

*Status: Point in time view as at 28/07/2000.*

*Changes to legislation: Income and Corporation Taxes Act 1988, SCHEDULE 7A is up to date with all changes known to be in force on or before 28 June 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 7A

#### BENEFICIAL LOANS: LOANS ON ORDINARY COMMERCIAL TERMS

##### *Introduction*

- 1 For the purposes of section 161B(1) a loan “on ordinary commercial terms” means a loan—
- (a) made by a person (“the lender”) in the ordinary course of a business carried on by him which includes—
    - (i) the lending of money, or
    - (ii) the supplying of goods or services on credit, and
  - (b) in relation to which the requirements of paragraph 2, 3 or 4 below are met.

##### *Requirements relating to original loan*

- 2 (1) This paragraph applies to any loan and the relevant time for the purposes of this paragraph is the time the loan was made.
- (2) The requirements of this paragraph are—
- (a) that at the relevant time comparable loans were available to all those who might be expected to avail themselves of the services provided by the lender in the course of his business;
  - (b) that a substantial proportion of the relevant loans were made to members of the public;
  - (c) that the loan in question and comparable loans generally made by the lender at or about the relevant time to members of the public are held on the same terms; and
  - (d) that if those terms differ from those applicable immediately after the relevant time they were imposed in the ordinary course of the lender’s business.
- (3) For the purposes of this paragraph a loan is comparable to another loan if it is made for the same or similar purposes and on the same terms and conditions.
- (4) The relevant loans for the purposes of sub-paragraph (2)(b) are—
- (a) the loan in question, and
  - (b) comparable loans made by the lender at or about the relevant time.
- (5) In determining for the purposes of this paragraph whether any loans made by any person before 1st June 1994 are made on the same terms or conditions, or held on the same terms, there shall be left out of account any amounts, by way of fees,

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commission or other incidental expenses, incurred for the purpose of obtaining any of those loans by the persons to whom they are made.

*Requirements relating to loan varied before 6th April 2000*

- 3
- (1) This paragraph applies to a loan that has been varied before 6th April 2000 and the relevant time for the purposes of this paragraph is the time of the variation.
  - (2) The requirements of this paragraph are—
    - (a) that a substantial proportion of the relevant loans were made to members of the public;
    - (b) that the loan in question and relevant loans generally made by the lender at or about the relevant time to members of the public are held on the same terms; and
    - (c) that if those terms differ from those applicable immediately after the relevant time they were imposed in the ordinary course of the lender's business.
  - (3) The relevant loans for the purposes of sub-paragraph (2)(a) are—
    - (a) the loan in question;
    - (b) any existing loans which were varied at or about the time of the variation of the loan in question so as to be held on the same terms as that loan after it was varied;
    - (c) any new loans made by the lender, at or about that time, which are held on those terms.

*Requirements relating to loan varied on or after 6th April 2000*

- 4
- (1) The requirements of this paragraph apply to a loan that has been varied on or after 6th April 2000 and the relevant time for the purposes of this paragraph is the time of the variation.
  - (2) The first requirement is that at the relevant time members of the public that had loans from the lender for similar purposes had a right to vary their loans on the same terms and conditions as applied in relation to the variation of the loan in question.
  - (3) The second requirement is that any existing loans so varied and the loan in question as varied are held on the same terms.
  - (4) The third requirement is that if those terms differ from the terms applicable immediately after the relevant time, they were imposed in the ordinary course of the lender's business.
  - (5) The fourth requirement is that a substantial proportion of the relevant loans were made to members of the public.
  - (6) The relevant loans for the purposes of sub-paragraph (5) are—
    - (a) the loan in question;
    - (b) any existing loans which were varied at or about the time of the variation of the loan in question so as to be held on the same terms as that loan after it was varied;

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- (c) any new loans made by the lender, at or about that time, which are held on those terms.

*Disregard of certain penalties, fees, etc.*

- 5 Amounts incurred by the person to whom a loan is made—
  - (a) on penalties or interest or similar amounts incurred as a result of varying the loan, and
  - (b) on fees, commission or other incidental expenses, incurred for the purpose of obtaining the loan,shall be left out of account in determining for the purposes of paragraph 3 or 4 whether rights to vary loans are exercisable on the same terms and conditions or loans are held on the same terms.

*Meaning of 'member of the public'*

- 6 For the purposes of this Schedule a “member of the public” means a member of the public at large with whom the lender deals at arm’s length.

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