



Finance Act 1996

1996 CHAPTER 8

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

LOAN RELATIONSHIPS

Special cases

92 Convertible securities etc.

- (1) This section applies to an asset if—
- (a) the asset represents a creditor relationship of a company;
 - (b) the rights attached to the asset include provision by virtue of which the company is or may become entitled to acquire (whether by conversion or exchange or otherwise) any shares in a company;
 - (c) the extent to which shares may be acquired under that provision is not determined using a cash value which is specified in that provision or which is or will be ascertainable by reference to the terms of that provision;
 - (d) the asset is not a relevant discounted security within the meaning of Schedule 13 to this Act;
 - (e) at the time when the asset came into existence there was a more than negligible likelihood that the right to acquire shares in a company would in due course be exercised to a significant extent; and
 - (f) the asset is not one the disposal of which by the company would fall to be treated as a disposal in the course of activities forming an integral part of a trade carried on by the company.

Status: Point in time view as at 19/03/1997. This version of this cross heading contains provisions that are not valid for this point in time.

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- (2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a creditor relationship represented by an asset to which this section applies shall be confined to amounts relating to interest.
- (3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.
- (4) Amounts shall be brought into account in computing the profits of the company for the purposes of corporation tax as if the ^{M1}Taxation of Chargeable Gains Act 1992 had effect in relation to any asset to which this section applies as it has effect in relation to an asset that does not represent a loan relationship.
- (5) For the purposes of that Act the amount or value of the consideration for any disposal or acquisition of the asset shall be treated as adjusted so as to exclude so much of it as, on a just and reasonable apportionment, relates to any interest which—
 - (a) falls to be brought into account under subsections (2) and (3) above as accruing to any company at any time; and
 - (b) in consequence of, or of the terms of, the disposal or acquisition, is not paid or payable to the company to which it is treated for the purposes of this Chapter as accruing.
- (6) In subsection (5) above the references to a disposal, in relation to an asset, are references to anything which—
 - (a) is a disposal of that asset (within the meaning of the Taxation of Chargeable Gains Act 1992); or
 - (b) would be such a disposal but for section 127 or 116(10) of that Act (reorganisations etc.);
 and the references to the acquisition of an asset shall be construed accordingly.

Marginal Citations

M1 1992 c. 12.

VALID FROM 24/07/2002

[^{F1}92A Convertible securities etc: debtor relationships

- (1) This section applies to a liability if—
 - (a) the liability represents a debtor relationship of a company (“the debtor company”); and
 - (b) the rights attached to the asset that represents the corresponding creditor relationship include provision by virtue of which a person is or may become entitled to acquire (whether by conversion or exchange or otherwise)—
 - (i) any shares in the debtor company, or
 - (ii) any shares in another company.
- (2) The debits falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a debtor relationship represented by a liability to which this section applies shall not include debits in relation to any of the amounts falling within subsection (3) below.

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- (3) The amounts are—
- (a) any amounts payable by the debtor company in respect of, or in connection with, any such acquisition of shares as is described in subsection (1)(b)(ii) above, but not any amounts to which subsection (4) below applies; and
 - (b) any charges or expenses incurred by the debtor company as described in paragraph (b), (c) or (d) of section 84(3) above, where the related transaction in question relates to, or is connected with, the acquisition of shares by another person (whether by conversion or exchange or otherwise) as described in subsection (1)(b) above.
- (4) This subsection applies to amounts payable by the debtor company, as described in subsection (3)(a) above, in respect of the debtor relationship in a case where—
- (a) the debtor company is carrying on a banking business or a business consisting wholly or partly in dealing in securities, and
 - (b) it entered into the debtor relationship in the ordinary course of that business.
- (5) For the purposes of subsection (4) above “securities” has the same meaning as in section 473 of the Taxes Act.
- (6) Subject to subsection (7) below, only an authorised accruals basis of accounting shall be used for ascertaining the amounts which fall to be taken into account as described in subsection (2) above.
- (7) The requirement in subsection (6) above to use an authorised accruals basis of accounting does not apply in the case of a debtor relationship where—
- (a) the debtor company is carrying on a banking business or a business consisting wholly or partly in dealing in securities, and
 - (b) it entered into the debtor relationship in the ordinary course of that business.]

Textual Amendments

- F1** S. 92A inserted (24.7.2002 with effect as mentioned in s. 74(2) of the amending Act) by Finance Act 2002 (c. 23), s. 74(1)

93 Relationships linked to the value of chargeable assets.

- (1) This section applies in the case of any loan relationship of a company that is linked to the value of chargeable assets unless it is one the disposal of which by the company would fall to be treated as a disposal in the course of activities forming an integral part of a trade carried on by the company.
- (2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of the relationship shall be confined to amounts relating to interest.
- (3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.
- (4) Amounts shall be brought into account in computing the profits of the company for the purposes of corporation tax as if the ^{M2}Taxation of Chargeable Gains Act 1992 had effect in relation to the asset representing the relationship as it has effect in relation to an asset that does not represent a loan relationship.

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- (5) For the purposes of that Act the amount or value of the consideration for any disposal or acquisition of the asset shall be treated as adjusted so as to exclude so much of it as, on a just and reasonable apportionment, relates to any interest which—
- (a) falls to be brought into account under subsections (2) and (3) above as accruing to any company at any time; and
 - (b) in consequence of, or of the terms of, the disposal or acquisition, is not paid or payable to the company to which it is treated for the purposes of this Chapter as accruing.
- (6) For the purposes of this section a loan relationship is linked to the value of chargeable assets if, in pursuance of any provision having effect for the purposes of that relationship, the amount that must be paid to discharge the money debt (whether on redemption of a security issued in relation to that debt or otherwise) is equal to the amount determined by applying a relevant percentage change in the value of chargeable assets to the amount falling for the purposes of this Chapter to be regarded as the amount of the original loan from which the money debt arises.
- (7) In subsection (6) above the reference to a relevant percentage change in the value of chargeable assets is a reference to the amount of the percentage change (if any) over the relevant period in the value of chargeable assets of any particular description or in any index of the value of any such assets.
- (8) In subsection (7) above “the relevant period” means—
- (a) the period between the time of the original loan and the discharge of the money debt; or
 - (b) any other period in which almost all of that period is comprised and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under the loan relationship.
- (9) If—
- (a) there is a provision which, in the case of any loan relationship, falls within subsection (6) above,
 - (b) that provision is made subject to any other provision applying to the determination of the amount payable to discharge the money debt,
 - (c) that other provision is to the effect only that the amount so payable must not be less than a specified percentage of the amount falling for the purposes of this Chapter to be regarded as the amount of the original loan, and
 - (d) the specified percentage is not more than 10 per cent.,
- that other provision shall be disregarded in determining for the purposes of this section whether the relationship is linked to the value of chargeable assets.
- (10) For the purposes of this section an asset is a chargeable asset, in relation to a loan relationship of a company, if any gain accruing on the disposal of the asset by the company on or after 1st April 1996 would, on the assumptions specified in subsection (11) below, be a chargeable gain for the purposes of the ^{M3}Taxation of Chargeable Gains Act 1992.
- (11) Those assumptions are—
- (a) where it is not otherwise the case, that the asset is an asset of the company;
 - (b) that the asset is not one the disposal of which by the company would fall to be treated for the purposes of corporation tax as a disposal in the course of a trade carried on by the company; and

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- (c) that chargeable gains that might accrue under section 116(10) of that Act (postponed charges) are to be disregarded.
- (12) In subsection (5) above references to a disposal, in relation to an asset, are references to anything which—
- (a) is a disposal of that asset (within the meaning of the Taxation of Chargeable Gains Act 1992); or
 - (b) would be such a disposal but for section 127 or 116(10) of that Act (reorganisations etc.);
- and the references to the acquisition of an asset shall be construed accordingly.
- (13) For the purposes of this section neither—
- (a) the retail prices index, nor
 - (b) any similar general index of prices published by the government of any territory or by the agent of any such government,
- shall be taken to be an index of the value of chargeable assets.

Marginal Citations

M2 1992 c. 12.

M3 1992 c. 12.

VALID FROM 24/07/2002

[^{F2}93A Relationships linked to the value of chargeable assets: guaranteed returns

- (1) This section applies to a loan relationship which is a creditor relationship of a company if—
- (a) that loan relationship and one or more other transactions are associated transactions designed to produce a guaranteed return;
 - (b) any such other transaction is a disposal of futures or options; and
 - (c) the guaranteed return comprises the return consisting of the amount that must be paid to discharge the money debt arising in connection with that loan relationship taken together with the return from any one or more of the disposals of futures or options.
- (2) For the purposes of this section a loan relationship of a company and one or more disposals of futures or options are transactions designed to produce a guaranteed return if, taking the transactions together, it would be reasonable to assume, from considering—
- (a) the likely effect of the transactions,
 - (b) the circumstances in which the transactions are entered into, or in which any of them is entered into, or
 - (c) the matters in both of paragraphs (a) and (b),
- that the main purpose of the transactions, or one of their main purposes, is or was the production of a guaranteed return from the loan relationship and any one or more of the disposals.

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- (3) For the purposes of this section a guaranteed return is produced from the loan relationship and any one or more of the disposals of futures or options wherever (taking all the transactions together) risks from fluctuations in the underlying subject matter are so eliminated or reduced as to produce a return from the transactions—
- (a) the amount of which is not, to any significant extent, attributable (otherwise than incidentally) to any such fluctuations; and
 - (b) which equates, in substance, to the return on an investment of money at interest.
- (4) For the purposes of subsection (3) above the cases where risks from fluctuations in the underlying subject matter are eliminated or reduced shall be deemed to include any case where the main reason, or one of the main reasons, for the choice of that subject matter is—
- (a) that there appears to be no risk that that subject matter will fluctuate; or
 - (b) that the risk that it will fluctuate appears to be insignificant.
- (5) In this section—
- (a) the references, in relation to a loan relationship, to the underlying subject matter are references to the value of chargeable assets of a particular description to which that relationship is linked;
 - (b) the references, in relation to a disposal of futures or options, to the underlying subject matter are references to or to the value of the commodities, currencies, shares, stock or securities, interest rates, indices or other matters to which, or to the value of which, those futures or options are referable.
- (6) Subsection (5)(a) above is to be construed in accordance with section 93 above.
- (7) For the purposes of this section—
- (a) references to the disposal of futures or options are to be construed in accordance with paragraphs 4 and 4A of Schedule 5AA to the Taxes Act 1988;
 - (b) references to the return from one or more disposals of futures or options are to be construed in accordance with paragraph 5 of that Schedule; and
 - (c) references to associated transactions are to be construed in accordance with paragraph 6 of that Schedule.]

Textual Amendments

- F2** S. 93A inserted (24.7.2002 with effect as mentioned in s. 76(2) of the amending Act) by Finance Act 2002 (c. 23), s. 76(1)

VALID FROM 24/07/2002

[^{F3}93B Loan relationships ceasing to be within section 93

- (1) Where a loan relationship of a company—
- (a) ceases at any time to be a loan relationship to which section 93 above applies, but
 - (b) does not cease at that time to be a loan relationship of that company,

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subsection (2) below shall have effect in relation to the asset representing that relationship.

- (2) Where this subsection has effect in relation to an asset representing a loan relationship of a company, the company shall be deemed for the purposes of the Taxation of Chargeable Gains Act 1992 and this Chapter—
- (a) to have disposed of the asset for the relevant consideration immediately before the time when the loan relationship ceases to be one to which section 93 above applies, and
 - (b) to have re-acquired it for the relevant consideration immediately after that time.
- (3) Any deemed disposal and re-acquisition of an asset under subsection (2) above shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as a transaction in the case of which—
- (a) sections 127 to 130 of that Act would apply, apart from the provisions of section 116 of that Act, by virtue of any provision of Chapter 2 of Part 4 of that Act;
 - (b) the asset in question represents both the original shares and the new holding for the purposes of those sections;
 - (c) the market value of the asset at the time of the transaction is an amount equal to the relevant consideration.
- (4) Subject to subsection (5) below, in subsections (2) and (3) above “the relevant consideration”, in relation to an asset, means the amount that would have been taken, in accordance with the relevant accounting method, to be the value of the asset at the time of its deemed disposal if that method had been applied to the asset for tax purposes at all times until then.
- (5) Section 93(5) above shall not apply in the case of a deemed disposal and re-acquisition under subsection (2) above; but the amount of the relevant consideration in such a case shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as reduced by so much (if any) of the amount mentioned in subsection (4) above as is referable to interest which—
- (a) is not paid or payable to the company before the time of the deemed disposal; but
 - (b) is interest falling to be brought into account under section 93(2) and (3) above as having accrued before that time.
- (6) In subsection (4) above “the relevant accounting method”, in relation to an asset representing a loan relationship of a company, means the accounting method which, for the accounting period of that company in which the deemed re-acquisition takes place, is used as respects that asset and the part of that accounting period beginning with the deemed re-acquisition.
- (7) This section shall be construed as one with section 93 above.]

Textual Amendments

- F3** S. 93B inserted (24.7.2002 with effect as mentioned in s. 77(2)(3) of the amending Act) by Finance Act 2002 (c. 23), s. 77(1)

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94 Indexed gilt-edged securities.

- (1) In the case of any loan relationship represented by an index-linked gilt-edged security, the adjustment for which this section provides shall be made in computing the credits and debits which fall, for any accounting period, to be brought into account for the purposes of this Chapter in respect of that relationship as non-trading credits or non-trading debits.
- (2) The adjustment shall be made wherever—
 - (a) the authorised accounting method applied as respects the index-linked gilt-edged security gives credits or debits by reference to the value of the security at two different times, and
 - (b) there is any change in the retail prices index between those times.
- (3) Subject to subsection (4) below, the adjustment is such an adjustment of the amount which would otherwise be taken for the purposes of that accounting method to be the value of the security at the earlier time (“the opening value”) as results in the amount in fact so taken being equal to the opening value increased or, as the case may be, reduced by the same percentage as the percentage increase or reduction in the retail prices index between the earlier and the later time.
- (4) The Treasury may, in relation to any description of index-linked gilt-edged securities, by order provide that—
 - (a) there are to be no adjustments under this section; or
 - (b) that an adjustment specified in the order (instead of the adjustment specified in subsection (3) above) is to be the adjustment for which this section provides.
- (5) An order under subsection (4) above—
 - (a) shall not have effect in relation to any gilt-edged security issued before the making of the order; but
 - (b) may make different provision for different descriptions of securities.
- (6) For the purposes of this section the percentage increase or reduction in the retail prices index between any two times shall be determined by reference to the difference between—
 - (a) that index for the month in which the earlier time falls; and
 - (b) that index for the month in which the later time falls.
- (7) In this section “index-linked gilt-edged securities” means any gilt-edged securities the amounts of the payments under which are determined wholly or partly by reference to the retail prices index.

95 Gilt strips.

- (1) This section has effect for the purposes of the application of an authorised accruals basis of accounting as respects a loan relationship represented by a gilt-edged security or a strip of a gilt-edged security.
- (2) Where a gilt-edged security is exchanged by any person for strips of that security—
 - (a) the security shall be deemed to have been redeemed at the time of the exchange by the payment to that person of its market value; and
 - (b) that person shall be deemed to have acquired each strip for the amount which bears the same proportion to that market value as is borne by the market value

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of the strip to the aggregate of the market values of all the strips received in exchange for the security.

- (3) Where strips of a gilt-edged security are consolidated into a single gilt-edged security by being exchanged by any person for that security—
 - (a) each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value; and
 - (b) that person shall be deemed to have acquired the security received in the exchange for the amount equal to the aggregate of the market values of the strips given in exchange for the security.
- (4) References in this section to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.
- (5) Without prejudice to the generality of any power conferred by section 202 below, the Treasury may by regulations make provision for the purposes of this section as to the manner of determining the market value at any time of any gilt-edged security (including any strip).
- (6) Regulations under subsection (5) above may—
 - (a) make different provision for different cases; and
 - (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.
- (7) In this section “strip” means anything which, within the meaning of section 47 of the ^{M4}Finance Act 1942, is a strip of a gilt-edged security.

Marginal Citations

M4 1942 c. 21.

96 Special rules for certain other gilts.

- (1) This section applies as respects any loan relationship of a company if—
 - (a) it is represented by a security of any of the following descriptions—
 - (i) 3½% Funding Stock 1999-2004; or
 - (ii) 5½% Treasury Stock 2008-2012;and
 - (b) it is one to which the company is a party otherwise than in the course of activities that form an integral part of a trade carried on by the company.
- (2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a loan relationship to which this section applies shall be confined to amounts relating to interest.
- (3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.

97 Manufactured interest.

- (1) This section applies where—

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- (a) any amount (“manufactured interest”) is payable by or on behalf of, or to, any company under any contract or arrangements relating to the transfer of an asset representing a loan relationship; and
 - (b) that amount is, or (when paid) will fall to be treated as, representative of interest under that relationship (“the real interest”).
- (2) In relation to that company the manufactured interest shall be treated for the purposes of this Chapter—
- (a) as if it were interest under a loan relationship to which the company is a party; and
 - (b) where that company is the company to which the manufactured interest is payable, as if that relationship were the one under which the real interest is payable.
- (3) Any question whether debits or credits falling to be brought into account in the case of any company by virtue of this section—
- (a) are to be brought into account under section 82(2) above, or
 - (b) are to be treated as non-trading debits or non-trading credits,
- shall be determined according to the extent (if any) to which the manufactured interest is paid for the purposes of a trade carried on by the company or is received in the course of activities forming an integral part of such a trade.
- (4) Where section 737A(5) of the Taxes Act 1988 (deemed manufactured payments) has effect in relation to a transaction relating to an asset representing a loan relationship so as, for the purposes of [^{F4}section 737 of, or]Schedule 23A to, that Act, to deem there to have been a payment representative of interest under that relationship, this section shall apply as it would have applied if such a representative payment had in fact been made.
- [^{F5}(5) This section does not apply where the manufactured interest is treated by virtue of paragraph 5(2)(c) or (4)(c) of Schedule 23A to the Taxes Act 1988 (manufactured interest passing through the market) as not being income of the person who receives it.]

Textual Amendments

- F4** Words in s. 97(4) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Notes 4, 6 of the amending Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**
- F5** S. 97(5) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Notes 3, 4, 6 of the amending Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**

98 Collective investment schemes.

The provisions of this Chapter have effect subject to the provisions of Schedule 10 to this Act (which makes special provision in relation to certain collective investment schemes).

99 Insurance companies.

The preceding provisions of this Chapter have effect subject to Schedule 11 to this Act (which makes special provision in relation to certain insurance companies and in relation to corporate members of Lloyd’s).

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