

SCHEDULES

SCHEDULE 5

NON-UK RESIDENT COMPANIES CARRYING ON UK PROPERTY BUSINESSES ETC

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS

Transitional provisions

- 40 (1) This paragraph applies for an accounting period (“the loss period”) of a non-UK resident company beginning on or after the commencement date if—
- (a) apart from this paragraph, a loss arising in connection with a derivative contract of the company would by reason of this Schedule fall to be brought into account in accordance with Part 7 of CTA 2009,
 - (b) the loss is wholly or partly referable to a time before the commencement date when the derivative contract was not subject to corporation tax, and
 - (c) had the loss arisen at that time it would not have been brought into account in accordance with Part 3 of ITTOIA 2005 in calculating the profits of the UK property business of the company.
- (2) The amounts brought into account for the loss period in accordance with Part 7 of CTA 2009 must be such as to secure that none of the loss referable to that time is treated as arising in the loss period or any other accounting period of the company.
- (3) For the purposes of this section a loss is referable to a time when a contract is not subject to corporation tax so far as, at the time to which the loss is referable, the company would not have been chargeable to corporation tax on any profits arising from the contract.
- (4) If the company was not a party to the contract at the time to which the loss is referable, subparagraph (3) applies as if the reference to the company were a reference to the person who at that time was in the same position as respects the contract as is subsequently held by the company.
- (5) An amount which would be brought into account in accordance with Part 7 of CTA 2009 in respect of a derivative contract apart from this paragraph is treated for the purposes of section 699(1) of CTA 2009 (amounts brought into account under Part 7 excluded from being otherwise brought into account) as if it were so brought into account.
- (6) Accordingly, that amount must not be brought into account for corporation tax purposes as respects the derivative contract either in accordance with Part 7 of CTA 2009 or otherwise.