

Finance Bill

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord O'Neill of Gatley has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Finance Bill are compatible with the Convention rights.

AMENDMENTS

The following amendments should be read together with House of Commons Bill 47 to which they relate. These amendments have been made by the House of Commons to that Bill.

CONSOLIDATED VERSION OF BILL

A consolidated version of the Finance Bill incorporating these amendments is available at <http://services.parliament.uk/bills/2016-17/finance.html>

Clause 18

- 1 Page 26, line 25, leave out “December 2016” and insert “April 2017”
- 2 Page 26, line 30, leave out “December 2016” and insert “April 2017”
- 3 Page 26, line 32, leave out “December 2016” and insert “April 2017”

Clause 19

- 4 Page 27, line 7, leave out “(4)” and insert “(4A)”
- 5 Page 28, line 2, at end insert—
 - “(4A) After subsection (5E) insert—
 - “(5F) Where—
 - (a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and
 - (b) the individual died before 6 April 2012, the standard lifetime allowance at the time of the benefit crystallisation event is £1,800,000.
 - (5G) Where—
 - (a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died in the period consisting of the tax year 2012-13 and the tax year 2013-14,
the standard lifetime allowance at the time of the benefit crystallisation event is £1,500,000.

(5H) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2016 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died in the period consisting of the tax year 2014-15 and the tax year 2015-16,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.

(5I) Where—

(a) benefit crystallisation event 5D occurs by reason of a person becoming entitled on or after 6 April 2016 to an annuity in respect of the individual, and

(b) the individual died in the period beginning with 3 December 2014 and ending with 5 April 2016,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.”

6 Page 28, line 10, at end insert—

“() The amendment made by subsection (4A)—

(a) so far as it consists of the insertion of new subsections (5F) and (5G)—

(i) is to be treated as having come into force on 6 April 2015, and

(ii) has effect in relation to benefit crystallisation events occurring on or after that date, and

(b) so far as it consists of the insertion of new subsections (5H) and (5I)—

(i) is to be treated as having come into force on 6 April 2016, and

(ii) has effect in relation to benefit crystallisation events occurring on or after that date.”

Clause 31

7 Page 45, line 20, leave out subsections (5) and (6) and insert—

“(5) In subsection (3A)—

(a) for the words from “In the second” to “does not include” substitute “An investment made by a company (“the investor”) falls within this subsection if it is”;

(b) in paragraph (c) for “the company” substitute “the investor”;

(c) after paragraph (c) insert—

“(d) money in the investor’s possession;

- (e) a sum owed to the investor which –
 - (i) under section 285(4)(b) (read with section 285(5) and (6)) is to be regarded as an investment of the investor, and
 - (ii) is such that the investor’s right mentioned in section 285(5)(a) may be exercised on 7 days’ notice given by the investor.”
- (5A) After subsection (3A) insert –
 - “(3B) In subsection (3A), any reference to a thing which may be done on 7 days’ notice includes a case where that thing may be done –
 - (a) on less than 7 days’ notice, or
 - (b) without notice.”
 - (6) In subsection (5) –
 - (a) after paragraph (b) insert –
 - “(ba) amend or repeal subsection (3B) in consequence of any provision made under paragraph (b);”
 - (b) in paragraph (c) for the words from “made by” to “(3A)” substitute “falling within subsection (3A) may be held by the company”.”

After Clause 43

8 Insert the following new Clause –

“Tax treatment of supplementary welfare payments: Northern Ireland

- (1) In this section “supplementary welfare payment” means a payment made under regulations under –
 - (a) Article 135(1)(a) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) (“the Order”) (discretionary support),
 - (b) Article 137 of the Order (payments to persons suffering financial disadvantage), or
 - (c) any provision (including future provision) of the Order which enables provision to be made for payments to persons who suffer financial disadvantage as a result of relevant housing benefit changes.
- (2) In subsection (1)(c) “relevant housing benefit changes” means changes to social security benefits consisting of or including changes contained in the Housing Benefit (Amendment) Regulations (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 258).
- (3) The Treasury may by regulations amend any provision of Chapters 1 to 5 of Part 10 of ITEPA 2003 so as to –
 - (a) provide that no liability to income tax arises on supplementary welfare payments of a specified description;
 - (b) impose a charge to income tax under Part 10 of ITEPA 2003 on payments of a specified description made under regulations under Article 137 of the Order (payments to persons suffering financial disadvantage).
- (4) The regulations may make –
 - (a) different provision for different cases;
 - (b) incidental or supplementary provision;

- (c) consequential provision (which may include provision amending any provision made by or under the Income Tax Acts).
- (5) Regulations made before 6 April 2017 may, so far as relating to the tax year 2016-17, have effect in relation to times before they are made.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In section 655(2) of ITEPA 2003 (other provisions about the taxation of social security payments) after the entry relating to section 782 of ITTOIA 2005 insert “; section (*Tax treatment of supplementary welfare payments: Northern Ireland*) of FA 2016 (tax treatment of supplementary welfare payments: Northern Ireland).”

Clause 82

- 9 Page 167, line 42, leave out “(11)” and insert “(11A)”
- 10 Page 168, leave out line 14 and insert –
 - “(c) carried interest gains (see subsections (12) and (13)).”
- 11 Page 169, line 4, at end insert –
 - “(11A) After subsection (11) insert –
 - “(12) In subsection (2A)(c) “carried interest gains” means –
 - (a) gains treated as accruing under section 103KA(2) or (3), and
 - (b) gains accruing to an individual as a result of carried interest arising to the individual where –
 - (i) the individual performs investment management services directly or indirectly in respect of an investment scheme under arrangements not involving a partnership,
 - (ii) the carried interest arises to the individual under the arrangements, and
 - (iii) the carried interest does not constitute a co-investment repayment or return.
 - (13) For the purposes of subsection (12)(b) –
 - (a) “carried interest”, in relation to any arrangements, has the same meaning as in section 809EZB of ITA 2007 (see sections 809EZC and 809EZD of that Act);
 - (b) carried interest “arises” to an individual if it arises to him or her for the purposes of Chapter 5E of Part 13 of ITA 2007;
 - (c) “arrangements”, “investment management services” and “investment scheme” have the same meanings as in that Chapter (see sections 809EZA(6) and 809EZE of that Act);
 - (d) “co-investment repayment or return” has the same meaning as in section 103KA.”

Clause 125

12 Page 205, line 33, at end insert –

- “() The date appointed under subsection (5) must not be after the later of –
- (a) 1 April 2017, and
 - (b) the earliest date that may be appointed consistently with the United Kingdom’s EU obligations.”

Clause 155

13 Page 241, leave out lines 10 to 18 and insert –

- “(d) a designated HMRC officer giving the taxpayer a pooling notice or a notice of binding under Schedule 43A which –
- (i) specifies the arrangements and the tax advantage which are specified in the provisional counteraction notice, and
 - (ii) specifies the notified adjustments (or lesser adjustments) as the counteraction that the officer considers ought to be taken;”

14 Page 241, line 29, after “the” insert “pooling notice or”

Schedule 1

15 Page 323, line 35, at end insert –

- “(iii) in Type 4 (tax charged at basic rate as a result of section 491), omit “at the basic rate”, and”

Schedule 9

16 Page 391, leave out lines 20 to 22 and insert –

“23 (1) Section 357GE (other interpretation) is amended as follows.

(2) In subsection (1) –

(a) at the appropriate place insert –

““payment” includes payment in money’s worth.”,
and

(b) omit the definition of “qualifying residual profit”.

(3) After subsection (1) insert –

“(1A) In Chapters 3 and 4 of this Part “qualifying residual profit” of a trade, in relation to any accounting period, is the amount obtained by the application of Steps 1 to 4 in section 357C or (as the case may be) section 357DA in relation to the trade for the accounting period.””

17 Page 391, line 27, after “357A(11)” insert –

- “() in the entry for “qualifying residual profit of a trade (in Part 8A)”, in the left hand column, after “in” insert “Chapters 3 and 4 of”,

Schedule 10

18 Page 393, line 26, leave out “permanent establishment of a multinational company” and insert “multinational company’s permanent establishment in the United Kingdom”

- 19 Page 402, line 24, at end insert –
 “() Section 259CBA contains definitions of certain terms used in section 259CB.”
- 20 Page 404, line 12, at end insert –
 “(2A) So far as the excess arises by reason of a relevant debt relief provision, it is to be taken not to arise by reason of the terms, or any other feature, of the financial instrument (whether or not it would have arisen by reason of the terms, or any other feature, of the financial instrument regardless of the relevant debt relief provision).”
- 21 Page 404, line 13, leave out “For” and insert “Subject to that and subsection (6A), for”
- 22 Page 404, line 15, after “well” insert “as the terms, or any other feature, of the financial instrument”
- 23 Page 404, line 22, leave out “subsection (4)” and insert “subsections (4) and (4A)”
- 24 Page 404, line 48, at end insert –
 “(4A) Where the relevant assumption in subsection (4)(c) applies in relation to a payee the following provisions are to be disregarded in relation to that payee for the purposes of subsection (3)(b) –
 (a) section 441 of CTA 2009 (loan relationships for unallowable purposes);
 (b) section 690 of that Act (derivative contracts for unallowable purposes);
 (c) Part 4 (transfer pricing);
 (d) this Part;
 (e) Part 7 (tax treatment of financing costs and income).”
- 25 Page 405, line 5, leave out “For” and insert “Subject to subsection (6A), for”
- 26 Page 405, line 6, at end insert “as the terms, or any other feature, of the financial instrument”
- 27 Page 405, line 9, at end insert –
 “(6A) For the purposes of this section disregard –
 (a) any excess or part of an excess mentioned in subsection (2), and
 (b) any under-taxed amount,
 that arises as a result of a payee being a relevant investment fund (see section 259NZA).”
- 28 Page 405, leave out lines 10 to 35
- 29 Page 406, line 7, at end insert –
 “() See section 259CBA for the meaning of “permitted taxable period”, “relevant debt relief provision” and “under taxed”.”
- 30 Page 406, line 7, at end insert –

“259CBA Interpretation of section 259CB

- (1) This section has effect for the purposes of section 259CB.

- (2) A taxable period of a payee is “permitted” in relation to an amount of ordinary income that arises as a result of the payment or quasi-payment if—
- (a) the period begins before the end of 12 months after the end of the payment period, or
 - (b) where the period begins after that—
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.
- (3) Each of these is a “relevant debt relief provision”—
- (a) section 322 of CTA 2009 (release of debts: cases where credits not required to be brought into account),
 - (b) section 357 of that Act (insolvent creditors),
 - (c) section 358 of that Act (exclusion of credits on release of connected companies’ debts: general),
 - (d) section 359 of that Act (exclusion of credits on release of connected companies’ debts during creditor’s insolvency),
 - (e) section 361C of that Act (the equity-for-debt exception),
 - (f) section 361D of that Act (corporate rescue: debt released shortly after acquisition), and
 - (g) section 362A of that Act (corporate rescue: debt released shortly after connection arises).
- (4) An amount of ordinary income of a payee, for a permitted taxable period, is “under taxed” if the highest rate at which tax is charged on the taxable profits of the payee in which the amount is included, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than the payee’s full marginal rate for that period.
- (5) The payee’s “full marginal rate” means the highest rate at which the tax that is chargeable on the taxable profits mentioned in subsection (4) could be charged on taxable profits, of the payee for the permitted taxable period, which include ordinary income that arises from, or in connection with, a financial instrument.
- (6) A “credit for underlying tax” means a credit or relief given to reflect tax charged on profits that are wholly or partly used to fund (directly or indirectly) the payment or quasi-payment.”

31 Page 407, line 42, at end insert—

“() Section 259DCA contains definitions of certain terms used in section 259DC.”

32 Page 410, line 31, leave out “For” and insert “Subject to subsection (8), for”

33 Page 410, line 40, leave out “subsection (4)” and insert “subsections (4) and (4A)”

34 Page 411, line 16, at end insert—

“(4A) Where the relevant assumption in subsection (4)(c) applies in relation to a payee the following provisions are to be disregarded in relation to that payee for the purposes of subsection (3)(b)—

- (a) section 441 of CTA 2009 (loan relationships for unallowable purposes);

- (b) Part 4 (transfer pricing);
 - (c) this Part;
 - (d) Part 7 (tax treatment of financing costs and income).”
- 35 Page 411, line 22, leave out “For” and insert “Subject to subsection (8), for”
- 36 Page 411, line 32, after “any” insert “excess or”
- 37 Page 411, line 35, at end insert “or that arises as a result of a payee being a relevant investment fund (see section 259NZA)”
- 38 Page 411, line 36, leave out from beginning to end of line 12 on page 412
- 39 Page 412, line 31, at end insert –
- “() See section 259DCA for the meaning of “permitted taxable period” and “under taxed”.”
- 40 Page 412, line 31, at end insert –

“259DCA Interpretation of section 259DC

- (1) This section has effect for the purposes of section 259DC.
 - (2) A taxable period of a payee is “permitted” in relation to an amount of ordinary income that arises as a result of the payment or quasi-payment if –
 - (a) the period begins before the end of 12 months after the end of the payment period, or
 - (b) where the period begins after that –
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.
 - (3) An amount of ordinary income of a payee, for a permitted taxable period, is “under taxed” if the highest rate at which tax is charged on the taxable profits of the payee in which the amount is included, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than the payee’s full marginal rate for that period.
 - (4) The payee’s “full marginal rate” means the highest rate at which the tax that is chargeable on the taxable profits mentioned in subsection (3) could be charged on taxable profits, of the payee for the permitted taxable period, which include ordinary income that arises from, or in connection with, a financial instrument.
 - (5) A “credit for underlying tax” means a credit or relief given to reflect tax charged on profits that are wholly or partly used to fund (directly or indirectly) the payment or quasi-payment.”
- 41 Page 412, line 43, leave out “not so treated for the purposes of tax charged on” and insert “brought into account by”
- 42 Page 412, line 44, leave out “because that person brings the substitute payment into account”
- 43 Page 417, leave out lines 21 to 32
- 44 Page 418, line 15, after “income” insert “of the payer for an accounting period”

- 45 Page 418, line 18, after “payer” insert “for that period”
- 46 Page 418, line 20, after “payer” insert “for a permitted taxable period”
- 47 Page 418, line 21, at end insert –
- “() A taxable period of an investor is “permitted” for the purposes of paragraph (b) of subsection (4) if –
- (a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or
- (b) where the period begins after that –
- (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
- (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 48 Page 419, line 45, after “payer” insert “for a permitted taxable period”
- 49 Page 419, line 47, at end insert –
- “() A taxable period of an investor is “permitted” for the purposes of subsection (9) if –
- (a) the period begins before the end of 12 months after the end of the payment period, or
- (b) where the period begins after that –
- (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
- (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 50 Page 420, line 8, leave out “permanent establishment of a multinational company” and insert “multinational company’s permanent establishment in the United Kingdom”
- 51 Page 420, line 10, leave out from “counteracts” to “by” in line 11 and insert “such deductions”
- 52 Page 420, line 15, leave out “, “the parent jurisdiction” and “the PE jurisdiction”” and insert “and “the parent jurisdiction””
- 53 Page 420, line 19, leave out from “deduction” to end of line 23
- 54 Page 420, line 28, leave out “D” and insert “C”
- 55 Page 420, line 32, after “territory” insert “outside the United Kingdom”
- 56 Page 420, leave out lines 34 to 37 and insert –
- “(b) it is within the charge to corporation tax because it carries on a business in the United Kingdom through a permanent establishment in the United Kingdom.”
- 57 Page 420, line 39, leave out “under the law of the PE jurisdiction,”
- 58 Page 421, line 3, leave out “a taxable period” and insert “an accounting period”
- 59 Page 421, line 3, after “period”)” insert “for corporation tax purposes”
- 60 Page 421, line 5, leave out “PE jurisdiction” and insert “United Kingdom”
- 61 Page 421, line 8, after “for” insert “corporation”

- 62 Page 421, leave out lines 14 to 22
- 63 Page 421, line 23, leave out “D” and insert “C”
- 64 Page 421, leave out lines 25 to 33 and insert –
- “(a) the circumstances giving rise to the PE deduction will not result in –
 - (i) an increase in the taxable profits of the company for any permitted taxable period, or
 - (ii) a reduction of a loss made by the company for any permitted taxable period,for the purposes of a tax charged under the law of the parent jurisdiction, or
 - (b) those circumstances will result in such an increase or reduction for one or more permitted taxable periods, but the PE deduction exceeds the aggregate effect on taxable profits.
- (7A) “The aggregate effect on taxable profits” is the sum of –
- (a) any increases, resulting from the circumstances giving rise to the PE deduction, in the taxable profits of the company, for a permitted taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, and
 - (b) any amounts by which a loss made by the company, for a permitted taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, is reduced as a result of the circumstances giving rise to the PE deduction.”
- 65 Page 421, leave out line 39 and insert “the aggregate effect on taxable profits.”
- 66 Page 421, line 40, leave out “subsection (7)” and insert “subsections (7) and (7A)”
- 67 Page 421, line 46, leave out from beginning to end of line 3 on page 422 and insert –
- “(i) a claim has been made for the period to be a permitted period for the purposes of subsections (7) and (7A), and
 - (ii) it is just and reasonable for the circumstances giving rise to the PE deduction to affect the profits or loss made for that period rather than an earlier period.”
- 68 Page 422, leave out lines 4 to 7 and insert –
- “(10) Section 259FB contains provision for counteracting the excessive PE deduction.”
- 69 Page 422, line 9, leave out from “where the United Kingdom is the PE jurisdiction” and insert “of the excessive PE deduction”
- 70 Page 422, leave out lines 10 and 11
- 71 Page 422, line 24, after “income” insert “of the company for an accounting period”
- 72 Page 422, line 26, after “company” insert “for that period”
- 73 Page 422, line 28, after “company” insert “for a permitted taxable period”

74 Page 422, line 29, at end insert –

- “() A taxable period of the company is “permitted” for the purposes of paragraph (b) of subsection (4) if –
- (a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or
 - (b) where the period begins after that –
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”

75 Page 422, line 30, leave out from beginning to end of line 31 on page 423

76 Page 425, line 42, leave out from beginning to end of line 30 on page 426

77 Page 426, line 30, at end insert –

- “(4A) A relevant amount of the excess is to be taken (so far as would not otherwise be the case) to arise as mentioned in subsection (1)(b) where –
- (a) a payee is a hybrid entity,
 - (b) there is no territory –
 - (i) where that payee is resident for the purposes of a tax charged under the law of that territory, or
 - (ii) under the law of which ordinary income arises to that payee, by reason of the payment or quasi-payment, for the purposes of a tax that is charged on that payee by virtue of that payee having a permanent establishment in that territory, and
 - (c) no income arising to that payee, by reason of the payment or quasi-payment, is brought into account in calculating chargeable profits for the purposes of the CFC charge or a foreign CFC charge.
- (4B) For the purposes of subsection (4A), the “relevant amount” of the excess is the lesser of –
- (a) the amount of the excess, and
 - (b) an amount equal to the amount of ordinary income that it is reasonable to suppose would, by reason of the payment or quasi-payment, arise to the payee for corporation tax purposes, if –
 - (i) the payee were a company, and
 - (ii) the payment or quasi-payment were made in connection with a trade carried on by the payee in the United Kingdom through a permanent establishment in the United Kingdom.
- (4C) In subsection (4A)(c) “chargeable profits” –
- (a) in relation to the CFC charge, has the same meaning as in Part 9A (see section 371VA), and
 - (b) in relation to a foreign CFC charge, means the concept (by whatever name known) corresponding to chargeable profits within the meaning of that Part.”

78 Page 430, line 7, after “quasi-payments” insert “, where the payer is within the charge to corporation tax,”

79 Page 430, line 10, leave out “or a payee”

80 Page 430, leave out lines 19 to 25

- 81 Page 431, line 7, leave out from “period” to end of line 10
- 82 Page 431, leave out lines 38 to 43 and insert –
“(11) Section 259HC contains provision for the counteraction of the multinational payee deduction/non-inclusion mismatch.”
- 83 Page 432, line 10, after “subsection (1)(b)” insert “–
(a) where the law of a PE jurisdiction in relation to a payee that is a multinational company makes no provision for charging tax on any companies, so much of the excess as arises as a result is to be taken not to arise by reason of that payee being a multinational company, but
(b) subject to that,”
- 84 Page 432, line 11, after “well” insert “as one or more payees being multinational companies”
- 85 Page 432, line 27, leave out from “Counteraction” to end of line 28 and insert “of the multinational payee deduction/non-inclusion mismatch”
- 86 Page 432, leave out lines 29 and 30
- 87 Page 432, line 35, leave out from beginning to end of line 48 on page 433
- 88 Page 436, line 27, after “is” insert “(in substance)”
- 89 Page 436, line 30, after “income” insert “of the investor for an accounting period”
- 90 Page 436, line 38, after “income” insert “of the investor for an accounting period”
- 91 Page 436, line 40, leave out “in the hybrid entity” and insert “for that period”
- 92 Page 436, line 42, after “entity” insert “for a permitted taxable period”
- 93 Page 436, line 43, at end insert –
“() A taxable period of the hybrid entity is “permitted” for the purposes of paragraph (b) of subsection (8) if –
(a) the period begins before the end of 12 months after the end of the accounting period of the investor mentioned in paragraph (a) of that subsection, or
(b) where the period begins after that –
(i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
(ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 94 Page 437, line 7, after “income” insert “of the hybrid entity for the hybrid entity deduction period”
- 95 Page 437, line 25, after “income” insert “of the hybrid entity for the hybrid entity deduction period”
- 96 Page 438, line 10, after “is” insert “(in substance)”
- 97 Page 438, line 13, after “income” insert “of the hybrid entity for an accounting period”
- 98 Page 438, line 21, after “income” insert “of the hybrid entity for an accounting period”

- 99 Page 438, line 23, after “entity” insert “for that period”
- 100 Page 438, line 25, after “entity” insert “for a permitted taxable period”
- 101 Page 438, line 27, at end insert –
- “() A taxable period of an investor is “permitted” for the purposes of paragraph (b) of subsection (10) if –
 - (a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or
 - (b) where the period begins after that –
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 102 Page 439, line 5, leave out from second “company” to end of line 7
- 103 Page 439, line 7, at end insert –
- “() Section 259JBA contains provision that counteracts the mismatch where the company is a multinational company and the United Kingdom is the parent jurisdiction.”
- 104 Page 439, line 10, leave out “fully”
- 105 Page 439, line 12, leave out “section 259JB” and insert “section 259JBA”
- 106 Page 440, leave out lines 10 to 15 and insert –
- “(6) The following provisions provide for the counteraction of the dual territory double deduction amount –
 - (a) section 259JB (cases where a company is dual resident),
 - (b) section 259JBA (cases where a company is a relevant multinational and the United Kingdom is the parent jurisdiction), and
 - (c) section 259JC (cases where a company is a relevant multinational, the United Kingdom is the PE jurisdiction and the amount is not counteracted in the parent jurisdiction).”
- 107 Page 440, line 18, leave out “or the UK is the parent jurisdiction”
- 108 Page 440, line 20, leave out “as a result” and insert “by reason”
- 109 Page 440, line 21, leave out from second “company” to end of line 24
- 110 Page 440, line 39, leave out “or relevant multinational company”
- 111 Page 440, line 45, leave out “or relevant multinational company”
- 112 Page 441, line 2, leave out “or relevant multinational company”
- 113 Page 441, line 8, after “is” insert “(in substance)”
- 114 Page 441, line 11, after “company” insert “for an accounting period”
- 115 Page 441, line 19, after “income” insert “of the company for an accounting period”
- 116 Page 441, line 21, after “company” insert “for that period”
- 117 Page 441, line 23, after “company” insert “for a permitted taxable period”

118 Page 441, line 25, at end insert –

- “() A taxable period of the company is “permitted” for the purposes of paragraph (b) of subsection (8) if –
- (a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or
 - (b) where the period begins after that –
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”

119 Page 441, line 25, at end insert –

“259JBA Counteraction where mismatch arises because of a relevant multinational and the UK is the parent jurisdiction

- (1) This section applies where –
 - (a) the dual territory double deduction amount arises by reason of the company being a relevant multinational company, and
 - (b) the United Kingdom is the parent jurisdiction.
- (2) If some or all of the dual territory double deduction amount is (in substance) deducted (“the impermissible overseas deduction”), for the purposes of a tax under the law of a territory outside the United Kingdom, from the income of any person, for any taxable period, that is not dual inclusion income of the company –
 - (a) the dual territory double deduction amount that may be deducted, for corporation tax purposes, from the company’s income for the deduction period is reduced by the amount of the impermissible overseas deduction, and
 - (b) such just and reasonable adjustments (if any) as are required to give effect to that reduction, for corporation tax purposes, are to be made.
- (3) Any adjustment required to be made under subsection (2) may be made (whether or not by an officer of Revenue and Customs) –
 - (a) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise, and
 - (b) despite any time limit imposed by or under any enactment.
- (4) In this section “dual inclusion income” of the company means an amount that is both –
 - (a) ordinary income of the company for an accounting period for corporation tax purposes, and
 - (b) ordinary income of the company for a permitted taxable period for the purposes of a tax charged under the law of a territory outside the United Kingdom.
- (5) A taxable period is “permitted” for the purposes of paragraph (b) of subsection (4) if –
 - (a) the period begins before the end of 12 months after the end of the accounting period of the company mentioned in paragraph (a) of that subsection, or

- (b) where the period begins after that—
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 120 Page 441, line 26, leave out from “of” to end of line 27 and insert “a relevant multinational and is not counteracted in the parent jurisdiction”
- 121 Page 441, leave out lines 32 to 48 and insert—
 - “(c) it is reasonable to suppose that no provision of the law of the parent jurisdiction that is equivalent to section 259JBA applies.”
- 122 Page 442, line 1, leave out “restricted deduction” and insert “dual territory double deduction amount”
- 123 Page 442, line 5, leave out “restricted deduction” and insert “dual territory double deduction amount”
- 124 Page 442, line 15, leave out “restricted deduction” and insert “dual territory double deduction amount”
- 125 Page 442, line 31, after “is” insert “(in substance)”
- 126 Page 442, line 34, at end insert “of the company for an accounting period”
- 127 Page 442, line 42, after “income” insert “of the company for an accounting period”
- 128 Page 442, line 44, after “company” insert “for that period”
- 129 Page 442, line 46, after “company” insert “for a permitted taxable period”
- 130 Page 442, line 48, at end insert—
 - “() A taxable period of the company is “permitted” for the purposes of paragraph (b) of subsection (9) if—
 - (a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or
 - (b) where the period begins after that—
 - (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
 - (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.”
- 131 Page 443, line 11, at end insert—
 - “() Section 259KAA defines “dual territory double deduction”, “excessive PE deduction” and “PE jurisdiction”.”
- 132 Page 444, line 7, leave out “subsection (7)” and insert “section 259KAA”
- 133 Page 444, line 11, leave out “section 259FA(8)” and insert “section 259KAA”
- 134 Page 444, leave out lines 14 to 19

135 Page 444, leave out lines 20 to 42 and insert—

- “(8) Condition E is that it is reasonable to suppose—
- (a) where subsection (6)(a) applies, that no provision of any of Chapters 3 to 5 or 7 to 10 nor any equivalent provision under the law of a territory outside the United Kingdom applies, or will apply, in relation to the tax treatment of any person in respect of the mismatch payment, or
 - (b) where subsection (6)(b) applies, that no provision of Chapter 6 nor any equivalent provision under the law of a territory outside the United Kingdom applies, or will apply, in relation to the tax treatment of the company in relation to which the excessive PE deduction arises.
- (9) Condition F is that—
- (a) subsection (6)(a) applies and it is reasonable to suppose that a provision of any of Chapters 3 to 5 or 7 to 10, or an equivalent provision under the law of a territory outside the United Kingdom, would apply in relation to the tax treatment of P if—
 - (i) P were the payer in relation to the mismatch payment,
 - (ii) P were a payee in relation to the mismatch payment, or
 - (iii) where the relevant mismatch is a hybrid payee deduction/non-inclusion mismatch or a hybrid entity double deduction amount, P were an investor in the hybrid entity concerned, or
 - (b) the relevant mismatch is an excessive PE deduction.”

136 Page 445, line 20, at end insert—

“259KAA Meaning of “dual territory double deduction”, “excessive PE deduction” and “PE jurisdiction”

- (1) This section has effect for the purposes of this Chapter.
- (2) A “dual territory double deduction” means an amount that can be deducted by a company both—
 - (a) from income for the purposes of a tax charged under the law of one territory, and
 - (b) from income for the purposes of a tax charged under the law of another territory.
- (3) A “PE deduction” is an amount that—
 - (a) may (in substance) be deducted from a company’s income for the purposes of calculating the company’s taxable profits, for a taxable period, for the purposes of a tax that is charged on the company, under the law of a territory (“the PE jurisdiction”), by virtue of the company having a permanent establishment in that territory, and
 - (b) is in respect of a transfer of money or money’s worth, from the company in the PE jurisdiction to the company in another territory (“the parent jurisdiction”) in which it is resident for the purposes of a tax, that—
 - (i) is actually made, or
 - (ii) is (in substance) treated as being made for tax purposes.

- (4) A PE deduction is “excessive” so far as it exceeds the sum of—
- (a) any increases, resulting from the circumstances giving rise to the PE deduction, in the taxable profits of the company, for a permitted taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, and
 - (b) any amounts by which a loss made by the company, for a permitted taxable period, for the purposes of a tax charged under the law of the parent jurisdiction, is reduced as a result of the circumstances giving rise to the PE deduction.
- (5) A taxable period of the company is “permitted” for the purposes of subsection (4) if—
- (a) the period begins before the end of 12 months after the end of the taxable period mentioned in subsection (3)(a), or
 - (b) where the period begins after that—
 - (i) a claim has been made for the period to be a permitted period for the purposes of subsection (4), and
 - (ii) it is just and reasonable for the circumstances giving rise to the PE deduction to affect the profits or loss made for that period rather than an earlier period.”

- 137 Page 445, line 45, leave out “section 259FA(4)(b)” and insert “section 259KAA(3)(b)”
- 138 Page 446, line 4, leave out “section 259FA(4)(b)” and insert “section 259KAA(3)(b)”
- 139 Page 446, line 28, leave out “section 259FA(4)(b)” and insert “section 259KAA(3)(b)”
- 140 Page 446, line 32, leave out “section 259FA(4)(b)” and insert “section 259KAA(3)(b)”
- 141 Page 450, line 19, at end insert—

“Relevant investment funds

259NZA Meaning of “relevant investment fund”

- (1) “Relevant investment fund” means—
- (a) an open-ended investment company within the meaning of section 613 of CTA 2010,
 - (b) an authorised unit trust within the meaning of section 616 of that Act, or
 - (c) an offshore fund within the meaning of section 354 of this Act (see section 355),
- which meets the genuine diversity of ownership condition (whether or not a clearance has been given to that effect).
- (2) “The genuine diversity of ownership condition” means—
- (a) in the case of an offshore fund, the genuine diversity of ownership condition in regulation 75 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), and
 - (b) in the case of an open-ended investment company or an authorised unit trust, the genuine diversity of ownership condition in regulation 9A of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964).”

- 142** Page 452, leave out lines 19 to 22 and insert –
“(b) for the purposes of influencing the conduct of U’s affairs –
(i) P is able to secure that T acts in accordance with P’s wishes,
(ii) T can reasonably be expected to act, or typically acts, in accordance with P’s wishes,
(iii) T is able to secure that P acts in accordance with T’s wishes, or
(iv) P can reasonably be expected to act, or typically acts, in accordance with T’s wishes,”
- 143** Page 454, line 16, at end insert –
““relevant investment fund” has the meaning given by section 259NZA;”
- 144** Page 456, line 14, at end insert –

“dual territory double deduction (in Chapter 11 of Part 6A) | section 259KAA”
- 145** Page 456, line 16, at end insert –

“excessive PE deduction (in Chapter 11 of Part 6A) | section 259KAA”
- 146** Page 458 leave out lines 3 and 4
- 147** Page 458, line 8, at end insert –

“PE jurisdiction (in Chapter 11 of Part 6A) | section 259KB(3)(a)”
- 148** Page 458, line 13, at end insert –

“relevant investment fund (in Part 6A) | section 259NZA”
- 149** Page 459, leave out lines 31 to 42
- 150** Page 459, line 43, after “paragraphs” insert “19,”

Schedule 17

151 Page 547, line 31, leave out “1 October” and insert “14 November”

Schedule 19

152 Page 589 , line 29, at end insert –

“(6) The Treasury may by regulations require the group tax strategy to include a country-by-country report.

(7) In this paragraph “country-by-country report” has the meaning given by the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016.”

Finance Bill

AMENDMENTS

6th September 2016
