

Bill 6

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Make provision

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

TAX AVOIDANCE: MISCELLANEOUS RULES

CHAPTER 1

TAX ARBITRAGE

Introduction

1 Overview [j6arbover]

- (1) This Chapter provides for the service on companies of two kinds of notice, as a result of which they must calculate or recalculate their income or chargeable gains or liability to corporation tax less advantageously.

Origin: Drafting.

- (2) Sections 2 to 18 deal with the first kind of notice (“deduction notices”).

Origin: Drafting.

- (3) In particular—

- (a) see sections 2 to 5 for provisions about the service of deduction notices,
- (b) see sections 6 to 12 for the kinds of schemes (“deduction schemes”) involved, and
- (c) see sections 13 to 18 for the consequences of such notices.

Origin: Drafting.

- (4) Sections 19 to 24 deal with the second kind of notice (“receipt notices”).

Origin: Drafting.

- (5) In particular –
- (a) see sections 19 to 23 for provisions about the service of receipt notices, and
 - (b) see section 24 for their consequences.

Origin: Drafting.

- (6) Sections 25 to 27 contain general provisions about both kinds of notice.

Origin: Drafting.

- (7) For the meaning of “scheme” etc, see section 28 (meaning of references to schemes and series of transactions).

Origin: Drafting.

Deduction notices

2 Deduction notices [j60524]

- (1) An officer of Revenue and Customs may give a company a notice under this section if –
- (a) the officer considers on reasonable grounds that the deduction scheme conditions are or may be met in relation to a transaction to which the company is party, and
 - (b) the company is within the charge to corporation tax.

Origin: F(No 2)A 2005 s.24(1), (2); Annex 1, Change [jc601].

- (2) In this Chapter –
- (a) a notice under this section is referred to as a “deduction notice”, and
 - (b) “the deduction scheme conditions” means the conditions specified in section 3.

Origin: Drafting.

- (3) For the consequences of a deduction notice, see section 13.

Origin: Drafting.

3 The deduction scheme conditions [j60524a]

- (1) The deduction scheme conditions are conditions A to D.

Origin: Drafting.

- (2) Condition A is that the transaction to which the company is party forms part of a scheme that is a deduction scheme for the purposes of this Chapter (see sections 6 to 12).

Origin: F(No 2)A 2005 s.24(3), Sch.3 para.1.

- (3) Condition B is that the scheme is such that for corporation tax purposes the company –
- (a) is in a position to claim, or has claimed, an amount by way of deduction in respect of the transaction, or

- (b) is in a position to set off, or has set off, an amount relating to the transaction against profits in an accounting period.

Origin: F(No 2)A 2005 s.24(4).

- (4) Condition C is that the main purpose of the scheme, or one of its main purposes, is to achieve a UK tax advantage for the company.

Origin: F(No 2)A 2005 s.24(5).

- (5) Condition D is that the amount of the UK tax advantage is more than minimal.

Origin: F(No 2)A 2005 s.24(6).

4 Meaning of schemes achieving UK tax advantage for a company [j60530a]

- (1) For the purposes of section 3, a scheme achieves a UK tax advantage for a company if, in consequence of the scheme, the company is in a position to obtain, or has obtained –
 - (a) a relief or increased relief from income tax or corporation tax,
 - (b) a repayment or increased repayment of income tax or corporation tax, or
 - (c) the avoidance or reduction of a charge to income tax or corporation tax.

Origin: F(No 2)A 2005 s.30(2).

- (2) In subsection (1)(a) “relief from income tax or corporation tax” includes –
 - (a) a tax credit under [section 231 of ICTA] (tax credits for certain recipients of qualifying distributions) for the purposes of corporation tax, and
 - (b) a tax credit under section 397(1) of ITTOIA 2005 (tax credits for qualifying distributions: UK residents and eligible non-UK residents) for the purposes of income tax.

Origin: F(No 2)A 2005 s.30(3).

- (3) For the purposes of subsection (1)(c) avoidance or reduction may, in particular, be effected –
 - (a) by receipts accruing in such a way that the recipient does not pay or bear tax on them, or
 - (b) by a deduction in calculating profits or gains.

Origin: F(No 2)A 2005 s.30(4).

5 Further provisions about deduction notices [j60524b]

- (1) A deduction notice must specify the transaction in relation to which the officer of Revenue and Customs considers that the deduction scheme conditions are or may be met.

Origin: F(No 2)A 2005 s.24(7); Annex 1, Change [jc601].

- (2) A deduction notice must specify the accounting period in relation to which the officer considers that condition B of those conditions is or may be met in relation to the transaction.

Origin: F(No 2)A 2005 s.24(7); Annex 1, Change [jc601].

- (3) A deduction notice must inform the company to which it is given that, as a result of the service of the notice, section 13 (consequences of a deduction notice) applies in relation to the transaction.

Origin: F(No 2)A 2005 s.24(7).

- (4) A deduction notice may relate to 2 or more transactions.

Origin: F(No 2)A 2005 s.24(8).

Deduction schemes

6 Schemes involving hybrid entities [j605532]

- (1) A scheme is a deduction scheme if a party to a transaction forming part of the scheme meets conditions A and B.

Origin: F(No 2)A 2005 Sch.3 para.2.

- (2) Condition A is that the party is regarded as being a person under the tax law of any territory.

Origin: F(No 2)A 2005 Sch.3 para.3(1).

- (3) Condition B is that the party's profits or gains are treated, for the purposes of a relevant tax imposed under the law of any territory, as the profits or gains of a person or persons other than the person mentioned in condition A.

Origin: F(No 2)A 2005 Sch.3 para.3(1).

- (4) Condition B is not met just because the party's profits or gains are subject to a rule that—

- (a) is similar to that in section 747(3) of ICTA (imputation of chargeable profits of controlled foreign company), and
- (b) has effect under the tax law of any territory outside the United Kingdom.

Origin: F(No 2)A 2005 Sch.3 para.3(2).

- (5) For the purposes of this section, the following are relevant taxes—

- (a) income tax,
- (b) corporation tax, and
- (c) any tax of a similar character to income tax or corporation tax that is imposed by the law of a territory other than the United Kingdom.

Origin: F(No 2)A 2005 Sch.3 para.3(3).

7 Instruments of alterable character [j605534]

- (1) A scheme is a deduction scheme if one of the parties to the scheme is party to an instrument within subsection (2).

Origin: F(No 2)A 2005 Sch.3 paras.4, 5(1).

- (2) An instrument is within this subsection if under the law of a particular territory any party to the instrument may alter its tax characteristics.

Origin: F(No 2)A 2005 Sch.3 para.5(2).

- (3) The reference to altering an instrument's tax characteristics is to making an alteration which, under the law of a particular territory, has the effect of determining, for the tax purposes of that territory, whether the instrument is taken into account as giving rise –
- (a) to income,
 - (b) to capital, or
 - (c) to neither.

Origin: F(No 2)A 2005 Sch.3 para.5(3).

- (4) An instrument is taken into account as giving rise to capital if any gain on the disposal of the instrument –
- (a) would be a chargeable gain, or
 - (b) would be such a gain if the person making the disposal were UK resident.

Origin: F(No 2)A 2005 Sch.3 para.5(4).

8 Shares subject to conversion [j605535]

- (1) A scheme is a deduction scheme if it includes –
- (a) a company issuing shares subject to conversion, or
 - (b) such an amendment of rights attaching to shares issued by a company that the shares become shares subject to conversion.

Origin: F(No 2)A 2005 Sch.3 paras.4, 6(1).

- (2) For the purposes of subsection (1) a company's shares are shares subject to conversion if conditions A and B are met.

Origin: F(No 2)A 2005 Sch.3 para.6(2).

- (3) Condition A is that the rights attached to the shares include provision as a result of which a holder of such shares is entitled, on the occurrence of an event, to acquire securities in a company by conversion or exchange.

Origin: F(No 2)A 2005 Sch.3 para.6(2).

- (4) Condition B is that at the relevant time the company could reasonably expect that event to occur.

Origin: F(No 2)A 2005 Sch.3 para.6(2).

- (5) For the purposes of subsection (1)(a), the relevant time is the time when the shares are issued.

Origin: F(No 2)A 2005 Sch.3 para.6(3).

- (6) For the purposes of subsection (1)(b), the relevant time is the time when the rights attaching to the shares are amended as described in that subsection.

Origin: F(No 2)A 2005 Sch.3 para.6(3).

9 Securities subject to conversion [j605536]

- (1) A scheme is a deduction scheme if it includes –
- (a) a company issuing securities subject to conversion, or

- (b) such an amendment of rights attaching to securities issued by a company that the securities become securities subject to conversion.

Origin: F(No 2)A 2005 Sch.3 paras.4, 7(1).

- (2) For the purposes of subsection (1) a company's securities are securities subject to conversion if conditions A and B are met.

Origin: F(No 2)A 2005 Sch.3 para.7(2).

- (3) Condition A is that the rights attached to the securities include provision as a result of which a holder of such securities is entitled, on the occurrence of an event, to acquire shares in a company by conversion or exchange.

Origin: F(No 2)A 2005 Sch.3 para.7(2).

- (4) Condition B is that at the relevant time the company could reasonably expect that event to occur.

Origin: F(No 2)A 2005 Sch.3 para.7(2).

- (5) For the purposes of subsection (1)(a), the relevant time is the time when the securities are issued.

Origin: F(No 2)A 2005 Sch.3 para.7(3).

- (6) For the purposes of subsection (1)(b), the relevant time is the time when the rights attaching to the securities are amended as described in that subsection.

Origin: F(No 2)A 2005 Sch.3 para.7(3).

10 Debt instruments treated as equity [J605537]

- (1) A scheme is a deduction scheme if it includes a debt instrument issued by a company that is treated as equity in the company under generally accepted accounting practice.

Origin: F(No 2)A 2005 Sch.3 paras.4, 8(1).

- (2) In this section "debt instrument" means an instrument issued by a company that –

- (a) represents a loan relationship of the company, or
(b) would do so if the company were UK resident.

Origin: F(No 2)A 2005 Sch.3 para.8(2).

11 Scheme including issue of shares not conferring qualifying beneficial entitlement [j6055310]

- (1) A scheme is a deduction scheme if –
(a) it includes a company issuing shares to a connected person, and
(b) the shares do not meet conditions A to C.

Origin: F(No 2)A 2005 Sch.3 paras.9, 10(1).

- (2) Condition A is that on their issue the shares are ordinary shares that are fully paid-up.

Origin: F(No 2)A 2005 Sch.3 para.10(2).

- (3) Condition B is that when the issue takes place there is no arrangement or understanding under which the rights attaching to the shares may be amended.

Origin: F(No 2)A 2005 Sch.3 para.10(2).

- (4) Condition C is that, at all times in the accounting period of the company in which the issue takes place, each of the shares confers a beneficial entitlement to the appropriate proportion of –
- (a) any profits available for distribution to equity holders of the company, and
 - (b) any assets of the company available for distribution to its equity holders on a winding-up.

Origin: F(No 2)A 2005 Sch.3 para.10(2), (3).

- (5) For the purposes of subsection (4) the appropriate proportion, in relation to a share, is the same as the proportion of the issued share capital represented by that share.

Origin: F(No 2)A 2005 Sch.3 para.10(4).

- (6) [Chapter 6 of Part 5 (equity holders and profits or assets available for distribution) applies for the purposes of subsection (4) as it applies for the purposes of the provisions specified in section {j4819rm}(1).]

Origin: F(No 2)A 2005 Sch.3 para.10(5).

12 Scheme including transfer of rights under a security [j6055311]

- (1) A scheme is a deduction scheme if conditions A to D are met.

Origin: F(No 2)A 2005 Sch.3 paras.9, 11(1).

- (2) Condition A is that the scheme includes a transaction or a series of transactions under which a person (“the transferor”) –
- (a) transfers to one or more other persons rights to receive a payment under a security, or
 - (b) otherwise secures that one or more other persons are similarly benefited.

Origin: F(No 2)A 2005 Sch.3 para.11(1).

- (3) A person is similarly benefited for these purposes if the person receives a payment which, but for the transaction or series of transactions, would have arisen to the transferor.

Origin: F(No 2)A 2005 Sch.3 para.11(2).

- (4) Condition B is that –
- (a) the transferor, and
 - (b) at least one of the persons to whom a transfer of rights is made or a similar benefit is secured,
- are connected with each other.

Origin: F(No 2)A 2005 Sch.3 para.11(3).

- (5) Condition C is that, following the transfer of rights or the securing of the similar benefit, two or more persons –

- (a) hold rights to receive a payment under the security, or
- (b) enjoy a similar benefit.

Origin: F(No 2)A 2005 Sch.3 para.11(4).

- (6) Condition D is that at that time the market value of all the relevant benefits of such of those persons as are connected equals or exceeds the market value of all other relevant benefits.

Origin: F(No 2)A 2005 Sch.3 para.11(4), (5).

- (7) In subsection (6) “relevant benefits” means rights and benefits within subsection (5).

Origin: F(No 2)A 2005 Sch.3 para.11(4), (5).

- (8) In this section “security” includes an agreement under which a person receives an annuity or other annual payment (whether it is payable annually or at shorter or longer intervals) for a term which is not contingent on the duration of a human life or lives.

Origin: F(No 2)A 2005 Sch.3 para.11(6).

Consequences of deduction notices

13 Consequences of deduction notices [j60525]

- (1) This section applies in relation to a transaction if—
 - (a) a deduction notice specifying the transaction is given to a company under section 2, and
 - (b) when the notice is given, the deduction scheme conditions are met in relation to the transaction.

Origin: F(No 2)A 2005 s.25(1).

- (2) The company must calculate (or recalculate) its income or chargeable gains for the purposes of corporation tax or its liability to corporation tax—
 - (a) for the accounting period specified in the deduction notice, and
 - (b) for any later accounting period.

Origin: F(No 2)A 2005 s.25(2).

- (3) That calculation (or recalculation) must be done in accordance with—
 - (a) the rule in section 14 (the rule against double deduction), and
 - (b) the rule in section 18 (the rule against deduction for untaxable payments) if it applies (see section 15).

Origin: F(No 2)A 2005 s.25(2).

- (4) But the company is treated as having complied with subsections (2) and (3), so far as the scheme specified in the deduction notice is concerned, if the company incorporates the necessary relevant adjustments in its company tax return for the accounting period specified in the notice.

Origin: F(No 2)A 2005 s.25(14), (15).

- (5) For the purposes of subsection (4), adjustments are relevant if they—

- (a) treat all or part of a deduction allowable for corporation tax purposes as not being allowable, or
- (b) treat all or part of an amount that for corporation tax purposes may be set off against profits in an accounting period as not falling to be set off.

Origin: F(No 2)A 2005 s.25(16).

- (6) For the purposes of subsection (4), relevant adjustments are the necessary adjustments if –
 - (a) they are such adjustments as are necessary for counteracting those effects of the scheme that are referable to the purpose referred to in condition C of the deduction scheme conditions (see section 3(4)), and
 - (b) as a result of their incorporation in the return, the company counteracts those effects.

Origin: F(No 2)A 2005 s.25(14), (15).

14 The rule against double deduction [\[j60525a\]](#)

- (1) The rule referred to in section 13(3)(a) is that, in respect of the transaction specified in the deduction notice, an amount is not allowable as a deduction in relation to an expense for the purposes of the Corporation Tax Acts so far as an amount in relation to that expense is otherwise deductible or allowable.

Origin: F(No 2)A 2005 s.25(3).

- (2) Such an amount is otherwise deductible or allowable if it may be otherwise deducted or allowed in calculating the income, profits or losses of any person for the purposes of any tax to which this subsection applies.

Origin: F(No 2)A 2005 s.25(3).

- (3) Subsection (2) applies to any tax (including any non-UK tax) other than –
 - (a) petroleum revenue tax, or
 - (b) the tax chargeable under [section 501A(1) of ICTA] (supplementary charge in respect of ring fence trades).

Origin: F(No 2)A 2005 s.25(3).

- (4) The reference in subsection (2) to an amount being able to be otherwise deducted or allowed as mentioned in that subsection includes a reference to an amount that would be able to be so deducted or allowed but for any tax rule that has the same effect as the rule in subsection (1).

Origin: F(No 2)A 2005 s.25(4).

- (5) In subsection (4) “tax rule” means –
 - (a) a provision of the Tax Acts, or
 - (b) a rule having effect under the tax law of any territory outside the United Kingdom.

Origin: F(No 2)A 2005 s.25(5).

- (6) In this section “non-UK tax” has the meaning given in section [\[j4808Drm\]](#)(1).

Origin: F(No 2)A 2005 s.25(17).

15 Application of the rule against deduction for untaxable payments [j60525c]

- (1) Section 18 (the rule against deduction for untaxable payments) applies if conditions A to C are met.

Origin: Drafting.

- (2) Condition A is that a transaction forming part of the deduction scheme, or a series of such transactions, makes or imposes provision as a result of which—
- (a) one person (“the payer”) makes a payment, and
 - (b) another person (“the payee”) receives, or becomes entitled to receive, a payment or payments.

Origin: F(No 2)A 2005 s.25(6).

- (3) Condition B is that, in respect of the payment by the payer, an amount may be deducted or otherwise allowed—
- (a) to the payer, or
 - (b) to another person who is party to, or concerned in, the scheme, in calculating any profits or losses for tax purposes.

Origin: F(No 2)A 2005 s.25(6).

- (4) Condition C is that as a result of provision made or imposed by the deduction scheme—
- (a) the payee is not liable to tax—
 - (i) in respect of the payment or payments that the payee receives or is entitled to receive as a result of the transaction or series of transactions, or
 - (ii) in respect of part of such payment or payments, or
 - (b) if the payee is so liable, the payee’s liability to tax is reduced.

Origin: F(No 2)A 2005 s.25(6).

- (5) In this section—
- (a) “the deduction scheme” means the scheme in relation to which the deduction scheme conditions are met,
 - (b) “tax purposes” includes the purposes of any non-UK tax (within the meaning of section [j4808Drm](1)).

Origin: F(No 2)A 2005 s.25(6), (17).

- (6) Sections 16 and 17 make further provision about condition C.

Origin: Drafting.

- (7) Expressions used in those sections and section 18 have the same meaning as in this section.

Origin: Drafting.

16 Cases where payee not treated as not liable as a result of scheme [j60525e]

- (1) For the purposes of section 15(4)(a), the payee is not treated as being not liable to tax as a result of provision made or imposed by the deduction scheme if—
- (a) the reason why the payee is not liable is that under the tax law of any territory the payee is not liable to tax on any income or gains received by the payee or received for the payee’s benefit, and

(b) that law applies to the payee regardless of the scheme.

Origin: F(No 2)A 2005 s.25(8); Annex 1, Change [jc646].

(2) For the purposes of that section, the payee is not treated as being not liable to tax so far as the payee is not subject to tax because an exemption within subsection (3) applies.

Origin: F(No 2)A 2005 s.25(9).

(3) An exemption is within this subsection if –

- (a) it exempts a person from being liable to tax in respect of income or gains, without providing for that income or those gains to be treated as the income or gains of another person, and
- (b) it is conferred by a provision contained in, or having the force of, an Act or by a provision of the tax law of any territory outside the United Kingdom.

Origin: F(No 2)A 2005 s.25(10).

17 Cases where payee treated as having reduced liability as a result of scheme [j60525d]

(1) This section sets out two cases in which the payee’s liability to tax in respect of the scheme payment is treated for the purposes of section 15(4)(b) as reduced as a result of provision made or imposed by the deduction scheme.

Origin: F(No 2)A 2005 s.25(7).

(2) But that does not mean that there are no other cases in which that liability is so reduced.

Origin: F(No 2)A 2005 s.25(7).

(3) In this section “the scheme payment” means the payment or payments that the payee receives or is entitled to receive as a result of the transaction or series of transactions referred to in section 15(2).

Origin: F(No 2)A 2005 s.25(7).

(4) Case A is that an amount arising from –

- (a) a transaction forming part of the scheme, or
- (b) a series of such transactions,

falls to be deducted, or otherwise allowed to the payee, in calculating for tax purposes any profits or losses arising from the scheme payment or the entitlement to receive it.

Origin: F(No 2)A 2005 s.25(7).

(5) Case B is that an amount of relief arising from –

- (a) a transaction forming part of the scheme, or
- (b) a series of such transactions,

may be deducted from the amount of income or gains arising from the scheme payment or the entitlement to receive it.

Origin: F(No 2)A 2005 s.25(7).

18 The rule against deduction for untaxable payments [j60525b]

- (1) The rule referred to in section 13(3)(b) is that the total deduction amount must be reduced.

Origin: F(No 2)A 2005 s.25(11).

- (2) In this section “the total deduction amount” means the total of the amounts allowable as a deduction for the purposes of the Corporation Tax Acts in calculating any profits arising to the company from any transaction forming part of the deduction scheme.

Origin: F(No 2)A 2005 s.25(11).

- (3) If the payee is not liable to tax for the purposes of section 15(4) in respect of the payment or payments that the payee receives or is entitled to receive, the total deduction amount must be reduced to nil.

Origin: F(No 2)A 2005 s.25(12).

- (4) If the payee is liable to tax for those purposes in respect of part of that payment or those payments, the total deduction amount must be reduced by the same proportion of that amount as the proportion of the payment or payments on which the payee is not liable to tax.

Origin: F(No 2)A 2005 s.25(13).

- (5) If the payee’s liability to tax is reduced as described in section 15(4)(b), the total deduction amount must be reduced by the same proportion of that amount as the reduction in the payee’s liability bears to that liability before reduction.

Origin: F(No 2)A 2005 s.25(13).

*Receipt notices***19 Receipt notices [j60526]**

- (1) An officer of Revenue and Customs may give a company a notice under this section if –
- (a) the officer considers on reasonable grounds that the receipt scheme conditions are or may be met in relation to the company, and
 - (b) the company is UK resident.

Origin: F(No 2)A 2005 s.26(1); Annex 1, Change [jc601].

- (2) The notice must inform the company of the officer’s view.

Origin: F(No 2)A 2005 s.26(12); Annex 1, Change [jc601].

- (3) In this Chapter –
- (a) a notice under this section is referred to as a “receipt notice”, and
 - (b) “the receipt scheme conditions” means the conditions specified in section 20.

Origin: Drafting.

- (4) For the consequences of a receipt notice, see section 24.

Origin: Drafting.

20 The receipt scheme conditions [j60526a]

- (1) The receipt scheme conditions are conditions A to D.

Origin: Drafting.

- (2) Condition A is that a scheme makes [or imposes] provision as between the company and another person (“the paying party”) by means of a transaction or series of transactions.

Origin: F(No 2)A 2005 s.26(2).

- (3) Condition B is that that provision includes the paying party making, by means of a transaction or series of transactions, a payment—
- (a) which is a qualifying payment in relation to the company, and
 - (b) at least part of which is not an amount to which section 21 (amounts within corporation tax) applies.

Origin: F(No 2)A 2005 s.26(3), (8).

- (4) A payment is a qualifying payment in relation to a company for the purposes of this section and sections 21 to 24 if it constitutes a contribution to the capital of the company.

Origin: F(No 2)A 2005 s.26(13), 27(4).

- (5) Condition C is that on entering into the scheme the company and the paying party expected that a benefit would arise because at least part of the qualifying payment was not an amount to which section 21 applies.

Origin: F(No 2)A 2005 s.26(11).

- (6) Condition D is that there is an amount in relation to the qualifying payment which—
- (a) is a deductible amount, and
 - (b) is not set against any scheme income arising to the paying party for income tax purposes or corporation tax purposes.

Origin: ICTA s.832(3); F(No 2)A 2005 s.26(4), (5).

- (7) In subsection (6) —

“deductible amount” means an amount which—

- (a) is available as a deduction for the purposes of the Tax Acts, or
- (b) may be deducted or otherwise allowed under the tax law of any territory outside the United Kingdom, and

“scheme income” means income arising from the transaction or transactions forming part of the scheme.

Origin: F(No 2)A 2005 s.26(4), (5).

- (8) See section 23 for a case where condition D is not met.

Origin: Drafting.

21 Amounts within corporation tax [j60526b]

- (1) This section applies to an amount if condition A or B applies.

Origin: F(No 2)A 2005 s.26(8); drafting.

- (2) Condition A is that for the purposes of the Corporation Tax Acts the amount is –
- (a) income or chargeable gains arising to the company in the accounting period in which the qualifying payment was made, or
 - (b) income arising to any other UK resident company in a corresponding accounting period.

Origin: F(No 2)A 2005 s.26(9).

- (3) For the purposes of this section, the accounting period of one company (“the first period”) corresponds to the accounting period of another company (“the second period”) if at least one day of the first period falls within the second period.

Origin: F(No 2)A 2005 s.26(14).

- (4) Condition B is that, as a result of Chapter [7] of Part [7] of [Bill 5] (shares with guaranteed returns etc), the amount is taken into account in determining the debits and credits to be brought into account for the purposes of Part [6] of that Act (loan relationships) as respects a share in a company.

Origin: F(No 2)A 2005 s.26(10).

22 Further provisions about receipt notices [j60526d]

- (1) A receipt notice must specify the qualifying payment by reference to which the officer of Revenue and Customs considers conditions B to D of the receipt scheme conditions are or may be met.

Origin: F(No 2)A 2005 s.26(12); Annex 1, Change [jc601].

- (2) A receipt notice must specify the accounting period of the company in which the qualifying payment is made.

Origin: F(No 2)A 2005 s.26(12).

- (3) A receipt notice must inform the company to which it is given that [as a result of the service of the notice] section 24 (rule for calculation or recalculation of income etc following receipt notice) applies in relation to the payment.

Origin: F(No 2)A 2005 s.26(12).

23 Exception for dealers [j60526c]

- (1) Condition D of the receipt scheme conditions (see section 20(6)) is not met if –
- (a) the paying party (“P”) is a dealer,
 - (b) in the ordinary course of P’s business, P incurs losses in respect of the transaction or transactions forming part of the scheme to which P is party, and
 - (c) the amount by reference to which that condition would be met, but for this section, is an amount in respect of those losses.

Origin: F(No 2)A 2005 s.26(6).

- (2) [In subsection (1) “dealer” means a person who –
- (a) is a dealer in relation to a distribution within the meaning of section 95(2) of ICTA, or
 - (b) if the person were UK resident, would be such a dealer.]

Origin: F(No 2)A 2005 s.26(7).

- (3) In this section “paying party” has the same meaning as in section 20.

Origin: Drafting.

24 Rule for calculation or recalculation of income etc following receipt notice [j60527]

- (1) This section applies in relation to a qualifying payment if –
- (a) a receipt notice specifying the payment is given to the company in relation to which it is a qualifying payment, and
 - (b) when the notice is given, the receipt scheme conditions are met in relation to the company.

Origin: F(No 2)A 2005 s.27(1).

- (2) The company must calculate (or recalculate) –
- (a) its income or chargeable gains for the purposes of corporation tax for the accounting period specified in the notice, or
 - (b) its liability to corporation tax for that period,
- as if so much of the qualifying payment as falls within subsection (3) were an amount of income chargeable to corporation tax arising to the company in that period.

Origin: F(No 2)A 2005 s.27(2).

- (3) The qualifying payment falls within this subsection so far as –
- (a) condition D of the receipt scheme conditions (see section 20(6)) is met in relation to it, and
 - (b) it is not an amount to which section 21 (amounts within corporation tax) applies.

Origin: F(No 2)A 2005 s.27(3).

General provisions about deduction notices and receipt notices

25 Notices given before tax return made [j60528]

- (1) This section applies if a officer of Revenue and Customs gives a company a deduction notice or a receipt notice before the company has made its company tax return for the accounting period specified in the notice.

Origin: F(No 2)A 2005 s.28(1); Annex 1, Change [jc601].

- (2) If the company makes that return before the end of the period of 90 days beginning with the day on which the notice is given, it may –
- (a) make a return that disregards the notice, and
 - (b) at any time after making the return and before the end of that 90 day period, amend the return for the purpose of complying with the provision referred to in the notice.

Origin: F(No 2)A 2005 s.28(2).

- (3) Subsection (2)(b) does not prevent a company tax return for a period becoming incorrect if –

- (a) a deduction notice or a receipt notice is given to the company in relation to that period,
- (b) the return is not amended in accordance with subsection (2)(b) for the purpose of complying with the provision referred to in the notice, and
- (c) it ought to have been so amended.

Origin: F(No 2)A 2005 s.28(11).

26 Notices given after tax return made [j60528a]

- (1) If a company has made a company tax return for an accounting period, an officer of Revenue and Customs may only give the company a deduction notice or a receipt notice if a notice of enquiry has been given to the company in respect of the return.

Origin: F(No 2)A 2005 s.28(3), (12) (“notice of enquiry”); Annex 1, Change [jc601].

- (2) After any enquiries into the return have been completed, an officer of Revenue and Customs may only give the company a deduction notice or a receipt notice if conditions A and B are met.

Origin: F(No 2)A 2005 s.28(4); Annex 1, Change [jc601].

- (3) Condition A is that the officer could not have been reasonably expected to have been aware that the circumstances were such that a deduction notice or a receipt notice could have been given to the company in relation to the period.

Origin: F(No 2)A 2005 s.28(5).

- (4) Whether condition A is met must be determined on the basis of information made available to the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs before the time the enquiries into the return were completed.

Origin: F(No 2)A 2005 s.28(5).

- (5) Paragraph 44(2) and (3) of Schedule 18 to FA 1998 (information made available) applies for the purposes of subsection (4) as it applies for the purposes of paragraph 44(1) of that Schedule.

Origin: F(No 2)A 2005 s.28(6).

- (6) Condition B is that –
 - (a) the company was requested to provide information during an enquiry into the return for the period, and
 - (b) if the company had duly complied with the request, an officer of Revenue and Customs could reasonably have been expected to give the company a deduction notice or a receipt notice in relation to the period.

Origin: F(No 2)A 2005 s.28(7); Annex 1, Change [jc601].

27 Amendments, closure notices and discovery assessments where section 26 applies [j60528b]

- (1) Subsection (2) applies if, after having made a company tax return for an accounting period, a company is given a deduction notice or a receipt notice in relation to the period.

Origin: F(No 2)A 2005 s.28(8).

- (2) The company may amend the return for the purpose of complying with the provision referred to in the notice at any time before the end of the period of 90 days beginning with the day on which the notice is given (“the 90 day period”).

Origin: F(No 2)A 2005 s.28(8).

- (3) Subsection (4) applies if a deduction notice or receipt notice is given to the company after it has been given a notice of enquiry in respect of its return for the accounting period.

Origin: F(No 2)A 2005 s.28(9).

- (4) No closure notice may be given in relation to the return until –
- (a) the end of the 90 day period, or
 - (b) the earlier amendment of the return for the purpose of complying with the provision referred to in the notice.

Origin: F(No 2)A 2005 s.28(9).

- (5) Subsection (6) applies if a deduction notice or receipt notice is given to the company after any enquiries into the return are completed.

Origin: F(No 2)A 2005 s.28(10).

- (6) No discovery assessment may be made in respect of the income or chargeable gain to which the notice relates until –
- (a) the end of the 90 day period, or
 - (b) the earlier amendment of the return for the purpose of complying with the provision referred to in the notice.

Origin: F(No 2)A 2005 s.28(10).

- (7) Subsection (6) does not prevent a return for an accounting period becoming incorrect if –
- (a) a deduction notice or receipt notice is given to the company in relation to the period,
 - (b) the return is not amended in accordance with subsection (2) or section 25(2)(b) for the purpose of complying with the provision referred to in the notice, and
 - (c) it ought to have been so amended.

Origin: F(No 2)A 2005 s.28(11).

Interpretation

28 Meaning of references to schemes and series of transactions [j60530]

- (1) In this Chapter “scheme” means any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving one or more transactions.

Origin: F(No 2)A 2005 s.30(1).

- (2) In determining whether any transaction has formed or will form part of a series of transactions or scheme for the purposes of this Chapter, it does not matter if

the parties to it are different from the parties to another transaction in the series or scheme.

Origin: F(No 2)A 2005 s.30(1).

- (3) For the purposes of this Chapter, the cases in which any 2 or more transactions form, or form part of, a series of transactions or scheme include the cases where subsection (4) or (5) applies.

Origin: F(No 2)A 2005 s.30(1).

- (4) This subsection applies where it would be reasonable to assume that one or more of the transactions would not have been entered into independently of the other or others.

Origin: F(No 2)A 2005 s.30(1).

- (5) This subsection applies where it would be reasonable to assume that one or more of the transactions would not have taken the same form or been on the same terms if entered into independently of the other or others.

Origin: F(No 2)A 2005 s.30(1).

29 Minor definitions [j605defins]

In this Chapter –

“closure notice” means a notice under paragraph 32 of Schedule 18 to FA 1998,

“company tax return” means the return required to be delivered as a result of notice under paragraph 3 of that Schedule, as read with paragraph 4 of that Schedule,

“discovery assessment” means an assessment under paragraph 41 of that Schedule,

“notice of enquiry” means a notice under paragraph 24 of that Schedule, and

“security” has the meaning given in [section {j52543}(1)], but subject to section 12(8).

Origin: F(No 2)A 2005 s.25(18), s.28(12), Sch.3 paras.6(4), 7(4), 11(6).