SCHEDULES

SCHEDULE 12

PILLAR TWO

PART 2

MULTINATIONAL TOP-UP TAX

Partnerships

2 (1) In section 122 (chargeable persons)—

(a) in subsection (1)(a)(ii), omit "that is not a body corporate",

(b) in subsection (2)(c)(ii), omit "that is not a body corporate", and

(c) omit subsections (4) to (6).

(2) After section 232, insert—

"**232A Partnerships**

(1) A partnership is to be regarded for the purposes of this Part as continuing to be the same partnership regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.

(2) Where—

(a) ownership interests in a partnership are transferred to more than one individual or entity, and

(b) the result is a partnership of which none of the original partners are members,

that new partnership is to be treated as if it were the same partnership as the old partnership.

(3) Where a partnership is otherwise dissolved in an accounting period—

(a) the partnership is to be treated as a continuing entity for the purpose of dealing with its rights and obligations under this Part in respect of that accounting period and previous accounting periods, and

(b) for the purposes of Schedule 14 (administration) each person who was a partner in that accounting period (before the partnership's dissolution) is to be treated as a partner of the continuing entity.

(4) The reference in subsection (2) to a transfer of ownership interests includes any series of transactions having the effect of a transfer (including by way of the cancellation of interests and the issue of corresponding interests)."

(3) In section 259 (other definitions), in subsection (1) at the appropriate place insert—

""partnership" does not include anything that is a body corporate;"

(4) After section 268 insert—

"**268A Partnerships**

Section 232A (partnerships) applies for the purposes of this Part as it applies for the purposes of Part 3."

(5) In section 269 (chargeable persons for domestic top-up tax)—

(a) in subsection (1)—

(i) in paragraph (a), omit "that is not a body corporate", and

(ii) in paragraph (b), omit "that is not a body corporate" in the second place it occurs, and

(b) omit subsections (4) to (6).

(6) In Schedule 14 (administration of multinational top-up tax)—

(a) in paragraph 3—

(i) in paragraph (a) of sub-paragraph (2), omit "or a limited liability partnership",

(ii) in that sub-paragraph, omit paragraph (c), and

(iii) for sub-paragraph (3) substitute—

"(3) In this Schedule—

(a) "limited partnership" includes an entity established under the law of a territory outside the United Kingdom that is equivalent to a limited partnership, and

(b) "general partner" includes a partner of such an entity that corresponds to a general partner.

(4) See also section 232A, which contains provision about the continuity of partnerships which is relevant to this paragraph.

(5) Where an obligation of a partnership may be met by one of its partners and the partnership does not comply with that obligation—

(a) an officer of Revenue and Customs may by notice require any such partner to meet the obligation, and

(b) that partner is to be treated for that purpose as the filing member (and accordingly may be subject to any penalty for a failure to comply).",

(b) after paragraph 37 insert—

"Partnership payment notices

37A (1) An officer of Revenue and Customs may issue a partnership payment notice if an amount of multinational top-up tax payable by a member of a multinational group that is a partnership (including any interest on that amount) is not paid by the end of

the period of three months beginning with the relevant date (see paragraph 34(7) to (9)).

(2) A partnership payment notice may be issued to any person (wherever in the world they are located) who—

(a) is a partner, or

(b) was a partner at any time in the accounting period to which the amount payable relates.

(3) A partnership payment notice is a notice requiring the recipient to pay an outstanding amount of multinational top-up tax payable by a member of the group that is a partnership by a date specified in the notice.

(4) Sub-paragraphs (4) to (9) of paragraph 34 and paragraph 36 apply to a partnership payment notice as they apply to a group payment notice.

(5) In this paragraph and in paragraph 37B, reference to a partner, in the case of a limited partnership, is to a general partner.

Recovery of partnership payment and effect for tax purposes etc

37B (1) This paragraph applies where a partner of a member of a multinational group that is a partnership (the "payer") makes a payment in respect of the liability to pay multinational top-up tax of the partnership (whether or not in consequence of a partnership payment notice).

(2) The payer may recover the amount from the other partners.

(3) In calculating the payer's income, profits or losses for tax purposes—

(a) the payment is not allowed as a deduction, and

(b) the reimbursement of any such payment is not to be regarded as a receipt.

(4) The payment or its reimbursement—

(a) is not (otherwise) to be taken into account in calculating the profits or losses of for corporation tax or income tax purposes of either the payer or the other partners, and

(b) is not to be regarded as a distribution for income tax or corporation tax purposes.

(5) The amount paid by the payer is to be taken into account in calculating—

(a) the amount of multinational top-up tax unpaid by the partnership, and

(b) the amount due by virtue of a partnership payment notice relating to the amount unpaid.

(6) Similarly, any payment by the partnership or by any of the other partners of any of the amount unpaid is to be taken into account in calculating the amount due by virtue of a partnership payment

notice (or by virtue of any other partnership payment notice relating to the amount unpaid).

(7) In this paragraph, "for tax purposes" means for the purposes of income tax, corporation tax, multinational top-up tax or domestic top-up tax.", and

(c) in paragraph 39—

(i) omit the "or" after paragraph (a) in sub-paragraph (1),

(ii) after that paragraph insert—

"(aa) a partner of a partnership makes a payment on behalf of the partnership or another partner, or", and

(iii) in sub-paragraph (2), after paragraph (a) insert—

"(aa) deeming a payment made by a partner of a partnership to have been made by the partnership or another partner;".

(7) In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert—

"general partner (in Schedule 14)	paragraph 3(3) of Schedule 14";
"limited partnership (in Schedule 14)	paragraph 3(3) of Schedule 14";
"partnership	section 259(1);".

Qualifying non-profit subsidiaries

3 In section 127 (excluded entities), in subsection (5)—

(a) for paragraph (b) substitute—

"(b) the revenue (see section 129(5)) of the multinational group of which the entity is a member, excluding the revenues of each member that is a non-profit organisation, a qualifying service entity or a qualifying exempt income entity—

(i) would not exceed the threshold set out in section 129(4), and

(ii) is less than 25% of the total revenue of the group, and", and

(b) omit paragraph (c) (and the "and" after it).

Charging permanent establishments of intermediate/partially-owned parent members

4 (1) Section 128 (responsible members) is amended as follows.

(2) In subsection (3), for paragraph (c) substitute—

"(c) at least one member of the group in which it has an ownership interest, or a permanent establishment for which it is the main entity, has a top-up amount or an additional top-up amount."

(3) In subsection (4), after "for" insert "—

(a) every permanent establishment for which it is the main entity, and

(b)".

(4) In subsection (5), for paragraph (b) substitute—

"(b) at least one member of the group in which it has an ownership interest, or a permanent establishment for which it is the main entity, has a top-up amount or an additional top-up amount."

(5) In subsection (6), after "for" insert "—

(a) every permanent establishment for which it is the main entity, and

(b)".

(6) In section 232, after subsection (3) insert—

"(3A) But an entity with a permanent establishment is not to be taken as having ownership interests in that permanent establishment."

De-merged groups

5 (1) Section 131 (whether de-merged groups meet the revenue threshold) is amended as follows.

(2) In subsection (1), omit "if" in the second place it occurs (immediately following "A de-merged group meets condition A").

(3) For subsection (2) substitute—

"(2) In this section "qualifying de-merger" means the separation of members of a relevant multinational group into two or more consolidated groups in an accounting period of the relevant multinational group, such that those members cease to all be consolidated by the same ultimate parent.

(3) A multinational group is relevant in an accounting period if—

(a) it meets condition A in section 129(2) for that period (revenue threshold exceeded in at least 2 of previous 4 accounting periods), and

(b) Pillar Two rules apply to any member of the group for that period."

Adjustment for changes in accounting policies and prior period errors

6 In section 146 (adjustment for changes in accounting policies and prior period errors), in paragraph (b), for the words from "correction", in the second place it occurs, to the end substitute "error results in a recalculation under section 217(5) (post filing adjustments of covered taxes)".

Pension expense

7 For section 147 (accrued pension expense) substitute—

"**147 Accrued pension expense**

(1) This section applies in an accounting period where a member of a multinational group—

(a) has made contributions to a pension fund in the period,

(b) has received amounts from the pension fund in the period, or

(c) otherwise has amounts of income or expense relating to the pension fund reflected in its underlying profits.

(2) Take the amount of income or expense (expressed as a negative number where expense) that has arisen directly in respect of the fund as reflected in the member's underlying profits and—

(a) add the sum of contributions made to the fund by the member in the period, and

(b) subtract any amount received by the member from the fund in the period.

(3) If the result of subsection (2)—

(a) is more than nil, reduce the underlying profits by that result, or

(b) is less than nil, increase the underlying profits by that result (as expressed a positive number)."

Tax credits

8 (1) After section 147 insert—

"**147A Treatment of tax credits**

(1) The underlying profits of a member of a multinational group, and the covered tax balance of that member (see Chapter 5), are to be adjusted (if necessary) to secure that—

(a) qualifying refundable tax credits are accounted for as income rather than as tax expense,

(b) tax credits that are marketable transferable tax credits in relation to the member are accounted for as income rather than as tax expense, and

(c) other tax credits are accounted for as tax expense rather than as income.

(2) Section 148 sets out when tax credits are qualifying refundable tax credits.

(3) Section 148A sets out the meaning of "transferable tax credit" and "marketable transferable tax credit".

(4) Sections 148B and 148C set out rules about the value of marketable transferable tax credits.

(5) Sections 176A to 176C (in Chapter 5) set out rules about the value of tax credits that are not marketable transferable tax credits but which are transferable or were transferred (and which as a result of subsection (1)(c) are generally to be accounted for as tax expense).

(6) See also sections 176D to 176F which contain special rules for tax credits received in under a tax equity partnership arrangement."

(2) In section 148 (treatment of qualifying refundable tax credits)—

(a) in the heading, for "Treatment" substitute "Meaning",

(b) omit subsection (1), and

(c) in subsection (4)(b), omit "tax".

(3) After that section insert—

"**148A Transferable tax credits**

(1) A tax credit is a transferable tax credit in relation to a member of a multinational group if—

(a) the member is—

(i) the person to whom the credit was originally granted ("the originator"), or

(ii) a person ("a purchaser") who has acquired the credit (whether from the originator or anyone else), and

(b) the transferability condition is met in relation to the member.

(2) A transferable tax credit is a marketable transferable tax credit in relation to a member of a multinational group if—

(a) it is a transferable tax credit, and

(b) the marketable condition is met in relation to the member.

(3) Those conditions are met differently depending on whether the member is the originator or a purchaser.

(4) The transferability condition is met—

(a) in relation to the originator if, under the law of the territory in which the credit was granted, credits of that type may be transferred to a person or entity that is not connected with originator before the end of 15 months after the end of the accounting period in which the credit is granted, and

(b) in relation to a purchaser if, under the law of that territory, credits of that type may be transferred to a person or entity that is not connected with the purchaser—

(i) under the same or similar conditions as would apply to the originator, and

(ii) before the end of the accounting period in which it was transferred to the purchaser.

(5) The marketable condition is met—

(a) in relation to the originator, if—

(i) the credit is transferred to a person or entity that is not connected with the originator before the end of 15 months of the accounting period in which the credit was granted at a price equal to or in excess of 80% of its net present value, or

(ii) similar credits are traded between persons or entities that are not connected to each other before the end of 15 months of the accounting period in which they are granted, and are typically traded at a price equal to or in excess of 80% of their net present value, and

(b) in relation to a purchaser, if the purchaser acquired the credit from a person or entity that is not connected to the purchaser at a price equal to or in excess of 80% of its net present value.

(6) Subsections (7) and (8) apply for the purposes of determining the net present value of a tax credit.

(7) In making that determination, assume that the entity that holds it will be able to use it in the accounting periods in which it may be used.

(8) The discount rate to be used in making that determination is to be determined by reference to the return on debt instruments that are issued by the government of the territory in which the credit was granted—

(a) that have—

(i) the same, or a similar, maturity to the period over which the credit is to be used, or

(ii) in a case in which the credit is to be used over a period exceeding 5 years, a maturity of 5 years, and

(b) that are issued—

(i) in relation to a credit that has been transferred, in the accounting period in which the credit was transferred, or

(ii) in relation to a credit held that has not been transferred, in the accounting period in which it was granted.

(9) References in subsections (6) and (8) to an accounting period are—

(a) in relation to determining net present value in connection with determining whether the marketable condition is met by the originator, an accounting period of the originator, and

(b) in relation to determining net present value in connection with determining whether the marketable condition is met by a purchaser, an accounting period of the purchaser.

(10) Where a transferable tax credit is also a qualifying refundable tax credit, it is to be treated as not being a transferable tax credit for the purposes of this Part.

148B Value of marketable transferable tax credits: originator

(1) The underlying profits of a member of a multinational group that is the originator in relation to a marketable transferable tax credit are to be adjusted to secure that the value of marketable transferable tax credits it holds, and has held, as originator are reflected as follows.

(2) Where the credit is not transferred before the end of 15 months after the end of the accounting period in which it was granted, the full value of the credit is to be recognised as income.

(3) Where the credit is subsequently transferred for consideration which is less than the value of the credit, the difference between the value of the credit and the consideration received for its transfer is to be recognised as a loss in the accounting period in which it is transferred.

(4) Where the credit is transferred before the end of 15 months after the end of the accounting period in which the credit is granted, the consideration for the transfer (rather than the value of the credit) is to be recognised as income.

(5) Where the credit has not been transferred, and was not fully used, before its expiry, the value of so much of the credit as has not been used is to be reflected as a loss in the accounting period in which the credit expired.

148C Value of marketable transferable tax credits: purchaser

(1) The underlying profits of a member of a multinational group that is the purchaser in relation to a marketable transferable tax credit are to be adjusted to secure that the value of marketable transferable tax credits it holds, and has held, as purchaser are reflected as follows.

(2) On using an amount of the credit in an accounting period, the amount given by subsection (3) is to be recognised as income.

(3) That amount is the amount given by multiplying—

(a) the amount used divided by the full value of the credit, by

(b) the amount given by subtracting the purchase price of the credit from the full value of the credit.

(4) On transferring the credit, the amount in subsection (5) is to be reflected in the underlying profits for the accounting period in which the transfer occurred—

(a) if positive, as a gain, or

(b) if negative, as a loss.

(5) That amount is the amount given by subtracting—

(a) the sum of—

(i) the purchase price of the credit, and

(ii) any amounts recognised as income in accordance with subsection (2) (whether in that accounting period or a previous accounting period), from

(b) the sum of—

(i) the amount of the credit that has been used, and

(ii) the consideration for the transfer.

(6) Where the credit has not been transferred, and was not fully used, before its expiry, the amount in subsection (7) is to be reflected as a loss in the accounting period in which the credit expired.

(7) That amount is the amount given by subtracting—

(a) the amount of the credit that was used, from

(b) the sum of the purchase price of the credit and any amounts recognised in accordance with subsection (2).”

(4) In section 175 (amounts excluded from covered tax balance), in subsection (2), in paragraph (c), after “credit”, in the second place it occurs, insert “, or in respect of a marketable transferable tax credit,”.

(5) In section 176 (amounts to be reflected in covered tax balance), in subsection (2)—

(a) in paragraph (d), in sub-paragraph (i), after “credit” insert “or a marketable transferable tax credit”, and

(b) in paragraph (e), after "credit" insert "or a marketable transferable tax credit".

(6) After section 176 insert—

"Transferable tax credits

176A Meaning of "non-marketable transferable tax credits"

(1) Sections 176B and 176C make provision about "non-marketable transferable tax credits".

(2) A tax credit held by a member of a multinational group that is the originator of the credit is a non-marketable transferable tax credit if—

(a) it may be transferred to another person or entity, and

(b) it is neither a marketable transferable tax credit nor a qualifying refundable tax credit.

(3) A tax credit held by a member of a multinational group as a purchaser of the credit is a non-marketable transferable tax credit if it is neither a marketable transferable tax credit nor a qualifying refundable tax credit.

(4) In this section and in sections 176B and 176C "originator" and "purchaser" are to be construed in accordance with section 148A(1)(a).

176B Value of non-marketable transferable tax credits: originator

(1) The covered tax balance of a member of a multinational group that holds a non-marketable transferable tax credit as originator is to be adjusted to secure that the value of the credit is reflected as follows.

(2) The value of the tax credit is to be reflected as it is used.

(3) If the credit is transferred (after the end of the period of 15 months after the accounting period in which the credit is granted), the consideration for the transfer is to be reflected as a credit in the accounting period in which the transfer occurred.

176C Value of non-marketable transferable tax credits: purchaser

(1) The covered tax balance of a member of a multinational group that holds a non-marketable transferable tax credit as purchaser is to be adjusted to secure that the value the credit is reflected as follows.

(2) On using an amount of the credit, the amount given by subsection (3) is to be reflected as a credit in the covered tax balance for the accounting period in which it is used.

(3) That amount is the amount given by multiplying—

(a) the amount used divided by the full value of the credit, by

(b) the amount given by subtracting the purchase price of the credit from the full value of the credit.

(4) On transferring the credit, the amount in subsection (5) is—

(a) if positive, to be reflected as a credit in the covered tax balance for the accounting period in which the transfer occurred, or

(b) if negative, to be reflected as a loss in the underlying profits of the member for that period.

(5) That amount is the amount given by subtracting—

(a) the sum of—

(i) the purchase price of the credit, and

(ii) any amounts recognised reflected in the covered tax balance in accordance with subsection (2) (whether in that accounting period or a previous accounting period), from

(b) the sum of—

(i) the amount of the credit that has been used, and

(ii) the consideration for the transfer.

(6) Where the credit has not been transferred, and was not fully used, before its expiry, the amount in subsection (7) is to be reflected as a loss in the underlying profits of the member for the accounting period in which the credit expired.

(7) That amount is the amount given by subtracting—

(a) the amount of the credit that was used, from

(b) the sum of the purchase price of the credit and any amounts recognised in accordance with subsection (2).”

Adjustments for companies in distress

9 (1) Section 151 (adjustments for companies in distress) is amended as follows.

(2) In subsection (1)—

(a) in the words before paragraph (a), after “group” insert “for an accounting period”,

(b) omit the “and” after paragraph (a),

(c) after that paragraph insert—

“(aa) that release is reflected in the underlying profits of the member for that period,”, and

(d) after paragraph (b) insert “, and

(c) the filing member of the group elects that this section should apply to the member for that period.”

(3) In subsection (6)(c) for “deferred tax assets” substitute “local tax attributes”.

(4) After subsection (6) insert—

“(6A) For the purposes of subsection (6)(c) “local tax attributes” means any tax attributes (which may include foreign tax credits) of the member that are recognised under the law of the territory in which the member is located (whether or not such tax attributes are excluded from the member’s covered tax balance).”

(5) For subsection (7) substitute—

"(7) Where more than one debt is released at the same time, the debts released are to be treated as a single aggregate amount for the purpose of assessing whether conditions in this section are met (for example, whether the member's assets exceed its liabilities at any time)."

(6) After that subsection insert—

"(8) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (1)(c)."

Adjustments where life assurance business carried on

10 (1) Section 152 is amended as follows.

(2) In subsection (2), for "formed part of the member's tax expense amount" substitute "been included in the member's covered tax balance".

(3) For subsection (4) substitute—

"(4) In this section "life assurance business" means—

(a) a life assurance business within the meaning of section 56 of FA 2012, or

(b) a business regulated as a life assurance business under the law of a territory outside the United Kingdom."

Exclusion of certain insurance reserve movement expense

11 In section 153 (exclusion of certain insurance reserve movement expense), in subsection (1) after "excluded dividends" insert "falling within section 141(2)(b)".

Permanent establishment income and expense attribution

12 (1) Section 159 (permanent establishment income and expense attribution) is amended as follows.

(2) In subsection (1), for the words from "only" to the end substitute "—

"(a) reflect all amounts of income and expense that are attributable to it in accordance with the tax treaty under which it is treated as a permanent establishment, and

(b) do not reflect amounts attributable to its main entity in accordance with that treaty."

(3) In subsection (2), for the words from "only" to the end substitute "—

(a) reflect all amounts of income and expense that are attributable to it in accordance with the law of the territory in which the member is located, and

(b) do not reflect amounts attributable to its main entity in accordance with the law of that territory."

(4) In subsection (3), for the words from "only" to the end substitute "—

(a) reflect all amounts of income and expense that would be attributed to it in accordance with Article 7 of the OECD tax model, and

(b) do not reflect amounts that would be attributed to its main entity in accordance with the OECD tax model."

(5) After that subsection insert—

"(4) Amounts are to be reflected (or, as the case may be, not reflected) in the underlying profits of a permanent establishment in accordance with subsections (1) to (3) whether or not—

(a) in the case of an amount of income, it is subject to tax or not, or

(b) in the case of an amount of expense, it is deductible or not."

Election to spread certain capital gains

13 (1) Section 163 (election to spread capital gains over five years) is amended as follows.

(2) In subsection (1), for "collectively" substitute "and those preceding periods are referred to collectively as".

(3) In subsection (2)—

(a) for Step 1 substitute—

"Step 1

For each standard member of the group in the territory in the first accounting period of the look-back period ("the carry-back period"), determine whether it has net losses in respect of the disposal of local tangible assets (ignoring any losses in relation to which these steps have previously been carried out).", and

(b) for Steps 9 to 11 substitute—

"Step 9

Determine which of the standard members of the group ("current gain members") located in the territory have net gains from the disposal of local tangible assets in the election period.

A current gain member is not to be regarded as a current gain member in any accounting period in which—

(a) it is not a standard member of the group, or

(b) it is not located in the territory.

Step 10

For the election period and each accounting period that is in the look-back period, adjust the underlying profits for that period ("the adjustment period") of each current gain member by adding the amount given by multiplying—

(a) the result of Step 8, by

(b) the amount given by dividing—

(i) the net gains of the current gain member from the disposal of local tangible assets in the election period, by

(ii) the sum of net gains from the disposal of local tangible assets in the election period of all current gain members in the adjustment period.

Step 11

Where there are no current gain members in an accounting period in the look-back period, adjust the underlying profits for that period of each standard member located in the territory for that period by adding the amount given by multiplying—

(a) the result of Step 8, by

(b) the amount given by dividing 1 by the number of standard members of the group in the territory in that accounting period.

Step 12

Where there are no standard members of the group in the territory in one or more accounting periods in the look-back period, further adjust the underlying profits for the election period of each current gain member by adding the amount given by multiplying—

(a) the result of Step 8 multiplied by the number of accounting periods in the look-back period in which no standard members of the group were located in the territory, by

(b) the amount given by dividing—

(i) the net gains of the current gain member from the disposal of local tangible assets in the election period, by

(ii) the sum of net gains from the disposal of local tangible assets in the election period of all current gain members."

(4) In subsection (3), omit "standard".

Transparent entities etc

14 (1) Section 168 (underlying profits of transparent and reverse hybrid entities) is amended in accordance with sub-paragraphs (2) to (8).

(2) In subsection (2), in paragraph (b), after territory insert "as a result of being tax resident in that territory".

(3) In subsection (3), after "entity" insert "or individual".

(4) In subsection (6), in paragraph (a), after "is" insert "an entity that is"

(5) For subsection (9) substitute—

"(9) Where underlying profits of M—

(a) are allocated to an individual or an entity that is not a member of the group of which M is a member, or

(b) would be allocated to such an individual or entity if M were regarded as tax transparent in the territory in which the individual or entity is located,

those profits are to be excluded from the adjusted profits of M."

(6) In subsection (10), after "entity" insert "or an individual".

(7) In subsection (11), in the words before paragraph (a), for "is located" substitute "was created, R is not tax resident in any territory".

(8) After that subsection insert—

"(12) For the purposes of applying this section in relation to a multinational group whose ultimate parent is a flow-through entity, the ultimate parent is to be treated as if it were not regarded as tax transparent in the territory in which it is located."

(9) In section 170 (adjustments for ultimate parent that is a flow-through entity)—

(a) in subsection (2), for "an ownership interest (direct or indirect)" substitute "a direct ownership interest", and

(b) after that subsection insert—

"(2A) Where profits are allocated to the ultimate parent as a result of section 168 (underlying profits of transparent and reverse hybrid entities), those profits are to be regarded, for the purposes of this section, as profits to which holders of ownership interests in the ultimate parent are entitled (to each in proportion to the proportion of those profits to which they would have been entitled had those profits actually accrued to the ultimate parent)."

(10) In section 238 (tax transparency of entities)—

(a) for "if" substitute "to the extent that", and

(b) for "and", in both places it occurs, substitute "or".

Covered taxes

15 In section 173 (covered taxes), in subsection (1)(c) for "of the member" substitute "in which the tax is imposed".

Tax equity partnerships

16 (1) After section 176C (as inserted by paragraph 8), insert—

"Tax equity partnerships

176D Tax credits etc allocated under tax equity partnerships

(1) Where—

(a) a member of a multinational group is an investor in a tax equity partnership arrangement, and

(b) an election under section 165 (excluded equity gains and losses included) applies in relation to the member for an accounting period,

qualifying flow-through tax benefits provided to the member under that arrangement in that period are to be excluded from the covered tax balance of that member for that period.

(2) "Flow-through tax benefits" means tax credits, other than qualifying refundable tax credits, and the value of amounts of tax deductible losses made available to be used by an investor in a tax equity partnership arrangement under that arrangement (whether or not those credits or losses are used by the investor).

(3) Section 176E (proportional amortisation method) applies for the purposes of determining the extent to which flow-through tax benefits are "qualifying" where—

(a) in determining the underlying profits of the investor, the proportional amortisation method is used to account for the arrangement, or

(b) the filing member of the multinational group of which the investor is a member has elected that section 176D should apply for those purposes in relation to the member.

(4) Otherwise, section 176F (subtraction method) applies for those purposes.

(5) For the purposes of this Part, a member of a multinational group is an investor in a tax equity partnership arrangement if—

(a) the member has made an investment in an entity that is tax transparent in the territory in which the member is located,

(b) the investment is treated as an equity interest for tax purposes in the territory in which the member is located,

(c) the investment would, under an authorised accounting standard of the territory in which the entity operates, be treated as an equity interest,

(d) the entity is not a member of the multinational group, and

(e) it is reasonable to expect, at the time of making the investment, that the return on the investment would be negative in the absence of the provision of flow-through tax benefits.

(6) But a member of a multinational group is not to be regarded as an investor in a tax equity partnership arrangement if—

(a) the investment in the entity does not represent a genuine economic interest in that entity such that the member is exposed to the possibility of a loss on the investment, or

(b) the territory in which the member is located limits the use of tax equity partnership arrangements to arrangements that involve a multinational group subject to multinational top-up tax or its equivalent under the law of a territory outside the United Kingdom.

(7) Flow-through tax benefits provided to a member of a multinational group in an accounting period that are not qualifying are to be reflected as a credit in the covered tax balance for that period.

(8) Flow-through tax benefits (whether qualifying or not) provided to a member of a multinational group are not to be reflected in the underlying profits of that member, even if that would be the effect of the election under section 165.

(9) For the purposes of subsection (3)(a), the "proportional amortisation method" means a method of accounting under which—

(a) the initial capital investment in the arrangement is amortised over the term of the investment with the amortisation expense for an accounting period based on the proportion of the flow-through tax benefits expected to be provided over the term of the arrangement that are expected to be provided in that period, and

(b) the difference between the flow-through tax benefits received in an accounting period and that amortisation expense for that period is reflected as tax expense.

(10) For the purposes of this section and sections 176E and 176F, the value of an amount of tax deductible losses made available to be used by an investor is given by multiplying the amount multiplied by the tax rate that applies to the investor.

(11) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (3)(b).

176E Flow-through tax benefits: proportional amortisation method

(1) Where this section applies, to determine the extent to which flow-through tax benefits provided to an investor in an accounting period under a tax equity partnership arrangement are qualifying, take the following steps—

Step 1

Determine the amount of capital investment provided by the investor to the arrangement at its commencement.

Step 2

Divide the flow-through through tax benefits provided under the arrangement in the accounting period by the total flow-through tax benefits expected to be provided over the whole term of the arrangement.

Step 3

Multiply the result of Step 1 by the result of Step 2.

Step 4

Add the following together—

(a) the amounts, if any, of tax credits made available to be used by the investor under the arrangement in the accounting period;

(b) the value of the amounts, if any, of tax deductible losses made available to be used by the investor under the arrangement in the accounting period;

(c) the amounts, if any, of distributions made to the investor in the accounting period;

(d) the amounts, if any, received by the investor for the sale of any part of its investment in the arrangement in the accounting period.

Step 5

If the result of Step 3 is equal to or greater than the result of Step 4, all of the flow-through tax benefits provided under the arrangement in the accounting period are qualifying.

Otherwise proceed to Step 6.

Step 6

Subtract the result of Step 3 from the result of Step 4.

Step 7

The amount of the flow-through benefits provided under the arrangement in the accounting period that is qualifying is the amount given by reducing the amount of those benefits (but not below nil) by the result of Step 6.

(2) Accordingly, the amount by which those benefits are reduced in accordance with Step 7 represents non-qualifying flow-through tax benefits which are to be reflected as a credit in the investor's covered tax balance.

176F Flow-through tax benefits: subtraction method

Where this section applies, to determine the extent to which flow-through tax benefits provided to an investor in an accounting period under a tax equity partnership arrangement are qualifying, take the following steps—

Step 1

Determine the amount of capital investment provided by the investor to the arrangement at its commencement.

Step 2

Subtract the following from that amount—

(a) the amounts, if any, of tax credits made available to be used by the investor under the arrangement since the commencement of the arrangement, other than tax credits that are not qualifying refundable tax credits that were made available in the accounting period;

(b) the value of the amounts, if any, of tax deductible losses made available to be used by the investor under the arrangement since its commencement, other than losses made available in the accounting period;

(c) the amounts, if any, of distributions made to the investor since the arrangement's commencement;

(d) the amounts, if any, received by the investor for the sale of any part of its investment in the arrangement.

Step 3

If the result of Step 2 is nil or less, no flow-through tax benefits provided under arrangement in the accounting period are qualifying.

If the result of that step is more than nil, proceed to Step 4.

Step 4

Subtract the flow-through tax benefits provided to the investor in the accounting period under the arrangement from the result of Step 2.

Step 5

If the result of Step 4 is nil or greater, all of the flow-through tax benefits provided under the arrangement in the accounting period are qualifying.

Otherwise, the amount of those benefits that is qualifying is the amount of those benefits that when subtracted from the result of Step 2 would give a result of nil."

(2) In Schedule 15 (elections), in paragraph 2(1), before paragraph (a) insert—

"(za) section 176D(3)(b);".

Reallocation of tax expense

17 (1) In section 177 (permanent establishments), in subsection (1), after "establishment", in the second place it occurs, insert "(and is to be regarded as qualifying current tax expense of the permanent establishment for the purposes of applying section 175(2)(a))".

(2) Section 178 (reallocation of tax expense) is amended as follows.

(3) In subsection (1), in the words after paragraph (b) after "qualifying" insert "current".

(4) After subsection (1) insert—

"(1A) Where—

(a) a member of a multinational group has an amount of qualifying current tax expense,

(b) that amount is in respect of profits not included in the member's underlying profits, and

(c) if those profits had been included in the member's underlying profits, a corresponding amount of adjusted profits would have been allocated to another member of the group ("O") under section 167 or 168,

that qualifying current tax expense is to be allocated to O (and is to be regarded as qualifying current tax expense of O for the purposes of applying section 175(2)(a)).

(1B) Section 175(2)(a) (exclusion of amounts relating to income or gains not included in adjusted profits) applies to an amount of qualifying current tax expense allocated in accordance with subsection (1) as if—

(a) the reference to the member's adjusted profits were to the adjusted profits of the member from whom the amount of qualifying current tax expense was allocated, and

(b) profits allocated from that member to O under section 167 or 168 were not excluded from the adjusted profits of that member."

(5) In subsection (2), in the words before Step 1, after "O" insert "(under subsections (1) and (1A))".

(6) After subsection (4) insert—

"(5) Where an amount of qualifying current tax expense would have been allocated to O, but the amount allocated is limited as a result of subsection (2) the amount not allocated remains with the member from whom it otherwise would have been allocated.

(6) But if an amount would, ignoring this subsection, remain with the member from whom it would have otherwise been allocated, and that amount relates to income or gains that are not included in the adjusted profits of O, that amount is to be excluded from the covered tax balance of both the member and O."

(7) In section 179 (controlled foreign company tax regimes)—

(a) after subsection (1) insert—

"(1A) Qualifying current tax expense allocated to F is to be regarded as qualifying current tax expense of F for the purposes of applying section 175(2)(a)."

(b) after subsection (3) insert—

"(3A) Where an amount of qualifying current tax expense would have been allocated to F but the amount allocated is limited as a result of subsection (2), the amount not allocated remains with C.

(3B) But if an amount would, ignoring this subsection, remain with C and that amount relates to income or gains that are not included in the adjusted profits of F, that amount is to be excluded from the covered tax balance of both C and F."

Controlled foreign company tax regimes

18 (1) Section 179 (controlled foreign company tax regimes) is amended as follows.

(2) In subsection (1), in paragraph (b), for "controlled foreign company" substitute "CFC entity".

(3) In subsection (4), after the definition of "controlled foreign company tax regime" insert—

""CFC entity", in relation to a member of a multinational group who is subject to a controlled foreign company tax regime, means—

(a) a controlled foreign company in relation to that member,

(b) a permanent establishment of such a controlled foreign company, or

(c) an entity whose profits are treated, for the purposes of the regime, as the profits of such a controlled foreign company;".

(4) In section 180 (blended CFC regimes)—

(a) in subsection (2)(b), omit "blended",

(b) in subsection (4), omit "blended" in the third place it occurs,

(c) in subsection (5)—

(i) in the words before paragraph (a), omit "blended" in the second place it occurs, and

(ii) in paragraph (b), omit "blended",

(d) in subsection (6)(a), omit "blended",

(e) in subsection (8)—

(i) in the words before paragraph (a), omit "blended", and

(ii) in paragraph (b), in the words before sub-paragraph (i), omit "blended", and

(f) omit subsection (10).

(5) In Schedule 17 (index of defined expressions), in the table, at the appropriate place insert—

"CFC entity	section 179(4)".

Blended CFC regimes

19 (1) Section 180 (blended CFC regimes) is amended as follows.

(2) In subsection (5)(a), after "C" insert "in relation to the CFC entity".

(3) In subsection (7)—

(a) after "C" insert "in relation to a CFC entity in which C has an ownership interest", and

(b) for "F" substitute "the entity".

(4) In subsection (8)(b) for sub-paragraph (ii) substitute—

"(ii) the result of Step 2 in section 132(1) for those entities were the aggregate of their profits (and losses) before tax as shown in their financial accounts,

(iia) the combined covered tax balance for those entities were the aggregate of the taxes shown in their financial accounts,".

Qualifying foreign tax credits (substitute loss carry forward assets)

20 (1) Section 183 (substitute loss carry forward assets) is amended as follows.

(2) In subsection (3), in paragraph (b), for "in respect of which the foreign tax was calculated" substitute "in the territory in which the member is located".

(3) In subsection (4), after "qualifying" insert "foreign".

(4) In subsection (5), after "section" insert "and in section 183A"

(5) After section 183 insert—

"**183A Alternative to section 183 where carry forward of credits not permitted**

(1) A special foreign tax asset of a member of a multinational group is to be used to increase its covered tax balance in accordance with this section.

(2) Subsection (3) applies where—

(a) the territory in which a member of a multinational group is located requires that domestic losses are offset against relevant foreign income before foreign tax credits can be applied against tax on foreign income,

(b) the territory limits the extent to which foreign tax credits can be applied against tax in a taxable period,

(c) the territory allows foreign tax credits to be used to a greater extent where a domestic loss has been used to offset (in whole or in part) relevant foreign income in a prior period, and

(d) the member has used a domestic loss to offset (in whole or in part) relevant foreign income.

(3) Where this subsection applies, the member has a special foreign tax asset arising in the accounting period in which the loss was used.

(4) The amount of that special foreign tax asset is the amount of the domestic loss used to offset relevant foreign income multiplied by the lesser of—

(a) the nominal rate of tax in the member's territory for the taxable period in which it was used, and

(b) 15%.

(5) Where a member of a multinational group has a special foreign tax asset that arose in any previous accounting period, the member is to use that amount to increase its covered tax balance.

(6) The amount of the special foreign tax asset that is to be used in an accounting period is the lesser of—

(a) the amount of the asset, and

(b) so much of the amount of foreign tax credits credited against tax in the taxable period corresponding to that accounting period as is capable of being credited only as a result of the prior use of the domestic loss.

Any remainder continues to be a special foreign tax asset (and is available for use in subsequent account periods where subsection (5) applies)."

Substance based income exclusion: inter-jurisdictional employees and assets

21 (1) In section 196 (eligible payroll costs)—

(a) in subsection (1), in paragraph (c) for "those activities are substantially performed" substitute "at least some of the work is carried out", and

(b) after that subsection insert—

"(1A) But where—

(a) an employee carries out the work in the period both in the territory in which the member is located and outside that territory, and

(b) the proportion of the time spent carrying out the work in that territory in the period is 50% or less,

the payroll costs in respect of the employee are to be multiplied by that proportion to determine how much of those costs are eligible payroll costs."

(2) In section 197 (eligible tangible asset amounts) after subsection (6) insert—

"(6A) Where an asset falling within paragraph (a), (c) or (d) of subsection (6) is only located in the same territory as the member for part of the period—

(a) it is to be regarded for the purposes of this section as located in that territory for the whole period, but

(b) where the proportion of the period in which the asset (or in the case of a right, the asset to which the right relates) is located in the territory is 50% or less, the carrying values for the purposes of subsection (1)(a) and (b) are to be multiplied by that proportion."

Substance based income exclusion: inclusion of payroll costs and assets voluntary

22 (1) In section 196, in subsection (1)—

(a) omit the "and" after paragraph (c), and

(b) at the end of paragraph (d) insert ", and,

(e) the filing member chooses to include those costs in calculating the substance based income exclusion for the period."

(2) In section 197, in subsection (5)—

(a) in the words before paragraph (a), omit "it is",

(b) in paragraph (a), at the beginning insert "it is",

(c) omit the "and" after that paragraph,

(d) in paragraph (b), at the beginning insert "it is", and

(e) at the end of that paragraph insert "and,

(c) the filing member chooses to include the asset in calculating the substance based income exclusion for the period."

Substance based income exclusion: impairment losses

23 In section 197(4)—

(a) omit the "and" after paragraph (b), and

(b) after paragraph (c) insert—

"(d) any impairment loss, and

(e) so much of the reversal of a previous impairment loss as does not cause the carrying value to exceed the value it would have been had the impairment loss not been recognised,".

Substance based income exclusion: dual use assets

24 In section 197, after subsection (7) insert—

"(7A) Where part of an asset comprising property is held by a member of a multinational group for lease, but another part of that property is retained for use by the member—

(a) the parts are to be treated as separate assets for the purposes of this section and section 197A, and

(b) the carrying value of the asset is to be allocated between the separate parts on a just and reasonable basis."

Substance based income exclusion: leases

25 (1) In section 195 (calculation of substance based income exclusion), after subsection (7) insert—

"(7A) Section 197A sets out the treatment of operating leases."

(2) After section 197 insert—

"**197A Operating leases**

(1) Subsection (2) applies where—

(a) a member of a multinational group holds property located in the same territory as the member in an accounting period,

(b) that property is held for lease by the member, and

(c) the lease is accounted for in the underlying profits accounts of the member as an operating lease for that period.

(2) The operating lease is to be regarded as an eligible tangible asset of the member for that period (despite the exclusion in section 197(7)(a)).

(3) But where the property is not a short-term rental asset for that period, any carrying value of the operating lease recorded at the start or the end of the period is to be reduced by the right-of-use amount for the property at that time for the purposes of carrying out the calculation in section 197(1).

(4) In a case where the lessee is a member of the same multinational group as the lessor, the right-of-use amount in relation to the property at the start or the end of the period is the carrying value of the lessee's right-of-use asset in relation to the property recorded at that time.

(5) Where the lessee is not a member of the same multinational group as the lessor, the right-of-use amount in relation to the property at the start or end of the period is the undiscounted value of any outstanding payments under the lease at that time.

(6) In determining the value of those outstanding payments—

(a) apply the accounting standard used in determining the underlying profits of the member,

(b) include the value of any outstanding payments that would be due under any extension to the lease that would fall to be accounted for in accordance with that standard.

(7) For the purposes of this section, property held for lease is a short-term rental asset in an accounting period if—

(a) the property was leased regularly during that period to different lessees, and

(b) the average length of the periods for which it was leased does not exceed 30 days."

Substance based income exclusion: power to make further provision

26 After section 198 insert—

"**198A Power to make provision about treatment of payroll costs and assets**

(1) The Treasury may by regulations make provision about the treatment of payroll costs and tangible assets in specified circumstances.

(2) Regulations may, in particular, provide that in determining the substance based income exclusion for a territory—

(a) specified eligible tangible assets or eligible payroll costs are to be treated as having a different value;

(b) specified eligible tangible assets or eligible payroll costs are to be attributed to a different member of a multinational group or to a different territory;

(c) specified eligible tangible assets or eligible payroll costs are to be excluded from that determination;

(d) specified assets that are not eligible tangible assets are to be treated as eligible tangible assets;

(e) specified costs that are not eligible payroll costs are to be treated as eligible payroll costs.

(3) In this section "specified" means specified or described in regulations."

Transfer of assets or liabilities to a member of a multinational group

27 In section 211 (transfer of assets or liabilities to a member of a multinational group)—

(a) for subsection (1) substitute—

"(1) Subsection (1A) applies where there has been a transfer of assets or liabilities to a member of a multinational group and—

(a) the transfer forms part of a qualifying reorganisation (see section 212), or

(b) the transferor is a member of the group and—

(i) the transferee is located in the same territory as the transferor,

(ii) the transferee and transferor are included in the same tax consolidation group in that territory (within the meaning of section 164(5)), and

(iii) an election under section 164 (election to exclude intra-group transactions) has effect in relation to those members at the time of the transfer.

(1A) The value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer.

(1B) Subsection (1C) applies where there has been a transfer of assets or liabilities to a member of a multinational group and subsection (1A) does not apply.

(1C) The value of the assets or liabilities is, for the purpose of determining the adjusted profits of the member, the carrying value of the assets or liabilities immediately after the transfer as determined under the accounting standard used in determining the underlying profits of the member for the purposes of this Part and subject to the adjustments to those profits made in accordance with Chapter 4.", and

(b) in subsection (2)(a), for "subsection (1)(b) applies" substitute "subsection (1C) applies in relation".

Investment entity tax transparency election

28 In section 213 (investment entity tax transparency election), after subsection (6) insert—

"(6A) Where, ignoring the election, profits and amounts of qualifying tax expense would be allocated to M in accordance with sections 168 and 178 to 181, those profits and amounts are to be allocated—

(a) first to M, and then

(b) to O in proportion to the direct ownership interests O is treated as having in M."

Meaning of country-by-country report

29 (1) After section 251 insert—

"**251A Meaning of country-by-country report**

(1) In this Part "country-by-country report" means a country-by-country report in respect of a multinational group that is prepared and filed in accordance with legislation implementing the OECD's guidance on country-by-country reporting.

(2) But where the legislation of a territory permits the preparation and filing of a partial country-by country report, such a partial report is not to be regarded as country-by-country report for the purposes of this Part.

(3) Reference to a country-by-country report in respect of a multinational group that is a multi-parent group is to a report in respect of all of the constituent groups.

(4) "The OECD's guidance on country-by-country reporting" means the guidance on country-by-country reporting contained in the Organisation for Economic Co-operation and Development ("OECD") Guidance on Transfer Pricing Documentation and Country-by-Country Reporting, published in 2014, as modified, supplemented or replaced from time to time."

(2) In Schedule 16 (transitional provision), in paragraph 3, for sub-paragraphs (7) and (8) substitute—

"(7) For the purposes of this Part of this Schedule, a country-by-country report in relation to a territory is "qualifying" if the information relating to the territory is prepared on the basis of qualified financial statements of the multinational group (see paragraph 4).

(8) Where there is no requirement under the law of any territory for a country-by-country report to be prepared and filed in respect of a multinational group, the filling member may include, in the information return in which the election is made, the information that would have been in such a report—

(a) prepared in accordance with legislation implementing the OECD's guidance on country-by-country reporting under the law of the territory of the ultimate parent, or

(b) where there is no such legislation, prepared in accordance with that guidance.

(9) Where such information has been included in that information return, that information is to be treated as if it were a country-by-country report in relation to the territory for the purposes of this Chapter (and where that information complies with sub-paragraph (7), the condition in sub-paragraph (2)(b) is to be treated as met)."

(3) In section 276(b)(i) (application of transitional provision for domestic top-up tax purposes), for "and (8)" substitute "to (9)".

Joint ventures

30 In section 227 (application of Part to joint venture groups), in subsection (2) for "the multinational group" substitute "each multinational group".

Insurance investment entities

31 (1) Section 236 (investment funds and investment entities) is amended as follows.

(2) In subsection (2)—

(a) omit paragraph (b),

(b) for paragraph (c) substitute—

"(c) the income or gains the entity is designed to generate are intended to offset liabilities under insurance or annuity contracts;", and

(c) for paragraph (e) substitute—

"(e) regulated entities hold 100% of the ownership interests in it (see section 244 for how to calculate this)."

(3) After that subsection insert—

"(2A) An entity is a regulated entity if—

(a) the entity is subject to a regulatory regime in the territory in which it is established or managed, and

(b) that regime is specific to persons engaged in the business of entering into insurance or annuity contracts or of performing activities ancillary to such business."

Location of entities

32 (1) In section 239(6)—

(a) in paragraph (c), omit "(3) or", and

(b) in the words after paragraph (d), for "and 126" substitute ", 128 and 129".

(2) In section 240 (location of flow-through entities), for subsection (1) substitute—

"(1) Where a flow-through entity would be a responsible member of a multinational group if the entity were located in the territory in which it is created, it is located in that territory."

Currency

33 (1) For section 254 (use of currency) substitute—

"**254 Use of currency**

(1) Calculations under this Part in relation to a multinational group, or any member of such a group, are to be carried out in the currency of

the consolidated financial statements of the ultimate parent ("the CFS currency").

(2) Where it is necessary to convert an amount into the CFS currency, that conversion is to be made in accordance with the authorised accounting standard—

(a) that was used in preparing the consolidated financial statements of the ultimate parent, or

(b) where no such statements were prepared, that is used as the basis for the statements that would have been prepared.

(3) For the purpose of comparing an amount to a figure expressed in this Part in euros, the amount is to be converted to euros for that purpose (from the CFS currency) by reference to the average exchange rate for the month of December that preceded the beginning of the accounting period to which the amount relates.

(4) Where the European Central Bank publishes exchange rates for the CFS currency, use those rates for the purposes of the conversion under subsection (3) and any conversion under step 4 in section 123 (amount charged by reference to top-up amounts).

(5) Otherwise—

(a) where the Bank of England publishes exchange rates for the CFS currency, use those rates for the purposes of that conversion, or

(b) where the Bank of England does not publish exchange rates for that currency, use such a rate as appears, on a just and reasonable basis, to reflect the average exchange rate for the period in question."

(2) In section 123 (amount charged by reference to "top-up amounts"), for Step 4 substitute—

"Step 4

Convert the result of Step 3 (which in accordance with section 254 will be expressed in the CFS currency) to sterling using the average exchange rate for the accounting period (if the CFS currency is not sterling)."

Application of Pillar Two rules to members of a group

34 (1) In section 255 (meaning of Pillar Two rules)—

(a) after subsection (2) insert—

"(2A) Pillar Two rules apply to a member of a multinational group ("the relevant member") in an accounting period if conditions A, B and C are met.",

(b) in subsection (3)—

(i) for the words before paragraph (a) substitute "Condition A is met if—",

(ii) in paragraph (a), after "multinational group" insert "for the accounting period", and

(iii) in paragraph (b), after "multinational group" insert "for the accounting period", and

(c) after that subsection insert—

"(4) Condition B is that—

(a) the ultimate parent is subject to Pillar Two IIR tax for the accounting period and is not located in the same territory as the relevant member,

(b) an intermediate parent member of the group is subject to Pillar Two IIR tax for the accounting period, is not located in the same territory as the relevant member and has an ownership interest in—

(i) the relevant member, or

(ii) a member of the group located in the same territory as the relevant member, or

(c) any member of the group is located in a territory in which a qualifying undertaxed profits tax is in force for the accounting period.

(5) Condition C is that no transitional safe harbour election applies to the relevant member for that period.

(6) For the purposes of this Part "transitional safe harbour election" means—

(a) an election under paragraph 3(1) (transitional safe harbour), or

(b) an election corresponding to that election for the purposes of a tax imposed by a Pillar Two territory that is equivalent to multinational top-up tax so far as it relates to top-up tax under the IIR (within the meaning of the Pillar Two rules)."

(2) In paragraph 2 of Schedule 16 (intra-group transfers before entry into regime)—

(a) in sub-paragraph (1), for paragraph (b) substitute—

"(b) the Pillar Two rules do not apply to the transferor for the accounting period in which the transfer takes place (but in determining this, section 255(4) has effect as if sub-paragraph (ii) of paragraph (b) were omitted),

(ba) a qualifying domestic top-up tax does not apply in relation to the transferor for that period, and",

(b) in sub-paragraph (4)(b)—

(i) in the words before sub-paragraph (i), after "which" insert "the Pillar Two rules apply to the transferee.", and

(ii) omit sub-paragraphs (i) and (ii),

(c) in sub-paragraph (6), in paragraph (a) of Step 2, for paragraph (a) substitute—

"(a) the ultimate parent had been located in the United Kingdom and the accounting period commenced on or after 31 December 2023, and", and

(d) in sub-paragraph (11)—

(i) the words from ""a transfer" to the end become paragraph (a), and

(ii) after that paragraph insert—

"(b) a qualifying domestic top-up tax is not to be taken as applying to a member of a multinational group if

provision for a QDMTT Safe Harbour (within the meaning of the Pillar Two rules) applies to it."

(3) In paragraph 3 of that Schedule—

(a) in sub-paragraph (2)(c)(ii), for "applied to members" substitute "would, ignoring any transitional safe harbour election, have applied to any member", and

(b) omit sub-paragraph (4).

Qualifying domestic top-up tax not treated as accruing

35 (1) After section 256 insert—

"**256A Qualifying domestic top-up tax treated as not accruing where contested etc**

(1) Subsection (2) applies for the purposes of sections 194(2) to (7), 203(3) to (7) and 206(4) to (8) (application of QDT credits in determination of top-up amounts).

(2) An amount of qualifying domestic tax accruing to a member of a multinational group is to be treated as not accruing to the member where the enforceability of the amount is in question.

(3) For the purposes of this section, the enforceability of an amount of qualifying domestic top-up tax accruing to a member of a multinational group is in question if—

(a) the member disputes its enforceability on any of the grounds set out in subsection (4), or

(b) the tax authority of the territory in which the qualifying domestic top-up tax is imposed considers the amount unenforceable on the basis of any of those grounds.

(4) Those grounds are that—

(a) the amount is unenforceable on constitutional grounds or as a result of other superior law applying in the territory in which the qualifying domestic top-up tax is imposed, or

(b) the amount is unenforceable as a result of a specific agreement with the government of that territory as to the tax liability of the member or the group.

(5) Subsection (2) ceases to apply where the enforceability of an amount of qualifying domestic top-up tax ceases to be in question.

(6) Where the enforceability of an amount of qualifying domestic top-up tax was in question, it ceases to be in question where—

(a) the amount has been paid, and

(b) the enforceability of the amount may no longer be disputed as a result of—

(i) a settlement,

(ii) the time for any appeal having passed and there being no reasonable prospect of the time being extended, or

(iii) the exhaustion of any rights to appeal."

(2) In section 194 (total top-up amount for a territory), in subsection (3), for "section 256" substitute "sections 256 and 256A".

Consistency with Pillar Two rules

36 In section 262 (power to amend to ensure consistency with Pillar Two) after subsection (1) insert—

"(1A) The provision that may be made by regulations under subsection (1) includes provision designed to secure the effective implementation of the Pillar Two rules including—

(a) provision to ensure consistency with commentaries or guidance published by the OECD that has effect from a time before the commentary or guidance was published;

(b) provision that the Treasury consider necessary to secure the effective operation of multinational top-up tax or domestic top-up tax (see Part 4) where—

(i) the provision does not, at the time of making it, reflect the Pillar Two rules, but

(ii) it is reasonable for the Treasury to believe that changes will be made to the rules that are consistent with, or are similar to, the provision.

(1B) Provision made by regulations under subsection (1) may not have effect—

(a) in the case of provision falling within subsection (1A)(a), in relation to accounting periods ending before the commentary or guidance was published, or

(b) in the case of any other provision, in relation to accounting periods ending before the regulations are made.

(1C) Provision that has effect in relation to accounting periods that begin before the regulations are made may only be made if the Treasury consider that the provision is generally beneficial to—

(a) persons affected by the implementation of the Pillar Two rules, or

(b) persons affected by the provision.

(1D) The reference in subsection (1C) to provision being generally beneficial includes the provision being beneficial by reference to it—

(a) simplifying, or reducing the costs of, compliance with—

(i) multinational top-up tax or domestic top-up tax, or

(ii) taxes imposed under the law of a territory outside the United Kingdom that correspond to multinational top-up tax or domestic top-up tax;

(b) generally (but not necessarily in every case) resulting in a reduction or elimination of a liability to—

(i) multinational top-up tax or domestic top-up tax, or

(ii) taxes imposed under the law of a territory outside the United Kingdom that correspond to multinational top-up tax or domestic top-up tax."

Overpaid tax

37 (1) Schedule 14 is amended as follows.

(2) In paragraph 51 (claims in relation to overpaid tax)—

(a) in sub-paragraph (5)—

(i) omit the words from "otherwise" to "paragraph,", and

(ii) after "due" insert "otherwise than—

"(a) pursuant to a claim under this paragraph, or

(b) in accordance with another provision of this Schedule.", and

(b) omit sub-paragraphs (6) and (7).

(3) After paragraph 33 insert—

"33A (1) Where a person has paid an amount that has been paid by way of multinational top-up tax but the amount is not due, the amount incurs interest at the rate provided for in regulations made under section 178 of FA 1989 from the later of—

(a) the day after the latest day (under paragraph 32) by which the amount paid would have been required to be paid as multinational top-up tax if it were due, and

(b) the day on which the amount was paid.

(2) See paragraph 51 for provision about making claims for the repayment of an amount that is not tax that was due (but see also paragraph 52 which, for example, prevents such a claim being made where an amendment to an assessment can be, or could have been, made)."

Intragroup transfers before entry into regime

38 (1) Paragraph 2 of Schedule 16 (intra-group transfers before entry into regime) is amended as follows.

(2) In sub-paragraph (3)(b), after "limited to" insert "the lesser of the cap amount and the sum of—

"(i) the value of deferred tax assets that arose in relation to the assets before their transfer, and

(ii)".

(3) After that sub-paragraph insert—

"(3A) For the purposes of determining the value of a deferred tax asset under sub-paragraph (3)(b)(i)—

(a) if the rate of tax in relation to that asset is greater than 15%, the value is to be adjusted so that it reflects the value it would be if the rate had been 15%, and

(b) exclude the impact of any valuation adjustments or accounting recognition adjustments."

(4) In sub-paragraph (5)(b), for "is" substitute ", and the value of deferred tax assets that arose in relation to the assets before their transfer, are".

(5) For sub-paragraph (7) substitute—

"(7) In determining the tax expense of the transferor in relation to the transfer of the assets—

(a) where any loss arising in the accounting period in which the transfer took place is offset against any taxable gain arising on the transfer, ignore that offsetting, and

(b) exclude the impact of any valuation adjustments or accounting recognition adjustments."

(6) In sub-paragraph (9)—

(a) for ", ignoring sub-paragraph (7)," substitute "the sum of",

(b) for "in relation to the transfer of assets would exceed" substitute "and the value of deferred tax assets that arose in relation to the assets before their transfer is greater than", and

(c) omit "in relation to it".

(7) In sub-paragraph (11), for "substantially the same economic effect as" substitute "a similar effect for accounting purposes to".

(8) After sub-paragraph (11) insert—

"(12) Where assets are transferred from one member of a multinational group to another member of that group as a result of a series of transfers that—

(a) fall within sub-paragraph (1), but

(b) do not fall within sub-paragraph (2),

that series is to be treated as a single transfer of assets that falls within sub-paragraph (1).

(13) This paragraph applies to that single transfer as if—

(a) the reference to the transferor in sub-paragraph (3)(a) were to the transferor in relation to the first transfer in the series,

(b) the references in sub-paragraph (3)(b) to the cap amount, the value of deferred tax assets that arose in relation to the assets before their transfer and the tax paid amount were to the aggregate of each such amount or value as determined for the purpose of each transfer that makes up the series,

(c) the reference to the date of the transfer in sub-paragraph (4)(a) were to the date of the last transfer in the series, and

(d) the references to the transferee in sub-paragraph (4)(b) were to the transferee in relation to the last transfer in the series."

Transitional safe harbour

39 (1) Part 2 of Schedule 16 (transitional safe harbour) is amended as follows.

(2) In paragraph 3, for sub-paragraph (1) substitute—

"(1) The filing member of a multinational group may make a transitional safe harbour election for an accounting period in respect of a territory.

(1A) The effect of the election is that all of the standard members of the group located in the territory are to be treated as not having top-up amounts or additional top-up amounts for the purpose of determining the liability of any member of the group to multinational top-up tax."

(3) In paragraph 4—

(a) in sub-paragraph (3)—

(i) omit the "and" after paragraph (b), and

(ii) after paragraph (c) insert ", and

(d) qualified substance based income amount (see paragraph 9(2)).", and

(b) in sub-paragraph (5), in the words before paragraph (a), for "(c)" substitute "(d)".

(4) In paragraph 6(6), for "if" substitute "unless".

Transitional reporting election

40 (1) In Schedule 16 (transitional provision), at the end insert—

"**PART 3**

TRANSITIONAL REPORTING ELECTION

Transitional reporting election

13 (1) HMRC may publish a notice that provides for alternative requirements for the information that must be contained in an information return in respect of members of a multinational group to which an election under sub-paragraph (3) applies.

(2) Where—

(a) HMRC have published a notice under paragraph (1) containing alternative requirements, and

(b) an election under sub-paragraph (3) applies to members of a multinational group for an accounting period,

paragraph 10 of Schedule 14 applies to the filing member of the group for that period subject to the notice.

(3) An election under this sub-paragraph—

(a) is to be made in respect of all of the members of a multinational group in a territory,

(b) is to be made by the filing member of the group,

(c) may only have effect in relation to an accounting period that begins on or before 31 December 2028 and ends before 1 July 2030, and

(d) may only be made if condition A, B or C is met.

(4) Condition A is that none of the members in the territory have top-up amounts or additional top-up amounts for the accounting period to which the election is to apply.

(5) Condition B is that—

(a) there is only one responsible member responsible for all of the members in the territory for the accounting period to which the election is to apply, and

(b) the sum of amounts attributed under Chapter 7 of Part 3 to that responsible member for that period in respect of those members' top-up amounts and additional top-up amounts is equal to the sum of the members' top-up amount and additional top-up amounts.

(6) Condition C is that—

(a) there is more than one responsible member responsible for the members of the group in the territory for the accounting period to which the election is to apply, and

(b) each responsible member is responsible for every member of the group in the territory and has the same inclusion ratio for each member it is responsible for.

(7) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph."

(2) In Schedule 15 (elections), in paragraph 2(1), after paragraph (j) insert—

"(k) paragraph 14 of Schedule 16;".

Qualifying domestic top-up tax safe harbour

41 (1) After Schedule 16 insert—

"SCHEDULE 16A

Section 260

MULTINATIONAL TOP-UP TAX: SAFE HARBOURS

PART 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR

CHAPTER 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR ELECTION

Election for qualifying domestic top-up tax safe harbour

1 (1) The filing member of a multinational group may make a qualifying domestic top-up tax safe harbour election for an accounting period in respect of a territory.

(2) The effect of the election is that all of the standard members of the group located in the territory are to be treated as not having top-up amounts or additional top-up amounts for the purpose of determining the liability of any member of the group to multinational top-up tax.

(3) An election may only be made for an accounting period if—

(a) a qualifying domestic top-up tax applies in that territory for that period,

(b) that tax is accredited for the purposes of the election (see paragraph 2), and

(c) none of the disqualifying conditions in paragraph 3 apply for that period.

(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph.

Accredited qualifying domestic top-up tax

2 A qualifying domestic top-up tax is accredited for the purposes of an election under paragraph 1 if that tax is specified as such in regulations made by the Treasury.

Disqualifying conditions

3 (1) Conditions A to D are disqualifying conditions for the purposes of paragraph 1(3)(c) in relation to a multinational group and a territory.

(2) Condition A is that—

(a) the ultimate parent is located in the territory,

(b) the ultimate parent is a flow-through entity, and

(c) the qualifying domestic top-up tax applying in the territory—

(i) does not generally impose a charge on the ultimate parent as a result of it being a flow-through entity, and

(ii) does not include provision for a charge to be imposed on the ultimate parent in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.

(3) Condition B is that—

(a) a responsible member of the group is located in the territory,

(b) the member is not the ultimate parent of the group,

(c) the member is a flow-through entity, and

(d) the qualifying domestic top-up tax applying in the territory—

(i) does not generally impose a charge on the member as a result of it being a flow-through entity, and

(ii) does not include provision for a charge to be imposed on the member in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.

(4) Condition C is that—

(a) the qualifying domestic top-up tax applying in the territory provides that it does not apply to a multinational group in the initial phase of the group's international expansion,

(b) that provision is not limited in application to circumstances where the members of a multinational group in the territory are not subject to Pillar Two rules, and

(c) that provision applies to the group.

(5) Condition D is that the enforceability of an amount of qualifying domestic top-up tax accruing to a standard member of the group is in question.

(6) Subsections (3), (4) and (6) of section 256A (qualifying domestic top-up tax treated as not accruing where contested) apply for the purpose of determining whether the enforceability of an amount of qualifying domestic top-up tax is in question.

CHAPTER 2

APPLICATION TO NON-STANDARD MEMBERS OF A MULTINATIONAL GROUP

Application in the case of joint venture group

4 (1) For the purpose of applying Chapter 1 of this Part of this Schedule to a joint venture group (see section 227 which applies this Schedule generally, with modifications, to joint venture groups), that Chapter has effect as if in paragraph 3—

(a) in sub-paragraph (1), for "Conditions A to D" there were substituted "Conditions A to E",

(b) after sub-paragraph (6), there were inserted—

"(7) Condition E is that the qualifying domestic top-up tax applying in the territory—

(a) does not generally impose a charge on members of the group that are members of a joint venture group, and

(b) does not include provision for a charge to be imposed on such members in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory."

(2) For that purpose ignore section 227(1)(a) (reference to ultimate parent treated as reference to joint venture parent).

(3) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of joint venture members of a joint venture group in a territory.

Application in the case of investment entities

5 (1) Chapter 1 of this Part of this Schedule to applies to investment entities and has effect for that purpose as if—

(a) references to standard members of a multinational group were to members of the group that are investment entities, and

(b) in paragraph 3—

(i) in sub-paragraph (1), for "Conditions A to D" there were substituted "Conditions A to E",

(ii) after sub-paragraph (6), there were inserted—

"(7) Condition E is that the qualifying domestic top-up tax applying in the territory—

(a) does not generally impose a charge on members of the group that are investment entities, and

(b) does not include provision for a charge to be imposed on such members in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory."

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of members of the group that are investment entities.

Application in the case of minority owned members

6 (1) Chapter 1 of this Part of this Schedule to applies to minority owned members of a multinational group and has effect for that purpose as if references to standard members of a multinational group were to members of the group that are minority owned members.

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of minority owned members of the group."

(2) In section 227 (application of Part to joint venture groups), in subsection (1), in the words before paragraph (a), for "Schedule 16" substitute "Schedules 16 and 16A".

(3) For section 260 (transitional provision) substitute—

"**260 Transitional provision and safe harbours**

(1) Schedule 16 contains transitional provision and provision about a general transitional safe harbour.

(2) Schedule 16A contains provision about other safe harbours."

(4) In Schedule 15 (elections), in paragraph 2(1), after paragraph (k) (as inserted by paragraph 40(2) of this Schedule) insert—

"(l) paragraph 1 of Schedule 16A."