

*Status: Point in time view as at 14/08/2007.*

*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

Section 84.

#### LOAN RELATIONSHIPS: SPECIAL COMPUTATIONAL PROVISIONS

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

- C1** Sch. 9 modified (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 136(2)(d)

##### *Distributions*

- 1 <sup>[F1]</sup>(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.
- <sup>[F2]</sup>(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.]

##### Textual Amendments

- F1** Word in Sch. 9 para. 1 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. 20**
- F2** Sch. 9 para. 1(2) 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. 20**

##### *<sup>[F3]</sup><sup>[F4]</sup>Insurance company liabilities*

##### Textual Amendments

- F3** 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**
- F4** Sch. 9 para. 1A cross-heading substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 6(3)**

- 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 <sup>[F5]</sup>liabilities of an insurance company within paragraph (a) of the definition of “liabilities” in section 431(2) 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.]

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### Textual Amendments

**F5** Words in Sch. 9 para. 1A(1) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 6\(3\)](#)

### *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 [<sup>F6</sup> (“the debtor company”) in a case falling within any of sub-paragraphs (1A) to (1D) below.]

[<sup>F7</sup>(1A) The first case is where there is, for the relevant accounting period, a connection (within the meaning of section 87 of this Act) between the debtor company and a person standing in the position of creditor as respects the loan relationship.

(1B) The second case is where there is a time in the relevant accounting period when the debtor company is a close company <sup>F8</sup>... and a person standing in the position of a creditor as respects the loan relationship is—

(a) a participator in the debtor company [<sup>F9</sup> or a person who controls a company which is such a participator],

(b) the associate of a person who is [<sup>F10</sup>, or who controls a company which is,] such a participator at that time, <sup>F11</sup>...

[<sup>F12</sup>(c) a company controlled by such a participator or by a person who controls a company which is such a participator, or

(d) a company in which such a participator has a major interest.]

[<sup>F13</sup>This is subject to sub-paragraph (1E).]

<sup>F8</sup>  
...

(1C) The third case is where—

(a) a person standing in the position of a creditor as respects the loan relationship is a company (“the creditor company”); and

(b) there is a time in the relevant accounting period when the debtor company has a major interest in the creditor company or the creditor company has a major interest in the debtor company.

(1D) The fourth case is where the loan is one made by trustees of a [<sup>F14</sup>an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004)] and—

(a) there is a time in the relevant accounting period when the debtor company is the employer of employees to whom the scheme relates; or

(b) there is for the relevant accounting period a connection, within the meaning of section 87 of this Act, between the debtor company and such an employer; or

(c) a company is such an employer and there is a time in the relevant accounting period when the debtor company has a major interest in that company or that company has a major interest in the debtor company.]

[<sup>F15</sup>(1E) A case does not fall within sub-paragraph (1B) above if either of the following exceptions applies.

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- (1F) The first exception applies where—
- (a) the debtor company is a CIS-based close company at all such times as are mentioned in sub-paragraph (1B) above;
  - (b) the person standing in the position of a creditor as respects the loan relationship is not resident in a non-qualifying territory at any such time; and
  - (c) the debtor company is a small or medium-sized enterprise for the relevant accounting period.

- (1G) The second exception applies where—
- (a) the debt is one that is owed to, or to persons acting for, a CIS limited partnership;
  - (b) no member of that partnership is resident in a non-qualifying territory at any time in the relevant accounting period;
  - (c) the debtor company has received written notice from the partnership containing information from which it appears that the condition in paragraph (b) above is satisfied; and
  - (d) the debtor company is a small or medium-sized enterprise for the relevant accounting period.]

- (2) If—
- (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.

- [<sup>F16</sup>(3) References in this paragraph to a person who stands in the position of a creditor as respects a loan relationship include references to a person who indirectly stands in that position 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 creditor or debtor.

- (4) Where this paragraph applies in relation to a debtor relationship by virtue of sub-paragraph (3) above, the reference to the corresponding creditor relationship in sub-paragraph (2)(b) above is a reference to the creditor relationship of the person who indirectly stands in the position of a creditor as respects the debtor relationship.
- (5) For the purposes of this section, section 414 of the Taxes Act 1988 (meaning of “close company” in the Tax Acts) shall have effect with the omission of subsection (1)(a) (exclusion of companies not resident in the United Kingdom).

[ A person who is a participator in a company which controls another company shall <sup>F17</sup>(5A) be treated for the purposes of this paragraph as also being a participator in that other company.]

- (6) In this paragraph—  
“associate” has the meaning given by section 417(3) and (4) of the Taxes Act 1988;

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[<sup>F18c</sup>“CIS-based close company” means a company that would not be a close company apart from the attribution, under section 416(6) of the Taxes Act 1988 by virtue of section 417(3)(a) of that Act, of the rights and powers of one or more partners in a CIS limited partnership to another of the partners;]

[<sup>F18c</sup>“CIS limited partnership” means a limited partnership—

- (a) which is a collective investment scheme, or
- (b) which would be a collective investment scheme if it were not a body corporate;]

[<sup>F18c</sup>“collective investment scheme” means a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000;]

“control” has the same meaning as in section 87 of this Act (see section 87A);

[<sup>F19c</sup>“non-qualifying territory” has the meaning given by paragraph 5E of Schedule 28AA to the Taxes Act 1988;]

“participator”, in relation to a <sup>F20</sup>... company, means a person who, by virtue of section 417 of the Taxes Act 1988, is a participator in the company for the purposes of Part 11 of that Act, other than a person who is a participator for those purposes by virtue only of being a loan creditor of the company;

“the relevant accounting period” means the accounting period mentioned in sub-paragraph (2)(a) above.

[<sup>F19c</sup>“resident” has the meaning given by paragraph 5B(6) of Schedule 28AA to the Taxes Act 1988;]

[<sup>F19c</sup>“small or medium-sized enterprise” has the meaning given by paragraph 5D of that Schedule.]

(7) Paragraph 20 below (major interests) applies for the purposes of this paragraph.]

#### Textual Amendments

- F6** Words in Sch. 9 para. 2(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. 22(2)**
- F7** Sch. 9 para. 2(1A)-(1D) 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. 22(3)**
- F8** Words in Sch. 9 para. 2(1B) repealed (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), Sch. 8 para. 2(2)(a), **Sch. 11 Pt. 2(9)**
- F9** Words in Sch. 9 para. 2(1B)(a) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(2)(b)**
- F10** Words in Sch. 9 para. 2(1B)(b) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(2)(c)**
- F11** Word in Sch. 9 para. 2(1B) repealed (with effect in accordance with Sch. 11 Pt. 2(9) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(9)**
- F12** Sch. 9 para. 2(1B)(c)(d) substituted for Sch. 9 para. 2(1B)(c) (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(2)(d)**
- F13** Words in Sch. 9 para. 2(1B) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(2)(e)**
- F14** Words in Sch. 9 para. 2(1D) substituted (6.4.2006) by virtue of [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 35 para. 45** (with [Sch. 36](#))
- F15** Sch. 9 para. 2(1E)-(1G) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(3)**

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- F16** Sch. 9 para. 2(3)-(7) 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. 22(4)**
- F17** Sch. 9 para. 2(5A) inserted (with effect in accordance with Sch. 37 para. 2(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 37 para. 2(2)**
- F18** Words in Sch. 9 para. 2(6) inserted (with effect in accordance with Sch. 8 para. 2(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 8 para. 2(3)**
- F19** Words in Sch. 9 para. 2(6) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 2(4)**
- F20** Word in Sch. 9 para. 2(6) repealed (with effect in accordance with Sch. 37 para. 2(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 37 para. 2(3)**, **Sch. 43 Pt. 3(13)**

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

- C2** [Sch. 9 para. 2](#) excluded (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Taxation of Securitisation Companies Regulations 2006 \(S.I. 2006/3296\)](#), regs. 1(1), **19(1)**

*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 [<sup>F21</sup>an amortised cost 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.

**Textual Amendments**

- F21** Words in Sch. 9 para. 3(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 19**

*Foreign exchange gains and losses*

- 4 <sup>F22</sup> .....

**Textual Amendments**

- F22** Sch. 9 para. 4 repealed (24.7.2002 with effect as mentioned in s. 79(3) of and Sch. 23 to the repealing Act) by [Finance Act 2002 \(c. 23\)](#), **ss. 79(1)(a)**, 141, **Sch. 40 Pt. 3(10)**

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*[<sup>F23</sup>Deemed release of liability on impaired debt becoming held by connected company]*

**Textual Amendments**

**F23** Sch. 9 para. 4A and cross-heading substituted (with effect in accordance with Sch. 6 para. 5(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 6 para. 5\(1\)](#)

<sup>F23</sup>4A (1) This paragraph applies—

- (a) in the case specified in sub-paragraph (2), subject to the exception in sub-paragraph (3), and
- (b) in the case specified in sub-paragraph (4).

(2) The first case is where—

- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
- (b) another company (“the creditor company”) becomes party as creditor to the loan relationship,
- (c) the debtor company and the creditor company are connected immediately after the latter becomes party to the loan relationship,
- (d) there is no connection between the creditor company and the person from whom it acquires its rights under the loan relationship in the period of account in which it does so, and
- (e) the carrying value of the liability under the loan relationship in the accounts of the debtor company exceeds the amount or value of any consideration given by the creditor company for its rights under the loan relationship.

The carrying value referred to in paragraph (e) is the amount that would have been the carrying value of the liability under the loan relationship in the accounts of the debtor company if a period of account had ended immediately before the creditor company became party to the loan relationship.

(3) The exception to the first case is where—

- (a) the creditor company acquires its rights under the loan relationship under an arm's length transaction, and
- (b) there has been no connection between the creditor company and the debtor company at any time in the period—
  - (i) beginning four years before the date on which the creditor company acquired those rights, and
  - (ii) ending twelve months before that date.

(4) The second case is where—

- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
- (b) another company (“the creditor company”) that—
  - (i) is party to the loan relationship as creditor, and
  - (ii) is not connected with the debtor company,
 becomes connected with the debtor company, and
- (c) the amount that would have been the carrying value of the asset representing the loan relationship in the accounts of the creditor company if a period of account had ended immediately before the companies became connected would have been adjusted for impairment.

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- (5) Where this paragraph applies there is deemed to be a release by the creditor company of its rights under the loan relationship.
- (6) In the first case the release is deemed to be of the amount of the excess referred to in sub-paragraph (2)(e) and to take place when the creditor company acquires its rights under the loan relationship.
- (7) In the second case the release is deemed to be of the amount of the impairment adjustment referred to in sub-paragraph (4)(c) and to take place when the creditor company becomes connected with the debtor company.
- (8) For the purposes of this paragraph there is a connection between a company and another person at any time (subject to sub-paragraph (9)) 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 in a period of account if there is a connection (within paragraph (a) or (b) above) between the company and the person at any time in that period.
- “Control” here has the meaning given for the purposes of section 87 of this Act by section 87A.
- (9) The provisions of—
- (a) section 87(4) (companies not regarded as connected by virtue of control by government etc), and
  - (b) section 88 (connection between companies to be disregarded in certain circumstances),
- apply for the purposes of this paragraph as they apply for the purposes of section 87.
- (10) In determining for the purposes of this paragraph the carrying value of the liability under a loan relationship, or of an asset representing a loan relationship, no account shall be taken of—
- (a) accrued amounts,
  - (b) amounts paid or received in advance, or
  - (c) impairment losses.]

*[<sup>F24</sup>Release of liability under debtor relationship][<sup>F25</sup> : cases in which credit need not be brought into account]*

#### Textual Amendments

- F24** Sch. 9 para. 5 heading substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(2\)](#)
- F25** Words in Sch. 9 para. 5 cross-heading added (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 11\(2\)](#)

- 5 <sup>F26</sup>(1) .....
- <sup>F26</sup>(1A) .....
- <sup>F26</sup>(2) .....



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<sup>F26</sup>(2A) .....

(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 [<sup>F27</sup>an amortised cost basis of accounting] is used as respects that relationship,

[<sup>F28</sup>no credit in respect of the release shall be required to be brought into account in the case of that company if any of the [<sup>F29</sup>five] conditions set out below is satisfied.]

[<sup>F30</sup>(4) Condition 1 is that the release is part of a [<sup>F31</sup>statutory insolvency arrangement].

(5) Condition 2 is that the debtor relationship is one as respects which section 87 of this Act (accounting method where parties have a connection) [<sup>F32</sup>applies]. [<sup>F33</sup>This condition does not apply in the case of a credit required to be brought into account by virtue of paragraph 4A (deemed release on impaired debt becoming held by connected company).]

(6) Condition 3 is that—

- (a) in the case of the company releasing the amount, the circumstances are as described in any of paragraphs (a) to (d) of paragraph 6A(1) below (insolvent liquidation etc),
- (b) immediately before the time at which those circumstances arose in the case of that company, the relationship was one as respects which section 87 of this Act [<sup>F34</sup>applies], and
- (c) immediately after that time, the relationship was not one as respects which section 87 of this Act [<sup>F35</sup>applies].

In the application of paragraphs (a) to (d) of paragraph 6A(1) below for the purposes of paragraph (a) above, references in those paragraphs to the company which has the creditor relationship are to be taken as references to the company releasing the amount.

(7) Condition 4 is that—

- (a) the relationship is not one as respects which section 87 of this Act [<sup>F36</sup>applies], and
- (b) in the case of the company which has the debtor relationship, the circumstances are as described in any of paragraphs (a) to (d) of paragraph 6A(1) below.

In the application of paragraphs (a) to (d) of paragraph 6A(1) below for the purposes of paragraph (b) above, references in those paragraphs to the company which has the creditor relationship are to be taken as references to the company which has the debtor relationship.]

[<sup>F37</sup>(8) Condition 5 is that the release is in consideration of, or of any entitlement to, shares forming part of the ordinary share capital of the debtor company.]

#### Textual Amendments

**F26** Sch. 9 para. 5(1)-(2A) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(3\)](#), [Sch. 42 Pt. 2\(6\)](#)



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- F27** Words in Sch. 9 para. 5(3)(b) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(4\)](#)
- F28** Words in Sch. 9 para. 5(3) substituted (with effect in accordance with Sch. 8 para. 3(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 3\(2\)](#)
- F29** Word in Sch. 9 para. 5(3) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 11\(3\)](#)
- F30** Sch. 9 para. 5(4)-(7) inserted (with effect in accordance with Sch. 8 para. 3(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 3\(3\)](#)
- F31** Words in Sch. 9 para. 5(4) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 11\(4\)](#)
- F32** Word in Sch. 9 para. 5(5) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(5\)](#)
- F33** Words in Sch. 9 para. 5(5) added (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 11\(5\)](#)
- F34** Word in Sch. 9 para. 5(6)(b) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(5\)](#)
- F35** Word in Sch. 9 para. 5(6)(c) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(5\)](#)
- F36** Word in Sch. 9 para. 5(7)(a) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 20\(5\)](#)
- F37** Sch. 9 para. 5(8) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 11\(6\)](#)

*[<sup>F38</sup>Release of liability under creditor relationship:  
application of provisions relating to impairment losses*

#### Textual Amendments

- F38** Sch. 9 para. 5ZA and cross-heading inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 12](#)

- 5ZA The provisions of—
- (a) paragraph 5A (impairment losses and consortium relief), and
  - (b) paragraphs 6, 6A and 6C (restrictions on bringing impairment losses into account),
- apply in relation to a debit in respect of a release by a company of liability under a creditor relationship of the company as they apply in relation to an impairment loss.]

*[<sup>F39</sup>[<sup>F40</sup>Impairment losses] and consortium relief*

#### Textual Amendments

- F39** 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](#)
- F40** Words in Sch. 9 para. 5A heading substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(2\)](#)

- 5A (1) This paragraph applies where the conditions in sub-paragraphs (2) and (3) below are satisfied.
- (2) The first condition is that [<sup>F41</sup>an impairment loss] 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

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- (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.
- (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 [<sup>F42</sup>impairment losses brought into account for that period] 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 [<sup>F43</sup>impairment losses brought into account for that period] in respect of those relationships by those companies.

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- (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 <sup>F44</sup>... 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 [F45 sub-paragraph (6)] 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—
- [F46(a) the debtor consortium company has, in accordance with an amortised cost basis of accounting, brought into account for an accounting period an amount in respect of a release of any liability under a debtor relationship, and]

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- (b) the corresponding creditor relationship is a relevant creditor relationship, an equal amount shall be treated for the purposes of this paragraph as not being a debit brought into account for that period<sup>F47</sup> ... 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 [<sup>F48</sup>in connection with a 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.]

#### Textual Amendments

- F41** Words in Sch. 9 para. 5A(2) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(3\)](#)
- F42** Words in Sch. 9 para. 5A(5)(a) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(4\)](#)
- F43** Words in Sch. 9 para. 5A(8)(b) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(4\)](#)
- F44** Words in Sch. 9 para. 5A(9) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(5\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F45** Words in Sch. 9 para. 5A(14) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(6\)](#)
- F46** Sch. 9 para. 5A(15)(a) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(7\)](#)
- F47** Words in Sch. 9 para. 5A(15) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(8\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F48** Words in Sch. 9 para. 5A(19) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 21\(9\)](#)

*[<sup>F49</sup>Impairment losses] where parties have a connection*

#### Textual Amendments

- F49** Words in Sch. 9 para. 6 heading substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(2\)](#)

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- 6 (1) This paragraph applies where for any accounting period section 87 of this Act [<sup>F50</sup>(accounting method where parties have a connection) applies] 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 <sup>F51</sup>... shall be computed subject to [<sup>F52</sup>sub-paragraph (3) (and the provisions mentioned there) and sub-paragraph (6)] below.
- [<sup>F53</sup>(3) An impairment loss may be brought into account for the purposes of this Chapter only in accordance with—
- [<sup>F54</sup>(a) sub-paragraph (4) below, or
- (b) paragraph 6A.]
- [<sup>F55</sup>(3A) Where an impairment loss is excluded by sub-paragraph (3), no credit in respect of any reversal of the impairment shall be brought into account for the purposes of this Chapter.]
- (4) [<sup>F56</sup>An impairment loss is not excluded by sub-paragraph (3)] 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.
- [<sup>F57</sup>(6) Where in any period a related transaction takes place in relation to the loan relationship—
- (a) the debits brought into account for that period in respect of the relationship must not be more than they would have been if the transaction had not taken place, and
- (b) the credits brought into account for that period in respect of the relationship must not be less than they would have been if the transaction had not taken place.
- (7) In determining for the purposes of sub-paragraph (6) the debits and credits that would have been brought into account if the related transaction had not taken place, no account shall be taken of any amounts that would have accrued at times after the transaction took place.]
- [<sup>F58</sup>(8) Nothing in this paragraph affects the debits or credits to be brought into account for the purposes of this Chapter in respect of exchange gains or losses arising from a debt.]]

#### **Textual Amendments**

**F50** Words in Sch. 9 para. 6(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(3\)](#)

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- F51** Words in Sch. 9 para. 6(2) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(4\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F52** Words in Sch. 9 para. 6(2) substituted (with effect in accordance with Sch. 4 para. 13(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 13\(2\)](#)
- F53** Sch. 9 para. 6(3) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(5\)](#)
- F54** Sch. 9 para. 6(3)(a)(b) substituted for Sch. 9 para. 6(3)(a)-(c) (with effect in accordance with Sch. 4 para. 13(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 13\(3\)](#)
- F55** Sch. 9 para. 6(3A) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(6\)](#)
- F56** Words in Sch. 9 para. 6(4) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 22\(7\)](#)
- F57** Sch. 9 para. 6(6)(7) substituted (with effect in accordance with Sch. 4 para. 13(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 13\(4\)](#)
- F58** Sch. 9 para. 6(8) added (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. 9\(3\)](#) (with [Sch. 23 Pt. 3 para. 25](#))

*[<sup>F59</sup><sup>F60</sup>Impairment losses] : parties having connection and creditor in insolvent liquidation etc*

#### Textual Amendments

- F59** 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](#)
- F60** Words in Sch. 9 para. 6A heading substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 23\(2\)](#)

- 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”) <sup>F61</sup>is in] insolvent liquidation;
  - <sup>F62</sup>(b) <sup>F63</sup>[that company has entered administration or] that company is in insolvent administration;]  
[ the company is in insolvent administrative receivership;]
  - <sup>F64</sup>(bb)
  - (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, <sup>F65</sup>circumstances exist] corresponding to any of those described in paragraphs (a) to (c) above.
- (2) Where this paragraph applies, <sup>F66</sup>an impairment loss is not excluded by paragraph 6(3)] 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 <sup>F67</sup>in the course] of the winding up;
  - (b) in a case falling within paragraph (b) of that sub-paragraph, at a time <sup>F68</sup>in the course of the administration] ;
  - [ in a case falling within paragraph (bb) of that sub-paragraph, at a time when
  - <sup>F69</sup>(bb) the appointment of the administrative receiver is in force;]



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- (c) in a case falling within paragraph (c) of that sub-paragraph, at a time when [<sup>F70</sup>the company is in administration or] 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) [<sup>F71</sup>, (bb)] or (c) above (as the case may be).
- [<sup>F72</sup>(3) For the purposes of this paragraph a company is in insolvent liquidation during the period which—
- (a) begins when 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, and
  - (b) ends when the winding up is completed or otherwise brought to an end (whether under paragraph 37 or 38 of Schedule B1 to the Insolvency Act 1986 or otherwise).]

(4) For the purposes of this paragraph a company in administration is in insolvent administration if—

    - (a) in the case of an administration under Schedule B1 to the Insolvency Act 1986, it entered administration at a time when its assets were insufficient for the payment of its debts and other liabilities and the expenses of the administration, or
    - (b) in a case where an administration order has effect under Part 3 of the Insolvency (Northern Ireland) Order 1989, the order was made at such a time.]

[<sup>F73</sup>(5) For the purposes of this paragraph a company is in insolvent administrative receivership if—

      - (a) there is in force in relation to that company an appointment of an administrative receiver, within the meaning of Chapter 1 or 2 of Part 3 of the Insolvency Act 1986 or Part 4 of the Insolvency (Northern Ireland) Order 1989, and
      - (b) the company was put into administrative receivership at a time when its assets were insufficient for the payment of its debts and other liabilities and the expenses of administrative receivership.]

#### Textual Amendments

- F61** Words in Sch. 9 para. 6A(1)(a) substituted (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 41 para. 4\(2\)\(a\)](#)
- F62** Sch. 9 para. 6A(1)(b) substituted (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 41 para. 4\(2\)\(b\)](#)
- F63** Words in Sch. 9 para. 6A(1)(b) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), [art. 1\(1\)](#), [Sch. para. 29\(a\)\(i\)](#) (with [art. 6](#))
- F64** Sch. 9 para. 6A(1)(bb) inserted (with effect in accordance with Sch. 8 para. 4(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 4\(3\)](#)
- F65** Words in Sch. 9 para. 6A(1)(d) substituted (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 41 para. 4\(2\)\(c\)](#)
- F66** Words in Sch. 9 para. 6A(2) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 23\(3\)](#)

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- F67** Words in Sch. 9 para. 6A(2)(a) substituted (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 41 para. 4(3)(a)**
- F68** Words in Sch. 9 para. 6A(2)(b) substituted (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 41 para. 4(3)(b)**
- F69** Sch. 9 para. 6A(2)(bb) inserted (with effect in accordance with Sch. 8 para. 4(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 8 para. 4(4)**
- F70** Words in Sch. 9 para. 6A(2)(b) inserted (15.9.2003) by virtue of [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 29(b)** (with art. 6)
- F71** Word in Sch. 9 para. 6A(2)(d) inserted (with effect in accordance with Sch. 8 para. 4(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 8 para. 4(5)**
- F72** Sch. 9 para. 6A(3)(4) substituted for Sch. 9 para. 6A(3) (with effect in accordance with Sch. 41 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 41 para. 4(4)**
- F73** Sch. 9 para. 6A(5) inserted (with effect in accordance with Sch. 8 para. 4(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 8 para. 4(6)**

*[<sup>F74</sup><sup>F75</sup>Impairment losses]: companies becoming connected]*

**Textual Amendments**

- F74** 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**
- F75** Words in Sch. 9 para. 6B heading substituted (with effect in accordance with [s. 52\(3\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 24(2)**

<sup>F76</sup>6B .....

**Textual Amendments**

- F76** Sch. 9 para. 6B repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 14](#), **Sch. 11 Pt. 2(5)**

*[<sup>F77</sup><sup>F78</sup>Impairment losses:] cessation of connection*

**Textual Amendments**

- F77** 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**
- F78** Words in Sch. 9 para. 6C heading substituted (with effect in accordance with [s. 52\(3\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 25(2)**

- 6C (1) Where, in the case of a creditor relationship of a company,—
- <sup>F79</sup>(a) an impairment loss is excluded by paragraph 6(3) in any 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,
- <sup>F80</sup>sub-paragraph (3) applies].

<sup>F81</sup>(2) .....

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- (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.]

#### Textual Amendments

- F79** Sch. 9 para. 6C(1)(a) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 25\(3\)](#)
- F80** Words in Sch. 9 para. 6C(1) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 15\(a\)](#)
- F81** Sch. 9 para. 6C(2) repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 15\(b\)](#), [Sch. 11 Pt. 2\(5\)](#)

#### *<sup>F82</sup>Restriction on bringing into account debits resulting from revaluation*

#### Textual Amendments

- F82** Sch. 9 para. 6D and cross-heading inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 16](#)

- 6D (1) No debit shall be brought into account for the purposes of this Chapter as a result of the revaluation of an asset representing a creditor relationship of a company, except—
- (a) an impairment loss, or
  - (b) a debit resulting from a release by the company of any liability under the relationship.
- (2) No credit may be brought into account for the purposes of this Chapter in respect of the reversal of—
- (a) a debit disallowed by sub-paragraph (1),
  - (b) a debit that in a period of account beginning before 1st January 2005 was disallowed for tax purposes—
    - (i) because of the assumption required by paragraph 5(1) above, or
    - (ii) because the exceptions in section 74(1)(j) of the Taxes Act 1988 did not apply.
- (3) The reference in sub-paragraph (1) to revaluation of an asset includes any case where a provision or allowance is made by the company reducing the carrying value of the asset or of a group of assets including the asset in question.
- (4) This paragraph does not affect the debits to be brought into account in respect of exchange gains or losses.
- (5) This paragraph does not apply if fair value accounting is used.]

#### *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.

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- (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.*

F83g .....

**Textual Amendments**

**F83** Sch. 9 para. 8 repealed (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 17\(1\)\(a\)](#), [Sch. 11 Pt. 2\(5\)](#)

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

F84g .....

**Textual Amendments**

**F84** Sch. 9 para. 9 repealed (with effect in accordance with Sch. 4 para. 17(3) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 17\(1\)\(b\)](#), [Sch. 11 Pt. 2\(5\)](#)

*Imported losses etc.*

- 10 [F85(1) This paragraph applies in the case of a company (“the chargeable company”) for an accounting period (“the loss period”) where—
- (a) there is a loss arising in connection with a loan relationship of the company which apart from this paragraph would fall to be brought into account for the purposes of this Chapter, and
  - (b) that loss is referable in whole or in part to a time when the relationship was not subject to United Kingdom taxation.

This paragraph does not apply where fair value accounting is used.]

- (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.

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[<sup>F86</sup>(5) Amounts which, by virtue of this paragraph, are not brought into account for the purposes of this Chapter as respects any matter are in consequence also amounts which, in accordance with section 80(5) of this Act, are not to be brought into account for the purposes of corporation tax as respects that matter apart from this Chapter.]

#### Textual Amendments

- F85** Sch. 9 para. 10(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 28](#)
- F86** Sch. 9 para. 10(5) 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. 28](#)

[<sup>F87</sup>Deemed assignment of assets and liabilities on company ceasing to be resident in UK etc]

#### Textual Amendments

- F87** Sch. 9 para. 10A and cross-heading inserted (with effect in accordance with Sch. 8 para. 5(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 5\(1\)](#)

- 10A (1) This paragraph applies if at any time (“the relevant time”)—
- (a) a company ceases to be resident in the United Kingdom, or
  - (b) in the case of a company that is not resident in the United Kingdom, an asset or liability representing a loan relationship of the company ceases to be held for the purposes of a permanent establishment of the company in the United Kingdom in any circumstances not involving a related transaction.

[ But this paragraph does not apply if—

- <sup>F88</sup>(1A) (a) paragraph 12A below (transferee company leaving group) applies in relation to the company, and
- (b) the cessation in sub-paragraph (1)(a) or (b) above occurs at the same time as the cessation in sub-paragraph (1)(b) of that paragraph.]
- (2) In a case falling within sub-paragraph (1)(a) above, this Chapter shall have effect as if the company had—
- (a) immediately before the relevant time, assigned the assets and liabilities that represent its loan relationships for a consideration of an amount equal to their fair value at that time, and
  - (b) immediately reacquired them for a consideration of the same amount.
- (3) Sub-paragraph (2) above does not apply in relation to an asset or a liability to the extent that, immediately after the relevant time, it is held or owed for the purposes of a permanent establishment of the company in the United Kingdom.
- (4) In a case falling within sub-paragraph (1)(b) above, this Chapter shall have effect as if the company had—
- (a) immediately before the relevant time, assigned the asset or liability, so far as ceasing to be held or owed for the purposes of the permanent establishment, for a consideration of an amount equal to its fair value at that time, and
  - (b) immediately reacquired it for a consideration of the same amount.

<sup>F89</sup>(5) . . . . .]

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 9. (See end of Document for details)*

### Textual Amendments

- F88** Sch. 9 para. 10A(1A) inserted (with effect in accordance with Sch. 7 para. 15(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 15(2)**
- F89** Sch. 9 para. 10A(5) repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 29, **Sch. 42 Pt. 2(6)**

### *Transactions not at arm's length*

- 11 [F90(1) 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 respect of a related transaction, and
  - (b) that transaction is not a transaction at arm's length,
- the debits or credits to be brought into account 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.

This is subject to the exceptions in sub-paragraphs (1A), (2), (3) and (3A).]

- [F91(1A) Notwithstanding section 80(5) of this Act, sub-paragraph (1) above shall not apply to debits or credits in respect of amounts which—

- (a) fall to be adjusted for tax purposes under Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), or
- (b) fall within that Schedule without falling to be so adjusted.

- (1B) For the purposes of sub-paragraph (1A) above, an amount falls within Schedule 28AA to the Taxes Act 1988 without falling to be adjusted under that Schedule in a case where—

- (a) the conditions in paragraph 1(1) of that Schedule are met, and
- (b) the actual provision does not differ from the arm's length provision.]

- (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.

- [F92(3) Sub-paragraph (1) above does not apply if the related transaction—

- (a) is a transaction as a result of which paragraph 12 below (groups)—
  - (i) applies by virtue of sub-paragraph (1)(a) of it, or
  - (ii) would so apply, apart from sub-paragraph (2A) of it (transferor using fair value accounting), or
- (b) is part of a series of transactions as a result of which that paragraph—
  - (i) applies by virtue of sub-paragraph (1)(b) of it, or
  - (ii) would so apply, apart from sub-paragraph (2A) of it.]

- [F93(3A) Sub-paragraph (1) above shall not apply to any exchange gains or losses.]

F94(4) .....

F95(5) .....

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### Textual Amendments

- F90** Sch. 9 para. 11(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 30](#)
- F91** Sch. 9 para. 11(1A), (1B) inserted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 5 para. 6\(3\)](#)
- F92** Sch. 9 para. 11(3) substituted (with effect in accordance with Sch. 7 para. 16(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 16\(2\)](#)
- F93** Sch. 9 para. 11(3A) 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. 10\(3\)](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F94** Sch. 9 para. 11(4) repealed (24.7.2002 with effect in accordance with s. 79(3) of and Sch. 23 to the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#)
- F95** Sch. 9 para. 11(5) repealed (with effect in accordance with Sch. 7 para. 16(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 16\(3\)](#), [Sch. 11 Pt. 2\(8\)](#)

### Modifications etc. (not altering text)

- C3** Sch. 9 para. 11 excluded (15.1.2001) by [2000 c. 38](#), s. 250, [Sch. 26 para. 35\(1\)](#); S.I. 2000/3376, [art. 2](#)
- C4** [Sch. 9 para. 11](#) restricted (E.W.S.) (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 28](#); S.I. 2005/1909, [art. 2](#)

*<sup>F96</sup>Exchange gains and losses where loan not on arm's length terms*

### Textual Amendments

- F96** 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 [<sup>F97</sup>section 209(2)(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 [<sup>F98</sup>paragraph 1 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—
- <sup>F99</sup>(a) .....
  - (b) the profits and losses of the company fall by virtue of [<sup>F100</sup>paragraph 1 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



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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—

<sup>F101</sup>(a) . . . . .

(b) <sup>F102</sup>... 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, <sup>F103</sup>... 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.

[ Where—

- <sup>F104</sup>(7) (a) a company would be treated as having a debtor relationship in any accounting period if a claim were made under paragraph 6D(2) of Schedule 28AA to the Taxes Act 1988 in relation to that period, and
- (b) for that period there is a connection between that company and the company which would have the corresponding creditor relationship,

it shall be assumed that such a claim is made for the purpose of determining the debits or credits to be brought into account for the purposes of this Chapter in respect of any exchange gains or losses arising in that period in respect of the liability representing that debtor relationship.

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- (8) Section 87(3) and (4) (connection between a company and another person) apply for the purposes of sub-paragraph (7)(b) above as they apply for the purposes of section 87.
- (9) Where, by virtue of any claim made (or assumed by virtue of sub-paragraph (7) above to be made) under paragraph 6D(2) of Schedule 28AA to the Taxes Act 1988, more than one company is treated for any purpose as having a debtor relationship represented by the same liability—
- (a) the total debtor exchange gains must not exceed the total creditor exchange losses, and
  - (b) the total debtor exchange losses must not exceed the total creditor exchange gains.
- (10) For the purposes of sub-paragraph (9) above—
- (a) any reference to the total debtor exchange gains is to the total amount of the credits brought into account for the purposes of this Chapter in respect of exchange gains from those debtor relationships,
  - (b) any reference to the total debtor exchange losses is to the total amount of the debits brought into account for those purposes in respect of exchange losses from those debtor relationships,
  - (c) any reference to the total creditor exchange gains is to the total amount of the credits brought into account for those purposes in respect of exchange gains from the corresponding creditor relationship, and
  - (d) any reference to the total creditor exchange losses is to the total amount of the debits brought into account for those purposes in respect of exchange losses from that relationship.]]

#### **Textual Amendments**

- F97** Words in Sch. 9 para. 11A(1)(a) substituted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(a\)](#)
- F98** Words in Sch. 9 para. 11A(1)(b) inserted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(b\)](#)
- F99** Sch. 9 para. 11A(2)(a) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(c\), Sch. 42 Pt. 2\(2\)](#)
- F100** Words in Sch. 9 para. 11A(2)(b) inserted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(d\)](#)
- F101** Sch. 9 para. 11A(3)(a) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(e\), Sch. 42 Pt. 2\(2\)](#)
- F102** Words in Sch. 9 para. 11A(3)(b) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(f\), Sch. 42 Pt. 2\(2\)](#)
- F103** Words in Sch. 9 para. 11A(5)(b) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 34\(4\)\(g\), Sch. 42 Pt. 2\(2\)](#)
- F104** [Sch. 9 paras. 11A\(7\)–\(10\)](#) inserted (with effect in accordance with Sch. 5 para. 15(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 5 para. 15\(1\)](#)

#### *Continuity of treatment: groups etc.*

- 12 (1) Subject to paragraph 15 below, this paragraph applies where, as a result of—
- [<sup>F105</sup>(a) a related transaction between two companies that are—
  - (i) members of the same group, and

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- (ii) within the charge to corporation tax in respect of that transaction,
- (b) a series of transactions having the same effect as a related transaction between two companies each of which—
  - (i) has been a member of the same group at any time in the course of that series of transactions, and
  - (ii) is within the charge to corporation tax in respect of the related transaction,]
- [<sup>F106</sup>(c) a transfer between two companies of business consisting of the effecting or carrying out of contracts of long-term insurance which has effect under an insurance business transfer scheme;]
- (d) any transfer between two companies which is a qualifying overseas transfer within the meaning [<sup>F107</sup>given by the definition treated as inserted into section 431(2) of the Taxes Act 1988 by paragraph 6(9) of Schedule 19AC to that Act] (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.

- [<sup>F108</sup>(2) For the purpose of determining the credits and debits to be brought into account for the purposes of this Chapter in respect of the loan relationship—
  - (a) for the accounting period in which the transaction or, as the case may be, the first of the series of transactions takes place, the transferor company shall be treated as having entered into that transaction for a consideration equal to the notional carrying value of the asset or liability representing the relationship; and
  - (b) for any accounting period in which it is a party to the relationship, the transferee company shall be treated as if it had acquired the asset or liability representing the relationship for a consideration equal to the notional carrying value of the asset or liability.

For the purposes of this sub-paragraph, the notional carrying value is the amount that would have been the carrying value of the asset or liability in the accounts of the transferor company if a period of account had ended immediately before the date when the company ceased to be party to the loan relationship.]

- [<sup>F109</sup>(2ZA) Where the debits or credits to be brought into account for the purposes of this Chapter in respect of any amounts fall to be determined in accordance with sub-paragraph (2) above, Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length) does not apply in relation to those amounts.]

- [<sup>F110</sup>(2A) This paragraph does not apply where the transferor company [<sup>F111</sup>is regarded for the purposes of this sub-paragraph as using][<sup>F112</sup>fair value accounting] as respects the loan relationship, but in any such case—

- [<sup>F113</sup>(a) the amount to be brought into account by the transferor company in respect of the transaction, the result of the series of transactions, or the transfer must be—
  - (i) where an asset is to be brought into account, the fair value of the asset, or of the rights under or interest in the asset, and
  - (ii) where a liability is to be brought into account, the fair value of the liability,

as at the date on which the transferee company becomes party to the loan relationship; [<sup>F114</sup>; and]

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[<sup>F115</sup>(aa) for any accounting period in which it is a party to the relationship, the transferee company shall be treated for the purpose of determining the credits and debits to be brought into account for the purposes of this Chapter in respect of the relationship as if it had acquired the asset or liability representing the relationship for a consideration equal to the amount mentioned in paragraph (a) above (but on the assumption that sub-paragraph (2C)(b) below is omitted).]]

<sup>F116</sup>(b) .....

[<sup>F117</sup>(2B) The transferor company shall be regarded for the purposes of sub-paragraph (2A) above as using fair value accounting as respects the loan relationship only if—

- (a) it uses fair value accounting as respects the relationship and the debits and credits to be brought into account for the purposes of this Chapter as respects the relationship are also determined on that basis, or
- (b) it does not use fair value accounting as respects the relationship but the debits and credits to be brought into account for the purposes of this Chapter as respects the relationship are determined on that basis.]

[<sup>F118</sup>(2C) In any case where a discount (within the meaning given by section 100(3A)) arises in respect of the transaction, the series of transactions or the transfer—

- (a) the consideration for the purposes of sub-paragraph (2)(a) above is to be increased by the amount of the discount;
- (b) the amount to be brought into account by virtue of sub-paragraph (2A)(a)(i) above is to be increased by the amount of the discount.]

(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 [<sup>F119</sup>440(4)(a), (d) and (e)] of the Taxes Act 1988 (assets held for certain categories of [<sup>F120</sup>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 [<sup>F121</sup>, or (as the case may be) its obligations,] 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—

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- (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.
- [<sup>F122</sup>(7A) For the purposes of sub-paragraph (6) above a person's obligations under a debtor relationship are equivalent to obligations under another such relationship if they subject the holder of the liability representing the relationship—
- (a) to the same obligations to the same persons as to capital, interest and dividends, and
- (b) to the same remedies for the enforcement of those obligations,
- notwithstanding any difference in the total nominal amounts of the assets representing the corresponding creditor relationships, in the form in which those assets are held or in the manner in which they can be transferred.]
- [<sup>F123</sup>(8) In this paragraph references to a company which is a member of a group of companies shall be construed in accordance with section 170 of the Taxation of Chargeable Gains Act 1992.]
- [<sup>F124</sup>(9) In this paragraph—
- [<sup>F125</sup>“carrying value” has the same meaning as it has for the purposes of paragraph 19A below;]
- <sup>F126</sup> ...
- <sup>F127</sup> ...
- <sup>F128</sup> ...]

### Textual Amendments

- F105** Sch. 9 para. 12(1)(a)(b) substituted (28.7.2000 with effect in relation to transactions entered into, or series of transactions begun, on or after 1.4.2000) by 2000 c. 17, s. 102, **Sch. 29 Pt. II para. 44(4)(5)**
- F106** Sch. 9 para. 12(1)(c) substituted (1.12.2001 with effect as mentioned in art. 94(4) of the amending S.I.) by S.I. 2001/3629, **art. 94(2)**
- F107** Words in Sch. 9 para. 12(1)(d) substituted (with effect in accordance with reg. 1 of the amending S.I.) by **The Overseas Life Insurance Companies Regulations 2004 (S.I. 2004/2200, regs. 1(1), 9(2))**
- F108** Sch. 9 para. 12(2) substituted (with effect in accordance with Sch. 7 para. 17(6)-(8) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 17(2)**
- F109** Sch. 9 para. 12(2ZA) inserted (with effect in accordance with s. 37 of the amending Act) by **Finance Act 2004 (c. 12), Sch. 5 para. 7(2)**
- F110** Sch. 9 para. 12(2A) 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. 29**
- F111** Words in Sch. 9 para. 12(2A) substituted (with effect in accordance with Sch. 6 para. 19(5)(6) of the amending Act) by **Finance Act 2006 (c. 25), Sch. 6 para. 19(2)(a)**
- F112** Words in Sch. 9 para. 12(2A) substituted (with effect in accordance with s. 52(3) of the amending Act) by **Finance Act 2004 (c. 12), Sch. 10 para. 31(a)**
- F113** Sch. 9 para. 12(2A)(a)(aa) substituted for Sch. 9 para. 12(2A)(a) (with effect in accordance with Sch. 37 para. 3(7) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 37 para. 3(4)**
- F114** Word and semicolon in Sch. 9 para. 12(2A)(a) inserted (with effect in accordance with s. 52(3) of the amending Act) by **Finance Act 2004 (c. 12), Sch. 10 para. 31(b)**
- F115** Sch. 9 para. 12(2A)(aa) substituted (with effect in accordance with Sch. 6 para. 19(5)(6) of the amending Act) by **Finance Act 2006 (c. 25), Sch. 6 para. 19(2)(b)**

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- F116** Sch. 9 para. 12(2A)(b) and word repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 31\(c\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F117** Sch. 9 para. 12(2B) inserted (with effect in accordance with Sch. 6 para. 19(5)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 6 para. 19\(3\)](#)
- F118** Sch. 9 para. 12(2C) inserted (with effect in accordance with Sch. 6 para. 19(5)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 6 para. 19\(4\)](#)
- F119** Words in Sch. 9 para. 12(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 66](#) (with [Sch. 7 Pt. 2](#))
- F120** Words in Sch. 9 para. 12(3) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 96\(1\)\(a\)](#)
- F121** Words in Sch. 9 para. 12(6) inserted (with effect in accordance with Sch. 37 para. 3(7) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 37 para. 3\(5\)](#)
- F122** Sch. 9 para. 12(7A) inserted (with effect in accordance with Sch. 37 para. 3(7) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 37 para. 3\(6\)](#)
- F123** Sch. 9 para. 12(8) substituted (with effect in accordance with Sch. 7 para. 17(7)(8) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 17\(4\)](#)
- F124** Sch. 9 para. 12(9) substituted (1.12.2001 with effect as mentioned in art. 94(4) of the amending S.I.) by [S.I. 2001/3629](#), [art. 94\(3\)](#)
- F125** Words in Sch. 9 para. 12(9) inserted (with effect in accordance with Sch. 7 para. 17(7)(8) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 17\(5\)](#)
- F126** Words in Sch. 9 para. 12(9) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(6\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F127** Words in Sch. 9 para. 12(9) repealed (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 1\(2\)\(e\)](#), [Sch. 27 Pt. 2\(9\)](#)
- F128** Words in Sch. 9 para. 12(9) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(6\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C5** Sch. 9 para. 12 modified (*retrospective* to 1.4.1996) by [S.I. 1997/473](#), [reg. 52](#) (as amended (1.12.2001) by [S.I. 2001/3629](#), [art. 163](#), as amended (8.4.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), [regs. 1, 40](#))
- C6** Sch. 9 para. 12 excluded (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Taxation of Securitisation Companies Regulations 2006 \(S.I. 2006/3296\)](#), [regs. 1\(1\), 19\(2\)](#)
- C7** Sch. 9 para. 12 modified by [S.I. 2005/2014](#), [reg. 39A](#) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2007 \(S.I. 2007/2134\)](#), [regs. 1\(1\), 30](#))
- C8** Sch. 9 para. 12 modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [regs. 1, 35](#) (as amended (with effect in accordance with reg. 1(2) of this amending S.I.) by [The Overseas Life Insurance Companies \(Amendment\) Regulations 2007 \(S.I. 2007/2146\)](#), [regs. 1\(1\), 20](#))

*<sup>F129</sup>Transferee leaving group after replacing transferor as party to loan relationship*

#### Textual Amendments

- F129** Sch. 9 para. 12A and cross-heading inserted (with effect in accordance with Sch. 7 para. 18(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 18\(1\)](#)

- 12A (1) This paragraph applies in any case where—
- (a) paragraph 12 above applies—
- (i) by virtue of sub-paragraph (1)(a) of that paragraph (“case A”), or
- (ii) by virtue of sub-paragraph (1)(b) of that paragraph (“case B”), but

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- (b) before the end of the relevant 6 year period, the transferee company ceases to be a member of the relevant group.
- (2) In any such case, this Chapter shall have effect as if the transferee company had—
- (a) immediately before that cessation, assigned the asset or liability representing the relevant loan relationship for a consideration of an amount equal to its fair value at that time, and
  - (b) immediately reacquired it for a consideration of the same amount,
- but only if Condition 1 or 2 below is satisfied and sub-paragraph (5) below does not apply.
- (3) Condition 1 is that if sub-paragraph (2) above has effect, a credit would in consequence of paragraph (a) of that sub-paragraph fall to be brought into account for the purposes of this Chapter by the transferee company.
- (4) Condition 2 is that—
- (a) Condition 1 is not satisfied,
  - (b) the loan relationship is a creditor relationship,
  - (c) the company has a hedging relationship between a derivative contract and the creditor relationship, and
  - (d) in consequence of paragraph 30A(2)(a) of Schedule 26 to the Finance Act 2002, a credit falls to be brought into account by the transferee company for the purposes of that Schedule in respect of the derivative contract.
- (5) Where the transferee company ceases to be a member of the relevant group by reason only of an exempt distribution (see sub-paragraph (8))—
- (a) sub-paragraph (2) above does not have effect, but
  - (b) if there is chargeable payment within 5 years after the making of the exempt distribution, sub-paragraph (6) below applies.
- (6) Where this sub-paragraph applies, this Chapter shall have effect as if—
- (a) the transferee company had, immediately before the making of the chargeable payment, assigned the asset or liability representing the relevant loan relationship,
  - (b) the assignment had been for a consideration of an amount equal to the fair value of the asset or liability immediately before the transferee company ceased to be a member of the relevant group, and
  - (c) the transferee company had immediately reacquired the asset or liability for a consideration of the same amount,
- but only if Condition 1 or 2 above, as modified by sub-paragraph (7) below, is satisfied.
- (7) The modifications are that—
- (a) in Condition 1, the references to sub-paragraph (2) above, and paragraph (a) of that sub-paragraph, are to be taken respectively as references to sub-paragraph (6) above and paragraphs (a) and (b) of that sub-paragraph, and
  - (b) in Condition 2, the reference to paragraph 30A(2)(a) of Schedule 26 to the Finance Act 2002 is to be taken as a reference to paragraph 30A(6)(a) and (b) of that Schedule.
- (8) In this paragraph—
- “assignment”, in relation to Scotland, means an assignation;



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“chargeable payment” has the meaning given by section 214(2) of the Taxes Act 1988;

“exempt distribution” means a distribution which is exempt by virtue of section 213(2) of the Taxes Act 1988;

“the relevant 6 year period” means the period of 6 years following—

- (a) in case A, the transaction mentioned in paragraph 12(1)(a) above, or
- (b) in case B, the last of the series of transactions mentioned in paragraph 12(1)(b) above;

“the relevant group” means—

- (a) in case A, the group mentioned in paragraph 12(1)(a) above, or
- (b) in case B, the group mentioned in paragraph 12(1)(b) above;

“the relevant loan relationship” means the loan relationship mentioned in paragraph 12(1) above;

“the transferee company” means the company referred to as such in paragraph 12(1) above.

- (9) Paragraph 12(14) of Schedule 26 to the Finance Act 2002 (hedging relationships) has effect for the purposes of this paragraph.]

#### *Formation of SE by merger*

[<sup>F130</sup>12B] This paragraph applies where—

- (a) an SE is formed by the merger of two or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of Council Regulation (EC) 2157/2001 on the Statute for a European Company (Societas Europaea),
- (b) each merging company is resident in a member State,
- (c) the merging companies are not all resident in the same State, and
- (d) either—
  - (i) immediately after formation the SE is resident in the United Kingdom and within the charge to corporation tax in accordance with section 6 of the Taxes Act 1988, or
  - (ii) immediately after formation the SE is not resident in the United Kingdom but is within the charge to corporation tax in accordance with section 11 of the Taxes Act 1988.

- (2) Where this paragraph applies, the transfer in the course of the merger of an asset or liability which represents a loan relationship shall be disregarded except—

- (a) for the purpose of determining the debits or credits to be brought into account in respect of exchange gains or losses and identifying the company which is to bring them into account, and
- (b) for the purpose of identifying the company in whose case a debit or credit which does not relate to the transfer is to be brought into account.

- (3) Where this paragraph applies, the transferor and the transferee companies of an asset or liability which represents a loan relationship shall be deemed, except for the purposes specified in sub-paragraph (2)(a) and (b), to be the same company.

- (4) Paragraph 12(2A) shall have effect (with any necessary modifications) in relation to this paragraph as in relation to paragraph 12.

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- (5) Sub-paragraphs (2) and (3) shall apply in relation to the formation of an SE by merger only if—
- (a) it is effected for bona fide commercial reasons, and
  - (b) it does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoiding liability to corporation tax, capital gains tax or income tax.
- (6) But sub-paragraph (5) shall not have the effect of preventing sub-paragraphs (2) and (3) from applying if before the merger Her Majesty's Revenue and Customs have on the application of the merging companies notified them that Her Majesty's Revenue and Customs are satisfied that sub-paragraph (5) will not have that effect.
- (7) For the purposes of this paragraph a company is resident in a member State if—
- (a) it is within a charge to tax under the law of the State as being resident for that purpose, and
  - (b) it is not regarded, for the purposes of any double taxation relief arrangements to which the State is a party, as resident in a territory not within a member State.]

#### **Textual Amendments**

**F130** Sch. 9 para. 12B inserted (with effect in accordance with s. 54(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 54\(1\)](#)

#### *Loan relationships for unallowable purposes*

- 13 (1) Where in any accounting period a loan relationship of a company has an unallowable purpose,
- <sup>F131</sup>(a) the debits, and
  - (b) the credits in respect of exchange gains,]
- 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 <sup>F132</sup>or credits (as the case may be) <sup>F133</sup>... used as respects that relationship as, on a just and reasonable apportionment, is attributable to the unallowable purpose.
- <sup>F134</sup>(1A) Amounts which, by virtue of this paragraph, are not brought into account for the purposes of this Chapter as respects any matter are in consequence also amounts which, in accordance with section 80(5) of this Act, are not to be brought into account for the purposes of corporation tax as respects that matter apart from this Chapter.]
- (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.

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- (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).
- [<sup>F135</sup>(6) In this paragraph “tax advantage” has the meaning given by section 840ZA of the Taxes Act 1988.]

#### Textual Amendments

- F131** Sch. 9 para. 13(1)(a)(b) substituted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) for words by [Finance Act 2002 \(c. 23\)](#), s. 79(2), **Sch. 23 Pt. 1 para. 13(a)** (with [Sch. 23 Pt. 3 para. 25](#))
- F132** Words in Sch. 9 para. 13(1) 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. 13(b)** (with [Sch. 23 Pt. 3 para. 25](#))
- F133** Words in Sch. 9 para. 13(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 32](#), **Sch. 42 Pt. 2(6)**
- F134** Sch. 9 para. 13(1A) 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. 30**
- F135** Sch. 9 para. 13(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 376** (with [Sch. 2](#))

#### *Debits and credits treated as relating to capital expenditure*

- 14 (1) This paragraph applies where any debit or credit <sup>F136</sup>... for any accounting period in respect of a loan relationship of a company is allowed by [<sup>F137</sup>generally accepted accounting 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 [<sup>F137</sup>generally accepted accounting 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 [<sup>F137</sup>generally accepted accounting practice], is brought into account in determining the company’s profit or loss for that period.
- [<sup>F138</sup>(3) No debit may be brought into account by virtue of this paragraph if it is taken into account in arriving at the amount of expenditure in relation to which a debit may be given by Schedule 29 to the Finance Act 2002 (gains and losses of a company from intangible fixed assets).]

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- [<sup>F139</sup>(4) Where a debit is brought into account by a company in accordance with sub-paragraph (1), no debit shall be brought into account in respect of—
- (a) the writing down of so much of the value of the fixed capital asset or project as is attributable to that debit, or
  - (b) so much of any amortisation or depreciation as represents a writing off of the interest component of the asset.]

#### Textual Amendments

- F136** Words in Sch. 9 para. 14(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 33\(2\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F137** Words in Sch. 9 para. 14 substituted (24.7.2002 with effect as mentioned in [s. 82\(2\)](#) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [ss. 82\(1\)](#), [103\(4\)\(d\)](#), [Sch. 25 Pt. 1 para. 31\(2\)](#)
- F138** Sch. 9 para. 14(3) 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. 31\(3\)](#)
- F139** Sch. 9 para. 14(4) added (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 33\(3\)](#)

#### *[<sup>F140</sup>Debits and credits recognised in equity or shareholders' funds*

#### Textual Amendments

- F140** Sch. 9 para. 14A and cross-heading inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 30](#)

- 14A Where in accordance with generally accepted accounting practice a debit or credit for a period in respect of a loan relationship of a company—
- (a) is recognised in equity or shareholders' funds, and
  - (b) is not recognised in any of the statements mentioned in section 85B(1),
- the debit or credit shall be brought into account for that period for the purposes of this Chapter in the same way as a debit or credit that, in accordance with generally accepted accounting 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 <sup>F141</sup>. . . .
- (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 [<sup>F142</sup>and as is, in the case of those arrangements, the disposal or acquisition effected by—
- (a) the transfer by A to B mentioned in sub-paragraph (3)(a) below, or
  - (b) any transfer to A [<sup>F143</sup>by B] that gives effect to the entitlement or requirement described in sub-paragraph (3)(b) below.]

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- (3) In this paragraph “repo or stock-lending arrangements” means [<sup>F144</sup>(subject to sub-paragraph (3A))] any arrangements consisting in or involving an agreement or series of agreements under which provision is made—
- (a) for the transfer from one person [<sup>F145</sup>(“A”)] to another [<sup>F145</sup>(“B”)] of any rights under that relationship; and
  - (b) for [<sup>F146</sup>A]<sup>F147</sup> ... 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.
- [<sup>F148</sup>(3A) Arrangements are not repo or stock-lending arrangements if they are excluded from section 730A of the Taxes Act 1988 by subsection (8) of that section.]
- (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.
- [<sup>F149</sup>(4A) In consequence of sub-paragraph (1) above—
- (a) the person transferring the rights mentioned in sub-paragraph (3)(a) above does not, as a result of the transfer, fall to be regarded for the purposes of this Chapter as ceasing to be party to the loan relationship; <sup>F150</sup>...
  - <sup>F150</sup>(b) .....  
 [<sup>F151</sup>but nothing in sub-paragraph (1) above prevents the person to whom those rights are transferred from being regarded for the purposes of this Chapter as being party to the loan relationship as a result of the transfer.]]
- (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).
- [<sup>F152</sup>(6A) Nothing in this paragraph affects section 807A(2A) of the Taxes Act 1988 (double taxation relief in the case of repo or stock lending agreement).]
- (7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.

#### Textual Amendments

**F141** Words in Sch. 9 para. 15(1) repealed (24.7.2002 with effect in accordance with s. 79(3) of and Sch. 23 to the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#)

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- F142** Words in Sch. 9 para. 15(2) added (with effect in accordance with Sch. 7 para. 19(5)(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 19\(2\)](#)
- F143** Words in [Sch. 9 para. 15\(2\)\(b\)](#) inserted (with effect in accordance with Sch. 6 para. 20(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 6 para. 20\(2\)](#)
- F144** Words in Sch. 9 para. 15(3) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 18\(2\)](#)
- F145** Words in Sch. 9 para. 15(3)(a) inserted (with effect in accordance with Sch. 7 para. 19(5)(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 19\(3\)\(a\)](#)
- F146** Word in Sch. 9 para. 15(3)(b) substituted (with effect in accordance with Sch. 7 para. 19(5)(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 19\(3\)\(b\)](#)
- F147** Words in Sch. 9 para. 15(3)(b) repealed (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 19](#), [Sch. 43 Pt. 3\(15\)](#)
- F148** Sch. 9 para. 15(3A) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 18\(3\)](#)
- F149** Sch. 9 para. 15(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. 32\(2\)](#)
- F150** Sch. 9 para. 15(4A)(b) and the preceding word repealed (with effect in accordance with Sch. 7 para. 19(5)(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 19\(4\)](#), [Sch. 11 Pt. 2\(8\)](#)
- F151** Words in Sch. 9 para. 15(4A) substituted (with effect in accordance with Sch. 7 para. 19(5)(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 19\(4\)](#)
- F152** Sch. 9 para. 15(6A) 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. 32\(3\)](#)

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

- C9** Sch. 9 para. 15: definition of “repo or stock-lending arrangements” modified (1.1.1999) by [S.I. 1998/3177](#), [reg. 19\(1\)](#)

### *<sup>F153</sup> Amounts imputed under Schedule 28AA to the Taxes Act 1988*

#### Textual Amendments

- F153** Sch. 9 para. 16 and crossheading substituted (with effect in accordance with [s. 37](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 5 para. 8](#)

- 16 (1) This paragraph applies where, in pursuance of Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length), an amount falls to be treated as any of the following—
- an amount of profits, gains or losses (whether or not of a capital nature) arising to a company from any of its loan relationships or related transactions;
  - interest payable under any of a company’s loan relationships;
  - charges or expenses incurred by a company under or for the purposes of any of its loan relationships or related transactions.
- (2) That Schedule shall have effect<sup>F154</sup>... so as to require credits or debits relating to the amount so treated 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—
- profits, gains or losses (whether or not of a capital nature) arising to the company from the loan relationship or related transaction,
  - interest accruing or becoming due and payable under the loan relationship, or



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- (c) charges or expenses incurred under or for the purposes of the loan relationship or related transaction,  
 as the case may be.]

**Textual Amendments**

**F154** Words in Sch. 9 para. 16(2) repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 34, **Sch. 42 Pt. 2(6)**

*[<sup>F155</sup>Deeply discounted] securities where companies have a connection*

**Textual Amendments**

**F155** Words in Sch. 9 para. 17 cross-heading substituted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 489(2)** (with Sch. 2)

- 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 [<sup>F156</sup>deeply] discounted security issued by that company;
  - [<sup>F157</sup>(b) at any time in that period another company stands in the position of a creditor as respects that security;]
  - (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 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.
- [<sup>F158</sup>(4) In this paragraph “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (see section 430); and the provisions of that Chapter 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 section 430 of that Act.]
- (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)—



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- (a) there is a time in that period <sup>F159</sup> . . . when one of the companies has had control of [<sup>F160</sup>, or a major interest in,] the other; or
- (b) there is a time in that period <sup>F161</sup> . . . when both the companies have been under the control of the same person.
- (6) <sup>F162</sup> . . . . .
- (7) <sup>F162</sup> . . . . .
- [<sup>F163</sup>[<sup>F164</sup>(8) Any reference in this paragraph to a company which stands in the position of a creditor as respects a [<sup>F165</sup>deeply] discounted security includes a reference to a company which indirectly stands in that position 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 creditor or debtor.]
- (8A) Where this paragraph applies by virtue of sub-paragraph (8) above, the reference to the corresponding creditor relationship in sub-paragraph (1)(d) above is a reference to the creditor relationship of the company which indirectly stands in the position of a creditor as respects the [<sup>F166</sup>deeply] discounted security.]
- [<sup>F167</sup>(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) Paragraph 20 below (major interests) applies for the purposes of this paragraph.]

#### Textual Amendments

- F156** Word in Sch. 9 para. 17(1)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 489\(3\)](#) (with Sch. 2)
- F157** Sch. 9 para. 17(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. 33\(2\)](#) (with Sch. 25 Pt. 3 para. 62)
- F158** Sch. 9 para. 17(4) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 489\(4\)](#) (with Sch. 2)
- F159** Words in Sch. 9 para. 17(5)(a) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 33\(3\)\(a\), Sch. 40 Pt. 3\(12\)](#) (with Sch. 25 Pt. 3 para. 62)
- F160** Words in Sch. 9 para. 17(5)(a) 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. 33\(3\)\(b\)](#) (with Sch. 25 Pt. 3 para. 62)
- F161** Words in Sch. 9 para. 17(5)(b) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 33\(4\), Sch. 40 Pt. 3\(12\)](#) (with Sch. 25 Pt. 3 para. 62)
- F162** Sch. 9 para. 17(6)(7) repealed (24.7.2002 with effect in accordance with s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), s. 141, Sch. 40 Pt. 3\(12\)](#)
- F163** Sch. 9 para. 17(8)(8A) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) for Sch. 9 para. 17(8) by [Finance Act 2002 \(c. 23\), s. 82\(1\), Sch. 25 Pt. 1 para. 33\(5\)](#) (with Sch. 25 Pt. 3 para. 62)
- F164** Sch. 9 para. 17(8) substituted (with effect in accordance with Sch. 37 para. 4(2)(3) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 37 para. 4\(1\)](#)
- F165** Word in Sch. 9 para. 17(8) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 489\(5\)](#) (with Sch. 2)
- F166** Word in Sch. 9 para. 17(8A) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 489\(5\)](#) (with Sch. 2)

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**F167** Sch. 9 para. 17(9)(10) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) for Sch. 9 para. 17(9) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 1 para. 33(6)** (with Sch. 25 Pt. 3 para. 62)

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

**C10** Sch. 9 para. 17 modified (27.7.1999) by 1999 c. 16, s. **81(10)**

*[<sup>F168</sup>Deeply discounted] securities of close companies*

**Textual Amendments**

**F168** Words in Sch. 9 para. 18 cross-heading substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 489(6)** (with Sch. 2)

18 (1) This paragraph applies for any accounting period [<sup>F169</sup> (“the relevant period”)] where—

(a) a debtor relationship of a close company [<sup>F170</sup> (“the issuing company”)] is represented by a [<sup>F171</sup>deeply] discounted security issued by the company;  
<sup>F172</sup> ...

<sup>F173</sup>(aa) .....

[<sup>F174</sup>(b) at any time in that period there is a person who stands in the position of a creditor as respects that security and who at that time is—]

(i) a participator in the company [<sup>F175</sup>or a person who controls a company which is such a participator];

(ii) an associate of [<sup>F176</sup>a person who is, or who controls a company which is,] such a participator; or

[<sup>F177</sup>(iii) a company controlled by such a participator or by a person who controls a company which is such a participator.]<sup>F178</sup> ...

<sup>F179</sup>(c) .....

[<sup>F180</sup>(1ZA) But for any such accounting period this paragraph shall not apply in relation to that debtor relationship if any of the following exceptions applies.]

[<sup>F181</sup>(1A) [<sup>F182</sup>The first exception applies where—]

(a) at all times in the period when there is such a person as is described in sub-paragraph (1)(b) above, that person is a company; and

(b) credits representing the full amount of the discount that is referable to the period are brought into account for the purposes of this Chapter in respect of the corresponding creditor relationship.]

[<sup>F183</sup>(1B) The second exception applies where—]

(a) the issuing company is a CIS-based close company;

(b) at all times in the period when there is such a person as is described in sub-paragraph (1)(b) above, that person is not resident in a non-qualifying territory; and

(c) the issuing company is a small or medium-sized enterprise for the period.

(1C) The third exception applies where—

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- (a) the debt is one that is owed to, or to persons acting for, a CIS limited partnership;
- (b) no member of that partnership is resident in a non-qualifying territory at any time in the period when there is such a person as is described in sub-paragraph (1)(b) above;
- (c) the debtor company has received written notice from the partnership containing information from which it appears that the condition in paragraph (b) above is satisfied; and
- (d) the issuing company is a small or medium-sized enterprise for the period.]

[<sup>F184</sup>(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 period (“the relevant debits”) is brought into account for the accounting period in which the security is redeemed, instead of for the relevant period.

This sub-paragraph does not apply where the relevant period is the accounting period in which the security is redeemed.

- (2A) Where at some (but not all) times in the relevant period there is such a person as is described in sub-paragraph (1)(b) above—
- (a) part only of the relevant debits shall be brought into account in accordance with sub-paragraph (2) above; and
  - (b) that part is the part which bears to the whole of the relevant debits the proportion which the part of the relevant period for which there is such a person bears to the whole of that period.]

[<sup>F185</sup>(2B) References in this paragraph to the amount of the discount that is referable to an accounting 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 sub-paragraphs (2) and (2A) above) would for that accounting period be brought into account for the purposes of this Chapter in the case of the issuing company.]

[<sup>F186</sup>(2C) Any reference in this paragraph to a person who stands in the position of a creditor as respects a [<sup>F187</sup>deeply] discounted security [<sup>F188</sup>includes a reference to a person who indirectly stands in that position 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 creditor or debtor].

(2D) Where this paragraph applies by virtue of sub-paragraph (2C) above, the reference to the corresponding creditor relationship in sub-paragraph (1A)(c) above is a reference to the creditor relationship of the person who indirectly stands in the position of a creditor as respects the [<sup>F189</sup>deeply] discounted security.]

[<sup>F190</sup>(3) In this paragraph “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (see section 430); and the provisions of that Chapter 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 section 430 of that Act.]

<sup>F191</sup>[<sup>F192</sup>(3A) . . . . .]

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(3B) In this paragraph “control”, in relation to a company, has the same meaning as in section 87 of this Act (see section 87A).]

[<sup>F193</sup>(3C) A person who is a participator in a company which controls another company shall be treated for the purposes of this paragraph as also being a participator in that other company.]

(4) In this paragraph—

“associate” has the meaning given in section 417(3) and (4) of the Taxes Act 1988;

[<sup>F194</sup>“CIS-based close company” and “CIS limited partnership” have the meaning given by paragraph 2(6) above;]

[<sup>F194</sup>“non-qualifying territory” has the meaning given by paragraph 5E of Schedule 28AA to the Taxes Act 1988;]

<sup>F195</sup> ... <sup>F196</sup> ...

“participator” [<sup>F197</sup>, in relation to a company,] 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 [<sup>F198</sup>by reason only that he is a loan creditor of the company.]

[<sup>F194</sup>“resident” has the meaning given by paragraph 5B(6) of Schedule 28AA to that Act;]

[<sup>F194</sup>“small or medium-sized enterprise” has the meaning given by paragraph 5D of that Schedule.]

(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.

#### Textual Amendments

**F169** Words in Sch. 9 para. 18(1) 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. 34(2)(a)**

**F170** Words in Sch. 9 para. 18(1)(a) 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. 34(2)(b)**

**F171** Word in Sch. 9 para. 18(1)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 489(7)** (with Sch. 2)

**F172** Word in Sch. 9 para. 18(1) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 82(1), 141, **Sch. 25 Pt. 1 para. 34(2)(c)**, **Sch. 40 Pt. 3(12)**

**F173** Sch. 9 para. 18(1)(aa) repealed (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), Sch. 8 para. 3(2), **Sch. 11 Pt. 2(9)**

**F174** Words in Sch. 9 para. 18(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. 34(3)**

**F175** Words in Sch. 9 para. 18(1)(b)(i) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 3(3)(a)**

**F176** Words in Sch. 9 para. 18(1)(b)(ii) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 3(3)(b)**

**F177** Sch. 9 para. 18(1)(b)(iii) substituted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 8 para. 3(3)(c)**

**F178** Word in Sch. 9 para. 18(1) repealed (with effect in accordance with Sch. 11 Pt. 2(9) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(9)**

**F179** Sch. 9 para. 18(1)(c) repealed (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), Sch. 8 para. 3(2), **Sch. 11 Pt. 2(9)**

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- F180** Sch. 9 para. 18(1ZA) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 8 para. 3(4)**
- F181** Sch. 9 para. 18(1A) 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. 34(5)**
- F182** Words in Sch. 9 para. 18(1A) substituted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 8 para. 3(5)**
- F183** Sch. 9 para. 18(1B)(1C) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 8 para. 3(6)**
- F184** Sch. 9 para. 18(2)(2A) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) for Sch. 9 para. 18(2) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 1 para. 34(6)** (with Sch. 25 Pt. 3 para. 63)
- F185** Sch. 9 para. 18(2B) 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. 34(7)**
- F186** Sch. 9 para. 18(2C)(2D) 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. 34(8)**
- F187** Word in Sch. 9 para. 18(2C) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 489(7)** (with Sch. 2)
- F188** Words in Sch. 9 para. 18(2C) substituted (with effect in accordance with Sch. 37 para. 5(4)(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 37 para. 5(2)**
- F189** Word in Sch. 9 para. 18(2D) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 489(7)** (with Sch. 2)
- F190** Sch. 9 para. 18(3) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 489(8)** (with Sch. 2)
- F191** Sch. 9 para. 18(3A) repealed (with effect in accordance with Sch. 8 para. 6(5) of the amending Act) by Finance Act 2004 (c. 12), Sch. 8 para. 6(4), **Sch. 42 Pt. 2(4)**
- F192** Sch. 9 para. 18(3A)(3B) 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. 34(9)**
- F193** Sch. 9 para. 18(3C) inserted (with effect in accordance with Sch. 37 para. 5(4)(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 37 para. 5(3)**
- F194** Words in Sch. 9 para. 18(4) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 8 para. 3(7)**
- F195** In Sch. 9 para. 18(4) definition of "control" repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by Finance Act 2002 (c. 23), ss. 82(1), 141, **Sch. 25 Pt. 1 para. 34(10)**, **Sch. 40 Pt. 3(12)**
- F196** Word in Sch. 9 para. 18(4) repealed (with effect in accordance with Sch. 11 Pt. 2(9) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(9)**
- F197** In Sch. 9 para. 18(4) words in definition of "participator" 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. 34(11)(a)**
- F198** In Sch. 9 para. 18(4) words in definition of "participator" 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. 34(11)(b)**

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

- C11** Sch. 9 para. 18 modified (27.7.1999) by 1999 c. 16, s. 81(10)

### *F<sup>199</sup> Partnerships involving companies*

#### **Textual Amendments**

- F199** 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

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- (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.
- (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),

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- (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.

<sup>F200</sup>(10) . . . . .

[<sup>F201</sup>(11) Where the company partner uses fair value accounting in relation to its interest in the partnership, the debits and credits to be brought into account under this paragraph by that company must be determined on the basis of fair value 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 this paragraph except to the extent that, in the accounts of the firm, exchange gains and losses are [<sup>F202</sup>recognised in the firm’s statement of recognised gains and losses or statement of changes in equity] .

(13) Where the firm holds a [<sup>F203</sup>deeply] 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.]

#### Textual Amendments

**F200** Sch. 9 para. 19(10) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 35\(2\)](#), [Sch. 42 Pt. 2\(6\)](#)

**F201** Sch. 9 para. 19(11) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 35\(3\)](#)

**F202** Words in Sch. 9 para. 19(12) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 35\(4\)](#)

**F203** Word in Sch. 9 para. 19(13) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 489\(9\)](#) (with Sch. 2)



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

**C12** Sch. 9 para. 19 modified by 1988 c. 1, s. 774D(7) (as inserted (with effect in accordance with Sch. 6 para. 6(2)-(7) of the amending Act) by Finance Act 2006 (c. 25), Sch. 6 para. 6(1))

*[<sup>F204</sup> Adjustment on change of accounting policy*

**Textual Amendments**

**F204** Sch. 9 paras 19A, 19B and cross-heading inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 36

- 19A (1) This paragraph applies where—
- (a) there is a change of accounting policy in drawing up a company's accounts from one period of account (the "earlier period") to the next (the "later period"), and
  - (b) the approach in each of those periods accorded with the law and practice applicable in relation to that period.
- (2) This paragraph applies, in particular, where—
- (a) the company prepares accounts for the earlier period in accordance with UK generally accepted accounting practice and for the later period in accordance with international accounting standards, or
  - (b) the company prepares accounts for the earlier period in accordance with international accounting standards and for the later period in accordance with UK generally accepted accounting practice.
- (3) If there is a difference between—
- (a) the accounting value of an asset or liability representing a loan relationship of the company at the end of the earlier period, and
  - (b) the accounting value of that asset or liability at the beginning of the later period,
- a corresponding debit or credit (as the case may be) shall be brought into account for the purposes of this Chapter in the later period.
- (4) In sub-paragraph (3) "accounting value" means [<sup>F205</sup>, subject to sub-paragraph (4B),] the carrying value of the asset or liability recognised for accounting purposes.
- [ For the purposes of this paragraph the "carrying value" of an asset or liability includes
- <sup>F206</sup>(4A) amounts recognised for accounting purposes in relation to the loan relationship in respect of—
- (a) accrued amounts;
  - (b) amounts paid or received in advance;
  - (c) impairment losses (including provisions for bad or doubtful debts).
- (4B) In determining the profits, gains and losses to be recognised in determining the carrying value of the asset or liability for the purposes of this paragraph, the following provisions—
- (a) section 87(2) (accounting method where parties have a connection),
  - (b) section 88A(4) (accounting method where rate of interest is reset),
  - (c) section 94 (loan relationships: treatment of indexed gilt-edged securities),



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- (d) section 94A(2) (loan relationships with embedded derivatives),
- (e) section 96(2) (special rules for certain gilts),
- (f) section 154(6) (FOTRA securities: certain amounts not to be brought into account), and
- (g) paragraphs 1, 1A, 2, [<sup>F207</sup>4A,] 6, 12 and 18 of this Schedule (special computational provisions),

apply as they apply for the purposes of determining the credits and debits to be brought into account under this Chapter.

[ In determining the accounting value of an asset of the company at the end of the earlier period, no account shall be taken of a debit that in a period of account beginning before 1st January 2005 was disallowed for tax purposes—

- (a) because of the assumption required by paragraph 5(1) above, or
- (b) because the exceptions in section 74(1)(j) of the Taxes Act 1988 did not apply.]

(4C) Where—

- (a) a company has ceased to be a party to a loan relationship,
- (b) section 103(6) (credits and debits to be brought into account in respect of profits, gains and losses arising in the cessation period) applied to the cessation, and
- (c) there is a difference between—
  - (i) the amount outstanding in respect of the loan relationship at the end of the earlier period, and
  - (ii) the amount outstanding in respect of the loan relationship at the beginning of the later period,

a debit or credit (as the case may be) corresponding to that difference shall be brought into account for the purposes of this Chapter at the beginning of the later period.

(4D) In sub-paragraph (4C), “the amount outstanding”, in respect of a loan relationship, means so much of the amount recognised as deferred income or deferred loss in the company's balance sheet, in accordance with generally accepted accounting practice, in respect of the profits, gains or losses that arose from that relationship or a related transaction in the cessation period (within the meaning of section 103(6)) as has not been represented by credits or debits brought into account under this Chapter.]

(5) This paragraph does not apply if or to the extent that such a debit or credit as is mentioned in sub-paragraph (3) [<sup>F209</sup>or (4C)] falls to be brought into account apart from this paragraph.

<sup>F210</sup>(6) . . . . .

#### Textual Amendments

- F205** Words in Sch. 9 para. 19A(4) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 31\(2\)](#)
- F206** Sch. 9 paras. 19A(4A)-(4D) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 31\(3\)](#)
- F207** Word in Sch. 9 para. 19A(4B)(g) inserted (retrospective to 7.4.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 6 para. 4\(2\)\(6\)](#)
- F208** Sch. 9 para. 19A(4BA) inserted (with effect in accordance with Sch. 6 para. 6(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 6 para. 6\(1\)](#)
- F209** Words in Sch. 9 para. 19A(5) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 31\(4\)](#)

*Status: Point in time view as at 14/08/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 9. (See end of Document for details)*

**F210** Sch. 9 para. 19A(6) repealed (7.4.2005) by Finance Act 2005 (c. 7), Sch. 4 para. 31(5), Sch. 11 Pt. 2(7)

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

**C13** Sch. 9 para. 19A applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), Sch. 6 para. 7(6)

*Power to make further provision by regulations*

- 19B (1) The Treasury may by regulations make provision for cases where there is a change of accounting policy in drawing up a company’s accounts from one period of account to the next affecting the amounts to be brought into account for accounting purposes in respect of the company’s loan relationships.
- (2) The regulations may provide for any debits or credits that would otherwise be brought into account for the purposes of this Chapter—
- (a) not to be brought into account,
  - (b) to be brought into account only to a prescribed extent, or
  - (c) to be brought into account over a prescribed period or in prescribed circumstances.
- (3) Regulations under this paragraph may, in particular, modify the operation of paragraph 19A.
- (4) The power to make regulations under this paragraph includes power—
- (a) to make different provision for different cases, and
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient.]

*<sup>F211</sup> Interpretation of references to major interests*

**Textual Amendments**

**F211** 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; <sup>F212</sup>...
- <sup>F213</sup>(c) .....
- <sup>F214</sup>(2) .....
- (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<sup>F215</sup> ... assets of an insurance company's long-term insurance fund<sup>F216</sup> ....

(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.]

#### **Textual Amendments**

- F212** Word in Sch. 9 para. 20(1) repealed (with effect in accordance with Sch. 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(4\)](#)
- F213** Sch. 9 para. 20(1)(c) repealed (with effect in accordance with Sch. 8 para. 7(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 7\(2\)](#), [Sch. 42 Pt. 2\(4\)](#)
- F214** Sch. 9 para. 20(2) repealed (with effect in accordance with Sch. 8 para. 7(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 8 para. 7\(3\)](#), [Sch. 42 Pt. 2\(4\)](#)
- F215** Words in Sch. 9 para. 20(3)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(6\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F216** Words in Sch. 9 para. 20(3)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(6\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)

**Status:**

Point in time view as at 14/08/2007.

**Changes to legislation:**

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