

*Deferred tax assets and liabilities: exclusions*

- 1 F(No.2)A 2023 (multinational top-up tax) is amended as follows.
- 2 (1) Section 185 (inclusion of existing deferred tax assets and liabilities on entry into regime) is amended as follows.
  - (2) In subsection (1), for “that is reflected” substitute “that are reflected”.
  - (3) In subsection (6) –
    - (a) in the words before paragraph (a) omit “qualifying”;
    - (b) for paragraph (a) substitute –
      - “(a) before the commencement of the first accounting period for which Pillar Two rules apply to the member and as a result of a transaction carried out after 30 November 2021, and”
  - (4) After subsection (7) insert –
    - “(7A) Subsection (7D) applies to a deferred tax asset of a member of a multinational group that arises before the commencement of the first accounting period for which Pillar Two rules apply to the member and as a result of the occurrence of either of the following after 30 November 2021 –
      - (a) the making available of a tax credit, or other tax relief, by virtue of the exercise of a discretion in relation to a member of the group by a national, regional or local government or by a governmental entity;
      - (b) the making (or modifying) of an election or of another choice by a member of the group where the effect of the election or choice is to change the tax treatment of an earlier transaction retrospectively.
    - (7B) Subsection (7D) also applies to a deferred tax asset or a deferred tax liability of a member of a multinational group that arises –
      - (a) after 30 November 2021 and before the commencement of the first accounting period for which Pillar Two rules apply to the member,
      - (b) because of a difference between the value (or base cost) of an asset or liability for the purposes of a corporate income tax and its value for accounting purposes, and
      - (c) in circumstances where the corporate income tax mentioned in paragraph (b) was introduced on or after 1 December 2021 in a territory that did not previously have a corporate income tax.
    - (7C) Subsection (7D) also applies to a deferred tax asset of a member of a multinational group that arises before the commencement of the first accounting period for which Pillar Two rules apply to the member if –
      - (a) where the member is located in a territory which did not have a corporate income tax before 1 December 2021 and in

- which one is introduced on or after that date, the deferred tax asset is attributable to a loss occurring before the fifth accounting period before the accounting period in which that corporate income tax came into force, or
- (b) the deferred tax asset arises in relation to non-economic expenses or losses (within the meaning of the Pillar Two rules) incurred after 30 November 2021.
- (7D) A deferred tax asset or deferred tax liability to which this subsection applies is to be ignored in determining the member's deferred tax expense."
- (5) In subsection (8), omit "qualifying".
- 3 (1) Schedule 16 (transitional provision) is amended as follows.
- (2) In paragraph 2 (intra-group transfers before entry into regime), in sub-paragraph (3)–
- (a) omit the "and" after paragraph (a);
- (b) at the end insert ", and
- (c) a deferred tax asset is ignored if it is a deferred tax asset arising as described in section 185(7A) or (7B)."
- (3) In paragraph 5 (general transitional safe harbour election: qualifying income tax expense)–
- (a) in sub-paragraph (1)–
- (i) omit the "and" after paragraph (a);
- (ii) at the end insert ", and
- (c) any amount that relates to a deferred tax asset arising as described in section 185(7A) or (7B) or that relates to a relevant pre-entry deferred tax liability."
- (4) At the end insert–

#### **"PART 4**

##### PRE-ENTRY DEFERRED TAX ASSETS AND LIABILITIES

###### *Straddle periods*

- 14 (1) This paragraph applies in relation to an accounting period of a member of a multinational group if–
- (a) 21 July 2025 falls during the period (but is not the first day of the period),
- (b) the member has a relevant pre-entry deferred tax asset or a relevant pre-entry deferred tax liability, and
- (c) the asset or liability is reversed (to any extent) in the period.

- (2) Despite section 185(7D) and paragraphs 2(3)(c) and 5(1)(c) of this Schedule, an amount in respect of the reversal may be reflected in—
  - (a) the member’s deferred tax expense for the purposes of this Part of this Act, or
  - (b) the member’s qualifying income tax expense for the purposes of Part 2 of this Schedule.
- (3) The amount that may be reflected in respect of the reversal is the pre-commencement proportion of the amount that could be so reflected if section 185(7D) or paragraph 2(3)(c) or 5(1)(c) of this Schedule (as the case may be) did not apply to the asset or liability.
- (4) In this paragraph “the pre-commencement proportion” means—
  - (a) the number of days in the accounting period before 21 July 2025, divided by
  - (b) the total number of days in the accounting period.

*Grace period*

- 15 (1) This paragraph applies for an accounting period in relation to a relevant pre-entry deferred tax asset of a member of a multinational group if—
  - (a) the accounting period falls within the applicable grace period,
  - (b) the relevant pre-entry deferred tax asset is a deferred tax asset that arises as described in section 185(7A) or (7B), and
  - (c) the action that results in the asset arising (that is to say, the action referred to in section 185(7A)(a) or (b) or (7B)) takes place on or before 18 November 2024.
- (2) If any relevant pre-entry deferred tax asset falling within a particular category is reversed, an amount in respect of that reversal may, despite section 185(7D) and paragraphs 2(3)(c) and 5(1)(c) of this Schedule, be reflected in—
  - (a) the member’s deferred tax expense for the purposes of this Part of this Act, or
  - (b) the member’s qualifying income tax expense for the purposes of Part 2 of this Schedule,so far as it does not exceed the available grace period amount in relation to the category.
- (3) But an amount may not be reflected in respect of the reversal of a deferred tax asset so far as the reversal takes place as a result of (and would not have taken place but for) a change after 18 November 2024 to—
  - (a) any law or election in effect in relation to the deferred tax asset,

- (b) the accounting methodology applicable to the deferred tax asset, or
  - (c) the way in which a discretion of the kind mentioned in section 185(7A)(a) (government discretions) is exercised.
- (4) Take the following steps to find the “available grace period amount” (if any) in relation to a category of deferred tax asset for an accounting period.

*Step 1*

Determine, in relation to each deferred tax asset of the member falling within the category, the carrying value of the asset as at the time when it was first reflected in the underlying profits of the member.

For that purpose, determine the carrying value of the asset on the basis of the lower of—

- (a) the nominal tax rate that applied in relation to it at that time, and
- (b) a tax rate of 15%.

*Step 2*

Find the sum of the values determined at Step 1.

*Step 3*

Multiply the result of Step 2 by 20%.

*Step 4*

Deduct any amount—

- (a) that has been taken into account in determining the deferred tax expense of the member—
    - (i) in relation to assets falling within the category, and
    - (ii) in an accounting period that falls within the applicable grace period, or
  - (b) that would have been so taken into account in such a period had the Pillar Two rules applied to the member in question for that period.
- (5) For the purposes of this paragraph each of following is a “category” of relevant pre-entry deferred tax asset—
- (a) assets falling within section 185(7A)(a);
  - (b) assets falling within section 185(7A)(b);
  - (c) assets falling within section 185(7B).
- (6) For the purposes of this paragraph an accounting period “falls within the applicable grace period”—
- (a) in relation to the categories of asset mentioned in sub-paragraph (5)(a) and (b), if—
    - (i) it begins on or after 1 January 2024 and before 1 January 2026, and
    - (ii) it ends before 1 July 2027;

- (b) in relation to the category of asset mentioned in sub-paragraph (5)(c), if—
  - (i) it begins on or after 1 January 2025 and before 1 January 2027, and
  - (ii) it ends before 1 July 2028.
- (7) This paragraph is subject to paragraph 14 (and accordingly, that paragraph is to be applied in precedence to this in determining for the purposes of Step 4 in sub-paragraph (4) whether an amount has been taken into account in an accounting period in relation to a deferred tax asset).

### *General*

- 16 (1) In this Schedule, in relation to a member of a multinational group—
    - “relevant pre-entry deferred tax asset” means a deferred tax asset that arises as described in section 185(7A), (7B) or (7C);
    - “relevant pre-entry deferred tax liability” means a deferred tax liability that arises as described in section 185(7B).
  - (2) For the purposes of those definitions the references in section 185(7A) to (7C) to an accounting period for which Pillar Two rules apply to a member include an accounting period for which the Pillar Two rules would have applied to the member but for a transitional safe harbour election.”
- 4 (1) Schedule 16A (safe harbours) is amended as follows.
- (2) In paragraph 3 (disqualifying conditions)—
    - (a) in sub-paragraph (1), for “Conditions A to D” substitute “The following conditions”;
    - (b) at the end insert—
      - “(7) Condition E is that—
        - (a) a member of the group located in the territory has a relevant pre-entry deferred tax asset or relevant pre-entry deferred tax liability, and
        - (b) the qualifying domestic top-up tax applying in the territory either—
          - (i) does not make provision corresponding to section 185(7A) to (7D) (exclusion for deferred tax assets arising as a result of government arrangements etc) in relation to relevant pre-entry deferred tax assets and relevant pre-entry deferred tax liabilities, or
          - (ii) makes such corresponding provision in a way that is inconsistent with the Pillar Two commentary in relation to relevant

pre-entry deferred tax assets or relevant pre-entry deferred tax liabilities.

- (8) In subsection (7) “relevant pre-entry deferred tax asset” and “relevant pre-entry deferred tax liability” have the same meaning as in Schedule 16, but for that purpose the words “or (7C)” in the definition of “relevant pre-entry deferred tax asset” are to be disregarded.”
- (3) In paragraph 4(1) –
- (a) omit paragraph (a);
  - (b) in paragraph (b) –
    - (i) for “after sub-paragraph (6), there were inserted” substitute “at the end there were inserted the following disqualifying condition”;
    - (ii) the inserted sub-paragraph (7) becomes an inserted unnumbered sub-paragraph.
- (4) In paragraph 5(1)(b) –
- (a) omit sub-paragraph (i);
  - (b) in sub-paragraph (ii) –
    - (i) for “after sub-paragraph (6), there were inserted” substitute “at the end there were inserted the following disqualifying condition”;
    - (ii) the inserted sub-paragraph (7) becomes an inserted unnumbered sub-paragraph.
- 5 The amendments made by paragraphs 1 to 4 have effect in relation to accounting periods ending on or after 21 July 2025.