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## SCHEDULES

### SCHEDULE 28AA **U.K.**

#### 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)

#### *Advantage in relation to United Kingdom taxation*

- 5 (1) For the purposes of this Schedule <sup>F1</sup>. . . the actual provision confers a potential advantage on a person in relation to United Kingdom taxation wherever, disregarding this Schedule, the effect of making or imposing the actual provision, instead of the arm's length provision, would be one or both of the following, that is to say—

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- (a) that a smaller amount (which may be nil) would be taken for tax purposes to be the amount of that person's profits for any chargeable period; or
- (b) that a larger amount (or, if there would not otherwise have been losses, any amount of more than nil) would be taken for tax purposes to be the amount for any chargeable period of any losses of that person.

(2) <sup>F2</sup> .....

(3) <sup>F3</sup> .....

(4) <sup>F4</sup> .....

(5) <sup>F5</sup> .....

(6) <sup>F6</sup> .....

[<sup>F7</sup>(7) In determining for the purposes of sub-paragraph (1) above the amount that would be taken for tax purposes to be the amount of the profits or losses for a year of assessment in the case of a person who is not resident in the United Kingdom, there shall be left out of account any income of that person which is—

- [<sup>F8</sup>(a) disregarded income within the meaning given by section 813 of ITA 2007 (limits on liability to income tax of non-UK residents), or
- (b) disregarded company income within the meaning given by section 816 of that Act.]

#### Textual Amendments

- F1** Words in Sch. 28AA para. 5(1) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(a), **Sch. 42 Pt. 2(1)**, Note
- F2** Sch. 28AA para. 5(2)-(6) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F3** Sch. 28AA para. 5(2)-(6) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F4** Sch. 28AA para. 5(2)-(6) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F5** Sch. 28AA para. 5(2)-(6) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F6** Sch. 28AA para. 5(2)-(6) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), s. 30(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F7** Sch. 28AA para. 5(7) inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **s. 30(2)(c)**
- F8** Sch. 28AA para. 5(7)(a)(b) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 239** (with Sch. 2)

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