



Income Tax Act 2007

2007 CHAPTER 3

PART 13

TAX AVOIDANCE

[^{F1}CHAPTER 5F

INCOME-BASED CARRIED INTEREST

Average holding period: derivatives and hedging

[^{F1}809FZD] ~~809FZD~~ Derivatives

- (1) A derivative contract entered into for the purposes of an investment scheme is an investment, subject to the following provisions of this section.
- (2) The value invested in the derivative contract is—
 - (a) where the contract is an option, the cost of acquiring the option (whether from the grantor or another person),
 - (b) where the contract is a future, the price specified in the contract for the underlying subject matter, or
 - (c) where the contract is a contract for differences, the notional principal of the contract.
- (3) But where entering into a derivative contract constitutes a deemed disposal of an investment or part of an investment by virtue of section 809FZD(2)(a)(ii)—
 - (a) the derivative contract is not an investment, and
 - (b) the subsequent disposal of the derivative contract without a corresponding disposal of the investment or part investment is to be regarded as the making of a new investment to the extent that the scheme becomes materially exposed to risks and rewards in respect of the investment or part investment.

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- (4) For the purposes of this Chapter, references to disposal, in the case of a derivative contract, include any of the following events (to the extent that the event is not otherwise a disposal under section 809FZD(1) or (2))—
- (a) the expiry of the contract,
 - (b) the termination of the contract (whether or not in accordance with its terms),
 - (c) the disposal, substantial variation, loss or cancellation of the investment scheme's rights under the contract, and
 - (d) in the case of a derivative contract which is an option, the exercise of the option,
- but do not include the renewal of the contract with the same counterparty on substantially the same terms.
- (5) The substantial variation of an investment scheme's rights under a derivative contract constitutes (in addition to the disposal of the contract as originally entered into (see subsection (4)(c)) a new investment consisting of the contract as varied.]

Textual Amendments

- F1** Pt. 13 Ch. 5F inserted (with effect in accordance with s. 37(4) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 37\(2\)](#)

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

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

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)