Draft Order laid before the House of Commons under section 28(4) of the Wales Act 2014, and paragraphs 1 and 2 of Schedule 7 to the Scotland Act 1998, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2018 No.

INCOME TAX
DEVOLUTION

The Devolved Income Tax Rates (Consequential Amendments) Order 2018

Made - - - - ***

Coming into force in accordance with article 1

A draft of this Order was laid before and approved by the House of Commons in accordance with section 28(4) of the Wales Act 2014(**1**) and paragraphs 1 and 2 of Schedule 7 to the Scotland Act 1998(**2**).

The Treasury, in exercise of the powers conferred by section 28(1) and (2) of the Wales Act 2014, and section 80G(1A) and (2) of the Scotland Act 1998(**3**) makes the following Order:

Citation, commencement and effect

1.—(1) This Order may be cited as the Devolved Income Tax Rates (Consequential Amendments) Order 2018 and comes into force the day after the day on which it is made.

(2) The amendments made by this Order have effect in relation to the tax year commencing on 6th April 2019 and subsequent tax years.

Amendment to the Taxes Management Act 1970

2. In section 91(3)(c) (effect on interest of reliefs) of the Taxes Management Act 1970(**4**), after "the Scottish intermediate rate," insert "the Welsh basic rate,".

(**1**) 2014 c. 29.
(**2**) 1998 c. 46. Relevant amendments were made to paragraph 1 of Schedule 7 by section 296 of, and paragraph 16(10)(b) of Schedule 38 to, the Finance Act 2014 (c. 26).
(**3**) Section 80G was inserted by section 25(3) of the Scotland Act 2012 (c. 11) and relevant amendments were made by section 296 of, and paragraph 16 of Schedule 38 to, the Finance Act 2014 and section 13(11) of the Scotland Act 2016 (c. 11).
(**4**) 1970 c 9. Section 91(3)(c) was inserted by sections 37 and 38 of, and paragraph 88 of Schedule 6 to, the Finance Act 1971 (c. 68) and amended by section 722 of, and paragraph 136 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), section 5(7) of, and paragraph 39 of Schedule 39 to, the Finance Act 2008 (c. 9), section 4(16) of the Finance Act 2016 (c. 24) and article 2(3) of S.I 2018/459.

Amendment of the Finance Act 2004

3. The Finance Act 2004(**5**) is amended as follows.

4.—(1) Section 192 (pensions contributions: relief at source) is amended as follows.

(2) In subsection (1A)(**6**) (meaning of "the relevant rate"), before the "and" at the end of paragraph (a) insert—

"(aa) if the Commissioners for Her Majesty's Revenue and Customs so notify the scheme administrator, the Welsh basic rate for the tax year in which the payment is made;".

(3) After subsection (4A)(**7**) insert—

"(4B) Where—

(a) the individual is a Welsh taxpayer for the tax year, and

(b) (apart from this section) income tax is chargeable in respect of any part of that individual's total income for the tax year at the Welsh higher rate or Welsh additional rate,

on the making of a claim, the basic rate limit and the higher rate limit for the tax year in the individual's case, are increased by the amount of the contribution.".

5.—(1) Section 192A(**8**) (pensions: relief additional to relief at source under section 192) is amended as follows

(2) In subsection (1), after "(2)" insert ", (3A)".

(3) In subsection (2)—

(a) in paragraph (a), for "is the basic rate" substitute "is not the Scottish basic rate", and

(b) in paragraph (c), for "the basic rate" substitute "the relevant rate".

(4) After subsection (3) insert—

"(3A) The conditions are that—

(a) the relevant rate is not the Welsh basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is a Welsh taxpayer for that tax year, and

(c) the Welsh basic rate for that tax year is higher than the relevant rate.

(3B) If the conditions in subsection (3A) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the Welsh basic rate for the tax year in which the payment is made and the amount of relief given under section 192.".

(5) For subsection (4) substitute—

"(4) The conditions are that—

(a) the relevant rate is not the basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is neither a Scottish taxpayer nor a Welsh taxpayer for that tax year, and

(c) the basic rate for that tax year is higher than the relevant rate.".

(**5**) 2004 c. 12.
(**6**) Section 192(1A) was inserted by article 3(3) of S.I. 2015/1810.
(**7**) Section 192(4A) was inserted by regulation 3(3) of S.I. 2017/468 and relevantly amended by article 3(3) of S.I. 2018/459.
(**8**) Section 192A was inserted by article 4 of S.I. 2015/1810.

6.—(1) Section 192B(**9**) (pensions: excessive relief at source under section 192 is amended as follows.

(2) In subsection (1), after "(2)" insert ", (3A)".

(3) In each of subsections (1), (3) and (5), for "apply" substitute "are met".

(4) In subsection (2)—

(a) in paragraph (a), for "is the basic rate" substitute "is not the Scottish basic rate", and

(b) in paragraph (c), for "that rate" substitute "the relevant rate".

(5) After subsection (3) insert—

"(3A) The conditions are that—

(a) the relevant rate is not the Welsh basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is a Welsh taxpayer for that tax year, and

(c) the Welsh basic rate for that tax year is lower than the relevant rate.

(3B) If the conditions in subsection (3A) are met, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the Welsh basic rate for the tax year in which the payment is made.".

(6) For subsection (4) substitute—

"(4) The conditions are that—

(a) the relevant rate is not the basic rate for the tax year in which the payment of the contribution is made, and

(b) the individual is neither a Scottish taxpayer nor a Welsh taxpayer for that tax year, and

(c) the basic rate for that tax year is lower than the relevant rate.".

7.—(1) Section 227 (annual allowance charge) is amended as follows.

(2) In subsection (4A)(**10**) in the second sentence, after "Scottish taxpayer" insert "and subsection (4AB) applies in the case of a Welsh taxpayer".

(3) After subsection (4AA)(**11**) insert—

"(4AB) The appropriate rate for a Welsh taxpayer is—

(a) the Welsh basic rate in relation to so much (if any) of the chargeable amount as, when added to the individual's reduced net income for the tax year, does not exceed the basic rate limit for the tax year,

(b) the Welsh higher rate in relation to so much (if any) of the chargeable amount as, when so added, exceeds the basic rate limit for the tax year but does not exceed the higher rate limit for the tax year, and

(c) the Welsh additional rate in relation to so much (if any) of the chargeable amount as, when so added, exceeds the higher rate limit for the tax year.".

(4) In subsection (4C)(**12**), for "and (4AA)" substitute ", (4AA) and (4AB)".

(**9**) Section 192B was inserted by article 4 of S.I. 2015/1810.
(**10**) Section 227(4A) was inserted by paragraph 3(4) of Schedule 17 to the Finance Act 2011 (c.11) and relevantly amended by paragraph 63(5) of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30) and regulation 5 of S.I. 2017/468.
(**11**) Section 227(4AA) was inserted by regulation 4(5) of S.I. 2017/468.
(**12**) Section 227(4C) was substituted by regulation 4(5) of S.I. 2017/468.

8.—(1) Section 237B(**13**) (liability of scheme administrator) is amended as follows.

(2) In subsection (4), after "Scottish taxpayer", insert "and subsection (4B) applies in the case of a Welsh taxpayer".

(3) After subsection (4A)(**14**) insert—

"(4B) In the case of a Welsh taxpayer, the "relevant rate" in subsection (3)(a) means—

(a) in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual for the tax year at the Welsh additional rate by virtue of paragraph (c) of subsection (4AB) of section 227, the Welsh additional rate,

(b) in relation to so much of the excess as is not within paragraph (a) and does not exceed the amount (if any) on which tax is so chargeable at the Welsh higher rate by virtue of paragraph (b) of that subsection, the Welsh higher rate, and

(c) in relation to the remaining part of the excess, the Welsh basic rate.".

Amendments to the Registered Pension Scheme (Relief at Source) Regulations 2005

9.—(1) The Registered Pension Scheme (Relief at Source) Regulations 2005(**15**) are amended as follows.

(2) In regulation 15A(3)(b) (annual return of information)—

(a) in sub-paragraph (vii) for "section 195(A)" substitute "section 195A",

(b) in sub-paragraph (ix), omit the "and" at the end, and

(c) after sub-paragraph (x) insert

"; and

(xi) the relevant rate for the purposes of sections 192 to 192B which has been applied.".

Amendments to the Income Tax (Trading and Other Income) Act 2005

10.—(1) The Income Tax (Trading and Other Income) Act 2005(**16**) is amended as follows.

(2) In section 539(**17**) (relief for deficiencies)—

(a) in subsection (1)(b) after "the Scottish higher rate", insert ", the Welsh higher rate",

(b) in subsection (5)—

(i) in the words before Step 1, after "Scottish taxpayer", insert "or a Welsh taxpayer",

(ii) in Step 3, for "at the higher rate," substitute "at any of the higher rate, the default higher rate and the savings higher rate,",

(iii) in Steps 3A and 3B, after "which" insert "(in the case of a Scottish taxpayer)",

(iv) in Step 3A, for "and the higher rate" substitute "and the savings higher rate or (in the case of a Welsh taxpayer) is liable at the higher of the Welsh higher rate and the savings higher rate",

(**13**) Section 237B was inserted by paragraph 15 of Schedule 17 to, the Finance Act 2011 and relevantly amended by paragraph 68 of Schedule 1 to the Taxation of Pensions Act 2014, paragraph 129 of Schedule 46(4) to the Finance Act 2013 (c. 29), article 7(3) of S.I. 2015/1810, article 178 of S.I. 2015/80 and regulation 5 of S.I. 2017/468.

(**14**) Section 237B(4A) was inserted by regulation 5(4) of S.I. 2017/468.

(**15**) S.I. 2005/3448. Regulation 15A was inserted by S.I. 2018/150.

(**16**) 2005 c. 5.

(**17**) Section 539 was substituted by paragraphs 492 and 539 of Schedule 1 to, the Income Tax Act 2007 (c.3). Subsection (1) was amended by S.I. 2015/1810 and subsection (5) was amended by paragraphs 50, 58 and 65 of Schedule 1 to, the Finance Act 2008 and article 9 of S.I. 2015/1810.

(v) in Step 3B, for "and the higher rate" substitute "and the savings higher rate or (in the case of a Welsh taxpayer) is liable at the lower of the Welsh higher rate and the savings higher rate",

(vi) in Step 5, in the assumption about income liable at the higher rate, after "higher rate" insert ", or at the default higher rate or the savings higher rate,",

(vii) in Step 5, in the assumption about income liable at the Scottish higher rate, after "Scottish higher rate" insert ", or at the Welsh higher rate", and

(viii) in Step 5, after "Scottish basic rate" insert "or (as the case may be) the Welsh basic rate",

(c) after subsection (6) insert—

"(7) For the purposes of Steps 3A and 3B of the calculation at subsection (3) of this section—

(a) if the Scottish higher rate and the savings higher rate are equal, the Scottish higher rate is to be treated as the higher of the two rates (and the savings higher rate as the lower), and

(b) if the Welsh higher rate and the savings higher rate are equal, the Welsh higher rate is to be treated as the higher of the two rates (and the savings higher rate as the lower).".

(3) In section 669(**18**) (reduction in residuary income: inheritance tax on accrued income)—

(a) in subsection (3)(a), for "the applicable" substitute "an applicable", and

(b) for subsection (3A) substitute—

"(3A) For the purposes of subsection (3), each of the following is an "applicable rate"—

(a) the higher rate,

(b) the additional rate,

(c) any Scottish rate that—

(i) is above the Scottish basic rate, but

(ii) is not the Scottish intermediate rate,

(d) the Welsh higher rate, and

(e) the Welsh additional rate.".

(4) In section 685A(**19**) (settlor – interested settlements)—

(a) in subsection (3) for "additional rate or, in the case of a Scottish taxpayer, at the highest Scottish rate" substitute "applicable rate", and

(b) after subsection (3) insert—

"(3A) For the purposes of subsection (3), the "applicable rate" means—

(a) in the case of a Scottish taxpayer, the highest Scottish rate,

(b) in the case of a Welsh taxpayer, the Welsh additional rate, or

(c) in any other case, the additional rate.".

(**18**) Section 669(3)(a) was substituted by section 4(13) of the Finance Act 2016 and was amended by regulation 8(2) of S.I. 2017/468. Section 669(3A) was inserted by regulation 8(3) of S.I. 2017/468.

(**19**) Section 685A was inserted by section 89 of, and paragraph 6(1) of Schedule 13 to, the Finance Act 2006 (c.25) and subsection (3) was amended by section 6(5) of, and paragraphs 19 and 22 of Schedule 2 to, the Finance Act 2009 (c.10), article 11 of S.I. 2015/1810 and regulation 8(4) of 2017/468