

Status: Point in time view as at 01/10/2002.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 27. (See end of Document for details)

SCHEDULES

SCHEDULE 27 **U.K.**

Section 83

DERIVATIVE CONTRACTS: MINOR AND CONSEQUENTIAL AMENDMENTS

Modifications etc. (not altering text)

C1 Sch. 27 extended (retrospective to 30.9.2002) by [Finance Act 2003 \(c. 14\), s. 177\(4\)\(8\)\(11\)](#)

The Taxes Act 1988

- 1 The Taxes Act 1988 is amended as follows.
- 2 In section 15(1) (Schedule A) in paragraph 2(3) of Schedule A (profits of Schedule A business computed without regard to certain items) for the third indent (which relates to qualifying payments within Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) substitute—
 - “—credits or debits within Schedule 26 to the Finance Act 2002 (derivative contracts).”.
- 3 (1) In section 128 (gains arising in course of dealing in commodity and financial futures etc) in the first sentence—
 - (a) at the beginning insert “(1)”,
 - (b) after “(1)”, as so inserted, insert “ For the purposes of income tax, ”, and
 - (c) for “apart from this section” substitute “ apart from this subsection ”.(2) At the end of the first sentence of that section (as amended by sub-paragraph (1)) insert—
 - “(2) For the purposes of corporation tax, any gain arising to any company in the course of dealing in financial futures or in qualifying options, which apart from this subsection would constitute profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, shall not be chargeable to tax under Case V or VI of Schedule D.”.
- (3) At the beginning of the second sentence (and after subsection (2) as inserted by sub-paragraph (2)) insert “(3)”.
 - 4 (1) In section 399 (dealings in commodity futures etc: withdrawal of loss relief) in subsection (1) (losses, arising in course of dealing where gains would constitute non-trading profits or gains chargeable under Schedule D for the purposes of the Tax Acts, not to be allowable against profits or gains chargeable to tax under Schedule D)—
 - (a) for “section 128 above” substitute “ section 128(1) above ”, and
 - (b) for “for the purposes of the Tax Acts” substitute “ for the purposes of the Income Tax Acts ”.
 - (2) After subsection (1A) of that section insert—

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“(1B) If, apart from section 143(1) of the 1992 Act or section 128(2) above, gains arising in the course of dealing in financial futures or in qualifying options would constitute, for the purposes of the Corporation Tax Acts, profits and gains chargeable to tax under Case V or VI of Schedule D, then any loss arising in the course of that dealing shall not be allowable against profits and gains which are chargeable to tax under Case V or VI of Schedule D.”.

- 5 In section 440 (transfers between categories of assets held by insurance companies) after subsection (2A) (treatment of deemed disposal and re-acquisition of loan relationships) insert—

“(2B) Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition of any derivative contract of a company, any authorised accounting method used as respects that contract for the purposes of Schedule 26 to the Finance Act 2002 shall be applied as respects that contract as if the contract that is deemed to be disposed of and the contract that is deemed to be re-acquired were different assets.”.

- 6 Omit section 468AA (authorised unit trusts: futures and options).

- 7 (1) Section 468L (interest distributions) is amended as follows.

- (2) In subsection (9) (meaning of “qualifying investments”) after paragraph (e) insert—

- “(f) derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in paragraphs (a) to (e) above;
- (g) contracts for differences whose underlying subject matter consists wholly of interest rates or creditworthiness or both of those matters.”.

- (3) In subsection (11) (assumption as to investments of other authorised unit trust which are to be regarded as qualifying investments) after “within paragraphs (a) to (c)” insert “, (f) and (g) ”.

- (4) After subsection (12G) insert—

“(12H) For the purposes of this section—

“contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;

“derivative contract” means—

- (a) a contract which is a derivative contract within the meaning of that Schedule, or
- (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);

“underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.”.

- 8 In section 501A (supplementary charge in respect of ring fence trades) in subsection (5) (computation of financing costs) for paragraph (c) (any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (c. 9) (interest rate and currency contracts), in relation to debt finance) substitute—

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- “(c) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;”.
- 9 In section 768B (change in ownership of investment company: deductions generally)—
- (a) in subsection (10) (restriction of debits brought into account in respect of loan relationships) at the end insert “(including debits so brought into account by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002)”, and
- (b) in subsection (13) (modified application of section 768) after “its loan relationships” insert “ (or its derivative contracts by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002) ”.
- 10 In section 768C (deductions: asset transferred within group) in subsection (9) (restriction of debits to be brought into account) at the end insert “(including debits so brought into account by virtue of paragraph 14(3) of Schedule 26 to the Finance Act 2002)”.
- 11 In section 798B (restriction of relief on certain interest and dividends: meaning of “financial expenditure”) in subsection (5) (meaning of “qualifying losses”) for paragraph (b) (losses brought into account for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—
- “(b) the amount (if any) by which debits brought into account in respect of a derivative contract for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) exceed credits so brought into account;”.
- 12 (1) Section 807A (disposals and acquisitions of company loan relationships with or without interest) is amended as follows.
- (2) In subsection (2)(b)(ii) (foreign tax to be disregarded so far as attributable to qualifying payment within Chapter 2 of Part 4 of the Finance Act 1994 relating to a time when a company is not party to a contract)—
- (a) for “relevant qualifying payment” substitute “ relevant payment ”, and
- (b) for “the interest rate or currency contract concerned” substitute “ the derivative contract concerned ”.
- (3) In subsection (7) (definitions) insert the following definition at the appropriate place—
- ““relevant payment” means a payment the amount of which falls to be determined (wholly or mainly) by applying to a notional principal amount specified in a derivative contract, for a period so specified, a rate the value of which at all times is the same as that of a rate of interest so specified;”.
- (4) In that subsection, omit the definition of “relevant qualifying payment”.
- 13 In section 834(1) (interpretation of the Corporation Tax Acts) insert the following definition at the appropriate place—
- ““derivative contract” has the same meaning as it has for the purposes of Schedule 26 to the Finance Act 2002;”.
- 14 (1) Schedule 5AA (guaranteed returns on transactions in futures and options) is amended as follows.

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- (2) In paragraph 1 (profits and gains of transactions with guaranteed returns chargeable to tax under Schedule 5AA to the Taxes Act 1988)—
- (a) omit paragraphs (b) and (c) of sub-paragraph (2) (exceptions for profits and gains arising from a qualifying contract and profits and gains arising to an authorised unit trust),
 - (b) omit sub-paragraph (3) (definitions of “qualifying company” and “qualifying contract”),
 - (c) in sub-paragraph (5) (when loss in transaction sustained for purposes of sections 392 and 396 of the Taxes Act 1988), omit “and 396”,
 - (d) in sub-paragraph (6) (specified amounts not to be brought into account for purposes of income tax, corporation tax or capital gains tax except under Schedule 5AA or section 392 or 396)—
 - (i) omit “, corporation tax”, and
 - (ii) omit “or 396”, and
 - (e) omit sub-paragraph (7) (bringing receipts into account in any Case I computation made in respect of life insurance).
- (3) In paragraph 2 (transactions to which Schedule 5AA applies) omit sub-paragraph (3) (application of Schedule to disposals of futures or options to which section 93A of the Finance Act 1996 (c. 8) refers).
- (4) In paragraph 4 (meaning of disposals of futures or options) omit sub-paragraph (4A) (application of paragraph to associated transactions to which section 93A of the Finance Act 1996 refers).
- (5) In paragraph 4A (futures running to delivery and options exercised)—
- (a) in sub-paragraph (5)(b) (loss in deemed transaction brought into account for purposes of section 392 or 396 of the Taxes Act 1988 in accordance with paragraph 1(5) of Schedule 5AA), omit “or 396”, and
 - (b) omit sub-paragraph (10A) (application of paragraph to associated transactions to which section 93A of the Finance Act 1996 refers).
- (6) In paragraph 6 (meaning of related transactions) omit sub-paragraph (3A) (application of paragraph to associated transactions to which section 93A of the Finance Act 1996 refers).
- (7) Omit paragraph 9 (apportionment in the case of insurance companies).
- 15 (1) Schedule 28AA (provision not at arm’s length) is amended as follows.
- (2) In paragraph 8 (foreign exchange gains and losses and financial instruments) in sub-paragraph (1) (exceptions)—
- (a) after “sub-paragraph (3)” insert “ and sub-paragraph (4) ”, and
 - (b) for paragraph (b) (which relates to Chapter 2 of Part 4 of the Finance Act 1994 (c. 9)) substitute—
 - “(b) Schedule 26 to the Finance Act 2002 (derivative contracts) in respect of exchange gains and losses (as defined in paragraph 54 of that Schedule),”.
- (3) In that paragraph, after sub-paragraph (3) (which is inserted by Schedule 23 to this Act) insert—

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“(4) Sub-paragraph (1) above shall not affect so much of paragraph 27 of Schedule 26 to the Finance Act 2002 (derivative contracts: exchange gains or losses where derivative contract not on arm’s length terms) as has effect by reference to whether profits or losses fall to be computed by virtue of this Schedule as if a company were not party to a derivative contract or as if the terms of the contract to which it is party were different.”.

The Finance Act 1994

16 In section 226 (provisions of the Finance Act 1993 (c. 34) and Finance Act 1994 which are not to apply in the case of Lloyd’s underwriters) for subsection (3) (contracts and options in premium trust fund of corporate member not to be qualifying contracts for purposes of Chapter 2 of Part 4 of the Finance Act 1994) substitute—

“(3) No relevant contract (within the meaning of Schedule 26 to the Finance Act 2002) forming part of a premium trust fund of a corporate member shall be a derivative contract.”.

The Finance Act 1996

17 The Finance Act 1996 (c. 8) is amended as follows.

18 (1) Section 93A (loan relationships linked to the value of chargeable assets: guaranteed returns) is amended as follows.

(2) In subsection (1) (creditor relationships to which section applies)—

- (a) in paragraph (b) for “a disposal of futures or options” substitute “a derivative contract falling within paragraph 6 of Schedule 26 to the Finance Act 2002 (“an associated derivative contract”)”, and
- (b) in paragraph (c) for “the disposals of futures or options” substitute “the associated derivative contracts”.

(3) In subsection (2) (transactions designed to produce guaranteed return)—

- (a) for “disposals of futures or options” substitute “associated derivative contracts”, and
- (b) for “any one or more of the disposals” substitute “any one or more of the associated derivative contracts”.

(4) In subsection (3) (production of a guaranteed return)—

- (a) for “any one or more of the disposals of futures or options” substitute “any one or more of the associated derivative contracts”, and
- (b) omit paragraph (a).

(5) In subsection (5) (meaning of “underlying subject matter”) for paragraph (b) substitute—

“(b) the references, in relation to an associated derivative contract, to the underlying subject matter are to be construed in accordance with paragraphs 6(2)(a) and 11 of Schedule 26 to the Finance Act 2002.”.

(6) Omit subsection (7)(use of terms appearing in Schedule 5AA to the Taxes Act 1988).

19 (1) Section 101 (financial instruments) is amended as follows.

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- (2) In subsection (1) (Chapter 2 of Part 4 of Finance Act 1994 not to apply to profit and loss on certain financial instruments brought into account under Chapter 2 of Part 4 of Finance Act 1996)—
- (a) for “Chapter II of Part IV of the Finance Act 1994 (provisions relating to certain financial instruments)” substitute “ Schedule 26 to the Finance Act 2002 (provisions relating to derivative contracts) ”,
 - (b) for “in accordance with that Chapter” substitute “ in accordance with that Schedule ”, and
 - (c) for “a qualifying contract” substitute “ a derivative contract ”.
- (3) Omit subsections (2) to (6).
- 20 (1) Schedule 10 (loan relationships: collective investment schemes) is amended as follows.
- (2) In paragraph 8 (non-qualifying investments test) in sub-paragraph (2) (meaning of “qualifying investments”) after paragraph (d) insert—
- “(e) derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in paragraphs (a) to (d) above;
 - (f) contracts for differences whose underlying subject matter consists wholly of interest rates or creditworthiness or both of those matters.”.
- (3) In that paragraph, in sub-paragraph (4) (relevant assumption in a case where a qualifying investment is a qualifying holding) after “within paragraphs (a) to (c)” insert “ , (e) and (f) ”.
- (4) In that paragraph, after sub-paragraph (7D) insert—
- “(7E) For the purposes of this paragraph—
- “contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;
- “derivative contract” means—
- (a) a contract which is a derivative contract within the meaning of that Schedule, or
 - (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);
- “underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.”.
- 21 Omit Schedule 12(meaning of debt contract or option).

The Finance Act 2000

- 22 The Finance Act 2000 (c. 17) is amended as follows.
- 23 (1) Schedule 22 (tonnage tax) is amended as follows.

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- (2) In paragraph 50 (income which, otherwise than under Schedule 22 to the Finance Act 2000, falls to be taken into account as trading income from trade consisting of tonnage tax activities) in sub-paragraph (2), for paragraph (c) substitute—
- “(c) any credit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts).”.
- (3) In paragraph 63 (ring-fencing of accounting periods where company is tonnage tax company: meaning of “finance costs”) in sub-paragraph (2), for paragraph (b) substitute—
- “(b) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;”.

The Finance Act 2002

- 24 The Finance Act 2002 is amended as follows.
- 25 Section 78 (which amends the provision made by Schedule 5AA to the Taxes Act 1988 as regards corporation tax in relation to guaranteed returns on transactions involving futures and options, provision as regards which is made in Schedule 26 in relation to accounting periods beginning on or after 1st October 2002) shall cease to have effect.
- 26 In Schedule 29 (taxation of intangible fixed assets) in paragraph 75 (which provides for the Schedule not to apply to financial assets) for sub-paragraph (3)(b) (financial assets to include qualifying contracts within Chapter 2 of Part 4 of the Finance Act 1994) substitute—
- “(b) derivative contracts (see Part 2 of Schedule 26 to this Act).”.

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