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SCHEDULES

PROSPECTIVE

SCHEDULE 18

Section 53

VAT GROUPS: ELIGIBILITY

PART 1

ELIGIBILITY OF INDIVIDUALS AND PARTNERSHIPS

- 1 (1) Section 43A of VATA 1994 (groups: eligibility) is amended as follows.
- (2) In subsection (1), in the opening words—
- (a) for “bodies corporate” substitute “ UK bodies corporate ”;
 - (b) omit “each is established or has a fixed establishment in the United Kingdom and”.
- (3) Omit subsections (2) and (3).
- (4) At the end insert—
- “(4) An individual carrying on a business and one or more UK bodies corporate are eligible to be treated as members of a group if the individual—
- (a) controls the UK body corporate or all of the UK bodies corporate, and
 - (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.
- (5) Two or more relevant persons carrying on a business in partnership (“the partnership”) and one or more UK bodies corporate are eligible to be treated as members of a group if the partnership—
- (a) controls the UK body corporate or all of the UK bodies corporate, and
 - (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.
- (6) In this section—
- (a) “UK body corporate” means a body corporate which is established or has a fixed establishment in the United Kingdom;
 - (b) “relevant person” means an individual, a body corporate or a Scottish partnership.
- (7) Section 43AZA contains provision for determining for the purposes of this section whether a body corporate, individual or partnership controls a UK body corporate.”

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2 In that Act, after section 43A insert—

“43AZA Section 43A: control test

- (1) This section applies for the purposes of section 43A (and expressions used in this section have the same meaning as in that section).
- (2) A body corporate (“X”) controls a UK body corporate if—
 - (a) X is empowered by statute to control the UK body corporate's activities, or
 - (b) X is the UK body corporate's holding company.
- (3) An individual (“Y”) controls a UK body corporate if Y would, were Y a company, be the UK body corporate's holding company.
- (4) Two or more relevant persons carrying on a business in partnership (“the partnership”) control a UK body corporate if the partnership would, were it a company, be the UK body corporate's holding company.
- (5) In this section “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006.”

PART 2

CONSEQUENTIAL AMENDMENTS

VATA 1994

3 VATA 1994 is amended as follows.

4 In section 18A (fiscal warehousing), in subsection (9), for “body corporate which” substitute “ person who ”.

5 (1) Section 43 (groups of companies) is amended in accordance with this paragraph.

(2) In subsection (1), for “bodies corporate” substitute “ persons ”.

(3) In subsection (1AA)—

- (a) in paragraph (c)(ii), for “body which” substitute “ person who ”;
- (b) in the closing words, for “body” substitute “ person ”.

6 In section 43AA (power to alter eligibility for grouping), in subsection (1), for “section 43A” substitute “ sections 43A and 43AZA ”.

7 (1) Section 43B (groups: applications) is amended in accordance with this paragraph.

(2) In subsection (1), for “bodies corporate, which” substitute “ persons, who ”.

(3) In subsection (2)—

- (a) in the opening words, for “bodies corporate” substitute “ persons ”;
- (b) in paragraph (a), for “body corporate, which” substitute “ person, who ”;
- (c) in paragraph (b), for “body corporate” substitute “ person ”;
- (d) in paragraph (d), for “bodies corporate” substitute “ persons ”;

(4) In subsection (3)—

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- (a) in the opening words, for “bodies corporate” substitute “ persons ”;
 - (b) in paragraph (b), for “bodies” substitute “ persons ”;
- (5) In subsection (5)—
- (a) in paragraph (a), for “bodies corporate” substitute “ persons ”;
 - (b) in paragraph (b), for “body corporate” substitute “ person ”.
- 8 (1) Section 43C (groups: termination of membership) is amended in accordance with this paragraph.
- (2) In subsection (1), for “body corporate” substitute “ person ”.
- (3) In subsection (3)(a) and (b) and in the closing words, for “body” substitute “ person ”.
- (4) In subsection (4)(a) and (b), for “body” substitute “ person ”.
- 9 (1) Section 43D (groups: duplication) is amended in accordance with this paragraph.
- (2) In subsection (1), for “body corporate” substitute “ person ”.
- (3) In subsection (2), for “body which” substitute “ person who ”.
- (4) In subsection (3)—
- (a) in paragraph (b), for “bodies” substitute “ persons ”;
 - (b) in the closing words, for “body or bodies” substitute “ person or persons ”.
- (5) In subsection (4)(b), for “body” substitute “ person ”.
- (6) In subsection (5), for “body” substitute “ person ”.
- 10 In section 44 (supplies to groups), in subsection (1)(a) and (b), for “body corporate” substitute “ person ”.
- 11 In section 53 (tour operators), in subsection (2)(d), for “body corporate” substitute “ person ”.
- 12 In section 97 (orders, rules and regulations), in subsection (4)(ca), for “bodies” substitute “ persons ”.
- 13 (1) Schedule 9 (exemptions) is amended in accordance with this paragraph.
- (2) In Group 14, in Note (13)—
- (a) in the opening words, for “body corporate” substitute “ person ”;
 - (b) in paragraph (a) for “body” substitute “ person ”;
 - (c) in paragraph (b)—
 - (i) for “body corporate, or of any other body corporate which”, substitute “ person, or of any other person who ”;
 - (ii) for “body, at a time when that body” substitute “ person, at a time when that person ”.
 - (d) in paragraph (c), for “body corporate” substitute “ person ”.
- (3) In that Group, in Note (14), for “body corporate's” substitute “ person's ”.
- 14 (1) Schedule 9A (anti-avoidance provisions: groups) is amended in accordance with this paragraph.
- (2) In paragraph 1(2), for “body corporate” substitute “ person ”.
- (3) In paragraph 2—

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- (a) in sub-paragraph (1)(a), for “body corporate” substitute “ person ”;
 - (b) in sub-paragraph (2), for “body corporate’s” substitute “person’s”.
- (4) In paragraph 3—
- (a) in sub-paragraph (1)(a) and (b), for “body corporate” substitute “ person ”;
 - (b) in sub-paragraph (3), for “body corporate” (in both places) substitute “ person ”;
 - (c) in sub-paragraph (5), for “body corporate which” substitute “ person who ”.
- (5) In paragraph 5—
- (a) in sub-paragraph (1)(b)—
 - (i) for “body corporate which” substitute “ person who ”;
 - (ii) for “that person” substitute “ the person mentioned in paragraph (a) ”;
 - (b) in sub-paragraph (2)—
 - (i) for “body corporate (“the relevant body”)” substitute “ person (“the relevant person”) ”;
 - (ii) for “that body or to any body corporate which” substitute “ that person or to any person who ”;
 - (iii) for “the relevant body” substitute “ the relevant person ”.
- (6) In paragraph 6—
- (a) in sub-paragraph (7)(b), for “body corporate that” substitute “ person who ”;
 - (b) in sub-paragraph (11)(b)—
 - (i) for “body corporate which” substitute “ person who ”;
 - (ii) for “that person” substitute “ the person mentioned in paragraph (a) ”;
 - (c) in sub-paragraph (11)(c), for “body corporate which” substitute “ person who ”.
- 15 (1) Schedule 10 (buildings and land) is amended in accordance with this paragraph.
- (2) In paragraph 3—
- (a) in sub-paragraph (1), for “body corporate” substitute “ person ”;
 - (b) in sub-paragraph (2)—
 - (i) in the opening words (in both places) and paragraph (c), for “body corporate” substitute “ person ”;
 - (ii) in paragraph (c), for “that body” substitute “ that person ”;
 - (c) in sub-paragraph (3), for “body corporate” substitute “ person (“P”) ”;
 - (d) in sub-paragraph (4)—
 - (i) in the opening words, for “The body corporate” substitute “ P ”;
 - (ii) in paragraphs (a), (aa), (b) and (c), for “the body corporate” substitute “ P ”;
 - (e) in sub-paragraph (5)—
 - (i) in the opening words, for “The body corporate” substitute “ P ” and for “the body corporate” substitute “ P ”;
 - (ii) in the closing words, for “the body corporate” substitute “ P ”.
- (3) In paragraph 4—

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- (a) in sub-paragraph (1), for “body corporate which” substitute “ person (“P”) who ”;
 - (b) in sub-paragraph (2), for “the body corporate, it” substitute “ P, P ”;
 - (c) in sub-paragraph (3)(b), for “the body corporate” substitute “ P ”;
 - (d) in sub-paragraph (3)(c)—
 - (i) for “the body corporate” substitute “ P ”;
 - (ii) for “it” substitute “ P ”;
 - (e) in sub-paragraph (4)(b)—
 - (i) for “the body corporate” substitute “ P ”;
 - (ii) for “it” substitute “ P ”;
 - (f) in sub-paragraph (5), in the opening words—
 - (i) for “the body corporate” substitute “ P ”;
 - (ii) for “it” substitute “ P ”;
 - (g) in sub-paragraph (6)(a)—
 - (i) for “the body corporate” substitute “ P ”;
 - (ii) for “its” substitute “P's”;
 - (h) in sub-paragraph (6)(b), for “the body corporate” substitute “ P ”;
 - (i) in sub-paragraph (7), for “the body corporate” substitute “ P ”.
- (4) In paragraph 21—
- (a) in sub-paragraph (1)(b)—
 - (i) for “body corporate” substitute “ person ”;
 - (ii) for “the body” substitute “ the person ”;
 - (b) in sub-paragraph (3)(a), for “body corporate which” substitute “ person who ”;
 - (c) in sub-paragraph (9)(b), for “body corporate which” substitute “ person who ”;
 - (d) in sub-paragraph (11)(b), for “body corporate which” substitute “ person who ”;
 - (e) in sub-paragraph (12), in the definition of “relevant group member”—
 - (i) after “any person” insert “ (“P”) ”;
 - (ii) for “body corporate which” substitute “ person who ”;
 - (iii) for “that person” substitute “ P ”.
- (5) In paragraph 35(3), for “body corporate” substitute “ person ”.

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