

Status: Point in time view as at 19/07/2007.

Changes to legislation: Finance Act 2007, SCHEDULE 14 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 14

Section 47

SALE AND REPURCHASE OF SECURITIES: MINOR AND CONSEQUENTIAL AMENDMENTS

Income and Corporation Taxes Act 1988 (c. 1)

- 1 ICTA is amended as follows.
- 2 (1) Section 231AA (no tax credit for borrower under stock lending arrangement or interim holder under repurchase agreement) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “the interim holder under a repurchase agreement” substitute “ the lender under a creditor repo or creditor quasi-repo ”, and
 - (b) for “or agreement” (in both places) substitute “ or repo in question ”.
 - (3) For subsection (3) substitute—

“(3) In this section creditor repo and “creditor quasi-repo” have the meaning given by Schedule 13 to the Finance Act 2007.”
 - (4) In subsection (4), omit “or 737A(5)”.
 - (5) After that subsection insert—

“(5) For the purposes of this section a person is taken to have paid a manufactured dividend representative of a distribution in respect of securities to which a creditor repo relates if (as a result of paragraph 13(1) of Schedule 13 to the Finance Act 2007) the person is treated for the purposes of Chapter 9 of Part 15 of ITA 2007 as making a payment which is representative of the income payable on the securities.”
- 3 (1) Section 231AB (no tax credit for original owner under repurchase agreement in respect of certain manufactured dividends) is amended as follows.
 - (2) In subsection (1), for paragraphs (a) to (c) substitute—
 - (a) the person is the borrower under a debtor repo or debtor quasi-repo;
 - (b) the qualifying distribution is a manufactured dividend paid to the borrower in consequence of that repo; and
 - (c) the arrangement or arrangements in relation to that repo are not such that the actual dividend which the manufactured dividend represents is receivable otherwise than by the borrower under that repo.”
 - (3) For subsection (2) substitute—

“(2) In this section “debtor repo” and “debtor quasi-repo” have the meaning given by Schedule 13 to the Finance Act 2007.”

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- 4 Omit sections 730A and 730B (treatment of price differential on sale and repurchase of securities).
- 5 Omit section 730BB (exchange gains and losses on sale and repurchase of securities).
- 6 (1) Section 731 (purchase and sale of securities: application and interpretation of sections 732 to 734) is amended as follows.
- (2) In subsection (2A)—
- (a) omit “section 737A(5) below or”, and
- (b) after “2007” insert “ or paragraph 13(1) of Schedule 13 to the Finance Act 2007 ”.
- (3) For subsection (2F) substitute—
- “(2F) For the purposes of subsections (2B) to (2E) above—
- (a) agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into); and
- (b) references to buying back securities include buying similar securities even if the securities bought have not previously been held by the purchaser (and references in those subsections to repurchase are to be construed accordingly).
- (2G) For the purposes of subsection (2F) above securities are similar if they entitle their holders to—
- (a) the same rights against the same persons as to capital, interest and dividends, and
- (b) the same remedies for the enforcement of those rights, in spite of any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.”
- 7 Omit sections 737A to 737C (sale and repurchase of securities: deemed manufactured payments).
- 8 Omit section 737E (power to modify sections 730A, 730BB and 737A to 737C).
- 9 In section 774E(4) (exceptions to sections 774B and 774D), for paragraph (b) (together with the “or” at the end of it) substitute—
- “(b) Schedule 13 to the Finance Act 2007 (sale and repurchase of securities) applies, or”.
- 10 In section 807A (disposals and acquisitions of company loan relationships with or without interest), for subsection (6A) substitute—
- “(6A) In this section “repo or stock-lending arrangements” means—
- (a) a debtor repo within the meaning of paragraph 2 of Schedule 13 to the Finance Act 2007, or
- (b) a stock lending arrangement within the meaning of section 263B of the 1992 Act.
- (6B) In any case where a debtor repo within the meaning of that paragraph constitutes the repo or stock-lending arrangements—

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- (a) a reference in this section, in relation to those arrangements, to the initial transfer is to the sale mentioned in condition C of that paragraph; and
 - (b) a reference in this section, in relation to those arrangements, to the period for which they have effect is to the period from the making of the initial transfer until the earlier of the time when the subsequent purchase mentioned in condition D of that paragraph takes place and the time when it becomes apparent that that subsequent purchase will not take place.
- (6C) In any case where a stock lending arrangement within the meaning of section 263B of the 1992 Act constitutes the repo or stock-lending arrangements—
- (a) a reference in this section, in relation to those arrangements, to the initial transfer is to the transfer mentioned in subsection (1)(a) of that section; and
 - (b) a reference in this section, in relation to those arrangements, to the period for which they have effect is to the period from the making of the initial transfer until the earlier of the time when the transfer mentioned in subsection (1)(b) of that section takes place and the time when it becomes apparent that that transfer will not take place.”

Taxation of Chargeable Gains Act 1992 (c. 12)

11 TCGA 1992 is amended as follows.

12 (1) Section 263A (agreements for sale and repurchase of securities) is amended as follows.

(2) In subsection (1), for the words from the beginning to “were different” substitute “Subject to subsections (3) and (4) below, in any case falling within section 607(1) of ITA 2007 (treatment of price differences under repos) ”.

(3) After that subsection insert—

“(1A) If, at any time after the acquisition mentioned in subsection (1)(a) above, it becomes apparent that the interim holder will not dispose of the securities to the repurchaser, the interim holder shall be treated for the purposes of capital gains tax as acquiring them at that time for a consideration equal to their market value at that time.

(1B) If, at any time after the disposal mentioned in subsection (1)(b) above, it becomes apparent that the original owner will not acquire the securities as the repurchaser, the original owner shall be treated for the purposes of capital gains tax as disposing of them at that time for a consideration equal to their market value at that time.”

(4) Omit subsection (2).

(5) For subsections (5) and (6) substitute—

“(5) Expressions used in this section and section 607 of ITA 2007 have the same meaning in this section as in that section.

(6) This section does not apply for the purposes of corporation tax in respect of chargeable gains.”

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- (6) The heading accordingly becomes “ **Agreements for sale and repurchase of securities: capital gains tax** ”.
- 13 (1) For paragraph 12 of Schedule 7AC substitute—
- “12 (1) This paragraph applies where—
- (a) a company (“the borrower”) which holds shares in another company sells the shares under an arrangement by reference to which the borrower has a debtor repo, and
- (b) by virtue of paragraph 6 of Schedule 13 to the Finance Act 2007 (sale and repurchase of securities) the sale is ignored for the purposes of corporation tax in respect of chargeable gains.
- (2) For the period for which the arrangement is in force—
- (a) the borrower shall be treated for the purposes of this Part as continuing to hold the shares and accordingly as retaining its entitlement to any rights attaching to them, and
- (b) the lender shall be treated for those purposes as not holding the shares and as not becoming entitled to any such rights.
- This is subject to the following qualification.
- (3) If at any time before the end of that period the borrower, or another member of the same group as the borrower, becomes the holder—
- (a) of any of the shares, or
- (b) of any shares directly or indirectly representing any of them,
- sub-paragraph (2) does not apply after that time in relation to those shares or, as the case may be, the shares represented by them.
- (4) Expressions used in this paragraph and in Schedule 13 to the Finance Act 2007 have the same meaning in this paragraph as in that Schedule.”

Finance Act 1996 (c. 8)

- 14 Chapter 2 of Part 4 of FA 1996 (loan relationships) is amended as follows.
- 15 In section 91C(3) (shares treated as loan relationships: condition 1 for section 91B(6)(b)), for paragraph (f) substitute—
- “(f) rights under a creditor repo within the meaning of paragraph 7 of Schedule 13 to the Finance Act 2007;”.
- 16 (1) Section 97 (manufactured interest) is amended as follows.
- (2) In subsection (4), for “sections 736B(2) and 737A(5) of the Taxes Act 1988 for cases” substitute “ section 736B(2) of the Taxes Act 1988 for a case ”.
- (3) After subsection (4A) insert—
- “(4B) This section is subject to Schedule 13 to the Finance Act 2007 (sale and repurchase of securities).”
- 17 In section 100 (money debts etc not arising from the lending of money), omit subsection (2A).
- 18 For paragraph 15 of Schedule 9 (and the italic cross-heading before it) substitute—

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*“Repo and stock-lending transactions and other transactions
where a company ceases to be party to a loan relationship*

- 15 (1) This paragraph applies if—
- (a) a company ceases to be a party to a loan relationship in any period (whether as a result of the disposal of the rights or liabilities under the relationship under a repo or stock lending arrangement or otherwise), but
 - (b) amounts in respect of the relationship are, in accordance with generally accepted accounting practice, nonetheless recognised in determining the company's profit or loss for that period or any subsequent period.
- (2) Despite ceasing to be a party to the relationship—
- (a) the company is to bring into account amounts in respect of the relationship for those periods for the purposes of this Chapter, and
 - (b) those amounts are to be those which are so recognised in respect of the relationship (subject to the provisions of this Chapter (including, in particular, section 84(1))).
- (3) In relation to any time after the company ceases to be a party to a loan relationship, any question—
- (a) whether the company is to any extent a party to the relationship for the purposes of a trade carried on by it or for any other particular purpose or purposes, or
 - (b) whether the relationship is to any extent referable to a particular business, or a particular class, category or description of business, carried on by it,
- is to be determined by reference to the circumstances immediately before the company ceased to be a party to the relationship.
- (4) This paragraph does not apply in relation to any amount in respect of a loan relationship which is brought into account for the purposes of this Chapter as a result of section 103(6) of this Act or paragraph 4 of Schedule 13 to the Finance Act 2007 (sale and repurchase of securities).”

Finance Act 1994 (c. 9)

- 19 In section 229(1)(ca) of FA 1994 (Lloyd's corporate members: regulations), for subparagraph (ii) substitute—

“(ii) arrangements involving repos (within the meaning of paragraph 15 of Schedule 13 to the Finance Act 2007) or redemption arrangements (within the meaning of that paragraph);”.

Finance Act 2006 (c. 25)

- 20 In section 139 of FA 2006 (Real Estate Investment Trusts: manufactured dividends), omit subsection (5).

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Income Tax Act 2007 (c. 3)

- 21 ITA 2007 is amended as follows.
- 22 In section 602(1)(b) (deemed manufactured payments: repos), for “the repurchase price of the securities became due” substitute “ the distribution was payable ”.
- 23 In section 607 (treatment of price differences under repos), after subsection (7) insert—
- “(7A) A company within the charge to corporation tax is not to be treated as a result of this section as making any payment of interest for income tax purposes.”
- 24 In section 886(2) (interest paid by recognised clearing houses etc), after “repos” insert “ , or paragraph 5 of Schedule 13 to FA 2007 (relief for borrower for finance charges in case of debtor repos and debtor quasi-repos), ”.

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