

Status: Point in time view as at 24/05/2022.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Arrangements that are alternative finance arrangements is up to date with all changes known to be in force on or before 26 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)



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

[^{F1}CHAPTER 4

ALTERNATIVE FINANCE ARRANGEMENTS]

[^{F1}Arrangements that are alternative finance arrangements

Textual Amendments

- F1** S. 151J and cross-heading inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 2 para. 30** (with Sch. 9 paras. 1-9, 22)

151J Purchase and resale arrangements

- (1) This section applies to arrangements if—
- (a) they are entered into between two persons (“the first purchaser” and “the second purchaser”), [^{F2}and—
 - (i) at least one of those persons is a financial institution, or
 - (ii) the arrangements are regulated electronic system facilitated arrangements, and]
 - (b) under the arrangements—
 - (i) the first purchaser purchases an asset and sells it to the second purchaser,
 - (ii) the sale occurs immediately after the purchase or in the circumstances mentioned in subsection (2),

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- (iii) all or part of the second purchase price is not required to be paid until a date later than that of the sale,
 - (iv) the second purchase price exceeds the first purchase price, and
 - (v) the excess equates, in substance, to the return on an investment of money at interest.
- (2) The circumstances are that—
- (a) the first purchaser is a financial institution, and
 - (b) the asset referred to in subsection (1)(b)(i) was purchased by the first purchaser for the purpose of entering into arrangements within this section.
- [Arrangements are regulated electronic system facilitated arrangements if—
- ^{F3}(2A) (a) the arrangements substantially consist of an article 36H agreement in relation to the deferral of the payment of all or part of the second purchase price,
- (b) the first purchaser would be regarded, for the purposes of that agreement, as the lender under it,
 - (c) the second purchaser would be regarded, for the purposes of that agreement, as the borrower under it, and
 - (d) those purchasers becoming parties to the agreement was facilitated by an electronic system operated by a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on, in relation to that system, the regulated activity specified in article 36H(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (operating an electronic system in relation to lending).]
- (3) In this section—
- “the first purchase price” means the amount paid by the first purchaser in respect of the purchase, ^{F4}...
 - “the second purchase price” means the amount payable by the second purchaser in respect of the sale,
 - [^{F5}“article 36H agreement” has the meaning given by article 36H(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, and
 - “borrower” and “lender” are to be construed in accordance with article 36H(9) of that Order.]
- (4) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from this section and sections 151K to 151N).]

Textual Amendments

- F2** Words in s. 151J(1)(a) substituted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\)](#), arts. 1(2), **6(2)** (with art. 1(3))
- F3** S. 151J(2A) inserted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\)](#), arts. 1(2), **6(3)** (with art. 1(3))
- F4** Word in s. 151J(3) omitted (24.5.2022) by virtue of [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\)](#), arts. 1(2), **6(4)(a)** (with art. 1(3))
- F5** Words in s. 151J(3) inserted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\)](#), arts. 1(2), **6(4)(b)** (with art. 1(3))

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[^{F6}151K Diminishing shared ownership arrangements

- (1) This section applies to arrangements if under them—
- (a) a [^{F7}person] (“the first owner”) acquires a beneficial interest in an asset,
 - [either—
 - ^{F8}(aa) (i) the first owner is a financial institution or a regulated home purchase plan provider, or
 - (ii) the arrangements are regulated electronic system facilitated arrangements,]
 - (b) another person (“the eventual owner”) also acquires a beneficial interest in it,
 - (c) the eventual owner is to make payments to the first owner amounting in aggregate to the consideration paid for the acquisition of the first owner's beneficial interest (but subject to any adjustment required for such a reduction as is mentioned in subsection (5)),
 - (d) the eventual owner is to acquire the first owner's beneficial interest (whether or not in stages) as a result of those payments,
 - (e) the eventual owner is to make other payments to the first owner (whether under a lease forming part of the arrangements or otherwise),
 - (f) the eventual owner has the exclusive right to occupy or otherwise to use the asset, and
 - (g) the eventual owner is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, an increase in its value).
- [Arrangements are regulated electronic system facilitated arrangements if—
- ^{F9}(1A) (a) the arrangements substantially consist of an article 36H agreement in relation to the enjoyment by the eventual owner of the rights referred to in subsection (1)(f) and (g) before the eventual owner's acquisition of the first owner's beneficial interest,
- (b) the eventual owner would be regarded, for the purposes of that agreement, as the borrower under it,
 - (c) the first owner would be regarded, for the purposes of that agreement, as the lender under it,
 - (d) those owners becoming parties to the agreement was facilitated by an electronic system operated by a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on, in relation to that system, the regulated activity specified in article 36H(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#)) (operating an electronic system in relation to lending).]
- (2) For the purposes of subsection (1)(a) it does not matter if—
- (a) the first owner acquires its beneficial interest from the eventual owner,
 - (b) the eventual owner, or another person who is not the first owner, also has a beneficial interest in the asset, or
 - (c) the first owner also has a legal interest in it.
- (3) Subsection (1)(f) does not prevent the eventual owner from granting an interest or right in relation to the asset if the conditions in subsection (4) are met.
- (4) The conditions are that—
- (a) the grant is not to—

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- (i) the first owner,
 - (ii) a person controlled by the first owner, or
 - (iii) a person controlled by a person who also controls the first owner, and
 - (b) the grant is not required by the first owner or arrangements to which the first owner is a party.
- (5) Subsection (1)(g) does not prevent the first owner from—
- (a) having responsibility for any reduction in the asset's value, or
 - (b) having a share in a loss arising out of any such reduction.
- (6) Section 1124 of CTA 2010 (meaning of “control”) applies for the purposes of this section.
- [In this section—
- ^{F10}(7) “article 36H agreement” has the meaning given by article 36H(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; “borrower” and “lender” are to be construed in accordance with article 36H(9) of that Order;
- “regulated home purchase plan provider” means a person who—
- (a) is carrying on the regulated activity specified in article 63F(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (entering into regulated home purchase plans as home purchase provider), and
 - (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to do so.]
- (7) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from section 151J, this section and sections 151L to 151N).]

Textual Amendments

- F6** S. 151K inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 2 para. 31](#) (with Sch. 9 paras. 1-9, 22)
- F7** Word in s. 151K(1)(a) substituted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\), arts. 1\(2\), 3\(2\)\(a\)](#) (with art. 1(3))
- F8** S. 151K(1)(aa) inserted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\), arts. 1\(2\), 3\(2\)\(b\)](#) (with art. 1(3))
- F9** S. 151K(1A) inserted (24.5.2022) by [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\), arts. 1\(2\), 3\(3\)](#) (with art. 1(3))
- F10** S. 151K(7) inserted (24.5.2022) by virtue of [The Alternative Finance \(Income Tax, Capital Gains Tax and Corporation Tax\) Order 2022 \(S.I. 2022/572\), arts. 1\(2\), 3\(4\)](#) (with art. 1(3))

[^{F11}151L Deposit arrangements

- (1) This section applies to arrangements if under them—
- (a) a person (“the depositor”) deposits money with a financial institution,
 - (b) the money, together with money deposited with the institution by other persons, is used by it with a view to producing a profit,
 - (c) from time to time the institution makes or credits a payment to the depositor out of profit resulting from the use of the money,

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- (d) the payment is in proportion to the amount deposited by the depositor, and
 - (e) the payments so made or credited by the institution equate, in substance, to the return on an investment of money at interest.
- (2) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J, 151K, this section and sections 151M and 151N).]

Textual Amendments

F11 S. 151L inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 32** (with Sch. 9 paras. 1-9, 22)

[^{F12}151M Profit share agency arrangements

- (1) This section applies to arrangements if under them—
- (a) a person (“the principal”) appoints an agent,
 - (b) one or both of the principal and agent is a financial institution,
 - (c) the agent uses money provided by the principal with a view to producing a profit,
 - (d) the principal is entitled, to a specified extent, to profits resulting from the use of the money,
 - (e) the agent is entitled to any additional profits resulting from its use (and may also be entitled to a fee paid by the principal), and
 - (f) payments made because of the principal's entitlement to profits equate, in substance, to the return on an investment of money at interest.
- (2) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J to 151L, this section and section 151N).]

Textual Amendments

F12 S. 151M inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 33** (with Sch. 9 paras. 1-9, 22)

[^{F13}151N Investment bond arrangements

- (1) This section applies to arrangements if—
- (a) they provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),
 - (b) they identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
 - (c) they specify a period at the end of which they cease to have effect (“the bond term”),
 - (d) the bond-issuer undertakes under the arrangements—
 - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,

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- (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
 - (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),
 - (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
 - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
 - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who becomes the bond-holder because of the transfer),
 - (h) the arrangements are a listed security on a recognised stock exchange [^{F14}or admitted to trading on a multilateral trading facility operated by [^{F15}a regulated] recognised stock exchange], and
 - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer, or would be if the bond-issuer applied those standards.
- (2) For the purposes of subsection (1)—
- (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
 - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
 - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but need not) be described as, or accompanied by a document described as, a declaration of trust,
 - (d) a reference to the management of assets includes a reference to disposal,
 - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
 - (f) the amount of the additional payments may be—
 - (i) fixed at the beginning of the bond term,
 - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
 - (iii) determined in some other way,
 - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments,
 - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, ^{F16}... [^{F17}and]
 - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities,

^{F18}(j)

^{F19}(k)

[In subsection (1)—

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- ^{F20}(2A) “regulated recognised stock exchange” means a recognised stock exchange that is regulated in the United Kingdom, the European Economic Area or Gibraltar;
- “multilateral trading facility” means—
- (a) a UK multilateral trading facility within the meaning given by Article 2.1(14A) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments,
 - (b) an EU multilateral trading facility within the meaning given by Article 2.1(14B) of that Regulation, and
 - (c) [^{F21}a Gibraltar multilateral trading facility within the meaning given by Article 26(11)(b)(ii) of that Regulation.]
^{F22} ...]
- (3) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J to 151M and this section).]

Textual Amendments

- F13** S. 151N inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 2 para. 34](#) (with Sch. 9 paras. 1-9, 22)
- F14** Words in s. 151N(1)(h) inserted (with effect in accordance with s. 34(4) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 34\(2\)\(a\)](#)
- F15** Words in s. 151N(1)(h) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 6\(13\)\(a\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Word in s. 151N(2)(h) omitted (with effect in accordance with s. 34(4) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\), s. 34\(2\)\(b\)\(i\)](#)
- F17** Word in s. 151N(2)(h) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 6\(13\)\(b\)\(i\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 151N(2)(j) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 6\(13\)\(b\)\(ii\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F19** S. 151N(2)(k) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 6\(13\)\(b\)\(ii\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F20** S. 151N(2A) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 6\(13\)\(c\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in s. 151N(2A) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/818\), regs. 1\(3\), 4\(2\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in s. 151N(2A) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/818\), regs. 1\(3\), 4\(2\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

^{F23}151O Provision not at arm's length: exclusion of arrangements from sections 151J to 151N

- (1) Arrangements to which this section applies are not—
- (a) purchase and resale arrangements,
 - (b) diminishing shared ownership arrangements,
 - (c) deposit arrangements,
 - (d) profit share agency arrangements, or
 - (e) investment bond arrangements.
- (2) This section applies to arrangements if—

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- (a) apart from this section they would be alternative finance arrangements,
 - (b) subsection (3) or (5) of section 147 of TIOPA 2010 (tax calculations to be based on arm's length, not actual, provision) requires the profits and losses of a person who is a party to the arrangements to be calculated for tax purposes as if the arm's length provision (within the meaning of that section) had been made or imposed rather than in accordance with the arrangements,
 - (c) any person who is an affected person for the purposes of Part 4 of that Act (“the affected person”) is entitled to—
 - (i) relevant return in relation to the arrangements, or
 - (ii) an amount representing relevant return in relation to them, and
 - (d) the affected person is not subject—
 - (i) to income tax or corporation tax, or
 - (ii) to any corresponding tax under the law of a territory outside the United Kingdom,
 on the relevant return or the amount representing it.
- (3) In this section “relevant return”, in relation to arrangements, means any amount which would be alternative finance return if the arrangements were alternative finance arrangements.]

Textual Amendments

- F23** S. 151O inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 2 para. 35](#) (with Sch. 9 paras. 1-9, 22)

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