

*Status: Point in time view as at 08/05/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1997, SCHEDULE 10. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 10

Section 76.

#### STOCK LENDING ARRANGEMENTS AND MANUFACTURED PAYMENTS

##### PART I

##### STOCK LENDING

###### *Approved stock lending arrangements: traders*

- 1 (1) Section 129 of the Taxes Act 1988 (treatment of approved stock lending arrangements when computing the profits of a trade) shall cease to have effect.
- (2) Section 129A of, and Schedule 5A to, that Act (interest on cash collateral for approved stock lending arrangements) shall also cease to have effect.

###### *Stock lending fees*

- 2 (1) In subsection (3) of section 129B of the Taxes Act 1988 (stock lending fees under approved stock lending arrangements), for “an approved” there shall be substituted “any”.
- (2) For subsection (4) of that section (meaning of approved stock lending arrangement) there shall be substituted the following subsection—
- “(4) In this section “stock lending arrangement” has the same meaning as in section 263B of the 1992 Act.”

###### *Stock lending agreements under which manufactured payments are not made*

F13 .....

##### Textual Amendments

- F1** Sch. 10 para. 3 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

###### *Manufactured payments in stock lending cases etc.*

- 4 In Schedule 23A to the Taxes Act 1988 (manufactured payments)—
- (a) paragraph 6 (unapproved manufactured payments) shall cease to have effect; and
- (b) in paragraph 7(3)—

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- (i) in paragraph (a), the words “except where paragraph 6 above applies, and” shall be omitted;
- (ii) paragraph (b) shall be omitted; and
- F2(iii) . . . . .

**Textual Amendments**

F2 Sch. 10 para. 4(b)(iii) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

*Stock lending arrangements: capital gains*

- 5 (1) After section 263A of the <sup>M1</sup>Taxation of Chargeable Gains Act 1992 (agreements for sale and repurchase of securities) there shall be inserted the following sections—

**“263B Stock lending arrangements.**

- (1) In this section “stock lending arrangement” means so much of any arrangements between two persons (“the borrower” and “the lender”) as are arrangements under which—
  - (a) the lender transfers securities to the borrower otherwise than by way of sale; and
  - (b) a requirement is imposed on the borrower to transfer those securities back to the lender otherwise than by way of sale.

(2) Subject to the following provisions of this section and section 263C(2), the disposals and acquisitions made in pursuance of any stock lending arrangement shall be disregarded for the purposes of capital gains tax.

- (3) Where—
  - (a) the borrower under any stock lending arrangement disposes of any securities transferred to him under the arrangement,
  - (b) that disposal is made otherwise than in the discharge of the requirement for the transfer of securities back to the lender, and
  - (c) that requirement, so far as it relates to the securities disposed of, has been or will be discharged by the transfer of securities other than those transferred to the borrower,

any question relating to the acquisition of the securities disposed of shall be determined (without prejudice to the provisions of Chapter I of Part IV) as if the securities disposed of were the securities with which that requirement (so far as relating to the securities disposed of) has been or will be discharged.

- (4) Where, in the case of any stock lending arrangement, it becomes apparent, at any time after the making of the transfer by the lender, that the requirement for the borrower to make a transfer back to the lender will not be complied with—
  - (a) the lender shall be deemed for the purposes of this Act to have made a disposal at that time of the securities transferred to the borrower;
  - (b) the borrower shall be deemed to have acquired them at that time; and
  - (c) subsection (3) above shall have effect in relation to any disposal before that time by the borrower of securities transferred to him by

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the lender as if the securities deemed to have been acquired by the borrower in accordance with paragraph (b) above were to be used for discharging a requirement to transfer securities back to the lender.

- (5) References in this section, in relation to a person to whom securities are transferred, to the transfer of those securities back to another person shall be construed as if the cases where those securities are taken to be transferred back to that other person included any case where securities of the same description as those securities are transferred to that other person either—
- (a) in accordance with a requirement to transfer securities of the same description; or
  - (b) in exercise of a power to substitute securities of the same description for the securities that are required to be transferred back.
- (6) For the purposes of this section securities shall not be taken to be of the same description as other securities unless they are in the same quantities, give the same rights against the same persons and are of the same type and nominal value as the other securities.
- (7) In this section—
- “interest” includes dividends; and
  - “securities” means United Kingdom equities, United Kingdom securities or overseas securities (within the meaning, in each case, of Schedule 23A to the Taxes Act).

### **263C Stock lending involving redemption.**

- (1) In section 263B references to the transfer back to a person of securities transferred by him shall be taken to include references to the payment to him, in pursuance of an obligation arising on any person’s becoming entitled to receive an amount in respect of the redemption of those securities, of an amount equal to the amount of the entitlement.
- (2) Where, in pursuance of any such obligation, the lender under any stock lending arrangement is paid any amount in respect of the redemption of any securities to which the arrangement relates—
- (a) that lender shall be deemed for the purposes of this Act to have disposed, for that amount, of the securities in respect of whose redemption it is paid (“the relevant lent securities”);
  - (b) the borrower shall not, in respect of the redemption, be taken for the purposes of this Act to have made any disposal of the relevant lent securities; and
  - (c) section 263B(3) shall have effect in relation to disposals of any of the relevant lent securities made by the borrower before the redemption as if—
    - (i) the amount paid to the lender were an amount paid for the acquisition of securities, and
    - (ii) the securities acquired were to be used by the borrower for discharging a requirement under the arrangement to transfer the relevant lent securities back to the lender.
- (3) Expressions used in this section and section 263B have the same meanings in this section as in that section.”

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(2) Section 271(9) of that Act (treatment of approved stock lending arrangements) shall cease to have effect.

<sup>F3</sup>(3) .....

**Textual Amendments**

**F3** Sch. 10 para. 5(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**Marginal Citations**

**M1** 1992 c. 12.

*Premiums trust funds of Lloyd's members*

6 The following provisions of Chapter III of Part II of the <sup>M2</sup>Finance Act 1993 and Chapter V of Part IV of the <sup>M3</sup>Finance Act 1994 (Lloyd's members) shall cease to have effect—

- (a) section 174(4) and (5) and section 182(1)(ca)(i) of that Act of 1993 (stock lending arrangements applying to securities in the premiums trust funds of individual members); and
- (b) section 222(4) and (5) and section 229(ca)(i) of that Act of 1994 (which makes corresponding provision for the premiums trust funds of corporate members).

**Marginal Citations**

**M2** 1993 c. 34.

**M3** 1994 c. 9.

*Commencement*

7 (1) This Part of this Schedule (except paragraph 4 above) has effect in relation to, and to transfers under, any arrangement made on or after such day as the Treasury may by order made by statutory instrument appoint.

(2) Paragraph 4 above has effect in relation to any manufactured payment made on or after the day appointed under sub-paragraph (1) above.

**Subordinate Legislation Made**

**P1** Sch. 10 para. 7(1) power fully exercised (20.3.1997): 1.7.1997 appointed by [S.I. 1997/991](#), [art. 2](#)

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## PART II

### MANUFACTURED PAYMENTS

#### *Repeal of section 737 of the Taxes Act 1988*

8 Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall cease to have effect.

#### *Meaning of “foreign income dividend”*

[<sup>F49</sup> In paragraph 1(1) of Schedule 23A to that Act (interpretation of that Schedule), after the definition of “dividend manufacturing regulations” there shall be inserted the following definition—

““foreign income dividend” shall be construed in accordance with Chapter VA of Part VI;”.]

#### Textual Amendments

**F4** Sch. 10 para. 9 repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 of the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(11) note (with s. 3(3))

#### *Manufactured dividends on UK equities*

<sup>F5</sup>10 .....

#### Textual Amendments

**F5** Sch. 10 para. 10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

#### *Manufactured interest on UK securities*

<sup>F6</sup>11 .....

#### Textual Amendments

**F6** Sch. 10 para. 11 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

#### *Repeal of paragraph 5 of Schedule 23A*

12 Paragraph 5 of Schedule 23A to that Act (dividends and interest passing through the market) shall cease to have effect.

#### *Consequential amendments in Schedule 23A*

<sup>F7</sup>13 .....

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### Textual Amendments

- F7** Sch. 10 para. 13 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

### *Amendments of Taxes Management Act 1970*

- 14 (1) Section 21 of the <sup>M4</sup>Taxes Management Act 1970 (information about a market maker's business) shall be amended as follows.
- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business consisting in or involving dealings in securities; and for the purposes of this section it shall be immaterial whether those dealings are or, as the case may be, were—
- (a) on behalf of persons other than the person carrying on the business;
- (b) by that person on his own behalf; or
- (c) a mixture of the two.”
- (3) In subsection (2)—
- (a) for the word “transactions”, in the first place where it occurs, there shall be substituted “ securities transactions ”; and
- (b) for “market maker” there shall be substituted “ person ”.
- (4) In subsection (3), for “transactions in the course of” there shall be substituted “ securities transactions in the course of any business of a person other than the broker which is ”.
- (5) For subsection (4) there shall be substituted the following subsections—
- “(4) Where a person (“the recipient”) who is not a broker has directly or indirectly received from another person any payment which—
- (a) is made by that other person in the course of a business within subsection (1) above, and
- (b) is a payment treated by that other person as made in respect of interest on securities,
- the Board may by notice in writing require the recipient to state, within a time specified in the notice, whether the amount received is in whole or in part received on behalf of, or for payment on to, a third person and (if it is) to furnish the name and address of that third person.
- (4A) Where a person (“the payer”) has directly or indirectly paid to another person any sum which—
- (a) constitutes a receipt by that other person in the course of a business within subsection (1) above, and
- (b) is a receipt treated by that other person as accruing in respect of interest on securities,
- the Board may by notice in writing require the payer to state, within a time specified in the notice, whether the amount paid is in whole or in part received from, or paid on account of, a third person and (if it is) to furnish the name and address of that third person.”

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- (6) In subsection (5)—
- (a) for “whether brokers or market makers or not” there shall be substituted “at all”; and
  - (b) for “transactions” there shall be substituted “securities transactions”.
- (7) After that subsection there shall be inserted the following subsection—
- “(5A) Where it appears to the Board that a person may have incurred a liability to pay or account for tax under Schedule 23A to the principal Act (manufactured payments), the Board may by notice served on that person require him, within such period (not being less than 28 days) as may be specified in the notice, to provide the Board with information which—
- (a) is available to that person; and
  - (b) is or may be relevant to whether that person has incurred such a liability, or to the extent of such a liability.”
- (8) For subsection (7) there shall be substituted the following subsection—
- “(7) In this section—
- “broker” means any person who is a member of a recognised investment exchange, within the meaning of the <sup>M5</sup>Financial Services Act 1986;
  - “interest” includes dividends;
  - “securities” includes shares and stock; and
  - “securities transaction” means—
- (a) any transaction in securities;
  - (b) any transaction under which a payment which is representative of any interest on a security has been, is to be or may be made; or
  - (c) the making or receipt of such a payment.”

**Marginal Citations**

- M4** 1970 c. 9.
- M5** 1986 c. 60.

*Repeal of powers to modify information provisions*

- 15 Paragraphs 7 and 9 of Schedule 18 to the <sup>M6</sup>Finance Act 1986 (which contain powers to modify section 21 of the <sup>M7</sup>Taxes Management Act 1970) shall cease to have effect.

**Marginal Citations**

- M6** 1986 c. 41.
- M7** 1970 c. 9.

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### *Commencement*

- 16 (1) Subject to the following provisions of this paragraph, this Part of this Schedule has effect in relation to any payment of a manufactured dividend or manufactured interest which is a payment made on or after such day as the Treasury may by order made by statutory instrument appoint.
- (2) Paragraph 14 above has effect (instead of in accordance with sub-paragraph (1) above but subject to sub-paragraph (3) below) for the purpose of conferring powers for obtaining information about—
- (a) transactions entered into on or after such day as the Treasury may by order made by statutory instrument appoint; and
  - (b) payments made on or after that day (whether under such transactions or under transactions entered into before that day).
- (3) Nothing in this Part of this Schedule shall affect the exercise, at any time on or after the day appointed under sub-paragraph (2) above, of the powers conferred apart from this Schedule by—
- (a) section 21 of the <sup>M8</sup>Taxes Management Act 1970, or by any regulations modifying that section, or
  - (b) section 737(8) of the Taxes Act 1988,
- for obtaining information about transactions entered into, or payments made, before that day.

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#### **Subordinate Legislation Made**

**P2** Sch. 10 para. 16(1)(2) power fully exercised (20.3.1997): 1.7.1997 appointed by 1997/991, art. 2

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#### **Marginal Citations**

**M8** 1970 c. 9.



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