

Status: Point in time view as at 29/04/1996.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, Cross Heading: The Taxation of Chargeable Gains Act 1992 (c. 12). (See end of Document for details)

SCHEDULES

SCHEDULE 14 **U.K.**

LOAN RELATIONSHIPS: MINOR AND CONSEQUENTIAL AMENDMENTS

The Taxation of Chargeable Gains Act 1992 (c. 12)

- 59 In section 108(1) of the Taxation of Chargeable Gains Act 1992 (meaning of relevant securities), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) qualifying corporate bonds;”.
- 60 (1) Section 116 of that Act (reorganisations, conversions and reconstructions) shall be amended as follows.
- (2) After subsection (4) there shall be inserted the following subsection—
- “(4A) In determining for the purposes of subsections (1) to (4) above, as they apply for the purposes of corporation tax—
- (a) whether sections 127 to 130 would apply in any case, and
- (b) what, in a case where they would apply, would constitute the original shares and the new holding,
- it shall be assumed that every asset representing a loan relationship of a company is a security within the meaning of section 132.”
- (3) After subsection (8) there shall be inserted the following subsection—
- “(8A) Where subsection (6) above applies for the purposes of corporation tax in a case where the old asset consists of a qualifying corporate bond, Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall have effect so as to require such debits and credits to be brought into account for the purposes of that Chapter in relation to the relevant transaction as would have been brought into account if the transaction had been a disposal of the old asset at the market value mentioned in that subsection.”
- (4) After subsection (15) there shall be inserted the following subsection—
- “(16) This section has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act).”
- 61 (1) In section 117 of that Act (meaning of “qualifying corporate bond”), before subsection (1) there shall be inserted the following subsection—
- “(A1) For the purposes of corporation tax “qualifying corporate bond” means (subject to sections 117A and 117B below) any asset representing a loan relationship of a company; and for purposes other than those of

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corporation tax references to a qualifying corporate bond shall be construed in accordance with the following provisions of this section.”

(2) After subsection (2) of that section there shall be inserted the following subsection—

“(2AA) For the purposes of this section “corporate bond” also includes any asset which is not included in the definition in subsection (1) above and which is a relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996.”

(3) After subsection (6A) of that section there shall be inserted the following subsections—

“(6B) An excluded indexed security issued on or after 6th April 1996 is not a corporate bond for the purposes of this section; and an excluded indexed security issued before that date shall be taken to be such a bond for the purposes of this section only if—

- (a) it would be so taken apart from this subsection; and
- (b) the question whether it should be so taken arises for the purposes of section 116(10).

(6C) In subsection (6B) above “excluded indexed security” has the same meaning as in Schedule 13 to the Finance Act 1996 (relevant discounted securities).”

(4) After subsection (8) of that section there shall be inserted the following subsection—

“(8A) A corporate bond falling within subsection (2AA) above is a qualifying corporate bond whatever its date of issue.”

62 After section 117 of that Act there shall be inserted the following sections—

“117A Assets that are not qualifying corporate bonds for corporation tax purposes.

- (1) An asset to which this section applies is not a qualifying corporate bond for the purposes of corporation tax in relation to any disposal of that asset.
- (2) This section applies to any asset representing a loan relationship of a company where—
 - (a) subsection (3) or (4) below applies to the asset; and
 - (b) it is held in exempt circumstances.
- (3) This subsection applies to an asset if—
 - (a) the settlement currency of the debt to which it relates is a currency other than sterling; and
 - (b) that debt is not a debt on a security.
- (4) This subsection applies to an asset if the debt to which it relates is a debt on a security and is in a foreign currency.
- (5) For the purposes of subsection (4) above a debt is a debt in a foreign currency if it is—
 - (a) a debt expressed in a currency other than sterling;
 - (b) a debt the amount of which in sterling falls at any time to be determined by reference to the value at that time of a currency other than sterling; or

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- (c) subject to subsection (6) below, a debt as respects which provision is made for its conversion into, or redemption in, a currency other than sterling.
- (6) A debt is not a debt in a foreign currency for those purposes by reason only that provision is made for its redemption on payment of an amount in a currency other than sterling equal, at the rate prevailing at the date of redemption, to a specified amount in sterling.
- (7) The provisions specified in subsection (8) below, so far as they require a disposal to be treated as a disposal on which neither a gain nor a loss accrues, shall not apply to any disposal of an asset to which this section applies.
- (8) The provisions referred to in subsection (7) above are—
 - (a) sections 139, 140A, 171 and 172 of this Act; and
 - (b) section 486(8) of the Taxes Act.
- (9) Paragraph 3 of Schedule 17 to the ^{M1}Finance Act 1993 shall have effect for construing the reference in subsection (2)(b) above to exempt circumstances as if references to a currency were references to the debt to which the relationship relates.
- (10) In this section “security” includes a debenture that is deemed to be a security for the purposes of section 251 by virtue of subsection (6) of that section.

117B Holdings in unit trusts and offshore funds excluded from treatment as qualifying corporate bonds.

- (1) For the purposes of corporation tax an asset to which this section applies is not a qualifying corporate bond in relation to any disposal of that asset in an accounting period for which that asset falls, under paragraph 4 of Schedule 10 to the Finance Act 1996 (holdings in unit trusts and offshore funds), to be treated as a right under a creditor relationship of a company.
- (2) This section applies to an asset which is comprised in a relevant holding (within the meaning of paragraph 4 of Schedule 10 to the Finance Act 1996) if—
 - (a) it is denominated in a currency other than sterling; and
 - (b) it is held in exempt circumstances.
- (3) For the purposes of this section—
 - (a) a unit in a unit trust scheme, or
 - (b) a right (other than a share in a company) which constitutes a relevant interest in an offshore fund,shall be taken to be denominated in a currency other than sterling if the price at which it may be acquired from, or disposed of to, persons concerned in the management of the trust or fund is fixed by those persons in a currency other than sterling.
- (4) For the purposes of this section shares constituting a relevant interest in an offshore fund shall be taken to be denominated in a currency other than sterling if their nominal value is expressed in such a currency.

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- (5) The provisions specified in subsection (6) below, so far as they require a disposal to be treated as a disposal on which neither a gain nor a loss accrues, shall not apply to any disposal in relation to which this section applies.
- (6) The provisions referred to in subsection (5) above are—
- (a) sections 139, 140A, 171 and 172 of this Act; and
 - (b) section 486(8) of the Taxes Act.
- (7) Paragraph 3 of Schedule 17 to the ^{M2}Finance Act 1993 shall have effect for construing the reference in subsection (2)(b) above to exempt circumstances as if references to a currency were references to the asset in question.
- (8) Paragraph 7 of Schedule 10 to the Finance Act 1996 shall apply for construing any reference in this section to a relevant interest in an offshore fund as it applies for the purposes of paragraph 4 of that Schedule.”

Marginal Citations

M1 1993 c. 34.

M2 1993 c. 34.

- 63 In section 212 of that Act (annual deemed disposal of holdings of unit trusts), after subsection (2) there shall be inserted the following subsection—
- “(2A) Subsection (1) above shall not apply to assets falling by virtue of paragraph 4 of Schedule 10 to the Finance Act 1996 (company holdings in unit trusts) to be treated for the accounting period in question as representing rights under a creditor relationship of the company.”
- 64 In section 251 of that Act (exclusion for debts that are not debts on a security), after subsection (6) there shall be inserted the following subsections—
- “(7) Where any instrument specified in subsection (8) below is not a security (as defined in section 132), that instrument shall be deemed to be such a security for the purposes of this section, other than the purposes of determining what is or is not an allowable loss in any case.
- (8) The instruments mentioned in subsection (7) above are—
- (a) any instrument that would fall to be treated for the purposes of this Act as an asset representing a loan relationship of a company if the provisions of sections 92(4) and 93(4) of the Finance Act 1996 (convertible securities and assets linked to the value of chargeable assets) were disregarded; or
 - (b) any instrument which (even apart from those provisions) is not a loan relationship of a company but which would be a relevant discounted security for the purposes of Schedule 13 to that Act if paragraph 3(2)(c) of that Schedule (excluded indexed securities) were omitted.”

65 In section 253(3) of that Act (relief for loans to traders), in the words after paragraph (c), at the beginning there shall be inserted—

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“then, to the extent that that amount is not an amount which, in the case of the claimant, falls to be brought into account as a debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships),”.

66 (1) In section 254 of that Act (relief for debts on qualifying corporate bonds), in subsection (1)(c), after “bond” there shall be inserted “ but is not a relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996 ”.

(2) After subsection (12) of that section there shall be inserted the following subsection—

“(13) This section does not apply for the purposes of corporation tax.”

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