
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, Paragraph 37. (See end of Document for details)

SCHEDULES

SCHEDULE 7

LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

PART 1

LOAN RELATIONSHIPS: AMENDMENTS OF PARTS 5 AND 6 OF CTA 2009

37 After section 361C insert—

“361D Corporate rescue: debt released shortly after acquisition

- (1) This section applies if—
 - (a) the case is one in which section 361 would otherwise apply,
 - (b) within 60 days after C becomes a party to the loan relationship as creditor, C or a company connected with C releases D's liability to pay an amount under the loan relationship, and
 - (c) the corporate rescue conditions are met.
- (2) If the release is of the whole debt, section 361 does not apply to the acquisition of the rights by C.
- (3) If the release is of part of the debt, the amount that C is treated by section 361 as having released when it acquired the rights under the loan relationship is reduced (but not below nil) by the amount that is actually released as mentioned in subsection (1)(b).
- (4) The corporate rescue conditions are—
 - (a) that the acquisition by C of its rights under the loan relationship is an arm's length transaction,
 - (b) that immediately before C became a party to the loan relationship as creditor, it was reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months the company would have been unable to pay its debts.
- (5) For the purposes of subsection (4)(b), a company is unable to pay its debts if—
 - (a) it is unable to pay its debts as they fall due, or
 - (b) the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”

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