



# Finance Act 1996

## 1996 CHAPTER 8

### PART IV

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

### CHAPTER II

#### LOAN RELATIONSHIPS

#### *Special cases*

#### <sup>F1</sup>92 **Convertible securities etc: creditor relationships**

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##### **Textual Amendments**

**F1** S. 92 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 9, [Sch. 42 Pt. 2\(6\)](#)

##### **Modifications etc. (not altering text)**

**C1** S. 92 modified (27.7.1999) by [1999 c. 16, s. 65\(9\)](#)

#### <sup>F2</sup>92A **Convertible securities etc: debtor relationships**

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##### **Textual Amendments**

**F2** S. 92A repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 10, [Sch. 42 Pt. 2\(6\)](#)

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**F<sup>3</sup>93 Relationships linked to the value of chargeable assets.**

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**Textual Amendments**

- F3** S. 93 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

**F<sup>4</sup>93A Relationships linked to the value of chargeable assets: guaranteed returns**

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**Textual Amendments**

- F4** S. 93A repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

**F<sup>5</sup>93B Loan relationships ceasing to be within section 93**

.....

**Textual Amendments**

- F5** S. 93B repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

**[F<sup>6</sup>93C Creditor relationships and benefit derived by connected persons**

- (1) This section applies in the case of any loan relationship which is a creditor relationship of a company (“company C”) if—
  - (a) the return to company C from the relationship is less than a return (a “commercial return”) on an investment of money at a commercial rate of interest,
  - (b) another company (“company P”) that is connected with company C directly or indirectly derives any benefit as a result of any arrangements made in consequence of, or otherwise in connection with, the relationship, and
  - (c) that benefit is designed to represent some or all of the amount by which the return to company C from the relationship is less than a commercial return.
- (2) The credits to be brought into account by company C in respect of the relationship for the purposes of this Chapter must be determined on the basis of fair value accounting.
- (3) The fair value of company C’s rights under the relationship must include the fair value of the benefit which is derived by company P as a result of the arrangements.
- (4) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this section.
- (5) In this section—

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“arrangements” includes any agreement or understanding (whether or not legally enforceable);

“benefit” includes value in any form.

- (6) In determining for the purposes of subsection (1)(a) the return to company C from the relationship, any benefit which company C derives directly or indirectly from the benefit derived by company P as mentioned in subsection (1)(b) is to be disregarded.]

#### Textual Amendments

- F6** S. 93C inserted (with effect in accordance with Sch. 6 para. 16(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 6 para. 16\(1\)](#)

## 94 Indexed gilt-edged securities.

- [<sup>F7</sup>[<sup>F8</sup>(1) In the case of a loan relationship represented by an index-linked gilt-edged security—
- (a) the amounts to be brought into account for the purposes of this Chapter must be determined using fair value accounting, and
  - (b) the following adjustment shall be made in computing those amounts.
- (2) The adjustment shall be made wherever—
- (a) those amounts fall to be determined by reference to the value of the security at two different times, and
  - (b) there is a change in the retail prices index between those times.
- (3) The adjustment is made to the carrying value of the security at the earlier time and is to increase or, as the case may be, reduce it 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
- [<sup>F9</sup>except that where the earlier time falls at the beginning of an accounting period which begins with the first day of a month, the index for the previous month shall be used for the purposes of paragraph (a) above.]

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- (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.]

#### Textual Amendments

- F7** S. 94 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 12](#), [Sch. 42 Pt. 2\(6\)](#)
- F8** S. 94(1)-(3) substituted for s. 94(1)-(3A) (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 27\(3\)](#)
- F9** Words in s. 94(6) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 12\(3\)](#)

#### Modifications etc. (not altering text)

- C2** Pt. 4 Ch. 2 modified (with effect in accordance with s. 56(1)-(3)(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 56\(4\)\(b\)](#)
- C3** Pt. 4 Ch. 2 modified (with effect in accordance with s. 56 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 50](#)
- C4** S. 94 restored (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 27\(1\)](#)

### [<sup>F10</sup>94A Loan relationships with embedded derivatives

- (1) This section applies where a company [<sup>F11</sup>in accordance with generally accepted accounting practice treats] the rights and liabilities under a loan relationship to which it is party (whether as debtor or creditor) as divided between—
- (a) rights and liabilities under a loan relationship (the “host contract”), and
  - (b) rights and liabilities under one or more derivative financial instruments or equity instruments (“embedded derivatives”).
- (2) The company shall be treated—
- (a) for the purposes of this Chapter as party to a loan relationship whose rights and liabilities consist only of the rights and liabilities of the host contract, and
  - (b) for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) as—
    - (i) party to a relevant contract within the meaning of that Schedule whose rights and liabilities consist only of those of the embedded derivative, or
    - (ii) if there is more than one embedded derivative, party to relevant contracts within the meaning of that Schedule each of whose rights and liabilities consist only of those of one of the embedded derivatives.
- (3) Each relevant contract to which the company is treated as party under subsection (2)(b) shall be treated for the purposes of that Schedule as an option, a future or a contract for differences according to whether the rights and liabilities of the embedded derivative would be of that character if contained in a separate contract.]

#### Textual Amendments

- F10** S. 94A inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 13](#)

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**F11** Words in s. 94A(1) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 28\(2\)](#)

## **[<sup>F12</sup>94B Loan relationships treated differently by connected debtor and creditor**

- (1) This section applies where there are two companies which are connected and conditions A, B and C are met.
- (2) Condition A is that one of the companies (“the debtor company”), in accordance with generally accepted accounting practice, treats the rights and liabilities under a loan relationship to which it is a party as debtor as divided between—
  - (a) rights and liabilities under a loan relationship (“the host contract”), and
  - (b) rights and liabilities under one or more derivative financial instruments or equity instruments.
- (3) Condition B is that the other company is party to the loan relationship as creditor (“the creditor company”) and, in accordance with generally accepted accounting practice, does not treat its rights and liabilities under the loan relationship as so divided.
- (4) Condition C is that the debits brought into account by the debtor company under this Chapter in respect of the host contract for any accounting period exceed the credits brought into account (otherwise than by virtue of this section) in respect of the loan relationship by the creditor company for the corresponding accounting period or periods of the creditor company.
- (5) The creditor company is to be treated for the purposes of this Chapter as bringing into account for the corresponding accounting period or periods additional credits in respect of the loan relationship of an amount equal to the excess.
- (6) But where the creditor company is party to the loan relationship as creditor during only part of the corresponding accounting period (or any of the corresponding periods) it is to be treated for those purposes as bringing into account for the period only such portion of the excess as is just and reasonable.
- (7) The references in this section to a company which is party to a loan relationship as debtor or creditor include a company which indirectly stands in the position of a debtor or creditor as respects the loan relationship by reference to a series of loan relationships or money debts which would be loan relationships if a company directly stood in the position of debtor or creditor.
- (8) For the purposes of this section an accounting period of the creditor company corresponds with an accounting period of the debtor company if it coincides with it or falls wholly or partly within it.
- (9) Where a corresponding accounting period of the creditor company does not coincide with that of the debtor company such apportionments as are just and reasonable are to be made for the purposes of this section.
- (10) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this section; but two companies are also connected for the purposes of this section if their accounting results are reflected in the consolidated group accounts of a group of companies.]

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**Textual Amendments**

**F12** S. 94B inserted (with effect in accordance with Sch. 22 para. 18(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 22 para. 18\(1\)](#)

**<sup>F13</sup>95 Gilt strips.**

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**Textual Amendments**

**F13** Word in s. 95(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 14](#)

**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.

<sup>F14</sup>(3) .....

**Textual Amendments**

**F14** S. 96(3) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 15](#), [Sch. 42 Pt. 2\(6\)](#)

**97 Manufactured interest.**

- (1) [<sup>F15</sup>For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—]
  - (a) any amount (“manufactured interest”) is payable by or on behalf of, or to, [<sup>F16</sup>the 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 [<sup>F17</sup>that loan relationship](“the real interest”).

[<sup>F18</sup>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]

[<sup>F19</sup>(2) Where a company has a relationship to which this section applies—

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- (a) this Chapter shall have effect in relation to the company and the manufactured interest under the relationship—
  - (i) as it would have effect if the manufactured interest were interest payable on a loan by, or (as the case may be) to, the company and were accordingly interest under a loan relationship to which the company is a party, and
  - (ii) 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,<sup>F20</sup> ...

<sup>F21</sup>(b) .....

and, subject to [<sup>F22</sup>paragraph (a)(ii)] above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.]

[<sup>F23</sup>(2A) Where a company—

- (a) has a relationship to which this section applies, but
- (b) enters into a related transaction in respect of the right to receive manufactured interest,

then, for the purpose of bringing credits into account by virtue of subsection (2) 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 applies even though the manufactured interest is not payable to the company.]

<sup>F24</sup>(3) .....

<sup>F24</sup>(3A) .....

[<sup>F25</sup>(4) See [<sup>F26</sup>section 736B(2) of the Taxes Act 1988 for a case] in which there is deemed to be a payment of an amount representative of interest for the purposes of this section.]

[<sup>F27</sup>(4A) Where, for the purposes of section 736B of the Taxes Act 1988, a company is the borrower under a stock lending arrangement, then (pursuant to subsection (2A) of that section (which precludes deductions or group relief for the borrower)) no debits are to be brought into account for the purposes of this Chapter by that company in respect of the deemed representative payment under that section which is treated under [<sup>F28</sup>subsection (2) of that section] above as if it had in fact been made.]

[<sup>F29</sup>(4B) This section is subject to Schedule 13 to the Finance Act 2007 (sale and repurchase of securities).]

[<sup>F30</sup>(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

- F15** Words in s. 97(1) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 13(2)(a)**
- F16** Words in s. 97(1)(a) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 13(2)(b)**
- F17** Words in s. 97(1)(b) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 13(2)(c)**

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- F18** Words in s. 97(1) added (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 1 para. 13(2)(d)**
- F19** S. 97(2) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 1 para. 13(3)**
- F20** Word in s. 97(2) repealed (with effect in accordance with Sch. 11 Pt. 2(8) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(8)**
- F21** S. 97(2)(b) repealed (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 11(2)(a), **Sch. 11 Pt. 2(8)**
- F22** Words in s. 97(2) substituted (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 11(2)(b)**
- F23** S. 97(2A) inserted (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 11(3)**
- F24** S. 97(3)(3A) repealed (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 11(4), **Sch. 11 Pt. 2(8)**
- F25** S. 97(4) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 374(2)** (with Sch. 2)
- F26** Words in s. 97(4) substituted (with effect in accordance with art. 3 of the commencing S.I.) by Finance Act 2007 (c. 11), s. 47(4), **Sch. 14 para. 16(2)**; S.I. 2007/2483, art. 3
- F27** S. 97(4A) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 1 para. 13(6)**
- F28** Words in s. 97(4A) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 374(3)** (with Sch. 2)
- F29** S. 97(4B) inserted (with effect in accordance with art. 3 of the commencing S.I.) by Finance Act 2007 (c. 11), s. 47(4), **Sch. 14 para. 16(3)**; S.I. 2007/2483, art. 3
- F30** 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)**

**Modifications etc. (not altering text)**

- C5** S. 97 applied by S.I. 2006/964, reg. 69Z24B(5) (as inserted (with effect in accordance with reg. 1(2) (3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), 27)

**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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