



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### INTEREST RATE AND CURRENCY CONTRACTS

##### *Anti-avoidance and related provisions*

#### **[<sup>F1</sup>168A Qualifying contracts for unallowable purposes**

- (1) Where in any accounting period a qualifying contract to which a company is party has an unallowable purpose, any amounts which for that period fall, in the case of the company, to be brought into account for the purposes of section 155 above as part of amount B shall (subject to subsection (2) below) not include so much of the amounts given by the accounting method used as respects the contract as, on a just and reasonable apportionment, is referable to the unallowable purpose.
- (2) The total of any amounts which by virtue of subsection (1) above are not to be brought into account in the accounting period as part of amount B may not exceed the maximum amount.
- (3) For the purposes of subsection (2) above, the maximum amount, in relation to the accounting period, is—
  - (a) if in the accounting period amount B exceeds amount A, the amount by which amount B exceeds amount A; and
  - (b) if in the accounting period amount A exceeds or equals amount B, nil.
- (4) For the purposes of subsection (3) above, amount A and amount B shall be determined in relation to the qualifying contract in accordance with section 155 above and, in so determining amount B, so much of any amount as is referable to the unallowable

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*Status: Point in time view as at 24/07/2002. This version of this provision has been superseded.*

*Changes to legislation: Finance Act 1994, Section 168A is up to date with all changes known to be in force on or before 31 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)*

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purpose of the contract shall (notwithstanding subsection (1) above) be brought into account.

- (5) For the purposes of this section a qualifying contract to which a company is party shall be taken to have an unallowable purpose in an accounting period where the purposes for which, at times during that period, the company is party to the contract include a purpose (“the unallowable purpose”) which is not amongst the business or other commercial purposes of the company.
- (6) For the purposes of this section the business and other commercial purposes of a company do not include the purposes of any part of its activities in respect of which it is not within the charge to corporation tax.
- (7) For the purposes of this section, where one of the purposes for which a company is party to a qualifying contract at any time is a tax avoidance purpose, that purpose shall be taken to be a business or other commercial purpose of the company only where it is not the main purpose, or one of the main purposes, for which the company is party to the contract at that time.
- (8) The reference in subsection (7) above to a tax avoidance purpose is a reference to any purpose that consists in securing a tax advantage (whether for the company or any other person).
- (9) In this section “tax advantage” has the same meaning as in Chapter 1 of Part 17 of the Taxes Act 1988 (tax avoidance).]

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**Textual Amendments**

- F1** S.168A inserted (with effect as mentioned in s. 69(2))4 of the amending Act) by [Finance Act 2002 \(c. 23\), s. 69\(1\)](#)

**Status:**

Point in time view as at 24/07/2002. This version of this provision has been superseded.

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