



# Finance Act 2011

## 2011 CHAPTER 11

### PART 2

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Anti-avoidance provisions*

#### **26 Employment income provided through third parties**

Schedule 2 contains provision about steps which are taken in pursuance of, or which have some other connection with, arrangements concerned with the provision of rewards or recognition or loans in connection with current, former or prospective employments.

#### **27 Tainted charity donations**

Schedule 3 contains provision about gifts and other disposals to charities and community amateur sports clubs.

#### **28 Amounts not fully recognised for accounting purposes**

Schedule 4 contains amendments of Parts 5 and 7 of CTA 2009 (loan relationships and derivative contracts) relating to cases where amounts are not fully recognised for accounting purposes.

#### **29 Loan relationships involving connected debtor and creditor**

(1) In section 418 of CTA 2009 (loan relationships involving connected debtor and creditor where debits exceed credits), in subsection (2), after “creditor company” insert “or any company connected with it”.

(2) In section 419 of that Act (section 418: supplementary), after subsection (6) insert—

---

*Status: This is the original version (as it was originally enacted).*

---

“(6A) References in section 418 to a company bringing debits or credits into account under or for the purposes of this Part include bringing debits or credits into account under or for the purposes of this Part in determining the chargeable profits of the company (or in determining that there were no such profits) for the purposes of Chapter 4 of Part 17 of ICTA (controlled foreign companies).”

- (3) The amendments made by this section have effect in relation to loan relationships to which a company is a party (or to which it is treated as a party under section 418(6A) of CTA 2009) on or after 6 December 2010.
- (4) But amounts are to continue to be brought into account for the purposes of Part 5 of CTA 2009 disregarding those amendments if the amounts relate to a time before that day.

### **30 Group mismatch schemes**

Schedule 5 contains provision about group mismatch schemes.

### **31 Company ceasing to be member of group: availability of relief**

- (1) Section 179 of TCGA 1992 (company ceasing to be member of group: post-appointed day cases) is amended as follows.
- (2) In subsection (2A)—
  - (a) for “Where” substitute “Subsection (2AA) applies where”, and
  - (b) for paragraphs (c) and (d) and the words following those paragraphs substitute—
    - “(c) at the time company A ceases to be a member of the first group there is a connection between that group and the group of companies of which company A becomes a member on leaving the first group (“the second group”), and
    - (d) subsequently—
      - (i) company A ceases to be a member of the second group, or
      - (ii) (before sub-paragraph (i) applies) there ceases to be a connection between the two groups.”
- (3) After that subsection insert—
  - “(2AA) Where this subsection applies—
    - (a) in a case within subsection (2A)(d)(ii), for the purposes of this section (other than subsection (2A)) as it applies as respects the acquisition, company A and any associated company are to be treated as having ceased to be members of the second group at the time the connection between the two groups ceases,
    - (b) subsection (1) has effect in relation to company A’s ceasing to be a member of the second group as if it had been the second group of which both companies had been members at the time of the acquisition, and
    - (c) subsection (2) may operate to prevent subsection (1) applying by virtue of paragraph (b), unless subsection (2AB) applies.

(2AB) This subsection applies if company A's ceasing to be a member of the first group at the same time as one or more associated companies forms part of arrangements the main purpose, or one of the main purposes, of which is the avoidance of a liability to corporation tax."

(4) In subsection (2B) for "if, at the time when company A ceases to be a member of the second group" substitute "at a particular time if, at that time,".

(5) The amendments made by this section have effect in relation to a company in any case in which the time of the company's ceasing to be a member of the first group is on or after 23 March 2011.

### **32 Leasing businesses**

Schedule 6 contains provision about leasing businesses carried on by companies alone or in partnership.

### **33 Long funding finance leases**

(1) Chapter 6 of Part 2 of CAA 2001 (which includes provision about lessees under long funding leases) is amended as follows.

(2) In section 70C (long funding finance lease: amount of capital expenditure), after subsection (4) insert—

“(4A) But where the minimum lease payments include a relievable amount, the present value of that amount must be excluded in determining the commencement PVMLP.

(4B) An amount (“amount X”) is a relievable amount if—

- (a) an arrangement is in place under which all or part of any residual amount (as defined in section 70YE) is guaranteed by the lessee or a person connected with the lessee,
- (b) amount X is within the minimum lease payments because of that arrangement (see subsection (1)(a) of that section), and
- (c) it is reasonable to assume that, were amount X to be incurred under the arrangement, relief would be available as a result (beyond relief, by virtue of this section and section 70E, because amount X is within those minimum lease payments).

(4C) In deciding for the purposes of subsection (4B)(c) whether relief would be available as a result, no account is to be taken of—

- (a) any part of the arrangement other than the part by virtue of which all or part of the residual amount is guaranteed, or
- (b) any other arrangement connected with the arrangement or forming part of a set of arrangements that includes the arrangement.”

(3) In section 70D (long funding finance lease: additional expenditure: allowances for lessee), after subsection (1) insert—

“(1A) Any increase attributable to a relievable amount is to be ignored for the purposes of subsection (1)(d).

---

*Status: This is the original version (as it was originally enacted).*

---

- (1B) Subsections (4B) and (4C) of section 70C apply (with any necessary modifications) for the purposes of this section as for the purposes of that section.”
- (4) In section 70E (disposal events and disposal values), in subsection (2C)(b), after “section 70YE” insert “other than any relievable payment”.
- (5) In that section, after subsection (2D) insert—
- “(2DA) A payment (“payment X”) is a relievable payment if—
- (a) an arrangement is in place under which all or part of any residual amount (as defined in section 70YE) is guaranteed by the lessee or a person connected with the lessee,
  - (b) payment X is within the minimum lease payments because of that arrangement (see subsection (1)(a) of that section), and
  - (c) it is reasonable to assume that relief would be available as a result of making payment X (beyond relief, by virtue of section 70C or 70D and this section, because payment X is within those minimum lease payments).
- (2DB) For the purposes of subsection (2DA)(c)—
- (a) “relief” has the meaning given in section 70C, and
  - (b) subsection (4C) of that section applies as it applies for the purposes of subsection (4B)(c) of that section.”
- (6) The amendments made by subsections (2) and (3) have effect in cases where the arrangement is entered into on or after 9 March 2011.
- (7) The amendments made by subsections (4) and (5) have effect in relation to payments made on or after 9 March 2011 (regardless of when the arrangement was entered into).

### **34 Investment companies**

Schedule 7 contains provision about investment companies.