

Status: Point in time view as at 06/04/2007. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Paragraph 4A is up to date with all changes known to be in force on or before 16 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 28AA

PROVISION NOT AT ARM'S LENGTH

Modifications etc. (not altering text)

- C1 Sch. 28AA modified (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 22 para. 58(1)** (as amended by 2004 c. 12, s. 37, **Sch. 5 para. 12**) (with Sch. 22 para. 58(3))
- C1 Sch. 28AA applied (with modifications) (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 22 para. 59(1)(2)** (as amended by 2004 c. 12, s. 37, **Sch. 5 para. 13**) (with Sch. 22 para. 59(4))
- C1 Sch. 28AA applied by Finance Act 1996 (c. 8), **s. 100** (as substituted (with effect in accordance with s. 79(3) of the 2002 amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 6** (with s. 81(4)(5), **Sch. 23 para. 25**))
- C1 Sch. 28AA modified by Finance Act 1996 (c. 8), **Sch. 9 para. 11A(1)** (as inserted (with effect in accordance with s. 79(3) of the 2002 amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 11** (with s. 81(4)(5), **Sch. 23 para. 25**))
- C1 Sch. 28AA excluded by Finance Act 1996 (c. 8), **Sch. 9 para. 12(2ZA)** (as inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 7(2)**)
- C1 Sch. 28AA modified by Finance Act 1996 (c. 8), **Sch. 9 para. 16** (as inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 8**)
- C1 Sch. 28AA excluded by Finance Act 2002 (c. 23), **Sch. 26 para. 28(3A)** (as inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 15(2)**)
- C1 Sch. 28AA modified by Finance Act 2002 (c. 23), **Sch. 26 para. 31A** (as inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 15(3)**)
- C1 Sch. 28AA excluded by Finance Act 2002 (c. 23), **Sch. 29 para. 55(1A)** (as inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 16(2)**)
- C1 Sch. 28AA excluded (1.4.2009 with effect in accordance with s. 1329(1) of the affecting Act) by Corporation Tax Act 2009 (c. 4), **ss. 340(7)**, 625(7), 694(8)-(10), 775(3) (with ss. 628, 629, 636, Sch. 2 Pts. 1, 2)
- C1 Sch. 28AA applied (1.4.2009 with effect in accordance with s. 1329(1) of the affecting Act) by Corporation Tax Act 2009 (c. 4), **ss. 445-447** (with Sch. 2 Pts. 1, 2)
- C1 Sch. 28AA excluded (1.12.2009 with effect in accordance with reg. 1(2) of the affecting S.I.) by The Mutual Societies (Transfers of Business) (Tax) Regulations 2009 (S.I. 2009/2971), **regs. 1(1)**, 19(6), 22(6) (with regs. 19(7)(10)(11), 22(7)(9)(10))
- C1 Sch. 28AA excluded (1.1.2010) by The Northern Rock plc (Tax Consequences) Regulations 2009 (S.I. 2009/3227), regs. 1, 4(3), 6(2)

Persons acting together in relation to financing arrangements

- 4A (1) A person (“P”) shall be treated for the purposes of paragraph 1(1)(b)(i) above (but subject to sub-paragraph (7) below) as indirectly participating in the management, control or capital of another (“A”) at the time of the making or imposition of the actual provision if—

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- (a) the actual provision relates, to any extent, to financing arrangements for A;
 - (b) A is a body corporate or partnership;
 - (c) P and other persons acted together in relation to the financing arrangements;
and
 - (d) P would be taken to have control of A if, at any relevant time, there were attributed to P the rights and powers of each of the other persons mentioned in paragraph (c) above.
- (2) A person (“Q”) shall be treated for the purposes of paragraph 1(1)(b)(ii) above (but subject to sub-paragraph (7) below) as indirectly participating in the management, control or capital of each of the affected persons at the time of the making or imposition of the actual provision if—
- (a) the actual provision relates, to any extent, to financing arrangements for one of the affected persons (“B”);
 - (b) B is a body corporate or partnership;
 - (c) Q and other persons acted together in relation to the financing arrangements;
and
 - (d) Q would be taken to have control of both B and the other affected person if, at any relevant time, there were attributed to Q the rights and powers of each of the other persons mentioned in paragraph (c) above.
- (3) It is immaterial for the purposes of sub-paragraph (1)(c) or (2)(c) above whether P or Q and the other persons acting together in relation to the financing arrangements did so at the time of the making or imposition of the actual provision or at some earlier time.
- (4) In sub-paragraph (1)(d) or (2)(d) “relevant time” means—
- (a) a time when P or Q and the other persons were acting together in relation to the financing arrangements; or
 - (b) a time in the period of six months beginning with the day on which they ceased so to act.
- (5) In determining for the purposes of sub-paragraph (1)(d) or (2)(d) whether P or Q would be taken to have control of another person, the rights and powers of any person (and not just P or Q) shall be taken to include those that would be attributed to that person in determining under paragraph 4 above whether he is indirectly participating in the management, control or capital of the other person.
- (6) In this paragraph “financing arrangements” means arrangements made for providing or guaranteeing, or otherwise in connection with, any debt, capital or other form of finance.
- (7) Where the condition in paragraph 1(1)(b) above would not be satisfied but for this paragraph, paragraph 1(2) above applies only to the extent that the actual provision relates to the financing arrangements in question.

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