) the amount foregone with respect to the benefit of the accommodation (see section 69B).</p>	<p>=</p> <p>(b) the amount foregone with respect to the benefit of the accommodation (see section 69B).</p>
	<p>-+ (2) If the amount mentioned in subsection (1)(a) is greater than or equal 10 to the amount mentioned in</p>

	<p>subsection (1)(b), the “relevant amount” is the cash equivalent of the benefit of the accommodation (see section 103).</p> <p>(3) Otherwise, the “relevant amount” is the difference between-</p> <p>(a) the amount foregone with respect to the benefit of the accommodation, and</p> <p>(b) the deductible amount (see subsections (7) and (8)).</p> <p>(4) If the amount foregone with respect to the benefit of the accommodation does not exceed the deductible amount, the relevant amount is taken to be zero.</p>
	<p>20</p> <p>(5) For the purposes of subsections (1) and (2), assume that the modified cash equivalent of the benefit of the accommodation is zero if the condition in subsection (6) is met.</p> <p>(6) The condition is that the benefit of the accommodation would be exempt from income tax but for section 228A (exclusion of certain exemptions).</p> <p>(7) If the cost of providing the living accommodation does not exceed £75,000, the “deductible amount” means any sum made good, on or before 6 July following the tax year which contains the taxable period, by the employee to the person at whose cost the accommodation is provided that is properly attributable to its provision.</p> <p>(8) If the cost of providing the living accommodation exceeds £75,000, the “deductible amount” means the total of amounts A and B where-</p>
	<p>35</p> <p>A is equal to so much of MG as does not exceed RV;</p>
=	
-+	<p>B is the amount of any excess rent paid by the employee in respect of the taxable period;</p>
=	
-+	<p>MG is the total of any sums made good, on or before 6 July following the tax year which contains the taxable period, by the employee to the person at whose cost the accommodation is provided that are properly attributable to its provision (in the taxable period);</p>

=

<> RV is the rental value of the accommodation for the taxable period as set out in section 105(3) or (4A)(b) (as applicable).

(9) In subsection (8) “excess rent” means so much of the rent in respect

of the taxable period paid—

(a) by the employee,

5

(b) in respect of the accommodation,

(c) to the person providing it, and

(d) on or before 6 July following the tax year which contains the taxable period, as exceeds the rental value of the accommodation.

10

(10) Where it is necessary for the purposes of subsection (1)(b) and (3)(a)

to apportion an amount of earnings to the benefit of the

accommodation in the taxable period, the apportionment is to be made on a just and reasonable basis.

<> In this subsection “earnings” is to be interpreted in accordance with section 69B(4).”

In this subsection “earnings” is to be interpreted in accordance with section 69B(5).”

16 (1) Section 105 (cash equivalent: cost of accommodation not over £75,000) is amended as follows.

(2) In subsection (1), after “equivalent” insert “or modified cash equivalent”.

(3) After subsection (2) insert—

20

“(2A) The modified cash equivalent is equal to the rental value of the accommodation for the taxable period.”

17 (1) Section 106 (cash equivalent: cost of accommodation over £75,000) is amended as follows.

(2) In subsection (1), after “equivalent” insert “or modified cash equivalent”. 25

(3) After subsection (2) insert—

(2D) Where it is necessary for the purposes of subsection (2C)(b) to apportion an amount of earnings to the benefit of the

accommodation in the taxable period, the apportionment is to be made on a just and reasonable basis.

<> In this subsection “earnings” is to be interpreted in accordance with section 69B(4).”

In this subsection “earnings” is to be interpreted in accordance with section 69B(5).”

16 (1) Section 105 (cash equivalent: cost of accommodation not over £75,000) is amended as follows.

(2) In subsection (1), after “equivalent” insert “or modified cash equivalent”.

(3) After subsection (2) insert—

20

“(2A) The modified cash equivalent is equal to the rental value of the accommodation for the taxable period.”

17 (1) Section 106 (cash equivalent: cost of accommodation over £75,000) is amended as follows.

(2) In subsection (1), after “equivalent” insert “or modified cash equivalent”. 25

(3) After subsection (2) insert—

7 After section 103 insert—

“103A Meaning of “modified cash equivalent”

(1) In this Chapter “the modified cash equivalent”, in relation to the

benefit of any living accommodation, means the amount which would be the cash equivalent if sections 105 and 106 had effect with

the modifications set out in subsections (2) and (3).

(2) In section 105 (cash equivalent: cost of accommodation not over £75,000), for subsections

(2) to (5) substitute –
 “(2) The cash equivalent is the rental value of the accommodation for the taxable period.”

(3) In section 106 (cash equivalent: cost of accommodation over £75,000) –

(a) in Step 4 of subsection (2), omit paragraph (b) (and the “and” before it);

(b) omit subsection (3).
 Draft provisions for Finance Bill 2017
 103

“(2A) To calculate the modified cash equivalent–
 (a) apply steps 1 to 3 in subsection (2), as if the words “cash equivalent” in step 1 were “modified cash equivalent (for the purposes of section 105)”;
 30
 (b) calculate the modified cash equivalent by adding together the amounts calculated under steps 1 and 3 as applied by paragraph (a).”

18 (1) Section 109 (priority of Chapter 5 over Chapter 1 of Part 3 of the Act) is amended as follows.

35
 (2) In subsection (1)(a), for “the cash equivalent of the benefit of living accommodation” substitute “an amount”.
 (3) In subsection (2), for “of the cash equivalent” substitute “mentioned in subsection (1)(a)”.
 (4) In subsection (4), in the words before paragraph (a), for “cash equivalent of 40
 the benefit of the living accommodation” substitute “amount mentioned in subsection (1)(a)”.
 148

19 In section 114 (cars, vans and related benefits), in subsection (2)–

Finance
 (No. 2) Bill

Schedule 2 – Optional remuneration arrangements

= Schedule 2 – Optional remuneration arrangements

<>
 (a) in paragraph (a), for “the cash equivalent of” substitute “an amount in respect of”;
 (b) in paragraph (b), for “the cash equivalent of” substitute “an amount in respect of”;
 (c) in paragraph (c), for “the cash equivalent of” substitute “an amount 5
 in respect of”;
 (d) in paragraph (d), for “the cash equivalent of” substitute “an amount in respect of”.
 20 (1) Section 119 (where alternative to benefit of car or van offered) is amended as follows.

8 (1) Section 119 (where alternative to benefit of car or van offered) is amended as follows.

(2) For subsection (1) substitute–
 “(1) This section applies where in a tax year–

= (2) For subsection (1) substitute–
 “(1) This section applies where in a tax year–

<p>(a) a car is made available as mentioned in section 114(1), (b) the car's CO2 emissions figure (see sections 133 to 138) does</p>	<p>(a) a car is made available as mentioned in section 114(1), (b) the car's CO2 emissions figure (see sections 133 to 138) does</p>
<p>not exceed 75 grams per kilometre, and</p>	<p>not exceed 75 grams per kilometre, and</p>
<p>(c) an alternative to the benefit of the car is offered.” (3) In the heading, before “car” insert “low emission”.</p>	<p>(c) an alternative to the benefit of the car is offered.” (3) In the heading, before “car” insert “low emission”.</p>
<p>9 In section 120 (benefit of car treated as earnings), after subsection (3) insert-</p>	<p>21 In section 120 (benefit of car treated as earnings), after subsection (3) insert-</p>
<p>“(4) This section is subject to section 120A.”</p>	<p>“(4) This section is subject to section 120A.”</p>
<p>10 After section 120 insert-</p>	<p>22 After section 120 insert-</p>
<p>“120A Benefit of car treated as earnings: optional remuneration arrangements</p>	<p>“120A Benefit of car treated as earnings: optional remuneration arrangements</p>
<p>(1) This section applies if- (a) this Chapter applies to a car in relation to a particular tax year,</p>	<p>(1) Where this Chapter applies to a car in relation to a particular tax year and the conditions in subsection (3) are met- (a) the relevant amount (see section 121A) is to be treated as</p>
<p>(b) the car is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements, and</p>	<p>25 earnings from the employment for that tax year, and (b) section 120(1) does not apply.</p>
<p>30 (2) In such a case (including a case where the relevant amount is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the car in the tax year.</p>	<p>(2) In such a case (including a case where the relevant amount is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the car in the tax year.</p>
<p>35 (3) The conditions are that- (a) the car is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements,</p>	<p>(3) The conditions are that- (a) the car is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements,</p>
<p>(b) the amount foregone (see section 69B) with respect to the benefit of the car for the tax year is greater than the modified cash equivalent of the benefit of the car for the tax year (see section 121B), and</p>	<p>(b) the amount foregone (see section 69B) with respect to the benefit of the car for the tax year is greater than the modified cash equivalent of the benefit of the car for the tax year (see section 121B), and</p>
<p>(c) the car's CO2 emissions figure (see sections 133 to 138) exceeds 75 grams per kilometre.</p>	<p>(c) the car's CO2 emissions figure (see sections 133 to 138) exceeds 75 grams per kilometre.”</p>
	<p>40 Finance (No. 2) Bill 149 Schedule 2 – Optional remuneration arrangements</p>

<p>(2) Where this section applies—</p> <p>(a) the relevant amount is to be treated as earnings from the employment for that tax year, and</p> <p>(b) section 120 does not apply.</p> <p>(3) In subsection (2) “the relevant amount” means the greater of—</p>	<p>=> 23 After section 121 insert—</p> <p>“121A Optional remuneration arrangements: method of calculating relevant amount</p> <p>(1) To find the relevant amount for the purposes of section 120A, take the following steps—</p> <p style="text-align: center;">5</p>
<p>(a) the modified cash equivalent of the benefit of the car for the tax year (see section 120B), and</p>	<p>=> Step 1 Take the amount foregone with respect to the benefit of the car for the tax year.</p>
<p>(b) the amount foregone with respect to that benefit (see section 69B).</p>	<p>=> Step 2 Make any deduction under section 132A in respect of capital contributions made by the employee to the cost of the car or accessories.</p> <p>The resulting amount is the provisional sum.</p>
	<p>=> Step 3 Make any deduction from the provisional sum under section 144 in respect of payments by the employee for the private use of the car.</p>
<p>(4) Where it is necessary for the purposes of subsection (3)(b) to apportion an amount of earnings to the benefit of the car for the tax year, the apportionment is to be made on a just and reasonable basis.</p>	<p>=> The result is the “relevant amount” for the purposes of section 120A.</p> <p>(2) Where it is necessary, for the purpose of determining the “amount foregone” under step 1 of subsection (1), to apportion an amount of earnings to the benefit of the car for the tax year, the apportionment is to be made on a just and reasonable basis.</p>
<p>In this subsection “earnings” is to be interpreted in accordance with section 69B(4).</p>	<p>=> In this subsection “earnings” is to be interpreted in accordance with section 69B(5).</p>
	<p>=> 121B Meaning of “modified cash equivalent”</p> <p>(1) The “modified cash equivalent” of the benefit of a car for a tax year is calculated in accordance with the following steps (which must be read with subsections (2) to (4))—</p>

	=	
	-+	Step 1 Find the price of the car in accordance with sections 122 to 124A.
	=	
	-+	Step 2 30 Add the price of any accessories which fall to be taken into account in accordance with sections 125 to 131.
	=	
	-+	The resulting amount is the interim sum.
	=	
	-+	Step 3 Find the appropriate percentage for the car for the year in accordance 35 with sections 133 to 142.
	=	
	-+	Step 4 150 Finance (No. 2) Bill Schedule 2 – Optional remuneration arrangements
	=	
(5) Where this section applies the employee is referred to in this Chapter	<>	Multiply the interim sum by the appropriate percentage for the car for the year.
	=	
	-+	Step 5 Make any deduction under section 143 for any periods when the car was unavailable.
	=	
	<>	5 The resulting amount is the modified cash equivalent of the benefit of the car for the year. (2) Where the car is shared the modified cash equivalent is calculated under this section in accordance with section 148. (3) The modified cash equivalent of the benefit of a car for a tax year is 10 to be taken to be zero if the condition in subsection (4) is met. (4) The condition is that the benefit of car for the tax year would be exempt from income tax but for section 228A (exclusion of certain exemptions). (5) The method of calculation set out in subsection (1) is modified in the 15 special cases dealt with in- (a) section 146 (cars that run on road fuel gas), and

as being chargeable to tax in respect of the car in the tax year.

(b) section 147A (classic cars: optional remuneration arrangements)."

24 In section 126 (amounts taken into account in respect of accessories), in

20 subsection (1), in the words before paragraph (a), after "121(1)" insert "and step 2 of section 121B(1)".

25 (1) Section 131 (replacement accessories) is amended as follows.

(2) In subsection (1), in the words before paragraph (a), after "applies" insert "for the purposes of sections 121(1) and 121B(1)".

25 (3) After subsection (1) insert-

"(1A) In the application of this section for the purposes of section 121B(1)-

(a) references to the cash equivalent of the benefit of the car for the tax year are to be read as references to the modified cash equivalent of the benefit of the car for the tax year, and

30 (b) references to step 2 of section 121(1) are to be read as references to step 2 of section 121B(1)."

26 In section 132 (capital contributions by employee), in subsection (1), in the words before paragraph (a), after "applies" insert "for the purposes of section 121(1)".

35 27 After section 132 insert- "132A Capital contributions by employee: optional remuneration arrangements

(1) This section applies for the purposes of section 121A(1) if the employee contributes a capital sum to expenditure on the provision

40 of-

(a) the car, or Finance (No. 2) Bill

151 Schedule 2 – Optional remuneration arrangements

120B Meaning of "modified cash equivalent"

=

<> (b) any qualifying accessory which is taken into account in calculating under section 121B the modified cash equivalent of the benefit of the car.

(2) A deduction is to be made from the amount carried forward from step 1 of section 121A(1)-

(1) In section 120A the "modified cash equivalent", in relation to the

benefit of a car for a tax year, means the amount which would be the

cash equivalent if this Chapter had effect with the modifications set

(a) for the tax year in which the contribution is made, and
(b) for all subsequent tax years in which the employee is chargeable to tax in respect of the car by virtue of section

120A.

(3) The amount of the deduction allowed in any tax year is found by

10

multiplying the capped amount by the appropriate percentage.

(4) In subsection (3) the reference to "the appropriate percentage" is to

the appropriate percentage for the car for the tax year (determined in

accordance with sections 133 to 142).

(5) In this section "the capped amount" means the lesser of-

15

(a) the total of the capital sums contributed by the employee in

that year and any earlier years to expenditure on the provision of-

(i) the car, or

(ii) any qualifying accessory which is taken into account

20

in calculating under section 121B the modified cash

equivalent of the benefit of the car for the tax year in

question, and

(b) £5,000.

(6) This section is modified by section 147A (optional remuneration

25

arrangements: classic cars)."

(1) Section 143 (deduction for periods when car unavailable) is amended as follows.

(2) Before subsection (1) insert-
"A1) This section has effect for the purposes of-

30

(a) section 121(1) (method of calculating the cash equivalent of

the benefit of a car), and

(b) section 121B(1) (optional remuneration arrangements: meaning of "modified cash equivalent")."

(3) In subsection (1), after "121(1)" insert "or (as the case may be) step 4 of

35

section 121B(1)".

to (4).
104

Draft provisions for Finance
Bill 2017

out in subsections (2)

(4) In subsection (3), in the definition of "A", at the end insert "of section 121(1) or (as the case may be) step 4 of section 121B(1)".

29 (1) Section 144 (deduction for payments for private use) is amended as follows.

(2) In subsection (1), for "calculated under step 7 of section 121(1)" substitute 40

"(see subsection (1A))".

(3) After subsection (1) insert

"(1A) In this section "the provisional sum" means the provisional sum calculated under-

152

Finance (No. 2) Bill

Schedule 2 – Optional remuneration arrangements

Schedule 2 – Optional remuneration arrangements

(2) In section 121 (method of calculating the cash equivalent of the benefit of a car), for Step 3 substitute—

"Step 3

The amount resulting from Step 2 is the interim sum."

(a) step 7 of section 121(1) (method of calculating the cash equivalent of the benefit of a car), or

(b) step 2 of section 121A(1) (optional remuneration arrangements: method of calculating relevant amount)".

(4) In subsection (2), for the words from "so that" to the end substitute "so that—

5

(a) in a case within subsection (1A)(a), the cash equivalent of the benefit of the car

for the year is nil, or

(b) in a case within subsection (1A)(b), the relevant amount for the purposes of section 120A is nil."

(5) In subsection (3)—

10

(a) for "In any other case" substitute "Where subsection (2) does not apply," and

(b) for the words from "give" to the end substitute "give—

(a) in a case within subsection (1A)(a), the cash equivalent of the benefit of the car for the year, or

15

(b) in a case within subsection (1A)(b), the relevant amount for the purposes of section 120A."

30 (1) Section 145 (modification of provisions where car temporarily replaced) is

amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

20

(b) omit subsections (5) to (7)."

11 (1) Section 149 (benefit of car fuel treated as earnings) is amended as follows.

"(c) the employee is chargeable to tax—
(i) in respect of both the normal car and the replacement car by virtue of section 120, or
(ii) in respect of both the normal car and the replacement car by virtue of section 120A, and".

25

(3) After subsection (5) insert—

"(6) Where this section applies by virtue of subsection (1)(c)(ii), the condition in subsection (5)(b) is to be taken to be met if it would be met on the assumption that the cash equivalent of the benefit of the cars in question is to be calculated under section 121(1)." 30

31 (1) Section 146 (cars that run on road fuel gas) is amended as follows.

(2) In subsection (1), in the words before paragraph (a), after "applies" insert "for the purposes of sections 121 and 121B".

(3) In subsection (2), after "121(1)" insert "or (as the case may be) step 1 of section 121B(1)".

35

32 After section 147 insert—

"147A Classic cars: optional remuneration arrangements

(1) This section applies in calculating the relevant amount in respect of

a car for a tax year for the purposes of section 120A (benefit of car treated as earnings: optional remuneration arrangements) if—

40

(a) the age of the car at the end of the year is 15 years or more,
(b) the market value of the car for the year is £15,000 or more, and
(c) that market value exceeds the specified amount (see subsection (4)).

Finance (No. 2) Bill

153

Schedule 2 – Optional remuneration arrangements

=

-+

(2) In calculating the modified cash equivalent of the benefit of the car, for the interim sum calculated under step 2 of section 121B(1) substitute the market value of the car for the tax year in question.

(3) Section 132A (capital contributions by employee: optional remuneration

	<p>arrangements) has effect as if-</p> <p style="text-align: center;">5</p> <p style="text-align: right;">(a) in subsection (1)</p> <p style="text-align: right;">(b) the reference to calculating under</p> <p style="text-align: right;">section</p>
	<p style="text-align: right;">121B the modified</p> <p style="text-align: right;">cash equivalent of the benefit of the car</p> <p style="text-align: right;">were to</p> <p style="text-align: right;">determining the market value of the car, and</p> <p style="text-align: right;">(b) in subsection (5)</p> <p style="text-align: right;">(a)(ii) the reference to calculating under</p> <p style="text-align: right;">section 121B the</p> <p style="text-align: right;">modified cash equivalent of the benefit of</p> <p style="text-align: right;">the 10</p> <p style="text-align: right;">car for the tax</p> <p style="text-align: right;">year in question were to determining the</p> <p style="text-align: right;">market value of</p> <p style="text-align: right;">the car for the tax year in question.</p>
	<p style="text-align: right;">(4) The "specified amount"</p> <p style="text-align: right;">is found as follows.</p>
=	
-+	<p style="text-align: right;">Step 1</p> <p style="text-align: right;">Find what would be the</p> <p style="text-align: right;">interim sum under step 2 of section 121B(1)</p> <p style="text-align: right;">15</p> <p style="text-align: right;">(if subsection (2) of</p> <p style="text-align: right;">this section did not have effect).</p>
=	
-+	<p style="text-align: right;">Step 2</p> <p style="text-align: right;">(Assuming for this</p> <p style="text-align: right;">purpose that the reference in section 132(2)</p> <p style="text-align: right;">to step</p> <p style="text-align: right;">2 of section 121(1)</p> <p style="text-align: right;">includes a reference to step 1 of this</p> <p style="text-align: right;">subsection)</p> <p style="text-align: right;">make any deduction under</p> <p style="text-align: right;">section 132 for capital contributions</p> <p style="text-align: right;">20</p> <p style="text-align: right;">made by the employee to</p> <p style="text-align: right;">the cost of the car or accessories.</p>
=	
-+	<p style="text-align: right;">The resulting amount is</p> <p style="text-align: right;">the specified amount.</p> <p style="text-align: right;">(5) The market value of a</p> <p style="text-align: right;">car for a tax year is to be determined in</p> <p style="text-align: right;">accordance with section</p> <p style="text-align: right;">147(3) and (4)."</p> <p style="text-align: right;">33 (1) Section 148 (reduction of cash</p> <p style="text-align: right;">equivalent where car is shared) is amended</p> <p style="text-align: right;">as 25</p> <p style="text-align: right;">follows.</p>
(2) In subsection (1)-	<p style="text-align: right;">(2) In subsection (1)-</p>
<p style="text-align: right;">(a) at the beginning insert</p> <p style="text-align: right;">"This section applies";</p> <p style="text-align: right;">(b) in paragraph (b), after</p> <p style="text-align: right;">"120" insert "or 120A".</p>	<p style="text-align: right;"><></p> <p style="text-align: right;">(a) in the words before</p> <p style="text-align: right;">paragraph (a), after "applies" insert "for</p> <p style="text-align: right;">the</p> <p style="text-align: right;">purposes of sections 121</p> <p style="text-align: right;">and 121B";</p> <p style="text-align: right;">(b) in the words after</p> <p style="text-align: right;">paragraph (c), for "section 120" substitute</p> <p style="text-align: right;">"sections 30</p> <p style="text-align: right;">120 and 120A".</p> <p style="text-align: right;">(3) For subsection (2) substitute-</p> <p style="text-align: right;">"(2) The amount to be treated</p> <p style="text-align: right;">as earnings in respect of the benefit of the</p> <p style="text-align: right;">car is to be calculated</p> <p style="text-align: right;">separately for each of those employees for</p> <p style="text-align: right;">that</p> <p style="text-align: right;">tax year (whether under</p> <p style="text-align: right;">section 120 or section 120A)."</p>
(3) In subsection (1), the words after	
paragraph (b) become subsection (1A).	

<p>(4) After subsection (1A) insert-</p>	<p>35 (4) In subsection (2A), at the beginning insert “In the case of an employee chargeable to tax in respect of the car by virtue of section 120”.</p> <p>(5) After subsection (2A) insert- “(2B) In the case of an employee chargeable to tax in respect of the car by virtue of section 120A, the modified cash equivalent (as determined under section 121B(1)) is to be reduced on a just and reasonable basis.”</p> <p>154 2) Bill Schedule 2 – Optional remuneration arrangements</p>
<p>“(1B) If the fuel is provided pursuant to optional remuneration arrangements—</p> <p>(a) subsection (1A) does not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employment for the tax year.</p> <p>(1C) In subsection (1B) “the relevant amount” means the greater of—</p> <p>(a) the cash equivalent of the benefit of the fuel, and</p>	<p><> 34 In section 149 (benefit of car fuel treated as earnings), in subsection (1)(b), at the end insert “or 120A”.</p> <p>35 After section 149 insert- “149A Benefit of car fuel treated as earnings: optional remuneration arrangements</p> <p>5 (1) This section applies if— (a) fuel is provided for a car in a tax year by reason of an employee’s employment, (b) the employee is chargeable to tax in respect of the car in the tax year by virtue of section 120 or 120A, and 10 (c) the fuel is provided pursuant to optional remuneration arrangements.</p> <p>(2) If the condition in subsection (3) is met— (a) the amount foregone with respect to the benefit of the fuel (see section 69B) is to be treated as earnings from the 15 employment for the tax year, and (b) section 149(1) does not apply.</p> <p>(3) The condition mentioned in subsection (2) is that the amount foregone with respect to the benefit of the fuel is greater than the cash equivalent of the benefit of the fuel.</p> <p>20 (4) For the purposes of subsection (3), assume that the cash equivalent of the benefit of the fuel is zero if the condition in subsection (5)</p>

<p>(b) the amount foregone with respect to the benefit of the fuel (see section 69B).</p> <p>(1D) Where it is necessary for the purposes of subsection (1C)(b) to</p>	<p>is met.</p> <p>(5) The condition mentioned in subsection (4) is that the benefit of the fuel would be exempt from income tax but for section 228A</p> <p>25 (exclusion of certain exemptions).</p> <p>(6) References in this section to fuel do not include any facility or means for supplying electrical energy or any energy for a car which cannot in any circumstances emit CO2 by being driven.</p> <p>(7) Where it is necessary for the purposes of subsections (2)(a) and (3) to</p> <p>30</p>
<p>apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.</p> <p>In this subsection “earnings” is to be interpreted in accordance with</p>	<p>apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.</p> <p>In this subsection “earnings” is to be interpreted in accordance with</p>
<p>12 In section 154 (benefit of van treated as earnings), after subsection (3)</p>	<p><> section 69B(5).“</p> <p>36 In section 154 (benefit of van treated as earnings), after subsection (3)</p> <p>35</p>
<p>insert- “(4) This section is subject to section 154A.”</p>	<p>= insert- “(4) This section is subject to section 154A.”</p>
<p>13 After section 154 insert- “154A Benefit of van treated as earnings: optional remuneration arrangements</p>	<p><> 37 After section 154 insert- “154A Benefit of van treated as earnings: optional remuneration</p>
<p>arrangements</p> <p>(1) This section applies where</p> <p>–</p> <p>(a) this Chapter applies to a van in relation to a particular tax year, and</p> <p>(b) the van is made available to the employee or member of the employee’s household pursuant to optional remuneration arrangements.</p> <p>(2) Where this section applies</p> <p>–</p> <p>Draft provisions for Finance Bill 2017</p>	<p><> arrangements</p> <p>40</p> <p>(1) Where this Chapter applies to a van in relation to a particular tax year and the conditions in subsection (2) are met–</p>
<p>105</p> <p>Schedule 2 – Optional remuneration arrangements</p> <p>(a) the relevant amount is to be treated as earnings from the employment for that tax year, and</p>	<p>= (a) the relevant amount is to be treated as earnings from the employment for that tax year, and</p>
<p>–+</p>	<p>Finance (No. 2) Bill</p>
<p>(b) section 154 does not apply.</p>	<p>155</p> <p>Schedule 2 – Optional remuneration arrangements</p> <p><> (b) section 154(1) does not apply.</p>

<p>(3) In subsection (2) "the relevant amount" means the greater of-</p> <p>(a) the modified cash equivalent of the benefit of the van, and</p>	<p>In such a case (including a case where the relevant amount is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the van in the tax year.</p>
<p>(b) the amount foregone with respect to the benefit of the van</p>	<p>(2) The conditions are that</p> <p>–</p> <p>5</p> <p>(a) the van is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements, and</p>
<p>=</p>	<p>(b) the amount foregone with respect to the benefit of the van</p> <p>(see section 69B) is greater than the modified cash equivalent 10 of the benefit of the van.</p>
<p>=</p>	<p>(3) To find the relevant amount for the purposes of this section take the following steps–</p>
<p>=</p>	<p>Step 1 Take the amount foregone with respect to the benefit of the van for 15 the tax year.</p>
<p>=</p>	<p>Step 2 Make any deduction under section 158A in respect of payments by the employee for the private use of the van.</p>
<p>=</p>	<p><> The result is the "relevant amount".</p>
<p>20</p> <p>(see section 69B).</p>	<p>(4) In subsection (2) the reference to the "modified cash equivalent" is to the amount which would be the cash equivalent of the benefit of the van (after any reductions under section 156 or 157) if this Chapter had effect the following modifications–</p> <p>(a) omit paragraph (c) of section 155(8);</p> <p>25</p> <p>(b) omit section 158;</p> <p>(c) in section 159(2) (b), for "155, 157 and 158" substitute "155 and 157".</p> <p>(5) For the purposes of subsection (2) assume that the modified cash equivalent of the benefit of the van is zero if the condition in 30 subsection (6) is met.</p>

<p>(4) Where it is necessary for the purposes of subsection (3)(b) to apportion an amount of earnings to the benefit of the van in the tax year, the apportionment is to be made on a just and reasonable basis.</p>	<p>(6) The condition is that the benefit of the van would be exempt from income tax but for section 228A (exclusion of certain exemptions).</p> <p>(7) Where it is necessary for the purposes of subsection (2)(b) and step 1 of subsection (3) to apportion an amount of earnings to the benefit of 35 the van in the tax year, the apportionment is to be made on a just and reasonable basis.</p>
<p>In this subsection “earnings” is to be interpreted in accordance with section 69B(4).”</p>	<p>In this subsection “earnings” is to be interpreted in accordance with</p>
<p>(5) In subsection (3) the reference to the “modified cash equivalent” is to the amount which would be the cash equivalent if this Chapter had</p>	<p>section 69B(5).”</p> <p>38 After section 158 insert–</p> <p>40 “158A Van provided pursuant to optional remuneration arrangements: private use</p> <p>(1) In calculating the relevant amount under section 154A in relation to a van and a tax year, a deduction is to be made under step 2 of 156</p> <p>Finance (No. 2) Bill</p> <p>Schedule 2 – Optional remuneration arrangements</p>
<p>effect with the omission of the following provisions–</p> <p>(a) section 155(8)(c);</p> <p>(b) section 158.</p> <p>(6) Where this section applies the employee is referred to in this Chapter as being chargeable to tax in respect of the van in the tax year.”</p>	<p>subsection (3) of that section if, as a condition of the van being available for the employee’s private use, the employee–</p> <p>(a) is required in that year to pay (whether by way of deduction from earnings or otherwise) an amount of money for that use, and</p> <p>5</p> <p>(b) pays that amount on or before 6 July following that year.</p> <p>(2) The amount of the deduction is–</p> <p>(a) the amount paid as mentioned in subsection (1)(b) by the employee in respect of the year, or</p> <p>(b) if less, the amount that would reduce the relevant amount to 10</p> <p>nil.</p> <p>(3) In this section the reference to the van being available for the employee’s private use includes a reference to the van being available for the private use of a member of the employee’s family or household.”</p>

<p>14 (1) Section 160 (benefit of van fuel treated as earnings) is amended as follows.</p> <p>(2) In subsection (1)(b), after "154" insert "or 154A".</p> <p>(3) At the end insert–</p> <p>“(5) This section is subject to section 160A.”</p>	=	<p>15 (1) Section 160 (benefit of van fuel treated as earnings) is amended as follows.</p> <p>(2) In subsection (1)(b), after "154" insert "or 154A".</p> <p>(3) At the end insert–</p> <p>“(5) This section is subject to section 160A.”</p>
<p>15 After section 160 insert–</p>	<>	<p>40 After section 160 insert–</p> <p>20</p>
<p>“160A Benefit of van fuel treated as earnings: optional remuneration arrangements</p> <p>(1) This section applies if–</p> <p>(a) fuel is provided for a van in a tax year by reason of an employee's employment,</p>	=	<p>“160A Benefit of van fuel treated as earnings: optional remuneration arrangements</p> <p>(1) This section applies if–</p> <p>(a) fuel is provided for a van in a tax year by reason of an employee's employment,</p>
<p>(b) the benefit of the fuel is provided pursuant to optional remuneration arrangements, and</p> <p>(c) the employee is chargeable to tax in respect of the van in the tax year by virtue of section 154 or 154A.</p>	=	<p>(b) the benefit of the fuel is provided pursuant to optional remuneration arrangements, and</p> <p>(c) the employee is chargeable to tax in respect of the van in the tax year by virtue of section 154 or 154A.</p>
<p>(2) Where this section applies–</p> <p>(a) the relevant amount is to be treated as earnings from the employment for that year, and</p>	<>	<p>(2) If the condition in subsection (3) is met–</p> <p>30</p> <p>(a) the amount foregone with respect to the benefit of the fuel (see section 69B) is to be treated as earnings from the employment for that year, and</p>
<p>(b) section 160 does not apply.</p> <p>(3) In subsection (1) “the relevant amount” means the greater of–</p> <p>(a) the cash equivalent of the benefit of the fuel, and</p> <p>(b) the amount foregone with respect to the benefit of the fuel (see section 69B).</p>	<>	<p>(b) section 160(1) does not apply.</p> <p>(3) The condition mentioned in subsection (2) is that the amount 35 foregone with respect to the benefit of the fuel is greater than the cash equivalent of the benefit of the fuel.</p> <p>(4) For the purposes of subsection (3), assume that the cash equivalent of the benefit of the fuel is zero if the condition mentioned in subsection (5) is met.</p>
	=	<p>40</p> <p>(5) The condition mentioned in subsection (4) is that the benefit of the fuel would be exempt from income tax but for section 228A (exclusion of certain exemptions).</p> <p>Finance (No. 2) Bill</p> <p>157</p> <p>Schedule 2 – Optional remuneration arrangements</p>

(4) Where it is necessary for the purposes of subsection (3)(b) to apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.	<>	(6) Where it is necessary for the purposes of subsections (2)(a) and (3) to apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.
106 Draft provisions for Finance Bill 2017 Schedule 2 – Optional remuneration arrangements	+-	
In this subsection “earnings” is to be interpreted in accordance with section 69B(4)."	=	In this subsection “earnings” is to be interpreted in accordance with section 69B(5)."
16 In section 173 (loans to which Chapter 7 applies), in subsection (1A)(b), for the words from “provide” to the end substitute “make provision about amounts which, in the case of a taxable cheap loan, are to be treated as earnings in certain circumstances”.	<>	5 41 In section 170 (orders etc relating to Chapter 6 of Part 3), in subsection (1)– (a) after paragraph (c) insert “(ca) section 132A(5)(b) (corresponding provision with respect to optional remuneration arrangements);”; (b) omit “or” at the end of paragraph (d); 10 (c) after paragraph (e) insert – “(f) section 147A(1)(b) (classic car: minimum value: optional remuneration arrangements).” 42 In section 173 (loans to which Chapter 7 applies), in subsection (1A)(b), for the words from “provide” to the end substitute “make provision about
17 In section 175 (benefit of taxable cheap loan treated as earnings), for subsection (1) substitute– “(1) This section applies where an employment-related loan is a taxable cheap loan in relation to a tax year.	=	15 amounts which, in the case of a taxable cheap loan, are to be treated as earnings in certain circumstances.
(1A) The cash equivalent of the benefit of the loan is to be treated as earnings from the employee’s employment for the tax year.	<>	(1) The cash equivalent of the benefit of the loan is to be treated as earnings from the employee’s employment for the tax year.
(1B) If the benefit of the loan is provided pursuant to optional remuneration arrangements– (a) subsection (1A) does	<>	(1A) If the benefit of the loan is provided pursuant to optional remuneration arrangements and the condition in subsection (1B) is met– (a) subsection (1)

<p>not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employee's employment for the tax year.</p> <p>(1C) In subsection (1B) "the relevant amount" means the greater of—</p> <p>(a) the modified cash equivalent of the benefit of the loan for the tax year, and</p> <p>(b) the amount foregone with respect to that benefit (see section 69B).</p> <p>(1D) Where it is necessary for the purposes of subsection (1C)(b) to apportion an amount of earnings to the benefit of the loan for the tax year, the apportionment is to be made on a just and reasonable basis.</p> <p>In this subsection "earnings" is to be interpreted in accordance with section 69B(4)."</p> <p>18 (1) After section 175 insert—</p> <p>"175A Meaning of "modified cash equivalent"</p> <p>(1) For the purposes of section 175 the "modified cash equivalent" of the benefit of an employment-related loan for a tax year is the amount</p>	<p>does not apply, and</p> <p>(b) the relevant amount (see section 175A) is to be treated as earnings from the employee's employment for the tax year.</p> <p>(1B) The condition is that the amount foregone with respect to the benefit 30</p> <p>of the loan for the tax year (see section 69B) is greater than the modified cash equivalent of the benefit of the loan for the tax year</p> <p>(see section 175A)."</p> <p>44 (1) After section 175 insert—</p> <p>"175A Optional remuneration arrangements: "relevant amount" and "modified cash equivalent"</p> <p>(1) In section 175(1A) "the relevant amount", in relation to a loan the benefit of which is provided pursuant to optional remuneration arrangements, means the difference between—</p> <p>(a) the amount foregone (see section 69B) with respect to the 40 benefit of the loan, and</p> <p>(b) the amount of interest (if any) actually paid on the loan for the tax year.</p> <p>(2) For the purposes of section 175 the "modified cash equivalent" of the benefit of an employment-related loan for a tax year is the amount 45</p> <p>158 Finance (No. 2) Bill</p> <p>Schedule 2 – Optional remuneration arrangements</p>
<p>which would be the cash equivalent if section 175(3) had effect with the following modifications—</p> <p>(a) in the opening words, omit "the difference between";</p> <p>(b) omit paragraph (b) and the "and" before it."</p> <p>(2) Subsection (3) applies</p>	<p>=</p> <p>which would be the cash equivalent if section 175(3) had effect with the following modifications—</p> <p>(a) in the opening words, omit "the difference between";</p> <p>(b) omit paragraph (b) and the "and" before it."</p> <p>(3) But the modified cash</p>

where any loans would (apart from that subsection) be treated by virtue of section 186(2) (replacement loans) as the same loan for the purpose of calculating the amount

mentioned in subsection (1) above (amount which would be the cash equivalent).

(3) That calculation is to be made as if section 186(2) did not have effect.

(4) Subsection (5) applies where any loans would (apart from that subsection) be treated by virtue of section 187(3) (aggregation of

loans by close company to a director) as a single loan for the purpose

Draft provisions for Finance Bill 2017

107

Schedule 2 – Optional remuneration arrangements

equivalent of the benefit of the loan is to be

5

taken to be zero if the condition in subsection (4) is met.

(4) The condition is that the benefit of the loan for the tax year would be

exempt from income tax but for section 228A (exclusion of certain exemptions).

(5) For the purpose of calculating the modified cash equivalent of the

10

benefit of an employment-related loan, assume that section 186(2) (replacement loans:

aggregation) and section 187(3) (aggregation of

loans by close company to a director) do not have effect.

(6) Where it is necessary for the purposes of section 175(1B) and

of calculating the amount mentioned in subsection (1) above (amount which would be the cash equivalent).

(5) That calculation is to be made as if section 187(3) did not have effect.

19 In section 180 (threshold for benefit of loan to be treated as earnings), in

subsection (1), for the words before paragraph (a) substitute “Section 175 does not have effect in relation to an employee and a tax year—”.

20 In section 203 (cash equivalent of benefit treated as earnings), after

<> subsection (1) of this section to apportion an amount of earnings to the benefit of the loan for the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection “earnings” is to be interpreted in accordance with section 69B(5)."

45 In section 180 (threshold for benefit of loan to be treated as earnings), in

subsection (1), for the words before paragraph (a) substitute “Section 175 does not have effect in relation to an employee and a tax year—”.

<> 46 In section 184 (interest treated as paid), in subsection (1), for the words from “the cash equivalent” to the end substitute “—

(a) the cash equivalent of the benefit of a taxable cheap loan is

25 treated as earnings from an employee’s employment for a tax year under section 175(1), or

(b) the relevant amount in respect of the benefit of a taxable cheap loan is treated as earnings from an employee’s employment for a tax year under section 175(1A)."

30 47 In section 202 (excluded benefits), after subsection (1) insert—
“(1A) But a benefit provided to an employee or member of an employee’s family or household is to be taken not to be an excluded benefit by virtue of subsection (1)(c)

<p>subsection (1) insert–</p> <p>“(1A) Where an employment-related benefit is provided pursuant to optional remuneration arrangements–</p> <p>(a) subsection (1) does not apply, and</p> <p>(b) the relevant amount is to be treated as earnings from the employment for the tax year in which the benefit is provided.</p> <p>(1B) In subsection (1A) “the relevant amount” means the greater of–</p>	<p>so far as it is provided under optional remuneration arrangements.”</p> <p>35</p> <p>48 After section 203 insert–</p> <p>“203A Employment-related benefit provided under optional remuneration arrangements</p> <p>(1) Where an employment-related benefit is provided pursuant to optional remuneration arrangements–</p> <p>40</p> <p>(a) the relevant amount is to be treated as earnings from the employment for the tax year in which the benefit is provided,</p> <p>and</p> <p>(b) section 203(1) does not apply.</p> <p>(2) To find the relevant amount, first determine which (if any) is the</p> <p>45</p> <p>greater of–</p> <p>Finance (No. 2) Bill</p> <p>159</p> <p>Schedule 2 – Optional remuneration arrangements</p>
<p>(a) the cost of the benefit, and</p> <p>(b) the amount foregone with respect to the benefit (see section 69B).</p>	<p><> (a) the cost of the employment-related benefit, and</p> <p>= (b) the amount foregone with respect to the benefit (see section 69B).</p>
	<p><> (3) If the cost of the employment-related benefit is greater than or equal to the amount foregone, the “relevant amount” is the cash equivalent</p> <p>5</p> <p>(see section 203(2)).</p> <p>(4) Otherwise, the “relevant amount” is–</p> <p>(a) the amount foregone with respect to the employment-related benefit, less</p> <p>(b) any part of the cost of the benefit made good by the</p> <p>10</p> <p>employee, to the persons providing the benefit, on or before 6 July following the tax year in which it is provided.</p> <p>(5) For the purposes of subsections (2) and (3), assume that the cost of the employment-related benefit is zero if the condition in subsection</p> <p>15</p> <p>(6) is met.</p> <p>(6) The condition is that</p>

<p>(1C) Where it is necessary for the purposes of subsection (1B)(b) to apportion an amount of earnings to the benefit provided in the tax year, the apportionment is to be made on a just and reasonable basis.</p> <p>In this subsection “earnings” is to be interpreted in accordance with section 69B(4).”</p>	<p>the employment-related benefit would be exempt from income tax but for section 228A (exclusion of certain exemptions).</p> <p>(7) Where it is necessary for the purposes of subsections (2)(b) and (4) to apportion an amount of earnings to the benefit provided in the tax year, the apportionment is to be made on a just and reasonable basis.</p> <p>In this subsection “earnings” is to be interpreted in accordance with section 69B(5).”</p>
<p>Exemptions</p> <p>21 In Part 4 of ITEPA 2003 (employment income: exemptions), after section 228</p> <p>insert— “228A General exclusion from exemptions: optional remuneration arrangements</p>	<p>Exemptions</p> <p>49 In Part 4 of ITEPA 2003 (employment income: exemptions), after section 228</p> <p>insert— “228A General exclusion from exemptions: optional remuneration arrangements</p>
<p>(1) A relevant exemption does not prevent liability to income tax from arising in respect of a benefit or facility so far as the benefit or facility is provided pursuant to optional remuneration arrangements.</p>	<p>(1) A relevant exemption does not apply (whether to prevent liability to income tax from arising or to reduce liability to income tax) in respect of a benefit or facility so far as the benefit or facility is provided pursuant to optional remuneration arrangements.</p>
<p>(2) For the purposes of subsection (1) it does not matter whether the relevant exemption would (apart from that subsection) have effect as an employment income exemption or an earnings-only exemption.</p>	<p>(2) For the purposes of subsection (1) it does not matter whether the relevant exemption would (apart from that subsection) have effect as an employment income exemption or an earnings-only exemption.</p>
<p>(3) In this section “relevant exemption” means any exemption conferred by this Part, other than—</p> <p>(a) a special case exemption (see subsection (4)), or</p> <p>(b) an excluded exemption (see subsection (5)).</p>	<p>(3) For the purposes of this section an exemption conferred by this Part is a “relevant exemption” unless it is—</p> <p>(a) a special case exemption (see subsection (4)), or</p> <p>(b) an excluded exemption (see subsection (5)).</p>
<p>(4) “Special case exemption” means an exemption conferred by any of the following provisions—</p> <p>(a) section 289A (exemption for paid or reimbursed expenses);</p> <p>(b) section 289D (exemption for other benefits);</p> <p>(c) section 308B (independent advice in respect of conversions</p>	<p>(4) “Special case exemption” means an exemption conferred by any of the following provisions—</p> <p>(a) section 289A (exemption for paid or reimbursed expenses);</p> <p>(b) section 289D (exemption for other benefits);</p> <p>(c) section 308B (independent advice in respect of conversions</p>
<p>and transfers of</p>	<p>and transfers of</p>

pension scheme benefits);

108

Draft provisions for Finance
Bill 2017

pension scheme benefits);

45

160

Finance

(No. 2) Bill

Schedule 2 – Optional remuneration arrangements

(d) section 312A (limited exemption for qualifying bonus payments);
(e) section 317 (subsidised meals);
(f) section 320C (recommended medical treatment);

(g) section 323A (trivial benefits provided by employers).

(5) “Excluded exemption” means an exemption conferred by any of the following provisions—
(a) section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles);

(b) section 244 (cycles and cyclist’s safety equipment);

(c) section 266(2)(c) (non-cash voucher regarding entitlement to exemption within section 244);
(d) section 270A (limited exemption for qualifying childcare vouchers);

(e) section 307 (death or retirement benefit provision);
(f) section 308 (exemption of contribution to registered pension scheme);

(g) section 308A (exemption of contributions to overseas pension scheme);

(h) section 308C (provision of pensions advice);
(i) section 309 (limited exemptions for statutory redundancy

payments);

(j) section 310 (counselling and other outplacement services);
(k) section 311 (retraining courses);
(l) section 318 (childcare: exemption for employer-provided care);

(m) section 318A (childcare: limited exemption for other care).

(6) In this section “benefit or facility” includes anything which

Schedule 2 – Optional remuneration arrangements

(d) section 312A (limited exemption for qualifying bonus payments);
(e) section 317 (subsidised meals);
(f) section 320C (recommended medical treatment);

(g) section 323A (trivial benefits provided by employers).

5

(5) “Excluded exemption” means an exemption conferred by any of the following provisions—
(a) section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles);

(b) section 244 (cycles and cyclist’s safety equipment);

10

(c) section 266(2)(c) (non-cash voucher regarding entitlement to exemption within section 244);
(d) section 270A (limited exemption for qualifying childcare vouchers);

(e) section 308 (exemption of contribution to registered pension

15

(f) section 308A (exemption of contributions to overseas pension scheme);

(g) section 308C (provision of pensions advice);

(h) section 309 (limited exemptions for statutory redundancy

20

payments);

(i) section 310 (counselling and other outplacement services);
(j) section 311 (retraining courses);
(k) section 318 (childcare: exemption for employer-provided care);

25

(l) section 318A (childcare: limited exemption for other care).

(6) In this section “benefit or facility” includes anything which

constitutes employment income or in respect of which employment income is treated as arising to the employee (regardless of its form)		constitutes employment income or in respect of which employment income is treated as arising to the employee (regardless of its form)
and the manner of providing it).	<>	and the manner of providing it). 30
(7) In this section “optional remuneration arrangements” has the same meaning as in the benefits code (see section 69A). (8) The Treasury may by order amend subsections (4) and (5) by adding or removing an exemption conferred by Part 4.”	=	(7) In this section “optional remuneration arrangements” has the same meaning as in the benefits code (see section 69A). (8) The Treasury may by order amend subsections (4) and (5) by adding or removing an exemption conferred by Part 4.”
Other amendments	<>	Other amendments 35
	=	
	-+	<p>50 (1) Section 19 of ITEPA 2003 (receipt of non-money earnings) is amended as follows.</p> <p>(2) In subsection (2), after “94” insert “or 94A”.</p> <p>(3) In subsection (3), after “87” insert “or 87A”.</p> <p>51 In section 95 of ITEPA 2003 (disregard for money, goods or services obtained), in subsection (1), in the words before paragraph (a), after “credit- token” insert “or the relevant amount in respect of a cash voucher, a non-cash voucher or a credit-token”.</p> <p>52 (1) In section 236 of ITEPA 2003 (interpretation of Chapter 2 of Part 4: exemptions for mileage allowance relief etc), in subsection (2)(b)-</p> <p>45 Finance (No. 2) Bill</p> <p>161 Schedule 2 – Optional remuneration arrangements</p>
	=	
	<>	<p>(a) in the words before sub-paragraph (i), for “the cash equivalent of” substitute “an amount in respect of”;</p> <p>(b) in sub-paragraph (i), after “120” insert “or 120A”;</p> <p>(c) in sub-paragraph (ii), after “154” insert “or 154A”;</p> <p>(d) in sub-paragraph (iii), after “203” insert “or 203A”.</p> <p>5 (2) In section 236 of ITEPA 2003 (interpretation of Chapter 2 of Part 4), in subsection (2)(c), for “the cash equivalent of” substitute “an amount in respect of”.</p> <p>53 (1) Section 239 of ITEPA 2003 (payments and benefits connected with taxable cars and vans etc) is amended as</p>

		follows.
		10 (2) In subsection (3)– (a) after “149” insert “or 149A”; (b) after “160” insert “or 160A”.
		(3) In subsection (6), for “the cash equivalent of” substitute “an amount (whether the cash equivalent or the relevant amount) in respect of”.
		15
22	In section 362 of ITEPA 2003 (deductions where non-cash voucher provided), in subsection (1)(a), for “87(1) (cash equivalent” substitute “87(1) or (1A) (amount in respect”.	= provided), in subsection (1)(a), for “87(1) (cash equivalent” substitute “87(1)
23	In section 363 of ITEPA 2003 (deductions where credit-token provided), in subsection (1)(a), for “94(1) (cash equivalent” substitute “94(1) or (2A) (amount in respect”.	<> or 87A(1) (amount in respect”. 55 In section 318A of ITEPA 2003 (childcare: limited exemption for other care), in subsection (1)(b), for “cash equivalent of the benefit” substitute “amount 20 treated as earnings in respect of the benefit by virtue of section 203(1) or 203A(1) (as the case may be”). 56 In section 363 of ITEPA 2003 (deductions where credit-token provided), in subsection (1)(a), for “94(1) (cash equivalent” substitute “94(1) or 94A(1) (amount in respect”.
24	In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), at the Draft provisions for Finance Bill 2017	25 57 In section 693 of ITEPA 2003 (cash vouchers), in subsection (1), for “section 81(2)” substitute “subsection (2) of, or (as the case may be) referred to in subsection (1A)(b) of, section 81”. 58 In section 694 of ITEPA 2003 (non-cash vouchers), in subsection (1), after “87(2)” insert “or 87A(4)”. 30 59 In section 695 of ITEPA 2003 (benefit of credit-token treated as earnings), after subsection (1) insert– “(1A) If the credit-token is provided pursuant to optional remuneration arrangements, the reference in subsection (1) to the amount ascertained under section 94(2) is to be read as a reference to what 35 that amount would be were the credit-token provided otherwise than pursuant to optional remuneration arrangements. In this subsection “optional remuneration arrangements” is to be interpreted in accordance with section 69A.”
		109
	Schedule 2 – Optional remuneration arrangements	

		60 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), at the 40
appropriate places insert– “amount foregone (in relation to a benefit) section 69B” (in the benefits code)	=	appropriate places insert– “amount foregone (in relation to a benefit) section 69B” (in the benefits code)
	-+	162 Finance (No. 2) Bill Schedule 2 – Optional remuneration arrangements
“optional remuneration arrangements (in section 69A” the benefits code)	=	“optional remuneration arrangements (in section 69A” the benefits code)
	-+	61 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), in the entry relating to “the taxable period”, for “102(2)” substitute “102(1)”.
Commencement and transitional provision	<>	Commencement and transitional provision 5
25 (1) The amendments made by paragraphs 1 and 24 of this Schedule have effect for the tax year 2017-18 and subsequent tax years. (2) The amendments made by paragraphs 2 to 23 of this Schedule have effect for the tax year 2017-18 and subsequent tax years. But this sub-paragraph does not apply in relation to pre-6 April 2017 arrangements. (3) In relation to pre-6 April 2017 arrangements, the amendment made by paragraph 21 has effect for the tax year 2018-19 and subsequent tax years. (4) In relation to pre-6 April 2017 arrangements, the amendments made by paragraphs 6 to 15 (and paragraph 2, so far as relating to those paragraphs) have effect for the tax year 2021-22 and subsequent tax years. (5) In relation to pre-6 April 2017 arrangements, the amendments made by paragraphs 3 to 5, 16 to 20, 22 and 23 (and paragraph 2, so far as relating to	<> 62 (1) The amendments made by paragraphs 1, 52(1)(a) and (2) and 60 of this Schedule have effect for the tax year 2017-18 and subsequent tax years. (2) The amendments made by paragraphs 2 to 51, 52(1)(b) to (d), 53 to 59 and 61 of this Schedule have effect for the tax year 2017-18 and subsequent tax years. 10 But this sub-paragraph does not apply in relation to benefits provided pursuant to pre-6 April 2017 arrangements. (3) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, the amendment made by paragraph 49 has effect for the tax year 2018-19 and subsequent tax years. 15 (4) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, the amendments made by paragraphs 7 to 41, 52(1)(b) and (c), 53 and 61 (and paragraph 2, so far as relating to those paragraphs) have effect for the tax year 2021-22 and subsequent tax years. (5) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, 20 the amendments made by paragraphs 3 to 6, 42 to 48, 50, 51, 52(1)(d) and 54 to 59 (and paragraph 2, so far as relating to those paragraphs) have effect for	

those paragraphs) have effect for the tax year 2018-19 and subsequent tax years (but see sub-paragraph (6)).

(6) In relation to relevant school fee arrangements which came into effect before

6 April 2017-

(a) sub-paragraph (5) is to be read as if it did not include a reference to paragraph 20;

(b) the amendment made by paragraph 20 has effect for the tax year 2021-22 and subsequent tax years.

(7) If the terms of any pre-6 April 2017 arrangements are varied on or after 6 April 2017, this paragraph has effect as if those arrangements were entered into at the beginning of the day on which the variation is made (and are distinct from the arrangements existing immediately before that day).

(8) If any pre-6 April 2017 arrangements are renewed on or after 6 April 2017,

this paragraph has effect as if those arrangements were entered into at the

beginning of the day on which the renewal takes effect (and are distinct from the arrangements existing immediately before that day).

In this sub-paragraph the reference to renewal includes a renewal which

takes effect automatically.

(9) In sub-paragraph (7) the reference to variation does not include any

variation which is required only in connection with the replacement, because of accidental damage or otherwise for reasons beyond the control of

the parties to the arrangements, of a benefit provided under the arrangements.

110

Draft provisions for Finance

Bill 2017

Schedule 2 – Optional remuneration arrangements

(10) In sub-paragraph (7) the reference to variation does not include any variation which occurs in connection with a person's entitlement to

statutory sick pay, statutory maternity pay, statutory adoption pay, statutory paternity pay or statutory shared parental pay.

the tax year 2018-19 and subsequent tax years (but see sub-paragraph (10)).

(6) If any terms of a pre-6 April 2017 arrangement which relate to the provision

of a particular benefit are varied on or after 6 April 2017, that benefit is

25

treated, with effect from the beginning of the day on which the variation

takes effect, as not being provided pursuant to pre-6 April 2017 arrangements for the purposes of this paragraph.

(7) If pre-6 April 2017 arrangements are renewed on or after 6 April 2017, this

paragraph has effect as if those arrangements were entered into at the

30

beginning of the day on which the renewal takes effect (and are distinct from the arrangements existing immediately before that day).

In this sub-paragraph the reference to renewal includes a renewal which

takes effect automatically.

(8) In sub-paragraph (6) the reference to variation does not include any

35

variation which is required in connection with accidental damage to a benefit provided under the arrangements, or otherwise for reasons beyond

the control of the parties to the arrangements.

(9) In sub-paragraph (6) the reference to variation does not include any variation which occurs in connection with a person's entitlement to

40

statutory sick pay, statutory maternity pay, statutory adoption pay, statutory paternity pay or statutory shared parental pay.

(10) In relation to relevant school fee arrangements which were entered into before 6 April 2017-

		Finance (No. 2) Bill 163 Schedule 2 – Optional remuneration arrangements
	=	
	<>	<p>(a) sub-paragraph (5) is to be read as if it did not include a reference to</p> <p style="text-align: right;">paragraph 48;</p> <p>(b) the amendment made by paragraph 48 has effect for the tax year 2021-22 and subsequent tax years.</p> <p style="text-align: center;">(11) Relevant school fee arrangements to which an employee is a party (“the</p> <p style="text-align: center;">5</p> <p style="text-align: center;">continuing arrangements”) are to be regarded for the purposes of this paragraph as the same arrangements as any relevant school fee arrangements to which the employee was previously a party (“the previous arrangements”) if the continuing arrangements and the previous arrangements relate—</p> <p style="text-align: center;">10</p> <p style="text-align: center;">(a) to employment with the same employer,</p> <p style="text-align: center;">(b) to the same school, and</p> <p style="text-align: center;">(c) to school fees in respect of the same child.</p> <p style="text-align: center;">(12) Sub-paragraphs (6) and (7) do not have effect in relation to relevant school fee arrangements.</p> <p style="text-align: center;">15</p> <p style="text-align: center;">(13) If a non-cash voucher is provided under pre-6 April 2017 arrangements and is used to obtain anything (whether money, goods or services) that is provided on or after 6 April 2018 (“delayed benefits”), so much of the benefit of the voucher as it is reasonable to regard as being applied to obtain the delayed benefits is to be treated for the purposes of this paragraph as not</p> <p style="text-align: center;">20</p> <p style="text-align: center;">having been provided pursuant to pre-6 April 2017 arrangements.</p> <p style="text-align: center;">(14) For the purposes of this paragraph arrangements are “relevant school fee</p> <p>(11) For the purposes of this paragraph arrangements are “relevant school fee arrangements” if the benefit mentioned in section 69A(1) of ITEPA 2003</p> <p style="text-align: center;">arrangements” if the benefit mentioned in section 69A(1) of ITEPA 2003</p> <p>consists in the payment or reimbursement of school fees.</p> <p style="text-align: center;">consists in the payment or reimbursement (in whole or in part) of, or a waiver or reduction of, school fees.</p> <p>(12) In this paragraph—</p> <p style="text-align: center;">(15) In this paragraph—</p> <p>“arrangements” means optional remuneration arrangements (as defined in section 69A of ITEPA 2003);</p> <p style="text-align: center;">“arrangements” means optional remuneration arrangements (as defined in section 69A of ITEPA 2003);</p> <p><> “benefit” includes any benefit or facility, regardless of the manner of</p>
	=	
	<>	

<p>“pre-6 April 2017 arrangements” means arrangements which came into effect before 6 April 2017.</p>		<p>providing it;</p> <p>30 “non-cash voucher” has the same meaning as in Chapter 4 of Part 3 of ITEPA 2003;</p> <p>“pre-6 April 2017 arrangements” means arrangements which are entered into before 6 April 2017.</p>
	=	
<p>SCHEDULE 3</p> <p>Section 11</p>	<>	<p>SCHEDULE 3</p> <p>Section 17 35</p>
<p>PENSIONS</p> <p>OVERSEAS</p> <p>PART</p> <p>1</p>	=	<p>OVERSEAS PENSIONS</p> <p>PART 1</p>
<p>CHARGES WHERE PAYMENTS MADE IN RESPECT OF OVERSEAS PENSIONS</p>	<>	<p>REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UK</p>
	=	
<p>1 Schedule 34 to FA 2004 (non-UK pension schemes: application of certain charges) is amended as follows.</p> <p>2 (1) Paragraph 1 (application of member payment charges to relevant non-UK schemes) is amended as follows.</p> <p>(2) In sub-paragraph (6) (meaning of “relevant transfer”)-</p> <p>(a) in the words before paragraph (a), before “means” insert “, in relation</p> <p>to a scheme (“the benefited scheme”),”, and</p> <p>(b) in the words after paragraph (b), before “scheme” insert “benefited”.</p> <p>(3) After sub-paragraph (6) insert-</p> <p>“(6A) There are three types of relevant transfer-</p> <p>(a) an original relevant transfer,</p> <p>(b) a subsequent relevant transfer, and</p> <p>(c) any other (including, in particular, all relevant transfers</p> <p>before 6 April 2017).</p>	+-	
<p>(6B) “An original relevant transfer” is a relevant transfer on or after 6 April 2017-</p> <p>(a) that is a relevant transfer within sub-paragraph (6)(a), or</p> <p>(b) that is a relevant transfer within sub-paragraph (6)(b) of the whole or part of the UK tax-relieved fund of a relieved member of a relevant non-UK scheme.</p> <p>(6C) The sums or assets transferred as a result of an original</p>		

<p>relevant transfer constitute a ring-fenced transfer fund.</p> <p>(6D) Where in the case of a ring-fenced transfer fund (“the source fund”) there is a relevant transfer of the whole or part of the fund—</p> <p>Draft provisions for Finance Bill 2017</p> <p>111</p> <p>Schedule 3 – Overseas pensions</p> <p>Part 1 – Charges where payments made in respect of overseas pensions</p>		
<p>(a) the sums or assets transferred as a result of the transfer constitute a ring-fenced transfer fund, and</p> <p>(b) the transfer is “a subsequent relevant transfer”.</p> <p>(6E) Sub-paragraph (6D) applies whether the source fund is a ring-fenced transfer fund as a result of sub-paragraph (6C) or as a result of sub-paragraph (6D).</p> <p>(6F) The Commissioners for Her Majesty’s Revenue and Customs may by regulations provide that sums or assets identified in accordance with the regulations are not included in a ring-fence transfer fund as a result of sub-paragraph (6D)(a)."</p> <p>3 (1) Paragraph 2 (member payment provisions apply to payments out of non-UK schemes if member is UK resident or has been UK resident in any of the preceding 5 tax years) is amended as follows.</p> <p>(2) The existing text becomes sub-paragraph (1).</p> <p>(3) In that sub-paragraph, after “scheme” insert “so far as it is referable to 5-year-rule funds”.</p> <p>(4) After that sub-paragraph insert—</p> <p>“(2) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member or transfer member of a relevant non-UK scheme so far as it is referable to 10-year rule funds unless the member—</p> <p>(a) is resident in the United Kingdom when the payment is made (or treated as made), or</p> <p>(b) although not resident in the United Kingdom at that time,</p>	=	+-

has been resident in the United Kingdom earlier in the tax year in which the payment is made (or treated as made) or in any of the 10 tax years immediately preceding that year.

(3) In this paragraph—
“5-year rule funds”, in relation to a payment to or in respect

of a relieved member of a relevant non-UK scheme, means

so much of the member’s UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-

exempt provision, made under the scheme before 6 April

2017;

“5-year rule funds”, in relation to a payment to or in respect

of a transfer member of a relevant non-UK scheme, means

the member’s relevant transfer fund under the scheme;

“10-year rule funds”, in relation to a payment to or in respect

of a relieved member of a relevant non-UK scheme, means

so much of the member’s UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-

exempt

provision, made under the scheme on or after 6

April 2017;

“10-year rule funds”, in relation to a payment to or in respect

of a transfer member of a relevant non-UK scheme, means

the member’s ring-fenced transfer funds under the scheme.

112

Draft provisions for Finance Bill 2017

Schedule 3 – Overseas pensions

Part 1 –
Charges where payments made in respect of overseas pensions

(4) See also—
paragraph 1(6C) and
(6D) (meaning of “ring-fenced transfer

=

<>

fund”),
paragraph 3
(meaning of “UK tax-relieved fund”, “tax-
relieved
contributions” and “tax-exempt provision”
etc),

and

paragraph 4

(meaning of “relevant transfer fund” etc).”

4 (1) Paragraph 3 (payments to or in
respect of relieved members of schemes) is
amended as follows.

(2) After sub-paragraph (5) insert—
“(5A) The Commissioners for Her
Majesty’s Revenue and Customs may
by regulations provide
that, in circumstances specified in the
regulations, something
specified in the regulations is to be
treated

as done by, to, in
respect of or in the case of a relieved
member of

a relevant non-UK
scheme.”

(3) In sub-paragraph (6) (power to
specify whether payments by scheme are
referable to UK tax-relieved
fund), after “payments made (or treated as
made) by” insert “, or other
things done by or to or under or in respect
of or

in the case of,.”.

(4) After sub-paragraph (7) insert—
“(8) Where regulations under
sub-paragraph (6) make provision for a
payment or something
else to be treated as referable to a
member’s

UK tax-relieved fund
under a scheme, regulations under that sub-
paragraph may make
provision for the payment or thing, or any
part or aspect of the
payment or thing, also to be treated as
referable to a
particular part of that fund.”

5 (1) Paragraph 4 (payments to or in
respect of transfer members of schemes) is
amended as follows.

(2) In sub-paragraph (1), after
“relevant transfer fund” insert “, or ring-
fenced

transfer funds.”.

(3) In sub-paragraph (2) (meaning of
“relevant transfer fund”), before “so much
of” insert “, subject to sub-
paragraph (3A),”.

(4) After sub-paragraph (3) insert—
“(3A) The member’s relevant
transfer fund under the scheme does not
include sums or assets
that are in any of the member’s ring-fenced
transfer funds under the
scheme.”

(5) After sub-paragraph (4) insert—
“(5) The Commissioners for
Her Majesty’s Revenue and Customs may
by regulations provide

1 (1) In Chapter 5A of Part 4 of FA
2004 (registered pension schemes established

outside the UK), after section
242B (inserted by Schedule 4 to this Act)

40

164

Finance

(No. 2) Bill

that, in circumstances specified in the regulations, something specified in the regulations is to be treated

as done by, to, in respect of or in the case of a transfer member of a relevant non-UK scheme.

(6) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision for determining whether payments or transfers made (or treated as made) by, or

Draft provisions for Finance Bill 2017

113

Schedule 3 – Overseas pensions

Part 1 – Charges where payments made in respect of overseas pensions

other things done by or to or under or in respect of or in the case

of, a relevant non-UK scheme are to be treated as referable to a

member's ring-fenced transfer funds under the scheme (and so

whether or not they reduce the funds or any of them).

(7) Where regulations under sub-paragraph (6) make provision for a payment or transfer or something else to be treated as referable to

a member's ring-fenced transfer funds under a scheme, regulations under that sub-paragraph may make provision for the

payment or transfer or other thing, or any part or aspect of the payment or transfer or thing, also to be treated as referable to a

particular one of those funds.”

6 In paragraph 7(2)(c) (regulations about application of member payment

provisions), after “relevant transfer fund” insert “or ring-fenced transfer

funds”.

7 (1) Paragraph 9ZB (application of section 227G) is amended as follows.

(2) In sub-paragraph (2), after “relevant transfer fund” insert “or ring-fenced

transfer funds”.

(3) After sub-paragraph (3) insert – “(4) The reference in sub-paragraph (2) to the individual's ring-

Schedule 3 – Overseas pensions

Part 1 – Registered pension schemes established outside the UK

=

++

fenced		
transfer funds under the relevant non-UK scheme is to be read in accordance with paragraph 1.”		
8 The amendments made by this Part of this Schedule apply in relation to payments made (or treated as made) on or after 6 April 2017.	=	
PART 2	+-	
CONSEQUENTIAL AMENDMENTS OF ITEPA 2003	+-	
9 (1) Section 576A of ITEPA 2003 (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, is amended as follows.	+-	
(2) In subsection (6)(b) (pension income: temporary non-residents: non-application where payment not referable to relevant transfer fund)–		
(a) for “not referable” substitute “referable neither”, and		
(b) after “relevant transfer fund” insert “, nor to the member’s ring-fenced transfer funds.”.		
(3) In subsection (10) (interpretation), at the end insert–		
““member’s ring-fenced transfer fund” (see paragraph 1(6C) and (6D).”		
(4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.		
10 (1) Section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, is amended as follows.		
(2) In subsection (6) (pension income: temporary non-residents: non-application unless payment referable to relevant transfer fund), after “member’s relevant transfer fund” insert “, or the member’s ring-fenced transfer funds.”.		
114		
Draft provisions for Finance Bill 2017		
Schedule 3 – Overseas pensions		
Part 2 – Consequential amendments of ITEPA 2003	=	
(3) In subsection (8) (interpretation), before the definition of “scheme pension”	+-	
insert–	=	insert–
““member’s ring-fenced transfer funds” has the same meaning as in that Schedule (see paragraph 1(6C) and (6D));”.	+-	

(4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.

PART
3

NEW CHAPTER 5A OF PART 4 OF FA 2004 (NON-UK REGISTERED PENSION SCHEMES)

11 (1) In Part 4 of FA 2004 (pension schemes), after Chapter 5 insert–

“CHAPTER
5A

REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UNITED KINGDOM

242A Meaning of “non-UK registered scheme”

In this Chapter “non-UK registered scheme” means a registered pension scheme established in a country or territory outside the United Kingdom.

242B Application of this Part to non-UK registered schemes

(1) This Part (so far as would not otherwise be the case) is to be read–
(a) as applying in relation to UK-relieved funds of a non-UK

registered scheme as it applies in relation to sums or assets

held for the purposes of, or representing accrued rights under, a registered pension scheme established in the United Kingdom,
(b) as applying in relation to a non-UK registered scheme, so far

as the scheme relates to the scheme’s UK-relieved funds, as it

applies in relation to a registered pension scheme established in the United Kingdom,
(c) as applying in relation to members of a non-UK registered scheme, so far as their rights under the scheme are

represented by UK-relieved funds of the scheme, as it applies

in relation to members of a registered pension scheme established in the United Kingdom, and

(d) as applying to relevant contributions to a non-UK registered

scheme as it applies in relation to contributions to a

registered pension scheme established in the United

=

+-

=

+-

=

+-

=

+-

=

<>

“242C Application of this Part to non-UK registered schemes

(1) This Part (so far as would not otherwise be the case) is to be read–
(a) as applying in relation to UK-relieved funds of a non-UK

registered scheme as it applies in relation to sums or assets

5

held for the purposes of, or representing accrued rights under, a registered pension scheme established in the United Kingdom,
(b) as applying in relation to a non-UK registered scheme, so far

as the scheme relates to the scheme’s UK-relieved funds, as it

10

applies in relation to a registered pension scheme established in the United Kingdom,

(c) as applying in relation to members of a non-UK registered scheme, so far as their rights under the scheme are

represented by UK-relieved funds of the scheme, as it applies

15

in relation to members of a registered pension scheme established in the United Kingdom, and

(d) as applying to relevant contributions to a non-UK registered

scheme as it applies in relation to contributions to a

registered pension scheme established in the United

		20
Kingdom. (2) Subsection (1) has effect subject to, and in accordance with, the following provisions of this Chapter. (3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make—	=	Kingdom. (2) Subsection (1) has effect subject to, and in accordance with, the following provisions of this Chapter. (3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make—
	<>	25
(a) provision elucidating the application of, or supplementing, subsection (1) or other provisions of this Chapter, or (b) where relief from tax is involved, other provision for or in connection with the application of this Part where the	=	(a) provision elucidating the application of, or supplementing, subsection (1) or other provisions of this Chapter, or (b) where relief from tax is involved, other provision for or in connection with the application of this Part where the
Draft provisions for Finance Bill 2017 115 Schedule 3 – Overseas pensions Part 3 – New Chapter 5A of Part 4 of FA 2004 (non-UK registered pension schemes)	+-	
	=	
interpretative presumption against extra-territorial	<>	interpretative presumption against extra-territorial 30
application means that it would otherwise not apply. (4) Regulations under subsection (3) may (in particular)— (a) amend provisions of or made under— (i) this Part, or	=	application means that it would otherwise not apply. (4) Regulations under subsection (3) may (in particular)— (a) amend provisions of or made under— (i) this Part, or
(ii) any other enactment related to taxation in connection with pensions, and (b) make consequential amendments of provisions of, or made under, any enactment.	<>	(ii) any other enactment related to taxation in connection 35 with pensions, and (b) make consequential amendments of provisions of, or made under, any enactment.
(5) See section 242C for the meaning of “UK-relieved funds” and “relevant contribution”.	<>	(5) See section 242B for the meaning of “UK-relieved funds” and “relevant contribution”.
242C Meaning of “UK-relieved funds” (1) For the purposes of section 242B, the “UK-relieved funds” of a non-UK registered scheme are sums or assets held for the purposes of, or representing accrued rights under, the scheme— (a) that (directly or indirectly) represent sums or assets that at any time were held for the purposes of, or represented accrued rights under, a registered pension scheme established in	40	

the United Kingdom,

(b) that (directly or indirectly) represent sums or assets that at any time formed the UK tax-relieved fund under a relevant non-UK scheme of a relieved member of that scheme, or

(c) that-

(i) are held for the purposes of, or represent accrued rights under, an arrangement under the scheme relating to a member of the scheme who on any day has been an accruing member of the scheme, and

(ii) in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, are to be taken to have benefited from relief from tax.

(2) In section 242B "relevant contribution" has the meaning given by regulation 14ZB(8) of the Information Regulations.

(3) Paragraphs (7) and (8) of regulation 14ZB of the Information Regulations (meaning of "accruing member") apply for the purposes of this section as for those of that regulation.

(4) "The Information Regulations" means the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567).

242D Non-UK registered schemes: annual allowance charge

(1) This section is about the application of the provisions of this Part relating to the annual allowance charge.

(2) Pension input amounts in respect of arrangements relating to an

individual under a non-UK registered scheme are to be taken into

account in applying the provisions for a tax year in relation to the individual only if, in accordance with regulations made by the

Commissioners for Her Majesty's Revenue and Customs, relieved

116
Draft provisions for
Finance Bill 2017

Schedule 3 –
Overseas pensions

Part 3 – New Chapter
5A of Part 4 of FA 2004 (non-UK registered pension schemes)

242D Non-UK registered schemes: annual allowance charge

(1) This section is about the application of the provisions of this Part relating to the annual allowance charge.

(2) Pension input amounts in respect of arrangements relating to an

individual under a non-UK registered scheme are to be taken into

45

account in applying the provisions for a tax year in relation to the individual only if, in accordance with regulations made by the

Finance (No. 2) Bill

165

Schedule 3 – Overseas pensions

Part 1 – Registered pension schemes established outside the UK

input are to be taken to have been made in respect of the individual	=	<> Commissioners for Her Majesty's Revenue and Customs, relieved inputs are to be taken to have been made in respect of the individual
under the scheme in the year. 242E Investment-regulated non-UK registered schemes	=	under the scheme in the year. 242E Investment-regulated non-UK registered schemes
For the purposes of the application of the taxable property	<>	For the purposes of the application of the taxable property 5
provisions in relation to a non-UK registered scheme, property is taxable property in relation to the scheme if it would be taxable property in relation to the scheme were the scheme a registered pension scheme established in the United Kingdom."	=	provisions in relation to a non-UK registered scheme, property is taxable property in relation to the scheme if it would be taxable property in relation to the scheme were the scheme a registered pension scheme established in the United Kingdom."
(2) The amendment made by this paragraph has effect for the tax year 2017-18 and subsequent tax years.	<>	(2) The amendment made by this paragraph has effect for the tax year 2017-18 10 and subsequent tax years.
PART 4	<>	PART 2
INCOME TAX ON PENSION INCOME UK residents to be taxed on 100%, not 90%, of foreign pension income	=	INCOME TAX ON PENSION INCOME UK residents to be taxed on 100%, not 90%, of foreign pension income
12 (1) Omit section 575(2) of ITEPA 2003 (foreign pensions received by UK residents: taxable amount is 90% of actual amount). (2) Omit section 613(3) of ITEPA 2003 (annuities from non-UK sources: taxable amount is 90% of actual amount). (3) Omit section 635(3) of ITEPA 2003 (foreign voluntary annual payments: taxable amount is 90% of actual amount).	<>	2 (1) Omit section 575(2) of ITEPA 2003 (foreign pensions received by UK 15 residents: taxable amount is 90% of actual amount). (2) Omit section 613(3) of ITEPA 2003 (annuities from non-UK sources: taxable amount is 90% of actual amount). (3) Omit section 635(3) of ITEPA 2003 (foreign voluntary annual payments: taxable amount is 90% of actual amount). 20
(4) In consequence– (a) in section 575 of ITEPA 2003– (i) in subsection (1) omit “, (2)”, (ii) in subsection (1A), for “subsections (2) and” substitute “subsection”,	=	(4) In consequence– (a) in section 575 of ITEPA 2003– (i) in subsection (1) omit “, (2)”; (ii) in subsection (1A), for “subsections (2) and” substitute “subsection”; 25
 (iii) in subsection (3), for “That pension income” substitute “The full amount of the pension income arising in the tax year, or (as the case may be) the UK part of the tax year,”, and (iv) in subsection (3), for “that Act” substitute “ITTOIA 2005”, (b) in section 613 of ITEPA 2003	=	 (iii) in subsection (3), for “That pension income” substitute “The full amount of the pension income arising in the tax year, or (as the case may be) the UK part of the tax year,”; (iv) in subsection (3), for “that Act” substitute “ITTOIA 2005”; (b) in section 613 of ITEPA

-	2003– 30	
(i) in subsection (2), for “subsections (3) and” substitute “subsection”, and (ii) in subsection (4), for “that Act” substitute “ITTOIA 2005”,	=	(i) in subsection (2), for “subsections (3) and” substitute “subsection”; (ii) in subsection (4), for “that Act” substitute “ITTOIA 2005”;
(c) in section 635 of ITEPA 2003–	=	(c) in section 635 of ITEPA 2003–
(i) in subsection (2), for “subsections (3) and” substitute “subsection”, (ii) in subsection (4), for “That pension income” substitute “The full amount of the pension income arising in the tax year”, and (iii) in subsection (4), for “that Act” substitute “ITTOIA 2005”, and (d) in Schedule 45 to FA 2013 omit paragraph 72(4).	<> =	(i) in subsection (2), for “subsections (3) and” substitute 35 “subsection”; (ii) in subsection (4), for “That pension income” substitute “The full amount of the pension income arising in the tax year”; (iii) in subsection (4), for “that Act” substitute “ITTOIA 2005”; (d) in Schedule 45 to FA 2013 omit paragraph 72(4). 40
(5) In sections 613(5) and 635(5) (application of section 839 of ITTOIA 2005 in certain cases), for “condition B” substitute “conditions B1 and B2 (and the reference to them in subsection (1))”.	=	(5) In sections 613(5) and 635(5) (application of section 839 of ITTOIA 2005 in certain cases), for “condition B” substitute “conditions B1 and B2 (and the reference to them in subsection (1))”.
Draft provisions for Finance Bill 2017 117	<>	166 Finance (No. 2) Bill
Schedule 3 – Overseas pensions	=	Schedule 3 – Overseas pensions
Part 4 – Income tax on pension income	<>	Part 2 – Income tax on pension income
(6) The amendments made by this paragraph have effect for the tax year 2017- 18	=	(6) The amendments made by this paragraph have effect for the tax year 2017- 18
and subsequent tax years.	<>	and subsequent tax years, subject to sub-paragraph (7). (7) The amendments in section 575 of ITEPA 2003, so far as they relate to relevant withdrawals, have effect in relation to relevant withdrawals paid in or after the year 2017-18; and here “relevant withdrawal” has the meaning 5 given by section 576A of ITEPA 2003.
Superannuation funds to which section 615(3) of ICTA applies	=	Superannuation funds to which section 615(3) of ICTA applies
13 (1) In section 615(6) of ICTA (trust funds for pensions in respect of employment outside UK)– (a) in the words before paragraph (a) omit “which”, (b) at the beginning of each of paragraphs (a), (b) and (c) insert “which”,	<>	3 (1) Section 615 of ICTA (trust funds for pensions in respect of employment outside UK) is amended as follows. (2) In subsection (6)– 10 (a) in paragraph (b), omit the final “and”; (b) in paragraph (c), at the end insert “and”;

(c) in paragraph (a)
(establishment of fund), after "established" insert

and
", before 6 April 2017,",

(d) after paragraph (a) insert-

(c) after paragraph (c) insert-
" (d) meets the
benefit accrual condition (see subsection
(6A))."

15
(3) After subsection (6) insert-
"(6A) The benefit accrual
condition is-

(a) in the case of a
superannuation fund which is a money
purchase
arrangement, that no contributions are made
to the

fund on or after 6
April 2017;

20

(b) in relation to a
superannuation fund which is a defined
benefits
arrangement, that on or after 6 April 2017
there is no

increase in the
value of any person's rights under the
arrangement.

(6B) For the purposes of
subsection (6A)(b)-

25

(a) whether there is an
increase in the value of a person's rights
is to be
determined by reference to whether there is an
increase in the
benefits amount as defined by paragraph
14(7)

of Schedule 18 to
the Finance Act 2011, but

(b) ignore increases in
the value of a person's rights if in no tax
30

year do they
exceed the relevant percentage.

(6C) In subsection (6B)(b),
"relevant percentage", in relation to a tax
year,

means-

(a) where, on 20 March
2017, the rules of the fund include
provision for the
value of the rights of a person to increase
35

during the tax year
at an annual rate specified in those rules,
that rate, or

(b) in any other case,
the percentage by which the consumer
prices index for
September in the previous tax year is higher
than it was for the
September in the tax year before that (or,
if
40

greater, 0%).
(6D) The Commissioners for Her
Majesty's Revenue and Customs may by
regulations make provision

-

(a) so as to change, or

	modify the effect of, the benefit accrual condition;
	45
	Finance (No. 2) Bill
	167
	Schedule 3 – Overseas pensions
	Part 2 – Income tax on pension income
=	
<>	<p style="text-align: right;">(b) as to the matters to be taken into account in determining whether the benefit accrual condition is met;</p> <p style="text-align: right;">(c) for a superannuation fund to be treated to any extent as meeting or not meeting the benefit accrual condition;</p> <p style="text-align: right;">(d) for the treatment for tax purposes of a superannuation fund</p> <p style="text-align: right;">5 to the extent that it does not meet, or is treated as not meeting, the benefit accrual condition.</p> <p style="text-align: right;">(6E) Provision under subsection (6D) may be made by amending this section.”</p> <p style="text-align: right;">(4) In subsection (7), before the definition of “pension” insert–</p> <p style="text-align: right;">10 “a superannuation fund is a “defined benefits arrangement” if all the benefits that may be provided by the fund are defined benefits within the meaning of Part 4 of the Finance Act 2004;</p> <p style="text-align: right;">a superannuation fund is a “money purchase arrangement” if all the benefits provided by the fund are money purchase</p> <p style="text-align: right;">15 benefits within the meaning of that Part of that Act.”</p> <p style="text-align: right;">(5) The amendments made by this paragraph are to be treated as having come into force on 6 April 2017.</p>
=	into force on 6 April 2017.
-+	<p style="text-align: right;">(6) But the amendments made by this paragraph do not apply in relation to annuities so far as relating to–</p> <p style="text-align: right;">20 (a) contributions made before 6 April 2017, in the case of a money purchase arrangement, or</p> <p style="text-align: right;">(b) rights accrued before 6 April 2017, in the case of a defined benefits arrangement.</p> <p style="text-align: right;">(7) The reference in sub-paragraph (6)(b) to rights accrued before 6 April 2017</p> <p style="text-align: right;">25 includes any increase in the value of those rights in the tax year 2017-18 or</p>

		<p>any subsequent tax year to the extent that the increase does not exceed the relevant percentage in that tax year.</p> <p>(8) Section 615(6B)(a) and (6C) of ICTA (meaning of increase in value of rights and relevant percentage), as inserted by this paragraph, apply for the purposes of sub-paragraph (7).</p>
	=	
PART 5	<>	PART 3
LUMP SUMS FOR UK RESIDENTS FROM FOREIGN PENSION SCHEMES Introductory	=	LUMP SUMS FOR UK RESIDENTS FROM FOREIGN PENSION SCHEMES Introductory
14 ITEPA 2003 is amended as follows.	<>	4 ITEPA 2003 is amended as follows. 35
Employer-financed retirement benefit schemes: ending of foreign-service relief	=	Employer-financed retirement benefit schemes: ending of foreign-service relief
15 (1) Section 395B (exemption or reduction for foreign service) is amended as follows. (2) In subsection (1) (conditions for entitlement to exemption or reduction), after paragraph (c) insert–	<>	5 (1) Section 395B (exemption or reduction for foreign service) is amended as follows. (2) In subsection (1) (conditions for entitlement to exemption or reduction), after paragraph (c) insert– 40
“(ca) the recipient is not resident in the United Kingdom in the tax year in which the lump sum is received,.”.	=	“(ca) the recipient is not resident in the United Kingdom in the tax year in which the lump sum is received,.”.
	-+	168 Finance (No. 2) Bill Schedule 3 – Overseas pensions Part 3 – Lump sums for UK residents from foreign pension schemes
(3) In subsection (8) (meaning of “foreign service”), for “413(2)” substitute “395C”. (4) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years.	=	(3) In subsection (8) (meaning of “foreign service”), for “413(2)” substitute “395C”. (4) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years.
16 After section 395B insert–	<>	6 After section 395B insert– 5
“395C Meaning of “foreign service” in section 395B (1) In section 395B “foreign service” means service to which subsection (2), (3), (6) or (8) applies. (2) This subsection applies to service in or after the tax year 2013-14– (a) to the extent that	=	“395C Meaning of “foreign service” in section 395B (1) In section 395B “foreign service” means service to which subsection (2), (3), (6) or (8) applies. (2) This subsection applies to service in or after the tax year 2013-14– (a) to the extent that

that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or (b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable	=	it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or (b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable
118 Draft provisions for Finance Bill 2017 Schedule 3 – Overseas pensions Part 5 – Lump sums for UK residents from foreign pension schemes	+-	
under Chapter 6 of Part 5 (deductions from seafarers' earnings). (3) This subsection applies to service in or after the tax year 2003-04 but before the tax year 2013-14 such that— (a) any earnings from the employment would not be relevant earnings, or	<>	under Chapter 6 of Part 5 (deductions from seafarers' earnings). (3) This subsection applies to service in or after the tax year 2003-04 but before the tax year 2013-14 such that— (a) any earnings from the employment would not be relevant earnings, or
(b) a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings). (4) In subsection (2) “relevant earnings” means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year. (5) In subsection (3) “relevant earnings” means— (a) for service in or after the tax year 2008-09, earnings— (i) which are for a tax year in which the employee is ordinarily UK resident, (ii) to which section 15 applies, and (iii) to which that section would apply, even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and (b) for service before the	<>	(b) a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings). (4) In subsection (2) “relevant earnings” means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year. (5) In subsection (3) “relevant earnings” means— (a) for service in or after the tax year 2008-09, earnings— (i) which are for a tax year in which the employee is ordinarily UK resident, (ii) to which section 15 applies, and (iii) to which that section would apply, even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and (b) for service before the

tax year 2008-09, general earnings to which section 15 or 21 as originally enacted applies.		the tax year 2008-09, general earnings to which section 15 or 21 as originally enacted applies.
(6) This subsection applies to service before the tax year 2003-04 and after the tax year 1973-74 such that-		(6) This subsection applies to service before the tax year 2003-04 and after the tax year 1973-74 such that-
(a) the emoluments from the employment were not chargeable	<>	(a) the emoluments from the employment were not chargeable
under Case I of Schedule E, or would not have been so chargeable had there been any, or	=	under Case I of Schedule E, or would not have been so chargeable had there been any, or
(b) a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable		(b) a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable
under a foreign earnings deduction provision.	<>	under a foreign earnings deduction provision.
(7) In subsection (6) "foreign earnings deduction provision" means-	=	(7) In subsection (6) "foreign earnings deduction provision" means-
	-+	Finance (No. 2) Bill
		169
		Schedule 3 – Overseas pensions
		Part 3 – Lump sums for UK residents from foreign pension schemes
(a) paragraph 1 of Schedule 2 to FA 1974, (b) paragraph 1 of Schedule 7 to FA 1977, or (c) section 192A or 193(1) of ICTA.	=	(a) paragraph 1 of Schedule 2 to FA 1974, (b) paragraph 1 of Schedule 7 to FA 1977, or (c) section 192A or 193(1) of ICTA.
(8) This subsection applies to service before the tax year 1974-75 such		(8) This subsection applies to service before the tax year 1974-75 such
that tax was not chargeable in respect of the emoluments of the	<>	that tax was not chargeable in respect of the emoluments of the
employment– (a) in the tax year 1956-57 or later, under Case I of Schedule E, or (b) in earlier tax years, under Schedule E, or it would not have been so chargeable had there been any such emoluments."	=	employment– (a) in the tax year 1956-57 or later, under Case I of Schedule E, or (b) in earlier tax years, under Schedule E, or it would not have been so chargeable had there been any such emoluments."
17 In section 554Z4 (treatment of relevant step: residence issues), after subsection (6) insert– "(7) Subsection (4) does not apply if– (a) the relevant step is the payment of a lump sum,	<>	10
Draft provisions for Finance Bill 2017	=	7 In section 554Z4 (treatment of relevant step: residence issues), after subsection (6) insert– "(7) Subsection (4) does not apply if– (a) the relevant step is the payment of a lump sum,
119		
Schedule 3 – Overseas pensions		
Part 5 – Lump sums for UK residents from foreign pension schemes		
	=	
(b) the payment of the lump sum is the provision of a relevant	<>	(b) the payment of the lump sum is the provision of a relevant

		15	
benefit under an employer-financed retirement benefits scheme, and (c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.	=	benefit under an employer-financed retirement benefits scheme, and (c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.	
20	<>		
(8) In subsection (7)– “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), and “relevant benefit” has the same meaning as in that Chapter (see section 393B).”	=	(8) In subsection (7)– “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), and “relevant benefit” has the same meaning as in that Chapter (see section 393B).”	
Lump sums under other foreign schemes	=	Lump sums under other foreign schemes	
18 In section 573 (foreign pensions), after subsection (3) insert– “(4) This section also applies to a pension paid by or on behalf of a person who is outside the United Kingdom to a person who is not resident	<>	8 In section 573 (foreign pensions), after subsection (3) insert– “(4) This section also applies to a pension paid by or on behalf of a person who is outside the United Kingdom to a person who is not resident	
in the United Kingdom if–	<>	in the United Kingdom if–	
30	=		
(a) the pension is a relevant lump sum paid under a pension scheme to that person in respect of a member of the scheme, and (b) the member is, or immediately before the member’s death was, resident in the United Kingdom.”	=	(a) the pension is a relevant lump sum paid under a pension scheme to that person in respect of a member of the scheme, and (b) the member is, or immediately before the member’s death was, resident in the United Kingdom.”	
19 In section 574(1) (foreign pensions: meaning of “pension”), after paragraph	<>	35	
(a) insert– “(aa) a relevant lump sum (see section 574A),”.	=	9 In section 574(1) (foreign pensions: meaning of “pension”), after paragraph	
20 (1) After section 574 insert– “574A “Pension”: relevant lump sums	<>	10 (1) After section 574 insert– “574A “Pension”: relevant lump sums	
40	=		
(1) A lump sum paid under a pension scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if– (a) the scheme is none of the following–	=	(1) A lump sum paid under a pension scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if– (a) the scheme is none of the following–	
(i) a registered pension scheme,	<>	(i) a registered pension scheme,	
45			
170			

		Finance (No. 2) Bill
		Schedule 3 – Overseas pensions
		Part 3 – Lump sums for UK residents from foreign pension schemes
(ii) a relevant non-UK scheme, and	=	(ii) a relevant non-UK scheme, and
(iii) an employer-financed retirement benefits scheme, and	<>	(iii) an employer-financed retirement benefits scheme established in the United Kingdom, and
(b) the payment of the lump sum is not a relevant step by reason of which Chapter 2 of Part 7A applies.	=	(b) the payment of the lump sum is not a relevant step by reason of which Chapter 2 of Part 7A applies.
(2) A lump sum paid under a relevant non-UK scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if the effect of paragraphs 1 to 7 of Schedule 34 to FA 2004 is that the member payment provisions (see paragraph 1(4) of that Schedule) do not apply in relation to the payment of the lump sum.	=	(2) A lump sum paid under a relevant non-UK scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if the effect of paragraphs 1 to 7 of Schedule 34 to FA 2004 is that the member payment provisions (see paragraph 1(4) of that Schedule) do not apply in relation to the payment of the lump sum.
(3) If section 573 applies to a relevant lump sum then, for the purposes of section 575, the full amount of the pension income arising by reason of the payment of the lump sum is the amount of the lump sum, reduced as follows	<>	(3) If section 573 applies to a relevant lump sum then, for the purposes of section 575, the full amount of the pension income arising by reason of the payment of the lump sum is the amount of the lump sum, reduced as follows-
–		15
120 Draft provisions for Finance Bill 2017		
Schedule 3 – Overseas pensions		
Part 5 – Lump sums for UK residents from foreign pension schemes		
Step 1 Deduct so much of the lump sum as is payable by reason of commutation of rights to receive pension income on which no liability to tax arises as a result of any provision of Chapter 17 of this	=	Step 1 Deduct so much of the lump sum as is payable by reason of commutation of rights to receive pension income on which no liability to tax arises as a result of any provision of Chapter 17 of this
Part.	<>	Part.
Step 2	=	Step 2

Deduct so much of the lump sum left after Step 1 as is paid in respect of rights, which accrued before 6 April 2017, specifically to receive benefits by way of lump sum payments.	Deduct so much of the lump sum left after Step 1 as is paid in respect of rights, which accrued before 6 April 2017, specifically to receive benefits by way of lump sum payments.
Step 3	Step 3
If the lump sum is paid under an overseas pension scheme, deduct so much of the lump sum left after Step 2 as would, if the scheme were a registered pension scheme, not be liable to income tax under	If the lump sum is paid under an overseas pension scheme, deduct so much of the lump sum left after Step 2 as would, if the scheme were a registered pension scheme, not be liable to income tax under
<p style="color: red;">this Part (for this purpose treating amounts not included in taxable pension income because of section 636B(3) as being not liable to tax).</p> <p>(4) The amount given by subsection (3) is treated for the purposes of section 575 as arising when the lump sum is paid.</p> <p>(5) In this section—</p> <p>“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), “member”, in relation to a pension scheme, has the meaning given by section 151 of FA 2004,</p> <p>“overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act), “payment” includes a transfer of assets and any other transfer of money’s worth,</p> <p>“pension scheme” has the meaning given by section 150(1) of FA 2004, and “relevant non-UK scheme” is to be read in accordance with</p>	<p style="color: red;">25</p> <p style="color: red;">this Part.</p> <p style="color: red;">For the purposes of this Step-</p> <p style="color: red;">30</p> <p style="color: red;">(a) treat amounts not included in taxable pension income because of section 636B(3) as being not liable to tax;</p> <p style="color: red;">(b) assume that all or part of the member’s lifetime allowance is available.</p> <p style="color: red;">(4) The amount given by subsection (3) is treated for the purposes of</p> <p style="color: red;">35</p> <p style="color: red;">section 575 as arising when the lump sum is paid.</p> <p style="color: red;">(5) The Commissioners may by regulations make provision (including provision amending this section) as to the assumptions to be made for the purposes of Step 3.</p> <p style="color: red;">(6) In this section—</p> <p style="color: red;">40</p> <p style="color: red;">“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), “member”, in relation to a pension scheme, has the meaning given by section 151 of FA 2004,</p> <p style="color: red;">“overseas pension scheme” has the same meaning as in Part 4 of</p> <p style="color: red;">45</p> <p style="color: red;">FA 2004 (see section 150(7) of that Act), “payment” includes a transfer of assets and any other transfer of money’s worth,</p> <p style="color: red;">Finance (No. 2) Bill</p> <p style="color: red;">171</p> <p style="color: red;">Schedule 3 – Overseas pensions</p> <p style="color: red;">Part 3 – Lump sums for UK residents from foreign pension schemes</p> <p style="color: red;">“pension scheme” has the meaning given by section 150(1) of FA 2004, and “relevant non-UK scheme” is to be read in accordance with</p>

paragraph 1(5) of Schedule 34 to FA 2004.”		paragraph 1(5) of Schedule 34 to FA 2004.”
(2) The amendment made by this paragraph has effect in relation to lump sums paid on or after 6 April 2017.	<>	(2) The amendment made by this paragraph has effect in relation to lump sums 5 paid on or after 6 April 2017.
21 (1) In section 576A of ITEPA 2003 (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, after subsection (4) insert–	<>	11 (1) In section 576A of ITEPA 2003 (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, after subsection (4) insert–
“(4ZA) Payment of a relevant lump sum is also a “relevant withdrawal”.”	<>	“(4ZA) Payment of a relevant lump sum is also a “relevant withdrawal”.” 10
(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.	=	(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.
22 (1) In section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, after subsection (4A) insert–	<>	12 (1) In section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, after subsection (4A) insert–
“(4AA) Payment of a relevant lump sum is also a “relevant withdrawal”.”	<>	“(4AA) Payment of a relevant lump sum is also a “relevant withdrawal”.” 15
(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.	=	(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.
Draft provisions for Finance Bill 2017	<>	
121		
Schedule 3 – Overseas pensions		
Part 6 – Regulations		
		SCHEDULE 4
		18
	=	
	-+	PENSIONS:
		OFFSHORE TRANSFERS
	=	
PART 6	<>	PART 1
		20
	=	
REGULATIONS	<>	CHARGES WHERE PAYMENTS MADE IN RESPECT OF OVERSEAS PENSIONS
	=	
	-+	Amendments of Schedule 34 to FA 2004
	=	
23 (1) Section 169 of FA 2004 (transfers between pension schemes) is amended as follows.	<>	1 Schedule 34 to FA 2004 (non-UK pension schemes: application of certain charges) is amended as follows.
(2) After subsection (2) insert–		2 (1) Paragraph 1 (application of member payment charges to relevant non-UK schemes) is amended as follows.
		25
		schemes) is amended as follows.
		(2) After sub-paragraph (6) insert–
		“(6A) There are three types of relevant transfer–
		(a) an original relevant transfer,
		(b) a subsequent relevant transfer, and
		30

“(2A) Regulations may make provision as to—
(a) information that is to be included in, or is to accompany, a notification under subsection (2)(a);
(b) the way and form in which such a notification, or any required information or evidence, is to be given or provided.”

(3) After subsection (4B) insert—
“(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners.”

(4) After subsection (7) insert—
“(7A) Regulations may, in a case where—
(a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme (“the original pension”), and
(b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme (“the new pension”), provide that the new pension is to be treated, to such extent as is

(c) any other (including, in particular, all relevant transfers before 9 March 2017).
(6B) “An original relevant transfer” is—
(a) a relevant transfer within sub-paragraph (6)(a) made on or after 9 March 2017,
35
(b) a relevant transfer within sub-paragraph (6)(b), made on or after 9 March 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a qualifying recognised overseas pension scheme, or
172
Finance
(No. 2) Bill
Schedule 4 – Pensions: offshore transfers

Part 1 –
Charges where payments made in respect of overseas pensions

(c) a relevant transfer within sub-paragraph (6)(b), made on or after 6 April 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a relevant non-UK scheme that is not a qualifying recognised overseas pension scheme.

5
(6C) The sums or assets transferred as a result of an original relevant transfer constitute a ring-fenced transfer fund, and the key date for that fund is the date of the transfer.

(6D) Where in the case of a ring-fenced transfer fund (“the source fund”) there is a relevant transfer of the whole or part of the

prescribed and for such of the purposes of this Part as are prescribed,

as if it were the original pension.

(7B) For the purposes of subsection (7A), a “relevant overseas transfer” is

a transfer of sums or assets held for the purposes of, or representing

accrued rights under, a relevant non-UK scheme so as to become

held for the purposes of, or to represent rights under—

relevant non-UK scheme, or (a) another relevant non-UK scheme, or (b) a registered pension scheme,

in connection with a member of that pension scheme.”

(5) In subsection (8) (interpretation)—

(a) in the opening words, after “subsections (4) to (6)” insert “, (7A),

(7B)”, and

(b) after the definition of “regulations” insert—

““relevant non-UK scheme” has the meaning given by

fund—
(a) the sums or assets transferred as a result of the transfer

constitute a ring-fenced transfer fund,

(b) that fund has the same key date as the source fund, and
(c) the transfer is “a subsequent relevant transfer”, and is not

15

an original relevant transfer.

(6E) Sub-paragraph (6D) applies whether the source fund is a ring-fenced transfer fund as a result of sub-paragraph (6C) or as a result

of sub-paragraph (6D).

(6F) The Commissioners for Her Majesty’s Revenue and Customs may

20

by regulations provide that sums or assets identified in

accordance with the regulations are not included in a ring-fenced

transfer fund as a result of sub-paragraph (6D)(a). ”

3 (1) Paragraph 2 (member payment provisions apply to payments out of non-UK schemes if member is UK resident or has been UK resident in any of the

25

preceding 5 tax years) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) In that sub-paragraph, after “scheme” insert “so far as it is referable to 5-

year-rule funds”.

(4) After that sub-paragraph insert—

30

(2) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member of a relevant non-UK scheme so far as it is referable to 10-year rule funds unless the member—

(a) is resident in the United Kingdom when the payment is

35

made (or treated as made), or

(b) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax

paragraph 1 of Schedule 34;”.

122

Draft provisions
for Finance Bill 2017

Schedule 4 – Deduction of
income tax at source

Part 1 – Interest
distributions of investment trust or
authorised investment fund

=

SCHEDULE 4

Section 12

+-

**DEDUCTION OF INCOME
TAX AT SOURCE**

=

PART 1

+-

**INTEREST DISTRIBUTIONS OF INVESTMENT
TRUST OR AUTHORISED INVESTMENT FUND**

=

1 In Chapter 3 of Part 15 of ITA
2007 (deduction of tax from certain payments
of yearly interest), after
section 888A insert—
“888B Designated dividends of
investment trusts

The duty to deduct a sum
representing income tax under section 874

does not apply to a
dividend so far as it is treated as a
payment of

yearly interest by
regulations under section 45 of FA 2009
(dividends)

designated by investment
trust or prospective investment trust).

888C Interest distributions of
certain open-ended investment companies

The duty to deduct a sum
representing income tax under section 874

does not apply to a
payment of yearly interest under section 373
of

<> year in which
the payment is made (or treated as made) or
in any of the 10
tax years immediately preceding that year.
40

(3) The member payment
provisions do not apply in relation to a
payment made (or treated
by this Part as made) to or in respect of

a transfer member of a
relevant non-UK scheme, so far as it is
referable to any
particular ring-fenced transfer fund of the
member's under the
scheme which has a key date of 6 April 2017
45
or later, unless—
Finance (No. 2) Bill

173
Schedule 4 – Pensions: offshore transfers
Part 1 – Charges where payments made in
respect of overseas pensions

=

<> (a) the member
is resident in the United Kingdom when the
payment is
made (or treated as made), or
(b) although
the member is not resident in the United
Kingdom at
that time—
(i) the member has been resident in the United
5
Kingdom earlier in the tax year containing

that

ITTOIA 2005 (in the case of certain open-ended investment companies, payments of yearly interest treated as made where

distributable amount shown in accounts as yearly interest).

888D Interest distribution of certain authorised unit trusts

The duty to deduct a sum representing income tax under section 874

does not apply to a payment of yearly interest under section 376 of

ITTOIA 2005 (in the case of certain authorised unit trusts, payments

of yearly interest treated as made where distributable amount shown in accounts as yearly interest)."

2 In section 45(2) of FA 2009 (provision that regulations may make about dividends of investment trusts) omit paragraph (c) (power to disapply duty to deduct tax under section 874 of ITA 2007).

(ii)

the member has been resident in the United Kingdom in any of the 10 tax years immediately preceding the tax year containing that time, or

(iii)

that time is no later than the end of 5 years

beginning with the key date for the particular fund.

(4) In this paragraph-
"5-year rule funds", in relation to a payment to or in respect

of a relieved member of a relevant non-UK scheme, means

15

so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-

exempt provision, made under the scheme before 6 April

2017;

PART 2

INTEREST ON PEER-TO-PEER LENDING

3 In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments

of yearly interest), after section 888D (inserted by this Schedule) insert-

888E Interest on certain peer-to-peer lending

time, or

the member has been resident in the United Kingdom in any of the 10 tax years immediately preceding the tax year containing that time, or

(iii)

that time is no later than the end of 5 years

beginning with the key date for the particular fund.

(4) In this paragraph-
"5-year rule funds", in relation to a payment to or in respect

of a relieved member of a relevant non-UK scheme, means

15

so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-

exempt provision, made under the scheme before 6 April

2017;

=

+-

=

<> "5-year rule funds", in relation to a payment to or in respect
20
of a transfer member of a relevant non-UK scheme,
means-
(a) the member's relevant transfer fund under the
scheme, and
(b) any of the member's ring-fenced transfer funds
25
under the scheme that has a key date earlier
than 6 April 2017;
"10-year rule funds", in relation to a payment to or in respect
of a

(1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on an amount of peer-to-peer lending.

(2) In subsection (1) "peer-to-peer lending" means credit in relation to

which the condition in subsection (4) is met.

(3) In this section—
"original borrower", in relation to any credit, means the person

to whom the credit is originally provided,

Draft provisions for Finance Bill 2017

123

Schedule 4 – Deduction of income tax at source

Part 2 – Interest on peer-to-peer lending

"credit" includes a cash loan and any other form of financial accommodation, and "original lender", in relation to any credit, means the person who originally provides the credit.

(4) The condition is that—

relieved member of a relevant non-UK scheme, means

so much of the member's UK tax-relieved fund under the scheme as

represents tax-relieved contributions, or tax-

exempt provision, made under the scheme on or after 6

April 2017.

(5) See also—
paragraph 1(6C), (6D) and (6F) (meaning of "ring-fenced" 35

transfer fund"),

paragraph 3 (meaning of "UK tax-relieved fund", "tax-relieved contributions" and "tax-exempt provision" etc),

and paragraph 4 (meaning of "relevant transfer fund" etc). 40

(1) Paragraph 3 (payments to or in respect of relieved members of schemes) is amended as follows.

(2) After sub-paragraph (5) insert—
"(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the 45

regulations, something specified in the regulations is to be treated

as done by, to, in respect of or in the case of a relieved member of a relevant non-UK scheme."

174

(No. 2) Bill

Finance

Schedule 4 – Pensions:
offshore transfers

Part 1 –
Charges where payments made in respect of overseas pensions

=

<> (3) In sub-paragraph (6) (power to specify whether payments by scheme are referable to UK tax-relieved fund) after "payments made (or treated as

made) by" insert ", or other things done by or to or under or in respect of or

in the case of".

(a) the original borrower and the original lender enter the agreement under which the credit is provided at the invitation of a person ("the operator"),
(b) the operator makes the invitation in the course of, or in connection with, operating an electronic system,
(c) the operator's operation of the electronic system is an activity

specified in article 36H(1) or (2D) of the Order (operating an electronic system in relation to lending), and
(d) the operator has permission under Part 4A of FISMA 2000 to carry on that activity.

(5) For the purposes of subsection (4), it does not matter if the agreement mentioned in subsection (4)(a) is not an article 36H agreement (as defined in article 36H of the Order).

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations make such amendments of the preceding provisions of this section as they consider appropriate in consequence of-

(4) After sub-paragraph (7) insert-

5
"(8) Where regulations under sub-paragraph (6) make provision for a payment or something else to be treated as referable to a member's UK tax-relieved fund under a scheme, regulations under that sub-paragraph may make provision for the payment or thing, or any part or aspect of the payment or thing, also to be treated as 10 referable to a particular part of that fund."

5 (1) Paragraph 4 (payments to or in respect of transfer members of schemes) is amended as follows.

(2) In sub-paragraph (1), after "relevant transfer fund" insert ", or ring-fenced transfer funds,".

15
(3) In sub-paragraph (2) (meaning of "relevant transfer fund"), before "so much of" insert ", subject to sub-paragraph (3A),".

(4) After sub-paragraph (3) insert-
" (3A) The member's relevant transfer fund under the scheme does not include sums or assets that are in any of the member's ring-fenced 20 transfer funds under the scheme."

(5) After sub-paragraph (4) insert-
" (5) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the regulations, something specified in the regulations is to be treated 25 as done by, to, in respect of or in the case of a transfer member of a relevant non-UK scheme.

(6) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision for determining whether payments or transfers made (or treated as made) by, or 30 other things done by or to or under or in respect of or in the case of, a relevant non-UK scheme are to be treated as referable to a

(a) the Order, or any part of it, being replaced (or further replaced) by provision in another instrument, or (b) any amendment of the Order or any such other instrument.

(7) In this section "the Order" means the Financial Services and Markets

Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)."

PART 3

AND COMMENCEMENT

FURTHER AMENDMENT

4 In section 874(3)(a) of ITA 2007 (which refers to provisions which disapply

member's ring-fenced transfer funds under the scheme (and so whether or not they reduce the funds or any of them).
(7) Where regulations under sub-paragraph (6) make provision for a 35 payment or transfer or something else to be treated as referable to a member's ring-fenced transfer funds under a scheme, regulations under that sub-paragraph may make provision for the payment or transfer or other thing, or any part or aspect of the payment or transfer or thing, also to be treated as referable to a 40 particular one of those funds." 6 In paragraph 7(2)(c) (regulations about application of member payment provisions), after "relevant transfer fund" insert "or ring-fenced transfer funds".
7 (1) Paragraph 9ZB (application of section 227G) is amended as follows.
45 Finance (No. 2) Bill
175 Schedule 4 – Pensions: offshore transfers Part 1 – Charges where payments made in respect of overseas pensions

Further amendment

4 In section 874(3)(a) of ITA 2007 (which refers to provisions which disapply

=
<> (2) In sub-paragraph (2), after "relevant transfer fund" insert "or ring-fenced transfer funds".
(3) After sub-paragraph (3) insert
"4) The reference in sub-paragraph (2) to the individual's ring-fenced transfer funds under the relevant non-UK scheme is to be read in 5 accordance with paragraph 1."
8 The amendments made by paragraph 3 apply in relation to payments made (or treated as made) on or after 6 April 2017, and the amendments made by paragraphs 2 and 4 to 7 come into force on 9 March 2017.

=
<> Consequential amendments in ITEPA 2003
10
<> 9 (1) Section 576A of ITEPA 2003 (as it applies where the year of departure is the tax year 2013-14 or a later tax year) is amended as follows.
(2) In subsection (6)(b) (pension income: temporary non-residents: non-application where payment not referable to relevant transfer fund) –

<p>the duty under section 874 to deduct tax from yearly interest), for “888” substitute “888E”.</p> <p>Commencement</p>	<p>(a) for “not referable” substitute “referable neither”, and</p> <p>15 (b) after “relevant transfer fund” insert “, nor to the member’s ring-fenced transfer funds,.”</p>
<p>5 (1) The new sections 888B to 888D of ITA 2007, and the repeal of section 45(2)(c) of FA 2009, have effect in relation to amounts treated as payments of yearly interest made on or after 6 April 2017.</p> <p>(2) The new section 888E of ITA 2007 has effect in relation to payments of</p>	<p>=</p> <p><> (3) In subsection (10) (interpretation), at the end insert ““member’s ring-fenced transfer fund” (see paragraph 1(6C) and (6D).”</p> <p>20 (4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.</p>
<p>10 (1) Section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, is amended as follows.</p> <p>(2) In subsection (6) (pension income: temporary non-residents: non-25 application unless payment referable to relevant transfer fund), after “member’s relevant transfer fund” insert “, or the member’s ring-fenced transfer funds,.”</p> <p>(3) In subsection (8) (interpretation), before the definition of “scheme pension” insert-</p>	<p>10 (1) Section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, is amended as follows.</p> <p>(2) In subsection (6) (pension income: temporary non-residents: non-25 application unless payment referable to relevant transfer fund), after “member’s relevant transfer fund” insert “, or the member’s ring-fenced transfer funds,.”</p> <p>(3) In subsection (8) (interpretation), before the definition of “scheme pension” insert-</p> <p>30 ““member’s ring-fenced transfer funds” has the same meaning as in that Schedule (see paragraph 1(6C) and (6D));”.</p> <p>(4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.</p>
<p>124 Draft provisions for Finance Bill 2017</p> <p>Schedule 5 – Trading and property allowances</p> <p>Part 1 – Main provisions</p>	<p>176 Finance (No. 2) Bill</p> <p>Schedule 4 – Pensions: offshore transfers</p> <p>Part 2 – Income tax on pension transfers: overseas transfer charge</p>
<p>5 SCHEDULE</p> <p>Section 19</p>	<p>=</p> <p>+-</p>
<p>TRADING AND PROPERTY ALLOWANCES</p>	<p>=</p> <p>+-</p>
<p>PART 1</p>	<p><></p> <p>PART 2</p>
<p>MAIN PROVISIONS</p>	<p>=</p> <p>+-</p> <p>=</p>

1 In ITTOIA 2005, after section 783 insert-	+-	
	=	
"PART 6A	+-	
	=	
INCOME CHARGED UNDER THIS ACT: TRADING AND PROPERTY ALLOWANCES	<>	INCOME TAX ON PENSION TRANSFERS: OVERSEAS TRANSFER CHARGE
	=	
CHAPTER 1	<>	Tax charge on transfers to qualifying recognised overseas pension schemes
	=	
TRADING ALLOWANCE	<>	11 In Part 4 of FA 2004 (pension schemes etc), after section 244 insert-
	=	
Introduction	<>	"Non-UK schemes: the overseas transfer charge 5 244A Overseas transfer charge
783A Relief under this Chapter		
(1) This Chapter gives relief to an individual on-		(1) A charge to income tax, to be known as the overseas transfer charge, arises where-
(a) the income of a relevant trade (see section 783B), and		(a) a recognised transfer is made to a QROPS, or
(b) miscellaneous income (see section 783C).		(b) an onward transfer is made during the relevant period for the 10 original transfer,
(2) The form of relief depends on whether the individual's relevant		and the transfer is not excluded from the charge by or under any of sections 244B to 244H.
income exceeds the individual's trading allowance (see sections 783D and 783E).		(2) Sections 244B to 244H are subject to section 244I (circumstances in which exclusions do not apply). 15 (3) In this group of sections, an "onward transfer" is a transfer of sums or assets held for the purposes of, or representing accrued rights under, an arrangement under a QROPS or former QROPS in relation to a member so as to become held for the purposes of, or to represent rights under, an arrangement under another QROPS in relation to 20 that person as a member of that other QROPS.
(3) If the individual's relevant income does not exceed the individual's trading allowance, the individual may elect for alternative methods of calculating the income (see sections 783I to 783L).		(4) In this group of sections "relevant period" means- (a) in the case of a recognised transfer made on 6 April in any year, the 5 years beginning with the date of the transfer, (b) in the case of any other recognised transfer, the period 25 consisting of the combination of- (i) the period beginning with the date of the transfer and
(4) If the individual's relevant income does exceed the individual's trading allowance, the individual may elect for alternative methods of calculating the income (see sections 783I to 783L).		
(5) Any provision of this Chapter which gives relief is subject to sections		

7830 and 783P, which specify circumstances in which relief under this Chapter is not given.	=	ending with the next 5 April, and
<p>Basic definitions</p> <p>783B “Relevant trade” of an individual</p> <p>(1) For the purposes of this Chapter, a trade carried on by an individual</p> <p>is a “relevant trade” of the individual for a tax year if–</p> <p>(a) the individual carries on the trade otherwise than in partnership, and</p> <p>(b) the trade is not a rent-a-room trade in relation to the individual for the tax year.</p> <p>(2) For the purposes of subsection (1)(b) a trade is a “rent-a-room trade” in relation to an individual for a tax year if–</p> <p>Draft provisions for Finance Bill 2017</p> <p>125</p> <p>Schedule 5 – Trading and property allowances</p> <p>Part 1 – Main provisions</p>	=	<p><></p> <p>(ii) the 5 years beginning at the end of that initial period,</p> <p>(c) in the case of an onward transfer, the period–</p> <p>30</p> <p>(i) beginning with the date of the transfer, and</p> <p>(ii) ending at the end of the relevant period for the original transfer (see paragraphs (a) and (b) or, as the case may be, paragraphs (d) and (e)),</p> <p>(d) in the case of a relevant transfer that–</p> <p>35</p> <p>(i) is made on 6 April in any year, and</p>
<p>(a) the individual qualifies for rent-a-room relief for the tax year,</p> <p>and</p> <p>(b) the individual has rent-a-room receipts for the tax year which</p> <p>would, apart from Chapter 1 of Part 7 (rent-a-room relief), be</p> <p>brought into account in calculating the profits of the trade.</p> <p>See section 783Q for definitions relevant to this subsection.</p> <p>(3) In this Chapter references to a trade include references to a</p> <p>profession or vocation.</p>	=	<p><></p> <p>(ii) is the original transfer for an onward transfer, the 5 years beginning with the date of the relevant transfer,</p> <p>and</p> <p><></p> <p>(e) in the case of a relevant transfer that–</p> <p>40</p> <p>(i) is made otherwise than on 6 April in any year, and</p> <p>(ii) is the original transfer for an onward transfer, the period consisting of the combination of: the period beginning with the date of the relevant transfer and ending Finance (No. 2) Bill</p> <p>177</p> <p>Schedule 4 – Pensions: offshore transfers</p> <p>Part 2 – Income tax on pension transfers: overseas transfer charge</p>
	=	<p><></p> <p>with the next 5 April; and the 5 years beginning at the end of that initial period.</p>

783C “Miscellaneous income”
(1) For the purposes of this Chapter, an individual’s “miscellaneous income” for a tax year is all the income arising to the individual in the tax year which would be chargeable to income tax under Chapter 8

of Part 5 (income not otherwise charged) for the tax year.

(2) But if—
(a) the individual qualifies for rent-a-room relief for the tax year, and
(b) the individual has rent-a-room receipts for the tax year which would, apart from Chapter 1 of Part 7, be chargeable to income tax under Chapter 8 of Part 5,

the rent-a-room receipts are not miscellaneous income.

(3) The reference in subsection (1) to the amount which would be chargeable to income tax under Chapter 8 of Part 5 is to the amount which would be so chargeable—
(a) apart from this Chapter, and
(b) if no deduction were made for expenses or any other matter.

783D The individual’s “relevant income”

(1) For the purposes of this Chapter, an individual’s “relevant income”

for a tax year is the sum of the following—

(a) the receipts for the tax year of the individual’s relevant trades for the tax year, and

(b) the individual’s miscellaneous income for the tax year.

(2) In subsection (1)(a) the reference to the receipts of a trade for a tax year is to all the receipts which would, apart from this

(5) In this group of sections “the original transfer”, in relation to an onward transfer, means (subject to subsection (6))—

(a) the recognised transfer in respect of which the following conditions are met—

(i) it is from a registered pension scheme to a QROPS,

(ii) the sums and assets transferred by the onward

transfer directly or indirectly derive from those

transferred by it, and

(iii) it is more recent than any other recognised transfer in

respect of which the conditions in sub-paragraphs (i)

and (ii) are met, or

(b) where there is no such recognised transfer, the relevant transfer (see paragraph 1(6) of Schedule 34) in respect of

which the following conditions are met—

(i) it is from a relevant non-UK scheme (see paragraph 1(5) of Schedule 34),

(ii) it is a transfer of the whole or part of the UK tax-

relieved fund (see paragraph 3 of Schedule 34) of a

member of the scheme,

(iii) it is to a QROPS, and

(iv) the sums and assets transferred by the onward transfer directly or indirectly derive from

Chapter, be

brought into account in calculating the profits of the trade for the tax year.

783E The individual's trading allowance

(1) For the purposes of this Chapter, an individual's trading allowance for a tax year is £1,000.

(2) The Treasury may by regulations amend subsection (1) so as to substitute a higher sum for the sum for the time being specified in that subsection.

126

Draft provisions for Finance Bill 2017

Schedule 5 – Trading and property allowances

Part 1 – Main provisions

Relief if relevant income does not exceed trading allowance

783F Full relief: introduction An individual qualifies for full relief for a tax year if—

(a) the individual has relevant income for the tax year, (b) the relevant income does not exceed the individual's trading

allowance for the tax year, and

(c) no election by the individual under section 783M has effect

(election for full relief not to be given).

783G Full relief: trade profits (1) This section applies if—

those

transferred by it.

25

(6) Where apart from this subsection there would be different original

transfers for different parts of an onward transfer, each such part of

the onward transfer is to be treated as a separate onward transfer for

the purposes of this group of sections.

(7) In this section and sections 244B to 244N—

30

“QROPS” means a qualifying recognised overseas pension

scheme, and “former QROPS” means a scheme that has at any

time been a QROPS;

“ring-fenced transfer fund”, in relation to a QROPS or former

QROPS, has the meaning given by paragraph 1 of Schedule 35

34;

“this group of sections” means this section and sections 244B to

244N.

244B Exclusion: member and receiving scheme in same country

(1) A recognised transfer to a QROPS is excluded from the overseas

40

transfer charge if during the relevant period—

(a) the member is resident in the country or territory in which

the QROPS is established, and

(b) there is no onward transfer—

(i) for which the recognised transfer is the original

45

transfer, and

(a) an individual qualifies for full relief for a tax year, and

(b) the individual's relevant income for the tax year consists of or

includes receipts of one or more relevant trades.

(2) The profits or losses of each such trade for the tax year are treated as nil.

783H Full relief: miscellaneous income

(1) This section applies if-

(a) an individual qualifies for full relief for a tax year, and

(b) the individual's relevant income for the tax year consists of or

includes miscellaneous income.

(2) The amount of-

(a) the miscellaneous income arising in the tax year, less

(b) any expenses associated with that income, is treated as nil.

(ii) which is not excluded from the charge.

178

Finance

(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 –

Income tax on pension transfers: overseas transfer charge

(2) If the member is resident in that country or territory at the time of the

transfer mentioned in subsection (1), it is to be assumed for the purposes of subsection (1) that the member will be resident in that

=

Relief if relevant income exceeds trading allowance

783I Partial relief: alternative calculation of profits: introduction

An individual qualifies for partial relief for a tax year if-

(a) the individual has relevant income for the tax year,

(b) the relevant income exceeds the individual's trading allowance for the tax year, and

(c) an election by the individual under section 783N has effect (election for partial relief).

783J Partial relief: alternative calculation of trade profits

(1) This section applies if-

(a) an individual qualifies for partial relief for a tax year, and

(b) the individual's relevant income for the tax year consists of or

includes receipts of one or more relevant trades.

<>

country or territory during the relevant period; but if, at a time before

the end of the relevant period, the transfer ceases to be excluded by subsection (1) otherwise than by reason of the member's death–

(a) that assumption is from that time no longer to be made, and

(b) the charge on the transfer is treated for the purposes of sections 244L and 254 as charged at that time.

(3) An onward transfer to a QROPS ("transfer A") is excluded from the

overseas transfer charge if during so much of the relevant period as is after the time of transfer A–

(a) the member is resident in the country or territory in which the QROPS is

(2) The profits or losses for the tax year of each of the individual's relevant trades are given by taking the following steps-

Step 1
Draft provisions for Finance Bill 2017

127
Schedule 5 – Trading and property allowances
Part 1 – Main provisions

Calculate the total amount of receipts which would, apart from this

Chapter, be brought into account in calculating the profits of the

trade for the tax year.

Step 2
Subtract the deductible amount.

Step 3
Subtract from the amount given by step 2 the total of the deductions

for overlap profit allowed in calculating the profits of the trade for

the tax year (if any).

(3) Subject to section 783L, the deductible amount is equal to the

individual's trading allowance for the tax year.

(4) In this section "deduction for overlap profit" means a deduction

allowed for overlap profit under section 205 or 220 (deduction for

overlap profit in final tax year or on change of accounting date).

783K Partial relief: alternative calculation of chargeable miscellaneous income

(1) This section applies if –

(a) an individual qualifies for partial relief for a tax year, and

(b) the individual's relevant income for the tax year consists of or

includes miscellaneous income.

(2) The amount of miscellaneous income chargeable to income tax for

established, and

(b) there is no subsequent onward transfer that-

15

(i) is of sums and assets which, in whole or part, directly or indirectly derive from those transferred by transfer

A, and
(ii) is not excluded from the charge.

(4) If the member is resident in that country or territory at the time of

20

transfer A, it is to be assumed for the purposes of subsection (3) that

the member will be resident in that country or territory during so

much of the relevant period as is after the time of transfer A; but if,

at a time before the end of the relevant period, the transfer ceases to

be excluded by subsection (3) otherwise than by reason of the

25

member's death –

(a) that assumption is from that time no longer to be made, and

(b) the charge on transfer A is treated for the purposes of sections

244L and 254 as

charged at that time.

244C Exclusion: member and receiving scheme in EEA states

30

(1) This section applies to a

the tax year is—
(a) the miscellaneous income for the tax year, less

(b) the deductible amount.

(3) Subject to section 783L, the deductible amount is equal to the individual's trading allowance for the tax year.

783L Deductible amount: splitting of trading allowance

(1) This section applies where the individual's relevant income for the

tax year includes—

(a) receipts of a relevant trade, and
(b) receipts of any other relevant trade or miscellaneous income (or both).

(2) The references in section 783J and (where it applies) section 783K to

the deductible amount are to amounts which, in total, equal the individual's trading allowance for the tax year.

(3) The question of how to allocate the individual's trading allowance for the tax year for the purposes of subsection (2) is to be decided by

the individual, subject to subsections (4) and (5).

(4) The deductible amount in respect of a relevant trade must not be such that the amount given by step 2 of section 783J(2) is negative.

(5) The deductible amount in respect of miscellaneous income must not

transfer to a QROPS established in an EEA state.

(2) If the transfer is a recognised transfer, the transfer is excluded from

the overseas transfer charge if during the relevant period—

(a) the member is resident in an EEA state (whether or not the

35

same EEA state

throughout that period), and

(b) there is no onward transfer—

(i) for which the recognised transfer is the original transfer, and

(ii) which is not excluded from the charge.

40

(3) If the member is resident in an EEA state at the time of the recognised

transfer mentioned in subsection (2), it is to be assumed for the

purposes of this section that the member will be resident in an EEA state during the relevant period; but if, at a time before the end of the

relevant period, the transfer ceases to be excluded by subsection (2)

45

otherwise than by reason of the member's death—

(a) that assumption is from that time no longer to be made, and

(b) the charge on the transfer is treated for the purposes of

sections 244L and 254 as charged at that time.

Finance (No. 2) Bill

179

Schedule 4 – Pensions: offshore transfers
Part 2 – Income tax on pension transfers: overseas transfer charge

=

<>

(4) If the transfer is an onward transfer (“transfer B”), the transfer is excluded from the overseas transfer charge if during so much of the

relevant period as is after the time of the onward transfer—

(a) the member is resident in an EEA state (whether or not the same EEA state

be such as to result in the individual making a loss in the transactions

giving rise to the miscellaneous income.

128 Draft provisions for Finance Bill 2017

Schedule 5 – Trading and property allowances

Part 1 – Main provisions

Elections

783M Election for full relief not to be given

(1) An individual may elect not to be given full relief for a tax year (see sections 783G and 783H).

(2) An election must be made on or before the first anniversary of the

normal self-assessment filing date for the tax year for which the election is made.

783N Election for partial relief

(1) An individual may elect for partial relief to be given for a tax year if

the individual's relevant income for the tax year exceeds the

individual's trading allowance for the tax year (see sections 783J and 783K).

(2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made.

Exclusions from relief

783O Exclusion from relief: expenses deducted against rent-a-room receipts

(1) No relief under this Chapter is given to an individual for a tax year

if–
(a) the individual qualifies for rent-a-room relief for the tax year,

at all of those times), and
5

(b) there is no subsequent onward transfer that–

(i) is of sums and assets which, in whole or part, directly

or indirectly derive from those transferred by transfer

B, and
(ii) is not excluded from the charge.

10

Elections

783M Election for full relief not to be given

(1) An individual may elect not to be given full relief for a tax year (see sections 783G and 783H).

(2) An election must be made on or before the first anniversary of the

normal self-assessment filing date for the tax year for which the election is made.

783N Election for partial relief

(1) An individual may elect for partial relief to be given for a tax year if

the individual's relevant income for the tax year exceeds the

individual's trading allowance for the tax year (see sections 783J and 783K).

(2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made.

Exclusions from relief

783O Exclusion from relief: expenses deducted against rent-a-room receipts

(1) No relief under this Chapter is given to an individual for a tax year

if–
(a) the individual qualifies for rent-a-room relief for the tax year,

=

<>

(5) If the member is resident in an EEA state at the time of transfer B, it

is to be assumed for the purposes of subsection (4) that the member

will be resident in an EEA state during so much of the relevant

period as is after the time of transfer B; but if, at a time before the end

of the relevant period, the transfer ceases to be excluded by

15 subsection (4) otherwise than by reason of the member's death–

(a) that assumption is from that time no longer to be made, and

(b) the charge on transfer B is treated for the purposes of

244L and 254 as charged at that time.

Exclusions from relief

783O Exclusion from relief: expenses deducted against rent-a-room receipts

(1) No relief under this Chapter is given to an individual for a tax year

if–
(a) the individual qualifies for rent-a-room relief for the tax year,

=

<>

244D Exclusion: receiving scheme is an occupational pension scheme

20 A transfer to a QROPS is excluded from the overseas transfer charge

(b) the individual has rent-a-room receipts mentioned in subsection (2) for the tax year, and

(c) condition A or B is met.

(2) The rent-a-room receipts mentioned in subsection (1) are-

(a) rent-a-room receipts which would, apart from Chapter 1 of Part 7 (rent-a-room relief), be brought into account in calculating the profits of a trade, or

(b) rent-a-room receipts which would, apart from Chapter 1 of Part 7, be chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).

(3) Condition A is that-

(a) the individual's total rent-a-room amount for the tax year does not exceed the individual's limit for the tax year (see section 783Q), and

(b) an election by the individual under section 799 has effect to disapply full rent-a-room relief for the tax year.

(4) Condition B is that-

(a) the individual's total rent-a-room amount for the tax year exceeds the individual's limit for the tax year, and

(b) no election by the individual under section 800 has effect to apply the alternative method of calculating profits for the tax year.

Draft provisions for Finance Bill 2017

129

Schedule 5 – Trading and property allowances

Part 1 – Main provisions

(a) the QROPS is an occupational pension scheme, and

(b) when the transfer is made, the member is an employee of a

sponsoring employer of the QROPS.

25

244E Exclusion: receiving scheme set up by international organisation

(1) A transfer to a QROPS is excluded from the overseas transfer charge

783P Exclusion from relief: payments by employer

No relief under this Chapter is given to an individual for a tax year

if-

(a) the individual has relevant income for the tax year, and

(b) the income includes a payment made by, or on behalf of, a person at a time when the individual is-

(i) an employee of the person, or

(ii) connected with an employee of the person.

=

+-

=

if-

(a) the QROPS is established by an international organisation and has effect so as to provide benefits for, or in respect of, 30

past service as an employee of the organisation, and

(b) when the transfer is made, the member is an employee of the organisation.

=

<>

<p>Interpretation</p> <p>783Q Interpretation of this Chapter</p> <p>In this Chapter—</p> <p>(a) “rent-a-room relief”, “rent-a-room receipts” and “total rent-a-room amount” have the same meanings as in Chapter 1 of Part 7 (rent-a-room relief: see sections 784, 786 and 788), and</p> <p>(b) references to “the individual’s limit” are to be construed in accordance with section 789 (the individual’s limit for the purposes of rent-a-room relief).</p>	<p>(2) In this section “international organisation” means an organisation to which section 1 of the International Organisations Act 1968 applies 35</p>
<p>CHAPTER 2</p>	<p>=</p>
<p>PROPERTY ALLOWANCE</p>	<p>=</p>
<p>Introduction</p> <p>783R Relief under this Chapter</p> <p>(1) This Chapter gives relief to an individual on certain income of a relevant property business (see sections 783S and 783T).</p> <p>(2) The form of relief depends on whether the individual’s relevant property income exceeds the individual’s property allowance (see sections 783U and 783V).</p> <p>(3) If the individual’s relevant property income does not exceed the individual’s property allowance, the income is not charged to income tax (unless the individual elects otherwise) (see sections 783W and 783X).</p> <p>(4) If the individual’s relevant property income does exceed the individual’s property allowance, the individual may elect for an alternative method of calculating the income (see sections 783Y to 783Z1).</p> <p>(5) Any provision of this Chapter which gives relief is subject to sections 783Z4 to 783Z6, which specify circumstances in which relief under this Chapter is not given.</p> <p>130</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 5 – Trading and property allowances</p>	<p>=</p> <p>=</p> <p>=</p> <p><></p> <p>by virtue of an Order in Council under subsection (1) of that section.</p> <p>244F Exclusion: receiving scheme is an overseas public service scheme</p> <p>(1) A transfer to a QROPS is excluded from the overseas transfer charge</p>

Part 1 – Main provisions	=	
Basic definitions 783S “Relevant property business” of an individual (1) Subject to subsection (3), for the purposes of this Chapter an individual’s property business is a “relevant property business” for a tax year if the business is not a rent-a-room property business in relation to the individual for the tax year. (2) For the purposes of subsection (1) a property business is a “rent-a-room property business” in relation to an individual for a tax year	+-	
if–	=	if–
(a) the individual qualifies for rent-a-room relief for the tax year, and (b) all the receipts which would, apart from Chapter 1 of Part 7 (rent-a-room relief), be brought into account in calculating the profits of the business, are rent-a-room receipts. See section 783Z7 for definitions relevant to this subsection. (3) If an individual receives– (a) property income distributions which are treated as profits of a UK property business by virtue of regulation 69Z18(1) or (2) of the AIF Regulations (property AIF distributions: liability to tax), or (b) distributions which are treated as profits of a UK property business by virtue of section 548(6) of CTA 2010 (REIT distributions: liability to tax), that separate property business (see regulation 69Z18(6) of the AIF Regulations and section 549(5) of CTA 2010) is not a relevant property business of the individual. (4) In subsection (3) “the AIF Regulations” means the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964). 783T “Relievable receipts” of a property business	<>	(a) the QROPS is an overseas public service pension scheme, and 40 (b) when the transfer is made, the member is an employee of an employer that participates in the scheme.
		(2) A QROPS is an “overseas public service pension scheme” for the purposes of this section if– (a) either–

(1) For the purposes of this Chapter, the "relievable receipts" of an individual's property business for a tax year are all the receipts which would, apart from this Chapter, be brought into account in calculating the profits of the business for the tax year. This is subject to subsections (2) and (3).

(2) If-

(a) the individual qualifies for rent-a-room relief for the tax year, and

(b) the individual has rent-a-room receipts for the tax year which would, apart from Chapter 1 of Part 7, be brought into account in calculating the profits of the property business,

the rent-a-room receipts are not relievable receipts of the business.

(3) Non-relievable balancing charges in respect of the property business for the tax year are not relievable receipts of the business.

(4) In subsection (3) "non-relievable balancing charges", in respect of a property business for a tax year, means balancing charges falling to be made for the tax year under Part 2 of CAA 2001 which do not relate to a business or transaction which is carried on, or entered into,

Draft provisions for Finance Bill 2017

131
Schedule 5 – Trading and property allowances
Part 1 – Main provisions

(i) it is established by or under the law of the country or territory in which it is established, or

180

Finance (No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

=

<>

(ii) it is approved by the government of that country or territory, and

(b) it is established solely for the purpose of providing benefits to individuals for or in respect of services rendered to-

(i) that country or territory, or

5

(ii) any political subdivision or local authority of that country or territory.

(3) For the purposes of this section, an employer participates in a QROPS that is an overseas public service pension scheme if the scheme has effect so as to provide benefits to or in respect of any or 10 all of the employees of the employer in respect of their employment by the employer.

244G Exclusions: avoidance of double charge, and transitional protections

(1) A recognised transfer to a QROPS is excluded from the overseas transfer charge if it is made in execution of a request made before 9

15 March 2017.

(2) An onward transfer ("the current onward transfer") is excluded from the overseas transfer charge if-

<>

(a) the charge was paid on the original transfer and the amount

of the property business.

783U The individual's "relevant property income"

For the purposes of this Chapter, an individual's "relevant property

income" for a tax year is the relievable receipts for the tax year of the

individual's relevant property businesses for the tax year.

783V The individual's property allowance

(1) For the purposes of this Chapter, an individual's property allowance

for a tax year is £1,000.

(2) The Treasury may by regulations amend subsection (1) so as to substitute a higher sum for the sum for the time being specified in

that subsection.

Relief if relevant property income does not exceed property allowance

783W Full relief: introduction

An individual

qualifies for full relief for a tax year if-

(a) the individual has relevant property income for the tax year,

(b) the relevant property income does not exceed the individual's property allowance for the tax year, and

(c) no election by the individual under section 783Z2 has effect

(election for full relief not to be given).

783X Full relief: property profits

(1) If an individual qualifies for full relief for a tax year, this section

applies in relation to the calculation of the profits of the individual's

relevant property business for the tax year or, where the individual's

relevant property income for the tax year consists of the relievable

receipts of two relevant property businesses, the profits of each

property business for the tax year.

(2) The following are not brought into account-

(a) the relievable receipts of the property business for the tax

paid is not repayable, or

20

(b) the charge was paid on an onward transfer ("the earlier

onward transfer") in respect of which the conditions in

subsection (4) are met and the amount paid is not repayable,

or

(c) the original transfer was made before 9 March 2017, or

25

(d) the original transfer was made on or after 9 March 2017 in execution of a request made before 9 March 2017.

(3) An onward transfer is excluded from the overseas transfer charge so

far as the transfer is made otherwise than out of the member's ring-

fenced transfer funds under the scheme from which the onward

30

transfer is made.

(4) The conditions mentioned in subsection (2)(b) are-

(a) that the earlier onward transfer was made before the current onward transfer,

<p>year, and (b) any expenses associated with those receipts.</p> <p>Relief if relevant property income exceeds property allowance</p> <p>783Y Partial relief: alternative calculation of property profits: introduction</p> <p>An individual qualifies for partial relief for a tax year if-</p> <ul style="list-style-type: none"> (a) the individual has relevant property income for the tax year, (b) the relevant property income exceeds the individual's property allowance for the tax year, and (c) an election by the individual under section 783Z3 has effect <p>(election for partial relief).</p> <p>132 Draft provisions for Finance Bill 2017</p> <p>Schedule 5 – Trading and property allowances</p> <p>Part 1 – Main provisions</p>	<p>(b) that the earlier onward transfer was made after the original transfer, and</p> <p>(c) that all the sums and assets transferred by the current</p> <p>=</p> <p><></p> <p>onward transfer directly or indirectly derive from those transferred by the earlier onward transfer.</p> <p>244H Power to provide for further exclusions</p> <p>40</p> <p>The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for a recognised transfer to a QROPS, or</p> <p>an onward transfer, to be excluded from the overseas transfer charge</p> <p>if the transfer is of a description specified in the regulations.</p> <p>Finance (No. 2) Bill</p> <p>181</p> <p>Schedule 4 – Pensions: offshore transfers</p> <p>Part 2 – Income tax on pension transfers: overseas transfer charge</p> <p>=</p> <p><></p> <p>244I Circumstances in which exclusions do not apply</p> <p>(1) Subsection (2) applies if a recognised transfer to a QROPS, or an onward transfer, would (but for this section) be excluded from the overseas transfer charge by any of sections 244B to 244F.</p> <p>(2) The transfer is not excluded from the charge if the member has, in</p> <p>5</p> <p>connection with the transfer, failed to comply with the relevant information regulation.</p> <p>(3) In subsection (2) "the relevant information regulation" means</p>
<p>783Z Partial relief: alternative calculation of property profits</p> <p>(1) If an individual qualifies for partial relief for a tax year, this section applies in relation to the calculation of the profits of the individual's relevant property business for the tax year or, where the individual's relevant property income for the tax year consists of the relievable receipts of two relevant property businesses, the profits of each property business for the tax year.</p> <p>(2) The relievable receipts of the property business for the tax year are brought into account.</p> <p>(3) No expenses associated with the relievable receipts are brought into account.</p>	<p>244I Circumstances in which exclusions do not apply</p> <p>(1) Subsection (2) applies if a recognised transfer to a QROPS, or an onward transfer, would (but for this section) be excluded from the overseas transfer charge by any of sections 244B to 244F.</p> <p>(2) The transfer is not excluded from the charge if the member has, in</p> <p>5</p> <p>connection with the transfer, failed to comply with the relevant information regulation.</p> <p>(3) In subsection (2) "the relevant information regulation" means</p>

(4) The deductible amount is brought into account.

(5) Subject to section 783Z1, the deductible amount is equal to the individual's property allowance for the tax year.

783Z1 Deductible amount: splitting of property allowance

(1) This section applies where the individual's relevant property income

for the tax year consists of the reliev able receipts of two relevant property businesses.

(2) The references in section 783Z to the deductible amount are to

amounts which, in total, equal the individual's property allowance

for the tax year.

(3) The question of how to allocate the individual's property allowance

for the tax year for the purposes of subsection (2) is to be decided by

the individual, subject to subsection (4).

(4) The deductible amount in respect of a relevant property business

must not be such as to result in a loss of the business.

whichever of the following is applicable—

(a) regulation 11BA of the Registered Pension Schemes

10

(Provision of Information) Regulations 2006 (S.I. 2006/567),

or any regulation having effect in place of any of that

regulation, as (in either case) from time to time amended, and

(b) regulation 3AE of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes,

15

Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208), or any regulation having effect in place of any of that regulation,

as (in either case) from time to time amended.

244J Persons liable to charge

20

(1) In the case of a recognised transfer to a QROPS, the persons liable to

the overseas transfer charge are—

(a) the scheme administrator of the registered pension scheme from which the transfer is made, and

(b) the member,

25

and their liability is joint and several.

(2) In the case of an onward transfer, the persons liable to the overseas

transfer charge are—
(a) the scheme manager of the QROPS, or former QROPS, from which the transfer is made, and

30

(b) the member, and their liability is joint and several.

(3) Subsections (1) and (2) are subject to subsection (4), and subsections

(2) and (4) are

Elections

783Z2 Election for full relief not to be given

(1) An individual may elect not to be given full relief for a tax year (see

section 783X).

(2) An election must be made on or before the first anniversary of the

normal self-assessment filing date for the tax year for which the

election is made.

783Z3 Election for partial relief

(1) An individual may elect for partial relief to be given for a tax year if

the individual's relevant property income for the tax year exceeds

the individual's property allowance for the tax year (see section

783Z).

(2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made.

Draft provisions for Finance Bill 2017

133

Schedule 5 – Trading and property allowances Part 1 – Main provisions

Exclusions from relief

783Z4 Exclusion from relief: tax reduction under section 274A

No relief under this Chapter is given to an individual for a tax year

if, in calculating the individual's liability to income tax for the

subject to subsection (5).

(4) If a transfer is one required by section 244B or 244C to be initially 35

assumed to be excluded by that section but an event occurring before

the end of the relevant period means that the transfer is not so

excluded, the persons liable to the overseas transfer charge in the

case of the transfer are –

(a) the scheme manager of any QROPS, or former QROPS, under 40

which the member has, at the time of the event, ring-fenced

transfer funds in which any of the sums and assets referred to

in section 244K(6) in the case of the transfer are represented,

and

(b) the member,

45

and their liability is joint and several.

182

Finance

(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 –

Income tax on pension transfers: overseas transfer charge

(5) The scheme manager of a former QROPS is liable to the overseas transfer charge in the case of a transfer ("the transfer concerned") only if the former QROPS –

(a) was a QROPS when a relevant inward transfer was made,

and

5

(b) where a relevant inward transfer was made before 9 March 2017, was a QROPS at the start of 9 March 2017; and here "relevant inward transfer" means a recognised or onwards

transfer to the former QROPS (at a time when it was a QROPS) of

tax

year, a tax reduction under section 274A (property business: relief for

non-deductible costs of a dwelling-related loan) is applied at Step 6

of the calculation in section 23 of ITA 2007.

783Z5 Exclusion from relief: expenses deducted against rent-a-room receipts

(1) No relief under this Chapter is given to an individual for a tax year

if—

(a) the individual qualifies for rent-a-room relief for the tax year,

(b) the individual has rent-a-room receipts for the tax year which

would, apart from Chapter 1 of Part 7 (rent-a-room relief), be

brought into account in calculating the profits of a property

business, and

(c) condition A or B is met.

(2) Condition A is that—

(a) the individual's total rent-a-room amount for the tax year

does not exceed the individual's limit for the tax year (see section 783Z7), and

(b) an election by the individual under section 799 has effect to

disapply full rent-a-room relief for the tax year.

(3) Condition B is that—

(a) the individual's total rent-a-room amount for the tax year exceeds the individual's limit for the tax year, and

(b) no election by the individual under section 800 has effect to apply the alternative method of calculating profits for the tax

year.

783Z6 Exclusion from relief: payments by employer

No relief under this Chapter is given to an individual for a tax

sums and assets which, to any extent, are represented by sums or

10

assets transferred by the transfer concerned.

(6) A person is liable to the overseas transfer charge whether or not—

(a) that person, and

(b) any other person who is liable to the charge,

are resident or domiciled in the United Kingdom.

15

244K Amount of charge

(1) Where the overseas transfer charge arises in the case of a transfer, the

charge is 25% of the transferred value.

(2) If the transfer is from a registered pension scheme established in the

United Kingdom, the transferred value is the total of—

20

(a) the amount of any sums transferred, and

(b) the value of any assets transferred, but this is subject to subsections (5) to (9).

(3) If the transfer is from a registered pension scheme established in a

country or territory outside the United Kingdom, the transferred

25

value is the total of—

(a) the amount of any sums transferred that are attributable to UK-relieved funds of the scheme, and

(b) the value of any assets transferred that are attributable to UK-relieved funds of the scheme,

30

but this is subject to subsections (5) to (9).

(4) If the transfer is from a QROPS or former QROPS, the transferred

year	if– (a) the individual has relevant property income for the tax year,	=	value is the total of– (a) the amount of any sums transferred that are attributable to the member's ring-fenced transfer funds under the scheme, 35
	and	=	and
	(b) the income includes a payment made by, or on behalf of, a person at a time when the individual is– (i) an employee of the person, or (ii) connected with an employee of the person.	<>	(b) the value of any assets transferred that are attributable to the member's ring-fenced transfer funds under the scheme, but this is subject to subsections (5) to (9). (5) If the lifetime allowance charge arises in the case of the transfer and 40
	Interpretation 783Z7 Interpretation of this Chapter	=	
	In this Chapter– (a) “rent-a-room relief”, “rent-a-room receipts” and “total rent-a-room amount” have the same meanings as in Chapter 1 of Part 7 (rent-a-room relief: see sections 784, 786 and 788), and 134	<>	is to be deducted from the transfer, paragraphs (a) and (b) of subsections (2) to (4) are to be read as referring to what is to be transferred after deduction of the lifetime allowance charge.
	Draft provisions for Finance Bill 2017	=	
	Schedule 5 – Trading and property allowances	=	
	Part 1 – Main provisions	=	
	(b) references to “the individual's limit” are to be construed in accordance with section 789 (the individual's limit for the purposes of rent-a-room relief).”	<>	(6) If the transfer is one initially assumed to be excluded by section 244B or 244C but an event occurring before the end of the relevant period 45 means that the transfer is not so excluded, the sums and assets mentioned in whichever of subsections (2) to (4) is applicable include Finance (No. 2) Bill 183
		=	Schedule 4 – Pensions: offshore transfers
		=	Part 2 – Income tax on pension transfers: overseas transfer charge
		<>	only those that at the time of the event are represented in any of the member's ring-fenced transfer funds under any QROPS or former QROPS.
2	PART	=	

AMENDMENTS	CONSEQUENTIAL
<p>2 ITTOIA 2005 is amended in accordance with paragraphs 3 to 7.</p> <p>3 In Part 1 (overview), in section 1, before paragraph (a) of subsection (5) insert—</p> <p style="padding-left: 40px;">“(za) provision about a trading allowance and property allowance (see Part 6A),”.</p> <p>4 In Chapter 2 of Part 2 (trading income: income taxed as trade profits), after section 22 insert—</p>	<p><></p> <p style="text-align: right;">(7) If the operator pays the charge on the transfer and does so—</p> <p style="text-align: right;">(a) otherwise than by deduction from the transfer, and</p> <p style="text-align: right;">5</p>
<p>“Trading allowance</p> <p>22A Trading allowance</p> <p>(1) The rules for calculating the profits of a trade, profession or vocation carried on by an individual are subject to Chapter 1 of Part 6A (trading allowance).</p> <p>(2) That Chapter gives relief on relevant income and, where relief is given, disallows most deductions under this Part (see, in particular, sections 783D, 783G and 783J).”</p> <p>5 In Chapter 5 of Part 3 (property income: rules about receipts and deductions), after the Chapter heading insert—</p>	<p><></p> <p style="text-align: right;">(b) out of sums and assets held for the purposes of, or representing accrued rights under, the scheme from which the transfer is made,</p> <p style="text-align: right;">the transferred value is the amount given by subsections (2) to (6)</p> <p style="text-align: right;">grossed up by reference to the rate specified in subsection (1). 10</p> <p style="text-align: right;">(8) If the operator pays the charge on the transfer and does so by</p>
<p>“Property allowance</p> <p>307A Property allowance</p> <p>(1) The rules for calculating the profits of an individual’s property business are subject to Chapter 2 of Part 6A (property allowance).</p> <p>(2) That Chapter gives relief on relevant property income and, where relief is given, disallows all deductions under this Part which relate to that income (see, in particular, sections 783U, 783X and 783Z).”</p> <p>6 In Chapter 8 of Part 5 (miscellaneous income), in section 688 (income charged under Chapter 8 of Part 5), before paragraph (a) of subsection (2)</p>	<p><></p> <p style="text-align: right;">deduction from the transfer, the transferred value is the amount given by subsections (2) to (6) before the deduction.</p> <p style="text-align: right;">(9) If the member pays the charge on the transfer, the transferred value is the amount given by subsections (2) to (6) without any deduction 15 for the charge.</p> <p style="text-align: right;">(10) If the lifetime allowance charge arises in the case of the transfer, the provisions of this Part relating to the lifetime allowance charge apply (whether or not in relation to the transfer) as if the overseas transfer charge did not arise in the case of the transfer.</p> <p style="text-align: right;">20</p>

insert-

“(za) Chapter 1 of Part 6A (which gives relief on relevant income which may consist of or include income chargeable under this Chapter: see, in particular, sections 783C, 783D, 783H and 783K),”.

7 In Schedule 4 (defined expressions), at the appropriate places insert-

“individual’s property allowance (in Chapter 2 section 783V of Part 6A)

Draft provisions for Finance Bill 2017

135

Schedule 5 – Trading and property allowances

Part 2 – Consequential amendments

(11) In this section—
“the operator”

means—

(a) the scheme administrator of the scheme from which the transfer is to be made if that scheme is a registered pension scheme, or

25

(b) the scheme manager of the scheme from which the transfer is to be made if that scheme is a QROPS or

former QROPS;

“UK-relieved funds”, in relation to a registered pension scheme

established

in a country or territory outside the United

30

Kingdom, has

the meaning given by section 242B.

244L Accounting for overseas transfer charge by scheme managers

(1) In this section “charge” means overseas transfer charge for which the

scheme manager of a QROPS or former QROPS is liable.

(2) The Commissioners for Her Majesty’s Revenue and Customs may by

35

regulations make provision for or in connection with—

(a) the payment of charge, including due dates for payment,

individual’s trading allowance (in Chapter 1 of section 783E Part 6A)

miscellaneous income (in Chapter 1 of Part 6A) section 783C

relevant income (in Chapter 1 of Part 6A) section 783D

relevant property business (in Chapter 2 of Part 6A) section 783S

relevant property income (in Chapter 2 of Part 6A) section 783U

relevant trade (in Chapter 1 of Part 6A) section 783B

relievable receipts (in Chapter 2 of Part 6A) section 783T”.

=

<>

(b) the charging of interest on charge not paid on or before its due date,

(c) notification by the scheme manager of errors in information

40

provided by the scheme manager to the Commissioners in

connection with charge or the scheme manager’s liability for

=

+-

PART 3	=	
COMMENCEMENT	+-	
8 The amendments made by this Schedule have effect for the tax year 2017-18 and subsequent tax years.	<>	overseas transfer charge,
	=	
SCHEDULE 6 20	+-	
	=	
FORWARD LOSSES	CARRIED-	+-
	=	
PART 1	+-	
	=	
AMENDMENT OF GENERAL RULES ABOUT CARRYING FORWARD LOSSES	+-	
	=	
Non-trading deficits from loan relationships	<>	(d) repayments to scheme managers under section 244M of amounts paid by way of charge, and 45 (e) the making of assessments, repayments or adjustments in cases where the correct amount of charge has not been paid
1 Part 5 of CTA 2009 (loan relationships) is amended in accordance with paragraphs 2 to 4.		
2 In the heading of Chapter 16 (non-trading deficits) at the end insert “: pre-1		
3 April 2017 deficits and charities”.		
4 In section 456 (introduction to Chapter 16) in subsection (1)–		
(a) after “if” insert “– (a)”, and		
(b) at the end insert “, and (b) either– (i)		
that accounting period begins before 1 April 2017, or		
(ii) at the end of that accounting period the company is a charity”.		by the due date for payment of the charge. 184
136 Draft provisions for Finance Bill 2017		Finance (No. 2) Bill
Schedule 6 – Carried-forward losses		Schedule 4 – Pensions: offshore transfers
Part 1 – Amendment of general rules about carrying forward losses		Part 2 – Income tax on pension transfers: overseas transfer charge
4 After section 463 insert–	+-	
	=	

“CHAPTER 16A

NON-TRADING DEFICITS:
POST 1 APRIL 2017 DEFICITS

463A Introduction to Chapter

(1) This Chapter applies if-

(a) for any accounting period beginning on or after 1 April 2017 a company has a non-trading deficit from its loan relationships under section 301(6), and

(b) at the end of that accounting period the company is not a charity.

(2) In this Chapter “the deficit” and “the deficit period” mean that deficit and that period respectively.

(3) Sections 463B and 463C deal with claims to set off the deficit against profits of the deficit period or earlier periods.

(4) Sections 463D to 463F deal with the consequences of such claims.

(5) Sections 463G and 463H provide for so much of the deficit as is not

(a) set off against profits under section 463B, or

(b) surrendered as group relief under Part 5 of CTA 2010,

to be carried forward to later accounting periods.

463B Claim to set off deficit against profits of deficit period or earlier

periods

(1) The company may make a claim for the whole or part of the deficit-

(a) to be set off against any profits of the company (of whatever description) for the deficit period, or

(b) to be carried back to be set off against profits for earlier accounting periods.

(2) No claim may be made under subsection (1) in respect of so much of

+-

=

+-

=

<>

(3) The regulations may, in particular-

(a) modify the operation of any provision of the Tax Acts, or

(b) provide for the application of any provision of the Tax Acts (with or without modification).

244M Repayments of charge on subsequent excluding events

5

(1) This section applies if-

(a) overseas transfer charge arose on a transfer at the time the transfer was made, and

(b) at a time during the relevant period for the transfer, circumstances arise such that, had those circumstances

10

existed at the time the transfer was made, the transfer would at the time it was made have been excluded from the charge by sections 244B to 244F or under section 244H.

(2) Any amount paid in respect of charge on the transfer is to be repaid by the Commissioners for Her Majesty's Revenue and Customs so

15

far as not already repaid.

(3) Subsection (2) does not give rise to entitlement to repayment of, or

cancellation of liabilities to, interest or penalties in respect of late payment of charge on the transfer.

(4) Repayment under this section to the scheme administrator of a

the deficit as is surrendered as group relief under Part 5 of CTA 2010.

(3) For time limits and other provisions applicable to claims under subsection (1), see section 463C.

(4) For what happens when a claim is made under subsection (1)(a), see section 463D.

(5) For what happens when a claim is made under subsection (1)(b), and the profits available for relief when such a claim is made, see sections

463E and 463F.

463C Time limits for claims under section 463B(1)

(1) A claim under section 463B(1) must be made within—
(a) the period of 2 years after the deficit period ends, or

(b) such further period as an officer of Revenue and Customs allows.

Draft provisions for Finance Bill 2017

137

Schedule 6 – Carried-forward losses
Part 1 – Amendment of general rules about carrying forward losses

(2) Different claims may be made in respect of different parts of a non-trading deficit for any deficit period.

(3) But no claim may be made in respect of any part of a deficit to which another such claim relates.

463D Claim to set off deficit against profits for the deficit period

(1) This section applies if a claim is made under section 463B(1)(a) for the

whole or part of the deficit to be set off against profits for the deficit period.

(2) The amount of the deficit to which the claim relates must be set off

against the profits of the company for the deficit period which are identified in the

20 registered pension scheme, or the scheme manager of a QROPS or former QROPS, is conditional on prior compliance with any requirements to give information to the Commissioners, about the circumstances in which the right to the repayment arises, that are imposed on the prospective recipient under section 169 or 251 (but 25

repayment is not conditional on compliance with any time limits so

imposed for compliance with any such requirements).

(5) Repayment under this section is not a reliev able pension contribution.

(6) Where—

30

(a) an amount is repaid under this section to the scheme

administrator of a registered pension scheme, and

<> (b) there is a recognised transfer from that scheme to a QROPS of

some or all of that amount,

that transfer is not benefit crystallisation event 8 in relation to the 35

member (but this does not affect the amount crystallised by the

benefit crystallisation event consisting of the making of the transfer

mentioned in subsection (1)).

(7) Repayment under this section to the member is conditional on

making a claim, and such a claim must be made no later than one

40 year after the end of the relevant period for the transfer concerned.

(8) The Commissioners for Her

claim.

(3) Those profits are reduced accordingly.

(4) Relief under this section must be given before relief is given against

profits for the deficit period—

(a) under section 37 or 62(1) to (3) of CTA 2010 (deduction of losses from total profits for the same or earlier accounting periods), or

(b) as a result of a claim under section 463B(1)(b) (carry-back) in respect of a deficit for a later period.

(5) No relief may be given under this section against ring fence profits of

the company within the meaning of Part 8 of CTA 2010 (oil activities).

463E Claim to carry back deficit to earlier periods

(1) This section applies if a claim is made under section 463B(1)(b) for

the whole or part of the deficit to be carried back to be set off against

profits for accounting periods before the deficit period.

(2) The claim has effect only if it relates to an amount no greater than the lesser of—

(a) so much of the deficit as is not an amount in relation to which a claim is made under section 463B(1)(1)(a), and

Majesty's Revenue and Customs may by regulations make provision for or in connection with claims or repayments under this section, including provision—

(a) requiring claims,

45

(b) about who may claim, Finance (No. 2) Bill

185

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

(c) imposing conditions for making claims, including conditions about time limits,

(d) as to additional circumstances in which repayments may be made,

(e) modifying the operation of any provision of the Tax Acts, or 5

(f) applying any provision of the Tax Acts (with or without modifications).

244N Discharge of liability of scheme administrator or manager

(1) In this section “operator” means—

(a) the scheme administrator of a registered pension scheme, or 10

(b) the scheme manager of a QROPS or former QROPS.

(2) If an operator is liable under section 244J, the operator may apply to

an officer of Revenue and Customs for the discharge of the

operator's liability on the following ground.

(3) The ground is that—

15

(a) the operator reasonably believed that there was no liability to the overseas transfer charge on the transfer concerned, and

(b) in all the circumstances of the case, it would not be just and

(b) the total amount of the profits available for relief under this section.

(3) Section 463F explains which profits are so available.

(4) The amount to which the claim relates is set off against those profits by treating them as reduced accordingly.

(5) If those profits are profits for more than one accounting period, the

relief is applied by setting off the amount to which the claim relates

against profits for a later period before setting off any remainder of

that amount against profits for an earlier period.

463F Profits available for relief under section 463E

(1) The profits available for relief under section 463E are the amounts

which (apart from the relief) would be charged under this Part as profits for accounting periods ending within the permitted period after giving every prior relief.

138

Draft provisions for Finance

Bill 2017

Schedule 6 – Carried-forward losses

reasonable for the operator to be liable to the charge on the transfer.

20

(4) On receiving an application under subsection (2), an officer of

Revenue and Customs must decide whether to discharge the operator's liability.

(5) An officer of Revenue and Customs must notify the operator of the decision on the application.

25

(6) The discharge of the operator's liability does not affect the liability of

any other person to overseas transfer charge on the transfer concerned.

(7) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision supplementing this section, including

30 provision for time limits for making an application under this section.”

=

-+ Further amendments in Part 4 of FA 2004.

=

<> 12 Part 4 of FA 2004 is further amended as follows.

13 (1) Section 169 (recognised transfers, and definition and obligations of a

35 QROPS) is amended as follows.

(2) In subsection (2) (what makes a recognised overseas pension scheme a QROPS), after paragraph (b) insert–

“(ba) the scheme manager has confirmed to an officer of Revenue

and Customs that the scheme manager understands the

40

scheme manager's potential liability to overseas transfer charge and has undertaken to such an officer to operate the charge including by meeting the scheme manager's liabilities to the charge,”.

186

Finance
(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 1 – Amendment of general rules about carrying forward losses	Part 2 – Income tax on pension transfers: overseas transfer charge
<p style="text-align: center;">(2) In this section— “the permitted period” means the period of 12 months immediately before the deficit period, and “prior relief” means a relief which subsection (5) provides must be given before relief under section 463E.</p> <p style="text-align: center;">(3) If an accounting period ending within the permitted period begins before it, only a part of the amount which (apart from the relief) would be chargeable under this Part for the period, after giving every prior relief, is available for relief under section 463E.</p> <p style="text-align: center;">(4) That part is so much as is proportionate to the part of the accounting period in the permitted period.</p> <p style="text-align: center;">(5) The reliefs which must be given before relief under section 463E are—</p> <ul style="list-style-type: none"> (a) relief as a result of a claim under section 459(1)(a) or section 463B(1)(a) (claim for deficit to be set off against total profits for the deficit period), (b) relief in respect of a loss or deficit incurred or treated as incurred in an accounting period before the deficit period, (c) relief under Part 6 of CTA 2010 (charitable donations relief in respect of payments made wholly and exclusively for the purposes of a trade), (d) relief under section 37 of CTA 2010 (losses deducted from total profits of the same or an earlier accounting period), and (e) if the company is a company with investment business for the 	<p style="text-align: center;">= <> (3) After subsection (2) insert—</p> <p style="text-align: center;">“(2A) Regulations may make provision as to—</p> <ul style="list-style-type: none"> (a) information that is to be included in, or is to accompany, a notification under subsection (2)(a); (b) the way and form in which such a notification, or any required information or evidence, is to be given or provided.” <p style="text-align: center;">(4) After subsection (4) insert—</p> <p style="text-align: center;">“(4ZA) Regulations may require a member, or former member, of a QROPS or former QROPS to give information of a prescribed description to the scheme manager of a QROPS or former QROPS.”</p> <p style="text-align: center;">(5) In subsection (4A) (inclusion of supplementary provision in regulations under subsection (4)), after “(4)” insert “or (4ZA)”.</p> <p style="text-align: center;">(6) After subsection (4B) insert—</p> <p style="text-align: center;">“(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners.”</p> <p style="text-align: center;">(7) After subsection (7) insert—</p> <p style="text-align: center;">“(7A) Regulations may, in a case where—</p> <ul style="list-style-type: none"> (a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme (“the original pension”), and (b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme (“the new pension”), <p style="text-align: center;">provide that the new pension is to be treated, to such extent as is prescribed and for such of the purposes of this Part as are prescribed, as if it were the original</p>

purposes of Part 16
(companies with investment business)–

(i) any deduction
in respect of management expenses
under section 1219 (expenses of management of a

company's
investment business),

(ii) relief under
Part 6 of CTA 2010 in respect of payments
made wholly
and exclusively for the purposes of its
business, and
(iii) any allowance
under Part 2 of CAA 2001 (plant and
machinery
allowances).

463G Carry forward of unrelieved
deficit

(1) This section applies if any
amount of the deficit ("the unrelieved
amount") is not–

(a) set off against
profits on a claim under section 463B(1), or
(b) surrendered as group
relief under Part 5 of CTA 2010.

(2) The unrelieved amount is
carried forward to the first accounting
period after the deficit
period.

(3) The company may make a claim
for the whole or part of the

unrelieved amount to be set
off against the company's total profits

pension.

(7B) For the purposes of
subsection (7A), a "relevant overseas
transfer" is

a transfer of sums or
assets held for the purposes of, or
representing

accrued rights under, a
relevant overseas scheme ("the transferring
scheme") so as to become
held for the purposes of, or to represent
rights under–

(a) another relevant
overseas scheme, or
(b) a registered pension
scheme,

in connection with a member
of that pension scheme.

35

(7C) In subsection (7B)
"relevant overseas scheme" means–

(a) a QROPS, or
(b) a relevant non-UK
scheme (see paragraph 1(5) of Schedule
34).

(7D) Regulations under
subsection (7A) may–

40

(a) apply generally or
only in specified cases, and

(b) make different
provision for different cases."

(8) In subsection (8) (interpretation)

– (a) in the opening words, after
"subsections (4) to (6)" insert ", (7A) to
(7D)", and

45
Finance (No. 2) Bill

187

Schedule 4 – Pensions: offshore transfers
Part 2 – Income tax on pension transfers:
overseas transfer charge

=

<> (b) in the definition of
"relevant requirement", at the end insert ",
or

(c) a
requirement to pay overseas transfer charge,
or
interest on overseas transfer charge,
imposed by

regulations under section 244L(2) or by an

		assessment such regulations.” 5 14 After Chapter 5 insert-
	=	
	-+	“CHAPTER 5A
	=	
for the first accounting period after the deficit period. (4) If a claim is made under subsection (3)– (a) the unrelieved amount, or the part of it to which the claim relates, must be set off against the company’s total profits for the first accounting period after the deficit period, and Draft provisions for Finance Bill 2017 139 Schedule 6 – Carried-forward losses Part 1 – Amendment of general rules about carrying forward losses	<>	REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UNITED KINGDOM 242A Meaning of “non-UK registered scheme” In this Chapter “non-UK registered scheme” means a registered pension scheme established in a country or territory outside the United Kingdom. 242B Meaning of “UK-relieved funds” (1) For the purposes of this Chapter, the “UK-relieved funds” of a non-UK registered scheme are sums or assets held for the purposes of, or representing accrued rights under, the scheme– (a) that (directly or indirectly) represent sums or assets that at any time were held for the purposes of, or represented
(b) those profits are reduced accordingly. (5) No claim may be made under subsection (3) in respect of so much of the unrelieved amount as is surrendered under Part 5A of CTA 2010 (group relief for carried-forward losses). (6) A claim under subsection (3) must be made within– (a) the period of two years after the end of the first accounting period after the deficit period, or (b) such further period as an officer of Revenue and Customs allows. 463H Re-application of section 463G if any deficit remains after previous application	=	<> accrued rights under, a registered pension scheme established in the United Kingdom, 20 (b) that (directly or indirectly) represent sums or assets that at any time formed the UK tax-relieved fund under a relevant non-UK scheme of a relieved member of that scheme, or (c) that– (i) are held for the purposes of, or represent accrued 25 rights under, an arrangement under the scheme relating to a member of the scheme who on any day has been an accruing member of the scheme, and

<p>(1) This section applies if-</p> <p>(a) any amount of the deficit is carried forward to an accounting period ("the later period") of the company under section 463G(2), and</p> <p>(b) any of that amount is not-</p> <p>(i) set off against the company's total profits for the later period on a claim under section 463G(3), or</p> <p>(ii) surrendered as group relief for carried-forward losses under Part 5A of CTA 2010.</p> <p>(2) Subsections (2) to (6) of section 463G apply as if-</p> <p>(a) references to the unrelieved amount were to so much of the amount of the deficit carried forward to the later period as is not set off or surrendered as mentioned in subsection (1) (b), and</p> <p>(b) references to the deficit period were to the later period."</p>	<p>(ii) in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, are to be taken to have benefited from relief from tax.</p> <p>(2) In this Chapter "relevant contribution" has the meaning given by regulation 14ZB(8) of the Information Regulations.</p> <p>(3) Paragraphs (7) and (8) of regulation 14ZB of the Information</p>
Non-trading losses on intangible fixed assets	Regulations (meaning of "accruing member") apply for the purposes of this section as for those of that regulation.
=	=
5 (1) Section 753 of CTA 2009 (treatment of non-trading loss) is amended as follows.	<> Schemes (Provision of Information) Regulations 2006 (S.I. 2006/ 567)."
<p>(2) In subsection (3) (carry forward of non-trading loss) in the words after paragraph (b) for "debit of" substitute "loss on intangible fixed assets for".</p> <p>(3) After subsection (3) insert-</p>	<p>40 15 In section 254(6) (regulations about accounting for tax by scheme</p>
<p>"(4) In the application of subsection (3) to an amount of a loss previously carried forward under that subsection, the reference in paragraph (b)</p>	<p>administrators), after paragraph (b) insert- "(ba) repayments under section 244M to scheme administrators,".</p> <p>16 In section 255(1) (power to make provision for assessments), after paragraph</p>

<p style="color: red; margin: 0;">to group relief under Part 5 of CTA 2010 is to be read as a reference</p>	<p style="color: red; margin: 0;">(No. 2) Bill</p> <p style="color: red; margin: 0;">Schedule 4 – Pensions: offshore transfers</p> <p style="color: red; margin: 0;">Part 2 – Income tax on pension transfers: overseas transfer charge</p>
<p style="color: red; margin: 0;">to group relief for carried-forward losses under Part 5A of that Act.”</p> <p style="color: red; margin: 0;">Expenses of management of investment business etc</p> <p style="color: red; margin: 0;">6 (1) Section 1223 of CTA 2009 (carrying forward expenses of management and</p>	<p style="color: red; margin: 0;">=</p> <p style="color: red; margin: 0;"><> (d) insert- “(da) liability of the scheme administrator of a registered pension scheme, or the scheme manager of a qualifying recognised overseas pension scheme or of a former such scheme, to the overseas transfer charge.”.</p> <p style="color: red; margin: 0;">5 17 In section 269(1)(a) (appeal against decision on discharge of liability), before “section 267(2)” insert “section 244N (discharge of liability to overseas transfer charge),”.</p>
<p style="color: red; margin: 0;">other amounts) is amended as follows.</p> <p style="color: red; margin: 0;">(2) In subsection (1)(b)– (a) for “amounts” substitute “an amount”, and</p> <p style="color: red; margin: 0;">140 Draft provisions for Finance Bill 2017</p> <p style="color: red; margin: 0;">Schedule 6 – Carried-forward losses</p> <p style="color: red; margin: 0;">Part 1 – Amendment of general rules about carrying forward losses</p>	<p style="color: red; margin: 0;">=</p> <p style="color: red; margin: 0;"><> Other amendments</p>
<p style="color: red; margin: 0;">(b) after “(2)(c),” insert “– (i) a claim relating to the whole of the amount has not been made under subsection (3B), or”.</p> <p style="color: red; margin: 0;">(3) After subsection (3) insert– “(3A) But subsection (3) does not apply in relation to so much of the excess as is surrendered as group relief under Part 5 of CTA 2010 or as group relief for carried-forward losses under Part 5A of that Act.</p> <p style="color: red; margin: 0;">(3B) A deduction in respect of the excess may be made under section 1219 for the next accounting period only on the making by the company of a claim.</p> <p style="color: red; margin: 0;">(3C) A claim may relate to the whole of the excess or to part of it only.</p> <p style="color: red; margin: 0;">(3D) A claim must be made–</p>	<p style="color: red; margin: 0;">=</p> <p style="color: red; margin: 0;"><> 18 In section 9(1A) of TMA 1970 (tax not within the scope of self-assessment), 10 after paragraph (a) insert– “(aa) is chargeable, on the scheme manager of a qualifying recognised overseas pension scheme or a former such scheme, under Part 4 of the Finance Act 2004.”.</p> <p style="color: red; margin: 0;">19 In Schedule 56 to FA 2009 (penalty for failure to make payments on time), in 15</p>

<p>(a) within the period of two years after the end of the next accounting period, or</p>	<p>the Table in paragraph 1, after the entry for item 3 insert-</p>
<p>(b) within such further period as an officer of Revenue and Customs may allow.</p> <p>(3E) Subsection (1A) of section 1219 does not apply in relation to a deduction in respect of the excess made for the next accounting period.”</p>	<p><> “3A Income tax Amount payable under The date falling 30 regulations under days after the due section 244L(2)(a) of date determined by FA 2004 or under the 20</p>
<p>Trading losses</p>	<p><> regulations”</p>
<p>7 Chapter 2 of Part 4 of CTA 2010 (trade losses) is amended in accordance with paragraphs 8 to 11.</p> <p>8 In section 36 (introduction to Chapter) for subsection (1) substitute— “(1) This Chapter provides relief for a loss made by a company in a trade (see sections 37 to 47”).</p> <p>9 For the italic heading before section 37 substitute—</p>	<p><> 20 (1) In regulation 3(1) of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), in Table 1, at the end insert-</p>
<p>“Relief in loss-making period and carry back relief”.</p> <p>10 (1) Section 45 (carry forward of trade loss against subsequent trade profits) is amended as follows.</p> <p>(2) In the heading, after “of” insert “pre-1 April 2017”.</p> <p>(3) In subsection (1) after “accounting period” insert “beginning before 1 April 2017”.</p> <p>(4) In subsection (4)(b) for “cannot be” substitute “is not”.</p> <p>(5) After subsection (4) insert—</p> <p>“(4A) But the company may make a claim that the profits of the trade of an</p>	<p><> “Charge under section 244A</p> <p>1. The name, date of birth and (overseas transfer charge). national insurance number of 25 each individual in whose case</p>
	<p>a transfer results in the scheme administrator becoming liable to the overseas transfer charge. 30</p> <p>2. The date, and transferred value, of each transfer.</p> <p>3. The reference number of the qualifying recognised overseas pension scheme to 35</p>

	<p>which each transfer is made.</p> <p>4. The amount of tax due in respect of each transfer.”</p>
<p>accounting period specified in the claim are not to be reduced by the unrelieved loss, or are not to be reduced by the unrelieved loss by more than an amount specified in the claim.</p> <p>(4B) A claim under subsection (4A) may specify an accounting period only if it begins on or after 1 April 2017.</p> <p>Draft provisions for Finance Bill 2017</p> <p>141</p> <p>Schedule 6 – Carried-forward losses</p> <p>Part 1 – Amendment of general rules about carrying forward losses</p>	<p>=</p> <p><> (2) The amendment made by this paragraph is to be treated as having been made by the Commissioners for Her Majesty’s Revenue and Customs under 40</p> <p>the applicable powers to make regulations conferred by section 254 of FA 2004.</p> <p>21 (1) The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Finance (No. 2) Bill</p> <p>189 Schedule 4 – Pensions: offshore transfers</p> <p>Part 2 – Income tax on pension transfers: overseas transfer charge</p>
<p>(4C) A claim under subsection (4A) is effective if, and only if, it is made—</p> <p>(a) within the period of two years after the end of the accounting period specified in the claim, or</p> <p>(b) within such further period as an officer of Revenue and Customs may allow.”, and</p> <p>(6) In subsection (5) for “section” (in the second place it occurs) substitute “,</p> <p>sections 45B, 45F and”.</p> <p>11 After section 45 insert—</p> <p>“45A Carry forward of post-1 April 2017 trade loss against total profits</p> <p>(1) This section applies if—</p> <p>(a) in an accounting period (“the loss-making period”) beginning on or after 1 April 2017 a company carrying on a trade makes a loss in the trade,</p> <p>(b) relief under section 37 or Part 5 (group relief) is not given for an amount of the loss (“the unrelieved amount”),</p> <p>(c) the company continues to carry on the trade in the next accounting period (“the later period”), and</p>	<p>=</p> <p><> Corresponding Relief) Regulations 2006 (S.I. 2006/208) are amended as follows.</p> <p>(2) In regulation 1(2) (interpretation), after the definition of “HMRC” insert—</p> <p>““onward transfer” has the meaning given by section 244A;”.</p> <p>(3) In regulation 3(2) (duty to provide information to HMRC)—</p> <p>5</p> <p>(a) in sub-paragraph (c), after “no relevant transfer fund remains” insert</p> <p>“and no ring-fenced transfer funds remain”, and</p> <p>(b) after sub-paragraph (d) insert—</p>

<p>(d) the conditions in subsection (2) are met.</p> <p>(2) The conditions are that-</p> <p>(a) the trade did not become small or negligible in the loss-making period,</p> <p>(b) relief under section 37 was not unavailable for the loss by reason of subsection (5) of that section or section 44, 48 or 52,</p>	<p>“(da) if the payment is made to a QROPS-</p> <p>(i) whether the overseas transfer charge arises on 10 the payment,</p> <p>(ii) if the charge does arise, the transferred value and the amount of charge the scheme manager deducted from the payment before making it, 15</p> <p>(iii) if the charge does not arise, why it does not,</p>
<p>and</p>	<p>= and</p>
<p>(c) relief under section 37 would not be unavailable by reason of section 44 for a loss (assuming there was one) made in the trade in the later period.</p> <p>(3) The unrelieved amount is carried forward to the later period.</p> <p>(4) The company may make a claim for relief to be given in the later period for the unrelieved amount or for any part of it specified in the claim.</p> <p>(5) If the company makes a claim, the relief is given by deducting the unrelieved amount, or the specified part of it, from the company's</p>	<p><> (iv) the total amount or value of the member's relevant transfer fund, and ring-fenced transfer funds, remaining immediately after 20 the payment;”.</p> <p>(4) In regulation 3, after paragraph (2) insert-</p> <p>“(2A) Paragraphs (2B) and (2C) apply where-</p> <p>(a) a recognised transfer is made to a QROPS, or (b) an onward transfer is made by a QROPS or former QROPS. 25</p> <p>(2B) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after 30 the date the scheme manager is notified of the event, provide to HMRC notification of-</p> <p>(a) the occurrence, nature and date of the event, 35</p> <p>(b) the transferred value of the transfer, (c) the amount of overseas transfer charge on the transfer,</p>

total profits of the later period.

(6) A claim under this section must be made—

(a) within the period of two years after the end of the later

period, or

(b) within such further period as an officer of Revenue and

Customs may allow.

(7) Relief under this section is subject to restriction or modification in

accordance with provisions of the Corporation Tax Acts.

45B Carry forward of post-1 April 2017 trade loss against trade profits

if-
142
Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses
Part 1 – Amendment of general rules about carrying forward losses

35

(d) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and

(e) the total amount or value of the member's relevant transfer

fund, and ring-fenced transfer funds, remaining immediately

after the event.

40

This paragraph is subject to the qualification in paragraph (3A).

(2C) Where the scheme manager of the QROPS or former QROPS becomes aware that the member has at any time in the relevant period for the transfer acquired a new residential address that is neither—

45

(a) in the country or territory in which the QROPS or former QROPS is established, nor

(b) in an EEA state,

190

Finance (No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

(a) in an accounting period (“the loss-making period”) beginning on or after 1 April 2017 a company carrying on a trade makes a loss in the trade,

(b) relief under section 37 or 42 or Part 5 (group relief) is not

given for an amount of the loss (“the unrelieved amount”),

(c) the company continues to carry on the trade in the next

=
<> the scheme manager is to notify that address to HMRC within 3 months after the date on which the scheme manager becomes aware of it.”

(5) In regulation 3, after paragraph (3) insert—

“(3A) No obligation arises under paragraph (2B) in relation to a transfer if

5

accounting period (“the later period”), and
(d) any of the conditions in section 45A(2) are not met.

(2) The unrelieved amount is carried forward to the later period.

(3) Relief for the unrelieved amount is given to the company in the later period if the company makes a profit in the trade in the later period.

(4) The relief is given by reducing the profits of the trade of the later period by the unrelieved amount.

(5) But the company may make a claim for relief not to be given in the

later period for the unrelieved amount or for any part of it specified

in the claim.

(6) A claim under subsection (5) is effective if, and only if, it is made

(a) within the period of two years after the end of the later

period, or
(b) within such further period as an officer of Revenue and Customs may allow.

(7) Relief under this section is subject to restriction or modification in accordance with provisions of the Corporation Tax Acts.

45C Re-application of section 45A if loss remains after previous application

(1) This section applies if
(a) an amount of a loss made in a trade is carried forward to an accounting period (“the later period”) of a company under section 45A(3),
(b) any of that amount is not deducted from the company’s total profits of the later period on a claim under section 45A(4) or

surrendered by way of group relief for carried forward-losses

the following conditions are met—

(a) at the date of the transfer more than 10 years has elapsed since the key date for the ring-fenced transfer fund arising from the transfer (see paragraph 1 of Schedule 34); and

(b) the relevant member to whom the transfer is made is a person

10

to whom the member payment provisions do not apply.”

(6) In regulation 3(6), in the definition of “relevant member”, after “relevant

transfer fund” insert “or any ring-fenced transfer fund”.

(7) In regulation 3AB(4), for the words from “as a result” to the end substitute

“as a result of—

15

(a) a transfer of the member’s relevant transfer fund,

(b) a transfer of any of the member’s ring-fenced transfer funds,

or

(c) a recognised transfer,

after the date of the relevant event concerned.”

20

(8) In regulation 3AC—

(a) in paragraph (1)(a), before the “or” at the end of paragraph (i) insert—

“(ia) any of the member’s ring-fenced transfer funds;”, and

25

(b) in the title omit “relevant”.

(9) In regulation 3AD—

(a) in paragraph (1)(a), before the “or” at the end of paragraph (i) insert—

under Part 5A,
(c) the company
continues to carry on the trade in the

accounting period
("the further period") after the later
period, and
(d) the conditions in
subsection (2) are met.
(2) The conditions are that—
(a) the trade did not
become small or negligible in the later
period, and
(b) relief under section
37 would not be unavailable by reason of

section 44 for a
loss (assuming there was one) made in the
trade in the
further period.

(3) Subsections (3) to (7) of
section 45A apply as if—

Draft provisions for Finance Bill 2017

143

Schedule 6 – Carried-forward losses
Part 1 – Amendment of general rules about
carrying forward losses

(a) references to
the unrelieved amount were to so much of the
amount
carried forward to the later period as is
not deducted
or
surrendered as mentioned in subsection (1)
(b), and

"(ia) any
of the member's ring-fenced transfer
30

funds;"
(b) in paragraph (2), after sub-
paragraph (a) insert—
“(aa) where any of
the transferred sums or assets are

referable
to the member's UK-tax relieved fund, the
value of so
many of them as are referable to tax-
35

relieved
contributions, or tax-exempt provision,
made under
the scheme before 9 March 2017;
(ab) the value of
so many of the transferred sums or assets
as are
referable to any of the member's ring-fenced
transfer
funds (if any);",
40

(c) in paragraph (2)(b) omit
the "and" at the end,

(d) in paragraph (2)(c)(i),
after "fund" insert "or any of the member's
ring-fenced transfer
funds",
45

(e) in paragraph (2)(c), in the
words after paragraph (ii)—
(i) omit "it is", and

(ii) after "the date of
that transfer" insert "and the date it was
requested",
Finance (No. 2) Bill

191
Schedule 4 – Pensions: offshore transfers
Part 2 – Income tax on pension transfers:
overseas transfer charge

=

<> (f) in paragraph (2),
after sub-paragraph (c) insert—
“(d) whether
the overseas transfer charge arises on the
transfer;
(e) if the
charge does arise on the transfer—
(i) the transferred value of the transfer,
and 5
(ii) the amount in respect of the charge
deducted
by the scheme manager from the transfer;

(b) references to the later period were to the further period.
45D Application of section 45B if loss remains after application of section 45A
(1) This section applies if-

(a) an amount of a loss made in a trade is carried forward to an accounting period ("the later period") of a company under section 45A(3),
(b) any of that amount is not deducted from the company's total profits of the later period on a claim under section 45A(4) or surrendered by way of group relief for carried forward losses under Part 5A,
(c) the company continues to carry on the trade in the accounting period ("the further period") after the later period, and
(d) either of the conditions in section 45C(2) are not met.

(2) Subsections (2) to (7) of section 45B apply as if-
(a) references to the unrelieved amount were to so much of the amount carried forward to the later period as is not deducted or surrendered as mentioned in subsection (1)(b), and
(b) references to the later period were to the further period.

45E Re-application of section 45B if loss remains after previous application
(1) This section applies if-

(a) an amount of a

(f) if the transfer is excluded from the charge-
(i) the reason for its exclusion, and
(ii) where section 244G(2)(a) or (b) (charge paid 10 on earlier transfer) is the reason for its exclusion, the date of the earlier transfer on which the charge was paid and the amount of charge paid on that earlier transfer; and
(g) the relevant period for the transfer (see section 15
244A(4)).", and
(g) in the title omit "relevant".
(10) After regulation 3AD insert-
"3AE Information provided by member to QROPS: onward transfers
(1) Paragraph (4) applies where a member of a QROPS or former
20 QROPS makes a request to the scheme manager to make an onward transfer to a QROPS.
(2) But paragraph (4) does not apply if-
(a) the transfer will be excluded from the overseas transfer charge by section 244G, or
25
(b) the transfer will take after the end of the relevant period (see section 244A(4)) for what would be the original transfer in
relation to the

loss made in a trade is carried forward to an accounting period (“the later period”) of a company under section 45B(2), (b) any of that amount is not used under section 45B(4) to reduce profits of the trade for the later period, and (c) the company continues to carry on the trade in the accounting period (“the further period”) after the later period.

(2) Subsections (2) to (7) of section 45B apply as if—

(a) references to the unrelieved amount were to so much of the amount carried forward to the later period as was not used as mentioned in subsection (1)(b), and

(b) references to the later period were to the further period.

45F Terminal losses: relief unrestricted by Part 7ZA and 7A

(1) This section applies if—

(a) a company makes a loss in a trade in an accounting period (the “loss-making period”), (b) an amount of that loss is carried forward to an accounting period of the company (“the terminal period”) under section 45, 45A or 45B,

144
Bill 2017

Draft provisions for Finance

losses Schedule 6 – Carried-forward Part 1 – Amendment of general rules about carrying forward losses

requested onward transfer.

(3) In this regulation “original transfer”, in relation to an onward

transfer, has the meaning given by section 244A(5).

30

(4) The member must provide to the scheme manager—

(a) the member’s name, date of birth and principal residential address,
(b) if the member is not UK resident for income tax purposes, the date when the member last ceased to be UK resident for those purposes,
35

(c) the member’s national insurance number or, where applicable, confirmation that the member does not qualify for a national insurance number,

(d) the name and address of the QROPS to which the transfer is 40 to be made,

(e) the country or territory under the law of which that QROPS is established and regulated,

(f) the reference number, if any, given by the Commissioners for that QROPS,
45

(g) whether the member knows for certain that the transfer would be excluded from the overseas transfer charge by one
192

Finance
(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

=

<> of sections 244D, 244E and 244F, and if the member does know that for certain—

(c) relief in the terminal period is not given under section 45, 45A or (as the case may be) 45B for that amount or for any part of it, and

(d) the company ceases to carry on the trade in the terminal period.

(2) The company may make a claim for relief to be given for the unrelieved amount under this section.

(3) If the company makes a claim the relief is given by deducting the

unrelieved amount from the relevant profits of the company of—
(a) the terminal period, and

(b) previous accounting periods so far as they fall (wholly or partly) within the period of 3 years ending with the end of the terminal period.

(4) But no deduction is to be made under subsection (3) for any accounting period which is—

(a) the loss-making period, (b) a period before the loss-making period, or
(c) a period beginning before 1 April 2017.

(5) The amount of a deduction to be made under subsection (3) for any accounting period is the amount of the unrelieved amount so far as it cannot be deducted under that subsection for a subsequent accounting period.

(6) The company's claim must be made—

(i) the section concerned (if known),

(ii) the name and address of the member's employer whose connection with the QROPS gives rise to 5

exclusion of the transfer from the charge,

(iii) the member's job title as an employee of that employer,

(iv) the date the member's employment with that employer began, and 10

(v) if known, that employer's tax reference for that employment, and

(h) the member's acknowledgement in writing that the member—

(i) is aware that an onward transfer to a qualifying 15 recognised overseas pension scheme may give rise to a liability to overseas transfer charge, and
(ii) is aware of the circumstances in which liability arises, in which liability is excluded from the outset and in which liability is excluded only if conditions continue 20

to be met over a period of time.

(5) The information specified in paragraph (4) must be provided within 60 days beginning with the day the transfer request is made.

(6) The scheme manager must send the member notification of the requirements specified in this regulation within 30 days beginning 25 with that day.

3AF Provision of information about liability for overseas transfer charge

(1) If an onward transfer is made from a QROPS or former QROPS and the overseas transfer charge arises on the transfer, the scheme

(a) within the period of two years after the end of the terminal period, or

(b) within such further period as an officer of Revenue and Customs may allow.

(7) In this section—

“the unrelieved amount” means so much of the amount

mentioned in subsection (1)(b) for which relief is not given in

the terminal period under section 45, 45A or (as the case may

be) 45B, and

“relevant profits”, in relation to the terminal period or any previous accounting period, means—

(a) the total profits of the company of the period, in a case

where the unrelieved amount was carried forward to

the terminal period under section 45A, (b) the profits of the trade of the period, in a case where

the unrelieved amount was carried forward to the terminal period under section 45 or 45B.

(8) Relief under this section is subject to restriction or modification in

accordance with provisions of the Corporation Tax Acts.

45G Section 45F: accounting period falling partly within 3 year period

(1) This section applies if an accounting period falls partly within the period of 3 years mentioned in section 45F(3)(b).

Draft provisions for Finance Bill 2017

145

Schedule 6 – Carried-forward losses

Part 1 – Amendment of general rules about carrying forward losses

manager of the QROPS or former QROPS must within 90 days after

30

the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

(b) that overseas transfer charge arises on the transfer,

(c) the transferred value of the transfer,

(d) the amount of the charge on the transfer,

35

(e) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and

(f) where the scheme manager has accounted for the charge, the date the scheme

manager did so.

(2) If an onward transfer is made from a QROPS or former QROPS and

40

the transfer is excluded from the overseas transfer charge by or under sections 244B to 244H, the scheme manager of the QROPS or former QROPS must within 90 days after the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

45

(b) that the transfer is excluded from the overseas transfer charge,

(c) the provision by reason of which the transfer is excluded, and

(d) where that provision is section 244B or 244C—Finance (No. 2) Bill

193

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

(2) The amount of the deduction for the unrelieved amount for the

(i)

when the relevant period for the transfer

accounting period is not to exceed an amount equal to the overlapping proportion of the company's relevant profits of that period.

(3) The overlapping proportion is the same as the proportion that the part of the accounting period falling within the period of 3 years bears to the whole of the accounting period.

(4) In this section "the unrelieved amount" and "relevant profits" have the meaning given by section 45F(7).

45H Section 45F: transfers of trade to obtain relief

Section 45F does not apply by reason of a company ceasing to carry on a trade if-

(a) on the company ceasing to carry on the trade, any of the activities of the trade begin to be carried on by a person who is not (or by persons any or all of whom are not) within the charge to corporation tax, and

(b) the company's ceasing to carry on the trade is part of a scheme or arrangement the main purpose, or one of the main purposes, of which is to secure that that section applies by reason of the cessation."

ends, and (ii) how the transfer may turn out not to be excluded as a result of the member changing country or territory of residence within the relevant period for the transfer.

(3) Paragraph (4) applies if-

5 (a) a recognised transfer is made to a QROPS, or (b) an onward transfer is made by a QROPS or former QROPS.

(4) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that 10 entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after the date the scheme manager is notified of the event, provide the member with a notice stating-

(a) the amount of overseas transfer charge on the transfer, 15 (b) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and (c) where the scheme manager has accounted for the charge, the date the scheme manager did so.

UK property business losses

=

+-

=

with paragraphs 13 and 14.

13 (1) Section 62 (relief for losses made in UK property business) is amended as follows.

(2) In subsection (4)–

(a) in the words before paragraph (a), for “Subsection (5) applies” substitute “Subsections (5) to (5C) apply”, and

(b) for paragraph (a) substitute–

“(a) an amount of the loss is not deducted as mentioned in subsection (3) or surrendered by way of group relief under Part 5.”.

(3) In subsection (5), for the words before paragraph (a) substitute “The

amount”.

(4) After subsection (5) insert–
“(5A) But relief under subsection (2) for the amount is given to the

company in the next accounting period only on the making by the company of a claim.

(5B) A claim may relate to the whole of the amount or to part of it only.

(5C) A claim must be made–

(a) within the period of two years after the end of the next

accounting period, or

(b) within such further period as an officer of Revenue and Customs may allow.

146

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 1 – Amendment of general rules about carrying forward losses

(5D) In the application of this section to an amount of a loss previously carried forward under subsection (5), the reference in subsection

(4)(a) to group relief under Part 5 is to be read as a reference to

where–

(1) Paragraph (2) applies

(a) overseas transfer charge arises on an onward transfer from a

QROPS or former

(b) the scheme manager has notified HMRC of the transfer or,

where applicable, of the event triggering payability of the

25

charge on the transfer, and

(c) HMRC have provided the scheme manager with an accounting reference for paying the charge on the transfer.

(2) The scheme manager must pay the charge to HMRC using the accounting reference.

30

(3) Payment of the charge is due at the end of the 91 days beginning with

the date of issue of the accounting reference.

3AH Assessments of unpaid overseas transfer charge on onward transfers

=

<>

(1) Where the correct amount of overseas transfer charge due from a scheme manager under regulation 3AG on an onward transfer has

group

relief for carried-forward losses under Part 5A."

14 (1) Section 63 (company with investment business ceasing to carry on UK property business) is amended as follows.

(2) For subsection (2) substitute-

"(2) Subsections (3) to (7) apply if an amount of loss made in carrying on

the UK property business would be carried forward to the next

accounting period under section 62(5) but for the company ceasing

to carry on the business or to be within the charge to corporation tax

in respect of it."

(3) In subsection (3)(b) for "that" substitute "the next accounting".

(4) After subsection (3) insert-

"(4) But a deduction in respect of the amount of loss may be made under

section 1219 of CTA 2009 for the next accounting period only on the making by the company of a claim.

(5) A claim may relate to the whole of the amount of the loss or to part of it only.

(6) A claim must be made—
(a) within the period of two years after the end of the next accounting period, or

(b) within such further period as an officer of Revenue and Customs may allow.

(7) Subsection (1A) of section 1219 does not apply in relation to a deduction in respect of the amount of loss made for the next accounting period."

35

not been paid by the time it is due, an officer of Revenue and Customs must issue an assessment to tax to the scheme manager.

(2) Tax assessed under this regulation is payable within 30 days after the issue of the notice of assessment.

3AI Interest on overdue overseas transfer charge

40

(1) Tax which—
(a) becomes due and payable in accordance with regulation

3AG, or

(b) is assessed under regulation 3AH,

carries interest at the prescribed rate from the due date under regulation 3AG until payment ("the interest period").

45

194

Finance (No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part

2 – Income tax on pension transfers: overseas transfer charge

(2) Paragraph (1) applies even if the due date is a non-business day as

defined by section 92 of the Bills of Exchange Act 1882.

(3) The "prescribed rate" means the rate applicable under section 178 of

the Finance Act 1989 for the purposes of section 86 of TMA.

(4) Any change made to the prescribed rate during the interest period

5

applies to the unpaid amount from the date of the change.

3AJ Adjustments, repayments and interest on overpaid charge

(1) If the correct tax due under regulation 3AG has not been paid on or

before the due date, an officer of Revenue and Customs may make such adjustments or repayments as may be required for securing that

10

the resulting liabilities to tax (including interest on unpaid or

overpaid tax) whether of the scheme manager or of any other person are the same as they would have been if the correct tax had been

		paid.
PART 2	=	
RESTRICTION ON DEDUCTIONS IN RESPECT OF CARRIED-FORWARD LOSSES	+-	
15 CTA 2010 is amended in accordance with paragraphs 16 to 22.	<>	(2) Tax overpaid which is repaid to the scheme manager or any other 15
16 After section 269 insert–	=	
“PART 7ZA	+-	
RESTRICTIONS ON OBTAINING CERTAIN DEDUCTIONS	+-	
Introduction	<>	
269ZA Overview of Part		person carries interest at the prescribed rate from the later of the due
This Part contains provision restricting the amount of certain		date and the date on which the tax was paid until the date of repayment (“the interest period”).
deductions which a company may make in calculating its taxable		(3) The “prescribed rate” means the rate applicable under section 178 of
total profits for an accounting period.		the Finance Act 1989 for the purposes of section 824 of the Income 20 and Corporation Taxes Act 1988.
Draft provisions for Finance Bill 2017		(4) Any change to the prescribed rate during the interest period applies to the overpaid amount from the date of the change.”
147		(11) In regulation 3B (information on cessation of a QROPS), after “relevant
Schedule 6 – Carried-forward losses		transfer fund”, in both places, insert “, or ring-fenced transfer fund.”.
Part 2 – Restriction on deductions in respect of carried-forward losses		25
Restrictions on obtaining certain deductions	=	
269ZB Restriction on deductions from trading profits	<>	
(1) This section has effect for determining the taxable total profits of a company for an accounting period.		(12) In regulation 3C (correction of information)–
(2) The sum of any deductions made by the company for the accounting period under sections 45(4)(b) and 45B (carry forward of trade loss against subsequent trade profits) may not exceed the relevant		(a) in paragraph (3)(a)(i), after “existence” insert “or, where the information relates to a ring-fenced transfer fund in respect of the relevant member, more than 10 years has elapsed beginning with the

maximum.
But this is subject to subsection (8).

(3) In this section the "relevant maximum" means the sum of—
(a) 50% of the company's relevant trading profits for the accounting period, and

(b) the company's trading profits deductions allowance for the accounting period.

(4) Section 269ZE contains provision for determining a company's

relevant trading profits for an accounting period.

(5) A company's "trading profits deductions allowance" for an accounting period—

(a) is so much of the company's deductions allowance for the

period as is specified in the company's tax return as its

trading profits deductions allowance for the period, and

(b) accordingly, is nil if no amount of the company's available deductions allowance for the period is so specified.

(6) An amount specified under subsection (5)(a) as a company's

date on which that ring-fenced transfer fund came into existence",
30

and

(b) in paragraph (3)(b), at the end insert "and there are no ring-fenced transfer funds".

(13) In regulation 5(1) (application of provisions providing for penalties)—

(a) after "3(2)," insert "(2B) or (2C)," and

35
(b) before "or 3C(1)" insert "3AE(6), 3AF".

(14) The amendments made by this paragraph—

(a) are, so far as they insert new regulation 3AE(1) to (5), to be treated as

having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by

40
section 169(4ZA) of FA 2004,

(b) are, so far as they insert new regulations 3AE(6) and 3AF and amend regulations 3 to 3AD and 3B to 5, to be treated as having been made by the Commissioners under the powers to make regulations under

45
section 169(4) of FA 2004 (see section 169(4), (4A), (4B) and (4C) of that Act), and

Finance (No. 2) Bill

195

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

=

<> (c) are, so far as they insert new regulations 3AG to 3AJ, to be treated as having been made by the Commissioners under the applicable powers to make regulations conferred by section 244L of FA 2004.

22 (1) The Registered Pension Schemes (Transfers of Sums and Assets) Regulations 2006 (S.I. 2006/499) are amended as follows.

5

(2) In regulation 5, the existing text becomes paragraph (1).

(3) After that paragraph insert—

"(2) In paragraph (1)(a) "administration costs" includes, in

trading

profits deductions allowance for an accounting period may not exceed the difference between—

(a) the amount of the company's deductions allowance for the period, and
(b) any amount specified under section 269ZC(5)(a) as the

company's non-trading profits deduction allowance for the period.

(7) A company's "deductions allowance" for an accounting period is to

be determined in accordance with section 269ZG where, at any time in that period—

(a) the company is a member of a group (see section 269ZD), and

(b) one or more other companies within the charge to

corporation tax are members of that group.

Otherwise, a company's "deductions allowance" for an accounting

period is to be determined in accordance with section 269ZL.

(8) Subsection (2) does not apply in relation to a company for an

particular,

payments of overseas transfer charge."

(4) The amendments made by this paragraph are to be treated as made by the

10

Commissioners for Her Majesty's Customs and Revenue under the powers

to make regulations conferred by paragraph 2(4)(h) of Schedule 28 to FA 2004.

23 (1) The Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567) are amended as follows.

15

(2) In regulation 3(1) (provision of information by scheme administrators to

HMRC), in column 2 of the entry in the Table for reportable event 9—

(a) after paragraph (g) insert
“(ga) whether or not overseas transfer charge arises on the transfer;

20

(gb) if the transfer is excluded from the charge, the reason

why it is excluded;

(gc) if the charge arises on the transfer—

(i) the transferred value, and

(ii) the amount in respect of the charge deducted

25

from the transfer;”, and

(b) after paragraph (h) insert—

“(ha) the reference number, if any, given by the

Commissioners for the QROPS;”.

(3) In regulation 3(7) (deadline for event report for reportable event 9), at the

30

end insert “but, if the scheme administrator applies before the end of those

60 days for a repayment of overseas transfer charge on the transfer, the

report must be delivered before the administrator applies for the repayment.”

(4) In regulation 11BA(2) (information about transfer to be provided by member

35

accounting period where, in determining the company's relevant

trading profits, the amount given by step 1 in section 269ZE(3) is not

greater than nil.

269ZC Restriction on deductions from non-trading profits

(1) This section has effect for determining the taxable total profits of a company for an accounting period.

148

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(2) The sum of any deductions made by the company for the accounting period under section 457(3) of CTA 2009 (carry forward of non-

trading deficits from loan relationships against subsequent non-

trading profits) may not exceed the relevant maximum. But this is subject to subsection (8).

(3) In this section the "relevant maximum" means the sum of—

(a) 50% of the company's relevant non-trading profits for the accounting period,

to scheme administrator)—
(a) in sub-paragraph (a), omit paragraphs (vi) and (vii), including the "and" at the end,
(b) after sub-paragraph (a) insert—

(aa) the name and address of, and (if known) the reference

40

number

given by the Commissioners for, the qualifying recognised overseas pension scheme ("the

QROPS");

(ab) the country or territory under the law of which the QROPS is established and regulated;

45

(ac) whether the member knows for certain that the

transfer would be excluded from the overseas

196

Finance

(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

=

<> transfer charge by one of sections 244D, 244E and 244F, and if the member does know that for certain—
(i) the section concerned (if known),
(ii) the name and address of the member's employer whose connection with the QROPS

5

gives rise to exclusion of the transfer from the

charge,

(iii) the member's job title as an employee of that employer,

(iv) the date the member's employment with that

10

employer began, and

(v) if known, that employer's tax reference for

and

(b) the amount of the company's non-trading profits deductions

allowance for the accounting period.

(4) Section 269ZE contains provisions for determining a company's relevant non-trading profits for an accounting period.

(5) A company's "non-trading profits deductions allowance" for an accounting period—

(a) is so much of the company's deductions allowance for the

period as is specified in the company's tax return as its non-trading profits deductions allowance for the period, and

(b) accordingly, is nil if no amount of the company's deductions allowance for the period is so specified.

(6) An amount specified under subsection (5)(a) as a company's non-trading profits deductions allowance for an accounting period may not exceed the difference between—

(a) the amount of the company's deductions allowance for the period, and
(b) any amount specified under section 269ZB(5)(a) as the

company's trading profits deduction allowance for the period.

(7) A company's "deductions allowance" for an accounting period is to be determined in accordance with section 269ZG where, at any time in that period—

(a) the company is a member of a group (see section 269ZG), and
(b) one or more other companies within the charge to

corporation tax are members of that group.

Otherwise, a company's

that employment;" , and

(c) after sub-paragraph (b) insert ";" and

(c) the member's acknowledgement in writing that the

15

member—

(i) is

aware that a recognised transfer to a

qualifying recognised overseas pension scheme may give rise to a liability to overseas

transfer charge, and

20

(ii) is aware of the circumstances in which liability arises, in which liability is excluded

from the outset and in which liability is excluded only if conditions continue to be met

over a period of time."

25

(5) After regulation 11BA insert—
"11BB Information provided by members to scheme administrators:
potentially excluded transfers

(1) Paragraph (2) applies where—

(a) a recognised transfer is made by a registered pension scheme
30
to a qualifying recognised overseas pension scheme, and

(b) the transfer is required by section 244B or 244C to be initially assumed to be excluded from the overseas transfer charge by

that section.

(2) Each time during the relevant period for the transfer that the

35

member—

“deductions allowance” for an accounting period is to be determined in accordance with section 269ZL.

(8) Subsection (2) does not apply in relation to a company for an accounting period where, in determining the company’s relevant non-trading profits for the period, the amount given by step 1 in

section 269ZE(3) is not greater than nil.

269ZD Restriction on deductions from total profits

(1) This section has effect for determining the taxable total profits of a company for an accounting period.

(2) The sum of any relevant deductions made by the company for the accounting period may not exceed the difference between—

(a) the relevant maximum, and

(b) the sum of any deductions made by the company for the accounting period under—

Draft provisions for Finance Bill 2017

149

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(i) sections 45(4)(b) and 45B (carry forward of trade loss

against subsequent trade profits), and
(ii) section 457(3) of CTA 2009 (carry forward of non-

trading deficits from loan relationships against

subsequent non-trading profits).
But this is subject to subsection (7).

(3) The following deductions made for an accounting period are “relevant deductions” for the purposes of this section—

(a) a deduction under section 463G of CTA 2009 (carry forward

of non-trading deficit against total profits);

(b) a deduction under section 753 of CTA 2009 (non-trading losses on intangible fixed assets) in respect of a loss treated by

subsection (3) of that section (carry forward of losses) as

(a) becomes resident in a country or territory, or
(b) ceases to be resident in a country or territory, the member must, within 60 days after the date that happens, inform the scheme administrator of the registered pension scheme that it has
40 happened.”

(6) After regulation 12 insert—

“12A Provision of information about liability for overseas transfer charge

(1) If a recognised transfer is made by a registered pension scheme to a qualifying recognised overseas pension scheme and the overseas

45 transfer charge arises on the transfer, the scheme administrator of the registered pension scheme must within 90 days after the date of the transfer provide the member with a notice stating—
Finance (No. 2) Bill

197

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

=

<>

(a) the date of the transfer,

(b) that overseas transfer charge arises on the transfer,

(c) the transferred value of the transfer,

if it were a loss of the accounting period;

(c) a deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) in respect of an amount treated by section 1223(3) of that Act (carrying forward of expenses of management and other amounts) as expenses of management deductible for the accounting period;

(d) a deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business) in respect of a loss treated by section 63(3) (carrying forward of certain losses made by company with investment business which ceases to carry on UK property business) as an expense of management deductible for the accounting period;

(e) a deduction under section 45A (carry forward of trade loss against total profits);

(f) a deduction under section 62(3) (relief for losses made in UK property business) in respect of a loss treated by subsection (5)(b) of that section (carry forward of losses) as a loss made by the company in the accounting period;

(g) a deduction under Part 5A (group relief for carried-forward losses).

(4) In this section the "relevant maximum" means the sum of—

(a) 50% of the company's relevant profits for the accounting period, and

(b) the amount of the company's deductions allowance for the accounting period.

(5) Section 269ZF contains provisions for determining a company's

(d) the amount of the charge on the transfer,

(e) whether, and to what extent, the scheme administrator has accounted, or intends to account, for the charge, and

(f) where the scheme administrator has accounted for the charge, the date the scheme administrator did so.

(2) If a recognised transfer is made by a registered pension scheme to a qualifying recognised overseas pension scheme and the transfer is excluded from the overseas transfer charge by or under sections 244B to 244H, the scheme administrator of the registered pension scheme must within 90 days after the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

(b) that the transfer is excluded from the overseas transfer charge,

(c) the provision by reason of which the transfer is excluded, and

(d) where that provision is section 244B or 244C, how the transfer may turn out not to be excluded as a result of the member changing country or territory of residence within the relevant

relevant profits for an accounting period.

(6) A company's "deductions allowance" for an accounting period is to be determined in accordance with section 269ZG where, at any time

in that period—

(a) the company is a member of a group (see section 269ZG), and

(b) one or more other companies within the charge to

corporation tax are members of that group.

Otherwise, the company's "deductions allowance" for the

accounting period is to be determined in accordance with section 269ZL.

150

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(7) Subsection (2) does not apply in relation to a company for an accounting period where, in determining the company's relevant

profits for the period, the amount given by step 1 in section 269ZE(3) is not greater than nil.

Relevant profits

269ZE "Relevant trading profits" and "relevant non-trading profits"

(1) A company's "relevant trading profits" for an accounting period are—

(a) the company's qualifying trading profits for the accounting period (see subsection (3)), less (b) the company's trading profits deduction allowance for the accounting period (see section 269ZB(5)).

But if the allowance mentioned in paragraph (b) exceeds the profits

mentioned in paragraph (a), the company's "relevant trading

period for the transfer.

(3) If overseas transfer charge on a transfer is repaid to the scheme administrator of a registered pension scheme, the scheme

administrator must within 90 days after the date of the repayment

25

provide the member with a notice stating—

(a) the date of the repayment,

(b) the amount of the repayment, and

(c) the reason for the repayment."

(7) After regulation 14ZC insert-

30 "14ZCA Further information provided by scheme administrators on

recognised transfers to overseas schemes

(1) This regulation applies if there is a recognised transfer from a

=
<>
registered pension scheme to a qualifying recognised overseas pensions scheme.

35 (2) The scheme administrator of the registered pension scheme must

=
<>
provide the scheme manager of the qualifying recognised overseas pension scheme with a statement—

(a) stating whether or not the overseas transfer charge arose on the transfer, and

profits" for the accounting period are nil.

(2) A company's "relevant non-trading profits" for an accounting period are—

(a) the company's qualifying non-trading profits for the accounting period (see subsection (3)), less

(b) the company's non-trading profits deductions allowance for

the accounting period (see section 269ZC(5)).

But if the allowance mentioned in paragraph (b) exceeds the profits

mentioned in paragraph (a), the company's "relevant non-trading

profits" for the accounting period are nil.

(3) To determine a company's qualifying trading profits and qualifying non-trading profits for an accounting period—

Step 1

Calculate the company's total profits for the accounting period, without making any deductions under—

(a) sections 45(4)(b) and 45B (carry forward of trade loss against subsequent trade profits), or

(b) section 457(3) of CTA 2009 (carry forward of non-trading deficits from loan relationships against subsequent non-

trading profits).

(If the amount given by this step is not greater than nil, no further steps are to be taken: see sections 269ZB(8), 269ZC(8) and 269ZD(7)).

Step 2

Calculate the sum of any amounts which can be relieved against the

company's total profits for the accounting period (as calculated in

accordance with step 1), ignoring the amount of any excluded

(b) stating—

(i) if the charge arose, the amount of the charge, and

(ii) if the transfer is excluded from the charge, the reason why it

is excluded.

(3) The requirement under paragraph (2) is to be complied with before 45

the end of the 31 days beginning with the date of the transfer.

198

Finance

(No. 2) Bill

Schedule 4 – Pensions: offshore transfers

Part 2 – Income tax on pension transfers: overseas transfer charge

(4) Paragraph (5) applies if overseas transfer charge on the transfer is

repaid to the scheme administrator of the registered pension scheme.

(5) The scheme administrator of the registered pension scheme must

provide the scheme manager of the qualifying recognised overseas pension scheme with—

5

(a) a copy of the statement under paragraph (2),

(b) a statement that the original statement is inaccurate and that the overseas transfer charge on the transfer has been repaid

to the scheme administrator, and

(c) the reason why the transfer is excluded from the charge.

10

deductions for the accounting period (see subsection (5)). If the amount given by step 1 does not exceed the amount given by this step, the qualifying trading profits and the qualifying non-trading profits are both nil.

Otherwise, proceed with steps 3 to 5.

Step 3

Divide the company's total profits for the accounting period (as calculated in accordance with step 1) into profits that are profits of a

(6) The requirement under paragraph (5) is to be complied with before the end of the 31 days beginning with the date of the repayment."

(8) The amendments made by this paragraph are to be treated as made by the

Commissioners for Her Majesty's Revenue and Customs under the applicable powers to make regulations conferred by section 251 of FA 2004.

15

Draft provisions for Finance Bill 2017

151
Schedule 6 – Carried-forward losses
Part 2 – Restriction on deductions in respect of carried-forward losses

trade of the company (the company's "trade profits") and profits that are not profits of a trade of the company (the company's "non-trade profits").

Step 4

Take the amount given by step 2 and do one of the following—

(a) reduce the company's trade profits by the whole of that amount,

(b) reduce the company's non-trade profits by the whole of that amount, or

(c) reduce the company's trade profits by part of that amount and reduce the company's non-trade profits by the remaining part of that amount.

Apply this step in a way which ensures that neither the company's trade profits nor the company's non-trade profits are reduced below

nil.

Step 5

= Commencement and transitional provision

<> 24 (1) Subject to sub-paragraphs (2) to (4), the amendments made by this Part of this Schedule have effect in relation to transfers made on or after 9 March 2017.

(2) The new section 169(2)(ba) of FA 2004—

20 (a) has effect on and after 9 March 2017 in the case of a recognised overseas pension scheme where—

(i) the notification mentioned in section 169(2)(a) of FA 2004 (notification that scheme is a recognised overseas pension scheme) is given on or after 9 March 2017, or

25 (ii) although that notification is given before 9 March 2017, the letter from the Commissioners for Her Majesty's Revenue and Customs advising the scheme of the reference number

allocated to the scheme is dated on or after 9 March 2017, and

(b) has effect on and after 14 April 2017 in the case of a recognised

30

overseas pension scheme where that letter is dated before 9 March

2017.

(3) The other amendments in section

The company's qualifying trading profits and qualifying non-

trading profits for the accounting period are the company's trade

profits and non-trade profits following the reductions at step 4.

(4) In calculating a company's total profits for an accounting period at

step 1 in subsection (3) ignore any income so far as it falls within, and

is dealt with under, Part 9A of CTA 2009 (company dividends and other distributions).

(5) The following are "excluded deductions" for an accounting period

("the current accounting period")-

(a) a deduction for the current accounting period which is a

relevant deduction for the purposes of section 269ZD (see subsection (3) of that section),

(b) a deduction under section 37 (relief for trade losses against

169 of FA 2004, and the amendment in section 255 of that Act, come into force on 9 March 2017.

(4) The amendments in regulation 3(2) of the Pension Schemes (Information

35

Requirements for Qualifying Overseas Pension Schemes, Qualifying

Recognised Overseas Pension Schemes and Corresponding Relief)

Regulations 2006 have effect in relation to payments made on or after 9

March 2017; and the new regulation 3AE inserted into those Regulations, and the reference to the new regulation 3AE(6) inserted into regulation 5(1)

40

of those Regulations, have effect in relation to requests made on or after 9

March 2017.

(5) Overseas transfer charge on transfers made in the period beginning with 9

March 2017 and ending with 30 June 2017 is, for the purposes of section 254 of FA 2004, to be treated as charged in the 3 months ending with 30

45

September 2017.

Finance (No. 2) Bill

199

Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

=

-+

SCHEDULE 5
Section 19

=

-+

TRADES AND PROPERTY
BUSINESSES: CALCULATION OF PROFITS

=

-+

PART 1

=

-+

TRADES ETC:
AMENDMENTS OF ITTOIA 2005

=

<>

1 ITTOIA 2005 is amended as follows.

5

2 For section 33A (cash basis: capital expenditure) substitute—
“33A Cash basis: capital expenditure

(1) This section applies in relation to the calculation of the profits of a trade on the cash basis.

(2) No deduction is allowed for an item of a capital nature incurred on,

10

total profits) in relation to a loss made in an accounting period after the current accounting period;

(c) a deduction under section 45F (terminal losses);

(d) a deduction under section 260(3) of CAA 2001 (special leasing of plant or machinery: carry back of excess allowances) in relation to capital allowances for an accounting period after the current accounting period;

(e) a deduction under section 463E of CTA 2009 (non-trading deficit from loan relationships) in relation to a deficit for a period after the current account period.

269ZF "Relevant profits"

(1) A company's "relevant profits" for an accounting period are-

(a) the amount given by step 1 in subsection (3) of section 269ZE, less

(b) the sum of-

(i) the amount given by step 2 in that subsection of that section, and

(ii) the company's deductions allowance for the accounting period (see section 269ZD(6)).

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(2) But if the amount given by step 1 in subsection (3) of section 269ZE

does not exceed the sum of the amounts mentioned in subsection

(1)(b), the company's relevant profits for the accounting period are nil.

or in connection with, the acquisition or disposal of a business or part of a business.

(3) No deduction is allowed for an item of a capital nature incurred on, or in connection with, education or training.

(4) No deduction is allowed for an item of a capital nature incurred on, 15

or in connection with, the provision, alteration or disposal of-

(a) any asset that is not a depreciating asset (see subsections (6) and (7)),

(b) any asset not acquired or created for use on a continuing basis in the trade, 20

(c) a car (see subsection (14)),

(d) land,

(e) a non-qualifying intangible asset (see subsections (8) to (11)),

or (f) a financial asset (see subsection (12)).

25 (5) But subsection (4)(d) does not prevent a deduction being made for expenditure that-

(a) is incurred on the provision of a depreciating asset which, in

Deductions allowance
269ZG Deductions allowance for company in a group

=

<>

(1) This section makes provision as to the deductions allowance of a

company for an accounting period where, at any time in the period-

(a) the company is a member of a group, and
(b) one or more other companies within the charge to corporation tax are members of that group.

(2) The company's deductions allowance for the accounting period is

the sum of—
(a) any amounts of group deductions allowance allocated to the company for the period in accordance with sections 269ZH to 269ZK, and

(b) the appropriate amount of non-group deductions allowance

of the company for the period,

up to a limit of £5, 000, 000.

(3) The "appropriate amount of non-group deductions allowance" of the company, for the accounting period, is—

DNG
-
x £5,000,000

DAC

where—

"DNG" is the number of days in the period on which the company is not a member of a group that has another member that is a company within the charge to corporation tax, and "DAC" is the total

being provided, is installed or otherwise fixed to land so as to

become, in law, part of the land, but

30

(b) is not incurred on, or in connection with, the provision of—
(i) a building,

(ii) a wall, floor, ceiling, door, gate, shutter or window or

stairs,

(iii) a waste disposal system,

35

(iv) a sewerage or drainage system, or

(v) a shaft or other structure in which a lift, hoist, escalator or moving walkway may be installed.

(6) An asset is a "depreciating" asset if, on the date the item of a capital

nature is incurred, it is reasonable to expect that before the end of 20 40

years beginning with that date—

(a) the useful life of the asset will end, or

(b) the asset will decline in value by 90% or more.

200

Finance (No.

2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

(7) The useful life of an asset ends when it could no longer be of use to

any person for any purpose as an asset of a business.

number of days in the period.

(4) If the accounting period is less than 12 months—

(a) the appropriate amount of non-group deductions allowance, and

(b) the limit in subsection (2), are proportionally reduced.

269ZH Group deductions allowance and the nominated company

(1) This section applies where—
(a) two or more members of a group are companies within the charge to corporation tax, and

(b) all the companies within the charge to corporation tax that

are members of the group together nominate (“the group

allowance nomination”) one of their number (“the nominated

company”) for the purposes of this Part.

(2) The “group deductions allowance” for the group is £5, 000, 000 for

each accounting period of the nominated company throughout which the group allowance nomination has effect.

Draft provisions for Finance Bill 2017

153

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(3) If the group allowance nomination takes effect, or ceases to have

effect, part of the way through an accounting period of the

nominated company, the “group deductions allowance” for the group for that period is—

DN

- × £5, 000, 000

DAC
where—
“DN” is the number of days in the accounting period on which

(8) “Intangible asset” means anything that is capable of being an intangible asset within the meaning of FRS 105 and, in particular, includes—

5

(a) an internally-generated intangible asset, and

(b) intellectual property.

(9) An intangible asset is “non-qualifying” unless, by virtue of having a

fixed maximum duration, it must cease to exist before the end of 20

years beginning with the date on which the item of a capital nature 10 is incurred.

(10) An intangible asset is “non-qualifying” if it consists of a right, whether conditional or not, to obtain an intangible asset without a

fixed maximum duration by virtue of which that asset must, assuming the right is exercised at the last possible time, cease to exist 15

before the end of 20 years beginning with the date on which the item of a capital nature is incurred.

(11) Where—

=
<> (a) the trader has an intangible asset, and

(b) the trader grants a licence or any other right in respect of that 20 asset to another

person, any intangible asset that consists of a licence or other right granted to

the trader in respect of the intangible asset mentioned in paragraph

a group allowance nomination that nominates the nominated

company in relation to the group has effect, and “DAC” is the total number of days in the accounting period.

(4) If an accounting period of the nominated company is less than 12 months, the group deductions allowance for that period is proportionally reduced.

(5) A group allowance nomination must state the date on which it is to

take effect (which may be earlier than the date the nomination is made).

(6) A group allowance nomination is of no effect unless it is signed by

the appropriate person on behalf of each company that is, when the nomination is made, a member of the group and within the charge to corporation tax.

(7) A group allowance nomination ceases to have effect—

(a) immediately before the date on which a new group allowance nomination in respect of the group takes

(a) is “non-qualifying”.

(12) A “financial asset” means any right under or in connection with—

25

(a) a financial instrument, or

(b) an arrangement that is capable of producing a return that is

economically equivalent to a return produced under any financial instrument.

(13) A reference to acquisition, provision, alteration or disposal includes

30

potential acquisition, provision, alteration or (as the case may be)

disposal.

(14) In this section— “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not

35

legally enforceable); “building” includes any fixed structure;

“car” has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act);

“financial instrument” has the same meaning as in FRS 105;

40

“FRS 105” means Financial Reporting Standard 105 (the Financial Reporting Standard applicable to the Micro-entities

Regime), issued by the Financial Reporting Council in July

2015;

“intellectual property” means—

45

(a) any patent, trade mark, registered design, copyright

or design right, plant breeders’ rights or rights under

section 7 of the Plant Varieties Act 1997, Finance (No. 2) Bill

201

Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

=

<>

(b) any

right under the law of a country or territory

outside the United Kingdom corresponding or

effect,

(b) upon the appropriate person in relation to a company within the charge to corporation tax that is a member of the group notifying an officer of Revenue and Customs, in writing, that the group allowance nomination is revoked, or (c) upon the nominated company ceasing to be a company within the charge to corporation tax or ceasing to be a member of the group.

(8) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance

nomination or any notification under this section including, in particular, provision

– (a) about the form and manner in which a nomination or notification may be made,

(b) about how a nomination may be revoked and the form and manner of such revocation,

(c) requiring a person to notify HMRC of the making or

revocation of a nomination,

(d) requiring a person to give information to HMRC in connection with the making or revocation of a nomination or

the giving of a notification,

(e) imposing time limits in relation to making or revoking a nomination or giving a notification, and

(f) providing that a nomination or its revocation, or a

notification, is of no effect, or ceases to have effect, if time

154

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

similar to a right within paragraph (a),

(c) any information or technique not protected by a right

within paragraph (a) or (b) but having industrial, 5

commercial or other economic value, or (d) any licence or other right in respect of anything

within paragraph (a), (b) or (c);

“provision” includes creation, construction or acquisition;

limits or other requirements under the regulations are not met.

(9) In this Part "the appropriate person", in relation to a company,

means-

(a) the proper officer of the company, or
(b) such other person as may for the time being have the express, implied or apparent authority of the company to act on its

behalf for the purposes of this Part.

(10) Subsections (3) and (4) of section 108 of TMA 1970 (responsibility of company officers: meaning of "proper officer") apply for the purposes of subsection (9) as they apply for the purposes of that section.

269ZI Group allowance allocation statement: submission

(1) A company must submit a group allowance allocation statement to

HMRC for each of its accounting periods in which it is the nominated company in relation to a group.

This is subject to subsections (2) and (3).

(2) If a company ceases to be the nominated company in relation to a

group before it submits a group allowance allocation statement to

HMRC for an accounting period-

(a) that company may not submit the statement, and
(b) the company that is for the time being the nominated company in relation to the group must do so.

"the trader" means the person carrying on the trade." 10

3 In section 95A (application of Chapter 6 of Part 2 (trade profits: receipts) to the cash basis)-

(a) the existing text becomes subsection (1),
(b) in that subsection, omit the entry relating to section 96A, and
(c) after that subsection insert-

15 "(2) Section 96A makes provision about capital receipts in certain cases where the profits of a trade are calculated on the cash

basis or have previously been calculated on the cash basis (and see also section 96B)."

4 (1) Section 96A (cash basis: capital receipts) is amended as follows.

20 (2) For the heading substitute "Capital receipts under, or after leaving, cash basis".

(3) For subsections (1) to (3) substitute-

"(1) This section applies in relation to a trade carried on by a person in

two cases-

25 (a) Case 1 (see subsections (2) to (3A)), and
(b) Case 2 (see subsections (3B) to (3E)).

(2) Case 1 is a case in which conditions A and B are met.

(3) Condition A is that the person receives disposal proceeds or a capital

refund in relation to an asset at a time when an election under section 30

25A (cash basis for trades) has effect in relation to the trade. For the meaning of "disposal proceeds" and "capital refund" see subsections (3F) and (3G).

(3) But if a new group allowance nomination in respect of the group

takes effect on a date before it is made, that does not affect the validity of the submission of any group allowance allocation

statement submitted before the date the new nomination is made.

(4) A group allowance allocation statement under this section must be

received by HMRC before the first anniversary of the filing date for

the company tax return for the accounting period to which the

statement relates.

(5) A group allowance allocation statement under this section may be

submitted at a later time if an officer of Revenue and Customs allows it.

(6) A group allowance allocation statement under this section must

comply with the requirements of section 269ZK.

269ZJ Group allowance allocation statement: submission of revised

statement

(1) This section applies if a group allowance allocation statement has been submitted under section 269ZI, or this section, in respect of an

accounting period of a company that is, or was, a nominated company ("the nominee's accounting period").

(2) A revised group allowance allocation statement in respect of the nominee's accounting period may be submitted to HMRC by the

company that is for the time

(3A) Condition B is that-

(a) an amount of capital expenditure (see subsection (3H))

35

relating to the asset has been brought into account in calculating the profits of the trade on the cash basis, or

(b) an amount of capital expenditure relating to the asset which-

(i) has been incurred (or treated as incurred) by the

40

person before the tax year for which the person last

entered the cash basis, and

(ii) is cash basis deductible in relation to that tax year (see

section 96B(4)),

has been brought into account in calculating the profits of the

45

trade for a tax year for which no election under section 25A

had effect in relation to the trade.

202

Finance (No.

2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

The reference in this paragraph to expenditure brought into account includes a reference to expenditure brought into account under CAA 2001 (see section 96B(5)).

(3B) Case 2 is a case in which-

(a) condition C is met, and

5

(b) condition D or E is met.

(3C) Condition C is that disposal proceeds or a capital refund arise to the

person in relation to an asset at a time-

(a) when no election under section 25A has effect in relation to the trade, and

10

(b) which is after a time

being the nominated company in relation to the group.
Draft provisions for Finance Bill 2017

155
Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(3) But if a new group allowance nomination in respect of the group takes effect on a date before it is made, that does not affect the

validity of the submission of any revised group allowance allocation

statement submitted before the date the new nomination is made.

(4) A revised group allowance allocation statement may be submitted

on or before whichever is the latest of the following dates—

(a) the first anniversary of the filing date for the company tax return for the nominee's accounting period,

(b) if notice of enquiry (within the meaning of Schedule 18 to FA

1998) is given into a relevant company tax return, 30 days after the enquiry is completed,

(c) if, after such an enquiry, an officer of Revenue and Customs

amends the return under paragraph 34(2) of that Schedule, 30

days after the notice of amendment is issued,

(d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

(5) A revised group allowance allocation statement may be submitted at

when such an election had had effect in relation to the trade.

(3D) Condition D is that an amount of capital expenditure relating to the

asset—

(a) has been paid at a time when an election under section 25A

15

had effect in relation to the trade,

(b) has been brought into account in calculating the profits of the trade on the cash basis, and

(c) on the assumption that an election under section 25A had not had effect at the time the expenditure was paid, would not

20

have been qualifying expenditure.

(3E) Condition E is that an amount of capital expenditure relating to the

asset has been brought into account in calculating the profits of the trade for a tax year—

(a) for which no election under section 25A had effect in relation

25

to the trade, and

(b) which is before the tax year for which the person last entered

the cash basis.
The reference in this subsection to expenditure brought into account

does not include a reference to expenditure brought into account

30

under CAA 2001 (see section 96B(5)).

(3F) “Disposal proceeds” means—

(a) any proceeds arising from the disposal of an asset or any part of it,

(b) any proceeds arising from the grant of any right in respect of,

35

or any interest in, the asset, or

(c) any amount of damages, proceeds of insurance or other compensation received in respect of the asset.

See also subsections (4) and (5) for circumstances in which a person

is to be regarded as disposing of an asset.

40

(3G) “Capital refund” means an

a later time if an officer of Revenue and Customs allows it.

(6) In this section "relevant company tax return" means a company tax return of a company for an accounting period for which an amount of group deductions allowance was, or could have been, allocated by a previous group allowance allocation statement in respect of the nominee's accounting period.

(7) The references in subsection (4) to an enquiry into a relevant company tax return do not include an enquiry resulting from an amendment of such a return where—

(a) the scope of the enquiry is limited as mentioned in paragraph 25(2) of Schedule 18 to FA 1998 (enquiry into amendments when time limit for enquiry into return as originally submitted is passed), and

(b) the amendment relates only to the allocation of group deductions allowance for the nominee's accounting period.

(8) A group allowance allocation statement under this section must comply with the requirements of section 269ZK.

269ZK Group allowance allocation statement: requirements and effects

(1) This section applies in relation to a group allowance allocation statement submitted under section 269ZI or 269ZJ.

(2) The statement must be signed by the appropriate person in relation to the company giving the statement.

(3) The statement must—

(a) identify the group to which it relates,

(b) specify the accounting period, of the company that is or was the nominated company, to which the statement relates

amount that is (in substance) a refund of capital expenditure relating to an asset.

(3H) "Capital expenditure" means expenditure of a capital nature incurred, or treated as incurred, on or in connection with—

(a) the provision, alteration or disposal of an asset, or

45

(b) the potential provision, alteration or disposal of an asset.

Finance (No. 2) Bill

203

Schedule 5 – Trades and property businesses:

calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

=

<> (3I) The disposal proceeds or capital refund mentioned in condition A or

(as the case may be) condition C are to be brought into account as a receipt in calculating the profits of the trade.

(3J) In a case where only part of the total capital expenditure incurred, or

treated as incurred, by the person in relation to the asset has been

5

brought into account in calculating the profits of the trade (whether

or not on the cash basis), the amount brought into account under

subsection (3I) is proportionately reduced.

The reference in this subsection to expenditure brought into account

includes a reference to expenditure brought into account under CAA

10

2001 (see section 96B(5)).

(3K) Subsection (3I) does not apply if the whole of the amount which would otherwise be brought into account under that subsection—

(a) has already been brought into account as a receipt in

<p>(“the accounting period”),</p> <p style="text-align: center;">nominee’s</p> <p style="text-align: center;">(c) specify the days in the nominee’s accounting period on which that company was the nominated company in relation to the group or state that that company was the nominated company throughout the period,</p> <p style="text-align: center;">156</p> <p style="text-align: center;">Draft provisions for Finance Bill 2017</p> <p style="text-align: center;">Schedule 6 – Carried-forward losses</p> <p style="text-align: center;">Part 2 – Restriction on deductions in respect of carried-forward losses</p>	<p style="text-align: right;">calculating the profits of the trade under this section, 15</p> <p style="text-align: right;">(b) is brought into account as a receipt in calculating the profits of the trade under any other provision of this Part (except section 240D(3) (assets not fully paid for)), or</p> <p style="text-align: right;">(c) is brought into account under any Part of CAA 2001 as a disposal value.</p> <p style="text-align: right;">20 (3L) If part of the amount which would otherwise be brought into account under subsection (3I) has already been or is brought into account as</p>
<p style="text-align: center;">(d) state the group deductions allowance the group has for the nominee’s accounting period,</p> <p style="text-align: center;">(e) list one or more of the companies that were members of the group and within the charge to corporation tax in the nominee’s accounting period (“listed companies”),</p> <p style="text-align: center;">(f) allocate amounts of the group deductions allowance to the listed companies, and</p> <p style="text-align: center;">(g) for each amount of group deductions allowance allocated to a listed company, specify the accounting period of the listed company for which it is</p>	<p style="text-align: right;">=</p> <p style="text-align: right;"><> mentioned in subsection (3K), subsection (3I) applies in relation to the remainder of that amount.”</p> <p style="text-align: right;">(4) Omit subsection (7).</p> <p style="text-align: right;">25 5 After section 96A insert– “96B Section 96A: supplementary provision</p> <p style="text-align: right;">(1) This section has effect for the purposes of section 96A.</p> <p style="text-align: right;">(2) Any question as to whether or to what extent expenditure is brought into account in calculating the profits of a trade is to be determined 30</p> <p style="text-align: right;">on such basis as is just and reasonable in all the circumstances.</p> <p style="text-align: right;">(3) A person carrying on a trade “enters the cash basis” for a tax year if–</p> <p style="text-align: right;">(a) an election under section 25A has effect in relation to the trade for the tax year, and</p> <p style="text-align: right;">(b) no such election had effect in relation to the trade for the 35 previous tax year.</p> <p style="text-align: right;">(4) Expenditure is “cash basis deductible” in relation to a tax year if, on the assumption that</p>

allocated.

(4) An amount of group deductions allowance allocated to a listed company must be allocated to that company for an accounting

period that falls wholly or partly in the nominee's accounting period.

(5) The maximum amount of group deductions allowance that may be

allocated, by the group allowance allocation statement, to a listed

company for an accounting period of that company is—

DAP -

-- x GSA

DNAP

where—

“DAP” is the number of days in the accounting period of the

listed company that are—

(a) days in the nominee's accounting period, and
(b) days on which the company was a member of the group,

“DNAP” is the number of days in the nominee's accounting period, and

“GSA” is the group deductions allowance of the group for the nominee's accounting period.

(6) The sum of the amounts allocated to listed companies by the group allowance allocation statement may not exceed the group deductions allowance for the nominee's accounting period.

(7) If a group allowance allocation statement is submitted that does not comply with subsection (5) or (6), the company that is, for the time

being, the nominated company in relation to the group must submit a revised group allowance allocation statement that does comply

the expenditure was paid in that tax year, a deduction would be allowed in respect of the expenditure in calculating the profits of the trade on the cash basis for that tax year. 40

(5) Expenditure is “brought into account under CAA 2001” in calculating the profits of a trade if and to the extent that—

(a) a capital allowance made under Part 2, 5, 6, 7 or 8 of that Act

in respect of the expenditure is treated as an expense in calculating those profits (see, for example, section 247 of that 45

Act), or

204

Finance (No. 2) Bill Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

(b) qualifying expenditure (within the meaning of Part 2, 7 or 8 of CAA 2001) is allocated to a pool for the trade and is set-off

against different disposal receipts.

(6) An amount of qualifying expenditure is “set-off against different

disposal receipts” if—

5

(a) the amount would have been unrelieved qualifying

expenditure carried

forward in the pool for the trade, but

(b) the amount is not so carried forward because (and only

because) one or more disposal values in respect of one or more assets, other than the asset in respect of which the

10

qualifying expenditure was incurred (or treated as incurred), have at any time been brought into account in that pool.

(7) For the purposes of subsection

with those subsections within 30 days of the date on which the group allowance allocation statement that did not comply was submitted or within such further period as an officer of Revenue and Customs allows.

(8) If a group allowance allocation statement—

(a) complies with those subsection when it is submitted, but

(b) subsequently ceases to comply with either of them,

the company that is, for the time being, the nominated company in relation to the group must submit a revised group allowance

allocation statement that does comply with those subsections within

30 days of the date on which the group allowance allocation statement ceased to comply with one of those subsections or within

(6), an amount of qualifying expenditure incurred (or treated as incurred) by a person is not to be

regarded as not carried forward because the person enters the cash basis.

(8) In this section and in section 96A—

“disposal value” means—

(a) in section 96A(3K)(c)—

(i) a disposal value for the purposes of Part 2, 4A,

5, 6, 7

8 or 10 of CAA 2001 (for example, in relation to Part 2 of that Act, see (in particular) section 61 of that Act), or

25

sections

316 and 3600 of that Act), and

(b) in subsection (6), a disposal value for the purposes of—

(i) Part 2 of that Act (see, in particular, section 61 of that Act),

30

(ii) Part 7

of that Act (see section 462 of that Act), or

or

(iii) Part 8 of that Act (see sections 476 and 477 of that Act);

“market value amount” means the amount that would be

35

regarded as normal and reasonable—

(a) in the market conditions then prevailing, and

(b) between persons dealing with each other at arm's

length in the open market;

“pool” means—

40

(a) the main pool or a class pool to which qualifying expenditure is allocated under Part 2 of CAA 2001 (see section 54 of that Act),

(b) a pool to which qualifying expenditure is allocated under Part 7 of that Act (see section 456 of that Act), or

such further period as an officer of Revenue and Customs allows.
Draft provisions for Finance Bill 2017

157
Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(9) If a company fails to comply with subsection (7) or (8), an officer of

Revenue and Customs may by written notice to the company amend the group allowance allocation statement as the officer thinks fit for

the purpose of making it comply with subsections (5) and (6).

(10) An officer of Revenue and Customs who issues a notice under

45

(c) a pool to which qualifying expenditure is allocated under Part 8 of that Act (see section 470 of that Act);

“provision” includes creation, construction or acquisition; “qualifying expenditure” means— Finance (No. 2) Bill

205

Schedule 5 – Trades and property businesses: calculation of profits

Part 1 – Trades etc: amendments of ITTOIA 2005

=

<>

(a) qualifying expenditure within the meaning of Part 2

of CAA 2001 (see section 11(4) of that Act for the general rule),

(b) qualifying expenditure within the meaning of Part 5

of that Act (see section 395 of that Act),
5

(c) qualifying expenditure within the meaning of Part 6

of that Act (see section 439 of that Act),
6

(d) qualifying expenditure within the meaning of Part 7

of that Act (see section 454 of that Act), or
7

(e) qualifying trade expenditure within the meaning of 10

Part 8 of that Act (see section 468 of that Act);
8

“unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of—

(a) Part 2 of CAA 2001 (see section 59(1) and (2) of that

Act),
9

(b) Part 7 of that Act (see section 461 of that Act), or
10

(c) Part 8 of that Act (see section 475 of that Act).
11

In section 106D (capital receipts), for “(cash basis: capital receipts)”

subsection (9) to a company must, at the same time, send a copy of

the notice to each of the listed companies.

(11) The time limits otherwise applicable to the amendment of a company

tax return do not apply to any such amendment to the extent that it

is made in consequence of a group allowance allocation statement

being submitted in accordance with section 269ZI or 269ZJ.

(12) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance

allocation statement including, in particular, provision—

(a) about the form of a statement and the manner in which it is

submitted, to be

(b) requiring a person to give information to HMRC in connection with a statement,

(c) as to the circumstances in which a statement that is not

received by the time specified in section 269ZJ(4) is to be

treated as if

substitute “(capital receipts under, or after leaving, cash basis)’.

7 (1) Section 240C (unrelieved qualifying expenditure) is amended as follows. 20

(2) For the heading substitute “Unrelieved qualifying expenditure: Parts 2, 7

and 8 of CAA 2001”.

(3) In subsection (1)(b), after “unrelieved qualifying expenditure” insert “relating to the trade”.

(4) In subsection (3), for “the relevant portion of the expenditure” substitute 25

“any cash basis deductible amount of the expenditure”.

(5) For subsection (4) substitute—

“(4) A “cash basis deductible amount” of the expenditure means any

amount of the expenditure for which a deduction would be allowed

in calculating the profits of the trade on the cash basis on the 30

assumption that the expenditure was paid in the current tax year.”

(6) In subsection (5), for “The relevant portion” substitute “Any cash basis deductible amount”.

(7) After subsection (5) insert—
“(5A) For the purposes of subsection (1)(b), in determining the unrelieved 35

qualifying expenditure the person has to carry forward, disregard

sections 59(4), 461A(1) and 475A(1) of CAA 2001 (which provide that

an amount is not to be carried forward as unrelieved qualifying

expenditure when a person enters the cash basis).”

(8) For subsection (6) substitute—

40

“(6) In this section “unrelieved qualifying expenditure” means

unrelieved qualifying

it were so received, and

expenditure for the purposes of—

(a) Part 2 of CAA

2001 (see section 59(1) and (2) of that
Act),

(b) Part 7 of that

Act (see section 461 of that Act), or

(c) Part 8 of that

Act (see section 475 of that Act)."

45

206

Finance

(No. 2) Bill

Schedule

5 – Trades and property businesses:
calculation of profits

Part 1 – Trades etc: amendments of
ITTOIA 2005

=

(d) as to the
circumstances in which a statement that does
not

comply with
the requirements of this section is to be
treated
as if it did
comply.

269ZL Deductions allowance for
company not in a group

(1) This section makes
provision as to the deductions allowance of
a

company for an
accounting period where section 269ZG
(deductions

allowance for company
in a group containing other companies

within the charge to
corporation tax) does not apply.

<> 8 After section 240C insert—

“240CA Unrelieved qualifying
expenditure: Part 5 of CAA 2001

(1) This section applies if a
person carrying on a mineral extraction
trade

enters the cash basis for
a tax year (“the current tax year”).

(2) But this section does not
apply if section 240D applies.

5
(3) In calculating the profits
of the trade for the current tax year, a

deduction is allowed for
any amount of expenditure—

(a) which would, apart
from section 419A(1) of CAA 2001, have
been unrelieved
qualifying expenditure for the current tax
year, and

10

(b) for which a
deduction would be allowed in calculating
the

profits of the
trade on the cash basis on the assumption
that

the expenditure was
paid in the current tax year.

(4) In this section—

“mineral extraction
trade” has the meaning given in section 394
15

of CAA 2001;
“unrelieved
qualifying expenditure” means unrelieved
qualifying
expenditure for the purposes of Part 5 of
CAA

2001 (see section
419 of that Act).”

9 (1) Section 240D (assets not fully
paid for) is amended as follows.

20

(2) In subsection (1)(b), for

(2) The company's deductions allowance for the accounting period is £5, 000, 000.

(3) If the accounting period is less than 12 months, the company's deductions allowance for the period is proportionally reduced.

269ZM Company tax return to specify amount of deductions allowance

(1) A company's company tax return for an accounting period must specify the amount of the company's deductions allowance for the period.

(2) But subsection (1) applies only if the company makes for the accounting period a deduction to which section 269ZB(2), 269ZC(2) or 269ZD(2) applies.

269ZN Excessive specifications of deductions allowance

(1) This section applies if a company's company tax return for an accounting period specifies an excessive amount as—

(a) the company's deductions allowance for the period,

(b) the company's trading profits deductions allowance for the period, or

158 Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

"obtained" to the end substitute "incurred relevant expenditure, and".

(3) After subsection (1) insert—

"(1A) "Relevant expenditure" means expenditure—

(a) for which a deduction would be allowed in calculating the profits of the trade on the cash basis on the assumption that the expenditure was paid in the tax year, and

(b) in respect of which the person has obtained capital allowances under Part 2, 5, 6, 7 or 8 of CAA 2001."

(4) In subsection (4), for "The amount of any capital allowance obtained in respect of expenditure on the provision of any plant or machinery" substitute "Any question as to whether or to what extent expenditure is relevant expenditure, or as to whether or to what extent any capital allowance obtained is in respect of relevant expenditure".

(5) In subsection (5), after "given" insert "under Part 2 of CAA 2001".

(6) Omit subsection (6).

10 In section 786(6) (meaning of "rent-a-room receipts"), for "(capital receipts)" substitute "(capital receipts under, or after leaving, cash basis)".

11 In section 805(5) (meaning of "qualifying care receipts"), for "(capital receipts)" substitute "(capital receipts under, or after leaving, cash basis)".

40 Finance (No. 2) Bill

207 Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

PART 2

PROPERTY BUSINESSES: AMENDMENTS OF ITTOIA 2005

=

<> 12 ITTOIA 2005 is amended as

(c) the company's non-trading profits deductions allowance for the period.

(2) The company must, so far as it may do so, amend the company tax

return so that the amount specified is not excessive.

(3) If an officer of Revenue and Customs considers that an undue

amount of relief has been given as a consequence of the amount specified being excessive, the officer may make an assessment to tax in the amount which in the officer's opinion ought to be charged.

(4) If–

(a) the amount specified became excessive in consequence of an

alteration being made to the amount of group deductions

allowance allocated to the company for the accounting

period concerned, and

(b) the company has failed, or is unable, to amend its company

tax return in accordance with subsection (2),

an assessment under subsection (3) is not out of time if it is made

within 12 months of the date on which the alteration took place.

follows.

13 In Chapter 3 of Part 3 (profits of property businesses: basic rules), after section 271 insert–

5

=

<> “Basis of calculation of profits
271A Basis of calculation of profits: GAAP required

(1) The profits of a property business for a tax year must be calculated in

accordance with GAAP if condition A, B, C, D or E is met.

(2) Condition A is that the business is carried on at any time in the tax

10

year by–

(a) a company,

(b) a limited

liability partnership,

(c) a corporate firm, or

(d) the trustees of a trust.

15

(3) For the purposes of subsection (2) a firm is a “corporate firm” if a

partner in the firm is not an individual.

(4) Condition B is that the cash basis receipts for the tax year exceed

£150,000.

(5) In subsection (4) “the cash basis receipts for the tax year” means the

20

total of the amounts that would be brought into account as receipts

in calculating the profits of the property business for the tax year on

the cash basis (see section 271D).

(6) If the property business is carried on for only part of the tax year, the

sum given in subsection (4) is proportionately reduced.

25

(7) Condition C is that–

(a) the property business is carried on by an individual (“P”),

(b) a share of joint property income is brought into account in

calculating the profits of the business for the tax

(5) The power in subsection (3) is without prejudice to the power to make a discovery assessment under paragraph 41(1) of Schedule 18 to FA 1998.

269Z0 Meaning of "group"

(1) In this Part "group" means two or more companies which together meet the following condition.

(2) The condition is that one of the companies is-

(a) the ultimate parent of each of the other companies, and
(b) is not the ultimate parent of any other company.

(3) A company ("A") is the "ultimate parent" of another company ("B") if-

(a) A is the parent of B, and
(b) no company is the parent of both A and B.

(4) A company ("A") is the "parent" of another company ("B") if-

(a) B is a 75% subsidiary of A,

(b) A is beneficially entitled to at least 75% of any profits

available for distribution to equity holders of B, or

(c) A would be beneficially entitled to at least 75% of any assets

of B available for distribution to its equity holders on a winding up.

(5) The following apply for the purposes of subsection (4)-

year,

(c) a share of that joint property income is brought into account 30

in calculating the profits for the tax year of a property

business carried on by another individual ("Q's property

business"), and

(d) the profits of Q's property business for the tax year are calculated in accordance with GAAP.

35

(8) In subsection (7) "joint property income" means income to which P

and Q are treated for income tax purposes as beneficially entitled in

equal shares by virtue of section 836 of ITA 2007.

(9) Condition D is that-
(a) an allowance

under Part 3A of CAA 2001 (business premises 40 renovation allowances) is made at any time in calculating the profits of the property business, and 208

Finance
(No. 2) Bill Schedule 5
- Trades and property businesses: calculation of profits

Part 2 - Property businesses: amendments of ITTOIA 2005

(a) Chapter 6 of Part 5 (equity holders and profits or assets

available for distribution) other than sections 169 to 182, and

(b) Chapter 3 of Part 24 (subsidiaries).

=

(b) if the profits of the business were to be calculated in accordance with GAAP for the tax year, there would be a day in the tax year on which the occurrence of a balancing event (within the meaning of that Part) would give rise to a

This is subject to subsections (6) and (7).

(6) In applying Chapter 3 of Part 24 for the purposes of subsection (4)–

(a) share capital of a registered society is to be treated as if it were ordinary share capital, and

Draft provisions for Finance Bill 2017

159

Schedule 6 – Carried-forward losses

Part 2 – Restriction on deductions in respect of carried-forward losses

(b) a company (“the shareholder”) that directly owns shares in

another company is to be treated as not owning those shares

if a profit on their sale would be a trading receipt of the

shareholder.

(7) In applying Chapter 6 of Part 5 (other than sections 169 to 182) and

Chapter 3 of Part 24 for the purposes of subsection (4), they are to be

read with all modifications necessary to ensure that–

(a) they apply 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 they apply

to companies with ordinary share capital and holders of ordinary shares in such companies,

(b) they apply to a company which is an unincorporated

balancing adjustment for the tax year (see section 360M of

5

that Act).

(10) Condition E is that an election under this subsection made by the

person who is or has been carrying on the property business has

= effect in relation to the business for the tax year.

(11) An election under subsection (10) must be made on or before the first

10

anniversary of the normal self-assessment filing date for the tax year

for which the election is made.

(12) The Treasury may by regulations–

(a) amend subsection (2);

(b) amend subsection (4) so as to substitute another sum for the

15

sum for the time being specified in that subsection.

(13) A statutory instrument containing regulations under subsection (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.

(14) Subsection (13) does not apply if the regulations omit one or more

20

paragraphs of subsection (2) and make no other provision.

271B Calculation of profits in accordance with GAAP

(1) In this Part, references to calculating the profits of a property business in accordance with GAAP are to calculating the profits in accordance with generally accepted accounting practice, subject to

25

any adjustment required or authorised by law in calculating profits for income tax purposes.

(2) A requirement under this Part to calculate profits in accordance with GAAP does not–

(a) require a person to comply with the requirements of the

30

association in a way which corresponds to the way they apply to companies which are bodies corporate, (c) they apply 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 they apply 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

Companies Act 2006 or subordinate legislation made under that Act except as to the basis of calculation, or (b) impose any requirements as to audit or disclosure. (3) See section 272 (application of trading income rules: GAAP) which applies only where profits are calculated in accordance with GAAP. 35 271C Basis of calculation of profits: cash basis required The profits of a property business for a tax year must be calculated on the cash basis if none of conditions A, B, C, D or E in section 271A is met. 271D Calculation of profits on the cash basis 40 (1) In this Part, references to calculating the profits of a property business on the cash basis are to calculating the profits in accordance with subsections (2) and (3). Finance (No. 2) Bill 209 Schedule 5 – Trades and property businesses: calculation of profits Part 2 – Property businesses: amendments of ITTOIA 2005

= 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. (8) In this section “corresponding ordinary holding” in an unincorporated association, entity, trust or other arrangement means a holding or interest which provides the holder with economic rights

<> (2) In calculating the profits, receipts of the business are brought into account at the time they are received, and expenses of the business are brought into account at the time they are paid. (3) Subsection (2) is subject to any adjustment required or authorised by law in calculating profits for income tax purposes. 5 (4) For provision about the application of Chapter 4 (profits of property businesses: lease premiums etc) in relation to profits calculated on the cash basis, see section 276A. (5) For provision about the application of Chapter 5 (rules about deductions and receipts) in relation to profits calculated on the cash basis, see section 307A. 10

corresponding to those provided by a holding of ordinary shares in

a body corporate".

17 (1) Section 269C (overview of Chapter 3 of Part 7A: restriction on banking company obtaining certain deductions) is amended as follows.

(2) After subsection (1) insert-

"(1A) This Chapter applies in relation to a banking company in addition to

Part 7ZA (which contains provision restricting the amount of certain

deductions which any kind of company may make in calculating its taxable total profits for an accounting period)."

(3) In subsection (2) for "269CD" substitute "269CC"

18 (1) Section 269CA (restriction on deductions for pre-1 April 2015 trading losses) is amended as follows.

(2) In subsection (2), in the second sentence-

(a) for "269CD" substitute "269ZE", and

(b) omit "step 5 in".

(3) In subsection (3), for the words from "where" to the end substitute "in

relation to a banking company for an accounting period where, in determining the company's relevant trading profits for the period, the

amount given by step 1 in section 269ZE(3) is not greater than nil".

(6) The following provisions apply only where profits are calculated on

the cash basis-

(a) section 272ZA (application of trading income rules: cash basis), and

15

(b) Chapter 7A (cash basis: adjustments for capital allowances)."

14 In the italic heading before section 272, at the end insert ":" application of

trading income rules".

15 After that italic heading insert-

"271E Profits of a property business: application of trading income rules

20

(1) The profits of a property business are calculated in the same way as

the profits of a

trade.

(2) But this is subject to-

(a) section 272, which limits the rule in subsection (1) in relation

to a property business whose profits are calculated in

25

accordance with GAAP, and

(b) section 272ZA, which limits that rule in relation to a property

business whose profits are calculated on the cash basis."

16 (1) Section 272 (profits of a property business: application of trading income

rules) is amended as follows.

30

(2) For the heading substitute "Application of trading income rules: GAAP".

(3) Omit subsection (1).

(4) In subsection (2), for the words before the table substitute "In relation to a

property business whose profits are calculated in accordance with GAAP, the provisions of Part 2 (trading income) which apply as a result of section

35

271E(1) are limited to the following".

(5) In the table in subsection (2), omit the entry relating to section 25

Schedule 6 – Carried-forward losses

(generally accepted accounting practice).

17 After section 272 insert–
“272ZA Application of trading income rules: cash basis

40 (1) In relation to a property business whose profits are calculated on the cash basis, the provisions of Part 2 (trading income) which apply as

210 Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

Part 2 –
Restriction on deductions in respect of carried-forward losses

=

19 (1) Section 269CB (restriction on deductions for pre-1 April 2015 non-trading deficits from loan relationships) is amended as follows.

(2) In subsection (2), in the second sentence–

(a) for “269CD” substitute “269ZE”, and

(b) for “step 6 in subsection (1)” substitute “subsection (2)”.

(3) In subsection (3), for the words from “where” to the end substitute “in relation to a banking company for an accounting period where, in determining the company’s relevant non-trading profits for the period, the amount given by step 1 in section 269ZE(3) is not greater than nil”

In Chapter 3 (basic rules)–

section 26 losses calculated on same basis as profits

section 28A money’s worth

section 29 interest

5 In Chapter 4 (rules restricting deductions)–

section 34 expenses not wholly and exclusively for trade and unconnected losses

sections 38 to 42 and employee benefit contributions

44

10 sections 45 to 47 business entertainment and gifts

section 52 exclusion of double relief for interest

section 53 social security contributions

section 54 penalties, interest and VAT surcharges

section 55 crime-related payments

15 section 55A expenditure on integral features

In Chapter 5 (rules allowing deductions)–

section 57 pre-trading expenses

sections 58 and 59 incidental costs of obtaining finance

section 69 payments

deductions for pre-1 April 2015 management expenses etc) is amended as follows.

(2) In subsection (3) for the words from "does not apply" to the end substitute "is subject to subsection (8)".

(3) In subsection (7)–

- (a) in the second sentence of step 1, for "269CD" substitute "269ZF",
- (b) in step 2 for the words from "which are" to the end substitute "under–

 - (a) section 45 (carry forward of pre-1 April 2017 trade loss against subsequent trade profits),
 - (b) section 45B (carry forward of post-1 April 2017 trade loss against subsequent trade profits), or
 - (c) section 457 of CTA 2009 (carry forward of pre-1 April non-trading deficits from loan relationships)."

(4) After subsection (7) insert–

“(8) Subsection (2) does not apply in relation to a banking company for an accounting period where, in determining the company's relevant profits for the period, the amount given by step 1 in section 269ZE(3) is not greater than nil.”

21 Section 269CD (relevant profits) is omitted.

22 (1) Section 269CN (definitions for the purposes of Part 7A) is amended as follows.

for restrictive undertakings
20
sections 70 and 71
employees
section 72
deduction schemes: contributions to
expenses
sections 73 to 75
and retraining expenses
sections 76 to 80
payments etc
25

section 81
security expenses
personal

sections 82 to 86
contributions to local enterprise
organisations
or urban
regeneration companies

sections 86A and 86B
contributions to flood and coastal erosion
risk
management
projects
30
sections 87 and 88
scientific
research
sections 89 and 90
connected with patents, designs and
expenses
trade marks
Finance (No. 2) Bill

211
Schedule 5 – Trades and property businesses:
calculation of profits
Part 2 – Property businesses: amendments of
ITTOIA 2005

=

<> section 91
payments to Export Credits
Guarantee
Department
In Chapter 6 (receipts)–
section 96
capital receipts
section 97
debts incurred and later released
5
section 104
distribution of assets of mutual concerns
section 105(1) and
industrial development grants
(2)(b) and (c)
section 106
sums recovered under insurance policies etc

<p>(2) In the definition of “relevant non-trading profits” for the words from “means” to the end substitute “has the meaning given by section 269ZE(2)”.</p> <p>(3) In the definition of “relevant profits” for the words from “means” to the end substitute “has the meaning given by section 269ZF”.</p>	<p>In Chapter 6A (amounts not reflecting commercial transactions)- 10 section 106C amounts not reflecting commercial transactions</p> <p>section 106D capital receipts section 106E gifts to charities etc In Chapter 7 (gifts to charities etc)- 15 section 109 receipt by donor or connected person of benefit attributable to certain gifts</p>
<p>(4) In the definition of “relevant trading profits” for the words from “means” to the end substitute “has the meaning given by section 269ZE(1)”.</p> <p>Draft provisions for Finance Bill 2017</p> <p>161</p> <p>Schedule 6 – Carried-forward losses</p> <p>Part 3 – Group relief for carried-forward losses</p>	<p>=</p> <p><> (2) In those provisions, the expression “this Part” is to be read as a reference to those provisions as applied by subsection (1) and to the other provisions of Part 3. 20 (3) In section 106D, the reference to subsection (4) or (5) of section 96A is to be read as a reference to subsection (2), (3) or (5) of section 307F (deemed capital receipts under, or after leaving, cash basis).”</p>
<p>PART 3</p>	<p>=</p>
<p>GROUP RELIEF FOR CARRIED-FORWARD LOSSES</p>	<p>+-</p>
<p>23 After section 188 of CTA 2010 insert-</p>	<p><> 18 After section 272ZA insert-</p>
<p>=</p>	<p>=</p>
<p>“PART 5A</p>	<p>+-</p>
<p>GROUP RELIEF FOR CARRIED-FORWARD LOSSES</p>	<p>+-</p>
<p>=</p>	<p>=</p>
<p>CHAPTER 1</p>	<p>+-</p>
<p>INTRODUCTION</p>	<p>+-</p>
<p>188A Introduction to Part</p> <p>(1) This Part-</p> <p>(a) allows a company to surrender losses and other amounts that have been carried forward to an accounting period of the</p>	<p><></p> <p>“Calculation of profits: other general rules”. 25</p>

company (see

Chapter 2), and

(b) enables, in certain cases involving groups of companies,

other companies to claim corporation tax relief for the losses

and other amounts that are surrendered (see Chapter 3).

(2) See Chapter 4 for definitions that apply for the purposes of this Part and miscellaneous provisions.

(3) The corporation tax relief mentioned in subsection (1) is called “group relief for carried-forward losses.”

CHAPTER 2

SURRENDER OF COMPANY'S CARRIED-FORWARD LOSSES ETC

188B Overview of Chapter

(1) This Chapter allows a company to surrender losses and other

amounts that have been carried forward to an accounting period of the company.

(2) Section 188C sets out the basic provisions about the surrendering of losses and other amounts.

(3) Sections 188D to 188I place restrictions on the surrendering of losses and other amounts.

19 In section 272A (restricting deductions for finance costs related to residential property), after subsection (6) insert-

“(7) See also section 307D (cash basis: modification of deduction for costs of loans).”

20 (1) Section 274 (relationship between rules prohibiting and allowing 30 deductions) is amended as follows.

(2) For subsection (1)(b) substitute- “(b) is subject to- (i) section 36 (unpaid remuneration), as applied by section 272,

35 (ii) section 38 (employee benefit contributions), as applied by sections 272 and 272ZA, (iii) section 48 (car hire), as applied by section 272, 212

Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

<> (iv) section 55 (crime-related payments), as applied by sections 272 and 272ZA, (v) section 272A (finance costs), and (vi) section 307D (cash basis: modification of deduction for costs of loans).”

5 (3) In subsection (3)- (a) after “section 272” insert “, or sections 38 and 55 as applied by section 272ZA”, and

(b) for “section 272A” insert “sections 272A and 307D”.

(4) In subsection (4), after “section 272” insert “or 272ZA”.

10 21 In section 276(5) (introduction: profits of property businesses: lease premiums etc), after “292” insert

188C Surrender of carried-forward losses and other amounts
(1) This section applies if losses or other amounts are carried forward to
an accounting period of a company under any of the following provisions—
(a) section 463G(2) of CTA 2009 (carry forward of post-1 April 2017 non-trading deficit from loan relationships),
(b) section 753(3) of that Act (carry forward of non-trading loss on intangible fixed assets),
162 Draft provisions for Finance Bill 2017
Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

(c) section 1223 of that Act (carry forward of expenses of management of investment business),
(d) section 45A(3) (carry forward of post-1 April 2017 trade loss),
and

(e) sections 62(5)(a) and 63(3)(a) (carry forward of loss made in UK property business).
(2) The company may surrender the losses or other amounts under this

Chapter so far as the losses or other amounts are eligible for corporation tax relief (apart from this Part).

(3) Subsection (2) is subject to sections 188D to 188I (which place

restrictions on what the surrendering company may surrender).

“; but see also section 276A”.
22 After section 276 insert—
“276A Application of Chapter to property businesses using cash basis
The following provisions of this Chapter do not apply in calculating
15
the profits of a property business on the cash basis—
(a) sections 291 to 294 (tenants under taxed leases: deductions),
and
(b) sections 296 and 298 (ICTA modifications).”
23 In Chapter 5 of Part 3 (profits of property businesses: other rules about
20 receipts and deductions), after the Chapter heading insert—
“Cash basis: application of Chapter
307A Cash basis: application of Chapter
(1) The following provisions of this Chapter apply only where the profits of a property business are calculated on the cash basis—
25
(a) section 307B (cash basis: capital expenditure),
(b) section 307C (cash basis: deduction for costs of loans), and
(c) section 307D (cash basis: modification of deduction for costs of loans).
(2) Sections 307E and 307F make provision about capital receipts in
30 certain cases where the profits of a property business are calculated

(4) Under paragraph 70(1) of Schedule 18 to FA 1998, the company surrenders losses or other amounts, so far as eligible for surrender

on the cash basis or have previously been calculated on the cash basis.

under this Chapter, by consenting to one or more claims for group

relief for carried-forward losses in relation to the amounts (see requirement 1 in section 188K).

(5) In this Part, in relation to losses or other amounts within subsection

(1) that a company has carried forward to an accounting period-

“the surrenderable amounts” means those losses and other

amounts so far as eligible for surrender under this Chapter,

“surrendering company” means the company that has the losses or other amounts,

“the surrender period” means the accounting period to which

the losses and other amounts have been carried forward.

188D Restriction on surrendering pre-1 April 2017 losses etc

(1) The surrendering company may not surrender under this Chapter—

(a) a loss carried forward to the surrender period under section

753(3) of CTA 2009 in so far as the loss is made up of an

=
<> Property businesses using cash basis 307B Cash basis: capital expenditure

35 (1) This section applies in relation to the calculation of the profits of a property business on the cash basis.

(2) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the acquisition or disposal of a business or part of a business.

40 Finance (No. 2) Bill

213 Schedule 5 – Trades and property businesses: calculation of profits Part 2 – Property businesses: amendments of ITTOIA 2005

=
<> (3) No deduction is allowed for an item of a capital nature incurred on, or in connection with, education or training.

(4) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of land.

(5) But subsection (4) does not prevent a deduction being made for

5 expenditure that—
(a) is incurred on the provision of a depreciating asset which, in being provided, is installed or otherwise fixed to qualifying land (see subsection (8)) so as to become, in law, part of the land, but

10 (b) is not incurred on, or in connection with, the provision of—
(i) a building,
(ii) a wall, floor, ceiling, door, gate, shutter or

amount previously carried forward under that section from an accounting period beginning before 1 April 2017,

(b) expenses carried forward to the surrender period under section 1223 of CTA 2009 if the expenses were first deductible

under section 1219 of that Act for an accounting period beginning before that date, or

(c) a loss carried forward to the surrender period under section 62(5)(b) or 63(3)(a) if the loss was made in an accounting period beginning before that date.

(2) The surrendering company may not surrender under this Chapter a qualifying charitable donation carried forward to the surrender period under section 1223 of CTA 2009.

188E Restriction where surrendering company could use losses etc itself

The surrendering company may not surrender any losses or other amounts under this Chapter if-

(a) section 269ZD(2) applies in determining the taxable total

profits of the surrendering company for the surrender period, and
Draft provisions for Finance Bill 2017

163
Schedule 6 – Carried-forward losses
Part 3 – Group relief for carried-forward losses

(b) the sum of the relevant deductions (within the meaning of section

window or

stairs,

(iii) a waste disposal system, 15

(iv) a sewerage or drainage system, or
(v) a shaft or other structure in which a lift, hoist, escalator or moving walkway may be installed.

(6) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of an asset 20

for use in ordinary residential property (see subsection (8)). But see section 311A (replacement domestic items relief).

(7) If an asset is provided partly for use in ordinary residential property and partly for other purposes, such apportionment of the expenditure incurred on, or in connection with, the provision, 25

alteration or disposal of the asset is to be made for the purposes of subsection (6) as is just and reasonable.

(8) In relation to the calculation of profits for a tax year-

(a) “ordinary residential property” means a dwelling-house or part of a dwelling-house in relation to which an ordinary 30

property business (see subsection (9)) is carried on in the tax

year, and
(b) “qualifying land” means land not falling within paragraph

(a).
“Ordinary property business” means- 35
(a) so much of a UK

269ZD(3)) made for the surrender period is less than the maximum permitted by section 269ZD(2).

188F Restriction where surrendering company has no income-generating assets

The surrendering company may not surrender any losses or other

amounts under this Chapter if at the end of the surrender period the

surrendering company has no assets capable of producing income.

188G Restriction on surrender of losses etc made when UK resident

(1) This section applies in relation to a loss or other amount carried

forward to the surrender period if the surrendering company was

UK resident during the loss-making period.

(2) The surrendering company may not surrender the loss or other

amount under this Chapter so far as the loss or other amount-

(a) is attributable to a permanent establishment through which the company carried on a trade outside the UK during the loss-making period (see subsection (3)), and

(b) is, or represents, an amount within subsection (5).

(3) A loss or other amount is attributable to a permanent establishment

of the surrendering company if (ignoring this section) the amount

could be included in the company's surrenderable amounts for the

property business as does not consist of the

commercial letting of furnished holiday accommodation (within the meaning of Chapter 6) in the UK, or
(b) so much of an overseas property business as does not consist

of the commercial letting of furnished holiday accommodation

in one or more EEA states.

(10) No deduction is allowed for an item of a capital nature incurred on,

or in connection with, the provision, alteration or disposal of-

(a) any asset that is not a depreciating asset (see subsections (11) and (12)),

(b) any asset not acquired or created for use on a continuing

basis in the property business,

(c) a car (see subsection (20)), 214

Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

(d) a non-qualifying intangible asset (see subsections (13) to (16)), or

(e) a financial asset (see subsection (17)).

(11) An asset is a "depreciating" asset if, on the date the item of a capital

nature is incurred, it is reasonable to expect that before the end of 20

5 years beginning with that date-

(a) the useful life of the asset will end, or

(b) the asset will decline in value by 90% or more.

(12) The useful life of an asset ends when it could no longer be of use to

surrender period if those amounts were determined—

(a) by reference to that establishment alone, and
(b) by applying, in relation to that establishment, principles

corresponding in all material respects to those mentioned in

subsection

(4).

(4) The principles are those that would be applied for corporation tax

purposes in determining an equivalent loss or other amount in the

case of a permanent establishment through which a non-UK resident

company carried on a trade in the United Kingdom.

(5) An amount is within this subsection if, for the purposes of non-UK

tax chargeable under the law of the territory in which the permanent

establishment was situated, the amount is or at any time has been (in

any period)

deductible from or otherwise allowable against non-UK

profits of a person other than the surrendering company.

(6) Subsection (7) applies for the purposes of subsection (5) if, in order

to determine if an amount is or at any time has been deductible or

otherwise allowable for the purposes of non-UK tax chargeable

under the law of a territory, it is necessary under that law to know if

the amount (or a corresponding amount) is or has been deductible or

any person for any purpose as an asset of a business.

10

(13) “Intangible asset” means anything that is capable of being an intangible asset within the meaning of FRS 105 and, in particular, includes—

(a) an internally-generated intangible asset, and

(b) intellectual property.

15

(14) An intangible asset is “non-qualifying” unless, by virtue of having a

fixed maximum duration, it must cease to exist before the end of 20

years beginning with the date on which the item of a capital nature

is incurred.

(15) An intangible asset is “non-qualifying” if it consists of a right, 20

whether conditional or not, to obtain an intangible asset without a

fixed maximum duration by virtue of which that asset must, assuming the right is exercised at the last possible time, cease to exist

before the end of 20 years beginning with the date on which the item

of a capital nature is incurred.

25

(16) Where—

(a) the person carrying on the property business (“P”) has an intangible asset, and

(b) P grants a licence or any other right in respect of that asset to

another person,

30

any intangible asset that consists of a licence or other right granted to

P in respect of the intangible asset mentioned in paragraph (a) is “non-qualifying”.

(17) A “financial asset” means any right under or in connection with—

(a) a financial instrument, or

35

(b) an arrangement that is capable of producing a return that is

economically equivalent to a return produced under any

otherwise allowable for tax purposes in the United Kingdom.

(7) The amount is to be treated as deductible or otherwise allowable for

the purposes of the non-UK tax chargeable under the law of the

territory concerned if (and only if) the surrendering company is treated as resident in that territory for the purposes of the non-UK tax.

(8) In this section and section 188H—
164

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

financial instrument.

(18) A reference to acquisition, provision, alteration or disposal includes potential acquisition, provision, alteration or (as the case may be)

40

disposal.

(19) If there is a letting of accommodation only part of which is furnished

holiday accommodation, such apportionments as are just and reasonable in all the circumstances are to be made for the purposes

of this section.

45

(20) In this section—

Finance (No. 2) Bill

215

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

“the loss-making period”, in relation to a loss or other amount,

means the accounting period in which the loss was made or

the amount arose,

“non-UK tax” has the meaning it has in Part 5 (see section 187),

and

“non-UK profits” has the meaning given by section 108.

188H Restriction on surrender of losses made when non-UK resident

(1) This section applies in relation to a loss or other amount carried

forward to the surrender period if during the loss-making period the

surrendering company was a non-UK resident company carrying on a trade in the United Kingdom through a permanent establishment.

“arrangement” includes any agreement, understanding,

scheme, transaction or series of transactions (whether or not legally enforceable);

“building” includes any fixed structure;

“car” has the same meaning as in Part 2 of CAA 2001 (see section 5

268A of that Act);

“financial instrument” has the same meaning as in FRS 105;

“FRS 105” means Financial Reporting Standard 105 (the Financial Reporting Standard applicable to the Micro-entities

Regime), issued by the Financial Reporting Council in July 10

2015; “intellectual property” means—

(a) any patent, trade mark, registered design, copyright

or design right, plant breeders’ rights or rights under

(2) If the surrendering company was established in the EEA (within the meaning of section 134A) during the loss-making period, it may surrender the loss or other amount under this Chapter only so far as conditions A and B are met. Subsection (8) imposes restrictions on a surrender under this subsection.

(3) In any other case, the surrendering company may surrender the loss

or other amount under this Chapter only so far as conditions A, B

and C are met in relation to the loss or amount.

(4) Condition A is that the loss or other amount is attributable to

activities of the surrendering company in respect of which it is

within the charge to corporation tax for the loss-making period.

(5) Condition B is that the loss or other amount is not attributable to

activities of the surrendering company that are double taxation

exempt for the loss-making period (within the meaning given by

section 186).

(6) Condition C is that—

(a) the loss or other amount does not correspond to, and is not

represented in, an amount with subsection (7), and

section 7 of the Plant Varieties Act 1997,
15

(b) any right under the law of a country or territory

outside the United Kingdom corresponding or similar to a right within paragraph (a),

(c) any information or technique not protected by a right

within paragraph (a) or (b) but having industrial, 20

commercial or other economic value, or

(d) any licence or other right in respect of anything

within paragraph (a), (b) or (c);
“provision” includes creation, construction or acquisition.

307C Cash basis: deduction for costs of loans

25

(1) Section 307D applies in calculating the profits of a property business

for a tax year if conditions A to C are met.

(2) Condition A is that the profits of the business are calculated on the

cash basis for the tax year.

(3) Condition B is that, apart from section 272A (restricting deductions 30

for finance costs related to residential property) and section 307D

(cash basis: modification of deduction for costs of loans), a deduction

for costs of a loan would be allowed in calculating the profits of the business for the tax year.

In this section and in section 307D such a loan is referred to as a 35

“relevant loan”. Condition C is that—

L>V

where— L is the total loan amount for the tax year (see subsections (5) 40

and (6)), and V is the sum of the values of all the properties involved in the

(b) no amount brought into account in calculating the loss or other amount corresponds to, or is represented in, an amount within subsection (7).

(7) An amount is within this subsection if, for the purposes of non-UK

tax chargeable under the law of a territory, the amount is or at any

time has been (in any period) deductible from or otherwise allowable against non-UK profits of any person.

(8) A loss or other amount may not be surrendered by virtue of subsection (2) if and to the extent that it, or any amount brought into account in calculating it, corresponds to, or is represented in, amounts within subsection (9).

(9) An amount is within this subsection if, for the purposes of non-UK

tax chargeable under the law of a territory, the amount has (in any period) been deducted from or otherwise allowed against non-UK profits of any person.

(10) But an amount is not to be taken to be within subsection (7) or (9) by

reason only that it is-

Draft provisions for Finance Bill 2017

property business on the last day of the tax year (see subsections

(7) and (8)).

(5) The “total loan amount for the tax year”—

45

(a) if there is only one relevant loan, is the business amount of that loan, and

216

(No. 2) Bill

Schedule 5

– Trades and property businesses: calculation of profits

Part

2 – Property businesses: amendments of ITTOIA 2005

=

<>

(b) if there are two or more relevant loans, is found by calculating the business amount of each of those loans and adding those business amounts together.

(6) The “business amount” of a relevant loan is given by—

X -x A

5

Y

where—

A is the amount borrowed by way of the loan,

X is the amount of the deduction for costs of the loan that would be allowed, apart from sections 272A and 307D, in calculating

the profits of the business for the tax year, and

10

Y is the amount of the deduction for costs of the loan that would be allowed, apart from the wholly and exclusively rule and sections 272A and 307D, in calculating the profits of the business for the tax year.

(7) The “value” of a property is the total of—

15

(a) the market value of the property at the time that it is first involved in the property business, and

Part 3 – Group relief for carried-forward losses

	=	
<p>(a) an amount of profits brought into account for the purpose of being excluded from non-UK profits of the person, or</p> <p>(b) an amount brought into account in calculating an amount of profits brought into account as mentioned in paragraph (a).</p> <p>(11) Subsection (12) applies for the purposes of subsection (7) if, in order to determine if an amount is or at any time has been deductible or otherwise allowable for the purposes of non-UK tax chargeable under the law of a territory, it is necessary under that law to know if</p> <p>the amount (or a corresponding amount) is or at any time has been deductible or otherwise allowable for tax purposes in the United Kingdom.</p> <p>(12) The amount is to be treated as deductible or otherwise allowable for the purposes of the non-UK tax chargeable under the law of the territory concerned.</p> <p>188I Restriction on surrender losses etc made when dual resident</p> <p>The surrendering company may not surrender a loss or other amount under this</p>	<>	<p>(b) such amount of any expenditure of a capital nature incurred by the person carrying on the business in respect of the property as is not brought into account in calculating the profits of the business for the tax year or any previous tax year.</p> <p>(8) A property is “involved in the property business” if it is a property whose exploitation forms the whole or part of the business.</p> <p>(9) “Costs”, in relation to a loan, means—</p> <p>(a) interest on the loan, or</p> <p>(b) incidental costs of obtaining finance by means of the loan.</p> <p>(10) Section 58(2) to (4) (meaning of “incidental costs of obtaining finance”) apply for the purposes of subsection (9)(b).</p> <p>(11) In this section—</p> <p>“market value”, in relation to a property, means the price which the property might reasonably be expected to fetch—</p> <p>(a) in the market conditions then prevailing, and</p> <p>(b) between persons dealing with each other at arm’s length in the open market;</p> <p>“property” means an estate, interest or right in or over land;</p> <p>“the wholly and exclusively rule” means the rule in section 34</p> <p>(expenses not wholly and exclusively for trade and unconnected losses), as applied by section 272ZA (application of trading income rules: cash basis).</p> <p>307D Cash basis: modification of deduction for costs of loans</p> <p>(1) Where section 307C provides</p>

Chapter if the company was not eligible to surrender the loss or other amount under Chapter 2 of Part 5 by reason of section 109 (restriction on losses etc surrenderable by dual resident).	=	that this section applies in calculating the profits of a property business for a tax year, the amount which is allowed as a deduction for costs of a relevant loan in calculating the
CHAPTER 3	=	
CLAIMS FOR GROUP RELIEF FOR CARRIED-FORWARD LOSSES	=	
188J Overview of Chapter This Chapter sets out how a company may claim group relief for carried-forward losses, how the relief is given and limitations on the amount of relief to be given on a claim.	<>	profits for the tax year is the non-adjusted deduction multiplied by 45 the relevant fraction. Finance (No. 2) Bill 217 Schedule 5 – Trades and property businesses: calculation of profits Part 2 – Property businesses: amendments of ITTOIA 2005
Claiming group relief 188K Claims for group relief for carried-forward losses (1) This section applies in relation to the surrendering company's surrenderable amounts for the surrender period under Chapter 2. (2) A company ("the claimant company") may make a claim for group relief for carried-forward losses for an accounting period ("the claim period") in relation to those amounts (in whole or in part) if the following requirements are met. Requirement 1 The surrendering company consents to the claim. Requirement 2 There is a period ("the overlapping period") that is common to the	<>	This is subject to section 272A (restricting deductions for finance costs related to residential property). (2) "The non-adjusted deduction" means the deduction for costs of the relevant loan that would be allowed, apart from section 272A and this section, in calculating the profits of the business for the tax year. 5 (3) "The relevant fraction" means – V - --- L where V and L have the same meaning as in section 307C.
claim period and the	<>	Property businesses that use, or have used, cash basis 307E Capital receipts under, or

surrender period.

Requirement 3
At a time during the overlapping period the group condition is met (see section 188L).

166 Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

after leaving, cash basis
10

(1) This section applies in relation to a property business carried on by a

(3) But a company may not make a claim for group relief for carried-forward losses for an accounting period if—

(a) any amount carried forward to that period under any provision mentioned in section 188C(1) is not deducted in full from the total profits of the company for that period at Step 2 of section 4(2),

(b) the company makes a claim under section 458(1) of CTA 2009 for any amount of a deficit to be excepted from being set off against profits of that period,

(c) the company makes a claim under section 45(4A) that the

profits of a trade of that period are not to be reduced or are

not to be reduced by more than a specified amount, or

(d) the company makes a claim under section 45B(5) for relief not to be given in that period for an amount of a loss or for a specified part of an amount of a loss.

(4) More than one company may make a claim for group relief for carried-forward losses in relation to any surrenderable amounts (but the giving of relief in relation to any claim is subject to the provisions of this Chapter).

188L The group condition

(1) The group condition is met if the surrendering company and the claimant company—

(a) are members of the same group of companies, and

=

<>

person in two cases—

(a) Case 1 (see subsections (2) to (4)), and
(b) Case 2 (see subsections (5) to (8)).

(2) Case 1 is a case in which conditions A and B are met.

15

(3) Condition A is that the person receives disposal proceeds or a capital

refund in relation to an asset in a tax year for which the profits of the property business are calculated on the cash basis (see section 271D).

For the meaning of “disposal proceeds” and “capital refund” see subsections (9) and (10).

20

(4) Condition B is that—

(a) an amount of capital expenditure (see subsection (11)) relating to the asset has been brought into account in

calculating the profits of the property business on the cash basis, or

25

(b) an amount of relevant capital expenditure (see subsection

(b) are both UK related.
(2) Two companies are members of the same group of companies for the purposes of this section if-
(a) one is the 75% subsidiary of the other, or

(b) both are 75% subsidiaries of a third company.

(3) In this section “75% subsidiary” is to be read in accordance with

Chapter 3 of Part 24, but subject to subsections (4) to (6).

(4) In applying the definition of “75% subsidiary” in section 1154(3),

share capital of a registered society is to be treated as if it were ordinary share capital.

(5) If-

(a) a company (“the shareholder”) directly owns shares in another company, and

(b) a profit on the sale of those shares would be a trading receipt of the shareholder,

the shareholder is treated as not being the owner of those shares for

the purpose of determining if any company is a 75% subsidiary of any other company.

(6) If a company (“the subsidiary”) would, apart from this subsection, be

(17) relating to the asset has been brought into account in

calculating the profits of the property business in accordance with GAAP (see section 271B)-

(i) by means of a deduction allowed under section 58 or 30

(59) (incidental costs of obtaining finance) (as applied

by section 272) or section 311A (replacement domestic items relief), or

(ii) under CAA 2001 (see subsection (20)).

(5) Case 2 is a case in which-

35 (a) condition C is met, and (b) condition D or E is met.

(6) Condition C is that disposal proceeds or a capital refund arise to the person in relation to an asset in a tax year-

(a) for which the profits of the property business are calculated 40 in accordance with GAAP, and

(b) which is after a tax year for which the profits of the business had been calculated on the cash basis.

218 Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

(7) Condition D is that an amount of capital expenditure relating to the asset-

(a) has been paid in a tax year for which the profits of the property business were calculated on the cash basis,

(b) has been brought into

treated as a 75% subsidiary of another company ("the parent") at any time, the subsidiary is not to be so treated unless at that time the parent-

(a) is beneficially entitled to at least 75% of any profits available for distribution to equity holders of the subsidiary, and
Draft provisions for Finance Bill 2017

167
Schedule 6 – Carried-forward losses
Part 3 – Group relief for carried-forward losses

(b) would be beneficially entitled to at least 75% of any assets of the subsidiary available for distribution to such equity holders on a winding up.

(7) Chapter 6 of Part 5 (equity holders and profits or assets available for

distribution) applies for the purposes of subsection (6)(a) and (b).

(8) Section 134 (meaning of "UK related" company) applies for the purposes of this section.

Giving group relief
188M Deductions from total profits
(1) If a claimant company makes a claim as mentioned in section 188K, the group relief for carried-forward losses is given by the making of

a deduction from the claimant company's total profits of the claim period.
(2) The amount of the deduction is-

account in calculating the profits of the business on the cash basis, and
(c) on the assumption that the profits had not been calculated on the cash basis at the time the expenditure was paid, would not have been qualifying expenditure.

(8) Condition E is that-

10
(a) an amount of capital expenditure relating to the asset has been brought into account in calculating the profits of the

property business for a tax year in accordance with GAAP by

=
<>
means of a deduction allowed under section 58 or 59 (as applied by section 272) or section 311A, and

15
(b) that tax year is before the tax year for which the person last entered the cash basis.

(9) "Disposal proceeds" means–
(a) any proceeds arising from the disposal of an asset or any part of it,

20
(b) any proceeds arising from the grant of any right in respect of, or any interest in, the asset, or

(c) any amount of damages, proceeds of insurance or other compensation received in respect of the asset.

=
<>
See also section 307F for circumstances in which a person is to be regarded as disposing of an asset.

25
(10) "Capital refund" means an amount that is (in substance) a refund of

(a) an amount equal to the surrendering company's

surrenderable amounts for the surrender period, or

(b) if the claim is in relation to only part of those amounts, an

amount equal to that part.

(3) Subsection (2) is subject to—

(a) subsections (4) to (7),

(b) the limitation set out in sections 188N to 188R, and

(c) section 269ZD (restriction on deductions from total profits).

(4) The deduction is to be made—

(a) before deductions for relief within subsection (5), but

(b) after all other deductions to be made at Step 2 in section 4(2)

(apart from deductions for group relief for carried-forward

losses on other claims).

(5) The deductions within this subsection are deductions for relief—

(a) under section 37 in relation to a loss made in an accounting

period after the claim period,

(b) under section 260(3) of CAA 2001 in relation to capital

allowances for an accounting period after the claim period,

and (c) under section 386 or 463B of CTA 2009 in relation to a deficit

of a deficit period after the claim period.

(6) For the purposes of subsection (4)(b) it is to be assumed that the

claimant company has claimed all relief available to it for the claim

period under section 37 of this Act or section 260(3) of CAA 2001.

(7) Corporation tax relief is not to be given more than once for the same

amount, whether—

(a) by giving group

capital expenditure relating to an asset.

(11) "Capital expenditure" means expenditure of a capital nature incurred, or treated as incurred, on or in connection with—

30

(a) the provision, alteration or disposal of an asset, or

(b) the potential provision, alteration or disposal of an asset.

(12) The disposal proceeds or capital refund mentioned in condition A or

(as the case may be) condition C are to be brought into account as a

receipt in calculating the profits of the property business.

35

(13) In a case where only part of the total capital expenditure incurred, or

treated as incurred, by the person in relation to the asset has been brought into account in calculating the profits of the property business (whether or not on the cash basis), the amount brought into

account under subsection (12) is proportionately reduced.

40

The reference in this subsection to expenditure brought into account

includes a reference to expenditure brought into account under CAA

2001 (see subsection (20)).

(14) Subsection (12) does not apply if the whole of the amount which

would otherwise be brought into account under that subsection—

45

relief for carried-forward losses and by giving some other relief (for any accounting period) to the surrenderring company, or (b) by giving group relief for carried-forward losses more than once.

168 Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

(a) has already been brought into account as a receipt in

calculating the profits of the property business under this section,

Finance (No. 2) Bill

219

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

<> (b) is brought into account as a receipt in calculating the profits of the business under any other provision of this Part (except section 334D(4) (assets not fully paid for)), or (c) is brought into account under Part 2 or 3A of CAA 2001 as a disposal value.

5

The reference to any other provision of this Part in paragraph (b)

includes a reference to any provision applied by section 272 or 272ZA.

(15) If part of the amount which would otherwise be brought into account

under subsection (12) has already been or is brought into account as 10

mentioned in subsection (14), subsection (12) applies in relation to

the remainder of that amount.

(16) For the purposes of this section, any question as to whether or to

what extent expenditure is brought into account in calculating the profits of a property business is to be determined on such basis as is 15

just and reasonable in all the circumstances.

(17) In subsection (4)(b) “relevant capital expenditure” means capital expenditure which-

(a) has been incurred (or treated as incurred) by the

Limitation on amount of group relief for carried-forward losses to be given

188N Limitation on amount of group relief for carried-forward losses

The amount of group relief for carried-forward losses to be given on a claim (“the current claim”) is limited to-

(a) the unused part of the surrenderable amounts (see section

1880), or (b) if less, the unrelieved part of the claimant company’s

available total profits of the claim period (see section 188P).

1880 Unused part of the surrenderable amounts

(1) The unused part of the surrenderable amounts is the amount equal

to-

(a) the surrenderable amount for the overlapping period (see subsection (2)), less

(b) the amount of prior surrenders for that period (see

subsections (3) to (5).

(2) To determine the surrenderable amount for the overlapping period-

(a) take the proportion of the surrender period included in the overlapping period, and

(b) apply that proportion to the surrenderable amount for the surrender period.

The surrenderable amount for the overlapping period is the amount given as a result of paragraph (b).

(3) To determine the amount of prior surrenders for the overlapping period-

(a) identify any prior claims for the purposes of this section (see subsection (4)), and

(b) take the steps set out in subsection (5) in relation to each such claim.

The amount of prior surrenders for the overlapping period is the

total of the previously used amounts given at Step 3 in subsection (5)

for all the prior claims.

(4) A claim is a prior claim for the purposes of this section if-

(a) it is a claim by any company for group relief for carried-

forward losses in respect of the whole or a part of the amounts that, in relation to the current claim, are the surrendering company's surrenderable amount for the

person

before the tax year for which the person last entered the cash

20 basis, and (b) is cash basis deductible in relation to that tax year.

(18) For the purposes of this section, a person carrying on a property

business "enters the cash basis" for a tax year if the profits of the business are calculated-

25 (a) on the cash basis for the tax year, and (b) in accordance with GAAP for the previous tax year.

(19) Expenditure is "cash basis deductible" in relation to a tax year if, on

the assumption that the expenditure was paid in that tax year, a

30 deduction would be allowed in respect of the expenditure in

calculating the profits of the property business on the cash basis for that tax year.

(20) For the purposes of this section, expenditure is "brought into account

under CAA 2001" in calculating the profits of a property business if and to the extent that-

35 (a) a capital allowance made under Part 2 of that Act in respect of the expenditure is treated as an expense in calculating

those profits (see sections 248 to 250A of that Act), or

(b) qualifying expenditure (within the meaning of Part 2 of CAA

2001) is allocated to a pool for a relevant qualifying activity

40 and is set-off against different disposal receipts.

(21) An amount of qualifying expenditure is "set-off against

<p>surrender period,</p> <p>(b) it is made before the current claim, and</p> <p>(c) it has not been withdrawn.</p> <p>(5) These are the steps referred to in subsection (3)(b) to be taken in relation to each prior claim.</p> <p>Step 1 Identify the overlapping period for the prior claim.</p> <p>Step 2</p> <p>Identify any period that is common to the overlapping period for the current claim and the overlapping period for the prior claim.</p> <p>Draft provisions for Finance Bill 2017</p> <p>169</p> <p>Schedule 6 – Carried-forward losses</p> <p>Part 3 – Group relief for carried-forward losses</p>	<p>different</p> <p>–</p> <p>(a) the amount would have been unrelieved qualifying disposal receipts" if expenditure carried forward in the pool for the relevant qualifying activity, but</p> <p>(b) the amount is not so carried forward because (and only because) one or more disposal values in respect of one or more assets, other than the asset in respect of which the</p> <p>220</p> <p>Finance (No. 2) Bill</p> <p>Schedule 5 – Trades and property businesses: calculation of profits</p> <p>Part 2 – Property businesses: amendments of ITTOIA 2005</p>
<p>If there is a common period, go to Step 3.</p> <p>If there is no common period, there is no previously used amount in relation to the prior claim (and ignore Step 3).</p> <p>Step 3</p> <p>Determine the previously used amount of group relief for carried-forward losses in relation to the prior claim (see subsection (6)).</p> <p>(6) To determine the previously used amount of group for carried-forward losses in</p>	<p>=</p> <p><></p> <p>qualifying expenditure was incurred (or treated as incurred), have at any time been brought into account in that pool.</p> <p>(22) For the purposes of subsections (20) and (21), an activity is a "relevant qualifying activity" if–</p> <p>(a) it is a qualifying activity mentioned in section 15(1)(b) to (da)</p> <p>5</p> <p>of CAA 2001 (property business activities), and</p> <p>(b) the property business consists of or includes that qualifying activity.</p> <p>(23) For the purposes of subsection (21), an amount of qualifying expenditure incurred (or treated as incurred) by a person is not to be</p> <p>10</p> <p>regarded as not carried forward because the person enters the cash basis.</p> <p>(24) In this section–</p> <p>"disposal value" means–</p> <p>(a) in subsection (14)(c)–</p> <p>15</p> <p>(i) a</p>

relation to a prior claim-

(a) take the proportion of the overlapping period for the prior claim that is included in the common period identified at Step 2 in relation to that claim, and

(b) apply that proportion to the amount of group relief for carried-forward losses given on the prior claim.

The previously used amount of group relief for carried-forward

losses in relation to the prior claim is the amount given as a result of paragraph (b).

(7) For the meaning of the "overlapping period" see section 188R.

188P Unrelieved part of claimant company's available total profits

(1) The unrelieved part of the claimant company's available total profits of the claim period is the amount equal to-

(a) the company's available total profits for the overlapping period (see subsection (2)), less,

(b) the amount of previously claimed group relief for carried-

disposal value for the purposes of Part 2 of CAA 2001 (see, in particular, section 61 of that Act), or

(ii) proceeds from a balancing event for the purposes of Part 3A of that Act (see section 20

3600 of that Act), and

(b) in subsection (21), a disposal value for the purposes of Part 2 of that Act;

"pool" means the main pool or a class pool to which qualifying expenditure is allocated under Part 2 of CAA 2001 (see section 54 of that

Act);

"provision" includes creation, construction or acquisition; "qualifying expenditure" means qualifying expenditure within

the meaning of Part 2 of CAA 2001 (see section 11(4) of that Act for the general rule);

"unrelieved qualifying expenditure" means unrelieved qualifying expenditure for the purposes of Part 2 of CAA 2001 (see section 59(1) and (2) of that Act).

307F Deemed capital receipts under, or after leaving, cash basis

(1) This section makes provision supplementary to section 307E.

(2) If-

(a) at any time a person ceases to use an asset or any part of it for

the purposes of a property business (other than in the circumstances mentioned in subsection (5)), but

(b) the person does not dispose of the asset (or that part) at that

40 time,
the person is to be regarded for the purposes of section 307E as

forward losses for that period.

(2) To determine the available total profits for the overlapping period—

(a) take the proportion of the claim period included in the overlapping period, and

(b) apply that proportion to the available total profits of the claim period.

The available total profits for the overlapping period is the amount given as a result of paragraph (b).

(3) To determine the amount of previously claimed group relief for

carried-forward losses for the overlapping period—

(a) identify any prior claims for the purposes of this section (see subsection (4)), and

(b) take the steps set out in subsection (5) in relation to each such claim.

The amount of previously claimed group relief for carried-forward

losses for the overlapping period is the total of the previously

claimed amounts given at Step 3 in subsection (5) for all the prior claims.

(4) A claim is a prior claim for the purposes of this section if—

(a) it is a claim by the claimant company for group relief for carried-forward losses which would be given by way

disposing of the asset (or that part) at that time for an amount equal

to the market value amount.

(3) If at any time there is a material increase in the person's non-business

45

use of an asset or any part of it, the person is to be regarded for the

purposes of section 307E as disposing of the asset (or that part) at that

Finance (No. 2) Bill

221

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

<> time for an amount equal to the relevant proportion of the market

value amount.

(4) For the purposes of subsection (3)–

(a) there is an increase in a person's non-business use of an asset (or part of an asset) if—

5

(i) the proportion of the person's use of the asset (or that part) that is for the purposes of the property business

decreases, and

(ii) the proportion of the person's use of the asset (or that part)

that is for other purposes (the “non-business” 10 use”)

increases;

(b) “the relevant proportion” is the difference between—

(i) the proportion of the person's use of the asset (or part

of the asset) that is non-business use, and

of a deduction from the company's total profits of the claim period, (b) it is made before the current claim, and (c) it has not been withdrawn.

170 Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

(5) These are the steps referred to in subsection (3)(b) to be taken in relation to each prior claim.

Step 1 Identify the overlapping period.

Step 2 Identify any period that is common to the overlapping period for the current claim and the overlapping period for the prior claim.

If there is a common period, go to Step 3.

If there is no common period, there is no previously claimed amount

in relation to the prior claim (and ignore Step 3).

Step 3 Determine the previously claimed amount of group relief for carried forward losses in relation to the prior claim (see subsection (6)).

(6) To determine the previously claimed amount of group relief for

carried-forward losses in relation to a prior claim-

(a) take the proportion of the overlapping period for the prior claim that is included in the common period identified at Step 2 in relation to that claim, and

(b) apply that proportion to the amount of group relief for carried-forward losses given on the prior claim.

The previously claimed amount of group relief for carried-forward losses in relation to the prior claim is the amount given as a result of

paragraph (b).

(7) In this section references

(ii) the proportion of the person's use of the asset (or that 15 part) that was non-business use before the increase mentioned in subsection (3).

(5) If- (a) the property business in respect of which capital expenditure relating to an asset has been brought into account as 20

mentioned in section 307E is an overseas property business,

and (b) there is a move overseas, the person is to be regarded for the purposes of section 307E as disposing of the asset at the time of the move overseas for an amount 25

equal to the market value amount.

(6) For the purposes of subsection (5) there is a "move overseas" if- (a) the person ceases to be UK resident, or

to the claimant company's "available total profits" are references to its total profits after the deductions mentioned in section 188M(4)(b).

(8) Further, if the claimant company is non-UK resident its available total profits do not include any part of its total profits that arise from activities that are double taxation exempt for the claim period (so far as those profits are not covered by the deductions mentioned in section 188M(4)(b)).

(9) Section 186 (when activities are double taxation exempt) applies for the purposes of this section.

188Q Sections 1880 and 188P: supplementary

(1) If two or more claims for group relief for carried-forward losses are made at the same time, for the purpose of section 1880 and 188P treat the claims as made—

(a) in such order as the company making them may elect or the

companies making them may jointly elect, or

(b) if no such election is made, in such order as an officer of

Revenue and Customs may direct.

(2) For the purpose of Step 3 in subsection (5) of each of section 1880 and 188P the amount of group relief for carried-forward losses given on a prior claim is determined on the basis that relief is given on the

claim before it is given on any later claim.

(3) If the use of the proportion mentioned in section 1880(2) or (6), or in section 188P(2) or (6), would, in the circumstances of a particular

case, produce a result that is unjust or unreasonable, the proportion

(b) the tax year is, as respects the person, a split year, and the

overseas part of the tax year is the later part.

(7) The move overseas occurs—

(a) in a case falling within subsection (6)(a), on the last day of the

tax year for which the person is UK resident, or

(b) in a case falling within subsection (6)(b), on the last day of the

UK part of the tax year.

35

(8) In this section—
"capital expenditure" has the same meaning as in section 307E,

"market value amount" means the amount that would be regarded as normal and reasonable—

(a) in the market conditions then prevailing, and

40

(b) between persons dealing with each other at arm's

length in the open market."

24 In section 311A (replacement domestic items relief), in subsection (15)—

(a) for the definition of "the capital expenditure rule" substitute
"the capital expenditure rule" means—

45

(a) in relation to a property business whose

profits are calculated in accordance with

222 Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of

is to be modified so far as necessary to produce a result that is just and reasonable.

188R Meaning of “the overlapping period”

(1) In sections 1880 and 188P “the overlapping period”, in relation to a claim for group relief for carried-forward losses, means the period that is common to the claim period and the surrender period (see Requirement 2 in section 188K(2)).

(2) But if during any part of the overlapping period the group condition

is not met, that part is treated as not forming part of the overlapping period but instead as forming–

(a) a part of the surrender period that is not included in the overlapping period, and

(b) a part of the claim period that is not included in the overlapping period.

CHAPTER 4

MISCELLANEOUS PROVISIONS AND INTERPRETATION OF PART

Miscellaneous
188S Payments for group relief for carried-forward losses
(1) This section applies if–
(a) the surrendering company and the claimant company have

=
<>
GAAP, section 33 (capital expenditure), as applied by section 272, and
(b) in relation to a property business whose profits are calculated on the cash basis, section

307B
(cash basis: capital expenditure);”
5
(b) in the definition of “the wholly and exclusively rule”–
(i) omit “the rule in”, and
(ii) after “section 272” insert “or 272ZA”.

25 In section 315 (deduction for expenditure on sea walls), after subsection (6) insert–

10
“(7) In calculating the profits of a property business on the cash basis, any reference in this section to the incurring of expenditure is to the paying of expenditure.”

26 In section 322 (commercial letting of furnished holiday accommodation), after paragraph (za) in subsections (2) and (2A) insert–

15
“(za) section 307B (cash basis: capital expenditure),”.

27 After section 329 insert–
“329A Application of Chapter where cash basis used

=
+
=<>
This Chapter applies if–

an agreement between them in relation to losses and other amounts of the surrendering company ("the agreed loss amounts"),

(b) group relief for carried-forward losses is given to the claimant company in relation to the agreed loss amounts, and

(c) as a result of the agreement the claimant company makes a payment to the surrendering company that does not exceed the total amount of the agreed loss amounts.

(2) 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.

(a) the profits of a property business are calculated–

20

(i) on the cash basis for a tax year (see section 271D), and

(ii) in accordance with GAAP (see section 271B) for the following tax year, or

(b) the profits of a property business are calculated–
(i) in accordance with GAAP for a tax year, and

25

(ii) on the cash basis for the following tax year."

28 In section 331 (income charged)–
(a) the existing text becomes subsection (1), and

(b) after that subsection insert–

"(2) This is subject to section 334A (spreading on leaving cash basis and related election)."

29 After section 334 insert–

=

<>

"Spreading of adjustment income on leaving cash basis
334A Spreading on leaving cash basis and related election

Sections 239A (spreading on leaving cash basis) and 239B (election to
35

accelerate charge under section 239A) apply for the purposes of this

Chapter as they apply for the purposes of Chapter 17 of Part 2, but as

if–

Interpretation

188T Definitions

(1) In this Part–
"the claimant company" has the meaning given by section 188K(2),

"the claim period" has the meaning given by section 188K(2),

"company" means any body corporate,

"group relief for carried-forward losses" has the meaning given by section 188A(3)

172

Draft provisions for Finance Bill 2017

Schedule 6 – Carried-forward losses

Part 3 – Group relief for carried-forward losses

"profits" means income and chargeable gains, except in so far as

<p>the context otherwise requires, “the surrenderable amounts” has the meaning given by section 188C(5), “surrendering company” has the meaning given by 188C(5),</p> <p>and</p> <p>“the surrender period” has the meaning given by section 188C(5).</p> <p>(2) In this Part, except in so far as the context otherwise requires— (a) references to a trade include an office, and (b) reference to carrying on a trade include holding an office.”</p>	<p>=</p> <p>=</p> <p>=</p>	<p>(a) for section 239A(1) there were substituted— “(1) This section applies if the profits of a property business 40 are calculated— (a) on the cash basis for a tax year (see section 271D),</p> <p>and</p> <p>Finance (No. 2) Bill 223 Schedule 5 – Trades and property businesses: calculation of profits Part 2 – Property businesses: amendments of ITTOIA 2005</p> <p>=</p> <p>=</p> <p>=</p>
<p>188C(5).</p> <p>(2) In this Part, except in so far as the context otherwise requires— (a) references to a trade include an office, and (b) reference to carrying on a trade include holding an office.”</p>	<p>=</p> <p>=</p>	<p>in accordance with GAAP (see section 271B) for (b) the following tax year.”, and (b) any reference to section 239A or 239B were to the section concerned as applied by this section.</p>
<p>PART 4</p> <p>MINOR AND CONSEQUENTIAL AMENDMENTS</p>	<p>=</p> <p>=</p>	<p>CHAPTER 7A 5</p> <p>CASH BASIS: ADJUSTMENTS FOR CAPITAL ALLOWANCES</p>
<p>ICTA 1988</p> <p>24 (1) Section 826 (interest on tax overpaid) is amended as follows.</p> <p>(2) After subsection (7A) insert—</p> <p>“(7AA) In any case where—</p> <p>(a) a company ceases to carry on a trade in an accounting period 15 (“the terminal period”),</p> <p>(b) as a result of a</p>	<p>=</p> <p>=</p>	<p>334B “Entering the cash basis” For the purposes of this Chapter, a person carrying on a property business enters the cash basis for a tax year if the profits of the business are calculated— 10 (a) on the cash basis for the tax year (see section 271D), and (b) in accordance with GAAP (see section 271B) for the previous tax year. 334C Unrelieved qualifying expenditure (1) This section applies if— 15 (a) a person carrying on a property business enters the cash basis for a tax year (“the current tax year”), and (b) the person</p>

claim under section 45F of CTA 2010, the whole or any part of a loss made in the trade is relieved for the purposes of corporation tax against profits (of whatever description) of an earlier accounting period ("the earlier period") which does not fall wholly within the period of 12 months immediately preceding the terminal period, and

(c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment

received by the company in that accounting period,

then, in determining the amount of interest (if any) payable under

this section on the repayment referred to in paragraph (c) above, no

account shall be taken of so much of the amount of that repayment

as falls to be made as a result of the claim under section 45F, except

so far as concerns interests for any time after the date on which any

corporation tax for the terminal period became (or, as the case may

be, would have become) due and payable, as mentioned in

subsection (7D) below.)"

(3) In subsection (7D) (meaning of references to the date on which corporation tax became payable) after "(7A)," insert "(7AA).".

(4) In subsection (7E) (power conferred by section 59E of TMA 1970 not to include power to change the meaning of references to the date on which corporation tax became payable) after "(7A)," insert "(7AA)".

FA 1998

25 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended in accordance with paragraphs 26 to 38.
Draft provisions for Finance Bill 2017

would, apart from section 59(4A) of CAA 2001,

have unrelieved qualifying expenditure relating to a relevant property business activity to carry forward from the 20 chargeable period which is the previous tax year.

(2) But this section does not apply if section 334D applies.

(3) In calculating the profits of the property business for the current tax year, a deduction is allowed for any cash basis deductible amount of

the expenditure relating to each relevant property business activity. 25

(4) A "cash basis deductible amount" of the expenditure means any

amount of the expenditure for which a deduction would be allowed

in calculating the profits of the property business on the cash basis

on the assumption that the expenditure was paid in the current tax year.

30

(5) Any cash basis deductible amount of the expenditure is to be

determined on such basis as is just and reasonable in all the circumstances.

(6) In this section-

"relevant property business activity" means-

35

(a) in relation to a UK property business, an ordinary UK

property business and a UK furnished holiday

=

<>

<p>26 In paragraph 61(1)(c) (consequential claims etc arising out of certain</p> <p>Revenue amendments or assessments), in the words in brackets, after “relief” insert “or group relief for carried-forward losses”.</p>	<p>=> lettings business (within the meaning of Part 2 of CAA 2001 (see sections 16 and 17 of that Act)), and (b) in relation to an overseas property business, an ordinary overseas property business and an EEA furnished holiday lettings business (within the meaning of Part 2 of that Act (see sections 17A and 17B of that Act)); 224 Finance (No. 2) Bill Schedule 5 – Trades and property businesses: calculation of profits Part 2 – Property businesses: amendments of ITTOIA 2005</p>
<p>27 In the heading of Part 8 (claims for group relief) at the end insert “and group relief for carried-forward losses”.</p>	
<p>28 For paragraph 66 (introduction to Part 8) substitute–</p> <p>“66 (1) This Part of this Schedule applies to–</p> <p>(a) claims for group relief under Part 5 of the Corporation Tax Act 2010, and</p> <p>(b) claims for group relief for carried-forward losses under Part 5A of that Act.</p> <p>(2) In this Part of this Schedule (except where otherwise indicated)–</p> <p>(a) references to “relief” are to either of those forms of relief, and</p> <p>(b) references to “a claim” are to a claim for either of those forms of relief.”</p> <p>29 In paragraph 67 (claim to be included in company tax return) omit “for group relief”.</p> <p>30 (1) Paragraph 68 (content of claims)</p>	<p>=> “unrelieved qualifying expenditure” means unrelieved qualifying expenditure for the purposes of Part 2 of CAA 2001 (see section 59(1) and (2) of that Act). 334D Assets not fully paid for</p> <p>(1) This section applies if–</p> <p>5 (a) a person carrying on a property business enters the cash basis for a tax year (“the current tax year”),</p> <p>(b) at any time before the end of the chargeable period which is the previous tax year the person has incurred relevant expenditure, and</p> <p>10 (c) not all of the relevant expenditure has actually been paid by the person.</p> <p>(2) “Relevant expenditure” means expenditure on plant or machinery–</p> <p>(a) for which a deduction</p>

is amended as follows.

(2) In sub-paragraph (1), in the words before paragraph (a), omit "for group relief".

(3) In sub-paragraph (3), in the words before paragraph (a), omit "for group relief".

(4) For sub-paragraph (4) substitute—
"(4) Those companies are—

company,

(b) the surrendering company,

(c) any other company by reference to which the claimant

company and the surrendering company are members of the same group, and

(d) if the claim is for group relief, any other company by reference to which consortium condition 1, 2 or 3 in section

132 and 133 of the Corporation Tax Act 2010 is satisfied in the

case of the claimant company and the surrender company."

31 (1) Paragraph 69 (claims for more or less than the amount available for

surrender) is amended as follows.

(2) In subsection (1) omit "for group relief".

(3) In subsection (3), in the first step, after "Part 5" insert "or (as the case may be)

Part 5A".

32 (1) Paragraph 70 (consent to surrender) is amended as follows.

174

Draft provisions for Finance

Bill 2017

Schedule 6 – Carried-forward losses

Part 4 – Minor and consequential amendments

(2) For sub-paragraph (1) substitute—
"(1) In accordance with Requirement 1 in section 130(2), 135(2) or (as

the case may be) 188K(2) of the Corporation Tax Act 2010, a claim requires the consent of the surrendering company."

(3) In sub-paragraph (4) omit "for group relief".

would be allowed in calculating the

profits of the property business on the cash basis on the 15

assumption that the expenditure was paid in the current tax year, and

(b) in respect of which the person has obtained capital allowances.

(3) If the amount of the relevant expenditure that the person has actually

paid exceeds the amount of capital allowances given in respect of the

relevant expenditure, the difference is to be deducted in calculating the profits of the property business for the current tax year.

(4) If the amount of the relevant expenditure that the person has actually

paid is less than the amount of capital allowances given in respect of

the relevant expenditure, the difference is to be treated as a receipt in

calculating the profits of the property business for the current tax

=

<>

33 (1) Paragraph 72 (notice of consent requiring amendment of return) is amended as follows.

(2) For sub-paragraph (1) substitute—
“(1) Where notice of consent by the surrendering company relates to a loss or other amount in respect of which corporation tax relief has

been given to the company for any accounting period, the company must at the same time amend its company tax return for that accounting period so as to reflect the notice of consent.”

(3) Omit sub-paragraph (2).

(4) In sub-paragraph (3) omit “or (2)”.

(5) In sub-paragraph (4) omit “or (2)”.

34 (1) Paragraph 73 (withdrawal or amendment of claim) is amended as follows.

(2) In sub-paragraph (1) omit “for group relief”.

(3) In sub-paragraph (2) omit “for group relief”.

35 (1) Paragraph 74 (time limit for claims) is amended as follows.

(2) In sub-paragraph (1), in the words before paragraph (a), omit “for group relief”.

(3) In sub-paragraph (2) omit “for group relief”.

(4) In sub-paragraph (3) omit “for group relief”.

(5) In sub-paragraph (4) omit “for group relief” in both places those words

occur.

36 (1) Paragraph 75A (assessment on other claimant companies) is amended as follows.

(2) In sub-paragraph (2) omit “group”.

(3) In sub-paragraph (6) omit “for group relief”.

37 (1) Paragraph 76 (assessment to recover excessive relief) is amended as follows.

(2) In the italic heading omit “group”.

(3) In sub-paragraph (1) omit “group”.

38 (1) Paragraph 77 (joint amended returns) is amended as follows.

(2) In sub-paragraph (1)—
(a) in paragraph (a) omit “for group relief”, and
(b) in paragraph (b) omit “group” in the second and third places that

year.

(5) Any question as to whether or to what extent expenditure is relevant expenditure, or as to whether or to what extent any capital allowance

30

obtained is in respect of relevant expenditure, is to be determined on such basis as is just and reasonable in all the circumstances.

(6) If the amount of capital allowances given in respect of the relevant expenditure has been reduced under section 205 or 207 of CAA 2001

(reduction where asset provided or used only partly for qualifying

35

activity), the amount of the relevant expenditure that the person has

actually paid is to be proportionately reduced for the purposes of this

section.

334E Effect of election where predecessor and successor are connected persons

40

(1) This section applies if—
(a) a person carrying on a property business enters the cash basis for a tax year,
(b) the person is the successor for the purposes of section 266 of CAA 2001, and

45

(c) as a result of an election under that section, relevant plant or

machinery is treated as sold by the predecessor to the

word occurs.
Draft provisions for Finance Bill 2017

175
Schedule 6 – Carried-forward losses
Part 4 – Minor and consequential amendments

(3) In sub-paragraph (3), in paragraph (a), omit “for group relief”.

CTA 2009

39 In section 1223 (carry forward expenses of management and other amounts), in subsection (1)(b), after subparagraph (i) (as inserted by paragraph 6(2)(b)) insert–
“(ii) section 269ZD of CTA 2010 (restrictions on deductions from total profits) has effect for the accounting period, or
(iii) ”.

CTA 2010

40 CTA 2010 is amended in accordance with paragraphs 41 to 48.
41 (1) Section 1 (overview of Act) is amended as follows.
(2) In subsection (2) (list of reliefs provided by Parts 4 to 7) after paragraph (f) insert–
“(fa) group relief for carried-forward losses (see Part 5A),”
(3) After subsection (2) insert–
“(2A) Part 7ZA contains provision restricting the amount of certain deductions which may be made in calculating the profits of a company on which corporation tax is chargeable.”

42 (1) Section 46 (use of trade-related

successor at any time
during the tax year.
Finance (No. 2) Bill

225
Schedule 5 – Trades and property businesses: calculation of profits
Part 2 – Property businesses: amendments of ITTOIA 2005

=
<> (2) The provisions of this Chapter have effect in relation to the successor as if everything done to or by the predecessor had been done to or by the successor.
(3) Any expenditure actually incurred by the successor on acquiring the relevant plant or machinery is to be ignored for the purposes of 5

=
=
<>
calculating the profits of the property business for the tax year.
(4) In this section–
“the predecessor” has the same meaning as in section 266 of CAA 2001, and
“relevant plant or machinery” has the same meaning as in 10 section 267 of that Act.”

30 In section 351 (income charged), after subsection (2) insert–
“(3) Further to subsection (2), section 254 applies for the purposes of this

Chapter as if for

interest and dividends if insufficient trade profits) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies if in an accounting period a company carrying on a trade makes a loss in the trade and either—

(a) relief for the loss could be given in a later accounting period under section 45(4)(b) or 45B(4) but for the fact that there are no profits of the trade of the later accounting period, or

(b) the amount of relief for the loss that could be given in a later accounting period under section 45(4)(b) or 45B(4) is limited by reason of the amount of profits of the trade of the later accounting period.”

(3) In subsection (2) at the beginning insert “For the purposes of section 45 and 45B.”.

43 In section 47 (registered societies), in subsection (1), for “section 45” substitute “sections 45 and 45B”.

44 In section 53 (leasing contracts and company reconstructions), in subsection

(1)(e), for “or 45” substitute “, 45, 45A or 45B”.

45 In section 54 (non-UK resident company: receipts of interest, dividends or royalties), in subsection (2), for “or 45” substitute “, 45, 45A or 45B”.

46 In section 104 of CTA 2010 (meaning of “non-trading loss on intangible fixed

assets” for purposes of section 99(1)(g) of CTA 2010), for subsection (2)

subsection (2A) of that section there were substituted—

15

“(2A) If the time immediately before the person permanently ceases to carry on the UK property business falls in a cash basis tax year, assume for the purposes of subsection (2) that the profits of the business are calculated on the cash basis.”

(4) For the purposes of sections 254 (as so applied) and 353, a tax year is 20

“a cash basis tax year” in relation to a property business if the profits

of the business for the tax year are calculated on the cash basis (see section 271D).”

31 In section 353 (basic meaning of “post-cessation receipt”), after subsection (1) insert—

25

“(1A) If the time immediately before a person permanently ceases to carry on a UK property business falls in a cash basis tax year (see section

351(4)), a sum is to be treated as a post-cessation receipt only if it

would have been brought into account in calculating the profits of

the business on the cash basis had it been received at that time.”

30

32 In section 356 (application to businesses within the charge to corporation tax), in subsection (1), for “section 355” substitute “sections 353(1A) and 355,

and in the modification of section 254 in section 351(3)”.

33 In section 786 (meaning of “rent-a-room receipts”), after subsection (6)

Schedule 6 – Carried-forward losses

Part 4 – Minor and consequential amendments

substitute–

“(2) But it does not include a loss treated as a non-trading loss on intangible fixed assets for the surrender period as a result of section 753(3) of CTA 2009.”

47 In section 137 (giving of group relief: deduction from total profits) in subsection (5) (list of deductions to be made after group relief is given)–

(a) omit “and” at the end of paragraph (b),

(b) in paragraph (c) for “or 459” substitute “, 459 or 463B”, and

(c) after paragraph (c) insert “, and

(d) under section 188M (giving of group relief for carried-forward losses: deductions from total profits)–

48 In section 189(2) (relief for qualifying charitable donations) at the end insert “and group relief for carried-forward losses”.

PART 5

COMMENCEMENT ETC

49 (1) The amendments made by this Schedule have effect in relation to

=

insert–

35 “(6A) Subsections (6B) and (7) apply if–

(a) the receipts would otherwise be brought into account in calculating the profits of a UK property business, and
(b) the profits are calculated on the cash basis (see section 271D).

(6B) Any amounts brought into account under section 307E (capital

40

receipts under, or after leaving, cash basis) as a receipt in calculating

the profits of the property business are to be treated as receipts

within paragraph (a) of subsection (1) above.”

34 In section 860 (adjustment income), in subsection (5), after “Chapter 17 of

Part 2” insert “, or under section 239B as applied to property businesses by

45

section 334A.”.

226

Finance (No. 2) Bill

Schedule

5 – Trades and property businesses: calculation of profits

Part 2 – Property businesses: amendments of ITTOIA 2005

=

35 In section 866 (employee benefit contributions: non-trades and non-property businesses), in subsection (7)(b), for “section 272” substitute “sections 272 and 272ZA”.

36 In section 867 (business entertainment and gifts: non-trades and non-property businesses), in subsection (7)(b), for “section 272” substitute

5

“sections 272 and 272ZA”.

37 In section 868 (social security contributions: non-trades etc), in subsection

(6)(b), for “section 272” insert “sections 272 and 272ZA”.

38 In section 869 (penalties, interest and VAT surcharges: non-trades etc), in

accounting periods beginning on or after 1 April 2017.	subsection (6)(b), for "section 272" substitute "sections 272 and 272ZA". 10
(2) For the purposes of the amendments made by this Schedule, where a company has an accounting period beginning before 1 April 2017 and ending on or after that date ("the straddling period")–	
(a) so much of the straddling period as falls before 1 April 2017, and so much of that period as falls on or after that date, are treated as separate accounting periods, and	39 In section 870 (crime-related payments: non-trades and non-property businesses), in subsection (4)(b), for "section 272" substitute "sections 272 and 272ZA". 15
(b) profits and losses of the company for the straddling period are apportioned to the two separate accounting periods–	40 In section 872 (losses calculated on same basis as miscellaneous income), in subsection (4)(b), for "section 272" substitute "sections 272 and 272ZA". 15
(i) in accordance with section 1172 of CTA 2010 (time basis), or	
(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.	41 In Part 2 of Schedule 4 (index of defined expressions), at the appropriate place insert– 15
	=
	-+ "the cash basis section 271D (in Part 3) in accordance section 271B". 20
	= with GAAP (in Part 3)
SCHEDULE 7 Section 21	= <> PART 3
CORPORATE INTEREST RESTRICTION	= <> TRADES ETC: AMENDMENTS OF OTHER ACTS
	=
PART 1	<> TMA 1970 25
INTRODUCTION	= <> 42 In section 42 of TMA 1970 (procedure for making claims etc), in subsection (7)(e), after "194" insert ", 271A(10)". 30
Overview	= <> TCGA 1992
1 (1) This Schedule contains provision that– (a) disallows certain amounts that a company would (apart from this	<> 43 TCGA 1992 is amended as follows. 44 In section 37 (consideration chargeable to tax on income), after subsection (1) insert– "(1A) There is to be excluded from the consideration for a disposal of an asset taken into account in the computation of the gain a sum equal to any amount that is taken into account by the person making the

Schedule) be entitled to bring into account for the purposes of corporation tax in respect of interest paid and similar expenses, and (b) allows certain amounts disallowed under this Schedule in previous accounting periods to brought into account in later accounting periods.

Draft provisions for Finance Bill 2017

177
Schedule 7 – Corporate interest restriction
Part 1 – Introduction

(2) Paragraph 2 of this Part defines some key concepts including, in particular, “the total disallowed amount” in relation to a period of account of a worldwide group.

(3) Part 2 provides for—
(a) the appointment of the “reporting company” of a worldwide group

for a period of account of the group, and

(b) the preparation and submission by that company of an “interest

restriction return” for the group in respect of the period.

(4) Part 3 provides for—

(a) the disallowance in certain circumstances of tax-interest expense

amounts of companies that are members of a worldwide group, and (b) the carrying forward of disallowed tax-interest expense amounts,

and for bringing those amounts into account in certain circumstances

disposal as a receipt under section 96A or 307E of ITTOIA 2005
35
(capital receipts under, or after leaving, cash basis) as a result of the operation of any deemed disposal provision in relation to the asset.
(1B) But subsection (1A) applies only to the extent that the sum has not been excluded from the consideration for an earlier disposal of the asset.

40
Finance (No. 2) Bill

227
Schedule 5 – Trades and property businesses: calculation of profits
Part 3 – Trades etc: amendments of other Acts

=

<>

(1C) The following are “deemed disposal provisions”—
(a) in relation to trades, professions and vocations, subsections (4) and (5) of section 96A of ITTOIA 2005 (which provide for circumstances in which a person is to be regarded as disposing of an asset for the purposes of that section), and 5
(b) in relation to property businesses, section 307F of ITTOIA 2005 (which provides for circumstances in which a person is to be regarded as disposing of an asset for the purposes of section 307E of that Act).
45 (1) Section 41 (restriction of losses by reference to capital allowances etc) is 10 amended as follows.

(2) In subsection (4), after paragraph (a) insert—
“(zaa) any deduction allowable in respect of capital expenditure in calculating profits on the cash basis (see sections 33A and 307B of ITTOIA 2005),”.

15
(3) After subsection (6) insert—
“(6A) Where—
(a) capital

in relation to a later period of account of the worldwide group.

(5) Part 4-

(a) defines "a tax-interest expense amount" and "a tax-interest income

amount" of a company for a period of account of a worldwide group, which are amounts that are (or, apart from this Schedule, would be)

brought into account for the purposes of corporation tax,

(b) defines "the net tax-interest expense" of a company for a period of

account for a worldwide group, which is the total of the company's

tax-interest expense amounts for the period less the total of its tax-

interest income amounts for the period, and

(c) defines "aggregate net tax-interest expense" of a worldwide group for a period of account of the worldwide group, which is the sum of each member of the group's net tax-interest expense for the period.

(6) Part 5 contains provision about the calculation of "the interest capacity" of a

worldwide group for a period of account of the group, which is the aggregate of the interest allowance for the period and any unused interest

allowance of the group from the previous five years (or, if that aggregate is

less than the de minimis amount, the de minimis amount).

(7) Part 6 makes provision about the calculation of "the interest allowance" of a

worldwide group for a period of account of the group.

The interest allowance for a period of account is calculated using the fixed-

ratio method unless the group elects for the group ratio method to be used for the period.

allowances have been made or may be made in respect of expenditure, and

(b) the capital allowances include a deduction mentioned in 20

subsection

(4)(zaa),

the capital allowances to be taken into account under this section are

to be regarded as equal to the total amount of expenditure which has

qualified for capital allowances less any balancing charge to which

the person making the disposal is liable under the Capital 25

Allowances Act."

(4) In subsection (7), after "Capital Allowances Act," insert "and subsection (6A)

does not apply,"

(5) After subsection (8) insert-

"(9) In this section-

30

(a) in relation to a trade, profession or vocation, references to

calculating profits on the cash basis are to calculating the

profits of a trade, profession or vocation in relation to which

an election under section 25A of ITTOIA 2005 (cash basis for

trades) has effect, and

35

(b) in relation to a property business, references to calculating

<p>(8) Part 7 defines concepts used in Part 6 including—</p> <p>the “tax-EBITDA” of a company for a period of account of a worldwide group (which is an amount derived from amounts brought into account for the purposes of corporation tax);</p> <p>the “aggregate tax-EBITDA” of a worldwide group for a period of account of the group (which is an amount derived from the tax-EBITDA of UK group companies);</p> <p>the “adjusted group interest expense” of a worldwide group for a period of account of the group (which is an amount derived from the financial statements of the worldwide group);</p> <p>the “qualifying group interest expense” of a worldwide group for a period of account of the group (which is an amount derived from the financial statements of the worldwide group);</p>	<p>profits on the cash basis are to be construed in accordance with section 271D of that Act (calculation of profits of property businesses on the cash basis).</p> <p>(10) In this section—</p>
<p>178</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 1 – Introduction</p>	<p>40</p> <p>“capital expenditure” means expenditure of a capital nature incurred on, or in connection with, the creation, construction, acquisition, alteration or disposal of an asset, and</p> <p>“property business” means a UK property business or an overseas property business within the meaning of Part 3 of</p>
<p>178</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 1 – Introduction</p>	<p>45</p> <p>ITTOIA 2005 (see sections 264 and 265 of that Act)."</p> <p>228</p> <p>Finance (No. 2) Bill</p> <p>Schedule 5 – Trades and property businesses: calculation of profits</p>
<p>178</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 1 – Introduction</p>	<p>Part 3 – Trades etc: amendments of other Acts</p>
<p>the “group-EBITDA” of the worldwide group for a period of account of the group (which is an amount derived from the financial statements of the worldwide group).</p> <p>(9) Part 8 contains further interpretative and supplementary provision including in particular definitions of “the worldwide group”, “ultimate parent”, “period of account of the worldwide group”, “UK group company”</p>	<p>=</p> <p><></p> <p>46 (1) Section 47A (exemption for disposals by persons using cash basis) is amended as follows.</p> <p>(2) For the heading substitute “Exemption for certain disposals under, or after leaving, cash basis”.</p> <p>(3) In subsection (1), for “A to D” substitute “A, B and D”.</p> <p>5</p> <p>(4) For subsection (2) substitute— “(2) Condition A is that the asset is not land.”</p> <p>(5) In subsection (3), for “or vocation” substitute “, vocation or property business”.</p> <p>(6) Omit subsection (4).</p>

<p>and “relevant accounting period”.</p> <p>(10) Part 9 contains rules connected with tax avoidance.</p> <p>(11) Part 10 contains provision about commencement and transitional matters.</p> <p>(12) Part 11 contains consequential amendments.</p> <p>(13) Part 12 contains an index of defined expressions.</p>	<p style="text-align: right;">10</p> <p>(7) For subsection (5) substitute— “(5) Condition D is that relevant disposal proceeds— (a) are brought into account as a receipt (whether or not on the cash basis) under section 96A(3I) of ITTOIA 2005 in calculating the profits of a trade, profession or vocation</p> <p style="text-align: right;">15</p>
<p>Meaning of “subject to interest restrictions”, “the total disallowed amount” etc</p>	<p>=</p>
<p>2 (1) A worldwide group is “subject to interest restrictions” in a period of account of the group if—</p> <p>(a) the aggregate net tax-interest expense of the group for the period (see paragraph 42), exceeds</p> <p>(b) the interest capacity of the group for the period (see paragraph 44).</p> <p>(2) “The total disallowed amount” of a worldwide group in a period of account of the group is—</p> <p>(a) if the group is subject to interest restrictions in the period, the amount of the excess mentioned in sub-paragraph (1);</p>	<p style="text-align: right;">(capital receipts under, or after leaving, cash basis: trades, professions and vocations), or</p> <p>(b) are brought into account as a receipt (whether or not on the cash basis) under section 307E(12) of that Act in calculating the profits of a property business (capital receipts under, or</p> <p style="text-align: right;">20 after leaving, cash basis: property businesses).</p> <p>(5A) “Relevant disposal proceeds” means disposal proceeds as mentioned in section 96A(3F) of ITTOIA 2005 or (as the case may be) section 307E(9) of that Act which arise from the disposal mentioned in subsection (1). ”</p>
<p>(b) otherwise, nil.</p> <p>(3) “The interest reactivation cap” of a worldwide group in a period of account of the group is (subject to sub-paragraph (4))—</p> <p>(a) the interest allowance of the group for the period (see paragraph 48), less</p> <p>(b) the aggregate net tax-interest expense of the group for the period (see paragraph 42).</p> <p>(4) If the amount determined under sub-paragraph (3) is a negative amount, the interest reactivation cap of the worldwide group in the period is nil.</p>	<p style="text-align: right;">25</p> <p>(8) For subsection (6) substitute— “(6) Subsection (7) applies in the case of the disposal of, or of an interest in, an asset—</p> <p>(a) which, in the period of ownership of the person making the disposal—</p> <p style="text-align: right;">30</p> <p>(i) has been used partly for the purposes of the trade, profession or vocation and partly for other purposes, or</p> <p>(ii) has been used for the purposes of the trade, profession or vocation for part of that period, or</p>

(5) A worldwide group is “subject to interest reactivations” in a period of account of the group if—

(a) the interest reactivation cap of the group in the period is not nil, and

(b) at least one company that was a UK group company at any time during the period has an amount available for reactivation in the

return period that is not nil (see paragraph 20).

(6) This paragraph has effect for the purposes of this Schedule.

Draft provisions for Finance Bill 2017

179

Schedule 7 – Corporate interest restriction

Part 2 – The reporting company and the interest restriction return

35

(b) expenditure on which by the person has qualified in part only for capital allowances.”

(9) In subsection (7)–

(a) in paragraph (a), for “was, or (as the case may be)” to the end substitute “qualified for capital allowances”, and

40

(b) in paragraph (c), at the end insert “, or to the expenditure qualifying for capital allowances.”

Finance (No. 2) Bill

229

Schedule 5 – Trades and property businesses: calculation of profits

Part 3 – Trades etc: amendments of other Acts

PART 2

THE REPORTING COMPANY AND THE INTEREST RESTRICTION RETURN

(10) After subsection (7) insert–

“(8) In this section “property business” means a UK property business or

Appointment by a worldwide group of a reporting company

an overseas property business within the meaning of Part 3 of ITTOIA 2005 (see sections 264 and 265 of that Act).”

47 Section 47B (disposals made by persons after leaving cash basis) is omitted.

3 (1) A member of a worldwide group may, by notice to HMRC—
(a) appoint an eligible company to be the group’s “reporting company”

in relation to such period of account of the group as is specified in the appointment (“the relevant period of account”), or

(b) revoke an appointment it has previously made.

(2) The revocation of an appointment does not prevent a further appointment

48 CAA 2001 is amended as follows.

49 In section 1 (capital allowances), omit subsections (4) and (5).

50 After section 1 insert—
“1A Capital allowances and charges: cash basis

10

(1) This section applies in relation to a chargeable period for which the

profits of a trade, profession, vocation or property business (“the

relevant activity”) carried on by a person are calculated on the cash basis.

(2) The person is not entitled to any allowance or liable to any charge

15

under sub-paragraph (1).

(3) An appointment or revocation under sub-paragraph (1) may not be made-

(a) before the end of the relevant period of account, or

(b) after the end of the period of 6 months beginning with the end of the

relevant period of account.

(4) An appointment or revocation under sub-paragraph (1) is of no effect unless

the notice-

(a) is signed on behalf of at least 50% of eligible companies, and

(b) contains a statement that the signatories represent at least 50% of eligible companies.

(5) In this paragraph "eligible company" means a company that-

(a) was a UK group company at any time during the relevant period of

account, and

(b) was not dormant throughout the relevant period of account.

(6) A notice of appointment under sub-paragraph (1) may be accompanied by a statement that such of the signatories as may be specified in the statement

do not wish to be consenting companies in relation to returns submitted by

the reporting company in relation to the relevant period of account.

For provision as to the effect of a statement under this sub-paragraph, see paragraph 10.

(7) The Commissioners may by regulations make further provision about an

appointment or revocation under sub-paragraph (1) including, in particular, provision-

(a) about the form and manner in which an appointment or revocation

under this Act except as provided by subsections (4) and (7).

(3) No disposal value is to be brought into account except as provided

by subsections (5) and (8).

(4) If, apart from subsection (2), the person would be entitled to an

allowance in respect of expenditure incurred on the provision of a

car or liable to a charge in connection with such an allowance, the

person is so entitled or (as the case may be) so liable.

(5) If, apart from subsection (3), a disposal value would be brought into

account in respect of a car, the disposal value is brought into account

in respect of the car.

25

(6) Subsections (7) and (8) apply if-

(a) a person carrying on a relevant activity incurs qualifying

expenditure relating to an asset at a time when the profits of

that activity are not calculated on the cash basis,

(b) after incurring the expenditure, the person enters the cash

30 basis for a tax year, and

(c) no deduction would be allowed in respect of the expenditure

in calculating the profits of the relevant activity on the cash

basis for that tax year, on the assumption that the expenditure

was paid in that tax year.

35

(7) If, apart from subsection (2), the person would be liable to a charge

in connection with allowances in respect of the qualifying expenditure mentioned in subsection (6), the person is so liable.

(8) If, apart from subsection (3), a disposal value would be brought into

may be made;

(b) requiring a person to give information to HMRC in connection with the making of an appointment or revocation;

(c) prohibiting a company from being appointed unless it meets conditions specified in the regulations;

(d) about the time from which an appointment or revocation has effect;

(e) providing that an appointment or revocation is of no effect, or (in the case of an appointment) ceases to have effect, if a requirement under the regulations is not met.

180

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 2 – The reporting company and the interest restriction return

4 (1) This paragraph applies where—

(a) a worldwide group has not appointed a reporting company under paragraph 3(1) in relation to a period of account of the group (“the relevant period of account”), and

(b) the time limit in paragraph 3(3)(b) (time limit for appointment of reporting company by group) has passed.

(2) The Commissioners may appoint an eligible company to be the reporting company of the group in relation to the relevant period of account.

(3) An appointment under sub-paragraph (2) may be made—

(a) at any time before the end of the period of 36 months beginning with the end of the relevant period of account, or

(b) at any time after the end of that period if, at that time, an amount stated in the company tax return of a relevant company for a relevant accounting period can be altered.

(4) In this paragraph “relevant company” means a company that was a UK group company at any time during the relevant period of account.

(5) Paragraph 88(3) to (5) of Schedule 18 to FA 1998 (meaning of “can no longer

account in respect of the asset mentioned in subsection (6), the

40

disposal value is brought into account in respect of the asset.

(9) For the purposes of this section a person carrying on a trade, profession or vocation “enters the cash basis” for a tax year if—

230

(No. 2) Bill

Finance

Schedule

5 – Trades and property businesses: calculation of profits

Part 3 – Trades etc: amendments of other Acts

=

<> (a) an election under section 25A of ITTOIA 2005 (cash basis for

=

<> (b) an election under section 25A of ITTOIA 2005 (cash basis for trades) has effect in relation to the trade, profession or vocation for the tax year, and

<> (b) no such election has effect in relation to the trade, profession

or vocation for the previous tax year.

5

(10) For the purposes of this section a person carrying on a property

be altered") applies for the purposes of this paragraph.

(6) In this paragraph "eligible company" means a company that-

(a) was a UK group company at any time during the relevant period of account, and

(b) was not dormant throughout the relevant period of account.

Appointment by HMRC of replacement reporting company

5 (1) This paragraph applies where-

(a) a reporting company is appointed under paragraph 3 or 4 in relation to a period of account of a worldwide group ("the relevant period of account"), and

(b) condition A or B is met.

(2) Condition A is that an officer of Revenue and Customs considers that the

reporting company mentioned in sub-paragraph (1)(a) has not complied

with, or will not comply with, a requirement under or by virtue of this

Schedule.

(3) Condition B is that the reporting company mentioned in sub-paragraph

(1)(a) has agreed that an officer of Revenue of Customs may exercise the

power in this paragraph.

(4) The Commissioners may at any time appoint an eligible company to be the

reporting company of the group in relation to the relevant period of account

in place of the company mentioned in sub-paragraph (1).

(5) In this paragraph "eligible company" means a company that-

business "enters the cash basis" for a tax year if the profits of the business are calculated-

(a) on the cash basis for the tax year (see section 271D of ITTOIA 2005), and

10

(b) in accordance with GAAP (see section 271B of that Act) for the previous tax year.

(11) In this section-

=

(a) references to calculating the profits of a trade, profession or

vocation on the cash basis are to calculating the profits of a

15

trade, profession or vocation in relation to which an election under section 25A of ITTOIA 2005 has effect, and

(b) references to calculating the profits of a property business on

the cash basis are to be construed in accordance with section

271D of that Act (calculation of profits of property businesses

20

on the cash basis).

(12) In this section-

"car" has the same meaning as in Part 2 (see section 268A); "disposal value" means-

(a) a disposal value for the purposes of Part 2, 4A, 5, 6, 7,

25

8 or 10, or

(b) proceeds from a balancing event for the purposes of Part 3 or 3A;

"qualifying expenditure" means qualifying expenditure within

the meaning of any Part of this Act."

30

51 (1) Section 4 (capital expenditure) is amended as follows.

(2) In subsection (2)-

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

(b) after paragraph (a) insert-

(a) was a UK group company at any time during the relevant period of account, and
(b) was not dormant throughout the relevant period of account.

Draft provisions for Finance Bill 2017

181

Schedule 7 – Corporate interest restriction

Part 2 – The reporting company and the interest restriction return

Obligation of reporting company to notify group members of its appointment

6 (1) This paragraph applies where a reporting company is appointed under this

Part in relation to a period of account of a worldwide group (“the relevant period of account”).

(2) As soon as reasonably practicable after the appointment, the reporting company must notify each company that was a UK group company at any time during the relevant period of account of its appointment.

“(aa) any cash basis expenditure, other than expenditure

35

incurred on the provision of a car, or”.

(3) After subsection (2) insert–
“(2ZA) In subsection (2)(aa)–
“cash basis expenditure” means any expenditure incurred–

=

+-

=

(a) in the case of a trade, profession or vocation, at a time

40

when an election under section 25A of ITTOIA 2005 has effect in relation to the trade, profession or vocation, or

(b) in the case of a property business, in a tax year for

which the profits of the business are calculated on the

45

cash basis (see section 271D of that Act); and “car” has the same meaning as in Part 2 (see section 268A).”

Finance (No. 2) Bill

231

Schedule 5 – Trades and property businesses: calculation of profits

Part 3 – Trades etc: amendments of other Acts

=

52 (1) Section 59 (unrelieved qualifying expenditure) is amended as follows.

(2) In subsection (4), for “no amount may be carried forward as unrelieved qualifying expenditure” substitute “any cash basis deductible amount may

not be carried forward as unrelieved qualifying expenditure in a pool for the trade, profession or vocation”.

5

(3) After subsection (4) insert–
“(4A) If a person carrying on a property business enters the cash basis for

a tax year, any cash basis deductible amount may not be carried

Obligation of reporting company to submit interest restriction return

7 (1) This paragraph applies where a reporting company is appointed under this

Part in relation to a period of account of a worldwide group (“the relevant period of account”).

(2) A reporting company that was appointed under paragraph 3 or 4 must

submit a return in relation to the relevant period of account to HMRC.

(3) A reporting company that was appointed under paragraph 5 must submit a

return in relation to the relevant period of account to HMRC if no return in

relation to the period was submitted under sub-paragraph (2).

(4) A return submitted under this paragraph must be received by HMRC before the filing date.

(5) For this purpose, "the filing date" means—

(a) the end of the period of 12 months beginning with the end of the relevant period of account, or

(b) if later, the end of the period of 3 months beginning with the day on

which the reporting company was appointed.

(6) A return submitted under this paragraph is of no effect unless it is received

by HMRC before—

(a) the end of the period of 36 months beginning with the end of the

relevant period of account, or

(b) if later the end of the period of 3 months beginning with the day on

which the reporting company was appointed.

This is subject to sub-paragraph (7).

(7) Where a notice of determination under paragraph 24 is sent to a relevant

company after the time limit in sub-paragraph (6), a return may be submitted under this paragraph at any time during the period of 12 months

forward as unrelieved qualifying expenditure in a pool for a relevant

qualifying activity from the chargeable period which is the previous 10 tax year."

(4) Omit subsection (5).

(5) After subsection (5) insert—
“(5A) A “cash basis deductible amount” means any amount of unrelieved

qualifying expenditure for which a deduction would be allowed in 15

calculating the profits of the trade, profession, vocation or property

business (as the case may be) on the cash basis on the assumption

that the expenditure was paid in the tax year for which the person

enters the cash basis.”

(6) In subsection (6), for “the amount of unrelieved qualifying expenditure 20

incurred on the provision of a car” substitute “any cash basis deductible amount”.

(7) For subsection (7) substitute—
“(7) Subsections (9), (10) and (11) of section 1A (capital allowances and

charges: cash basis) apply for the purposes of this section as they 25

apply for the purposes of that section.

(7A) In subsection (4A) “relevant qualifying activity” means—

(a) in relation to a UK property business, an ordinary UK property business and a UK furnished holiday lettings business, and

30

(b) in relation to an overseas property business, an ordinary overseas property business and an EEA furnished holiday lettings business.”

53 (1) Section 66A (persons leaving cash basis) is amended as follows.

(2) For subsection (1) substitute—

35

“(1) This section applies

<p>beginning with date on which the determination is made.</p> <p>(8) In this paragraph "relevant company" means a company that was a UK group company at any time during the relevant period of account.</p> <p>(9) A return submitted under this paragraph must comply with the requirements of paragraph 14.</p>	<p>if-</p> <p>(a) a person carrying on a trade, profession, vocation or property business ("the business") leaves the cash basis in a chargeable period,</p> <p>(b) the person has incurred expenditure at a time when the 40</p> <p>profits of the business are calculated on the cash basis,</p> <p>(c) some or all of the expenditure was brought into account in</p>
	=
Revised interest restriction return	+-
	=
<p>8 (1) This paragraph applies where-</p> <p>(a) a reporting company has been appointed under this Part in relation to a period of account of a worldwide group ("the relevant period of account"), and</p> <p>182 Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 2 – The reporting company and the interest restriction return</p>	<p><> calculating the profits of the business on the cash basis, and 232</p> <p>Finance (No. 2) Bill</p> <p>Schedule 5 – Trades and property businesses: calculation of profits</p> <p>Part 3 – Trades etc: amendments of other Acts</p>
	=
<p>(b) a return ("the previous interest restriction return") was submitted under paragraph 7, or this paragraph, in relation to the relevant period of account.</p> <p>(2) The reporting company may submit a revised interest restriction return in relation to the relevant period of account to HMRC.</p> <p>(3) A revised interest restriction return submitted under sub-paragraph (2) is of no effect unless it is received by HMRC before-</p> <p>(a) the end of the period of 36 months beginning with the end of the relevant period of account, or</p> <p>(b) if later, the end of the period of 3 months beginning with the day on which the reporting company was appointed.</p> <p>(4) Where-</p> <p>(a) a member of the group amends, or is treated as amending, its</p>	<p><></p> <p>(d) the expenditure would have been qualifying expenditure if the profits of the business had not been calculated on the cash basis at the time the expenditure was incurred."</p> <p>(3) In subsection (2)(a)–</p> <p>(a) for "amount of that expenditure for which" substitute "higher of the 5 following",</p> <p>(b) in sub-paragraphs (i) and (ii), at the beginning insert "the amount of</p>

<p>company tax return, and</p> <p>(b) as a result of the amendment any of the figures contained in the previous interest restriction return have become incorrect,</p> <p>the reporting company must submit a revised interest restriction return to HMRC.</p> <p>(5) A revised interest restriction return submitted under sub-paragraph (4) must be received by HMRC before the end of the period of 3 months beginning with-</p> <ul style="list-style-type: none"> (a) the day on which the amended company tax return was received by HMRC, or (b) (as the case may be) the day as from which the company tax return was treated as amended. <p>(6) A return submitted under this paragraph-</p> <ul style="list-style-type: none"> (a) must indicate the respects in which it differs from the previous return, and (b) supersedes the previous return. <p>(7) A return submitted under this paragraph must comply with the requirements of paragraph 14.</p>	<p>that expenditure for which", and</p> <p>(c) in both places, for "or vocation" substitute ", vocation or property business".</p> <p>10</p> <p>(4) After subsection (6) insert-</p> <p>"(7) For the purposes of this section a person carrying on a property business leaves the cash basis in a chargeable period ("tax year X") if the profits of the business are calculated-</p> <ul style="list-style-type: none"> (a) in accordance with GAAP (see section 271B of ITTOIA 2005) (b) on the cash basis (see section 271D of that Act) for the previous tax year.
<p>Meaning of "consenting company" and "non-consenting company"</p>	<p>=</p>
<p>9 (1) This paragraph makes provision for the purposes of this Schedule about whether a company is a "consenting company" in relation to an interest restriction return submitted by a reporting company in relation to a period of account.</p> <p>(2) The company is a "consenting company" in relation to the return if, before</p> <ul style="list-style-type: none"> the return is submitted- (a) it has notified the appropriate persons that it wishes to be a consenting company in relation to interest restriction returns submitted by the reporting company in relation to the period of account, and (b) it has not notified the appropriate persons that it no longer wishes to be a consenting company in relation to such returns. <p>(3) In sub-paragraph (2) "the appropriate persons" means-</p>	<p>=</p> <p><></p> <p>(8) Subsection (11) of section 1A (capital allowances and charges: cash basis) applies for the purposes of this section as it applies for the purposes of that section."</p> <p>54 After section 419 insert-</p> <p>"419A Unrelieved qualifying expenditure: entry to cash basis</p> <ul style="list-style-type: none"> (1) If a person carrying on a mineral extraction trade enters the cash basis for a tax year, for the purpose of determining the person's (2) unrelieved qualifying expenditure for the chargeable period ending with the basis period for the tax year and subsequent chargeable periods (see section 419), only the non-cash basis deductible portion

of qualifying expenditure
incurred before the chargeable period

(b) the reporting company
in relation to the period of account.

=
<> ending with the basis
period for the tax year is to be taken into
30
account.

(4) The company is a “non-consenting
company”, in relation to the return, if it
is not a consenting company in
relation to the return.

(2) The “non-cash basis
deductible portion” of qualifying
expenditure
means the amount of
qualifying expenditure for which no
deduction

Signatory of appointment of reporting
company treated as a consenting company

=
+-

10 (1) This paragraph applies where a
company—
 (a) is a signatory to the
 appointment under paragraph 3 of a reporting
 company in relation to a
 period of account, and
 (b) is not included in a
 statement under sub-paragraph (6) of that
 paragraph (signatories not
 wishing to be consenting companies).
 (2) The signatory is treated as
 having given, at the time of the
 appointment, a
 notice under paragraph 9(2)(a) in
 relation to interest restriction returns
 submitted by the reporting
 company in relation to the period of
 account.
 (3) Sub-paragraph (2) does not
 prevent the signatory, at any time after the
 appointment, from giving a notice
 under paragraph 9(2)(b) in relation to
 interest restriction returns
 submitted by the reporting company in
 relation
 to the period of account.

would be allowed in
calculating the profits of the trade on the
cash

basis on the assumption
that the expenditure was paid in the tax
year

35
for which the person
enters the cash basis.

(3) Subsections (9) and (11)
of section 1A (capital allowances and

charges: cash basis) apply
for the purposes of this section as they

apply for the purposes of
that section.”

55 After section 431C insert—

40

“431D Persons leaving cash basis

Meaning of “reporting company”, “interest
restriction return” and “the return period”

=

11 In this Schedule—
 (a) “reporting company” means
a company appointed under paragraph
3, 4 or 5.

 (b) “interest restriction
return” means a return submitted under

 paragraph 7 or 8;
 (c) “the return period”, in
relation to an interest restriction return

<> (1) This section applies if—
 (a) a person carrying on
 a mineral extraction trade leaves the
 cash basis in a
 chargeable period,
 Finance (No. 2) Bill

of a worldwide group, means the period of account of the group to which the return relates.	Schedule 5 – Trades and property businesses: calculation of profits
Contents of interest restriction return	<> Part 3 – Trades etc: amendments of other Acts
Election that interest allowance be calculated using group ratio method	<> (b) the person has incurred expenditure at a time when an election under section 25A of ITTOIA 2005 (cash basis for trades) has effect in relation to the trade, (c) some or all of the expenditure was brought into account in calculating the profits of the trade on the cash basis, and 5 (d) the expenditure would have been qualifying expenditure if an election under section 25A of that Act had not had effect at the time the expenditure was incurred.
12 (1) This paragraph applies where– (a) a reporting company has been appointed under this Part in relation to a period of account of a worldwide group (“the relevant period of account”), and (b) the group is subject to interest restrictions in the period.	(2) In this section–
(2) The reporting company may– (a) elect that the interest allowance for the relevant period of account is to be calculated using the group ratio method, or (b) revoke an election previously made.	(a) the “relieved portion” of the expenditure is the higher of the 10 following– (i) the amount of that expenditure for which a deduction was allowed in calculating the profits of the trade, or
(3) An election or revocation under sub-paragraph (2) is of no effect unless it is included in an interest restriction return submitted under paragraph 7 or 8(2).	
(4) An election under this paragraph is referred to in this Schedule as a “group ratio election”.	
(5) For provision as to the effect of a group ratio election, see paragraph 48.	
184 Draft provisions for Finance Bill 2017	
Schedule 7 – Corporate interest restriction Part 2 – The reporting company and the interest restriction return	
Election to submit abbreviated return if group not subject to interest restrictions	+-
13 (1) This paragraph applies where– (a) a reporting company has been appointed under this Part in relation to a period of account of a worldwide group (“the relevant period of account”), and	<> (ii) the amount of that expenditure for which a deduction would have been so allowed if the expenditure had 15 been incurred wholly and exclusively for the

(b) the group is not subject to interest restrictions in the period.

(2) The reporting company may—
(a) elect to submit an abbreviated interest restriction return in relation to the relevant period of account, or
(b) revoke an election previously made.

(3) An election or revocation under sub-paragraph (2) is of no effect unless it is included in an interest restriction return submitted under paragraph 7 or 8(2).

(4) An election under this paragraph is referred to in this Schedule as an “abbreviated return election”.

(5) For provision as to the effect of an abbreviated return election, see—
paragraph 14 (which limits the required contents of the interest restriction return);
paragraph 45 (which deprives the group of the use of interest allowance for the return period, or any earlier period, in future periods of account).

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

14 (1) This paragraph makes provision about the contents of an interest restriction return submitted by a reporting company under paragraph 7 or 8.

(2) The return must (subject to sub-paragraph (3))—
(a) state the name and (where it has one) the Unique Taxpayer Reference of the ultimate parent of the worldwide group,
(b) specify the return period,
(c) state the names and Unique Taxpayer References (where they have them) of the companies that were UK group companies at any time

purposes of the trade;

(b) the “unrelieved portion” of the expenditure is any remaining amount of the expenditure.

(3) An amount of the expenditure equal to the amount (if any) by which

the unrelieved portion of the expenditure exceeds the relieved

portion of the expenditure is to be regarded as qualifying expenditure incurred by the person in the chargeable period.

(4) For the purposes of this section a person carrying on a trade leaves the cash basis in a chargeable period if—

(a) immediately before the beginning of the chargeable period an election under section 25A of ITTOIA 2005 had effect in relation to the trade, and

(b) such an election does not have effect in relation to the trade for the chargeable period.”

30
56 After section 461 insert—
“461A Unrelieved qualifying expenditure: entry to cash basis
(1) If a person carrying on a trade enters the cash basis for a tax year, any cash basis deductible amount may not be carried forward as

unrelieved qualifying expenditure in the pool for the trade from the

35
chargeable period ending with the basis period for the previous tax year.
(2) A “cash basis deductible amount” means any amount of unrelieved

during the return period, specifying in relation to each whether it is

a consenting or a non-consenting company in relation to the return,

(d) contain a statement of calculations (see paragraph 15),

(e) if the group is subject to interest restrictions in the return period-

(i) contain a statement of that fact,

(ii) specify the total disallowed amount, and

(iii) contain a statement of allocated interest restrictions (see paragraph 16), and

(f) if the group is subject to interest reactivations in the return period-

(i) contain a statement of that fact,

(ii) specify the interest reactivation cap,

(iii) contain a statement of allocated interest reactivations (see

paragraph 19);

(g) contain a declaration by the person making the return that the return

is, to the best of that person's knowledge, correct and complete.

Draft provisions for Finance Bill 2017

185

Schedule 7 – Corporate interest restriction

Part 2 – The reporting company and the interest restriction return

qualifying expenditure for which a deduction would be allowed in

calculating the profits of the trade on the cash basis on the

40

assumption that the expenditure was paid in the tax year for which

the person enters the cash basis.

(3) Any cash basis deductible amount is to be determined on such basis

as is just and reasonable in all the circumstances.

(4) Subsections (9) and (11) of section 1A (capital allowances and

45

charges: cash basis) apply for the purposes of this section as they

apply for the purposes of that section."

234

Finance

(No. 2) Bill

Schedule 5

– Trades and property businesses: calculation of profits

Part 3 – Trades etc: amendments of other Acts

(3) If the worldwide group is not subject to interest restrictions in the return

period and the reporting company has made an abbreviated return election, the return must-

(a) state that the group is not subject to interest restrictions in the return period;

(b) comply with paragraphs (a), (b), (c) and (g) of sub-paragraph (2).

(4) If the ultimate parent of the worldwide group is a deemed parent by virtue of paragraph 66 (stapled entities) or paragraph 67 (business combinations),

the requirement in sub-paragraph (2)(a) is to state the name and (where it

has one) Unique Taxpayer

=

<>

57 After section 462 insert–
“462A Persons leaving cash basis

(1) This section applies if–

(a) a person carrying on a trade leaves the cash basis in a chargeable period,

5

(b) the person has incurred expenditure at a time when an election under section 25A of ITTOIA 2005 (cash basis for trades) has effect in

<p>Reference of each of the entities mentioned in that paragraph.</p> <p>(5) In this Schedule—</p> <p>(a) a return prepared in accordance with sub-paragraph (2) is referred to as “a full interest restriction return”;</p> <p>(b) a return prepared in accordance with sub-paragraph (3) is referred to as “an abbreviated interest restriction return”.</p>	<p>relation to the trade,</p> <p>(c) some or all of the expenditure was brought into account in calculating the profits of the trade on the cash basis, and</p> <p>10</p>
<p>Statement of calculations</p>	<p>=</p>
<p>15 The statement of calculations required by paragraph 14(2)(d) to be included in a full interest restriction return must include the following information—</p>	<p>=</p>
<p>(a) for each company that was a UK group company at any time during the return period—</p> <p>(i) the company’s net tax-interest expense for the return period (see paragraph 41);</p> <p>(ii) the company’s tax-EBITDA for the return period (see paragraph 52);</p> <p>(b) the aggregate net tax-interest expense of the group for the return period (see paragraph 42);</p> <p>(c) the interest capacity of the group for the return period (see paragraph 44);</p> <p>(d) the aggregate of interest allowances of the group for periods before the return period so far as they are available in the return period (see paragraph 45);</p> <p>(e) the interest allowance of the group for the return period (see paragraph 48);</p> <p>(f) the aggregate tax-EBITDA of the group for the return period (see paragraph 51);</p> <p>(g) where the interest allowance is calculated using the fixed ratio method, the adjusted net group-interest expense of the group for the return period (see paragraph 59);</p> <p>(h) where the interest allowance is calculated using the group ratio</p>	<p><> (d) the expenditure would have been qualifying expenditure if an election under section 25A of that Act had not had effect at the time the expenditure was incurred.</p> <p>(2) In this section the “relieved portion” of the expenditure is the higher of the following—</p> <p>15 (a) the amount of that expenditure for which a deduction was allowed in calculating the profits of the trade, or</p> <p>(b) the amount of that expenditure for which a deduction would have been so allowed if the expenditure had been incurred wholly and exclusively for the purposes of the trade.</p> <p>20</p> <p>(3) For the purposes of determining the person’s available qualifying expenditure in the pool for the trade for the chargeable period (see section 456)—</p> <p>(a) the whole of the expenditure must be allocated to the pool for</p>

method—
(i) the group ratio percentage (see paragraph 50);
(ii) the qualifying net group-interest expense of the group for the return period (see paragraph X);
(iii) the group-EBITDA of the group for the return period (see paragraph Y).

186

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction
Part 2 – The reporting company and the interest restriction return

the trade in that chargeable period, and
25
(b) the available qualifying expenditure in that pool is reduced

by the relieved portion of that expenditure.

Statement of allocated interest restrictions

<> (4) For the purposes of determining any disposal values (see section

16 (1) The statement of allocated interest restrictions required by paragraph 14(2)(e) to be included in a full interest restriction return must—
(a) list one or more companies that were UK group companies at any time during the return period,

(b) in relation to each company listed under paragraph (a), specify an amount, and
(c) show the total of the amounts specified under paragraph (b).

(2) The amount specified under subparagraph (1)(b) in relation to a company

is referred to in this Schedule as the “allocated disallowance” of the company for the return period.

(3) The allocated disallowance of a company for the return period—
(a) must not exceed the net tax-interest expense of the company for the return period,
(b) where the company is a non-consenting company in relation to the

<> 462), the expenditure incurred by the person is to be regarded as qualifying expenditure.

30
(5) For the purposes of this section a person carrying on a trade leaves the cash basis in a chargeable period if—
(a) immediately before the beginning of the chargeable period an election under section 25A of ITTOIA 2005 had effect in relation to the trade, and

35
(b) such an election does not have effect in relation to the trade for the chargeable period.”

58 After section 475 insert—
“475A Unrelieved qualifying expenditure: entry to cash basis
(1) If a person carrying on a trade enters the cash basis for a tax year, any 40 cash basis deductible amount may not be carried forward as unrelieved qualifying expenditure in the pool for the trade from the

chargeable period ending with the basis period for the previous tax year.

(2) A “cash basis deductible amount” means any amount of unrelieved

return, must not exceed the company's pro-rata share of the total disallowed amount (see paragraph 17), and

(c) must not be a negative amount.

(4) The sum of the allocated disallowances for the return period of the

companies listed in the statement must equal the total disallowed amount.

(5) The statement must also specify an amount in relation to each relevant

accounting period of each company listed in the statement.

(6) The amount specified under subparagraph (5) in relation to an accounting

period of a company is referred to in this Schedule as the "allocated

disallowance" of the company for the accounting period.

(7) In the case of a company that has only one relevant accounting period, the

allocated disallowance of the company for that accounting period must be

equal to the allocated disallowance of the company for the return period.

(8) In the case of a company that has more than one relevant accounting period, the allocated disallowance of the company for any of those accounting

periods—

(a) must not exceed so much of the net tax-interest expense of the company for the return period as is referable to the accounting period,

(b) where the company is a non-consenting company in relation to the

return, must not exceed the accounting period's pro-rata share of the

total disallowed amount (see paragraph 18), and

(c) must not be a negative

qualifying expenditure for which a deduction would be allowed in calculating the profits of the trade on the cash basis on the Finance (No. 2) Bill

235

Schedule 5 – Trades and property businesses: calculation of profits
Part 3 – Trades etc: amendments of other Acts

=

<> assumption that the expenditure was paid in the tax year for which the person enters the cash basis.

(3) Any cash basis deductible amount is to be determined on such basis

as is just and reasonable in all the circumstances.

(4) Subsections (9) and (11) of section 1A (capital allowances and

5

charges: cash basis) apply for the purposes of this section as they

apply for the purposes of that section."

59

After section 477 insert—
"477A Persons leaving cash basis

(1)

This section applies if—

10

(a) a person carrying on a trade leaves the cash basis in a chargeable period,

(b) the person has incurred expenditure at a time when an election under section 25A of ITTOIA 2005 (cash basis for trades) has effect in relation to the trade,

15

(c) some or all of the expenditure was brought into account in calculating the profits of the trade on the cash basis, and

(d) the expenditure would have been qualifying trade

expenditure if an election under section 25A of that Act had

not had effect at the time the expenditure was incurred.

20

amount.

(9) The sum of the allocated disallowances of the company for its relevant accounting periods must be equal to the allocated disallowance of the company for the return period.

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

17 (1) This paragraph—
Draft provisions for Finance Bill 2017

187
Schedule 7 – Corporate interest restriction
Part 2 – The reporting company and the interest restriction return

(a) applies in relation to a worldwide group that is subject to interest restrictions in a period of account of the group (“the period of account”), and
(b) allocates the total disallowed amount of the group in the period of account to relevant companies.

(2) In this paragraph “relevant company” means a company that was a UK group company at any time during the period of account.

(3) The amount allocated to a relevant company under this paragraph is referred to in this Schedule as the company's “pro-rata share” of the total disallowed amount.

(4) Sub-paragraph (5) applies in relation to a relevant company whose net tax-

interest expense for the period of account is a positive amount.

(5) The amount of the total disallowed amount that is allocated to the company under this paragraph is—

(2) In this section the “relieved portion” of the expenditure is the amount of that expenditure for which a deduction was allowed in calculating the profits of the trade.

(3) For the purposes of determining the person's available qualifying

expenditure in the pool for the trade for the chargeable period (see 25

section 470)—
(a) the whole of the expenditure must be allocated to the pool for

the trade in that chargeable period, and

(b) the available qualifying expenditure in that pool is reduced

by the relieved portion of that expenditure.

(4) For the purposes of determining any disposal receipts (see section 476), the expenditure incurred by the person is to be regarded as qualifying trade expenditure.

(5) For the purposes of this section a person carrying on a trade leaves the cash basis in a chargeable period if—

35
(a) immediately before the beginning of the chargeable period

an election under section 25A of ITTOIA 2005 had effect in relation to the trade, and

(b) such an election does not have effect in relation to the trade for the chargeable period.”

B

A x ---

-

C

where—

A is the total disallowed amount;

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

C is the sum of each relevant company's net tax-interest expense for the period of account that is a positive amount.

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

ITA 2007

60 ITA 2007 is amended as follows.

61 In Part 4 (loss relief), in section 59 (overview of Part), in subsection (3)(b)—

(a) for "section 272" substitute "sections 272 and 272ZA", and
 (b) for "applies" substitute "apply".

45
 236

Finance (No. 2) Bill

Schedule 5 – Trades and property businesses: calculation of profits

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

=
 <> Part 3 – Trades etc: amendments of other Acts

18 (1) This paragraph—
 (a) applies in relation to a worldwide group that is subject to interest restrictions in a period of account of the group ("the period of account"), and
 (b) allocates the total disallowed amount of the group in the period of account to relevant accounting periods of relevant companies.
 (2) In this paragraph "relevant company" means a company that was a UK group company at any time during the period of account.
 (3) The amount allocated to an accounting period under this paragraph is referred to in this Schedule as the accounting period's "pro-rata share" of the total disallowed amount.
 (4) Sub-paragraph (5) applies where—

(a) a relevant company's pro-rata share of the total disallowed amount is not nil, and

<> 62 (1) Chapter 4 of Part 4 (losses from property businesses) is amended as follows.

(2) In section 120 (deduction of property losses from general income), in

subsection (7), at the end insert "and section 127BA (restriction of relief: cash

basis)".

(3) After section 127B insert—

5
 "127BA Restriction of relief: cash basis

(1) This section applies if—
 (a) in a tax year a person makes a loss in a UK property business

(b) the company has only one relevant accounting period.

(5) The amount of the total disallowed amount that is allocated to the

accounting period under this paragraph is the company's pro-rata share of the total disallowed amount.

188

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 2 – The reporting company and the interest restriction return

or overseas property business (whether carried on alone or in partnership), and

10

(b) the profits of the business are calculated on the cash basis for the tax year (see section 271D of ITTOIA 2005).

(2) No property loss relief against general income may be given to the person for the loss."

63 In Chapter 1 of Part 8 (relief for interest payments), in section 384B(1)
15

(6) Sub-paragraph (7) applies where—
(a) a relevant company's pro-rata share of the total disallowed amount

is not nil,

(b) the company has more than one relevant accounting period, and
(c) the net tax-interest expense of the company for any of those accounting periods ("the accounting period") is a positive amount.

(7) The amount of the total disallowed amount that is allocated to the accounting period under this paragraph is—

B

A x ---

-

C

where—

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

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

C is the sum of the company's net tax-interest expenses for relevant accounting periods that are positive amounts.

<> (restriction on relief for interest payments where cash basis applies), after

"for the tax year" insert "or if the profits of a UK property business or overseas property business carried on by the partnership are calculated on the cash basis for the tax year (see section 271D of ITTOIA 2005)."

PART 4

20

COMMENCEMENT AND TRANSITIONAL PROVISION

64 (1) The amendments made by this Schedule have effect for the tax year 2017-18

and subsequent tax years.

(2) If—

(a) disregarding this subparagraph, under section 33A of ITTOIA 2005,
25
as inserted by paragraph 2 of Part 1, a deduction would not be allowed in calculating the profits of a trade, profession or vocation on the cash basis for the tax year 2017-18, but

(b) if the amendment made by paragraph 2 were not to have effect for

(8) Where this paragraph does not allocate any of the total disallowed amount

to an accounting period of a relevant company, the accounting period's "pro-rata share" of the total disallowed amount is nil.

(9) In this paragraph references to the net tax-interest expense of a company for

an accounting period are to so much of the net tax-interest expense of the

company for the return period as is referable to the accounting period.

Statement of allocated interest reactivations

19 (1) The statement of allocated interest reactivations required by paragraph

14(2)(f) to be included in a full interest restriction return must—

(a) list one or more relevant companies,

(b) in relation to each company listed under paragraph (a), specify an amount, and

(c) show the total of the amounts specified under paragraph (b).

(2) The amount specified under subparagraph (1)(b) in relation to a company

that tax year, that deduction would be allowed in calculating the

30

profits of that trade, profession or vocation on that basis for that tax

year,

that deduction is to be allowed in calculating the profits of that trade, profession or vocation on that basis for that tax year.

(3) Sub-paragraph (2) is to be disregarded in determining any question as to

35

whether or to what extent an amount of expenditure would, on the assumption that it was paid in the tax year 2017-18, be brought into account in calculating the profits of a trade, profession or vocation for the tax year

2017-18 for the purposes of—

(a) the following provisions of CAA 2001—

40

(i) section 1A (capital allowances and charges: cash basis),
(ii) section 59 (unrelieved qualifying expenditure),
(iii) section 41A (unrelieved qualifying expenditure: entry to cash basis),
Finance (No. 2) Bill

237

Schedule 5 – Trades and property businesses: calculation of profits
Part 4 – Commencement and transitional provision

=

<> (iv) section 461A (unrelieved qualifying expenditure: entry to cash basis), and

(v) section 475A (unrelieved qualifying expenditure: entry to cash basis); and

(b) the following provisions of ITTOIA 2005—

5

(i) section 96A (capital receipts under, or after leaving, cash

basis),

(ii) section 240C (unrelieved qualifying expenditure: Parts 2, 7

and 8 of CAA

2001),

(iii) section 240CA (unrelieved qualifying expenditure: Part 5 of 10 CAA 2001), and

(iv) section 240D (assets not fully paid for).

(4) But sub-paragraph (2) is not to be disregarded in determining any question

<p>is referred to in this Schedule as the “allocated reactivation” of the company for the return period.</p> <p>(3) The allocated reactivation of a company for the return period—</p> <p>(a) must not exceed the amount available for reactivation of the</p>	<p>as to whether or to what extent an amount of expenditure is actually brought into account in calculating the profits of a trade, profession or vocation for 15 the tax year 2017-18 for the purposes of the provisions mentioned in paragraphs (a) and (b) of subparagraph (3).</p>
	=
	-+ SCHEDULE 6 Section 20
	= TRADING AND PROPERTY ALLOWANCES
	= -+ PART 1 20
	= -+ MAIN PROVISIONS
	= -+ 1 In ITTOIA 2005, after section 783 insert—
	= -+ “PART 6A
	= -+ INCOME CHARGED UNDER THIS ACT: TRADING AND PROPERTY ALLOWANCES
	= -+ CHAPTER 1 25
	= -+ TRADING ALLOWANCE
<p>company in the return period (see paragraph 20), and</p> <p>(b) must not be a negative amount.</p> <p>(4) The sum of the allocated reactivations for the return period of the companies listed in the statement must equal—</p> <p>(a) the sum of the amounts available for reactivation of each relevant company in the return period, or</p> <p>(b) if lower, the interest reactivation cap of the worldwide group in the return period.</p> <p>(5) In this paragraph “relevant company” means a company that was a UK group company at any time during the return period.</p>	<p><> Introduction 783A Relief under this Chapter</p> <p>(1) This Chapter gives relief to an individual on—</p> <p>(a) the income of a relevant trade (see section 783AA), and</p> <p>30 (b) miscellaneous income (see section 783AB).</p> <p>(2) The form of relief depends on whether the individual’s relevant income exceeds the individual’s trading allowance (see sections 783AC and 783AD).</p> <p>(3) If the individual’s relevant income does not exceed the individual’s</p> <p>35 trading allowance, the income is not charged to income tax</p>

(unless

the individual elects otherwise) (see sections 783AE to 783AG).
238

Finance (No.

2) Bill

Schedule 6 – Trading and property allowances

Part 1 – Main provisions

=

“Amount available for reactivation” of company in period of account of group

(4) If the individual’s relevant income does exceed the individual’s trading allowance, the individual may elect for alternative methods of calculating the income (see sections 783AH to 783AK).

(5) Any provision of this Chapter which gives relief is subject to sections 783AN to 783AQ, which specify circumstances in which relief under 5 this Chapter is not given.

=

20 (1) This paragraph applies for the purposes of this Schedule.
 (2) The “amount available for reactivation” of a company in a period of account (“the relevant period of account”) of a worldwide group (“the relevant worldwide group”) is–
 (a) the amount determined under sub-paragraph (3), or
 (b) if lower, the company’s interest reactivation cap (see sub-paragraph (5)).
 (3) The amount referred to in sub-paragraph (2)(a) is–

A+B-C+D-E

<>

Basic definitions

783AA “Relevant trade” of an individual

(1) For the purposes of this Chapter, a trade carried on by an individual is a “relevant trade” of the individual for a tax year if–
10(a) the individual carries on the trade otherwise than in partnership, and
 (b) the trade is not a rent-a-room trade in relation to the individual for the tax year.(2) For the purposes of subsection (1)(b) a trade is a “rent-a-room trade”
15

where–
 A is the total of the disallowed tax-interest expense amounts (if any) that are brought forward to the specified accounting period from earlier accounting periods;
 B is the total of the tax-interest expense amounts (if any) that the company is required to leave out of account under paragraph 25(2) or (5) or 26(5) in the

=

in relation to an individual for a tax year if–

(a) the individual qualifies for rent-a-room relief for the tax year,

and

(b) the individual has rent-a-room receipts for the tax year which would, apart from Chapter 1 of Part 7 (rent-a-room relief), be 20 brought into

specified accounting period as a result of the operation of this Schedule in relation to a period of account of the worldwide group before the relevant period of account;

C is the total of the disallowed tax-interest expense amounts (if any) that the company is required to bring into account under paragraph

29(2) in the specified accounting period as a result of the operation of

this Schedule in relation to a period of account of the worldwide group before the relevant period of account;

D is the total of the tax-interest expense amounts (if any) that the company is required to leave out of account under paragraph 25(2)

or (5) or 26(5) in the specified accounting period as a result of the

operation of this Schedule in relation to a period of account of a worldwide group of which the company was a member before it became a member of the relevant worldwide group;

E is the total of the disallowed tax-interest expense amounts (if any) that the company is required to bring into account under paragraph

29(2) in the specified accounting period as a result of the operation of this Schedule in relation to a period of account of a worldwide group of which the company was a member before it became a member of the relevant worldwide group.

(4) In sub-paragraph (3) "the specified accounting period" means—

(a) the earliest relevant accounting period of the company, or

(b) where the company became a member of the relevant worldwide

group during the relevant period of account, the earliest relevant accounting period of the company in which it was a member of the

account in calculating the profits of the trade.

See section 783AR for definitions relevant to this subsection.

(3) In this Chapter references to a trade include references to a profession or vocation.

783AB "Miscellaneous income"

25

(1) For the purposes of this Chapter, an individual's "miscellaneous income" for a tax year is all the income arising to the individual in the

tax year which would be chargeable to income tax under Chapter 8

of Part 5 (income not otherwise charged) for the tax year.

(2) But if—

30

(a) the individual qualifies for rent-a-room relief for the tax year,

and

(b) the individual has rent-a-room receipts for the tax year which would, apart from Chapter 1 of Part 7, be chargeable to income tax under Chapter 8 of Part 5,

35

the rent-a-room receipts are not miscellaneous income.

(3) The reference in subsection (1) to the amount which would be

chargeable to income tax under Chapter 8 of Part 5 is to the amount

which would be so chargeable

—

(a) apart from this Chapter, and

40

(b) if no deduction were made for expenses or any other matter.

783AC The individual's "relevant income"

(1) For the purposes of this Chapter, an individual's "relevant income" for a tax year is the sum of the following—

group.		Finance (No. 2) Bill
(5) For the purposes of sub-paragraph (2)(b) "the interest reactivation cap" of the company is-		239 Schedule 6 – Trading and property allowances
AxB	=	Part 1 – Main provisions
where–	<>	
190 Draft provisions for Finance Bill 2017		
Schedule 7 – Corporate interest restriction		(a) the receipts for the tax year of the individual's relevant trades for the tax year, and
Part 2 – The reporting company and the interest restriction return		(b) the individual's miscellaneous income for the tax year.
A is the interest reactivation cap of the worldwide group in the relevant period of account; B is the proportion of the relevant period of account in which the company is a UK group company.	<>	(2) In subsection (1)(a) the reference to the receipts of a trade for a tax year is to all the amounts which would, apart from this Chapter, be 5
Estimated information in statements	+-	
	=	
21 (1) The paragraph applies in relation to a statement under–	<>	brought into account as a receipt in calculating the profits of the trade for the tax year.
(a) paragraph 15 (statement of calculations),		783AD The individual's trading allowance
(b) paragraph 16 (statement of allocated interest restrictions), or		(1) For the purposes of this Chapter, an individual's trading allowance for a tax year is £1,000.
(c) paragraph 19 (statement of allocated interest reactivations).		10 (2) The Treasury may by regulations amend subsection (1) so as to substitute a higher sum for the sum for the time being specified in that subsection.
(2) Where any information is included in the statement that is (or is derived from) estimated information, the statement–		
(a) must state that fact, and		
(b) must identify the information in question.		
Provision of information	+-	
	=	
Provision of information to and by the reporting company	<>	Relief if relevant income does not exceed trading allowance 783AE Full relief: introduction
22 (1) The reporting company in relation		15 (1) An individual qualifies for full relief for a tax year if–
		(a) the individual has

to a period of account of a worldwide group may, by notice, require a relevant company to provide it with

information that it needs for the purpose of exercising functions under or by virtue of this Schedule.

(2) A notice under sub-paragraph (1)–

- (a) must be in writing, and
- (b) must specify the information to be provided.

(3) The duty to comply with a notice under sub-paragraph (1) is enforceable by the reporting company.

(4) As soon as reasonably practicable after submitting an interest restriction return under paragraph 7 or 8, the reporting company must send a copy of

it to each relevant company.

(5) The duty to comply with sub-paragraph (4) is enforceable by any person to

whom the duty is owed.

(6) In this paragraph “relevant company” means a company that was a UK group company at any time during the period of account.

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

23 (1) This paragraph applies where condition A or B is met in relation to a period

of account of a worldwide group.

(2) Condition A is that–

(a) no reporting company has been appointed under paragraph 3 or 4 in

relation to the period of account, and

(b) the time limit in paragraph 3(3)(b) (time limit for appointment of reporting company by group) has passed.

(3) Condition B is that–

Draft provisions for Finance Bill 2017

191

Schedule 7 – Corporate interest restriction Part 2 – The reporting company and the interest restriction return

(a) a reporting company has been appointed under paragraph 3 or 4 in relation to the period of account,

(b) a full interest

relevant income for the tax year,

(b) the relevant income does not exceed the individual's trading

allowance for the tax year, and

(c) no election by the individual under section 783AL has effect

20

(election for full relief not to be given).

(2) Subsection (3) applies if–

(a) the individual's relevant income for the tax year consists of or

includes receipts of one or more relevant trades,

(b) one or more of those trades is a GAAP trade for the tax year,

25

(c) the individual's relevant income exceeds the individual's trading allowance for the tax year,

(d) the individual's relevant income would not exceed the

=

+-

=

<> individual's trading allowance for the tax year if it were to be

assumed that an election under section 25A (cash basis for 30 trades) had

effect in relation to the GAAP trade (or to each of

=

<>

them) for the tax year, and

(e) the individual is

restriction return has not been submitted in accordance

with this Part in relation to the period, and

(c) the filing date for the submission of an interest restriction return in

relation to the period has passed (see paragraph 7(5)).

(4) A relevant company may, by notice, require any other relevant company to

provide it with information that it needs for the purpose of determining

whether, or the extent to which, it is required to leave tax-interest expense amounts out of account, or bring them into account, under Part 3.

(5) A notice under sub-paragraph (4)–

(a) must be in writing, and

(b) must specify the information to be provided.

(6) The duty to comply with a notice under sub-paragraph (4) is enforceable by the company that sends the notice.

(7) In this paragraph “relevant company” means a company that was a UK group company at any time during the period of account.

24 (1) This paragraph applies where–

(a) a reporting company has been appointed under this Part in relation

to a period of account of a worldwide group (“the relevant period of

account”),

(b) the filing date for the submission of an interest restriction return

eligible to make an election under section

25A (see section 31A) in relation to the GAAP trade (or to each of them)–

35

(i) for the tax year, and

(ii) for the immediately preceding tax year.

(3) For the purposes of full relief under sections 783AF and 783AG, the

condition in subsection (1)(b) is treated as met in relation to the tax year.

40

(4) For the purposes of this section a trade is a “GAAP trade” for a tax

year if no election under section 25A has effect in relation to the trade

for the tax year.

240

Finance (No.

2) Bill

Schedule 6 – Trading and property allowances

Part 1 – Main provisions

=

783AF Full relief: trade profits

=

Non-compliance

+-

Power of HMRC to make determinations

=

(1) This section applies if–
(a) an individual qualifies for full relief for a tax year, and

(b) the individual’s relevant income for the tax year consists of or

includes receipts of one or more relevant trades.

5

(2) The profits or losses of each such trade for the tax year are treated

<p>in relation to the period has passed (see paragraph 7(5)),</p> <p>(c) either-</p> <p style="margin-left: 40px;">(i) no interest restriction return has been submitted under this Part in relation to the period, or</p> <p style="margin-left: 40px;">(ii) an interest restriction has been submitted under this Part in relation to the period, but it does not comply with the requirements of paragraph 14(2) (for example by omitting</p>	<p>as nil.</p> <p>783AG Full relief: miscellaneous income</p> <p>(1) This section applies if-</p> <p style="margin-left: 20px;">(a) an individual qualifies for full relief for a tax year, and</p> <p style="margin-left: 20px;">10 (b) the individual's relevant income for the tax year consists of or</p> <p style="margin-left: 20px;">includes miscellaneous income.</p> <p>(2) The amount of-</p> <p style="margin-left: 20px;">(a) the miscellaneous income arising in the tax year, less</p> <p style="margin-left: 20px;">(b) any expenses associated with that income,</p> <p style="margin-left: 20px;">15 is treated as nil.</p>
<p>figures or including inaccurate figures), and</p> <p>(d) an officer of Revenue and Customs considers that the group was subject to interest restrictions in the period.</p> <p>(2) An officer of Revenue and Customs may determine, to the best of the officer's information and belief-</p> <p style="margin-left: 40px;">(a) a relevant company's pro-rata share of the total disallowed amount of the group for the relevant period of account, and</p> <p style="margin-left: 40px;">(b) in relation to each relevant accounting period of the company, the accounting period's pro-rata share of the total disallowed amount.</p> <p>(3) Notice of a determination under this paragraph must be sent to the company, and to the reporting company, stating the date on which the determination is made.</p> <p>192</p> <p>Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p>	<p>=</p> <p><> Relief if relevant income exceeds trading allowance</p> <p>783AH Partial relief: alternative calculation of profits: introduction</p> <p>An individual qualifies for partial relief for a tax year if-</p> <p style="margin-left: 20px;">(a) the individual has relevant income for the tax year,</p> <p style="margin-left: 20px;">20 (b) the relevant income exceeds the individual's trading allowance for the tax year, and</p> <p style="margin-left: 20px;">(c) an election by the individual under section 783AM has effect (election for partial relief).</p> <p>783AI Partial relief: alternative calculation of trade profits</p> <p style="margin-left: 20px;">25</p> <p>(1) This section applies if-</p> <p style="margin-left: 20px;">(a) an individual qualifies for partial relief for a tax year, and</p> <p style="margin-left: 20px;">(b) the individual's relevant income for the tax year consists of or</p> <p style="margin-left: 20px;">includes receipts of one or more relevant trades.</p> <p style="margin-left: 20px;">(2) The profits or losses for the tax year of each of the individual's</p> <p style="margin-left: 20px;">30 relevant trades are given by taking the following steps-</p> <p style="margin-left: 20px;">Step 1</p> <p style="margin-left: 20px;">Calculate the total of all the amounts which would, apart from this</p>

<p style="text-align: right;">Part 2</p> <p>– The reporting company and the interest restriction return</p> <p>(4) No determination under this paragraph may be made after the end of the period of 3 years beginning with the time mentioned in sub-paragraph (1)(b).</p> <p>(5) For provision as to the effect of a determination under this paragraph, see paragraph 26(8) (Disallowance of deductions: no return, or non-compliant return submitted).</p>	<p>Chapter, be brought into account as a receipt in calculating the profits of the trade for the tax year.</p> <p style="text-align: right;">35</p> <p>Step 2 Subtract the deductible amount.</p> <p>Step 3 Subtract from the amount given by step 2 any deduction for overlap profit allowed in calculating the profits of the trade for the tax year</p> <p style="text-align: right;">40</p> <p>under section 205 (deduction for overlap profit in final tax year) or section 220 (deduction for overlap profit on change of accounting date).</p> <p>Finance (No. 2) Bill</p> <p>241 Schedule 6 – Trading and property allowances Part 1 – Main provisions</p>
	<p>=</p> <p><></p> <p>(3) Subject to section 783AK, the deductible amount is equal to the individual's trading allowance for the tax year.</p> <p>(4) "Overlap profit" has the same meaning in this section as it has in Chapter 15 of Part 2 (see sections 204 and 204A).</p>
<p>PART 3</p>	<p>=</p> <p>+-</p>
<p>DISALLOWANCE AND REACTIVATION OF TAX-INTEREST EXPENSE AMOUNTS</p>	<p>=</p> <p>+-</p>
<p>Disallowance of deductions: full interest restriction return submitted</p> <p>25 (1) This paragraph applies where–</p> <p>(a) an interest restriction return is submitted under Part 2 in relation to</p> <p>a period of account of a worldwide group ("the relevant period of account"),</p> <p>(b) the return complies with the requirements of paragraph 14(2) (requirements for full interest restriction return), and</p> <p>(c) the return includes a statement that the group is subject to interest</p>	<p><></p> <p>783AJ Partial relief: alternative calculation of chargeable miscellaneous income</p> <p style="text-align: right;">5</p> <p>(1) This section applies if</p> <p>–</p> <p>(a) an individual qualifies for partial relief for a tax year, and</p> <p>(b) the individual's relevant income for the tax year consists of or includes miscellaneous income.</p> <p style="text-align: right;">10</p> <p>(2) The amount of miscellaneous income chargeable to income tax for the tax year is–</p> <p>(a) the miscellaneous income for the tax year, less</p> <p>(b) the deductible amount.</p> <p>(3) Subject to section 783AK, the deductible amount is equal to the</p> <p style="text-align: right;">15</p>

restrictions in the return period.

(2) A company that is listed on the statement under paragraph 16 (statement of allocated interest restrictions) must, in any accounting period for which the statement specifies an allocated disallowance, leave out of account tax-

interest expense amounts that, in total, equal that allocated disallowance.

(3) A non-consenting company in relation to the return may elect that the

statement under paragraph 16 is not to apply in relation to such relevant accounting period of the company as is specified in the election.

(4) An election under sub-paragraph (3) is of no effect unless it is received by HMRC before-

(a) the filing date in relation to the interest restriction return (see paragraph 7(5)), or

(b) if later, the end of the period of 3 months beginning with the day on which the return was received by HMRC.

(5) Where a company makes an election under sub-paragraph (3)-

(a) sub-paragraph (2) does not apply to the accounting period specified

individual's trading allowance for the tax year.

783AK Deductible amount: splitting of trading allowance

(1) This section applies where the individual's relevant income for the

tax year includes-

(a) receipts of a relevant trade, and

20

(b) receipts of any other relevant trade or miscellaneous income (or both).

(2) The references in section 783AI and (where it applies) section 783AJ

to the deductible amount are to amounts which, in total, equal the

individual's trading allowance for the tax year.

25

(3) The question of how to allocate the individual's trading allowance for the tax year for the purposes of subsection (2) is to be decided by

the individual, subject to subsections (4) and (5).

(4) The deductible amount in respect of a relevant trade must not be such that the amount given by step 2 of section 783AI(2) is negative.

30

(5) The deductible amount in respect of miscellaneous income must not

be such as to result in the individual making a loss in the transactions giving rise to the miscellaneous income.

in the election,

(b) the company must, if paragraph 18 allocates to the accounting period

a pro-rata share of the total disallowed amount that is not nil, leave

out of account in that accounting period tax-interest expense amounts that, in total, equal that pro-rata share, and

(c) if the company has delivered a company tax return for the

=

<> Elections

783AL Election for full relief not to be given

35

(1) An individual may elect not to be given full relief for a tax year (see sections 783AF and 783AG).

(2) An election must be made on or before the first anniversary of the

normal self-assessment filing date for the tax year for which the

<p>accounting period, it must amend the return accordingly.</p> <p>(6) An amendment under sub-paragraph (5)(c) must be made before the time limit in sub-paragraph (4).</p> <p>Draft provisions for Finance Bill 2017</p> <p>193</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 3 – Disallowance and reactivation of tax-interest expense amounts</p> <p>(7) See paragraph 27 for provision as to which tax-interest expense amounts are to be left out of account under sub-paragraph (2) or (5).</p>	<p>40 242 Finance (No. 2) Bill Schedule 6 – Trading and property allowances Part 1 – Main provisions 783AM Election for partial relief</p> <p>(1) An individual may elect for partial relief to be given for a tax year if the individual's relevant income for the tax year exceeds the individual's trading allowance for the tax year (see sections 783AI and 783AJ).</p> <p>5 (2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made.</p>
<p>Disallowance of deductions: no return, or non-compliant return, submitted</p> <p>26 (1) This paragraph applies where– (a) a worldwide group is subject to interest restrictions in a period of account of the group (“the relevant period of account”), (b) the period of 12 months beginning with the end of the relevant period of account has expired, and (c) condition A, B or C is met.</p> <p>(2) Condition A is that no reporting company of the group has been appointed in relation to the relevant period of account.</p> <p>(3) Condition B is that– (a) a reporting company of the group has been appointed in relation to the relevant period of account, and (b) no interest restriction return has been submitted under Part 2 in</p>	<p>= <> Exclusions from relief 783AN Exclusion from relief: expenses deducted against rent-a-room 10 receipts (1) No relief under this Chapter is given to an individual for a tax year if– (a) the individual qualifies for rent-a-room relief for the tax year, (b) the individual has rent-a-room receipts mentioned in 15 subsection (2) for the tax year, and (c) condition A or B is met. (2) The rent-a-room receipts mentioned in subsection (1) are– (a) rent-a-room receipts which would, apart from Chapter 1 of Part 7 (rent-a-room relief), be brought into account in 20 calculating the profits of a trade, or (b) rent-a-room receipts which would, apart from Chapter 1 of Part 7, be chargeable to income tax under Chapter 8 of Part 5</p>

relation to the period.

(4) Condition C is that—

(a) a reporting company of the group has been appointed in relation to the relevant period of account,

(b) an interest restriction return has been submitted under Part 2 in relation to the period, and

(c) the return does not comply with the requirements of paragraph 14(2)

(requirements for full interest restriction return).

(5) A relevant company must, in any accounting period to which paragraph 18 applies, allocate a pro-rata share of the total disallowed amount that is not nil, leave

out of account tax-interest expense amounts that, in total, equal that pro-rata share.

(6) Where the company has delivered a company tax return for the accounting

period in question it must amend the return accordingly.

(7) An amendment under sub-paragraph (6) must be made before the end of the

period of 15 months beginning with the end of the relevant period of

account.

(8) Where a notice of determination under paragraph 24 has been sent to the

relevant company in respect of the relevant period of account—

(a) the amount specified in the notice in relation to a relevant accounting

(income not otherwise charged).

(3) Condition A is that—

25

(a) the individual's total rent-a-room amount for the tax year does not exceed the individual's limit for the tax year (see section 783AR), and

(b) an election by the individual under section 799 has effect to disapply full rent-a-room relief for the tax year.

30

(4) Condition B is that—

(a) the individual's total rent-a-room amount for the tax year exceeds the individual's limit for the tax year, and

(b) no election by the individual under section 800 has effect to

apply the alternative method of calculating profits for the tax

35

year.

783AO Exclusion from relief: payments by employer

No relief under this Chapter is given to an individual for a tax year if—

(a) the individual has relevant income for the tax year, and

40

(b) the income includes a payment made by, or on behalf of, a person at a time when the individual is—

(i) an employee of the person, or

(ii) connected with an employee of the person.

Finance (No. 2) Bill

243

Schedule 6 – Trading and property allowances
Part 1 – Main provisions

783AP Exclusion from relief: payments by firm

No relief under this Chapter is given to an individual for a tax year

if—

(a) the individual has relevant income for the tax year, and

(b) the income includes a payment made by, or on behalf of, a

5

firm at a time when the individual is—

(i) a partner in the firm, or

(ii)

period is treated, for the purposes of sub-paragraph (5), as the

amount allocated to that accounting period under paragraph 18, and
(b) where the company has delivered a company tax return for the

accounting period, it is treated as having amended the return accordingly.

(9) See paragraph 27 for provision as to which tax-interest expense amounts are to be left out of account under sub-paragraph (5).

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

194

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 3 – Disallowance and reactivation of tax-interest expense amounts

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

27 (1) This paragraph applies where—

(a) a company is required to leave tax-interest expense amounts out of

account in an accounting period under paragraph 25(2) or (5) or paragraph 26(5), and

(b) the total of the tax-interest expense amounts that, apart from that

provision, would be brought into account in the accounting period

exceeds the total of the tax-interest expense amounts that are required by that provision to be left out of account in that period.

connected with a partner in the firm.

783AQ Exclusion from relief: payments by close company

(1) No relief under this Chapter is given to an individual for a tax year 10

if—

(a) the individual has relevant income for the tax year, and
(b) the income includes a payment made by, or on behalf of, a

close company at a time when the individual is—

(i) a participant in the close company, or
15

(ii) an associate of a participant in the close company.

(2) In this section “associate” and “participant” have the same meanings

as in Part 10 of CTA 2010 (see sections 448 and 454).

=

<> Interpretation
783AR Interpretation of this Chapter

20

In this Chapter—
(a) “rent-a-room relief”, “rent-a-room receipts” and “total rent-a-

room amount” have the same meanings as in Chapter 1 of

Part 7 (rent-a-room relief: see sections 784, 786 and 788), and

(b) references to “the individual’s limit” are to be construed in
25

accordance with section 789 (the individual’s limit for the purposes of rent-a-room relief).

=

-+

CHAPTER 2

PROPERTY ALLOWANCE

(2) Tax-interest expense amounts must (subject to the following provisions of

this paragraph) be left out of account in the following order.

First, leave out of account tax-interest expense amounts that meet condition

A in paragraph 33 and would (if brought into account) be brought into account under Part 5 of CTA 2009.

Second, leave out of account tax-interest expense amounts that meet condition B in paragraph 33 and would (if brought into account) be brought into account under Part 5 of CTA 2009 as a result of section 574 of that Act.

Third, leave out of account tax-interest expense amounts that meet condition

A in paragraph 33 and would (if brought into account) be brought into

account under Part 3 of CTA 2009 as a result of section 297 of that Act.

Introduction

30

783B Relief under this Chapter
(1) This Chapter gives relief to an individual on certain income of a relevant property business (see sections 783BA and 783BB).

(2) The form of relief depends on whether the individual's relevant property income exceeds the individual's property allowance (see

35

sections 783BC and 783BD).

(3) If the individual's relevant property income does not exceed the individual's property allowance, the income is not charged to

income tax (unless the individual elects otherwise) (see sections 783BE and 783BF).

40

244

Finance (No.

2) Bill

Schedule 6 – Trading and property allowances

Part 1 – Main provisions

Fourth, leave out of account tax-interest expense amounts that meet condition B in paragraph 33 and would (if brought into account) be brought into account under Part 3 of CTA 2009 as a result of section 573 of that Act.

Fifth, leave out of account tax-interest expense amounts that meet condition

C in paragraph 33 (and do not also meet condition A or B in that paragraph).

(3) The company may—

(a) elect that sub-paragraph (2) is not to apply to the accounting period,

or

(b) revoke an election previously made.

(4) An election under sub-paragraph (3) must specify the particular tax-interest

(4) If the individual's relevant property income does exceed the individual's property allowance, the individual may elect for an

alternative method of calculating the income (see sections 783BG to

783BI).

(5) Any provision of this Chapter which gives relief is subject to sections

5

783BL to 783BP, which specify circumstances in which relief under this Chapter is not given.

Basic definitions

783BA “Relevant property business” of an individual

(1) Subject to subsection (3), for the purposes of this Chapter an

10

expense amounts that are to be left out of account.

(5) An election or revocation under sub-paragraph (3) can only be made by

being included in the company's tax return (as originally made or by amendment).

Disallowed tax-interest expense amounts carried forward

28 (1) For the purposes of this Schedule a tax-interest expense amount of a company is "disallowed" in an accounting period if the company is required to leave it out of account in that accounting period under paragraph 25 or 26.

(2) A tax-interest expense amount of a company that is disallowed in an accounting period is (subject to sub-paragraphs (3) to (6)) carried forward to

subsequent accounting periods.

(3) Where—

(a) a tax-interest expense amount of a company would (apart from this

Schedule) be brought into account in calculating the profits or losses

of a trade carried on by the company in an accounting period,

Draft provisions for Finance Bill 2017

195

Schedule 7 – Corporate interest restriction

Part 3 – Disallowance and reactivation of tax-interest expense amounts

(b) the tax-interest expense amount is disallowed in that accounting period, and

(c) in a subsequent accounting period ("the later accounting period") the

individual's property business is a "relevant property business" for

a tax year if the business is not a rent-a-room property business in relation to the individual for the tax year.

(2) For the purposes of subsection (1) a property business is a "rent-a-

room property business" in relation to an individual for a tax year

15

if—

(a) the individual qualifies for rent-a-room relief for the tax year,

and

(b) all the receipts which would, apart from Chapter 1 of Part 7

(rent-a-room relief), be brought into account in calculating

20

the profits of the business, are rent-a-room receipts.

See section 783BQ for definitions relevant to this subsection.

(3) If an individual receives—

(a) property income distributions which are treated as profits of

a UK property business by virtue of regulation 69Z18(1) or

25

of the AIF

Regulations (property AIF distributions: liability

to tax), or

(b) distributions which are treated as profits of a UK property business by virtue of section 548(6) of CTA 2010 (REIT distributions:

liability to tax),

30

that separate property business (see regulation 69Z18(6) of the AIF Regulations and section 549(5) of CTA 2010) is not a relevant

property business of the individual.

=

<> (4) In subsection (3) "the AIF Regulations" means the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964).

35

783BB "Relievable receipts" of a property business

(1) For the purposes of this Chapter, the "relievable receipts" of an

company ceases to carry on the trade, or the scale of the activities in

the trade becomes small or negligible, the tax-interest expense amount is not carried forward to the later accounting period or accounting periods after the later accounting period.

(4) Where-

(a) a tax-interest expense amount of a company would (apart from this

Schedule) be brought into account in calculating the profits or losses

of a trade carried on by the company in an accounting period,

(b) the tax-interest expense amount is disallowed in that accounting

period, and

(c) in a subsequent accounting period ("the later accounting period") the

trade is uncommercial and non-statutory,

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

(5) For the purposes of sub-paragraph (4), a trade is "uncommercial and non-

statutory" in an accounting period if, were the company to have made a loss

in the trade in the period, relief for the loss under section 37 of CTA 2010

(relief for trade loss against total profits) would have been unavailable by

virtue of section 44 of that Act (trade must be commercial or carried on for statutory functions).

(6) Where a tax-interest expense amount-

(a) is disallowed in an accounting period,

(b) is carried forward to a

individual's relevant property business for a tax year are all the

amounts which would, apart from this Chapter, be brought into account as a receipt in calculating the profits of the business for the

40

tax year.

This is subject to subsections (2) and (3).

(2) If-

(a) the individual qualifies for rent-a-room relief for the tax year,

and

45

Finance (No. 2) Bill

245

Schedule 6 – Trading and property allowances
Part 1 – Main provisions

=

<> (b) the individual has rent-a-room receipts for the tax year which

would, apart from Chapter 1 of Part 7, be brought into account in calculating the profits of the property business,

the rent-a-room receipts are not relievable receipts of the business.

(3) Non-relievable balancing charges in respect of the property business

5

for the tax year are not relievable receipts of the business.

(4) In subsection (3) "non-relievable balancing charges", in respect of a

property business for a tax year, means balancing charges falling to

be made for the tax year under Part 2 of CAA 2001 which do not

relate to a business or transaction which is carried on, or entered into,

10

for the purpose of generating receipts which are relievable receipts

of the property business.

783BC The individual's "relevant property income"

For the purposes of

<p>subsequent accounting period ("the later accounting period"), and (c) is brought into account in the later accounting period in accordance with paragraph 29, it is not carried forward to accounting periods after the later accounting period.</p>	<p>this Chapter, an individual's "relevant property income" for a tax year is the relievable receipts for the tax year of the 15</p>
<p>Reactivation of interest</p>	<p>=</p>
<p>29 (1) This paragraph applies where- (a) an interest restriction return is submitted under Part 2 in relation to a period of account of a worldwide group ("the relevant period of account"), (b) the return complies with the requirements of paragraph 14(2) (requirements for full interest restriction return), and</p>	<p><> individual's relevant property businesses for the tax year. 783BD The individual's property allowance (1) For the purposes of this Chapter, an individual's property allowance for a tax year is £1,000. (2) The Treasury may by regulations amend subsection (1) so as to substitute a higher sum for the sum for the time being specified in that subsection.</p>
<p>(c) the return contains a statement that the group is subject to interest reactivations in the return period. (2) A company that is listed on the statement under paragraph 19 (statement of allocated interest reactivations) must, in the specified accounting period, bring into account tax-interest expense amounts that- (a) are brought forward to the specified accounting period from an earlier accounting period, and (b) in total, equal the allocated reactivation for the return period.</p>	<p>= <> Relief if relevant property income does not exceed property allowance 783BE Full relief: introduction An individual qualifies for full relief for a tax year if- (a) the individual has relevant property income for the tax year, (b) the relevant property income does not exceed the individual's property allowance for the tax year, and (c) no election by the individual under section 783BJ has effect (election for full relief not to be given). 30 783BF Full relief: property profits (1) If an individual qualifies for full relief for a tax year, this section applies in relation to the calculation of the profits of the individual's relevant property business for the tax year or, where the individual's relevant property income for the tax year consists of the relievable 35</p>

Schedule 7 – Corporate
interest restriction

Part 3 –
Disallowance and reactivation of tax-
interest expense amounts

(3) A tax-interest expense amount is brought into account in the specified

accounting period under sub-
paragraph (2) by being treated as a tax-
interest

receipts of two relevant property businesses, the profits of each property business for the tax year.

(2) The following are not brought into account–

(a) the relievable receipts of the property business for the tax year, and

40

(b) any expenses associated with those receipts.

246

Finance (No.
2) Bill

Schedule 6 – Trading and property allowances

Part 1 – Main provisions

=

expense amount of the specified accounting period (so that, for example, a tax-interest expense amount that is a relevant loan relationship debit falling within paragraph 34(2)(a)(ii) is brought into account in the specified period as a non-trading debit under Part 5 of CTA 2009).

(4) See paragraph 30 for provision as to which tax-interest expense amounts are to be brought into account under sub-paragraph (2).

(5) In this paragraph “the specified accounting period” means–

(a) the earliest relevant accounting period of the company, or
(b) where the company became a member of the relevant worldwide group during the relevant period of account, the earliest relevant accounting period of the company in which it was a member of the group.

Relief if relevant property income exceeds property allowance
783BG Partial relief: alternative calculation of property profits: introduction

An individual qualifies for partial relief for a tax year if–

(a) the individual has relevant property income for the tax year,

(b) the relevant property income exceeds the individual's 5 property allowance for the tax year, and

(c) an election by the individual under section 783BK has effect (election for partial relief).

783BH Partial relief: alternative calculation of property profits

(1) If an individual qualifies for partial relief for a tax year, this section 10

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

applies in relation to the calculation of the profits of the individual's

30 (1) This paragraph applies where–
(a) a company is required to bring tax-interest expense amounts into account in an accounting period under paragraph 29, and
(b) the total of the tax-interest expense amounts that are brought

relevant property business for the tax year or, where the individual's relevant property income for the tax year consists of the relievable

forward to the accounting period from earlier accounting periods

exceeds the total of the tax-interest expense amounts that are required by that provision to be brought into account in that accounting period.

(2) Tax-interest expense amounts must (subject to the following provisions of this paragraph) be brought into account in the following order.

First, bring into account tax-interest expense amounts that meet condition A

in paragraph 33 and are brought into account under Part 5 of CTA 2009.

Second, bring into account tax-interest expense amounts that meet condition B in paragraph 33 and are brought into account under Part 5 of CTA 2009 as a result of section 574 of that Act.

Third, bring into account tax-interest expense amounts that meet condition A in paragraph 33 and are brought

into account under Part 3 of CTA 2009 as a result of section 297 of that Act.

Fourth, bring into account tax-interest expense amounts that meet condition B in paragraph 33 and are brought into account under Part 3 of CTA 2009 as

a result of section 573 of that Act.

Fifth, bring into account tax-interest expense amounts that meet condition C

in paragraph 33 (and do not also meet condition A or B in that paragraph).

(3) The company may—

(a) elect that sub-paragraph (2) is not to apply to the accounting period, or

(b) revoke an election previously made.

(4) An election under sub-paragraph (3) must specify the particular tax-interest expense amounts that are to be brought into account.

receipts of two relevant property businesses, the profits of each property business for the tax year.

15

(2) The relievable receipts of the property business for the tax year are

brought into account.

(3) No relevant expenses are brought into account.

(4) The deductible amount is brought into account.

(5) Subject to section 783BI, the deductible amount is equal to the

20

individual's property allowance for the tax year.

(6) In subsection (3) "relevant expenses" means all the amounts—

(a) which would, apart from this section, be brought into

account as a deduction in calculating the profits of the

business for the tax year, and

25

(b) which are associated with the relievable receipts.

783BI Deductible amount: splitting of property allowance

(1) This section applies where the individual's relevant property income

for the tax year consists of the relievable receipts of two relevant property businesses.

30

(2) The references in section 783BH to the deductible amount are to

amounts which, in total, equal the individual's property allowance for the tax year.

(3) The question of how to allocate the individual's property allowance for the tax year for the purposes of subsection (2) is to be decided by

35

the individual, subject to subsection (4).

(4) The deductible amount in respect of a relevant property business must not be such as to result in a loss of the business.

=

<>

<p>(5) An election or revocation under sub-paragraph (3) can only be made by being included in the company's tax return (as originally made or by amendment).</p> <p>Draft provisions for Finance Bill 2017</p>	<p>Elections 783BJ Election for full relief not to be given 40 (1) An individual may elect not to be given full relief for a tax year (see section 783BF). Finance (No. 2) Bill 247 Schedule 6 – Trading and property allowances Part 1 – Main provisions</p>
<p>197</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 3 – Disallowance and reactivation of tax-interest expense amounts</p> <p>Set-off of disallowances and reactivations in the same accounting period</p>	<p>= <> (2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made. 783BK Election for partial relief (1) An individual may elect for partial relief to be given for a tax year if 5 the individual's relevant property income for the tax year exceeds the individual's property allowance for the tax year (see section 783BH). (2) An election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year for which the 10 election is made.</p>
<p>31 (1) This paragraph applies where, as a result of the operation of this Schedule in relation to different periods of account (whether of the same or a different worldwide group), a company would, apart from this paragraph– (a) be required to leave out of account one or more tax-interest expense amounts in an accounting period under paragraph 25(2) or (5) or 26(5), and (b) be required to bring one or more tax-interest expense amounts into account in that accounting period under paragraph 29(2).</p>	<p>= <> Exclusions from relief 783BL Exclusion from relief: tax reduction under section 274A No relief under this Chapter is given to an individual for a tax year if, in calculating the individual's liability to income tax for the tax 15 year, a tax reduction under section 274A (property business: relief for non-deductible costs of a dwelling-related loan) is applied at Step 6 of the calculation in section 23 of ITA 2007. 783BM Exclusion from relief: expenses deducted against rent-a-room receipts 20 (1) No relief under this Chapter is given to an individual for a tax year</p>

(2) In this paragraph–

(a) “the gross disallowed amount” means the amount, or total of the amounts, mentioned in sub-paragraph (1)(a);

(b) “the gross reactivated amount” means the amount, or total of the amounts, mentioned in sub-paragraph (1)(b).

(3) Where the gross disallowed amount is equal to the gross reactivated amount, no tax-interest expense amounts are to be left out of account in the accounting period under paragraph 25(2) or (5) or 26(5) or brought into account in the accounting period under paragraph 29(2).

(4) Where the gross disallowed amount is greater than the gross reactivated amount–

(a) the requirement in paragraph 25(2) or (5) or 26(5) is to leave out of account tax-interest expense amounts that, in total, equal the gross disallowed amount less the gross reactivated amount, and

(b) no amount is to be brought into account in the accounting period under paragraph 29(2).

(5) Where the gross reactivated amount is more than the gross disallowed amount–

(a) no amount to be left out of account in the accounting period under paragraph 25(2) or 26(5), and

(b) the requirement in paragraph 29(2) is to bring into account the gross reactivated amount less the gross disallowed amount.

Company tax returns

32 (1) This paragraph applies where–

(a) a company has delivered a company tax return for an accounting period, and

(b) as a result of the submission of an interest restriction return –

(i) there is a change in the amount of profits on which corporation tax is chargeable for the period, or

(ii) any other information contained in the return is

if–

(a) the individual qualifies for rent-a-room relief for the tax year,

(b) the individual has rent-a-room receipts for the tax year which would, apart from Chapter 1 of Part 7 (rent-a-room relief), be 25 brought into account in calculating the profits of a business, and

(c) condition A or B is met.

(2) Condition A is that–

(a) the individual’s total rent-a-room amount for the tax year 30 does not exceed the individual’s limit for the tax year (see section 783BQ), and

(b) an election by the individual under section 799 has effect to disapply full rent-a-room relief for the tax year.

(3) Condition B is that–

35 (a) the individual’s total rent-a-room amount for the tax year exceeds the individual’s limit for the tax year, and

(b) no election by the individual under section 800 has effect to

incorrect.

(2) The company is treated as having amended its company tax return for the

accounting period so as to reflect the change mentioned in sub-paragraph

(1)(b)(i) or to correct the information mentioned in sub-paragraph (1)(b)(ii).

(3) The Commissioners may by regulations make further provision about cases

where this paragraph applies including, in particular, provision—

apply the alternative method of calculating profits for the tax year.

40

783BN Exclusion from relief: payments by employer

No relief under this Chapter is given to an individual for a tax year

if—

(a) the individual has relevant property income for the tax year,

and

45

248

Finance (No.

2) Bill

Schedule 6 – Trading and property allowances

Part 1 – Main provisions

=

(a) permitting or requiring the company to deliver an amended

company tax return for the accounting period;

198

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 3 – Disallowance and reactivation of tax-interest expense amounts

(b) specifying amendments that may or must be made in the return;

(c) specifying a time limit for the delivery of the return that is later than

that determined under paragraph 15(4) of Schedule 18 to FA 1998

(amendment of return by company).

(b) the income includes a payment made by, or on behalf of, a person at a time when the individual is—

(i) an employee of the person, or
(ii) connected with an employee of the person.

783BO Exclusion from relief: payments by firm

5

No relief under this Chapter is given to an individual for a tax year

if—

(a) the individual has relevant property income for the tax year,

and
(b) the income includes a payment made by, or on behalf of, a

10 firm at a time when the individual is—

(i) a partner in the firm, or
(ii) connected with a partner in the firm.

783BP Exclusion from relief: payments by close company

(1) No relief under this Chapter is given to an individual for a tax year

15

if—

PART 4	=	
INTEREST AMOUNTS	TAX-	=
Tax-interest expense amounts and tax-interest income amounts: basic rules		=
The tax-interest expense amounts of a company	<>	(a) the individual has relevant property income for the tax year, and (b) the income includes a payment made by, or on behalf of, a close company at a time when the individual is-
33 (1) References in this Schedule to a "tax-interest expense amount" of a company for a period of account of a worldwide group are to any amount that-		20
(a) is (or apart from this Schedule would be) brought into account for the purposes of corporation tax in a relevant accounting period of the company, and		(i) a participator in the close company, or
(b) meets condition A, B or C.		(ii) an associate of a participator in the close company.
(2) Condition A is that the amount is a relevant loan relationship debit (see paragraph 34).		(2) In this section "associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454).
(3) Condition B is that the amount is a relevant derivative contract debit (see paragraph 35).		
(4) Condition C is that the amount is in respect of the financing cost implicit in amounts payable under a relevant arrangement or transaction.		
(5) In sub-paragraph (4), "relevant arrangement or transaction" means-		
(a) a finance lease,		
(b) debt factoring, or any similar transaction, or		
(c) a service concession arrangement if and to the extent that the arrangement is accounted for as a financial liability.		
	=	
	-+	PART 2
	=	
	-+	CONSEQUENTIAL AMENDMENTS
	=	35
	-+	ITTOIA 2005
	=	
(6) Sub-paragraph (8) applies if an accounting period in which a tax-interest expense amount is (or apart from this Schedule would be) brought into account for the purposes of corporation tax contains one or more	<>	2 ITTOIA 2005 is amended in accordance with paragraphs 3 to 11. 3 In section 1 (overview of Act), before paragraph (a) of subsection (5) insert- "(za) provision about a trading allowance and property allowance (see Part 6A),".

disregarded periods.

(7) A “disregarded period” is any period falling within the accounting period-

- (a) which does not fall within the period of account of the worldwide group, or
- (b) throughout which the company is not a member of the group.

(8) Where this sub-paragraph applies, the tax-interest expense amount mentioned in sub-paragraph (6) is reduced by such amount as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in that sub-paragraph.

(9) An amount may be reduced to nil under sub-paragraph (8).

Relevant loan relationship debits

34 (1) This paragraph applies for the purposes of paragraph 33.

(2) An amount is a “relevant loan relationship debit” if-

Draft provisions for Finance Bill 2017

199

Schedule 7 – Corporate interest restriction
Part 4 – Tax-interest amounts

(a) it is a debit that is (or apart from this Schedule would be) brought into account for the purposes of corporation tax in respect of a loan relationship under-

(i) Part 3 of CTA 2009 as a result of section 297 of that Act (loan relationships for purposes of trade), or

(ii) Part 5 of that Act (other loan relationships), and

(b) is not an excluded debit.

(3) A debit is “excluded” for the purposes of sub-paragraph (2)(b) if-

- (a) it is in respect of an exchange loss (within the meaning of Parts 5 and 6 of CTA 2009), or
- (b) it is in respect of an impairment loss.

Relevant derivative contract debits

35 (1) This paragraph applies for the purposes of paragraph 33.

4 In Chapter 2 of Part 2 (trading income: income taxed as trade profits), after

Finance (No. 2) Bill

249

Schedule 6 – Trading and property allowances

=
<> Part 2 – Consequential amendments

=

<>

section 22 insert-

=

<>

“Trading allowance
22A Trading allowance

(1) The rules for calculating the profits of a trade, profession or vocation carried on by an individual are subject to Chapter 1 of Part 6A 5 (trading allowance).

(2) That Chapter gives relief on relevant income and, where relief is given, disallows most deductions under this Part (see, in particular, sections 783AC, 783AF and 783AI).”

5 In Chapter 15 of Part 2 (basis periods), after section 204 insert-
10

“204A Overlap profit and trading allowance under Chapter 1 of Part 6A

=

<>

(2) An amount is a "relevant derivative contract debit" if-

(a) it is a debit that is (or apart from this Schedule would be) brought

into account for the purposes of corporation tax in respect of a

derivative contract under-

(i) Part 3 of CTA 2009 as a result of section 573 of that Act

(derivative contracts for purposes of trade), or

(ii) Part 5 of that Act as a result of section 574 of that Act (other

derivative contracts),

(b) it is not an excluded debit, and

(c) the condition in sub-paragraph (4) is met.

(3) A debit is "excluded" for the purposes of sub-paragraph (2)(b) if-

(a) it is in respect of an exchange loss (within the meaning of Part 7 of

CTA 2009), or

(b) it is in respect of an impairment loss.

(4) The condition referred to in sub-paragraph (2)(c) is that the underlying subject matter of the derivative contract consists only of one or more of the following-

(a) interest rates;
(b) any index determined by reference to income or retail prices;
(c) currency;

(d) an asset or liability representing a loan relationship;

(e) any other underlying subject matter which is-
(i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (d), or

(ii) of small value in comparison with the value of the underlying subject matter as

(1) This section makes provision about the amount of profit treated as

arising in an overlap period which falls within the basis period of a

trade for two tax years ("tax year A" and "tax year B") where relief is

given under Chapter 1 of Part 6A (trading allowance) in respect of 15

the trade for at least one of those tax years.

(2) The profit which arises in the overlap period is treated as nil if-

(a) the profits or losses of the trade for tax year A or tax year B

(or both) are treated as nil under section 783AF (full relief:

trade profits), or

20

(b) in relation to tax year A or tax year B (or both)-

(i) section 783AI applies in calculating the profits or

losses of the trade (partial relief: alternative

calculation of trade profits), and

(ii) the deductible amount subtracted at step 2 of section 25

783AI(2) in relation to the trade is greater than or equal to the non-adjusted overlap profit.

(3) Subsection (6) applies if conditions 1 and 2 are met.

(4) Condition 1 is that, in relation to either tax year A or tax year B-

(a) section 783AI applies in calculating the profits or losses of the 30

trade, and

(b) the deductible amount subtracted at step 2 of section 783AI(2) in relation to the trade is less than the non-adjusted

overlap profit.

(5) Condition 2 is that neither section 783AF nor section 783AI applies in 35

relation to the trade-

(a) where condition 1 is met in relation to tax year A, for tax year

B, or

a whole.

(5) For the purposes of this paragraph, whether part of the underlying subject

matter of the derivative contract is subordinate or of small value is to be

determined by reference to the time when the company enters into or

acquires the contract.

(6) The following expressions have the same meaning in this paragraph as in

Part 7 of CTA 2009—
“derivative contract”;

200

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 4 – Tax-interest amounts

The tax-interest income amounts of a company

36 (1) References in this Schedule to a “tax-interest income amount” of a company

for a period of account of a worldwide group are to any amount that—
(a) is (or apart from this Schedule would be) brought into account for the

purposes of corporation tax in a relevant accounting period of the

company, and
(b) meets condition A, B, C or D.

(2) Condition A is that the amount is a relevant loan relationship credit (see paragraph 37).

(3) Condition B is that the amount is a relevant derivative contract credit (see paragraph 38).

(4) Condition C is that the amount is in respect of the financing income implicit

(b) where condition 1 is met in relation to tax year B, for tax year

A.

40

(6) The profit which arises in the overlap period is treated as equal to the

non-adjusted overlap profit less the deductible amount mentioned in subsection (4)(b).

250

2) Bill

Schedule 6 – Trading and property allowances

Part 2 – Consequential amendments

<> (7) Subsection (8) applies if, in relation to each of tax year A and tax year

B—

(a) section 783AI applies in calculating the profits or losses of the trade, and
(b) the deductible amount subtracted at step 2 of section 5

783AI(2) in relation to the trade is less than the non-adjusted overlap profit.

(8) The profit which arises in the overlap period is treated as equal to the

non-adjusted overlap profit less the higher of the following—

(a) the deductible amount subtracted at step 2 of section 10

783AI(2) in calculating the profits or losses of the trade for tax year A, and

(b) the deductible amount subtracted at step 2 of section 15

783AI(2) in calculating the profits or losses of the trade for tax year B.

15

(9) In this section “non-adjusted overlap profit” means the amount of

in amounts receivable under a relevant arrangement or transaction.

(5) In sub-paragraph (4), “relevant arrangement or transaction” means—

- (a) a finance lease,
- (b) debt factoring, or any similar transaction, or

(c) a service concession arrangement if and to the extent that the

arrangement is accounted for as a financial asset.

(6) Condition D is that the amount is in respect of income that—

(a) is receivable from another company, and

(b) is in consideration of the provision of a guarantee of any borrowing

of that other company.

(7) Sub-paragraph (9) applies if an accounting period in which a tax-interest

income amount is (or apart from this Schedule would be) brought into account for the purposes of corporation tax contains one or more disregarded periods.

(8) A “disregarded period” is any period falling within the accounting period—

(a) which does not fall within the period of account of the worldwide

group, or

(b) throughout which the company is not a member of the group.

(9) Where this sub-paragraph applies, the tax-interest income amount

mentioned in sub-paragraph (7) is reduced by such amount as is referable, on a just and reasonable basis, to the disregarded period or periods

mentioned in that sub-paragraph.

(10) An amount may be reduced to nil under sub-paragraph (9).

profit that would arise in the overlap period apart from—

(a) Chapter 1 of Part 6A, and

(b) this section.”

6 In section 227A (application of Chapter where cash basis used), after

20

subsection (2) insert—

“(3) This section is subject to section 227C (application of Chapter where section 227B applies).”

7 After section 227A insert—

“227B Cash basis treatment: full relief under Chapter 1 of Part 6A (trading

25

allowance)

(1) Subsection (2) applies if—

(a) an individual carries

on a trade in a tax year,

(b) the condition in

section 783AE(1)(b) is treated as met in relation to the

individual for the tax year by virtue of

30

subsection (3) of that section, and

(c) the profits or losses

of the trade are treated as nil for the tax year under section

783AF (trade profits: full relief under Chapter 1 of Part

6A).

(2) For the purposes of determining if this Chapter applies, an

35

election under section 25A is to be treated as having effect in relation to the

trade for the tax year.

227C Application of Chapter where section 227B applies

(1) This section applies if, as a result of the operation of section 227B, the

basis on which profits of a trade are calculated is treated as changed

40

as mentioned in section 227A(1).

(2) This Chapter applies as if—

(a) in sections 232(1) and

233(1), for “the first period of account for which the new

basis is adopted” there were substituted

“the first tax year for which the profits or losses of the trade

45

are not treated as nil under section 783AF”, and

Finance (No. 2) Bill

Relevant loan relationship credits	=	<> Part 2 – Consequential amendments
	=	
<p>37 (1) This paragraph applies for the purposes of paragraph 36.</p> <p>(2) An amount is a “relevant loan relationship credit” if–</p> <p>(a) it is a credit that is (or apart from this Schedule would be) brought into account for the purposes of corporation tax in respect of a loan relationship under–</p>	<>	<p>(b) sections 235, 236, 237, 239A and 239B were omitted.</p> <p>(3) If there is no tax year after the change of basis for which the profits or losses of the trade are not treated as nil under section 783AF, this Chapter does not apply.”</p>
Draft provisions for Finance Bill 2017		
201		
Schedule 7 – Corporate interest restriction		8 After section 307F (inserted by Schedule 5 to this Act) insert–
		5
Part 4 – Tax-interest amounts	=	
	<>	<p>“Property allowance</p> <p>307G Property allowance</p> <p>(1) The rules for calculating the profits of an individual’s property business are subject to Chapter 2 of Part 6A (property allowance).</p> <p>(2) That Chapter gives relief on relevant property income and, where 10 relief is given, disallows all deductions under this Part which relate to that income (see, in particular, sections 783BC, 783BF and 783BH).”</p>
<p>(i) Part 3 of CTA 2009 as a result of section 297 of that Act (loan relationships for purposes of trade), or</p> <p>(ii) Part 5 of that Act (other loan relationships), and</p>		9 In section 688 (income charged under Chapter 8 of Part 5), before paragraph (a) of subsection (2) insert–
		15
<p>(b) it is not an excluded credit.</p> <p>(3) A credit is “excluded” for the purposes of sub-paragraph (2)(b) if–</p> <p>(a) it is in respect of an exchange gain (within the meaning of Parts 5 and 6 of CTA 2009), or</p> <p>(b) it is in respect of the reversal of an impairment loss.</p>		<p>“(za) Chapter 1 of Part 6A (which gives relief on relevant income which may consist of or include income chargeable under this Chapter: see, in particular, sections 783AB, 783AC, 783AG and 783AJ).”</p> <p>10 In section 828 (overlap profit), in subsection (3), for “section 204” substitute 20 “sections 204 and 204A”.</p> <p>11 In Part 2 of Schedule 4 (defined expressions)–</p> <p>(a) at the appropriate places insert–</p>
Relevant derivative contract credits	=	
	+-	

<p>38 (1) This paragraph applies for the purposes of paragraph 36.</p> <p>(2) An amount is a “relevant derivative contract credit” if-</p> <p style="margin-left: 40px;">(a) it is a credit that is (or apart from this Schedule would be) brought into account for the purposes of corporation tax in respect of a derivative contract under-</p> <p style="margin-left: 40px;">(i) Part 3 of CTA 2009 as a result of section 573 of that Act</p> <p style="margin-left: 40px;">(derivative contracts for purposes of trade), or</p> <p style="margin-left: 40px;">(ii) Part 5 of that Act as a result of section 574 of that Act (other derivative contracts),</p> <p style="margin-left: 40px;">(b) is not an excluded credit, and</p> <p style="margin-left: 40px;">(c) the condition in subparagraph (4) is met.</p>	<p>=</p> <p><></p> <p style="margin-left: 40px;">“individual’s property allowance (in Chapter 2 of Part 6A) 25 individual’s trading allowance (in Chapter 1 of Part 6A) 30 miscellaneous income (in Chapter 1 of Part 6A) relevant income (in Chapter 1 of Part 6A) 35 relevant property business (in Chapter 2 of Part 6A) 30 Part 6A) relevant property income (in Chapter 2 of Part 6A) 35 relevant trade (in Chapter 1 of Part 6A) 35</p> <p style="margin-left: 40px;">relievable receipts (in Chapter 2 of Part 6A) 35</p> <p style="margin-left: 40px;">783BB”,</p>
<p>(3) A credit is “excluded” for the purposes of sub-paragraph (2)(b) if-</p>	<p><></p> <p style="margin-left: 40px;">(b) in the entry for “overlap profit”, for “section 204” substitute “sections 204 and 204A”.</p> <p style="margin-left: 40px;">252</p> <p style="margin-left: 40px;">Finance (No. 2) Bill</p> <p style="margin-left: 40px;">Schedule 6 – Trading and property allowances</p> <p style="margin-left: 40px;">Part 2 – Consequential amendments</p>
<p>-+</p>	<p>TIOPA 2010</p>
<p>(a) it is in respect of an exchange gain (within the meaning of Part 7 of CTA 2009), or</p>	<p>=</p> <p><></p> <p style="margin-left: 40px;">12 In TIOPA 2010–</p> <p style="margin-left: 40px;">(a) in section 22(8) (credit for foreign tax on overlap profit if credit for that tax already allowed), in the definition of “overlap profit”, for “section 204” substitute “sections 204 and 204A”, and</p> <p style="margin-left: 40px;">5</p> <p style="margin-left: 40px;">(b) in section 24(8) (claw-back of relief under section 22(2)), in the definition of “overlap profit”, for “section 204” substitute “sections 204 and 204A”.</p>

	-+	PART 3
	=	
	-+	COMMENCEMENT
	=	10
	-+	13 The amendments made by this Schedule have effect for the tax year 2017-18 and subsequent tax years.
	=	
	-+	SCHEDULE 7
	=	Section 21
	-+	DEDUCTION OF INCOME
	=	TAX AT SOURCE
	-+	PART 1
	=	15
	-+	INTEREST DISTRIBUTIONS OF INVESTMENT TRUST OR AUTHORISED INVESTMENT FUND
	=	
	<>	1 In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments of yearly interest), after section 888A insert- “888B Designated dividends of investment trusts The duty to deduct a sum representing income tax under section 874 20 does not apply to a dividend so far as it is treated as a payment of yearly interest by regulations under section 45 of FA 2009 (dividends designated by investment trust or prospective investment trust). 888C Interest distributions of certain open-ended investment companies The duty to deduct a sum representing income tax under section 874 25 does not apply to a payment of yearly interest under section 373 of ITTOIA 2005 (in the case of certain open-ended investment companies, payments of yearly interest treated as made where distributable amount shown in accounts as yearly interest). 888D Interest distribution of certain authorised unit trusts 30 The duty to deduct a sum representing income tax under section 874
		(b) it is in respect of the reversal of an impairment loss.
		(4) The condition referred to in subparagraph (2)(c) is that the underlying subject matter of the derivative contract consists only of one or more of the following-
		(a) interest rates; (b) any index determined by reference to income or retail prices; (c) currency;
		(d) an asset or liability representing a loan relationship; (e) any other underlying subject matter which is- (i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (d), or (ii) of small value in comparison with the value of the underlying subject matter as

a whole.

(5) For the purposes of this paragraph, whether part of the underlying subject

matter of the derivative contract is subordinate or of small value is to be determined by reference to the time when the company enters into or acquires the contract.

(6) The following expressions have the same meaning in this paragraph as in Part 7 of CTA 2009—

“derivative contract”;

“underlying subject matter”.

202
Bill 2017

Schedule 7 – Corporate interest restriction

Part 4 – Tax-interest amounts

Tax-interest expense amounts and tax-interest income amounts: special cases

Charities

39 (1) This paragraph applies where—
(a) apart from this paragraph, an amount (“the relevant amount”) would be a tax-interest expense amount of a company as a result of meeting condition A in paragraph 33 (loan relationship debits),
(b) the creditor is a charity,
(c) the company is wholly owned by the charity, and
(d) the charitable gift condition is met at all times during the accounting

period in which the relevant amount is (or apart from this Schedule

would be) brought into account.

(2) The relevant amount is treated as not being a tax-interest expense amount of the company.

(3) For the purposes of this paragraph the “charitable gift condition” is met at

does not apply to a payment of yearly interest under section 376 of

ITTOIA 2005 (in the case of certain authorised unit trusts, payments of yearly interest treated as made where distributable amount shown in accounts as yearly interest).³⁵

2 In section 45(2) of FA 2009 (provision that regulations may make about dividends of investment trusts) omit paragraph (c) (power to disapply duty to deduct tax under section 874 of ITA 2007).
Finance (No. 2) Bill

253

Schedule 7 – Deduction of income tax at source

Part 2 – Interest on peer-to-peer lending

=
<> PART 2

=
<> INTEREST ON PEER-TO-PEER LENDING

=
<> 3 In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments

of yearly interest), after section 888D (inserted by this Schedule) insert—

“888E Interest on certain peer-to-peer lending

5 (1) The duty to deduct a sum representing income tax under section 874

does not apply to a payment of interest on an amount of peer-to-peer

lending.
(2) In subsection (1) “peer-to-peer lending” means credit in relation to which the condition in subsection (4) is met.

10 (3) In this section—

any time at which, were the company to make a donation to the charity at

that time, it would be a qualifying charitable donation (see section 190 of CTA 2010).

(4) In this paragraph "the creditor" means the person who is party to the loan

relationship in question as creditor.

(5) The following provisions apply for the purposes of this paragraph—

(a) section 200 of CTA 2010 (company wholly owned by a charity);

(b) section 202 of that Act (meaning of "charity").

Double taxation relief

40 (1) This paragraph applies where—
(a) apart from this paragraph, an amount ("the relevant amount") would be a tax-interest income amount of a company ("the company"), and

(b) the amount of corporation tax chargeable in respect of the relevant

amount is reduced under section 18(2) of TIOPA 2010 (entitlement to

credit for foreign tax reduces UK tax by amount of the credit).

(2) The relevant amount is not a tax-interest income amount to the extent that it

consists of notional untaxed income.

(3) For this purpose, the amount of the relevant amount that consists of "notional untaxed income" is—

A

-

B

where—

"original borrower", in relation to any credit, means the person

to whom the credit is originally provided, "credit" includes

a cash loan and any other form of financial accommodation, and

15

"original lender", in relation to any credit, means the person

who originally provides the credit.

(4) The condition is that—

(a) the original borrower and the original lender enter the agreement under which the credit is provided at the

20

invitation of a person ("the operator"),

=

+-

=

<>

(b) the operator makes the invitation in the course of, or in connection with, operating an electronic system,

(c) the operator's operation of the electronic system is an activity

specified in article 36H(1) or (2D) of the Order (operating an

25 electronic system in relation to lending), and
(d) the operator has permission under Part 4A of FISMA 2000 to carry on that activity.

(5) For the purposes of subsection (4), it does not matter if the agreement

mentioned in subsection (4)(a) is not an article 36H agreement (as defined in article 36H of the Order).

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations make such amendments of the preceding provisions of this section as they consider appropriate in consequence of—

A is the amount of the reduction mentioned in sub-paragraph (1)(b);
 B is the rate of corporation tax applicable to the relevant amount.
 Draft provisions for Finance Bill 2017
 203

Schedule 7 – Corporate interest restriction

Part 4 – Tax-interest amounts

(a) the Order, or any part of it, being replaced (or further replaced) by provision in another instrument, or
 (b) any amendment of the Order or any such other instrument.

(7) In this section “the Order” means the Financial Services and Markets

Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).”
 254

Finance (No. 2) Bill

Schedule 7 – Deduction of income tax at source

Part 3 – Further amendment and commencement

	=	
Net tax-interest expense	<>	PART 3
	=	
The “net tax-interest expense” of a company	<>	FURTHER AMENDMENT AND COMMENCEMENT
	=	
	-+	Further amendment
	=	
41 (1) For the purposes of this Schedule the “net tax-interest expense” of a company for a period of account of a worldwide group is—	<>	4 In section 874(3)(a) of ITA 2007 (which refers to provisions which disapply the duty under section 874 to deduct tax from yearly interest), for “888” 5 substitute “888E”.
A-B where— A is the total of the company’s tax-interest expense amounts (if any) for the period of account;	<>	Commencement
B is the total of the company’s tax-interest income amounts (if any) for the period.		5 (1) The new sections 888B to 888D of ITA 2007, and the repeal of section 45(2)(c) of FA 2009, have effect in relation to amounts treated as payments of yearly interest made on or after 6 April 2017. 10 (2) The new section 888E of ITA 2007 has effect in relation to payments of interest made on or after 6 April 2017.
(2) For the purposes of this Schedule the net tax-interest expense of a company for a period of account of a worldwide group is “referable” to an accounting period of the company to the extent that it comprises tax-interest expense amounts or tax-interest income amounts that are (or apart from this Schedule would be) brought into account in the accounting period.	=	

The worldwide group's aggregate net tax-interest expense	=	
42 (1) For the purposes of this Schedule "the aggregate net tax-interest expense" of a worldwide group for a period of account of the group is (subject to sub-paragraph (2)) the sum of each relevant company's net tax-interest expense for the period.	=	
(2) Where the amount determined under sub-paragraph (1) is negative, "the aggregate net tax-interest expense" of the group for the period is nil.		
(3) In this paragraph "relevant company" means a company that was a member of the group at any time during the period of account of the group.		
Interpretation	<>	SCHEDULE 8 Section 27
Meaning of "impairment loss"	<>	SOCIAL INVESTMENT TAX RELIEF
43 (1) In this Schedule "impairment loss" means a loss in respect of the impairment of a financial asset.	=	
(2) A reference to a debit in respect of an impairment loss does not include a debit that is (or apart from this Schedule would be) brought into account in an accounting period in which fair value accounting is used.		
PART 5	<>	PART 1 15
INTEREST CAPACITY	<>	AMENDMENTS OF PART 5B OF ITA 2007
The interest capacity of a worldwide group for a period of account	<>	Introductory
	-+	1 ITA 2007 is amended as follows.
44 (1) For the purposes of this Schedule the "interest capacity" of a worldwide group for a period of account of the group ("the current period") is (subject to sub-paragraph (2))-	<>	Date by which investment must be made to qualify for SI relief
	<>	2 In section 257K(1)(a)(iii) (date by which investment must be made to qualify for SI relief) for "6 April 2019" substitute "6 April 2021".
A+B 204		The existing investments requirement
Draft provisions for Finance Bill 2017		
Schedule 7 – Corporate interest restriction		

<p style="text-align: center; color: red;">Part 5 –</p> <p style="color: red;">Interest capacity</p>	<p style="color: red;">where–</p> <p style="color: red;">A is the interest allowance of the group for the current period (see Part 6);</p> <p style="color: red;">B is the aggregate of the interest allowances of the group for periods before the current period so far as they are available in the current period (see paragraph 45).</p> <p style="color: red;">(2) Where the amount determined under sub-paragraph (1) is less than the de minimis amount for the current period, the interest capacity of the worldwide group for the period is the de minimis amount.</p> <p style="color: red;">(3) For this purpose “the de minimis amount” for a period of account is–</p> <p style="color: red;">(a) £2 million, or</p> <p style="color: red;">(b) where the period is more than or less than a year, the amount mentioned in paragraph (a) proportionately increased or reduced.</p>	<p style="color: red;">=> 3 After section 257LD insert– “257LDA The existing investments requirement</p> <p style="color: red;">(1) If at the time immediately before the investment is made the investor holds any shares in or debentures of–</p> <p style="color: red;">(a) the social enterprise, or</p> <p style="color: red;">(b) a company which at that time is a qualifying subsidiary of the social enterprise,</p> <p style="color: red;">those shares or debentures must be risk finance investments or (in the case of shares) permitted subscriber shares.</p> <p style="color: red;">(2) A share or debenture is a “risk finance investment” for the purposes of this section if–</p> <p style="color: red;">Finance (No. 2) Bill</p> <p style="color: red;">255 Schedule 8 – Social investment tax relief</p> <p style="color: red;">Part 1 – Amendments of Part 5B of ITA 2007</p>
<p style="color: red;">Amount of interest allowance for a period that is “available” in a later period</p>	<p style="color: red;">=> (a) it is a share that was issued to the investor, or a debenture of</p>	
<p style="color: red;">45 (1) This paragraph applies for the purposes of this Part.</p> <p style="color: red;">(2) The amount of an interest allowance of a worldwide group for a period of account (“the originating period”) that is “available” in a later period of</p> <p style="color: red;">account of the group (“the receiving period”) is (subject to sub-paragraph</p> <p style="color: red;">(5)) the lower of amounts A and B.</p> <p style="color: red;">(3) Amount A is–</p> <p style="color: red;">(a) the amount of the interest allowance for the originating period, less</p> <p style="color: red;">(b) the total of the amount or amounts (if any) of that interest allowance that were used in the originating period, or in any subsequent</p>	<p style="color: red;">=> (a) it is a share that was issued to the investor, or a debenture of</p> <p style="color: red;">which the investor is the holder in return for advancing an amount, and</p> <p style="color: red;">(b) at any time, a compliance statement under section 205, 257ED or 257PB is provided in respect of it or of shares or investments including it.</p> <p style="color: red;">(3) Subscriber shares are “permitted subscriber shares” for the purposes of this section if–</p> <p style="color: red;">(a) they were issued to the investor and have been continuously held by the investor since they were issued, or</p>	

<p>period of account of the group before the receiving period (see paragraph 46).</p> <p>(4) Amount B is the amount (if any) of the interest allowance for the originating period that is unexpired in the receiving period (see paragraph 47).</p>	<p>10 (b) they were acquired by the investor at a time when the company which issued them—</p> <p>(i) had issued no shares other than subscriber shares, and</p> <p>(ii) had not begun to carry on or make preparations for 15 carrying on any trade or business.</p> <p>(4) In this section “debenture” is to be read in accordance with section 257L(6)."</p>
<p>(5) The amount of the interest allowance for the originating period that is “available” in the receiving period is nil if—</p> <p>(a) an abbreviated return election is made in relation to the originating period, the receiving period or any intervening period of account of the group, or</p> <p>(b) an interest restriction return is not submitted under Part 2 in relation to any such period.</p>	<p>=>> The no disqualifying arrangements requirement</p> <p>4 After section 257LE insert—</p> <p>20 “257LEA The no disqualifying arrangements requirement</p> <p>(1) The investment must not be made, and money raised by the social enterprise from the making of the investment must not be employed,—</p> <p>(a) in consequence or anticipation of disqualifying 25 arrangements, or</p> <p>(b) otherwise in connection with disqualifying arrangements.</p>
<p>When interest allowance is “used”</p>	<p>=>> (2) Arrangements are “disqualifying arrangements” if—</p>
<p>46 (1) This paragraph applies for the purposes of this Part.</p> <p>(2) The amount of the interest allowance of a worldwide group for a period of account of the group (“the originating period”) that is “used” in the originating period is the lower of</p> <p>—</p> <p>(a) the interest allowance for the originating period, and</p> <p>(b) the sum of—</p> <p>(i) the aggregate net tax-interest expense of the group for the originating period;</p> <p>Draft provisions for Finance Bill 2017</p> <p>205</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 5 – Interest capacity</p>	<p>=>></p> <p>(a) the main purpose, or one of the main purposes, of the arrangements is to secure both that an activity is or will be 30 carried on by the social enterprise or a 90% social subsidiary of the social enterprise and that—</p>

(ii) the total amount of tax-interest expense amounts required to be brought into account in the originating period under paragraph 29 (reactivation of interest) by members of the group.

(3) The amount of the interest allowance for the originating period that is

“used” in a later period of account of the group (“the receiving period”) is the lower of—

(a) the interest allowance so far as it is available in the receiving period

(see paragraph 45), and

(b) the relevant part of the aggregate net tax-interest expense of the group for the receiving period (see sub-paragraph (4)).

(4) In sub-paragraph (3)(b) “the relevant part of the aggregate net tax-interest

expense of the group for the receiving period” is (subject to sub-paragraph

(5))—

A -B - C

where—

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

B is the interest allowance

of the group for the receiving period;

C is the amount of the interest allowance of the group for any period

before the originating period that is used in the receiving period.

(5) Where the amount determined under sub-paragraph (4) is negative, “the

(i) one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of a qualifying investment which

35

raises money for the purposes of that activity, or (ii) shares issued by the social enterprise which raise money for the purposes of that activity may comprise part of the qualifying holdings of a VCT,

(b) that activity is the relevant qualifying activity, and

40

(c) one or both of conditions A and B are met.

(3) Condition A is that, as a (direct or indirect) result of the money raised

by the investment being employed as required by section 257MM, an

amount representing the whole or the majority of the amount raised

is, in the course of the arrangements, paid to or for the benefit of a

45

relevant person or relevant persons.

256

Finance (No. 2) Bill

Schedule 8 – Social investment tax relief

Part 1 – Amendments of Part 5B of ITA 2007

=

<> (4) Condition B is that, in the absence of the arrangements, it would have

been reasonable to expect that the whole or greater part of the

component activities of the relevant qualifying activity would have been carried on as part of another business by a relevant person or relevant persons.

5

(5) For the purposes of this section it is immaterial whether the social enterprise is a party to the arrangements.

relevant part of the aggregate net tax-interest expense of the group for the receiving period" is nil.

(6) In this section-

Amount of interest allowance for a period of account that is "unexpired" in later period

47 (1) This paragraph contains provision for determining for the purposes of this Part the extent to which an interest allowance of a worldwide group for a

period of account ("the originating period") is "unexpired" in a later period

of account of the group ("the receiving period").

(2) If the receiving period-

(a) begins five years or less after the originating period begins, and

(b) ends five years or less after the originating period ends,

all of the interest allowance for the originating period is unexpired in the receiving period.

(3) If the receiving period begins more than five years after the originating

period ends, none of the interest allowance for the originating period is

unexpired in the receiving period.

(4) Sub-paragraph (5) applies if the receiving period-

(a) begins more than five years after the originating period begins, and

(b) ends five years or less after the originating period ends.

=> "90% social subsidiary" is to be read in accordance with section 257MV;

10 "component activities" means the carrying on of a qualifying trade or preparing to carry on such a trade, which constitutes the relevant qualifying activity;

means-

(a) shares in the social enterprise, or

15 (b) a qualifying debt investment in the social enterprise (see section 257L);

"qualifying holdings", in relation to the social enterprise, is to be construed in accordance with section 286 (VCTs: qualifying holdings);

20 "relevant person" means a person who is a party to the arrangements or a person connected with such a party;

"relevant qualifying activity" means the qualifying trade or activity mentioned in section 257ML(1) for the purposes of which the investment raised money;

25 "relevant tax relief" has the meaning given by subsection (7).

(7) "Relevant tax relief"-

(a) in relation to a qualifying debt investment, means SI relief in respect of that investment;

(b) in relation to shares, means one or more of the following-

30 (i) SI relief in respect of the shares;
(ii) EIS relief (within the meaning of Part 5) in respect of the shares;
(iii) SEIS relief (within the meaning of Part 5A) in respect of the shares;

35 (iv) relief under Chapter 6 of Part 4 (losses on disposal of

(5) The amount of the interest allowance for the originating period that is

unexpired in the receiving period
is-

X

(A - B) x ---

-

Y

206 Draft provisions for Finance
Bill 2017

Schedule 7 – Corporate interest
restriction

capacity

shares) in respect of the shares;
(v) relief under section 150A or 150E of TCGA 1992 (EIS and SEIS) in respect of the shares;
(vi) relief under Schedule 5B to that Act (EIS: 40
reinvestment) in consequence of which deferral relief is attributable to the shares (see paragraph 19(2) of that Schedule);
(vii) relief under Schedule 5BB to that Act (SEIS: re-investment) in consequence of which SEIS re-
45
investment relief is attributable to the shares (see paragraph 4 of that Schedule).”
Finance (No. 2) Bill

257

Schedule 8 – Social investment tax relief

Part 1 – Amendments of Part 5B of ITA 2007

5 (1) Section 257SH (power to require information where reason to believe SI relief may not be due because of certain kinds of arrangements, etc) is amended as follows.

(2) In subsection (1) after “257LE,” insert “257LEA.”

(3) In subsection (4) at the appropriate place insert-
5

“Section 257LEA
The investor, the social enterprise,

any person controlling the social
enterprise and any person whom
an officer of Revenue and
Customs has reason to believe
10

may be a party to the
arrangements in question”

where—

A is the interest allowance for

=

<> Limits on amounts that may be invested

6 (1) In the italic heading before

the originating period;

B is-

(a) the aggregate net tax-interest expense of the group for the originating period, or

(b) if lower, the interest allowance for the originating period;

X is the number of days in the period-

(a) beginning with the day on which the receiving period begins, and

(b) ending with the day five years after the day on which the originating period ends;

Y is the number of days in the originating period.

(6) Sub-paragraph (7) applies if the receiving period-

(a) begins five years or less after the originating period begins, and

(b) ends more than five years after the originating period ends.

(7) The amount of the interest allowance for the originating period that is unexpired in the receiving period is-

$$X \times \frac{(A - B)}{365}$$

(A - B)

-
Z

where-

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

B is-

(a) the interest allowance of the group for the receiving period, or

(b) if lower, aggregate net tax-interest expense of the group for

section 257M, after "enterprise" insert ":" general".

(2) Omit sections 257MA and 257MB (which are superseded by the provision inserted by sub-paragraph (3) below).

(3) After section 257MN insert-

"Limits on

amounts that may be invested
257MNA Maximum amount where investment made in first 7 years

(1) This section applies where-

20

(a) the investment is made before the end of the period of 7 years

beginning with the relevant first commercial sale, or

(b) the investment is made after that period but-

(i) a relevant investment was made in the social

enterprise before the end of that period, and

25

(ii) some or all of the money raised by that relevant

investment was employed for the purposes of (or of

part of) the qualifying activity for which the money raised by the investment is employed.

=

<>

(2) Where this section applies, the total amount of relevant investments

30

made in the social enterprise on or before the date when the

investment is made must not exceed £1.5 million.

(3) The reference in subsection (2) to relevant investments "made in the

the receiving period;
 X has the same meaning as in sub-paragraph (5);
 Z is the number of days in the receiving period.
 (8) Sub-paragraph (9) applies if–
 (a) the receiving period–
 (i) begins more than five years after the originating period begins, and
 (ii) ends more than five years after the originating period ends, and
 (b) sub-paragraph (3) does not apply.
 (9) The amount of the interest allowance for the originating period that is unexpired in the receiving period is the lower of the amounts determined under sub-paragraphs (5) and (7).
 Draft provisions for Finance Bill 2017

207
 Schedule 7 – Corporate interest restriction

Part 6 – Interest allowance

“social enterprise” is to be read with section 257MNB.

(4) In this section–

35
 “qualifying activity” means–
 (a) a qualifying trade within paragraph (a) of section 257ML(1) carried on by the social enterprise or a 90% social subsidiary of the social enterprise, or
 (b) an activity within paragraph (b) of section 257ML(1) 40
 so carried on;
 258
 Bill
 Finance (No. 2)

Schedule 8 – Social investment tax relief

Part 1 – Amendments of Part 5B of ITA 2007

PART 6

INTEREST ALLOWANCE

Meaning of “interest allowance”

48 For the purposes of this Schedule the “interest allowance” of a worldwide group for a period of account of the group is–
 (a) where no group ratio election is in force in relation to the period, the

amount calculated using the fixed ratio method (see paragraph 49);

“the relevant first commercial sale” has the meaning given by section 175A(6), reading–
 (a) references to the issuing company as references to the social enterprise,
 (b) references to the issue date as references to the 5 investment date, and
 (c) references to money raised by the issue of the relevant shares as references to money raised by the investment; “relevant investment” has the meaning given by section 173A(3)

<p>(b) where such an election is in force in relation to the period, the amount calculated using the group ratio method (see paragraph 50).</p>	<p>10 (reading references in section 173A(3) to a company as including any social enterprise). (5) Section 173A(4) and (5) apply to determine for the purposes of this</p>
<p>Interest allowance calculated using fixed ratio method</p>	<p>=> section when a relevant investment is made.</p>
<p>49 (1) This paragraph applies for the purposes of this Schedule. (2) The interest allowance for a period of account of a worldwide group calculated using “the fixed ratio method” is the lower of the following amounts– (a) 30% of the aggregate tax-EBITDA of the group for the period; (b) the adjusted net group-interest expense of the group for the period. (3) See– paragraph 51 for the meaning of “aggregate tax-EBITDA”; paragraph 59 for the meaning of “adjusted net group-interest expense”.</p>	<p>=> (6) Where the social enterprise is an accredited social impact 15 contractor– (a) the reference in subsection (1)(a) to the relevant first</p>
<p>Interest allowance calculated using group ratio method</p>	<p>=> commercial sale is to be read as a reference to the date on</p>
<p>50 (1) This paragraph applies for the purposes of this Schedule. (2) The interest allowance for a period of account of a worldwide group calculated using “the group ratio method” is the lower of the following amounts– (a) the group ratio percentage of the aggregate tax-EBITDA of the group for the period; (b) the qualifying net group-interest expense of the group for the period. (3) “The group ratio percentage” means (subject to sub-paragraph (4))–</p>	<p>=> which the social enterprise first entered into a social impact contract; 20 (b) the reference in subsection (1)(b) to the qualifying activity</p>
<p>A - x 100 --- B where A is the qualifying net group-interest expense of the group for the period; B is the accounts-EBITDA of the group for the period. (4) “The group ratio percentage” means 100% where– (a) the percentage determined under sub-paragraph (3) is negative or</p>	<p>mentioned there is to be read as a reference to the carrying</p>

higher than 100%, or
 (b) B in sub-paragraph (3) is zero.

(5) See—
 paragraph 51 for the meaning of “aggregate tax-EBITDA”;
 paragraph Y for the meaning of “group-EBITDA”;

208

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 6 – Interest allowance

paragraph Z for the meaning of “qualifying net group-interest expense”.

PART 7

DEFINITION OF CONCEPTS USED IN PART 6

Tax-EBITDA

The aggregate tax-EBITDA of a worldwide group

51 For the purposes of this Schedule “the aggregate tax-EBITDA” of a worldwide group for a period of account of the group is—

(a) the total of the tax-EBITDAs for the period of each company that was a member of the group at any time during the period, or
 (b) where the amount specified in paragraph (a) is negative, nil.

The tax-EBITDA of a company

52 (1) For the purposes of this Schedule the “tax-EBITDA” of a company for a

period of account of the worldwide group is—

(a) where the company has only one relevant accounting period, the company’s adjusted corporation tax earnings for that accounting period;
 (b) where the company has more than one relevant accounting period,

the total of the company’s adjusted corporation tax earnings for each

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

=

of those accounting periods.

(2) The company's "adjusted corporation tax earnings" for an accounting period is the total of the amounts that meet condition A or B.

(3) Condition A is that the amount-

- (a) is brought into account by the company in determining its taxable total profits of the period (within the meaning given by section 4(2) of CTA 2010), and
- (b) is not an excluded amount for the purposes of this condition (see paragraph 53).

(4) Condition B is that the amount-

- (a) is not brought into account as mentioned in sub-paragraph (3)(a), but would have been so brought into account if the company had made profits, or more profits, of any description in the period, and
- (b) is not an excluded amount for the purposes of this condition (see paragraph 53).

(5) The company's adjusted corporation tax earnings for an accounting period

may accordingly (in consequence of condition B) be a negative amount.

(6) Sub-paragraph (8) applies if an amount-

- (a) is brought into account as mentioned in sub-paragraph (3)(a), or
- (b) is not brought into account as mentioned in sub-paragraph (3)(b), in an accounting period which contains one or more disregarded periods.

(7) A "disregarded period" is any period falling within the accounting period-

209

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction
Part 7 – Definition of concepts used in Part 6

another company ("company X") which, at the material date, is or has been a 51% subsidiary of the social enterprise, and

- (c) any other relevant investment made in a company if-
 - (i) the money raised by that relevant investment has been employed for the purposes of a trade carried on
 - 40
 - by that company or another person, and
 - (ii) after that relevant investment was made, but on or before the material date, that trade became a transferred trade (see subsection (5)).

(2) The investments within paragraph (a) of subsection (1)–

45

(a) include investments made in a company mentioned in that

paragraph before it became a 51% subsidiary of the social enterprise, but

Finance (No. 2) Bill

259

Schedule 8 – Social investment tax relief
Part 1 – Amendments of Part 5B of ITA 2007

(a) which does not fall within the period of account of the worldwide group, or

(b) throughout which the company is not a member of the group.

(8) Where this sub-paragraph applies, the amount mentioned in sub-paragraph (6) is reduced, for the purposes of sub-paragraph (2), by such amount (if any)

=

<>

- (b) where a company mentioned in that paragraph is not a 51% subsidiary of the social enterprise at the material date, do not include any investments made in that company after it last ceased to be such a subsidiary.
- (3) For the purposes of subsection (1)(b), where company X is not a 51% subsidiary of the social enterprise at the material date, any money employed after company X last ceased to be such a subsidiary is to be ignored.
- (4) Where only a proportion of the money raised by a relevant

<p>as is referable, on a just and reasonable basis, to the disregarded period or periods mentioned in subparagraph (6).</p> <p>(9) An amount may be reduced to nil under sub-paragraph (8).</p>	<p>investment is employed for the purposes of a trade which becomes a 10</p>
<p>Amounts not brought into account in determining a company's tax-EBITDA</p>	<p>=</p>
<p>53 (1) An amount is an excluded amount for the purposes of conditions A and B in paragraph 52 if it is any of the following—</p> <ul style="list-style-type: none"> (a) a tax-interest expense amount or a tax-interest income amount; (b) an allowance or charge under CAA 2001; (c) an excluded relevant intangibles debit or an excluded relevant intangibles credit (see paragraph 54); (d) a loss that— <ul style="list-style-type: none"> (i) is made by the company in an accounting period other than that mentioned in paragraph 52(2), and (ii) is not an allowable loss for the purposes of TCGA 1992; (e) a deficit from the company's loan relationships for an accounting 	<p><> transferred trade, only the corresponding proportion of that relevant investment is to be treated as falling within subsection (1)(c).</p> <p>(5) For the purposes of this section, if—</p> <ul style="list-style-type: none"> (a) on or before the material date a trade is transferred— <ul style="list-style-type: none"> (i) to the social enterprise, 15 (ii) to a company which, at the material date, is or has
<p>period other than that mentioned in paragraph 52(2);</p> <p>(f) expenses of management of the company that are referable to an accounting period other than that mentioned in paragraph 52(2);</p> <p>(g) a deduction under section 137 of CTA 2010 (group relief) [or section 188M of that Act (group relief for carried-forward losses)] if and to</p>	<p>been a 51% subsidiary of the social enterprise, or (iii) to a partnership of which the social enterprise, or a company within sub-paragraph (ii), is a member, and (b) the trade or part of it was at any time before the transfer 20 carried on by another person,</p> <p>the trade or part mentioned in paragraph (b) becomes a "transferred trade" when it is transferred as mentioned in paragraph (a).</p> <p>(6) The cases within subsection (5)(a)—</p> <ul style="list-style-type: none"> (a) include the case where the trade is transferred to a company 25 within subsection (5)(a)(ii), or a partnership of which such a company is a member, before the company became a 51% subsidiary of the social enterprise, but (b) where a company within subsection (5)(a)(ii) is not a 51% subsidiary of the social enterprise at the material date, do not 30 include the case where the trade is transferred to that company, or a
<p>the extent that it constitutes a loss of the worldwide group.</p> <p>(2) For the purposes of sub-paragraph (1)(g) the deduction constitutes a "loss of the worldwide group" if and to the extent that it comprises surrenderable amounts that are referable to</p>	

times at which the surrendering company was a member of the worldwide group.		partnership of which that company is a
(3) An amount is an excluded amount for the purposes of condition B in paragraph 52 if it is an allowable loss for the purposes of TCGA 1992.	=	
Excluded relevant intangibles debits and excluded relevant intangibles credits	+-	
	=	
54 (1) For the purposes of paragraph 53 (and this paragraph)– (a) a debit is a “relevant intangibles debit” if it is brought into account under a provision of Part 8 of CTA 2009 (intangible fixed assets) that is listed in column 1 of the following table; (b) a relevant intangibles debit is “excluded” to the extent indicated in the corresponding entry in column 2 of the table.	<>	member, after that company last ceased to be such a subsidiary. (7) In this section–
Provision Excluded debits		35
	=	
210 section 729 excluded in full section 731 excluded in full Draft provisions for Finance Bill 2017	+-	
Schedule 7 – Corporate interest restriction		
Part 7 – Definition of concepts used in Part 6		
Provision Excluded debits	+-	
	=	
section 732 excluded if and to the extent that its amount is determined by reference to an excluded intangibles credit section 735 excluded in full section 736 excluded in full section 872 excluded in full section 874 excluded in full	<>	“the material date” means the date on which the investment is made;
(2) For the purposes of paragraph 53 (and this paragraph)– (a) a credit is a “relevant intangibles credit” if it is brought into account under a provision of Part 8 of CTA 2009 (intangible fixed assets) that is listed in column 1 of the following table; (b) a relevant intangibles credit is “excluded” to the extent indicated in		“relevant investment” has the meaning given by section 173A(3)

the corresponding entry in column 2 of the table.	=	(reading references in section 173A(3) to a company as
Provision Excluded credits	+-	
section 723 excluded if and to the extent that its amount is determined by reference to excluded intangible debits and excluded intangible credits	=	
section 725 excluded if and to the extent that its amount is determined by reference to an excluded intangibles debit	<>	including any social enterprise).
section 735 excluded if and to the extent that the cost of the asset in question exceeds its tax written-down value		40 (8) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.
section 872 excluded in full		(9) Section 173A(6) and (7) (meaning of "trade" etc) apply also for the purposes of this section.
section 874 excluded in full		257MNC Maximum amount for cases outside section 257MNA
		45 (1) This section applies where—
		260 Finance (No. 2) Bill
		Schedule 8 – Social investment tax relief
		Part 1 – Amendments of Part 5B of ITA 2007
(3) In the table in sub-paragraph (2)– (a) “tax written-down value” has the same meaning as in Part 8 of CTA 2009 (see Chapter 5 of that Part); (b) “the cost of the asset” has the same meaning as in section 736 of that Act.	<>	(a) the investment is made at any time after the period mentioned in section 257MNA(1)(a), and (b) it is not the case that the conditions in section 257MNA(1)(b)(i) and (ii) are met.
Double taxation relief	+-	
55 (1) This paragraph applies where— (a) apart from this paragraph, an amount of income (“the relevant amount”) would meet condition A or B in relation to a relevant accounting period of a company (“the company”), and (b) the amount of corporation tax chargeable in respect of the relevant amount is reduced under section 18(2) of TIOPA 2010 (entitlement to credit for foreign tax reduces UK tax by amount of the credit). (2) The relevant amount is treated,	<>	(2) Where this section applies— 5 (a) the total amount of relevant investments made in the social

for the purposes of paragraph 52(2)
(meaning of “adjusted corporation
tax earnings”) as not meeting the
Draft provisions for Finance Bill 2017

211
Schedule 7 – Corporate interest restriction
Part 7 – Definition of concepts used in Part
6

condition mentioned in sub-
paragraph (1)(a) to the extent that it
consists of
notional untaxed income.

(3) For this purpose, the amount of
the relevant amount that consists of
“notional untaxed income” is—

A

—

B

where—

A is the amount of the
reduction mentioned in sub-paragraph (1)(b);

B is the rate of
corporation tax applicable to the relevant
amount.

Group-interest

The net group-interest expense of a
worldwide group

56 (1) References in this Schedule to
“the net group-interest expense” of a
worldwide group for a period of
account of the group are to—

A-B

where—

A is the sum of the amounts
that are recognised in the financial

enterprise on or before
the date when the investment is made
must not exceed £1.5
million, and

condition mentioned in sub-
paragraph (1)(a) to the extent that it
consists of
notional untaxed income.

(3) For this purpose, the amount of
the relevant amount that consists of
“notional untaxed income” is—

A

—

B

where—

A is the amount of the
reduction mentioned in sub-paragraph (1)(b);

B is the rate of
corporation tax applicable to the relevant
amount.

Group-interest

The net group-interest expense of a
worldwide group

56 (1) References in this Schedule to
“the net group-interest expense” of a
worldwide group for a period of
account of the group are to—

A-B

where—

A is the sum of the amounts
that are recognised in the financial

(b) the amount invested must
not be more than the amount
mentioned in subsection
(3).

(3) That amount is the amount given
by the formula—
$$\frac{10}{- M} \quad \frac{\text{---}}{T} \quad \frac{\text{---}}{RCG + RSI}$$

T is the total of any
relevant investments made in the social
enterprise in the aid
period,

M is the total of any de
minimis aid, other than relevant
investments, that is
granted during the aid period—

(a) to the social
enterprise, or
(b) to a qualifying
subsidiary of the social enterprise at a
time when it is
such a subsidiary,

20
RCG is the highest rate at
which capital gains tax is charged in
the aid period, and
RSI is the highest SI rate
in the aid period.

(4) In subsection (3) “the aid
period” means the 3 years—
(a) ending with the day on
which the investment is made, but

25

(b) in the case of that day,
including only the part of the day
before the investment is
made.

(5) In this section “de minimis aid”
means de minimis aid which fulfils

statements of the group for the period, as items of profit or loss, in

respect of a relevant interest expense matter (see paragraph 57);
B is the sum of the amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, in

respect of a relevant interest income matter (see paragraph 57).

(2) References in this paragraph to an amount recognised in a group's financial

statements for a period include references to an amount that—
(a) was previously recognised as an item of other comprehensive income, and
(b) is transferred to become an item of profit or loss in determining the company's profit or loss for the period.

(3) In this paragraph the following expressions have the meaning they have for

accounting purposes—

“item of profit or loss”;

“item of other comprehensive income”.

“Relevant expense matter” and “relevant income matter”

57 (1) For the purposes of this Part “relevant expense matter” means—

(a) interest payable under a loan relationship;
(b) expenses ancillary to a loan relationship;
(c) losses arising from a loan relationship or a related transaction, other than—
(i) exchange losses

the conditions laid down—

(a) in Commission Regulation (EU) No. 1407/2013 (de minimis

30

aid) as amended from time to time, or

(b) in any EU instrument from time to time replacing the whole

or any part of that Regulation.

(6) For the purposes of subsection (3), the amount of any de minimis aid

is the amount of the grant or, if the aid is not in the form of a grant,

35

the gross grant equivalent amount within the meaning of that Regulation as amended from time to time.

(7) For the purposes of subsection (3), if—

(a) the investment or any relevant investment is made, or
(b) any aid is granted,

40

in sterling or any other currency that is not the euro, its amount is to

be converted into euros at an appropriate spot rate of exchange for the date on which the investment is made or the aid is paid.

(8) In this section “relevant investment” has the meaning given by

section 173A(3) (reading references in section 173A(3) to a company

45

as including any social enterprise).

Finance (No. 2) Bill

261

Schedule 8 – Social investment tax relief

Part 1 – Amendments of Part 5B of ITA 2007

=

<>

(9) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.

(10) Section 257MNB (which expands the meaning of “relevant investments made in the social enterprise”) applies for the purposes of each of subsections (2) and (3) above as it applies for the purposes

5

of section 257MNA(2).

257MND Limit on investment in shorter applicable period

(1) This section applies where condition A or condition B is met.

(2) Condition A is that—

<p>(within the meaning of Parts 5 and 6 of CTA 2009), and</p> <p>(ii) impairment losses;</p> <p>(d) dividends payable in respect of preference shares accounted for as a financial liability;</p> <p>212 Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 7 – Definition of concepts used in Part 6</p>	<p>(a) a company becomes a 51% subsidiary of the social enterprise</p> <p>10</p> <p>at any time during the shorter applicable period,</p>
<p>(e) losses arising from a relevant derivative contract or a related transaction, other than—</p> <p>(i) exchanges losses (within the meaning of Part 7 of CTA 2009), and</p> <p>(ii) impairment losses;</p> <p>(f) an exchange loss;</p> <p>(g) expenses ancillary to a relevant derivative contract or related transaction;</p> <p>(h) financing charges implicit in payments made under a finance lease;</p> <p>(i) financing charges relating to debt factoring;</p> <p>(j) financing charges implicit in payments made under a service concession arrangement if and to the extent that it is accounted for as a financial liability;</p> <p>(k) interest payable in respect of a relevant non-lending relationship;</p> <p>(l) alternative finance return payable under alternative finance arrangements;</p> <p>(m) manufactured interest payable;</p>	<p><> (b) all or part of the money raised by the investment is employed for the purposes of a qualifying activity which consists wholly or partly of a trade carried on by that company, and</p> <p>(c) that trade (or part of it) was carried on by that company</p> <p>15</p> <p>before it became a 51% subsidiary as mentioned in paragraph (a).</p> <p>(3) Condition B is that all or part of the money raised by the investment is employed for the purposes of a qualifying activity which consists wholly or partly of a trade which, during the shorter applicable</p> <p>20</p> <p>period, becomes a transferred trade (see subsection (9)).</p> <p>(4) Where this section applies, at each time in the shorter applicable period (“the relevant time”) the total of the relevant investments made in the social enterprise before that time must not exceed £1.5 million.</p> <p>25</p> <p>(5) In subsection (4) the reference to relevant investments “made in the social enterprise” includes—</p> <p>(a) relevant investments made in a company which at any time</p>

(n) financing charges in respect of the advance under a debtor repo or debtor quasi-repo;

(o) financing charges so far as they are made up of amounts which—
(i) are treated as interest payable under a loan relationship under a relevant provision of Chapter 2 of Part 16 of CTA 2010 (finance arrangements), or

(ii) would be so treated if the company in question were within the charge to corporation tax.

(2) For the purposes of this Part “relevant income matter” means—

(a) interest receivable under a loan relationship;
(b) profits arising from a loan relationship or a related transaction, other than—
(i) exchange gains (within the meaning of Parts 5 and 6 of CTA 2009), and
(ii) the reversal of impairment losses;
(c) dividends receivable in respect of preference shares accounted for as a financial asset;

(d) gains arising from a relevant derivative contract or a related transaction, other than
(i) exchanges gains (within the meaning of Part 7 of CTA 2009), and
(ii) the reversal of impairment losses;

(e) an exchange gain (within the meaning of Part 7 of CTA 2009);
(f) financing income implicit in amounts received under a finance lease;

(g) financing income relating to debt factoring;
(h) financing income implicit in amounts received under a service concession arrangement if and to the extent that it is accounted for as a financial liability;

(i) interest receivable in respect of a relevant non-lending relationship;
(j) alternative finance return receivable under alternative finance arrangements;

before the relevant time has been a 51% subsidiary of the social enterprise,

30

(b) any other relevant investment made in a company to the extent that the money raised by that relevant investment has been employed for the purposes of a trade carried on by

another company (“company X”) which at any time before the relevant time has been a 51% subsidiary of the social

35

enterprise, and

(c) any other relevant investment made in a company if—

(i) the money raised by that relevant investment has been employed for the purposes of a trade carried on by that company or another person, and

40

(ii) after that relevant investment was made, but before

the relevant time, that trade (or part of it) became a

transferred trade.

(6) The investments within paragraph (a) of subsection (5)—
(a) include investments made in a company mentioned in that

45

paragraph before it became a 51% subsidiary of the social

enterprise, but

(k) manufactured interest receivable;

Draft provisions for Finance Bill 2017

213

Schedule 7 – Corporate interest restriction

Part 7 – Definition of concepts used in Part 6

(l) financing income in respect of the advance under a creditor repo or creditor quasi-repo;

(m) financing income so far as it is made up of amounts which—

(i) are treated as interest receivable under a loan relationship under a relevant provision of Chapter 2 of Part 16 of CTA

2010 (finance arrangements), or

(ii) would be so treated if the company in question were within the charge to corporation tax.

Paragraph 57: interpretation

58 (1) For the purposes of sub-paragraph (1)(b) of paragraph 57, expenses are

“ancillary” to a loan relationship if and only if they are incurred directly—

(a) in bringing, or attempting to bring, the relationship into existence,

(b) in altering, or attempting to alter, the terms of the loan relationship,

or

(c) in making payments under the loan relationship.

(2) For the purposes of sub-paragraphs (1)(c) and (2)(d) of paragraph 57 a

derivative contract is “relevant” if its underlying subject matter consists only of one or more of the following—

(a) interest rates;

(b) currency;

(c) an asset or liability representing a loan relationship;

(d) any other underlying subject matter which is—

(i) subordinate in relation to any of the matters mentioned in paragraphs (a) to (c), or

(ii) of small value in comparison with the value of the underlying subject matter as

262

Bill

Finance (No. 2)

Schedule 8 – Social investment tax relief

Part 1 – Amendments of Part 5B of ITA 2007

=

<>

(b) where a company mentioned in that paragraph is not a 51% subsidiary of the social enterprise at the relevant time, do not

include any investments made in that company after it last ceased to be such a subsidiary.

=

+-

=

(7) For the purposes of subsection (5)(b), where company X is not a 5%

subsidiary of the social enterprise at the relevant time, any money

employed after company X last ceased to be such a subsidiary is to be ignored.

(8) Where only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a

10 transferred trade, only the corresponding proportion of that relevant

investment is to be treated as falling within subsection (5)(c).

(9) For the purposes of this

a whole.

(3) Whether part of the underlying subject matter of a derivative contract is subordinate or of small value is to be determined for the purposes of sub-

paragraph (2)(d) by reference to the time when the company enters into or acquires the contract.

(4) For the purposes of sub-paragraph (1)(g) of paragraph 57 expenses are “ancillary” to a relevant derivative contract or related transaction if and only

if they are incurred directly—

(a) in bringing the derivative contract into existence,
(b) in entering into or giving effect to the related transaction,

(c) in making payments under the derivative contract or as a result of

the related transaction, or

(d) in taking steps to secure the receipt of payments under the derivative contract or in accordance with the related transaction.

(5) For the purposes of sub-paragraphs (1)(o) and (2)(m) of paragraph 57, the

following provisions of Chapter 2 of Part 16 of CTA 2010 are “relevant”—

(a) section 761(3) (type 1 finance arrangements: borrower a company);

(b) section 762(3) (type 1 finance arrangements: borrower a partnership);

(c) section 766(3) (type 2 finance arrangements);

(d) section 769(3) (type 3 finance arrangements).

(6) In paragraph 57 and this paragraph—

214

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 7 – Definition of concepts used in Part 6

“alternative finance arrangements” has the same meaning as in Parts 5

and 6 of CTA 2009 (see section 501(2) of that Act);

“alternative finance return” has the same meaning as in Part 6 of CTA

2009 (see sections 511 to 513 of that Act);

“creditor quasi-repo” has the

section, if—

(a) before the relevant time, a trade is transferred—
15
(i) to the social enterprise,

(ii) to a company which, at the relevant time, is or has

been a 51% subsidiary of the social enterprise, or

(iii) to a partnership of which the social enterprise, or a company within sub-paragraph (ii), is a member, and
20
(b) the trade or part of it was at any time before the transfer

carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “transferred trade” when it is transferred as mentioned in paragraph (a).

(10) The cases within subsection (9)(a)—

(a) include the case where the trade is transferred to a company

25
within subsection (9)(a)(ii), or a partnership of which such a company is a member, before the company became a 51%

subsidiary of the social enterprise, but

(b) where a company within subsection (9)(a)(ii) is not a 51%

=

<>

subsidiary of the social enterprise at the relevant time, do not

30

include the case where

same meaning as in Chapter 10 of Part 6 of CTA 2009 (see section 544 of that Act);

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

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

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

“derivative contract” has the same meaning as in Part 7 of CTA 2009 (see section 576 of that Act);

“exchange gain”—

- (a) in sub-paragraph (2)(b), has the same meaning as in Parts 5 and 6 of CTA 2009 (see section 475 of that Act);
- (b) in sub-paragraph (2)(d), has the same meaning as in Part 7 of CTA 2009 (see section 705 of that Act);

“exchange loss”—

- (a) in sub-paragraph (1)(c), has the same meaning as in Parts 5 and 6 of CTA 2009 (see section 475 of that Act);
- (b) in sub-paragraph (1)(e), has the same meaning as in Part 7 of CTA 2009 (see section 705 of that Act);

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

“related transaction”—

- (a) in sub-paragraph (1)(c), has the same meaning as in Part 5 of CTA 2009 (see section 304 of that Act);
- (b) in sub-paragraph (1)(e), has the same meaning as in Part 7 of CTA 2009 (see section 596 of that Act);

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

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

the trade is transferred to that company, or a partnership of which that company is a member, after that company last ceased to be such a subsidiary.

(11) In this section—

35

“qualifying activity” has the same meaning as in section 257MNA (see subsection (4) of that section);

“relevant investment” has the meaning given by section 173A(3)

(reading references in section 173A(3) to a company as including any social enterprise).

40

(12) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.

(13) Section 173A(6) and (7) (meaning of “trade” etc) apply also for the purposes of this section.

Finance (No. 2) Bill

263 Schedule 8 – Social investment tax relief Part 1 – Amendments of Part 5B of ITA 2007

The adjusted net group-interest expense of a

=

<> 257MNE Power to amend limits on amounts that may be invested

(1) The Treasury may by

worldwide group

regulations substitute a different figure for the

figure for the time being specified in section 257MNA(2), 257MNC(2)

or (3) or 257MND(4).

(2) Regulations under this section may make incidental, supplemental, 5

consequential, transitional or saving provision.

(3) Regulations under this section may not be made unless a draft of the

instrument containing them has been laid before, and approved by a resolution of, the House of Commons.”

(4) In section 1014 (orders and regulations), in subsection (5)(b) (orders and

10

regulations excluded from subsection (4) for sub-paragraph (iiia) substitute-

“(iiia)

section 257MNE (social investment relief:

amendment of limits on investments),”.

=

<> Number of employees limit

15

7 In section 257MH (the number of employees requirement), in each of subsections (1) and (2) for “500” substitute “250”.

=

<> Financial health requirement

8 After section 257MI insert- “257MIA The financial health requirement

20

(1) The social enterprise must meet the financial health requirement at

the beginning of the shorter applicable period.

(2) The financial health requirement is that the social enterprise is not in

difficulty.

(3) The social enterprise is “in difficulty” if it is reasonable to assume

25

that it would be regarded as a firm in difficulty for the purposes of

the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02).”

=

<> Purposes for which money raised can be used

where

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

B is the sum of any upward adjustments (see sub-paragraph (3));

C is the sum of any downward adjustments (see sub-paragraph (4)).

(2) Where the amount determined under sub-paragraph (1) is negative, “the

9 (1) Section 257MM (requirement to use money raised and to trade for minimum

<p>adjusted net group-interest expense" of the group for the period is nil. Draft provisions for Finance Bill 2017</p> <p style="text-align: right;">215</p>	<p style="text-align: right;">30</p> <p>period) is amended as follows.</p> <p>(2) After subsection (3) insert— “(3A) Employing money on the repayment of a loan does not amount to employing the money for the funded purpose.”</p> <p>(3) In subsection (7)(c) after “(3),” insert “(3A),”.</p> <p style="text-align: right;">35</p>
=	
-+	<p>Excluded activities</p>
=	
<p>Schedule 7 – Corporate interest restriction</p> <p>Part 7 – Definition of concepts used in Part 6</p>	<p style="text-align: right;">10 (1) Section 257MQ (meaning of “excluded activity”) is amended as set out in sub-paragraphs (2) to (4).</p> <p style="text-align: right;">(2) In subsection (1)– 264</p> <p style="text-align: right;">Finance (No. 2) Bill</p> <p style="text-align: right;">Schedule 8 – Social investment tax relief</p> <p style="text-align: right;">Part 1 – Amendments of Part 5B of ITA 2007</p>
=	
<p>(3) The following are “upward adjustments” for the purposes of subparagraph (1)–</p> <p>(a) any amount that, in the financial statements of the group for the period, is brought into account in determining the carrying value of an asset or liability, so far as it–</p> <p style="margin-left: 20px;">(i) is brought into account for the purposes of corporation tax by a member of the group as a debit under section 320 or 604 of CTA 2009 (credits and debits treated as relating to capital expenditure), or</p> <p style="margin-left: 20px;">(ii) would be so brought into account if the member were within the charge to corporation tax;</p> <p style="margin-left: 20px;">(b) any amount that is recognised in the financial statements of the group for the period, as an item of profit or loss, in respect of a relevant income matter, so far as it–</p> <p style="margin-left: 20px;">(i) is not brought into account for the purposes of corporation tax by virtue of section 322(2) or 323A of CTA 2009 (cases where credits not required to be brought into account), or</p> <p style="margin-left: 20px;">(ii) would not be so brought into account by virtue of either of</p>	<p style="text-align: right;">(a) in paragraph (b) omit “(but see subsection (2));</p> <p style="text-align: right;">(b) after paragraph (b) insert –</p> <p style="text-align: right;">“(ba) leasing (including letting ships on charter or other assets on hire),</p> <p style="text-align: right;">(bb) receiving royalties or licence fees, 5</p> <p style="text-align: right;">(bc) operating or managing nursing homes or residential care homes or managing property used as a nursing home or residential care home (see section 257MQA),</p> <p style="text-align: right;">(bd) generating electricity, exporting electricity (see subsection (3)) or making electricity generating</p> <p style="text-align: right;">10</p>

those provisions if the member were within the charge to corporation tax.

(4) The following are “downward adjustments” for the purposes of subparagraph (1)–

(a) any amount that, in the financial statements of the group for the

period, is brought into account in determining the carrying value of

an asset or liability, so far as it–

(i) is brought into account for the purposes of corporation tax by

a member of the group as a credit under section 320 or 604 of

CTA 2009 (credits and debits treated as relating to capital expenditure), or (ii) would be so brought into account if the member were within the charge to corporation tax;

(b) any amount that is recognised in the financial statements of the

group for the period, as an item of profit or loss, in respect of a relevant expense matter, so far as it–

(i) is not brought into account for the purposes of corporation

tax by virtue of section 322(2) or 323A of CTA 2009 (cases where credits not required to be brought into account), or (ii) would not be so brought into account by virtue of either of those provisions if the member were within the charge to corporation tax;

(c) any amount that is recognised in the financial statements of the

group for the period, as an item of profit or loss, in respect of a

relevant interest expense matter, so far as–

(i) the amount

available, capacity

(be) generating heat,

(bf) generating any form of energy not within paragraph (bd) or (be),

(bg) producing gas or fuel,”;

15

(c) omit paragraph (f) (subsidised generation or export of electricity).

(3) Omit subsection (2).

(4) After subsection (2) insert–

“(3) For the purposes of subsection (1)(bd) electricity is exported if it is

exported onto a distribution system or transmission system (within

20

the meaning of section 4 of the Electricity Act 1989).”

(5) After section 257MQ insert–

“257MQA Excluded activities: nursing homes and residential care homes

(1) This section supplements section 257MQ(1)(bc).

(2) “Nursing home” means any establishment which exists wholly or

25

mainly for the provision of nursing care–

(a) for persons suffering from sickness, injury or infirmity, or

(b) for women who are pregnant or have given birth.

(3) “Residential care home” means any establishment which exists

wholly or mainly for the provision of residential accommodation,

30

together with board and personal care, for persons in need of personal care because of–

(a) old age,

(b) mental or physical

disability,

(c) past or present

<p>represents a dividend payable in respect of preference shares, and</p> <p>(ii) those shares are recognised as a liability in the financial statements of the group for the period.</p>	<p>dependence on alcohol or drugs, 35 or (d) any past illnesses, (e) past or present mental disorder.</p> <p>(4) The activities of a person are not to be taken to fall within section 257MQ(1)(bc) unless that person has an estate or interest in, or is in</p>
<p>The qualifying net group-interest expense of a worldwide group</p> <p>60 (1) References in this Schedule to "the qualifying net group-interest expense" of a worldwide group for a period of account of the group are to...</p> <p>216 Draft provisions for Finance Bill 2017</p> <p>Schedule 7 – Corporate interest restriction</p> <p>Part 8 – Interpretation, etc</p>	<p>=</p> <p><> occupation of, the nursing home or residential care home in 40 question."</p> <p>(6) Omit section 257MS (subsidised generation or export of electricity).</p> <p>Finance (No. 2) Bill</p> <p>265</p> <p>Schedule 8 – Social investment tax relief</p> <p>Part 2 – Consequential amendments</p>
<p>PART 8</p>	<p>=</p> <p><> PART 2</p>
<p>INTERPRETATION, ETC</p>	<p>=</p> <p><> CONSEQUENTIAL AMENDMENTS</p>
<p>Meaning of "a worldwide group", "ultimate parent" etc</p>	<p>=</p> <p><> 11 (1) ITA 2007 is amended as follows.</p>
<p>61 (1) In this Schedule "a worldwide group" means–</p> <p>(a) any entity which–</p> <p>(i) is a relevant entity (see paragraph 62), and</p> <p>(ii) meets the condition in sub-paragraph (2), and</p> <p>(b) each consolidated subsidiary (if any) of the entity mentioned in paragraph (a).</p> <p>(2) The condition is that the entity–</p> <p>(a) is a member of an IAS group and is not a consolidated subsidiary of a relevant entity, or</p> <p>(b) is not a member of an IAS group.</p> <p>(3) In this Schedule–</p> <p>(a) references to "a member" of a worldwide group are to an entity mentioned in sub-paragraph (1)(a) or (b);</p> <p>(b) references to "the ultimate parent" of a worldwide group are to the entity mentioned in sub-paragraph (1)(a);</p> <p>(c) references to "a single-</p>	<p>=</p> <p><></p> <p>(2) In section 178A (EIS: the no disqualifying arrangements requirement), in subsection (6), in the definition of "relevant tax relief" after paragraph (b) 5</p> <p>insert–</p> <p>"(ba) SI relief under Part 5B in respect of the shares;"</p> <p>(3) In section 257CF (SEIS: the no disqualifying arrangements requirement), in subsection (6), in the definition of "relevant tax relief" after paragraph (b)</p> <p>insert–</p> <p>10</p> <p>"(ba) SI relief under</p>

company worldwide group" are to a worldwide group whose only member is its ultimate parent; (d) references to "a multi-company worldwide group" are to a worldwide group with two or more members.

(4) In this paragraph "IAS group" means a group within the meaning given by international accounting standards.

Interpretation of paragraph 61: "relevant entity"

62 (1) In paragraph 61 "relevant entity" means (subject to sub-paragraph (7)) an entity in relation to which condition A, B or C is met.

(2) Condition A is that the entity is a body corporate other than-

(a) a limited liability partnership in relation to which section 1273(1) of

CTA 2009 (limited liability partnerships) applies, or

(b) an entity formed under the law of a territory outside the United

Kingdom which would be a partnership if formed under the law of any part of the United Kingdom.

(3) Condition B is that the amount of profits to which each person who has an interest in the entity is entitled depends upon a decision that-

Part 5B in respect of the shares;".

(4) In section 299A (VCTs: the no disqualifying arrangements requirement), in subsection (6), in the definition of "relevant tax relief" after paragraph (c)

insert-

"(ca) SI relief (within the meaning of Part 5B) in respect of the

15

shares;".

12 In Schedule 6 to FA 2015 (investment reliefs: excluded activities) omit

paragraph 13 (which is superseded by paragraph 10 of this Schedule).

13 In Part 2 of Schedule 24 to FA 2016 (tax advantages about which information

may be obtained from certain persons), after the entry relating to relief

20

granted to investors in a company under the enterprise investment scheme

insert-

=

-+

"Relief granted to Part 5B of ITA 2007 The social investors in a social enterprise" enterprise

25

=

-+

PART 3

=

-+

COMMENCEMENT

=

(a) is taken by the entity or members of the entity, and

(b) is taken after the period in which the profits arise.

(4) Condition C is that-

14 (1) The amendments made by paragraphs 3 and 6 to 9 have effect in relation to investments made on or after 6 April 2017.

(2) Nothing in sub-paragraph (1) prevents investments made before 6 April 30

2017 from constituting "relevant investments" for any purpose of section 257MNA, 257MNB, 257MNC or 257MND of ITA 2007.

(a) shares or other interests in the entity are listed on a recognised stock exchange, and

(b) the shares or other interests in the entity are sufficiently widely held.

(5) For the purposes of sub-paragraph (3) a person "has an interest in the entity" if the person holds—

Draft provisions for Finance Bill 2017

217

Schedule 7 – Corporate interest restriction

Part 8 – Interpretation, etc

(3) Subject to sub-paragraph (4), the amendments made by paragraphs 4 and 5 have effect in relation to investments made on or after 6 April 2017.

(4) Arrangements which include any transaction entered into before 6 April

35

2017 are not "disqualifying arrangements" for the purposes of section 257LEA of ITA 2007.

15 The amendments made by paragraph 10—

(a) so far as they apply for the purposes of section 257JD of ITA 2007, come into force on 6 April 2017;

40

266

Finance (No.

2) Bill

Schedule 8 – Social investment tax relief

Part 3 – Commencement

=

(a) shares in the entity, or

(b) interests corresponding to shares,

which entitle the person to a share of the profits of the entity.

(6) For the purposes of sub-paragraph (4) shares or other interests in an entity

are "sufficiently widely held" if no participant in the entity holds more than

10% by value of all the shares or other interests in the entity.

(7) The following are not relevant entities—

- (a) the Crown,
- (b) a Minister of the Crown,
- (c) a government department,
- (d) a Northern Ireland

department, or

(e) a foreign sovereign power.

(8) Section 454 of CTA 2010 (meaning of participant) applies for the purposes of this paragraph.

(b) so far as they apply for the purposes of sections 257MJ and 257MP of ITA 2007, have effect in relation to investments made on or after 6 April 2017.

16 (1) Subject to sub-paragraph (3), the amendments made by paragraph 11(2) and

(3) have effect in relation to shares issued on or after 6 April 2017.

5

(2) Subject to sub-paragraph (3), the amendment made by paragraph 11(4) has effect for the purpose of determining whether shares or securities issued on

or after 6 April 2017 are to be regarded as comprised in a company's qualifying holdings.

(3) The amendments made by paragraph 11 do not have effect for the purposes

10

of determining any question whether particular arrangements which

include any transaction entered into before 6 April 2017 are "disqualifying

arrangements" for the purposes of section 178A, 257CF or 299A of ITA 2007.

=

<>

Meaning of "non-consolidated subsidiary" and "consolidated subsidiary"

	SCHEDULE 9 Section 29
=	
-+	RELIEF FOR CARRIED-FORWARD LOSSES 15
=	
-+	PART 1
=	
-+	AMENDMENT OF GENERAL RULES ABOUT CARRYING FORWARD LOSSES
=	
-+	Non-trading deficits from loan relationships
=	
<>	<p>1 Part 5 of CTA 2009 (loan relationships) is amended as follows.</p> <p>2 In the heading of Chapter 16 (non-trading deficits) at the end insert “: pre- 1 20 April 2017 deficits and charities”.</p> <p>3 In section 456 (introduction to Chapter 16) in subsection (1)–</p> <p>(a) after “if” insert “– (a)”, and</p> <p>(b) at the end insert “, and</p> <p>25 (b) either–</p> <p>(i) that accounting period begins before 1 April 2017, or</p> <p>(ii) at the end of that accounting period the company is a charity”.</p> <p>30 4 After section 463 insert–</p> <p>“CHAPTER 16A</p>
=	
-+	NON-TRADING DEFICITS: POST 1 APRIL 2017 DEFICITS
=	
<>	<p>463A Introduction to Chapter</p> <p>(1) This Chapter applies if–</p> <p>35 (a) for any accounting period beginning on or after 1 April 2017 a company has a non-trading deficit from its loan relationships under section 301(6), and Finance (No. 2) Bill</p> <p>267 Schedule 9 – Relief for carried-forward losses</p>

		Part 1 – Amendment of general rules about carrying forward losses
Continuity of identity of a worldwide group through time	=	<p>(b) at the end of that accounting period the company is not a charity.</p> <p>(2) In this Chapter “the deficit” and “the deficit period” mean that deficit and that period respectively.</p> <p>(3) Sections 463B and 463C deal with claims to set off the deficit against 5</p> <p>profits of the deficit period or earlier periods.</p> <p>(4) Sections 463D to 463F deal with the consequences of such claims.</p> <p>(5) Sections 463G to 463I provide for so much of the deficit as is not –</p> <p>(a) set off against profits under section 463B, or</p> <p>(b) surrendered as group relief under Part 5 of CTA 2010, 10</p> <p>to be carried forward to later accounting periods.</p> <p>463B Claim to set off deficit against profits of deficit period or earlier periods</p> <p>(1) The company may make a claim for the whole or part of the deficit –</p> <p>(a) to be set off against any profits of the company (of whatever 15 description) for the deficit period, or</p> <p>(b) to be carried back to be set off against profits for earlier</p>
and only if the entity that is the ultimate parent of the group at Time 2 –	=	
(a) was the ultimate parent of the group at Time 1, and	<>	
(b) was the ultimate parent of a worldwide group at all times between Time 1 and Time 2.	<>	
Meaning of “relevant public body”	=	accounting periods.
65 (1) In this Schedule “relevant public body” means –	<>	(2) No claim may be made under subsection (1) in respect of so much of
218 (a) the Crown, (b) a Minister of the Crown, (c) a government department,	<>	
Draft provisions for Finance Bill 2017	=	
Schedule 7 – Corporate interest restriction	=	
Part 8 – Interpretation, etc	=	
(d) a Northern Ireland department, (e) a foreign sovereign	<>	

power,

(f) a designated educational establishment (within the meaning given by section 106 of CTA 2009),

(g) a health service body (within the meaning given by section 986 of CTA 2010),

(h) a local authority, or

(i) any other body that acts under any enactment for public purposes

and not for its own

profit.

(2) In this paragraph “enactment” includes—

(a) an enactment contained in subordinate legislation within the

meaning of the

Interpretation Act 1978,

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,

(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and

(d) an enactment contained in, or in an instrument made under,

Northern Ireland legislation.

(3) The Commissioners may by regulations amend this paragraph so as to alter

the meaning of “relevant public body”.

(4) The provision that may be made under sub-paragraph (3) does not include

provision altering the meaning of “relevant public body” so that it includes

a person who has no functions of a public nature.

(5) Regulations under sub-paragraph (3) are subject to negative resolution

(3) For time limits and other provisions applicable to claims under subsection (1), see section 463C.

(4) For what happens when a claim is made under subsection (1)(a), see section 463D.

(5) For what happens when a claim is made under subsection (1)(b), and 25

the profits available for relief when such a claim is made, see sections

463E and 463F.

463C Time limits for claims under section 463B(1)

(1) A claim under section 463B(1) must be made within—
(a) the period of 2 years after the deficit period ends, or 30

(b) such further period as an officer of Revenue and Customs allows.

(2) Different claims may be made in respect of different parts of a non-

trading deficit for any deficit period.

(3) But no claim may be made in respect of any part of a deficit to which 35

another such claim relates.

463D Claim to set off deficit against profits for the deficit period

(1) This section applies if a claim is made under section 463B(1)(a) for the

whole or part of the deficit to be set off against profits for the deficit period.

40

(2) The amount of the deficit to which the claim relates must be set off

against the profits of the company for the deficit period which are identified in the claim.

268

Finance

(No. 2) Bill

Schedule 9 – Relief for carried-forward losses

Part 1 –
Amendment of general rules about carrying

procedure.	=	forward losses
Treatment of stapled entities	<>	<p>(3) Those profits are reduced accordingly.</p> <p>(4) Relief under this section must be given before relief is given against profits for the deficit period-</p> <p>(a) under section 37 or 62(1) to (3) of CTA 2010 (deduction of losses from total profits for the same or earlier accounting periods), or</p> <p>(b) as a result of a claim under section 463B(1)(b) (carry-back) in respect of a deficit for a later period.</p> <p>(5) No relief may be given under this section against ring fence profits of the company within the meaning of Part 8 of CTA 2010 (oil activities)</p> <p>10 or contractor's ring fence profits of the company within the meaning of Part 8ZA of that Act (oil contractors).</p> <p>463E Claim to carry back deficit to earlier periods</p> <p>(1) This section applies if a claim is made under section 463B(1)(b) for the whole or part of the deficit to be carried back to be set off against</p> <p>15</p>
Treatment of business combinations	=	
67 (1) This paragraph applies where two entities- Draft provisions for Finance Bill 2017 219 Schedule 7 – Corporate interest restriction Part 8 – Interpretation, etc	<>	<p>profits for accounting periods before the deficit period.</p>
(a) would, apart from this paragraph, each be the ultimate parent of a worldwide group, and (b) are treated under international accounting standards as a single economic entity by reason of being a business combination achieved	<>	<p>(2) The claim has effect only if it relates to an amount no greater than the lesser of-</p> <p>(a) so much of the deficit as is not an amount in relation to which a claim is made under section 463B(1)(a), and</p> <p>20</p>

<p>by contract.</p> <p>(2) This Schedule has effect as if-</p> <p>(a) the two entities were consolidated subsidiaries of another entity (the “deemed parent”), and</p> <p>(b) the deemed parent met conditions A to C in paragraph 61</p> <p>(conditions for being the ultimate parent of a worldwide group).</p> <p>(3) In this paragraph “business combination” has the meaning given by international accounting standards.</p>	<p>(b) the total amount of the profits available for relief under this section.</p> <p>(3) Section 463F explains which profits are so available.</p> <p>(4) The amount to which the claim relates is set off against those profits</p> <p>by treating them as reduced accordingly.</p> <p>25</p> <p>(5) If those profits are profits for more than one accounting period, the</p>
<p>Meaning of “service concession agreement”</p>	<p>=</p>
<p>68 In this Schedule “service concession agreement” has the meaning given by</p> <p>international accounting standards.</p>	<p><> relief is applied by setting off the amount to which the claim relates against profits for a later period before setting off any remainder of that amount against profits for an earlier period.</p> <p>463F Profits available for relief under section 463E</p> <p>30</p>
<p>Meaning of “UK group company”</p>	<p>=</p>
<p>69 (1) In this Schedule “UK group company”, in relation to a worldwide group, means a company that meets conditions A and B.</p> <p>(2) Condition A is that the company is a member of the worldwide group.</p> <p>(3) Condition B is that the company-</p> <p>(a) is resident in the United Kingdom, or</p> <p>(b) is not resident in the United Kingdom and is carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom.</p>	<p><> (1) The profits available for relief under section 463E are the amounts which (apart from the relief) would be charged under this Part as profits for accounting periods ending within the permitted period after giving every prior relief.</p> <p>(2) In this section-</p> <p>35</p> <p>“the permitted period” means the period of 12 months immediately before the deficit period, and</p> <p>“prior relief” means a relief which subsection (5) provides must be given before relief under section 463E.</p> <p>(3) If an accounting period ending within the permitted period begins</p> <p>40</p>
<p>Meaning of “relevant accounting period”</p>	<p>=</p>
<p>70 For the purposes of this Schedule a “relevant accounting period” of a company, in relation to a period of account of a worldwide group, means</p>	<p><> before it, only a part of the amount which (apart from the relief) would be chargeable under this Part for the period, after giving every prior relief, is</p>

any accounting period that falls wholly or partly within the period of account of the worldwide group.

“Financial statements” of a worldwide group and “period of account” of a worldwide group

71 (1) References in this Schedule to “financial statements” of a worldwide group are—

(a) in the case of a multi-company worldwide group, to consolidated financial statements of the worldwide group’s ultimate parent and its subsidiaries;

(b) in the case of a single-company worldwide group, to financial statements of the ultimate parent.

(2) The basic rule is that the references mentioned in sub-paragraph (1)(a) and

(b) are to financial statements that are in fact drawn up by or on behalf of the ultimate parent.

(3) But see—

220 Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest restriction

Part 8 – Interpretation, etc

(a) paragraph 72 for provision under which, in certain circumstances, financial statements are treated as having been drawn up in

accordance with different accounting standards from those in

accordance with which they are in fact drawn up;

(b) paragraph 73 for provision under which, in certain circumstances, financial statements are treated as consolidating different

available for relief under section 463E.

(4) That part is so much as is proportionate to the part of the accounting period in the permitted period.

45
Finance (No. 2) Bill

269
Schedule 9 – Relief for carried-forward losses

Part 1 – Amendment of general rules about carrying forward losses

=

<> (5) The reliefs which must be given before relief under section 463E

= are—

<> (a) relief as a result of a claim under section 459(1)(a) or section 463B(1)(a) (claim for deficit to be set off against total profits for the deficit period),

5

(b) relief in respect of a loss or deficit incurred or treated as

incurred in an accounting period before the deficit period,

(c) relief under Part 6 of CTA 2010 (charitable donations relief in

=

<> (a) paragraph 72 for provision under which, in certain circumstances, financial statements are treated as having been drawn up in respect of payments made wholly and exclusively for the purposes of a trade),

10

(d) relief under section 37 of CTA 2010 (losses deducted from total profits of the same or an earlier accounting period), and

(e) if the company is a company with investment business for the

subsidiaries from those in fact consolidated;

(c) paragraph 74 for provision under which, in certain circumstances,

financial statements are treated as having been drawn up in respect

of different periods from those in respect of which they are in fact drawn up;

(d) paragraphs 75 and 76 for provision under which, where financial

statements are not in fact drawn up, financial statements are treated as having been drawn up.

(4) References in this Schedule to a "period of account" of a worldwide group are to—

(a) a period in respect of which financial statements of the group are in fact drawn up, or

(b) in a case to which paragraph 75 or 76 applies, a period in respect of which financial statements are treated as drawn up under that

paragraph.

Actual financial statements not acceptable: IAS financial statements treated as drawn up

72 (1) Sub-paragraph (2) applies if, in the case of a multi-company worldwide group—

(a) consolidated financial statements of the group's ultimate parent and

its subsidiaries are drawn up in respect of a period, but (b) the financial statements are not acceptable.

(2) For the purposes of this Schedule (apart from this paragraph)—

(a) the financial statements mentioned in sub-paragraph (1) are treated as not having been drawn

up, and

purposes of Part 16 (companies with investment business)

(i) any deduction in respect of management expenses

15

under section 1219 (expenses of management of a company's investment business),

(ii) relief under Part 6 of CTA 2010 in respect of payments

made wholly and exclusively for the purposes of its business, and

20

(iii) any allowance under Part 2 of CAA 2001 (plant and

machinery allowances).

463G Carry forward of unrelieved deficit

(1) This section applies if conditions A and B are met.

(2) Condition A is that—

25

(a) any amount of the deficit ("the unrelieved amount") is not

—

=

+-

=

<> (i) set off against profits on a claim under section 463B(1), or

(ii) surrendered as group relief under Part 5 of CTA 2010.

(3) Condition B is that it is not the case—

30

(a) that the company ceased to be a company with investment business in the deficit period, or

(b) (if the company was a company with investment business

immediately before the beginning of the deficit period that

its investment business became small or negligible in the

(b) IAS financial statements of the worldwide group are treated as having been drawn up in respect of the period.

(3) Sub-paragraph (4) applies if, in the case of a single-company worldwide group—

(a) financial statements of the ultimate parent are drawn up in respect of

a period, but

(b) the financial statements are not acceptable.

(4) For the purposes of this Schedule (apart from this paragraph)—

(a) the financial statements mentioned in sub-paragraph (3) are treated

as not having been drawn up, and

(b) IAS financial statements of the worldwide group are treated as

having been drawn up in respect of the period.

(5) For the purposes of this paragraph financial statements are “acceptable” only if condition A, B, C or D is met.

(6) Condition A is that the financial statements are IAS financial statements.

Draft provisions for Finance Bill 2017

221

Schedule 7 – Corporate interest restriction

Part 8 – Interpretation, etc

(7) Condition B is that the amounts recognised in the financial statements are

not materially different from those that would be recognised in IAS financial

statements of the worldwide group, if such statements were drawn up.

(8) Condition C is that the financial statements are drawn up in accordance with UK generally accepted accounting practice.

(9) Condition D is that the financial statements are drawn up in accordance with generally accepted accounting

deficit period.

(4) The unrelieved amount is carried forward to the first accounting period after the deficit period.

(5) The company may make a claim for the whole or part of the

unrelieved amount to be set off against the company’s total profits

40

for the first accounting period after the deficit period.

(6) If a claim is made under subsection (5)—

(a) the unrelieved amount, or the part of it to which the claim relates, must be set off against the company’s total profits for

the first accounting period after the deficit period, and

45

(b) those profits are reduced accordingly.

270

Finance

(No. 2) Bill

Schedule 9 – Relief for carried-forward losses

Part 1 – Amendment of general rules about carrying forward losses

=

<> (7) No claim may be made under subsection (5) in respect of so much of the unrelieved amount as is surrendered under Part 5A of CTA 2010 (group relief for carried-forward losses).

(8) A claim under subsection (5) must be made within—

(a) the period of two years after the end of the first accounting

5

period after the deficit period, or

(b) such further period as an officer of Revenue and Customs allows.

(9) No relief may be given under this section against ring fence profits of

the company within the meaning of Part 8 of CTA 2010 (oil activities)

10

or contractor’s ring fence

principles and practice of one of the following territories—
(a) Canada;
(b) China;
(c) India;
(d) Japan;
(e) South Korea;
(f) the United States of America.

(10) The Commissioners may by regulations amend this paragraph so as to alter

the circumstances in which financial statements mentioned in sub-paragraph (1) or (3) are acceptable for the purposes of this paragraph.

(11) Regulations under sub-paragraph (10) are subject to negative resolution procedure.

Financial statements not consolidating all consolidated subsidiaries treated as adjusted

73 (1) This paragraph applies where—

(a) consolidated financial statements of a multi-company worldwide

group's ultimate parent and its subsidiaries are drawn up in respect of a period, and
(b) the following condition is met.

profits of the company within the meaning

of Part 8ZA of that Act (oil contractors).

(10) In this Chapter—
(a) “company with investment business” has the same meaning

as in Part 16 (see section 1218B);

15

(b) references to a company's investment business are to be construed in accordance with section 1219(2).

463H Where an investment business becomes small or negligible

(1) Subsections (3) to (7) apply if—

(a) section 463G would apply but for the fact that the company's

20

investment business became small or negligible in the

accounting period mentioned in subsection (3)(b) of that section, or

(b) subsections (4) to (8) of section 463G would apply by virtue of section 463I but for the fact that the company's investment

25

business became small or negligible in the accounting period

mentioned in section 463I(1)(c)(ii).

(2) In this section the “unrelieved amount”—

(a) in a case within subsection (1)(a), is to be interpreted in accordance with section 463G(2);

30

(b) in a case within subsection (1)(b) means so much of the deficit

mentioned in section 463I(1)(a) as is not set off as mentioned

in section 463I(1)

(b)(i) or surrendered as mentioned in section

463I(1)(b)(ii).

(3) The unrelieved amount is carried forward to the next accounting

35

period (“period 2”) after the period mentioned in subsection (1)(a) or (1)(b).

(2) The condition is that, in the consolidated financial statements mentioned in sub-paragraph (1)(a)–

(a) the results of one or more consolidated subsidiaries of the ultimate parent are not consolidated with those of the other members of the group as the results of a single economic entity, or

(b) the results of one or more non-consolidated subsidiaries of the ultimate parent are consolidated with those of other members of the group as the results of a single economic entity.

(4) So much of the unrelieved amount as is not the subject of a claim under subsection (6) must be set off against the non-trading profits of the company for period 2.

(5) Those profits are reduced accordingly.

(6) The company may make a claim for relief under subsection (4) not to be given in period 2 for the unrelieved amount or so much of it as is specified in the claim.

(7) A claim under subsection (6) is effective if, and only if, it is made–

(a) within the period of two years after the end of period 2, or

Finance (No. 2) Bill

271

Schedule 9 – Relief for carried-forward losses

Part 1 – Amendment of general rules about carrying forward losses

(3) For the purposes of this Schedule (apart from this paragraph), the financial statements mentioned in sub-paragraph (1)(a) are treated as if–

(a) the results of the consolidated subsidiary or subsidiaries (if any) mentioned in sub-paragraph (2)(a) were consolidated as mentioned in that provision, and

(b) the results of the non-consolidated subsidiary or subsidiaries (if any) mentioned in sub-paragraph (2)(b) were not consolidated as mentioned in that provision.

Financial statements dealing with more than one worldwide group treated as split

(b) within such further period as an officer of Revenue and Customs may allow.

(8) Subsection (9) applies if any amount is carried forward under subsection (3) to an accounting period (“the carry forward period”) and–

5

(a) cannot be set off under subsection (4) against non-trading profits of that period, or

(b) is the subject of a claim under subsection (6).

(9) If the company continues to be a company with investment business throughout the carry forward period, subsections (3) to (7) have effect as if–

(a) references to the unrelieved amount were to the amount mentioned in subsection (8), and

10

(b) references to the period mentioned in the subsection (1)

74 (1) This paragraph applies where conditions A and B are met.

(2) Condition A is that–

222

Draft provisions for Finance Bill 2017

Schedule 7 – Corporate interest

<p>restriction Interpretation, etc</p> <p>Part 8 –</p>	<p>(a) or to the carry forward period. 15</p>	<p>(1)(b) were</p>
<p>(a) in the case of a multi-company worldwide group, consolidated financial statements of the ultimate parent (“company A”) and its</p>	<p>= <></p>	<p>(10) In this section “non-trading profits”, in relation to a company, means so much of the company’s profits as does not consist of trading income for the</p>