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## SCHEDULES

### SCHEDULE 11

#### CONDITIONS FOR REGISTRATION FOR GROSS PAYMENT

##### PART 3

##### CONDITIONS TO BE SATISFIED BY COMPANIES

###### *General*

- 9 In the case of an application for a company to be registered for gross payment (whether as a partner in a firm or otherwise), the following conditions must be satisfied by the company.

###### *The business test*

- 10 The company must satisfy the Inland Revenue, by such evidence as may be prescribed in regulations made by the Board of Inland Revenue, that—
- (a) it is carrying on (whether or not in partnership) a business in the United Kingdom, and
  - (b) that business satisfies the conditions mentioned in paragraph 2(a) and (b).

###### *The turnover test*

- 11 (1) The company must either—
- (a) satisfy the Inland Revenue, by such evidence as may be prescribed in regulations made by the Board of Inland Revenue, that the carrying on of its business is likely to involve the receipt in the year following the making of the application of an aggregate amount by way of relevant payments which is not less than the amount which is the minimum turnover for the purposes of this sub-paragraph; or
  - (b) satisfy the Inland Revenue that the only persons with shares in the company are companies which are limited by shares and themselves are registered for gross payment;
- and in this sub-paragraph “relevant payments” has the meaning given by paragraph 3(2).
- (2) The minimum turnover for the purposes of sub-paragraph (1) is whichever is the smaller of—
- (a) the amount obtained by multiplying the amount specified in regulations as the minimum turnover for the purposes of paragraph 3 (1) by the number of persons who are relevant persons in relation to the company; and
  - (b) the amount specified for the purposes of this paragraph in regulations made by the Board of Inland Revenue.

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- (3) For the purposes of sub-paragraph (2) a person is a relevant person in relation to the company—
- (a) where the company is a close company, if he is a director of the company (within the meaning given by section 67 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1)) or a beneficial owner of shares in the company; and
  - (b) in any other case, if he is such a director of the company.
- (4) The Board may make regulations—
- (a) for determining the number of relevant persons to be taken into account for the purposes of sub-paragraph (2) (for example, where the number of such persons has fluctuated over a period);
  - (b) for the purpose of enabling a company which does not satisfy the condition in sub-paragraph (1) to be treated as satisfying that condition in such circumstances as may be prescribed.

*The compliance test*

- 12 (1) The company must, subject to sub-paragraphs (2) and (3), have complied with—
- [<sup>F1</sup>(a) any obligation imposed on it in the qualifying period (see paragraph 14)—
    - (i) to pay the amount liable to be deducted under section 61 of this Act from payments made during that period,
    - (ii) to submit returns as required by regulations made under section 70 of this Act,
    - (iii) to pay the tax liable to be deducted under the PAYE Regulations (S.I. 2003/2682), and
    - (iv) to submit a self-assessment return, and]
  - (b) all requests made in the qualifying period to supply to the Inland Revenue accounts of, or other information about, its business.
- (2) A company that has failed to comply with such an obligation or request as—
- (a) is referred to in sub-paragraph (1), and
  - (b) is of a kind prescribed by regulations made by the Board of Inland Revenue, is, in such circumstances as may be prescribed by the regulations, to be treated as satisfying the condition in that sub-paragraph as regards that obligation or request.
- (3) A company that has failed to comply with such an obligation or request as is referred to in sub-paragraph (1) is to be treated as satisfying the condition in that sub-paragraph as regards that obligation or request if the Board of Inland Revenue are of the opinion that—
- (a) the company had a reasonable excuse for the failure to comply, and
  - (b) if the excuse ceased, it complied with the obligation or request without unreasonable delay after the excuse had ceased.
- (4) The company must, if any contribution has at any time during the qualifying period become due from the company under—
- (a) Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4), or
  - (b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),
- have paid the contribution when it became due.

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- (5) The company must have complied with any obligations imposed on it by the following provisions of the Companies Act 1985 (c. 6) in so far as those obligations fell to be complied with within the qualifying period—
- (a) sections 226, 241 and 242 (contents, laying and delivery of annual accounts);
  - (b) section 288(2) (return of directors and secretary and notification of changes therein);
  - (c) sections 363 to 365 (annual returns);
  - (d) section 691 (registration of constitutional documents and list of directors and secretary of overseas company);
  - (e) section 692 (notification of changes in constitution or directors or secretary of overseas company);
  - (f) section 693 (overseas company to state its name and country of incorporation);
  - (g) section 699 (obligations of companies incorporated in Channel Islands or Isle of Man);
  - (h) Chapter 2 of Part 23 (accounts of overseas company).
- (6) The company must have complied with any obligations imposed on it by the following provisions of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) in so far as those obligations fell to be complied with within the qualifying period—
- (a) Articles 234, 249 and 250 (contents, laying and delivery of annual accounts);
  - (b) Article 296(2) (return of directors and secretary and notification of changes therein);
  - (c) Articles 371 to 373 (annual returns);
  - (d) Article 641 (registration of constitutional documents and list of directors and secretary of Part XXIII company);
  - (e) Article 642 (notification of changes in constitution or directors or secretary of Part XXIII company);
  - (f) Article 643 (Part XXIII company to state its name and country of incorporation);
  - (g) Article 649 (accounts of Part XXIII company).
- (7) There must be reason to expect that the company will, in respect of periods after the qualifying period, comply with—
- (a) all such obligations as are referred to in paragraphs 10 and 11 and sub-paragraphs (1) to (6), and
  - (b) such requests as are referred to in sub-paragraph (1).
- (8) Subject to sub-paragraphs (2) and (3), a company is not to be taken for the purposes of this paragraph to have complied with any such obligation or request as is referred to in sub-paragraphs (1) to (6) if there has been a contravention of a requirement as to—
- (a) the time at which, or
  - (b) the period within which,
- the obligation or request was to be complied with.
- [<sup>F2</sup>(9) This paragraph is subject to paragraph 12A (exception from compliance test: companies).]

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#### Textual Amendments

- F1** Sch. 11 para. 12(1)(a) substituted (6.4.2016) by [The Income Tax \(Construction Industry Scheme\) \(Amendment of Schedule 11 to the Finance Act 2004\) Order 2016 \(S.I. 2016/404\)](#), arts. 1, **2(c)**
- F2** Sch. 11 para. 12(9) inserted (6.4.2015) by [The Income Tax \(Construction Industry Scheme\) \(Amendment of Schedule 11 to the Finance Act 2004\) Order 2015 \(S.I. 2015/789\)](#), arts. 1, **3(a)**

#### *[<sup>F3</sup>Exception from the compliance test: companies*

#### Textual Amendments

- F3** Sch. 11 para. 12A inserted (6.4.2015) by [The Income Tax \(Construction Industry Scheme\) \(Amendment of Schedule 11 to the Finance Act 2004\) Order 2015 \(S.I. 2015/789\)](#), arts. 1, **3(b)**

- 12A (1) The conditions in paragraph 12 (compliance test: companies) do not need to be satisfied by the company if, at the time of the application—
- (a) one or more of its members is registered for gross payment (whether as a partner in a firm or otherwise), and
  - (b) that member possesses or is entitled to acquire or those members together possess or are entitled to acquire—
    - (i) at least 50% of the share capital or issued share capital of the company,
    - (ii) at least 50% of the voting power in the company,
    - (iii) so much of the issued share capital of the company as would, on the assumption that the whole of the income of the company were distributed among its members, entitle the member or members mentioned in paragraph (a) to receive at least 50% of the amount so distributed, or
    - (iv) such rights as would entitle the member or members mentioned in paragraph (a), in the event of the winding up of the company or in any other circumstances, to receive at least 50% of the assets of the company which would then be available for distribution among its members.
- (2) In sub-paragraph (1)(a) the reference to registration for gross payment does not include registration for gross payment by virtue of this paragraph or paragraph 8A (exception from compliance test: firms).
- (3) For the purposes of this paragraph a person is treated as entitled to acquire anything which the person—
- (a) is entitled to acquire at a future date, or
  - (b) will at a future date be entitled to acquire.
- (4) Any rights that a member or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (1)(b)(iii); and for this purpose “loan creditor” has the same meaning as in Part 10 of the Corporation Tax Act 2010 (close companies).]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 166(1)(aa) inserted by 2024 c. 3 Sch. 9 para. 17(2)(a)
- s. 204(3) inserted by 2024 c. 3 Sch. 9 para. 2
- s. 232(8E) inserted by 2024 c. 3 Sch. 9 para. 4(4)
- s. 236(8E) inserted by 2024 c. 3 Sch. 9 para. 5(4)
- s. 236ZA inserted by S.I. 2024/357 art. 2(2)
- s. 244G(5) inserted by 2024 c. 3 Sch. 9 para. 51(4)
- s. 244J(1A) inserted by 2024 c. 3 Sch. 9 para. 55(2)
- s. 244K(1A) substituted for s. 244K(1) by 2024 c. 3 Sch. 9 para. 57(3)
- s. 244K(3A) inserted by 2024 c. 3 Sch. 9 para. 57(6)
- s. 244K(7A)(7B) inserted by S.I. 2024/356 reg. 3(5)
- s. 244AA-244AC substituted for s. 244A by 2024 c. 3 Sch. 9 para. 45
- s. 244IA-244IC inserted by 2024 c. 3 Sch. 9 para. 54
- s. 244ID inserted by S.I. 2024/356 reg. 3(2)
- s. 244JA inserted by 2024 c. 3 Sch. 9 para. 56
- s. 256(1)(g)-(i) inserted by 2024 c. 3 Sch. 9 para. 100(3)(e)
- s. 278A278B inserted by 2024 c. 3 Sch. 9 para. 23
- Sch. 11 para. 4(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(a)(ii)
- Sch. 11 para. 8(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(b)(ii)
- Sch. 11 para. 12(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(c)(ii)
- Sch. 29 para. 3B inserted by 2024 c. 3 Sch. 9 para. 26(8)
- Sch. 29 para. 3C and cross-heading inserted by 2024 c. 3 Sch. 9 para. 26(9)
- Sch. 29 para. 12A inserted by 2024 c. 3 Sch. 9 para. 36
- Sch. 29 para. 4A(8) inserted by 2024 c. 3 Sch. 9 para. 63(4)
- Sch. 29 para. 3C(2) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(3) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(5)(b) and word omitted by S.I. 2024/356 reg. 3(10)(c)(ii)
- Sch. 29 para. 2A-2D substituted for Sch. 29 para. 3 by 2024 c. 3 Sch. 9 para. 26(5)
- Sch. 29 para. 13(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 37(2)
- Sch. 29 para. 3C(1)(b) words inserted by S.I. 2024/356 reg. 3(10)(a)
- Sch. 29 para. 3C(5)(a) words inserted by S.I. 2024/356 reg. 3(10)(c)(i)
- Sch. 29 para. 13(1)(d) words omitted by 2024 c. 3 Sch. 9 para. 37(3)
- Sch. 32 para. A1A2 and cross-headings inserted by 2024 c. 3 Sch. 9 para. 13(4)
- Sch. 33 para. 4(4) inserted by 2024 c. 3 Sch. 9 para. 59(2)(b)
- Sch. 33 para. 5(6) inserted by 2024 c. 3 Sch. 9 para. 59(3)(c)
- Sch. 33 para. 4(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 59(2)(a)
- Sch. 34 para. 5ZA inserted by 2024 c. 3 Sch. 9 para. 60(3)
- Sch. 34 para. 12A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 64(3)
- Sch. 36 para. 6A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 67
- Sch. 36 para. 11(5) inserted by 2024 c. 3 Sch. 9 para. 69(5)
- Sch. 36 para. 11A(5) inserted by 2024 c. 3 Sch. 9 para. 70(4)
- Sch. 36 para. 15(2A) inserted by 2024 c. 3 Sch. 9 para. 73(3)
- Sch. 36 para. 19(1A)(1B) inserted by 2024 c. 3 Sch. 9 para. 76(3)
- Sch. 36 para. 19(7) inserted by 2024 c. 3 Sch. 9 para. 76(7)
- Sch. 36 para. 20(1)(b) and word inserted by 2024 c. 3 Sch. 9 para. 77(2)(b)
- Sch. 36 para. 20(1A) inserted by 2024 c. 3 Sch. 9 para. 77(3)
- Sch. 36 para. 20A-20G and cross-headings inserted by 2024 c. 3 Sch. 9 para. 78
- Sch. 36 para. 29A inserted by 2024 c. 3 Sch. 9 para. 85
- Sch. 36 para. 29A omitted by S.I. 2024/356 reg. 3(14)

- Sch. 36 para. 12(3A)-(3H) substituted for Sch. 36 para. 12(3) by [2024 c. 3 Sch. 9 para. 71\(2\)](#)
- Sch. 36 para. 19(2)(2A) substituted for Sch. 36 para. 19(2) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- Sch. 36 para. 20(1)(a) words in Sch. 36 para. 20(1) renumbered as Sch. 36 para. 20(1)(a) by [2024 c. 3 Sch. 9 para. 77\(2\)\(a\)](#)