



Finance Act 1996

1996 CHAPTER 8

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

LOAN RELATIONSHIPS

Miscellaneous other provisions

[^{F1}100 Interest, and exchange gains and losses, on debts etc not arising from the lending of money

- (1) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—
 - (a) the company stands, or has stood, in the position of a creditor or debtor as respects a money debt;
 - (b) the money debt is not one which arose from a transaction for the lending of money (so that, in consequence of section 81(1)(b) above, there is no loan relationship); and
 - (c) the money debt is one—
 - (i) on which interest is payable to or by the company; or
 - (ii) in relation to which exchange gains or losses arise to the company;and references to a relationship to which this section applies, and to a company's being party to such a relationship, shall be construed accordingly.
- (2) Where a company has a relationship to which this section applies—
 - (a) this Chapter shall have effect in relation to the interest payable under, or the exchange gains or losses arising to the company from, the relationship as it has effect in relation to interest payable under, or (as the case may be) exchange

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gains or losses arising to the company from, a loan relationship to which the company is a party; but

- (b) the only credits or debits to be brought into account for the purposes of this Chapter in respect of the relationship are those relating to the interest or (as the case may be) to the exchange gains or losses;

and, subject to paragraph above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.

[^{F2}(2A) Where—

- (a) a company has a relationship to which section 730BB of the Taxes Act 1988 applies (exchange gains and losses on sale and repurchase of securities),
- (b) in the case of that relationship the circumstances mentioned in section 730A(1)(b) of that Act are such as to give rise to a money debt, and
- (c) the company stands, or has stood, in the position of a creditor or debtor as respects that money debt,

the company shall not be regarded for the purposes of the Corporation Tax Acts as having, by reason of that money debt, a relationship to which this section applies, so far as relating to exchange gains and losses.]

- (3) References in this section to interest payable on a money debt include a reference to any amount which, in pursuance of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), falls to be treated as—

- (a) interest on a money debt; or
- (b) interest on an amount which is treated as a money debt;

and references in the other provisions of this section to a money debt accordingly include a reference to the amount on which that amount so falls to be treated as interest.

- (4) Except as provided by subsection (7) below, any question whether debits or credits falling to be brought into account by virtue of this section in relation to a company—

- (a) are to be brought into account under section 82(2) above, or
- (b) are to be treated as non-trading debits or non-trading credits,

shall be determined in accordance with subsection (5) below (in the case of interest) or subsection (6) below (in the case of an exchange gain or loss).

- (5) In the case of interest, any such question shall be determined according to the extent (if any) to which the interest—

- (a) is paid for the purposes of a trade carried on by the company;
- (b) is received in the course of activities forming an integral part of such a trade; or
- (c) in the case of deemed interest, would be deemed to be so paid or received.

- (6) In the case of an exchange gain or loss, any such question shall be determined according to the extent (if any) to which the money debt—

- (a) is owed by the company for the purposes of a trade carried on by the company; or
- (b) is held in the course of activities forming an integral part of such a trade.

- (7) Any debits or credits which—

- (a) relate to interest payable under the Tax Acts, and
- (b) fall to be brought into account by virtue of this section in relation to any company,

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are to be treated as non-trading debits or credits.

- (8) To the extent that debits or credits fall to be brought into account by a company under section 82(2) above in the case of a relationship to which this section applies, the company shall be regarded for the purposes of the Corporation Tax Acts as being party to the relationship for the purposes of a trade carried on by the company.
- (9) No exchange gains or losses shall be taken to arise for the purposes of this section if the money debt in question—
- (a) is an amount of tax,
 - (b) is an amount of tax payable under the law of a territory outside the United Kingdom, or
 - (c) is an amount which would, but for any statutory provision or rule of law to the contrary other than section 74(1)(f) or (g) of the Taxes Act 1988, be deductible as an expense in computing profits in accordance with Case I of Schedule D or as an expense of management within section 75 of the Taxes Act 1988,
- except to the extent that, in the case of a money debt falling within paragraph (b) above, a reduction in respect of the tax there mentioned falls to be made under section 811 of the Taxes Act 1988 (double taxation relief: deduction for foreign tax where no credit allowable).
- (10) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed to a company—
- (a) any currency held by the company;
 - (b) in the case of a company carrying on insurance business, any deferred acquisition costs, within the meaning of Assets item G.II in the Balance Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985 (form and content of accounts of insurance companies and groups) as read with note (17) of the Notes on the Balance Sheet Format (which follow immediately after that format).
- (11) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed by a company—
- (a) any provision made by the company for the purposes of its statutory accounts in respect of a liability to which the company may become subject;
 - (b) in the case of a company carrying on insurance business—
 - (i) any provision made by the company for unearned premiums, within the meaning of Liabilities item C.1 in the Balance Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985, as read with note (20) of the Notes on the Balance Sheet Format (which follow immediately after that format);
 - (ii) any provision for unexpired risks, as defined in paragraph 81(1) of that Schedule.
- (12) A provision does not fall within paragraph (a) of subsection (11) above unless—
- (a) the duty to settle the liability in question would (if the company were to become subject to it) be owed for the purposes of a trade, a Schedule A business or an overseas property business (within the meaning of section 70A of the Taxes Act 1988); and
 - (b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade, Schedule A business or overseas property business for corporation tax purposes.

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(13) This section has effect subject to the provisions of Schedules 9 and 11 to this Act.]

Textual Amendments

- F1** S. 100 substituted (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. 6](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F2** [S. 100\(2A\)](#) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 14](#)

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