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*Status: Point in time view as at 29/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 12. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 12

Section 101.

#### MEANING OF DEBT CONTRACT OR OPTION

The section inserted after section 150 of the Finance Act 1994 by section 101(3) of this Act is as follows—

**“150A Debt contracts and options.**

- (1) A contract is a debt contract for the purposes of this Chapter if, not being an interest rate contract or option or a currency contract or option—
  - (a) it is a contract under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become a party to a loan relationship; and
  - (b) the only transfers of money or money’s worth for which the contract provides (apart from those that will be made under the loan relationship) are payments falling within subsection (5) below and payments falling within section 151 below.
- (2) A contract is also a debt contract for the purposes of this Chapter if, not being a debt contract by virtue of subsection (1) above or an interest rate contract or option or a currency contract or option—
  - (a) it is a contract under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become treated as a person with rights and liabilities corresponding to those of a party to a loan relationship; and
  - (b) the only transfers of money or money’s worth for which the contract provides are payments falling within subsection (6) below and payments falling within section 151 below.
- (3) In this section references to an entitlement to become a party to a loan relationship, or to a duty to become such a party, shall be taken to include references, in relation to a specified loan relationship, to either of the following, namely—
  - (a) an entitlement or, as the case may be, a duty to become a party to an equivalent relationship; and
  - (b) an entitlement or, as the case may be, a duty relating to the making of any one or more such payments as fall within subsection (5) below.
- (4) Subsection (3) above shall apply in relation to references in this section to an entitlement or a duty to become treated as a person with rights and liabilities corresponding to those of a party to a loan relationship as it applies to references to an entitlement or, as the case may be, a duty to become such a party.
- (5) The payments falling within this subsection are—
  - (a) a payment of an amount representing the price for becoming a party to the relationship;

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- (b) a payment of an amount determined by reference to the value at any time of the money debt by reference to which the relationship subsists;
  - (c) a settlement payment of an amount determined by reference to the difference at specified times between—
    - (i) the price for becoming a party to the relationship; and
    - (ii) the value of the money debt by reference to which the relationship subsists, or (if the relationship were in existence) would subsist.
- (6) A payment falls within this subsection if it is a settlement payment of an amount determined by reference to the difference at specified times between—
- (a) the price for becoming treated as a person with rights and liabilities corresponding to those of a party to a relationship; and
  - (b) the value of the money debt by reference to which the relationship subsists or (if the relationship existed) would subsist.
- (7) Each of the following, namely—
- (a) an option to enter into a contract which would be a debt contract, and
  - (b) an option to enter into such an option,
- is a debt option for the purposes of this Chapter if the only transfers of money or money's worth for which the option provides are payments falling within section 151 below.
- (8) For the purposes of this Chapter where any contract contains both—
- (a) provisions under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become a party to a loan relationship, and
  - (b) any provisions that have effect otherwise than for the purposes of or in relation to the provisions conferring that entitlement or imposing that duty,
- the provisions mentioned in paragraph (a) above, together with the other contents of that contract so far as they are attributable on a just and reasonable basis to the provisions mentioned in that paragraph, shall be treated as a separate contract.
- (9) For the purposes of this Chapter where—
- (a) any attribution of the contents of a contract falls to be made between provisions falling within paragraph (a) of subsection (8) above and provisions falling within paragraph (b) of that subsection, and
  - (b) that contract provides for the making of any payment constituting a transfer of money or money's worth which cannot be attributed to the provisions falling within only one of those paragraphs,
- that payment shall be treated as apportioned between the provisions falling within each of those paragraphs in such manner as may be just and reasonable.
- (10) Expressions used in this section and in Chapter II of Part IV of the Finance Act 1996 have the same meanings in this section as in that Chapter; but references in this section to a loan relationship do not include—
- (a) any loan relationship represented by an asset to which section 92 of that Act (convertible securities) applies; or
  - (b) any loan relationship to which section 93 of that Act (securities indexed to chargeable assets) applies.
- (11) For the purposes of this section and, so far as it relates to a debt contract or option, of section 151 below the transfer of money's worth having a value of any amount shall be treated as the payment of that amount.”

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