



Finance Act 1996

1996 CHAPTER 8

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

LOAN RELATIONSHIPS

Miscellaneous other provisions

[^{F2}100 [^{F1}Money debts etc not arising from the lending of money]

- (1) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—
- (a) the company stands, or has stood, in the position of a creditor or debtor as respects a money debt;
 - (b) the money debt is not one which arose from a transaction for the lending of money (so that, in consequence of section 81(1)(b) above, there is no loan relationship); and
 - (c) the money debt is one—
 - (i) on which interest is payable to or by the company; or
 - (ii) in relation to which exchange gains or losses arise to the company;
^{F3}or
 - (iii) in respect of which a payment would fall to be brought into account for the purposes of corporation tax as a receipt of a trade, Schedule A business or overseas property business carried on by the company, and in relation to which an impairment loss (or a credit in respect of the reversal of an impairment loss) arises to the company;]
^{F4}or
 - (iv) as respects which the conditions in subsection (1A) below (discount etc) are satisfied;]

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and references to a relationship to which this section applies, and to a company's being party to such a relationship, shall be construed accordingly.

[^{F5}(1A) The conditions mentioned in subsection (1)(c)(iv) above are that—

- (a) the company stands in the position of creditor in relation to the money debt;
- (b) the money debt is one from which a discount (whether of an income or capital nature) arises to the company;
- (c) the discount does not fall to be brought into account under section 50 of the Finance Act 2005 by virtue of section 47 of that Act (alternative finance return);
- (d) if the money debt is some or all of the consideration payable for a disposal of property, the money debt (on the assumption that it will be paid in full) does not fall to be brought into account for the purposes of corporation tax as a trading receipt of the company;

[^{F6}(e) if the money debt is some or all of the consideration payable for a disposal of property, the property in question is not an asset representing a loan relationship or a derivative contract the disposal of which is a relevant disposal.]]

[^{F7}(1B) For the purposes of subsection (1A)(e) above “relevant disposal” means—

- (a) a disposal to which paragraph 12 of Schedule 9 applies or would apply but for sub-paragraph (2A) of that paragraph,
- (b) a disposal to which paragraph 28 of Schedule 26 to the Finance Act 2002 applies or would apply but for paragraph 30 of that Schedule,
- (c) a disposal not falling within paragraph (a) or (b) above as respects which the whole of the consideration is brought into account for the purposes of this Chapter or Schedule 26 to the Finance Act 2002.]

(2) Where a company has a relationship to which this section applies—

- [^{F8}(a) this Chapter has effect in relation to the [^{F9}matters mentioned in subsection (1)(c)(i) to (iii) above or subsection (2ZA) below] as it has effect in relation to such matters arising under or in relation to a loan relationship, but
- (b) the only credits or debits to be brought into account for the purposes of this Chapter in respect of the relationship are those relating to those matters;]

and, subject to paragraph above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.

[^{F10}(2ZA) The matters are—

- (a) in the case of a money debt falling within subsection (1)(c)(i) above, profits (but not losses) arising to the company from any related transaction in respect of the right to receive interest;
- (b) in the case of a money debt falling within subsection (1)(c)(iv) above, each of the following—
 - (i) the discount arising to the company from the money debt;
 - (ii) profits (but not losses) arising to the company from any related transaction;
 - (iii) any impairment arising to the company in respect of the discount;
 - (iv) any reversal of any such impairment.

(2ZB) Where a company—

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- (a) has a relationship to which this section applies by virtue of subsection (1)(c)(i) above, but
- (b) enters into a related transaction in respect of the right to receive interest, then, for the purpose of bringing credits into account by virtue of subsection (2ZA)(a) above in respect of that or any other related transaction, the company shall continue to be treated as having a relationship to which this section so applies even though the interest is not payable to the company.]

^{F11}(2A)

- (3) References in this section to interest payable on a money debt include a reference to any amount which, in pursuance of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), falls to be treated as—

- (a) interest on a money debt; or
- (b) interest on an amount which is treated as a money debt;

and references in the other provisions of this section to a money debt accordingly include a reference to the amount on which that amount so falls to be treated as interest.

^{F12}(3A) For the purposes of this section, a discount shall, in particular, be taken to arise from a money debt in any case where—

- (a) there is a disposal of property for a consideration some or all of which is money that falls to be paid after the sale;
- (b) the amount or value of the whole consideration exceeds what the purchaser would have paid for the property if he had been required to pay in full at the time of the disposal; and
- (c) some or all of the excess can reasonably be regarded as representing a return on an investment of money at interest (and, accordingly, as being a discount arising from the money debt).

(3B) The credits to be brought into account for the purposes of this Chapter in respect of a discount arising from a money debt must be determined using an amortised cost basis of accounting (see section 103).]

^{F13}(4)

^{F13}(5)

^{F13}(6)

(7) Any debits or credits which—

- (a) relate to interest payable under the Tax Acts, and
- (b) fall to be brought into account by virtue of this section in relation to any company,

are to be treated as non-trading debits or credits.

^{F14}(8)

(9) No exchange gains or losses shall be taken to arise for the purposes of this section if the money debt in question—

- (a) is an amount of tax,
- (b) is an amount of tax payable under the law of a territory outside the United Kingdom, or

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- (c) is an amount which would, but for any statutory provision or rule of law to the contrary other than section 74(1)(f) or (g) of the Taxes Act 1988, be deductible as an expense in computing profits in accordance with Case I of Schedule D or as an expense of management within section 75 of the Taxes Act 1988, [^{F15}or expenses payable falling to be brought into account in Step 1 of section 76(7) of that Act]

except to the extent that, in the case of a money debt falling within paragraph (b) above, a reduction in respect of the tax there mentioned falls to be made under section 811 of the Taxes Act 1988 (double taxation relief: deduction for foreign tax where no credit allowable).

- (10) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed to a company—
- (a) any currency held by the company;
 - (b) in the case of a company carrying on insurance business, any deferred acquisition costs, within the meaning of Assets item G.II in the Balance Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985 (form and content of accounts of insurance companies and groups) as read with note (17) of the Notes on the Balance Sheet Format (which follow immediately after that format).
- (11) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed by a company—
- (a) any provision made by the company for the purposes of its statutory accounts in respect of a liability to which the company may become subject;
 - (b) in the case of a company carrying on insurance business—
 - (i) any provision made by the company for unearned premiums, within the meaning of Liabilities item C.1 in the Balance Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985, as read with note (20) of the Notes on the Balance Sheet Format (which follow immediately after that format);
 - (ii) any provision for unexpired risks, as defined in paragraph 81(1) of that Schedule.
- (12) A provision does not fall within paragraph (a) of subsection (11) above unless—
- (a) the duty to settle the liability in question would (if the company were to become subject to it) be owed for the purposes of a trade, a Schedule A business or an overseas property business (within the meaning of section 70A of the Taxes Act 1988); and
 - (b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade, Schedule A business or overseas property business for corporation tax purposes.

^{F16}(13)

- [^{F17}(14) This section does not apply to a debt in respect of which profits, gains or losses (if any) fall to be brought into account under—
- (a) Schedule 26 to the Finance Act 2002 (derivative contracts), or
 - (b) Schedule 29 to that Act (gains and losses from intangible fixed assets).]]

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Textual Amendments

- F1** S. 100 heading substituted (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 9\(2\)](#)
- F2** S. 100 substituted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 79\(2\), Sch. 23 Pt. 1 para. 6](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F3** S. 100(1)(c)(iii) and word inserted (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 9\(3\)](#)
- F4** S. 100(1)(c)(iv) and word inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(2\)](#)
- F5** S. 100(1A) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(3\)](#)
- F6** S. 100(1A)(e) substituted (with effect in accordance with Sch. 6 para. 17(4) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 6 para. 17\(2\)](#)
- F7** S. 100(1B) inserted (with effect in accordance with Sch. 6 para. 17(4) of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 6 para. 17\(3\)](#)
- F8** S. 100(2)(a)(b) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 9\(4\)](#)
- F9** Words in s. 100(2)(a) substituted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(4\)](#)
- F10** S. 100(2ZA)(2ZB) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(5\)](#)
- F11** S. 100(2A) repealed (with effect in accordance with art. 3 of the commencing S.I.) by [Finance Act 2007 \(c. 11\), s. 47\(4\), Sch. 14 para. 17, Sch. 27 Pt. 2\(14\)](#); S.I. 2007/2483, art. 3
- F12** S. 100(3A)(3B) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(6\)](#)
- F13** S. 100(4)-(6) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(7\), Sch. 11 Pt. 2\(8\)](#)
- F14** S. 100(8) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(7\), Sch. 11 Pt. 2\(8\)](#)
- F15** Words in s. 100(9)(c) added (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 49](#)
- F16** S. 100(13) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(8\), Sch. 11 Pt. 2\(8\)](#)
- F17** S. 100(14) added (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 9\(5\)](#)

Modifications etc. (not altering text)

- C1** Pt. 4 Ch. 2 modified (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 14\(5\)-\(7\)](#)
- C2** S. 100(2) modified (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 12\(11\)](#)

101 Financial instruments.

- (1) [^{F18}Schedule 26 to the Finance Act 2002 (provisions relating to derivative contracts)] shall not apply to any profit or loss which, [^{F19}in accordance with that Schedule], accrues to a company for any accounting period on [^{F20}a derivative contract] by virtue of which the company is a party to any loan relationship if—
- an amount representing that profit or loss, or
 - an amount representing the profit or loss accruing to that company on that contract,
- is brought into account for that period for the purposes of this Chapter.

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[^{F21}(1A) This section does not apply where section 94A above applies (treatment of embedded derivatives).]

- (2) ^{F22}
- (3) ^{F22}
- (4) ^{F22}
- (5) ^{F22}
- (6) ^{F22}

Textual Amendments

F18 Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 83(1), [Sch. 27 para. 19\(2\)\(a\)](#)

F19 Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 83(1), [Sch. 27 para. 19\(2\)\(b\)](#)

F20 Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 83(1), [Sch. 27 para. 19\(2\)\(c\)](#)

F21 S. 101(1A) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 16](#)

F22 S. 101(2)-(6) repealed (24.7.2002 with effect as mentioned in s. 83(3)(4) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 83(1), 141, [Sch. 27 para. 19\(3\)](#), [Sch. 40 Pt. 3\(13\)](#)

^{F23}**102 Discounted securities: income tax provisions.**

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Textual Amendments

F23 S. 102 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 487](#), [Sch. 3](#) (with [Sch. 2](#))

Status:

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