

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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 5

Section 30

#### AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

##### *Amounts not forming part of a company's income*

- 1 (1) ICTA is amended as follows.
  - (2) In section 347A(1) (annual payments: general rule), as it had effect before ITA 2007, omit paragraph (b) together with the “and” before it (payment to which section applies not income of any company for corporation tax purposes).
  - (3) The amendment made by sub-paragraph (2) has effect in relation to payments made on or after 6th December 2006 but before 6th April 2007.
  - (4) Omit section 347A (as amended by ITA 2007).
  - (5) The amendment made by sub-paragraph (4) has effect in relation to payments made on or after 6th April 2007.
- 2 (1) In section 660C of ICTA, omit subsection (4) (income which is income of settlor alone for income tax purposes by virtue of section 624 or 629 of ITTOIA 2005 not income of any company for corporation tax purposes).
  - (2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 6th March 2007.
  - (3) But income which arises in an accounting period beginning before that date is to be chargeable to corporation tax as a result of that amendment only if it arises on or after that date.

##### *Structured finance arrangements*

F1F2<sub>3</sub> .....

##### **Textual Amendments**

- |           |   |
|-----------|---|
| <b>F1</b> | Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by <a href="#">Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 10</a> (with <a href="#">Sch. 9 paras. 1-9, 22</a> ) |
| <b>F2</b> | Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by <a href="#">Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 2</a> (with <a href="#">Sch. 2</a> )  |

F1F2<sub>4</sub> .....

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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)*

**Textual Amendments**

- F1** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 10](#) (with [Sch. 9 paras. 1-9, 22](#))
- F2** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 2](#) (with [Sch. 2](#))

FIF25 .....

**Textual Amendments**

- F1** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 10](#) (with [Sch. 9 paras. 1-9, 22](#))
- F2** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 2](#) (with [Sch. 2](#))

FIF26 .....

**Textual Amendments**

- F1** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 10](#) (with [Sch. 9 paras. 1-9, 22](#))
- F2** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 2](#) (with [Sch. 2](#))

FIF27 .....

**Textual Amendments**

- F1** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 10](#) (with [Sch. 9 paras. 1-9, 22](#))
- F2** Sch. 5 paras. 3-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 2](#) (with [Sch. 2](#))

- 8 (1) Section 263E of TCGA 1992 (structured finance arrangements) is amended as follows.
  - (2) In subsection (2) (condition A: person making disposal of asset subsequently acquires it), for the words from “subsequently” to the end substitute “ (and no-one else) has the right or obligation under the arrangement to acquire the asset disposed of by that disposal at any subsequent time (whether or not the right or obligation is subject to any conditions). ”
  - (3) In subsection (3) (condition B: asset ceases to exist)—
    - (a) in paragraph (a), for “subsequently ceases” substitute “ will subsequently cease ”, and
    - (b) in paragraph (b), for “that asset was held” substitute “ it is intended that that asset will be held ”.
  - (4) After subsection (4) insert—
    - “(4A) If, at any time after that disposal, it becomes apparent that—

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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)*

- (a) the person making the disposal will not subsequently acquire under the arrangement the asset disposed of by that disposal, or
  - (b) that asset will not be held as mentioned in subsection (3)(b),
- that person is to be treated for the purposes of this Act as disposing of that asset at that time for a consideration equal to its market value at that time.”
- (5) In subsection (5) (disregard of subsequent acquisitions), for “Any” substitute “Except in a case falling within subsection (4A), any”.
  - (6) The amendments made by this paragraph have effect in relation to disposals made on or after 6th March 2007.
  - (7) The amendments made by this paragraph also have effect in relation to any disposal made by a person before that date if the person makes a claim to that effect under this sub-paragraph.

*Manufactured payments under arrangements having an unallowable purpose*

F39 .....

**Textual Amendments**

- F3 Sch. 5 para. 9 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Options and groups of companies*

- 10 (1) In section 171(2) of TCGA 1992 (exceptions to rule that disposals within the same group of companies produce neither a gain nor a loss), after paragraph (da) insert “or
- (db) a disposal by company A in fulfilment of its obligations under an option granted to company B at a time when those companies were not members of the same group;”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to cases where the option is exercised on or after 6th March 2007 (whenever the option was granted).

*Loan relationships: amounts not fully recognised for accounting purposes*

F411 .....

**Textual Amendments**

- F4 Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Shares treated as loan relationships*

F412 .....

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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)*

**Textual Amendments**

**F4** Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F4**13 .....

**Textual Amendments**

**F4** Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F4**14 .....

**Textual Amendments**

**F4** Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Exchange gains and losses where loan not on arm's length terms*

**F4**15 .....

**Textual Amendments**

**F4** Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Loan relationships and collective investment schemes*

**F4**16 .....

**Textual Amendments**

**F4** Sch. 5 paras. 11-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Plant or machinery subject to a lease and finance leaseback*

- 17 (1) Chapter 17 of Part 2 of CAA 2001 (plant and machinery allowances: anti-avoidance) is amended as follows.
- (2) In section 228A(2) (application of sections 228B to 228D in case of a lease and finance leaseback), for “Sections 228B to 228D” substitute “ Sections 228B and 228C ”.
- (3) In section 228F (lease and finance leaseback)—
- (a) in subsection (1), for “Sections 228B, 228C and 228D” substitute “ Sections 228B and 228C ”,

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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)*

- (b) omit subsection (4), and
- (c) in subsection (8), for “sections 228B to 228D” substitute “ sections 228B and 228C ” and omit paragraph (b) (together with the “and” before it).

<sup>F5F6</sup>(4) . . . . .

(5) The amendments made by this paragraph have effect in relation to post-commencement rentals that fall to be taken into account in calculating for tax purposes the income or profits for any post-commencement period of account.

(6) In this paragraph—  
“post-commencement period of account” means any period of account ending on or after 6th December 2006, and  
“post-commencement rental” means—  
(a) any amount receivable on or after 6th December 2006 in respect of any period beginning on or after that date, or  
(b) the appropriate fraction of any amount receivable on or after that date in respect of any period beginning before, and ending on or after, that date,

but does not include any amount received before that date.

(7) For this purpose the “appropriate fraction”, in relation to any amount received in respect of any period, means the fraction—

$$\frac{\text{PCP}}{\text{WP}}$$

where—

“PCP” means the number of days in the part of the period falling on or after 6th December 2006, and

“WP” means the number of days in the whole of the period.

(8) Sub-paragraph (9) applies if the amounts that, in accordance with section 228D of CAA 2001 as applied by section 228F of that Act, fall to be taken into account in calculating for tax purposes the income or profits for any post-commencement period of account comprise both post-commencement rentals and other amounts.

(9) For the purposes of section 228D of CAA 2001 as applied by section 228F of that Act, the amount of the gross earnings is taken to be so much of the gross earnings as, on a just and reasonable basis, relates to those other amounts.

“Gross earnings” has the meaning given by section 228D(5) of CAA 2001.

#### Textual Amendments

- F5** Sch. 5 para. 17(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))
- F6** Sch. 5 para. 17(4) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 10** (with [Sch. 9 paras. 1-9, 22](#))

*Status: Point in time view as at 19/07/2013.*

*Changes to legislation: Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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)*

*Derivative contracts: contracts treated for accounting purposes as financial asset or liability*

<sup>F7</sup>18 .....

.....

**Textual Amendments**

**F7** Sch. 5 para. 18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Derivative contracts: transfers of value to connected companies*

<sup>F8</sup>19 .....

.....

**Textual Amendments**

**F8** Sch. 5 para. 19 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**Status:**

Point in time view as at 19/07/2013.

**Changes to legislation:**

Finance Act 2007, SCHEDULE 5 is up to date with all changes known to be in force on or before 15 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.