

Status: Point in time view as at 29/04/1996. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 9. (See end of Document for details)

SCHEDULES

SCHEDULE 9 U.K.

Section 84.

LOAN RELATIONSHIPS: SPECIAL COMPUTATIONAL PROVISIONS

Distributions

- 1 The credits and debits to be brought into account for the purposes of this Chapter shall not include any credits or debits relating to any amount falling, when paid, to be treated as a distribution.

VALID FROM 24/07/2002

[^{F1}Life assurance policies and capital redemption policies

Textual Amendments

- F1** Sch. 9 para. 1A and cross-heading 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. 21

- 1A (1) The credits and debits to be brought into account for the purposes of this Chapter shall not include any credits or debits relating to—
- (a) a policy of life assurance; or
 - (b) a capital redemption policy, within the meaning of Chapter 2 of Part 13 of the Taxes Act 1988.
- (2) Nothing in section 80(5) of this Act prevents an amount which, by virtue of subparagraph (1) above, is not brought into account for the purposes of this Chapter from being brought into account for the purposes of corporation tax apart from this Chapter.]

Late interest

- 2 (1) This paragraph applies for the purpose of bringing debits into account for the purposes of this Chapter in respect of a debtor relationship of a company where an authorised accruals basis of accounting is used as respects that relationship in pursuance of section 87 of this Act.
- (2) If—

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- (a) interest payable under that relationship is not paid within the period of twelve months following the end of the accounting period in which it would (apart from this paragraph) be treated as accruing, and
 - (b) credits representing the full amount of the interest are not for any accounting period brought into account for the purposes of this Chapter in respect of the corresponding creditor relationship,
- then debits relating to that interest shall be brought into account on the assumption that the interest does not accrue until it is paid.

Options etc.

- 3 (1) This paragraph applies for determining the credits and debits to be brought into account for any accounting period in accordance with an authorised accruals basis of accounting, where—
- (a) the answer to the question whether any amount will become due under a loan relationship after the end of that period,
 - (b) the amount which will become due under a loan relationship after the end of that period, or
 - (c) the time after the end of that period when an amount will become due under a loan relationship,
- depends on the exercise of an option by a party to the relationship or an associate of his, or is otherwise under the control of such a party or an associate of his.
- (2) It shall be assumed that the party or his associate will exercise his power to determine whether and on what date any amount will become due in the manner which (apart from taxation) appears, as at the end of the accounting period in question, to be the most advantageous to that party.
- (3) In this paragraph “associate” has the meaning given for the purposes of Part XI of the Taxes Act 1988 by section 417(3) and (4) of that Act.

Foreign exchange gains and losses

- 4 (1) The credits and debits to be brought into account for the purposes of this Chapter shall be computed disregarding so much of any authorised accounting method as, by requiring the translation or conversion of amounts from one currency into another, has the effect that credits and debits produced by that method include sums in which profits, gains or losses arising from fluctuations in the value of a currency are to any extent represented.
- (2) This paragraph is without prejudice to the provisions of Chapter II of Part II of the ^{M1}Finance Act 1993 (exchange gains and losses).

Marginal Citations

M1 1993 c. 34.

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Bad debt etc.

- 5 (1) In determining the credits and debits to be brought into account in accordance with an accruals basis of accounting, a departure from the assumption in the case of the creditor relationships of a company that every amount payable under those relationships will be paid in full as it becomes due shall be allowed (subject to paragraph 6 below) to the extent only that—
- (a) a debt is a bad debt;
 - (b) a doubtful debt is estimated to be bad; or
 - (c) a liability to pay any amount is released.
- (2) Such a departure shall be made only where the accounting arrangements allowing the departure also require appropriate adjustments, in the form of credits, to be made if the whole or any part of an amount taken or estimated to represent an amount of bad debt is paid or otherwise ceases to be an amount in respect of which such a departure is allowed.
- (3) Where—
- (a) a liability to pay any amount under a debtor relationship of a company is released, and
 - (b) the release takes place in an accounting period for which an authorised accruals basis of accounting is used as respects that relationship,
- no credit in respect of the release shall be required to be brought into account in the case of that company if the release is part of a relevant arrangement or compromise (within the meaning given by section 74(2) of the Taxes Act 1988) or the relationship is one as respects which section 87 of this Act requires the use of an authorised accruals basis of accounting.

VALID FROM 24/07/2002

[^{F2}Bad debts and consortium relief

Textual Amendments

F2 Sch. 9 para. 5A and cross-heading 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. 23

- 5A (1) This paragraph applies where the conditions in sub-paragraphs (2) and (3) below are satisfied.
- (2) The first condition is that by virtue of paragraph 5 above a debit is or has been brought into account for the purposes of this Chapter for any group accounting period by—
- (a) a company (“the member company”) which is a member of a consortium by which a consortium company is owned; or
 - (b) a company (a “group member”) which is a member of the same group of companies as the member company but is not itself a member of the consortium.

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- (3) The second condition is that the debit is or was in respect of a creditor relationship of the member company or group member and—
- (a) the consortium company, or
 - (b) if that company is a holding company, a consortium company which is a subsidiary of that company,
- is or, as the case may be, was the debtor (“the debtor consortium company”).
- (4) Any reference in this paragraph to a “relevant creditor relationship” is a reference to a creditor relationship (whether of the member company or a group member) which falls within sub-paragraph (3) above.
- (5) For the purposes of this paragraph there is for any group accounting period a “relevant net debit” in relation to the relevant creditor relationships if—
- (a) the total of the debits brought into account for that period by virtue of paragraph 5 above in respect of those relationships by—
 - (i) the member company, and
 - (ii) every group member,
 exceeds
 - (b) the total of any related debt recovery credits so brought into account by those companies for that period in respect of those relationships,
- and the amount of the relevant net debit is the amount of that excess.
- (6) Where there is for any group accounting period a relevant net debit in relation to the relevant creditor relationships, the amount of the relevant net debit shall be reduced by so much of any amount which—
- (a) may be surrendered as group relief by the debtor consortium company, and
 - (b) is claimed as group relief for that accounting period by the member company or any group member,
- as does not exceed the amount of the relevant net debit.
- (7) Where a relevant net debit falls to be reduced under sub-paragraph (6) above by any amount (“the relevant reduction”), each of the debits brought into account in determining the relevant net debit shall be reduced by an amount found by apportioning between those debits, in proportion to their respective amounts, the amount of the relevant reduction.
- (8) For the purposes of this paragraph there is for any group accounting period a “surplus of related debt recovery credits” in relation to the relevant creditor relationships if—
- (a) the total amount of any related debt recovery credits brought into account under paragraph 5 above for the period in respect of those relationships by—
 - (i) the member company, and
 - (ii) every group member,
 exceeds
 - (b) the total of the debits brought into account for that period by virtue of paragraph 5 above in respect of those relationships by those companies.
- (9) Where there is for any group accounting period a surplus of related debt recovery credits in relation to the relevant creditor relationships, each of the related debt recovery credits falling to be brought into account by virtue of paragraph 5(2)

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above in respect of those relationships shall be reduced (but not below nil) by the appropriate amount.

For the purposes of this sub-paragraph “the appropriate amount” is the amount found by apportioning between those related debt recovery credits, in proportion to their respective amounts, the cumulative net sub-paragraph (6) reduction for earlier group accounting periods in respect of the relevant creditor relationships.

- (10) In this paragraph, for any group accounting period the cumulative net sub-paragraph (6) reduction for earlier group accounting periods in respect of the relevant creditor relationships is—
- (a) the total amount by which the relevant net debits in respect of those relationships for any previous group accounting periods have been reduced by virtue of sub-paragraph (6) above; less
 - (b) so much of that total amount as has been previously apportioned under sub-paragraph (9) above.
- (11) Any reference in this paragraph to a “relevant claim for group relief” is a reference to a claim by the member company or a group member for group relief in respect of an amount which may be surrendered as group relief by the debtor consortium company.
- (12) Any relevant claim for group relief for a group accounting period shall be reduced by so much of the cumulative net amount of relevant net debits for earlier group accounting periods in respect of the relevant creditor relationships as does not exceed the total amount of the claim.
- Where there are two or more such claims for the same group accounting period which in total exceed that cumulative net amount, each of them shall be reduced by an amount found by apportioning that cumulative net amount between them in proportion to their respective amounts.
- (13) In this paragraph, for any group accounting period the cumulative net amount of relevant net debits for earlier group accounting periods in respect of the relevant creditor relationships is the total amount of the relevant net debits for those earlier periods in respect of those relationships, after any reductions falling to be made under this paragraph in the amounts of those relevant net debits.
- (14) If there is for any group accounting period—
- (a) a relevant claim for group relief (as reduced by virtue of sub-paragraph (12) above, where applicable), and
 - (b) no relevant net debit in respect of the relevant creditor relationships,
- the claim (as so reduced) shall be carried forward and treated for the purposes of sub-paragraph (12) above as increasing any relevant claim for group relief made by the claimant company for its next accounting period (or, if there is no other relevant claim for group relief made by that company for that period, as the relevant claim for group relief by that company for that period).
- (15) Where—
- (a) the debtor consortium company has brought an amount into account by virtue of paragraph 5(3) above for an accounting period in relation to a debtor relationship, and
 - (b) the corresponding creditor relationship is a relevant creditor relationship,

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an equal amount shall be treated for the purposes of this paragraph as not being a debit brought into account for that period under paragraph 5(1) in relation to the creditor relationship.

(16) Where section 403C of the Taxes Act 1988 (amount of relief in consortium cases) applies, effect shall be given to that section before effect is given to this paragraph.

(17) In this paragraph “group accounting period” means—

- (a) any accounting period of the member company beginning on or after 1st October 2002, or
- (b) any accounting period of a group member which begins on or after that date and corresponds to such an accounting period of the member company,

and any such accounting period of the member company and any such corresponding accounting periods of one or more group members shall be regarded for the purposes of this paragraph as being the same accounting period.

(18) For the purposes of this paragraph an accounting period of a group member corresponds to an accounting period of the member company if—

- (a) the two accounting periods coincide;
- (b) the accounting period of the member company includes more than half of the accounting period of the group member; or
- (c) the accounting period of the member company includes part of the accounting period of the group member, but the remainder of that period does not fall within any accounting period of the member company.

(19) In this paragraph—

“consortium claim” means a claim for group relief made by virtue of section 402(3) of the Taxes Act 1988;

“consortium company” means a company falling within any of paragraphs (a) to (c) of section 402(3) of the Taxes Act 1988 (surrender of relief between members of consortia);

“cumulative net amount of relevant net debits” shall be construed in accordance with sub-paragraph (13) above;

“cumulative net sub-paragraph (6) reduction” shall be construed in accordance with sub-paragraph (10) above;

“debtor consortium company” shall be construed in accordance with sub-paragraph (3) above;

“group accounting period” shall be construed in accordance with sub-paragraphs (17) and (18) above;

“group member” shall be construed in accordance with sub-paragraph (2)(b) above;

“group relief” has the meaning given by section 402(1) of the Taxes Act 1988;

“holding company” means a company falling within section 402(3)(c) of the Taxes Act 1988;

“member”, in relation to a consortium, has the same meaning as in Chapter 4 of Part 10 of the Taxes Act 1988 (group relief);

“member company” shall be construed in accordance with sub-paragraph (2)(a) above;

“related debt recovery credit”, in relation to a group accounting period, means a credit falling to be brought into account for the purposes of this

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Chapter for that period by the member company or a group member by virtue of paragraph 5(2) above in connection with a bad debt owed by the debtor consortium company;

“relevant claim for group relief” shall be construed in accordance with sub-paragraph (11) above;

“relevant creditor relationship” shall be construed in accordance with sub-paragraph (4) above;

“relevant net debit” shall be construed in accordance with sub-paragraph (5) above;

“subsidiary”, in relation to a company which is a holding company, means a company falling within section 402(3)(b) of the Taxes Act 1988 by reference to that holding company;

“surplus of related debt recovery credits” shall be construed in accordance with sub-paragraph (9) above;

“surrendering company” has the meaning given by section 402(1) of the Taxes Act 1988.

- (20) Any reference in this paragraph to two companies being members of the same group of companies is a reference to their being members of the same group of companies for the purposes of Chapter 4 of Part 10 of this Act (group relief).
- (21) Any reference in this paragraph to a company being owned by a consortium shall be construed in accordance with section 413(6) of the Taxes Act 1988.]

Bad debt etc. where parties have a connection

- 6 (1) This paragraph applies where for any accounting period section 87 of this Act requires an authorised accruals basis of accounting to be used as respects a creditor relationship of a company.
- (2) The credits and debits which for that period are to be brought into account for the purposes of this Chapter in accordance with that accounting method shall be computed subject to sub-paragraphs (3) to (6) below.
- (3) The assumption that every amount payable under the relationship will be paid in full shall be applied as if no departure from that assumption were authorised by virtue of paragraph 5 above except where it is allowed by sub-paragraph (4) below.
- (4) A departure from that assumption shall be allowed in relation to a liability to pay any amount to the company (“the creditor company”) under the creditor relationship where—
- (a) in consideration of, or of any entitlement to, any shares forming part of the ordinary share capital of the company on whom the liability would otherwise have fallen, the creditor company treats the liability as discharged; and
- (b) the condition specified in sub-paragraph (5) below is satisfied.
- (5) That condition is that there would be no connection between the two companies for the accounting period in which that consideration is given if the question whether there is such a connection for that period fell to be determined, in accordance with section 87 of this Act, by reference only to times before the creditor company acquired possession of, or any entitlement to, the shares in question.

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- (6) Where the company ceases in the accounting period in question to be a party to the relationship—
- (a) the debits brought into account for that period in respect of that relationship shall not (subject to sub-paragraph (7) below) be more than they would have been had the company not ceased to be a party to the relationship; and
 - (b) the credits brought into account for that period in respect of the relationship shall not (subject to that sub-paragraph) be less than they would have been in those circumstances.
- (7) In determining for the purposes of sub-paragraph (6) above the debits and credits that would have been brought into account if a company had not ceased to be a party to a loan relationship, no account shall be taken of any amounts that would have accrued at times after it ceased to be a party to the relationship.

VALID FROM 24/07/2002

[^{F3}Bad debt etc: parties having connection and creditor in insolvent liquidation etc

Textual Amendments

F3 Sch. 9 para. 6A and cross-heading 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. 25](#)

- 6A (1) This paragraph applies in any case falling within paragraph 6(1) above where—
- (a) the company which has the creditor relationship (“the creditor company”) has gone into insolvent liquidation;
 - (b) an administration order is in force in relation to that company under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989;
 - (c) an appointment of a provisional liquidator is in force in relation to that company under section 135 of that Act or Article 115 of that Order; or
 - (d) under the law of a country or territory outside the United Kingdom, an event has occurred, or circumstances exist, corresponding to any of those described in paragraphs (a) to (c) above.
- (2) Where this paragraph applies, a departure from the assumption that every amount payable under the relationship will be paid in full shall be allowed in relation to any amount accruing to the creditor company under the relationship—
- (a) in a case falling within paragraph (a) of sub-paragraph (1) above, at a time after the commencement of the winding up;
 - (b) in a case falling within paragraph (b) of that sub-paragraph, at a time when the administration order is in force;
 - (c) in a case falling within paragraph (c) of that sub-paragraph, at a time when the appointment of the provisional liquidator is in force; or
 - (d) in a case falling within paragraph (d) of that sub-paragraph, at a time corresponding to that described in paragraph (a), (b) or (c) above (as the case may be).

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- (3) For the purposes of this paragraph, a company goes into insolvent liquidation if it goes into liquidation, as defined in section 247(2) of the Insolvency Act 1986 or Article 6(2) of the Insolvency (Northern Ireland) Order 1989, at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up.]

VALID FROM 24/07/2002

[^{F4}Bad debt etc: companies becoming connected

Textual Amendments

- F4** Sch. 9 para. 6B and cross-heading 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. 26](#)

- 6B (1) Where—
- (a) paragraph 6 above applies in relation to a creditor relationship of a company (the “creditor company”) in the case of an accounting period, and
 - (b) another company (the “debtor company”) stands in the position of a debtor as respects the money debt,
- a departure from the assumption mentioned in paragraph 6(3) above shall be allowed in accordance with sub-paragraphs (2) to (4) or (5) to (7) below.
- (2) A departure from the assumption mentioned in paragraph 6(3) above shall be allowed in the case of the creditor relationship if—
- (a) a departure has been allowed under paragraph 5(1) above in respect of the creditor relationship for a previous accounting period for which there was no connection between the creditor company and the debtor company; and
 - (b) the first accounting period of the creditor company for which there is or was such a connection is an accounting period beginning on or after 1st October 2002.
- (3) A departure shall be allowed under sub-paragraph (2) above to the extent only that the debits brought into account by the creditor company for the accounting period in respect of the relationship are not more than they would have been if it were assumed that the aggregate of the amounts payable in respect of the creditor relationship were equal to the pre-connection value of the asset representing the creditor relationship.
- (4) The “pre-connection value” of the asset representing the creditor relationship is the value of that asset as shown in the accounts of the creditor company at the end of the accounting period immediately preceding the accounting period mentioned in sub-paragraph (2)(b) above.
- (5) A departure from the assumption mentioned in paragraph 6(3) above shall be allowed for the accounting period in respect of the creditor relationship, if the conditions in sub-paragraph (6) below are satisfied.
- (6) The conditions are that—

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- (a) the creditor company acquired its rights under the relationship by virtue of an arm's length transaction;
 - (b) for the accounting period in which it acquired those rights, there was no connection between the creditor company and the person from whom it acquired the asset; and
 - (c) there had been no such connection between the creditor company and the debtor company at any time in the period which—
 - (i) begins 4 years before the date on which the company acquired those rights; and
 - (ii) ends twelve months before that date.
- (7) A departure shall be allowed under sub-paragraph (5) above to the extent only that the debits brought into account by the creditor company for the accounting period in respect of the relationship are not more than they would have been if—
- (a) it were assumed that the aggregate of the amounts payable in respect of the relationship were equal to the price paid by the company to acquire its rights; and
 - (b) no departure were allowed from the assumption in paragraph (a) above.
- (8) For the purposes of this paragraph, there is a connection between a company and another person at any time if at that time—
- (a) the other person is a company and one of the companies has control of the other, or
 - (b) the other person is a company and both companies are under the control of the same person,
- and there is a connection between a company and another person for an accounting period if there is a connection (within paragraph (a) or (b) above) between the company and the person at any time in that accounting period.
- (9) For the purposes of sub-paragraph (8) above “control” has the meaning given for the purposes of section 87 by section 87A of this Act.]

VALID FROM 24/07/2002

[^{F5}Bad debt etc: departure not permitted by paragraph 6: cessation of connection

Textual Amendments

F5 Sch. 9 para. 6C and cross-heading 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. 27

- 6C (1) Where, in the case of a creditor relationship of a company,—
- (a) a departure that would otherwise have been allowed under paragraph 5(1) above in respect of an amount is or was, by virtue of paragraph 6 above, not allowed in the case of an accounting period; and
 - (b) there is a subsequent accounting period for which there is, within the meaning of section 87 of this Act, no connection between the company and any person standing in the position of a debtor as respects the debt,
- sub-paragraphs (2) and (3) below shall apply.

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- (2) Where this sub-paragraph applies, no credit shall be required to be brought into account by virtue of paragraph 5(2) above in respect of an amount—
- (a) for the first accounting period falling within sub-paragraph (1)(b) above, or
 - (b) for any subsequent such accounting period,
- to the extent that the amount in question corresponds to the amount mentioned in sub-paragraph (1)(a) above.
- (3) Where this sub-paragraph applies, no debit shall be brought into account in respect of an amount—
- (a) for the first accounting period falling within sub-paragraph (1)(b) above, or
 - (b) for any subsequent such accounting period,
- to the extent that the amount in question represents the amount mentioned in sub-paragraph (1)(a) above.]

Writing-off of government investments

- 7 (1) Where any government investment in a company is written off by the release of a liability to pay any amount under a debtor relationship of the company, no credit shall be required, in the case of that company, to be brought into account for the purposes of this Chapter in respect of that release.
- (2) Subsections (7) and (8) of section 400 of the Taxes Act 1988 shall apply, as they apply for the purposes of that section, for construing the reference in sub-paragraph (1) above to the writing-off of a government investment.

Restriction on writing off overseas sovereign debt etc.

- 8 (1) This paragraph applies for the purposes of the use, as respects any loan relationship of a company and in conformity with paragraph 5 above, of an authorised accruals basis of accounting.
- (2) Where the company is one to which a relevant overseas debt is owed, the debits and credits to be brought into account on that basis for the purposes of this Chapter shall be determined, for any accounting period of the company, on the assumption that it is not permissible for more than the relevant percentage of the debt to be estimated to be bad.
- (3) For the purposes of this paragraph the relevant percentage of a debt for any accounting period of a company is (subject to sub-paragraph (4) below) such percentage (which may be zero) as may be determined, by reference to the position at the end of the relevant period of account, in accordance with regulations made by the Treasury.
- (4) Where, apart from this sub-paragraph, the relevant percentage of a debt for any accounting period is more than the adjusted base percentage of that debt for that period, the relevant percentage of the debt for that period shall be taken to be equal to its adjusted base percentage for that period.
- (5) For the purposes of this paragraph the adjusted base percentage of a debt for any accounting period shall be calculated by—
- (a) taking the percentage which, in accordance with section 88B of the Taxes Act 1988 and any regulations made under that section, was or (assuming the

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- debt to have been a debt of the company at the end of the base period) would have been the base percentage for that debt; and
- (b) increasing that base percentage by five percentage points for every complete year (except the first) between—
- (i) the time by reference to which the base percentage was, or would have been, determined, and
 - (ii) the end of the relevant period of account.
- (6) In this paragraph “the relevant period of account”, in relation to any accounting period of a company, means the period of account ending with that accounting period or, if a period of account does not end with that accounting period, the last period of account of the company to end before the end of that accounting period.
- (7) In this paragraph “relevant overseas debt” means any debt which—
- (a) satisfies one of the conditions specified in sub-paragraph (8) below; but
 - (b) is neither interest on a debt nor a debt which represents the consideration for the provision of goods or services.
- (8) Those conditions are—
- (a) that the debt is owed by an overseas State authority; or
 - (b) that payment of the debt is guaranteed by an overseas State authority; or
 - (c) that the debt is estimated to be bad for the purposes of this Chapter wholly or mainly because due payment is or may be prevented, restricted or subjected to conditions—
 - (i) by virtue of any law of a State or other territory outside the United Kingdom or any act of an overseas State authority; or
 - (ii) under any agreement entered into in consequence or anticipation of such a law or act.
- (9) In this paragraph “overseas State authority” means—
- (a) a State or other territory outside the United Kingdom;
 - (b) the government of such a State or territory;
 - (c) the central bank or other monetary authority of such a State or territory;
 - (d) a public or local authority in such a State or territory; or
 - (e) a body controlled by such a State, territory, government, bank or authority;
- and for this purpose “controlled” shall be construed in accordance with section 840 of the Taxes Act 1988.
- (10) The Treasury shall not make any regulations under this paragraph unless a draft of them has been laid before and approved by a resolution of the House of Commons.

Further restriction on bringing into account losses on overseas sovereign debt etc.

- 9 (1) This paragraph applies where—
- (a) for an accounting period in which a company ceases to be a party to a loan relationship (“the loss period”) any amount falls for the purposes of this Chapter to be brought into account in respect of that relationship in accordance with an authorised accruals basis of accounting;
 - (b) by the bringing into account of that amount in that period a loss incurred in connection with a relevant overseas debt falling within sub-paragraph (2) below is treated for the purposes of this Chapter as arising in that period;

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- (c) the amount of the loss is greater than 5 per cent. of the debt; and
 - (d) the loss is not one incurred on a disposal of the debt to an overseas State authority in a case in which the State or territory by reference to which it is an overseas State authority is the same as that by reference to which the debt is a relevant overseas debt.
- (2) A relevant overseas debt falls within this sub-paragraph if—
- (a) a deduction has been made in respect of the debt in accordance with section 74(1)(j) of the Taxes Act 1988 for any period of account of the company ending before 1st April 1996;
 - (b) any debit relating to the debt has been brought into account for the purposes of this Chapter in accordance with so much of any authorised accruals basis of accounting as relates to the matters mentioned in paragraph 5(1)(a) to (c) above; or
 - (c) the debt is one acquired by the company on or after 20th March 1990 for a consideration greater than the price which it might reasonably have been expected to fetch on a sale in the open market at the time of acquisition.
- (3) Where this paragraph applies, the amounts brought into account for the purposes of this Chapter in the loss period shall be such as to secure that only so much of the loss as does not exceed 5 per cent. of the debt is treated for the purposes of this Chapter as arising in the loss period; but sub-paragraph (4) below applies as respects further parts of that loss until the loss is exhausted.
- (4) A part of the loss may, in accordance with sub-paragraph (5) below, be brought into account for the purposes of this Chapter in the form of a debit for any accounting period after the loss period (“a subsequent period”).
- (5) The amount of the debit brought into account under sub-paragraph (4) above for any subsequent period shall not exceed such amount as, together with any parts of the loss which for earlier periods have been represented by—
- (a) the amount of the loss treated as arising in the loss period in accordance with sub-paragraph (3) above, or
 - (b) debits brought into account in accordance with this sub-paragraph,
- is equal to 5 per cent. of the debt for each complete year that has elapsed between the beginning of the loss period and the end of the subsequent period.
- (6) In this paragraph “overseas State authority” and “relevant overseas debt” have the same meanings as in paragraph 8 above.
- (7) References in this paragraph to a loss do not include so much of any loss as falls to be disregarded for the purposes of this Chapter by virtue of paragraph 10 below or to any loss incurred before 1st April 1996.

Imported losses etc.

- 10 (1) This paragraph applies in the case of a company (“the chargeable company”) for an accounting period (“the loss period”) where—
- (a) an authorised accruals basis of accounting is used as respects a loan relationship of that company for the loss period;

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- (b) in accordance with that basis of accounting there is an amount which would fall (apart from this paragraph) to be brought into account for the purposes of this Chapter in respect of that relationship;
 - (c) by the bringing into account of that amount in that period a loss incurred in connection with that loan relationship would be treated for the purposes of this Chapter as arising in that period; and
 - (d) that loss is referable in whole or in part to a time when the relationship was not subject to United Kingdom taxation.
- (2) The amounts brought into account for the purposes of this Chapter in the loss period shall be such as to secure that no part of the loss that is referable to a time when the relationship was not subject to United Kingdom taxation shall be treated for the purposes of this Chapter as arising in the loss period or any other accounting period of the chargeable company.
- (3) For the purposes of this paragraph a loss is referable to a time when a relationship is not subject to United Kingdom taxation to the extent that, at the time to which the loss is referable, the chargeable company would not have been chargeable to tax in the United Kingdom on any profits or gains arising from the relationship.
- (4) Sub-paragraph (3) above shall have effect where the chargeable company was not a party to the relationship at the time to which the loss is referable as if the reference to that company were a reference to the person who at that time was in the same position as respects the relationship as is subsequently held by the chargeable company.

Transactions not at arm's length

- 11 (1) Subject to sub-paragraphs (2) and (3) below, where—
- (a) debits or credits in respect of a loan relationship of a company fall to be brought into account for the purposes of this Chapter in accordance with an authorised accounting method,
 - (b) those debits or credits relate to amounts arising from, or incurred for the purposes of, a related transaction, and
 - (c) that transaction is not a transaction at arm's length,
- the debits or credits given by that method shall be determined on the assumption that the transaction was entered into on the terms on which it would have been entered into between independent persons.
- (2) Sub-paragraph (1) above shall not apply to debits arising from the acquisition of rights under a loan relationship where those rights are acquired for less than market value.
- (3) Sub-paragraph (1) above does not apply—
- (a) in the case of any related transaction between two companies that are members of the same group; or
 - (b) in relation to a member of a group of companies, in the case of any transaction which is part of a series of transactions having the same effect as a related transaction between two members of the same group.
- (4) In this paragraph “related transaction” has the same meaning as in section 84 of this Act.

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- (5) Section 170 of the ^{M2}Taxation of Chargeable Gains Act 1992 (groups etc.) shall apply for the interpretation of this paragraph as it applies for the interpretation of sections 171 to 181 of that Act.

Marginal Citations

M2 1992 c. 12.

VALID FROM 24/07/2002

[^{F6}Exchange gains and losses where loan not on arm's length terms

Textual Amendments

F6 Sch. 9 para. 11A and cross-heading inserted (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. 11 (with Sch. 23 Pt. 3 para. 25)

- 11A (1) Where a company has a debtor relationship in an accounting period and in the case of that accounting period—
- (a) the whole of any interest or other distribution out of the assets of the company in respect of securities of the company that represent the relationship falls by virtue of section 209(2)(da) or (e)(vii) of the Taxes Act 1988 to be regarded as a distribution for the purposes of the Corporation Tax Acts, or
 - (b) the profits and losses of the company fall by virtue of Schedule 28AA to that Act (provision not at arm's length) to be computed for tax purposes as if the loan had not been made,
- any exchange gains or losses which arise in that accounting period in respect of a liability representing the debtor relationship shall be left out of account in determining the debits or credits to be brought into account for the purposes of this Chapter.
- (2) Where a company has a debtor relationship in an accounting period and in the case of that accounting period—
- (a) part of any interest or other distribution out of the assets of the company in respect of securities of the company that represent the relationship falls by virtue of section 209(2)(da) or (e)(vii) of the Taxes Act 1988 to be regarded as a distribution for the purposes of the Corporation Tax Acts, or
 - (b) the profits and losses of the company fall by virtue of Schedule 28AA to that Act to be computed for tax purposes as if the loan had in part not been made,
- the proportionate part of any exchange gains or losses which arise in that accounting period in respect of a liability representing the debtor relationship shall be left out of account in determining the debits or credits to be brought into account for the purposes of this Chapter.
- (3) In sub-paragraph (2) above, the “proportionate part” of an exchange gain or loss is that part which bears to the whole the proportion which—

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- (a) in a case falling within paragraph (a) of that sub-paragraph, the part of the interest or other distribution out of assets that falls to be regarded as a distribution for the purposes of the Corporation Tax Acts bears to the whole of that interest or other distribution out of assets; or
- (b) in a case falling within paragraph (b) of that sub-paragraph, the part of the loan that falls to be treated as if it had not been made bears to the whole of the loan.

(4) Where—

- (a) a company has a creditor relationship in an accounting period,
- (b) the transaction giving rise to the loan is such that it would not have been entered into at all if the parties had been dealing at arm's length, and
- (c) there is no corresponding debtor relationship such that there would, or would apart from section 84A(2) to (10) of this Act, fall to be brought into account for the purposes of this Chapter, in respect of exchange gains or losses from that debtor relationship, debits or (as the case may be) credits corresponding to, and of the same amount as, the credits or debits that would (apart from this paragraph) fall to be brought into account for the purposes of this Chapter in respect of exchange gains or losses from the creditor relationship,

any exchange gains or losses which arise in that accounting period in respect of an asset representing the creditor relationship shall be left out of account in determining the debits or credits to be brought into account for the purposes of this Chapter.

(5) Where—

- (a) a company has a creditor relationship in an accounting period,
- (b) the circumstances are such that, had the parties to the transaction giving rise to the loan been dealing at arm's length, the terms would have been the same, except that the amount of the loan would have been an amount (referred to in sub-paragraph (6) below as “the adjusted amount”) greater than nil but less than its actual amount, and
- (c) there is no such corresponding debtor relationship as satisfies, in relation to that creditor relationship, the condition set out in sub-paragraph (4)(c) above,

sub-paragraph (4) above shall not apply, but the excess portion of any exchange gain or loss which arises in the accounting period in respect of an asset representing the creditor relationship shall be left out of account in determining the debits or credits to be brought into account for the purposes of this Chapter.

- (6) In sub-paragraph (5) above, the “excess portion” of an exchange gain or loss is so much of the gain or loss as remains after subtracting that part which bears to the whole the proportion which the adjusted amount bears to the amount of the loan.]

Continuity of treatment: groups etc.

- 12 (1) Subject to paragraph 15 below, this paragraph applies where, as a result of—
 - (a) a related transaction between two members of the same group of companies,

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- (b) a series of transactions having the same effect as a related transaction between two companies each of which has been a member of the same group at any time in the course of that series of transactions,
 - (c) the transfer between two companies of the whole or part of the long term business of any insurance company in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the ^{M3}Insurance Companies Act 1982, or
 - (d) any transfer between two companies which is a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act 1988 (transfer of business of overseas life insurance company),
- one of those companies (“the transferee company”) directly or indirectly replaces the other (“the transferor company”) as a party to a loan relationship.
- (2) The credits and debits to be brought into account for the purposes of this Chapter in the case of the two companies shall be determined as follows—
 - (a) the transaction, or series of transactions, by virtue of which the replacement takes place shall be disregarded except for the purpose of identifying the company in whose case any debit or credit not relating to that transaction, or those transactions, is to be brought into account; and
 - (b) the transferor company and the transferee company shall be deemed (except for that purpose) to be the same company.
 - (3) This paragraph does not apply by virtue of sub-paragraph (1)(a) or (b) above in relation to any transfer of an asset, or of any rights under or interest in an asset, where the asset was within one of the categories set out in section 440(4)(a) to (e) of the Taxes Act 1988 (assets held for certain categories of long term business) either immediately before the transfer or immediately afterwards.
 - (4) This paragraph does not apply by virtue of sub-paragraph (1)(c) or (d) above in relation to any transfer of an asset, or of any rights under or interest in an asset, where—
 - (a) the asset was within one of the categories set out in section 440(4) of the Taxes Act 1988 immediately before the transfer; and
 - (b) is not within that category immediately afterwards.
 - (5) For the purposes of sub-paragraph (4) above, where one of the companies is an overseas life insurance company an asset shall be taken to be within the same category both immediately before the transfer and immediately afterwards if it—
 - (a) was within one category immediately before the transfer; and
 - (b) is within the corresponding category immediately afterwards.
 - (6) References in this paragraph to one company replacing another as a party to a loan relationship shall include references to a company becoming a party to any loan relationship under which its rights are equivalent to those of the other company under a loan relationship of which that other company has previously ceased to be a party.
 - (7) For the purposes of sub-paragraph (6) above a person’s rights under a loan relationship are equivalent to rights under another such relationship if they entitle the holder of an asset representing the relationship—
 - (a) to the same rights against the same persons as to capital, interest and dividends, and
 - (b) to the same remedies for the enforcement of those rights,

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notwithstanding any difference in the total nominal amounts of the assets, in the form in which they are held or in the manner in which they can be transferred.

- (8) Sub-paragraphs (4) and (5) of paragraph 11 above have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.
- (9) In this paragraph “overseas life insurance company” has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.

Modifications etc. (not altering text)

- C1** Sch. 9 para. 12 modified (*retrospective to 1.4.1996*) by S.I. 1997/473, reg. 52
- C2** Sch. 9 para. 12(2) applied (27.7.1999 with effect as mentioned in s. 81(12) of the amending Act) by 1999 c. 16, s. 81(9)

Marginal Citations

- M3** 1982 c. 50.

Loan relationships for unallowable purposes

- 13 (1) Where in any accounting period a loan relationship of a company has an unallowable purpose, the debits which, for that period fall, in the case of that company, to be brought into account for the purposes of this Chapter shall not include so much of the debits given by the authorised accounting method used as respects that relationship as, on a just and reasonable apportionment, is attributable to the unallowable purpose.
- (2) For the purposes of this paragraph a loan relationship of a company shall be taken to have an unallowable purpose in an accounting period where the purposes for which, at times during that period, the company—
- (a) is a party to the relationship, or
 - (b) enters into transactions which are related transactions by reference to that relationship,
- include a purpose (“the unallowable purpose”) which is not amongst the business or other commercial purposes of the company.
- (3) For the purposes of this paragraph the business and other commercial purposes of a company do not include the purposes of any part of its activities in respect of which it is not within the charge to corporation tax.
- (4) For the purposes of this paragraph, where one of the purposes for which a company—
- (a) is a party to a loan relationship at any time, or
 - (b) enters into a transaction which is a related transaction by reference to any loan relationship of the company,
- is a tax avoidance purpose, that purpose shall be taken to be a business or other commercial purpose of the company only where it is not the main purpose, or one of the main purposes, for which the company is a party to the relationship at that time or, as the case may be, for which the company enters into that transaction.
- (5) The reference in sub-paragraph (4) above to a tax avoidance purpose is a reference to any purpose that consists in securing a tax advantage (whether for the company or any other person).

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- (6) In this paragraph—
“related transaction” has the same meaning as in section 84 of this Act;
and
“tax advantage” has the same meaning as in Chapter I of Part XVII of the Taxes Act 1988 (tax avoidance).

Debits and credits treated as relating to capital expenditure

- 14 (1) This paragraph applies where any debit or credit given by an authorised accounting method for any accounting period in respect of a loan relationship of a company is allowed by normal accountancy practice to be treated, in the accounts of the company, as an amount brought into account in determining the value of a fixed capital asset or project.
- (2) Notwithstanding the application to it of the treatment allowed by normal accountancy practice, the debit or credit shall be brought into account for the purposes of corporation tax, for the accounting period for which it is given, in the same way as a debit or credit which, in accordance with normal accountancy practice, is brought into account in determining the company’s profit or loss for that period.

Repo transactions and stock-lending

- 15 (1) In determining the debits and credits to be brought into account for the purposes of this Chapter in respect of any loan relationship, it shall be assumed that a disposal or acquisition to which this paragraph applies is not a related transaction for the purposes of section 84 of this Act.
- (2) This paragraph applies to any such disposal or acquisition of rights or liabilities under the relationship as is made in pursuance of any repo or stock-lending arrangements.
- (3) In this paragraph “repo or stock-lending arrangements” means any arrangements consisting in or involving an agreement or series of agreements under which provision is made—
- (a) for the transfer from one person to another of any rights under that relationship; and
 - (b) for the transferor, or a person connected with him, subsequently to be or become entitled, or required—
 - (i) to have the same or equivalent rights transferred to him; or
 - (ii) to have rights in respect of benefits accruing in respect of that relationship on redemption.
- (4) For the purposes of sub-paragraph (3) above rights under a loan relationship are equivalent to rights under another such relationship if they entitle the holder of an asset representing the relationship—
- (a) to the same rights against the same persons as to capital, interest and dividends, and
 - (b) to the same remedies for the enforcement of those rights,
- notwithstanding any difference in the total nominal amounts of the assets, in the form in which they are held or in the manner in which they can be transferred.

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- (5) Nothing in this paragraph shall prevent any redemption or discharge of rights or liabilities under a loan relationship to which any repo or stock-lending arrangements relate from being treated for the purposes of this Chapter as a related transaction (within the meaning of section 84 of this Act).
- (6) This paragraph is without prejudice to section 730A(2) and (6) of the Taxes Act 1988 (deemed payments of loan interest in the case of the sale and re-purchase of securities).
- (7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.

Modifications etc. (not altering text)

- C3** [Sch. 9 para. 15](#): definition of “repo or stock-lending arrangements” modified (1.1.1999) by [S.I. 1998/3177](#), [reg. 19\(1\)](#)

Imputed interest

- 16 (1) This paragraph applies where, in pursuance of sections 770 to 772 of the Taxes Act 1988 (transactions at an undervalue or overvalue), as those sections have effect by virtue of section 773(4) of that Act, any amount falls to be treated as interest payable under a loan relationship of a company.
- (2) Those sections shall have effect, notwithstanding the provisions of any authorised accounting method, so as to require credits or debits relating to the deemed interest to be brought into account for the purposes of this Chapter to the same extent as they would be in the case of an actual amount of interest accruing or becoming due and payable under the loan relationship in question.

Discounted securities where companies have a connection

- 17 (1) This paragraph applies as respects any accounting period (“the relevant period”) where—
- (a) a debtor relationship of a company (“the issuing company”) is represented by a relevant discounted security issued by that company;
 - (b) the benefit of that security is available to another company at any time in that period;
 - (c) for that period there is a connection between the issuing company and the other company; and
 - (d) credits representing the full amount of the discount that is referable to that period are not for any accounting period brought into account for the purposes of this Chapter in respect of the corresponding creditor relationship.
- (2) The debits falling in the case of the issuing company to be brought into account for the purposes of this Chapter in respect of the loan relationship shall be adjusted so that every debit relating to the amount of the discount that is referable to the relevant

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period is brought into account for the accounting period in which the security is redeemed, instead of for the relevant period.

- (3) References in this paragraph to the amount of the discount that is referable to the relevant period are references to the amount relating to the difference between—
- (a) the issue price of the security, and
 - (b) the amount payable on redemption,
- which (apart from this paragraph) would for the relevant period be brought into account for the purposes of this Chapter in the case of the issuing company.
- (4) In this paragraph “relevant discounted security” has the same meaning as in Schedule 13 to this Act; and the provisions of that Schedule shall apply for the purposes of this paragraph for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of paragraph 3(3) of that Schedule.
- (5) For the purposes of this paragraph there is a connection between one company and another for the relevant period if (subject to the following provisions of this paragraph)—
- (a) there is a time in that period, or in the period of two years before the beginning of that period, when one of the companies has had control of the other; or
 - (b) there is a time in that period, or in those two years, when both the companies have been under the control of the same person.
- (6) Two companies which have at any time been under the control of the same person shall not, by virtue of that fact, be taken for the purposes of this paragraph to be companies between whom there is a connection if the person was the Crown, a Minister of the Crown, a government department, a Northern Ireland department, a foreign sovereign power or an international organisation.
- (7) Section 88 of this Act shall apply for the purposes of this paragraph in the case of a debtor relationship of a company represented by a relevant discounted security as it would apply for the purposes of section 87 of this Act in the case of the corresponding creditor relationship of the company holding that security and, accordingly, as if—
- (a) the reference to section 87 of this Act in section 88(4)(b) were a reference to this paragraph; and
 - (b) section 88(5) were omitted.
- (8) For the purposes of this paragraph the benefit of a security is available to a company if—
- (a) that security, or any entitlement to rights attached to it, is beneficially owned by that company; or
 - (b) that company is indirectly entitled, by reference to a series of loan transactions, to the benefit of any rights attached to the security.
- (9) Subsections (2) to (6) of section 416 of the Taxes Act 1988 (meaning of “control”) shall apply for the purposes of this paragraph as they apply for the purposes of Part XI of that Act.

Modifications etc. (not altering text)

C4 Sch. 9 para. 17 modified (27.7.1999) by 1999 c. 16, s. 81(10)

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Discounted securities of close companies

- 18 (1) This paragraph applies for any accounting period where—
- (a) a debtor relationship of a close company is represented by a relevant discounted security issued by the company; and
 - (b) at any time in or before that period that security has been beneficially owned by a person who at the time was—
 - (i) a participator in the company;
 - (ii) an associate of such a participator; or
 - (iii) a company of which such a participator has control.
- (2) The debits falling in the case of the company to be brought into account for the purposes of this Chapter in respect of the loan relationship shall be adjusted so that no amount is brought into account in respect of the difference between—
- (a) the issue price of the security, and
 - (b) the amount payable on redemption,
- for any accounting period before that in which the security is redeemed.
- (3) In this paragraph “relevant discounted security” has the same meaning as in Schedule 13 to this Act; and the provisions of that Schedule shall apply for the purposes of this paragraph for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of paragraph 3(3) of that Schedule.
- (4) In this paragraph—
- “associate” has the meaning given in section 417(3) and (4) of the Taxes Act 1988;
- “control” shall be construed in accordance with section 416(2) to (6) of that Act; and
- “participator” means a person who, by virtue of section 417 of that Act, is a participator in the company for the purposes of Part XI of that Act, other than a person who is a participator for those purposes by virtue only of his holding a relevant discounted security issued by the company.
- (5) In determining whether a person who carries on a business of banking is a participator in a company for the purposes of this paragraph, there shall be disregarded any securities of the company acquired by him in the ordinary course of his business.

Modifications etc. (not altering text)

C5 Sch. 9 para. 18 modified (27.7.1999) by 1999 c. 16, s. 81(10)

Status: Point in time view as at 29/04/1996. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 9. (See end of Document for details)

VALID FROM 24/07/2002

[^{F7}Partnerships involving companies

Textual Amendments

F7 Sch. 9 para. 19 and cross-heading 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. 35

- 19 (1) This paragraph applies where—
- (a) a trade, profession or business is carried on by persons in partnership (“the firm”);
 - (b) any of those persons is a company (a “company partner”); and
 - (c) a money debt is owed by or to the firm.
- (2) In any such case—
- (a) in computing the profits and losses of the trade, profession or business for the purposes of corporation tax in accordance with section 114(1) of the Taxes Act 1988 (computation as if the partnership were a company) no debits or credits shall be brought into account under this Chapter in relation to the money debt or any loan relationship that would fall to be treated for the purposes of the computation as arising from the money debt; but
 - (b) debits and credits shall be brought into account under this Chapter in relation to the money debt (and any loan relationship treated as arising from it) in accordance with the following provisions of this paragraph by each company partner for each of its accounting periods in which the conditions in sub-paragraph (1) above are satisfied.
- (3) The debits and credits to be brought into account as mentioned in sub-paragraph (2) (b) above shall be determined separately in the case of each company partner.
- (4) For the purpose of determining those debits and credits in the case of any particular company partner—
- (a) the money debt owed by or to the firm shall be treated as if it were instead owed by or, as the case may be, to that company partner, for the purposes of the trade, profession or business which that company partner carries on,
 - (b) the money debt shall continue to be regarded as arising from a transaction for the lending of money if that is in fact the case (so that the company partner is treated as having a loan relationship), and
 - (c) anything done by or in relation to the firm in connection with the money debt shall be treated as done by or in relation to the company partner,
- and debits and credits (the “gross debits and credits”) shall be determined accordingly.
- (5) The debits and credits to be brought into account under this Chapter pursuant to sub-paragraph (2)(b) above in the case of any particular company partner shall be that company partner’s appropriate share of the gross debits and credits determined in accordance with sub-paragraph (4) above in the case of that company partner.

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- (6) For the purposes of sub-paragraph (5) above, the “appropriate share”, in the case of a company partner, is the share that would be apportioned to that company partner if—
- (a) the gross debits and credits determined in accordance with sub-paragraph (4) above in the case of that company partner fell to be apportioned between the partners; and
 - (b) the apportionment fell to be made in the shares in which any profit or loss computed in accordance with subsection (1) of section 114 of the Taxes Act 1988 would be apportioned between them under subsection (2) of that section.
- (7) If, in a case where the money debt owed by or to the firm arises from a transaction for the lending of money, there is a time in an accounting period of any company at which—
- (a) a person who is a company partner stands in relation to the debt in the position of a creditor (if it is owed by the firm) or a debtor (if it is owed to the firm) and accordingly has a creditor relationship or debtor relationship (as the case may be),
 - (b) that company partner, whether alone or taken together with one or more other company partners connected with it, controls the partnership, and
 - (c) that or any other company partner falls to be treated in accordance with sub-paragraph (4) above as if it had the debtor relationship or creditor relationship that corresponds to the creditor relationship or debtor relationship mentioned in paragraph (a) above,
- sub-paragraph (8) below shall apply with respect to that accounting period, if it is an accounting period of a company partner mentioned in paragraph (a) or (c) above.
- (8) Where this sub-paragraph applies, there shall be taken for the purposes of this Chapter to be a connection by virtue of section 87(3)(a) of this Act for the accounting period of the company partner mentioned in paragraph (a) of sub-paragraph (7) above, between that company partner and each company partner (including that company partner) that falls within paragraph (c) of that sub-paragraph.
- (9) For the purposes of sub-paragraph (7) above, one company partner is connected with another at any time in an accounting period if at that or any other time in the accounting period one controls the other or both are under the control of the same person.
- (10) The only accounting method authorised for use by a company partner in determining the debits and credits to be brought into account under this paragraph is an authorised accruals basis of accounting, but this sub-paragraph is subject to sub-paragraph (11) below.
- (11) Where the company partner uses an authorised mark to market basis of accounting in relation to its interest in the partnership, the only accounting method authorised for use in determining the debits and credits to be brought into account under this paragraph by that company partner is an authorised mark to market basis of accounting, unless a provision of this Chapter requires the use of an authorised accruals basis of accounting.
- (12) Subsection (3) of section 84A of this Act does not apply in relation to a company partner as respects the debits and credits to be brought into account by virtue of

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this paragraph except to the extent that, in the accounts of the firm, exchange gains and losses are carried to or sustained by a reserve in a manner corresponding to that described in that section in relation to a company.

- (13) Where the firm holds a relevant discounted security, within the meaning of paragraph 17 above, each of the partners shall be treated for the purposes of this paragraph as beneficially entitled to that share of the security to which he would be entitled if all the partners were companies and such an apportionment as is described in sub-paragraph (6)(b) above were made.
- (14) In this paragraph “control” —
- (a) in relation to a company, has the same meaning as in section 87 of this Act (see section 87A); and
 - (b) in relation to a partnership, has the meaning given by section 840 of the Taxes Act 1988.]

VALID FROM 24/07/2002

[^{F8} Interpretation of references to major interests

Textual Amendments

F8 Sch. 9 para. 20 and cross-heading 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. 36

- 20 (1) For the purposes of any provision which applies this paragraph, the cases where a company (“company A”) has a major interest in another company (“company B”) at any time are those cases where at that time—
- (a) company A and one other person, taken together, have control of company B;
 - (b) company A and the other person each have interests, rights and powers representing at least 40 per cent of the holdings, rights and powers in respect of which company A and the other person fall to be taken as having control of company B; and
 - (c) company A, or a company connected with it, and the other person, or, if that person is a company, a company connected with it, both satisfy the first condition, or both satisfy the second condition, in sub-paragraph (2) below.
- (2) A person—
- (a) satisfies the first condition if he stands in the position of a creditor in relation to a loan relationship as respects which company B stands in the position of a debtor; and
 - (b) satisfies the second condition if he stands in the position of a debtor in relation to a loan relationship as respects which company B stands in the position of a creditor.
- (3) The reference in sub-paragraph (1)(b) above to interests, rights and powers does not include interests, rights or powers arising from shares held by a company if—
- (a) a profit on a sale of the shares would be treated as a trading receipt of a trade carried on by the company; and

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- (b) the shares are not, within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988, assets of an insurance company's long-term insurance fund (see section 431(2) of that Act).
- (4) For the purposes of sub-paragraph (1) above, any question—
- (a) whether two persons taken together have control of a company at any time, or
- (b) whether a person has at any time interests, rights and powers representing at least 40 per cent of the holdings, rights and powers in respect of a company, shall be determined after attributing to any person which is a company all the interests, rights and powers of any company connected with it.
- (5) Where section 114 of the Taxes Act 1988 (partnerships involving companies: special rules for computing profits and losses) applies in relation to a partnership, any property, rights or powers held or exercisable for the purposes of the partnership shall be treated for the purposes of this paragraph, as respects any time in an accounting period of the partnership, as if—
- (a) the property, rights or powers had been apportioned between, and were held or exercisable by, the partners severally, and
- (b) the apportionment had been in the shares in which the profit or loss of the accounting period of the partnership would be apportioned between the partners under subsection (2) of that section,
- but taking the references in paragraphs (a) and (b) above to partners as not including a reference to the general partner of a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000.
- (6) Where a trade, profession or business is carried on by two or more persons in partnership (“the firm”) and the firm stands in the position of a creditor or debtor as respects a money debt, any question—
- (a) whether a company has a major interest (within the meaning of this paragraph) in another company for an accounting period in the case of a loan relationship, or
- (b) to what extent any amount is to be treated under this Chapter in any particular way as a result of a company having, or (as the case may be) not having, such a major interest in another company,
- shall be determined as if to the extent of his appropriate share each of the partners separately, instead of the firm, stood in the position of a creditor or, as the case may be, debtor as respects the money debt.
- The reference in the words following paragraph (b) above to partners does not include a reference to the general partner of a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000.
- (7) For the purposes of sub-paragraph (6) above, a partner's “appropriate share” is the share that would be apportioned to him if an apportionment were made in the shares in which any profit or loss computed in accordance with subsection (1) of section 114 of the Taxes Act 1988 for the accounting period in question would be apportioned between the partners under subsection (2) of that section.
- (8) For the purposes of this paragraph, a company is connected with another company if one controls the other or both are controlled by the same company.

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- (9) For the purposes of this paragraph, “control”, in relation to a company, has the same meaning as in section 87 of this Act (see section 87A).
- (10) Where two or more persons taken together have the power mentioned in subsection (1) of section 87A of this Act (as read with the other provisions of that section) they shall be taken for the purposes of sub-paragraph (1)(a) above to have control of the company in question.]

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 9.