

Schedule []: Factoring of income etc: new Part 12B of ITA 2007

Overview

1. This Schedule inserts new Part 12B of ITA, which rewrites sections 730, 774A to 774G, 775A and 786 of ICTA for the purposes of income tax.
2. Chapter 1 of this Part (finance arrangements) is based on sections 774A to 774G of ICTA. Chapter 2 of this Part (other provisions) is based on sections 730, 775A and 786 of ICTA.
3. This Part is being inserted into ITA by a Schedule to Bill 7, because Bill 6 will be confined to corporation tax. There is no risk of the two tax codes diverging in this area, even temporarily, because Bills 6 and 7 are expected to proceed through Parliament in tandem. But Bills 6 and 7 will each have their own series of Annex 1 Changes, therefore the Annex 1 Changes in this Part have different numbers from the corresponding Annex 1 Changes in Bill 6.
4. Sections 730, 774A to 774G, 775A and 786 of ICTA are rewritten for corporation tax purposes in Part [] of Bill 6.
5. Consequentials, savings and repeals will be drafted in due course.
6. In December 2007, HM Treasury and HMRC published a consultation document, *Principles-based approach to anti-avoidance*, proposing (among other things) the repeal of sections 730 and 775A of ICTA and the amendment of section 786 of that Act. The HMRC 2008 Budget document *Simplifying anti-avoidance: a progress report on the anti-avoidance simplification review* announced that the Government had deferred introduction of the principles-based legislation to the 2009 Finance Bill in order to allow for further consultation. It remains to be seen what implications the anti-avoidance simplification review will have for the provisions rewritten in this draft Schedule. The project has been liaising with colleagues working on the anti-avoidance simplification review and will continue to do so. If the provisions rewritten in this draft Schedule are amended or repealed by FA 2009, the draft Schedule will be adjusted accordingly and, if appropriate, the structure of the draft legislation will be revisited. Meanwhile, in view of the complexity of this legislation, the draft Schedule and draft commentary are being published for consultation to give interested parties as much time as possible to consider them.

New Part 12B: Factoring of income etc

New Chapter 1: Finance arrangements

Overview

7. This Chapter is based on sections 774A to 774G to ICTA, the rules on structured finance arrangements introduced by FA 2006. It stops a number of schemes which are intended to enable taxpayers to borrow money and obtain effective tax relief for both interest and repayment of principal.

8. A “finance arrangement”, within this Chapter, is an arrangement where in accordance with generally accepted accounting practice (GAAP) a person (“the borrower”) records in its accounts a financial liability in respect of a sum (“advance”) paid by “the lender”, and that sum is paid to acquire assets (including an income stream), which will be used to repay the advance.

9. Where there is a finance arrangement which would have had the effect that either:

- income or receipts that would have been brought into account by the borrower for tax purposes are not brought into account; or
- the borrower would have become entitled to a deduction in computing its income or profits for tax purposes,

then

- the finance arrangement does not have that effect, with the result that the income from the transferred asset continues to be taxed on the borrower; and
- any disposal or reacquisition of the asset is disregarded for the purposes of TCGA.

10. Income tax relief is allowed for the amount of any interest or “finance charge” in respect of the finance agreement shown in the borrower’s accounts.

11. This Chapter corresponds to Chapter 1 of Part [] of Bill 6, which makes similar provision for corporation tax. It has the following structure.

- Sections 681E to 681EC deal with “type 1 finance arrangements”: the simple case, not necessarily involving a partnership.
- Sections 681ED to 681EG deal with “type 2 finance arrangements”: the first of two complex partnership cases.
- Sections 681EH to 681EJ deal with “type 3 finance arrangements”: the second of two complex partnership cases.
- Sections 681EK to 681EN make exceptions to these rules.
- Sections 681EO to 681EQ are interpretative.

Section 681E: Type 1 finance arrangement defined

12. This section defines a form of arrangement, labelled a “type 1 finance arrangement”, which falls within this legislation. It is based on section 774A of ICTA, and corresponds to clause [1][j3A17A] of Bill 6.

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13. *Subsection (1)* provides that two conditions must be met if an arrangement is to be a type 1 finance arrangement.

14. The word “arrangement” appears in subsection (1) for the first time in this Chapter. See section 681EP.

15. *Subsection (2)* specifies condition A, which concerns the terms of the arrangement. There are three tests in condition A, all of which must be passed if the condition is to be met. To summarise:

- (a) A borrower must “receive” an advance from a lender;
- (b) The borrower (or a person “connected” with the borrower) must “dispose” of an asset (the security) to, or for the benefit of, the lender (or a person “connected” with the lender); and
- (c) The lender (or a person “connected” with the lender) must be entitled to “payments in respect of” the security.

16. An ordinary secured loan would not be a type 1 finance arrangement, because it would not satisfy subsection (2)(b) or, if it did, it would not satisfy subsection (2)(c).

17. The first reference in this Chapter to a person receiving an asset is in subsection (2)(a). See section 681EQ(2).

18. *Subsection (2)(b)* is the first of a number of provisions in this Chapter which refer to persons being “connected”. In the source legislation, section 774G(4) of ICTA gives that expression the meaning given by section 839 of that Act. The provisions in question are to be rewritten as new sections of ITA, to be inserted by a Schedule to Bill 7. Section 1021(1) of ITA will apply the section 839 definition of “connected” persons to these provisions. Section 774G(4) of ICTA will therefore not be rewritten as a separate proposition.

19. The first reference in this Chapter to a disposal of an asset is in subsection (2)(b). See section 681EQ(3).

20. The first reference in this Chapter to payments in respect of an asset is in *subsection (2)(c)*. See section 681EQ(4).

21. *Subsection (3)* specifies condition B, which is about accounting. To summarise, the payments mentioned in subsection (2)(c) must be, for accounting purposes, payments of principal rather than interest.

22. The first reference in this Chapter to a person’s accounts is in subsection (3)(a). See section 681EO(2) and (4).

23. The first reference in this Chapter to an amount being recorded in accounts as a financial liability is in subsection (3)(a). See section 681EO(3).

24. *Subsection (4)* extends subsection (3) to cover borrowing by partnerships. In this Part, we are considering whether to use the expression “firm” to refer collectively to persons who are carrying on a business in partnership, perhaps by applying the meaning given by Part 9 of ITTOIA (which contains special provisions about partnerships).

Section 681EA: Certain tax consequences not to have effect

25. This section disapplies certain tax consequences of a type 1 finance arrangement if certain conditions are met. It is based on sections 774A(4), 774B(1), (1A) and (2) to (4) and 774G(2) of ICTA, and corresponds to clause [2][j3A16] of Bill 6.

26. Under *subsections (1) and (2)*, if – but for this section – a type 1 finance arrangement would have the “relevant effect”, then it does not.

27. *Subsection (3)* defines the “relevant effect”, and *subsection (4)* defines the “relevant effect” if the borrower is a partnership. Each of those subsections specifies three alternative effects.

Section 681EB: Payments treated as borrower’s income

28. This section treats the payments mentioned in section 681E(2)(c) as income of the borrower. It is based on sections 774A(4), 774B(1) and (1B) to (3) and 774G(2) of ICTA, and corresponds to clause [3][j3A16A] of Bill 6.

29. Under *subsection (1)*, this section only applies if:

- there is a type 1 finance arrangement; and
- section 681EA(2) and the corresponding corporation tax provision do not stop this arrangement having the relevant effect because it would not have the relevant effect in the first place.

30. Subsection (1)(b) is in square brackets, because we are considering exactly how to split section 774B(1B) of ICTA between income tax and corporation tax. Detailed comments on this subsection are not sought at this stage.

Section 681EC: Deemed interest

31. This section allows income tax relief to be given if there is a type 1 finance arrangement. It is based on section 774B(4) and (6) to (8) of ICTA, and corresponds to clause [4][j3A18] of Bill 6.

32. If there is a type 1 finance arrangement, then either section 681EA prevents it having the relevant effect in relation to a company, in which case *subsection (1)*

applies this clause, or else section 681EB applies to a company, in which case *subsection (2)* applies this clause.

33. As well as specifying the conditions for this section to apply, *subsections (1)* and *(2)* introduce the person eligible for income tax relief.

34. *Subsection (3)* permits the person mentioned in *subsection (1)* (or, as the case may be, *subsection (2)*) to treat the amount as interest payable on a loan. If the relevant statutory conditions are met, the deemed interest will qualify for income tax relief under Chapter 1 of Part 8 of ITA.

35. *Subsection (4)* clarifies how *subsection (3)* works in cases in which the borrower is a partnership.

36. If *subsection (3)* deems there to be interest payable, *subsection (5)* determines when it is deemed to be paid.

Section 681ED: Type 2 finance arrangement defined

37. This section defines a form of arrangement, labelled a “type 2 finance arrangement”, which falls within this legislation. It is based on section 774C(1) to (3) of ICTA, and corresponds to clause [5][j3A19] of Bill 6.

38. A type 2 finance arrangement works like this.

- Under the arrangement, a transferor disposes of an asset to a partnership.
- This partnership is one of which the transferor is a member immediately after that disposal – it does not matter whether it was a partner before the disposal.
- The partnership receives an advance from a lender.
- The accounts of the partnership record in accordance with GAAP for that period a financial liability in respect of the advance.
- There is a “relevant change” in relation to the partnership. Broadly speaking, a “relevant change” affects the lender. Either the lender (or a person connected with the lender) becomes a member of the partnership, or else there is a change in the profit share of the lender (or of a person connected with the lender). See section 681EE.
- The share of the lender (or other person involved in the relevant change) in the profits of the partnership is determined (wholly or partly) by reference to payments in respect of the asset disposed of.
- In accordance with GAAP the payments reduce the amount of the financial liability.

39. The lender's advance is thus made in the form of a contribution to the partnership and its profit share is such that payments are made to it which repay that contribution together with interest. Once the repayment with interest has been made it is likely that there are arrangements under which the lender ceases to be a member of the partnership or to share in the profits of it.

40. If the relevant change would (but for section 681EF) have the "relevant effect" (as defined in subsection (3) of that clause), then that clause negates the relevant effect.

41. *Subsection (1)* provides that two conditions must be met if an arrangement is to be a type 1 finance arrangement.

42. *Subsection (2)* specifies condition A, which concerns the terms of the arrangement. There are five tests in condition A, all of which must be passed if the condition is to be met.

43. *Subsection (3)* specifies condition B, which is about accounting. To summarise, the payments mentioned in subsection (2)(e) must be, for accounting purposes, payments of principal rather than interest.

Section 681EE: Relevant change in relation to partnership

44. This section defines "relevant change". It is based on section 774C(6) and (7) of ICTA, and corresponds to clause [6][j3A21] of Bill 6.

45. This section applies for the purposes of this Chapter and, therefore, is used in defining both "type 2 finance arrangement" and "type 3 finance arrangement". See sections 681ED(2)(d) and 681EH(2)(c).

Section 681EF: Certain tax consequences not to have effect

46. This section disapplies certain tax consequences of a type 2 finance arrangement if certain conditions are met. It is based on sections 774D(1) to (4) and 774G(2) of ICTA, and corresponds to clause [7][j3A20] of Bill 6.

47. Under *subsections (1)* and *(2)*, if – but for this section – a relevant change in relation to the partnership would have the "relevant effect", then it does not.

48. *Subsection (3)* defines the "relevant effect". It specifies three alternative effects.

Section 681EG: Deemed interest

49. This section allows income tax relief to be given if there is a type 2 finance arrangement. It is based on section 774D(6), (8), (12) and (13) of ICTA, and corresponds to clause [8][j3A22] of Bill 6.

50. *Subsection (1)* lays down the conditions for this section to apply and introduces the person (namely, the transferor) eligible for income tax relief.

51. *Subsection (2)* permits the transferor to treat the amount mentioned in subsection (1)(c) as interest payable on a loan. If the relevant statutory conditions are met, the deemed interest will qualify for income tax relief under Chapter 1 of Part 8 of ITA.

52. *Subsection (3)* extends subsection (1)(c) to cover the case in which the transferor prepares accounts which, in accordance with GAAP, record an amount as a finance charge in respect of the advance (even though the partnership does not).

53. If subsection (2) deems there to be interest payable, *subsection (4)* determines when it is deemed to be paid.

Section 681EH: Type 3 finance arrangement defined

54. This section defines a form of arrangement, labelled a “type 2 finance arrangement”, which falls within this legislation. It is based on section 774C(1), (4) and (5) of ICTA, and corresponds to clause [9][j3A27] of Bill 6.

55. A type 3 finance arrangement is similar to a type 2 finance arrangement. See the draft commentary on section 681ED. However, a type 3 finance arrangement deals with a case where an existing partnership enters into an arrangement under which the lender becomes a partner and shares in the profits to an extent sufficient to repay its contribution with interest. It differs from a type 2 finance arrangement in that (a) the partnership cannot be one formed for the purposes of the arrangement and (b) there is no reference to a transfer of an asset or a transferor.

56. *Subsection (1)* provides that two conditions must be met if an arrangement is to be a type 3 finance arrangement.

57. *Subsection (2)* specifies condition A, which concerns the terms of the arrangement. There are four tests in condition A, all of which must be passed if the condition is to be met.

58. *Subsection (3)* specifies condition B, which is about accounting. To summarise, the payments mentioned in subsection (2)(d) must be, for accounting purposes, payments of principal rather than interest.

59. Conditions A and B in this section are very similar to conditions A and B in section 681ED (type 2 finance arrangement defined). For the provisions which differ, see sections 681ED(2)(a) and (b) and 681EH(2)(a).

Section 681EI: Certain tax consequences not to have effect

60. This section disapplies certain tax consequences of a type 3 finance arrangement if certain conditions are met. It is based on sections 774D(1) to (4) and 774G(2) of ICTA, and corresponds to clause [10][j3A28] of this Bill.

61. Under *subsections (1) and (4)*, if – but for this section – a relevant change in relation to the partnership would have the “relevant effect”, then it does not.

62. *Subsection (2)* defines the “relevant effect”. It specifies three alternative effects. The “relevant effect” in *subsection (2)* is very similar to the “relevant effect” in *section 681EF(3)*, which makes corresponding provision for type 2 finance arrangements. But the “relevant effect” in *subsection (2)* is an effect on a “relevant member” (as defined in *subsection (3)*), whereas the “relevant effect” in *section 681EF(3)* is an effect in relation to the transferor.

Section 681EJ: Deemed interest

63. This section allows income tax relief to be given if there is a type 3 finance arrangement. It is based on *section 774D(3), (9) and (11) to (13) of ICTA*, and corresponds to clause [11][j3A29] of Bill 6.

64. *Subsection (1)* lays down the conditions for this section to apply and introduces the person (namely, a relevant member, as defined in *subsection (5)*) eligible for income tax relief.

65. *Subsection (2)* permits the relevant member to treat the amount mentioned in *subsection (1)(c)* as interest payable on a loan. If the relevant statutory conditions are met, the deemed interest will qualify for income tax relief under Chapter 1 of Part 8 of ITA.

66. *Subsection (3)* extends *subsection (1)(c)* to cover the case in which a relevant member prepares accounts which, in accordance with GAAP, record an amount as a finance charge in respect of the advance (even though the partnership does not). This relevant member need not be the relevant member mentioned in *subsection (2)*.

67. If *subsection (2)* deems there to be interest payable, *subsection (4)* determines when it is deemed to be paid.

Section 681EK: Exceptions: preliminary

68. This section introduces a group of sections which make exceptions to *sections 681E to 681EJ*. It is new. It corresponds to clause [12][j3A33X] of Bill 6.

Section 681EL: Exceptions

69. This clause specifies exceptions to *sections 681E to 681EJ*. It is based on *section 774E(1) to (6) of ICTA*, and corresponds to clause [13][j3A34] of Bill 6.

Section 681EM: Exceptions: relevant person

70. This clause defines “relevant person” for the purposes of *section 681EL*. It is based on *section 774E(7) of ICTA*, and corresponds to clause [14][j3A33] of Bill 6.

Section 681EN: Power to make further exceptions

71. This section enables the Treasury to make further exceptions to sections 681E to 681EJ. It is based on section 774F of ICTA, and corresponds to clause [15][j3A35] of Bill 6.

Section 681EO: Accounts

72. This clause is an interpretative provision relating to accounts. It is based on section 774G(5) to (6) of ICTA, and corresponds to clause [16][j3A40] of Bill 6.

Section 681EP: Arrangements

73. This clause non-exhaustively defines “arrangements”. It is based on section 774G(1) of ICTA, and corresponds to clause [17][j3A42] of Bill 6.

Section 681EQ: Assets

74. This clause non-exhaustively defines “receiving an asset”, “disposal of an asset” and “payments in respect of an asset”. It is based on section 774G(3) of ICTA, and corresponds to clause [18][j3A39] of Bill 6.

Chapter 2: Other provisions

Overview

75. This Chapter is based on sections 730, 775A and 786 of ICTA. It corresponds to Chapter 2 of Part [] of Bill 6, which makes similar provision for corporation tax. It has the following structure.

- Sections 681F to 681FC deal with transfers of rights to distributions on shares.
- Section 681FD deals with transfers of rights to receive annual payments.
- Sections 681FE to 681FG deal with certain loan or credit transactions.

Section 681F: Transfer of right to distribution on shares

76. This section imposes a charge to income tax if the right to receive a distribution on shares is sold or transferred for a tax-free sum. It is based on section 730(1), (2) and (4) to (5) of ICTA, and corresponds to clause [19][j3A1] of Bill 6.

77. What is now section 730 of ICTA originally appeared as section 24 of FA 1938, which was enacted to reverse the decision in CIR v Paget (1938), 21 TC 677. ICTA retains some of the original 1938 drafting. The opportunity has been taken to modernise it.

78. *Subsection (1)* states when this section applies.

79. *Subsection (2)* treats the distribution as income. It includes a timing rule.

80. *Subsection (3)* imposes income tax on the income. Subsection (3)(b) is an exception to prevent double taxation.

81. *Subsection (4)* quantifies the income.

82. *Subsection (5)* and *(6)* concern the remittance basis.

83. *Subsection (7)* specifies the person liable to the tax.

Section 681FA: Transfer where owner not beneficially entitled

84. This section deals with the special case in which:

- the person selling or transferring the right to receive the distribution is not the beneficial owner of the shares; and
- some other person is beneficially entitled to the income arising from them.

85. It is based on section 730(1), (2) and (4) to (5) of ICTA, and corresponds to clause [20][j3A2] of Bill 6.

86. This section is very similar to section 681F. See the draft commentary on that section.

Section 681FB: Power to obtain information

87. This section enables officers of Revenue and Customs to obtain information for the purposes of sections 681F and 681FA. It is based on section 730(8) of ICTA, and corresponds to clause [21][j3A4] of Bill 6.

88. *Subsections (1)* and *(2)* reflect administrative reality by giving this statutory power to officers of Revenue and Customs, rather than the Commissioners for Her Majesty's Revenue and Customs. This is a change in the law. See *Change 7601* in Annex 1. This change will bring this section into line with ITA. See *Change 5* in Annex 1 to the explanatory notes on that Act.

Q1. We welcome comments on the proposal to give the information power in section 681FB to officers of Revenue and Customs (Change 7601).

89. Subsection (1) includes a second change in the law, in that it expressly restricts the particulars to be provided to those which an officer of Revenue and Customs may reasonably require. See *Change 708* in Annex 1. This change will bring this section into line with ITA. See *Change 114* in Annex 1 to the explanatory notes on that Act.

Q2. We welcome comments on the proposal to impose the criterion of reasonableness in section 681FB (Change 708).

90. Subsection (2) requires the officer to allow at least 30 days for information to be provided, rather than at least 28 days as required by the source legislation. This is a further change in the law. See *Change 707* in Annex 1. This change will bring this

section into line with ITA. See Change 108 in Annex 1 to the explanatory notes on that Act.

<p>Q3. We welcome comments on the proposal to allow at least 30 days for information to be provided under section 681FB (Change 707).</p>

Section 681FC: Meaning of shares

91. This section defines “shares” for the purposes of sections 681F to 681FB. It is based on section 730(7) of ICTA, and corresponds to clause [22][j3A5] of Bill 6.

Section 681FD: Transfer of right to receive annual payment

92. This section imposes a charge to income tax if the right to receive an annual payment is sold or transferred for a tax-free sum or for no consideration. It is based on section 775A of ICTA, and corresponds to clause [23][j3A9] of Bill 6.

93. *Subsection (1)* states when this section applies.

94. *Subsection (2)* imposes the charge to income tax, quantifies the amount taxable, specifies the period for which the tax is charged and specifies the person liable.

95. *Subsection (3)* specifies the annual payments within the scope of this clause.

96. *Subsections (4)* and *(5)* are supplementary.

Section 681FE: Loan or credit transaction defined

97. This section defines “loan or credit transaction” for the purposes of sections 681FF and 681FG. It is based on section 786(1) and (2) of ICTA, and corresponds to clause [25][j3A14] of Bill 6.

98. What is now section 786 of ICTA originally appeared as paragraph 12 of Schedule 13 to FA 1969. It is aimed at artificial arrangements for dressing up payments of interest in another form – for example, arrangements whereby X grants Y an interest-free loan and:

- Y grants X an annuity while the loan is outstanding; or
- Y transfers income-bearing assets to X on the understanding that X will return them when the loan is paid off.

99. *Subsection (1)* states the scope of the definition.

100. *Subsections (2)* and *(3)* focus on, respectively, the lending of money and the giving of credit.

101. *Subsections (4)* and *(5)* supplement subsections (2) and (3) respectively.

Section 681FF: Certain payments treated as yearly interest

102. This section deems annual payments under loan or credit transactions to be yearly interest. It is based on section 786(3) and (3A) of ICTA, and corresponds to clause [25][j3A12A].

Section 681FG: Tax charged on income transferred

103. This section imposes a charge to income tax in certain cases in which, under a loan or credit transaction, a person transfers income arising from property without a sale or transfer of the property. It is based on section 786(5) to (7) of ICTA, and corresponds to clause [26][j3A15] of Bill 6.

104. *Subsection (1)* states when this section applies.

105. *Subsection (2)* imposes the charge to income tax, quantifies the amount taxable, and specifies the person liable.

106. *Subsections (3) to (7)* are supplementary.

Consequential

107. Section 774G(7) of ICTA provides, to summarise, that if section 774A or 774C of that Act applies then sections 277 to 281 of ITTOIA and section 34 of ICTA (lease premiums) do not. Section 34 of ICTA will be rewritten in Bill 5. In consequence of the rewrite of sections 774A to 774G of ICTA in Bills 6 and 7, we will rewrite section 774G(7) of ICTA by way of amendments to (a) sections 277 to 281 of ITTOIA and (b) the provisions of Bill 5 which are based on section 34 of ICTA.

Repeals

108. Section 730(7) of ICTA defines “distribution” by reference to section 209 of that Act.

109. We propose to rewrite section 209 of ICTA in Bill 6 for the purposes of the Corporation Tax Acts. See, under CC/SC (08) 23, draft clause 4[j52092] and paragraphs 1 to 5 of the draft commentary. The definition of “the Corporation Tax Acts” in Schedule 1 to the Interpretation Act 1978 and section 831(1)(a) of ICTA includes the enactments relating to the taxation of company distributions (including provisions relating to income tax), and so the Corporation Tax Acts include section 730 of ICTA, not only in its application to corporation tax but also in its application to income tax.

110. If, therefore, section 209 of ICTA is rewritten in Bill 6 for the purposes of the Corporation Tax Acts (or in Bill 6 for corporation tax purposes and in Bill 7 for income tax purposes), the definition of “distribution” in section 730(7) of ICTA will continue to be superfluous. There is therefore no need to rewrite the definition for the purposes of the rewritten income tax elements of that section.

111. The second limb of the definition of “distribution” in section 730(7) of ICTA will be repealed without replacement. It is otiose, because it presupposes, incorrectly, that there are payments by a non-UK resident company which are not distributions but which would be distributions if the company were UK resident.

112. Section 775A(6) of ICTA is redundant, given section 6(c) of the Interpretation Act 1978. It will be repealed without replacement.

113. The first limb of the definition of “life annuity” in section 775A(7) of ICTA refers to section 657(1) of ICTA. Section 657(1) of ICTA was repealed by paragraph 8 of Schedule 14 to FA 2008, and so the first limb of the definition of “life annuity” in section 775A(7) of ICTA has been repealed by implication. It will be expressly repealed without replacement.

Annex 1

Change 7601: References to “officer of Revenue and Customs”: Schedule [] (section 681FB of ITA)

This change replaces references to the “Board of Inland Revenue” in the source legislation with references to “an officer of Revenue and Customs”.

[Text about the IT/CT split omitted here as not relevant to section 681FB.]

References in the source legislation to the “Board of Inland Revenue” are treated by section 50(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA) as references to “the Commissioners for Her Majesty’s Revenue and Customs”. The rest of this note accordingly refers to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) rather than to the Board of Inland Revenue.

The provisions affected by this change will in future authorise or require things to be done by or in relation to an officer of Revenue and Customs rather than by or in relation to the Commissioners. This reflects the way in which Her Majesty’s Revenue and Customs is organised and operates in practice. Section 13 of CRCA allows nearly all functions conferred on the Commissioners to be exercised by any officer. All of the functions affected by this change, which are in the main concerned with administrative processes, are in fact exercised by officers of the Commissioners, and the Commissioners themselves are not personally involved in their exercise.

[Text about making claims omitted here as not relevant to section 681FB.]

This change has no implications for the amount of tax due, who pays it or when. It affects (in principle and in practice) only administrative matters.

Change 708: Transactions in land and transfer of right to distribution on shares: power to obtain information: “reasonably require”: Schedule [] (section 681FB of ITA)

This change expressly restricts the particulars that an officer of Revenue and Customs may require to be provided under section 730(8) of ICTA to those particulars which the officer may reasonably require.

Section 730(8) of ICTA enables the Board to require a person to give them such particulars “as [the Board] think necessary” for the purposes of section 730 of that Act (transfer of right to distribution on shares).

In section 681FB of ITA, inserted by paragraph [9] of Schedule [], the opportunity has been taken to modernise this language and expressly impose the criterion of reasonableness. This is consistent with the way in which HMRC exercise the power in practice.

This change has no implications for the amount of tax paid, who pays it or when. It affects (in principle but not in practice) only administrative matters.

Change 707: Factoring of income etc: transfer of right to distribution on shares: power to obtain information: minimum time to respond: Schedule [] (section 681FB of ITA)

This change provides that, if a person is required to provide information relevant to the legislation on transfers of rights to distributions on shares, the person must have at least 30 days to reply, rather than at least 28 days.

Section 730(8) of ICTA enables the Board to serve notices requiring the recipient to provide information relevant to the legislation on, respectively, transfers of rights to distributions on shares and transactions in securities.

Section 730(8) of ICTA requires that the recipient must be given at least 28 days in which to reply. In other similar provisions, such as section 771 of ITA, the statutory minimum is 30 days.

Paragraph [9] of Schedule [] inserts section 681FB of ITA, which rewrites section 730(8) of ICTA. It harmonises the time limits by setting the statutory minimum at 30 days.

This change has no effect for the amount of tax paid, who pays it or when. It affects (in principle but not in practice) only administrative matters.