

*Status: Point in time view as at 28/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Paragraph 30H. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 26

#### DERIVATIVE CONTRACTS

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

- C1 Sch. 26 modified by 1996 c. 8, s. 86(3C) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by 2002 c. 23, s. 82, **Sch. 25 Pt. 1 para. 6(3)**)
- C1 Sch. 26 modified by 1996 c. 8, s. 94A (as inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 13**)
- C1 Sch. 26 applied by 1988 c. 1, s. 440(2B) (as amended (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 70**)
- C1 Sch. 26 applied (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 12** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C1 Sch. 26 applied (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 24** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C1 Sch. 26 modified (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 10 para. 7**; S.I. 2005/1444, art. 2(1), Sch. 1
- C1 Sch. 26 modified (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 10 para. 19**; S.I. 2005/1444, art. 2(1), Sch. 1
- C1 Sch. 26 modified (19.7.2006) by Finance Act 2006 (c. 25), s. 136(2)(e)
- C1 Sch. 26 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)
- C1 Sch. 26 modified (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 13 para. 15**
- C1 Sch. 26 modified (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 13 para. 24(b)**

#### PART 6

##### SPECIAL COMPUTATIONAL PROVISIONS

- [<sup>F1</sup>30H(1) This paragraph applies in relation to a merger if—
- (a) the merger is of a kind [<sup>F2</sup>mentioned in paragraph 30B(1)],
  - (b) the conditions in paragraph 30B(2) are satisfied in relation to the merger, and
  - (c) one or more of the merging companies is a transparent entity.
- (2) Where this paragraph applies, if the assets and liabilities of a transparent entity are transferred to another company by reason of the merger, paragraph [<sup>F3</sup>30B shall not apply in relation to the transfer].
- (3) If, as a result of a merger in relation to which this paragraph applies, a merger profit would, but for the Mergers Directive, have been chargeable to tax under the law of a member State other than the United Kingdom, Part 18 of the Taxes Act 1988 (double taxation relief), including any arrangements having effect by virtue of section 788 of that Act (bilateral relief), shall apply as if that tax, calculated in accordance with sub-paragraph (5), had been chargeable.

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- (4) In sub-paragraph (3) “merger profit” means a profit in respect of a derivative contract accruing to a transparent entity (or which would be treated as accruing to that entity were it not transparent) by reason of the transfer of [<sup>F4</sup>rights and liabilities under the derivative contract] by the transparent entity to another company on the merger.
- (5) Tax is calculated in accordance with this sub-paragraph if—
- (a) so far as is permitted under the law of the relevant member State, losses arising on the transfer [<sup>F5</sup>of those rights and liabilities] are set against profits arising on the transfer [<sup>F5</sup>of those rights and liabilities], and
  - (b) any relief available under that law has been claimed.]

#### Textual Amendments

- F1** Sch. 26 paras. 30G-30I and cross-heading inserted (with effect in accordance with reg. 3(3) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), **Sch. 3 para. 4**
- F2** Words in Sch. 26 para. 30H(1)(a) substituted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2008 \(S.I. 2008/1579\)](#), **Sch. 3 para. 7(2)**
- F3** Words in Sch. 26 para. 30H(2) substituted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2008 \(S.I. 2008/1579\)](#), **Sch. 3 para. 7(3)**
- F4** Words in Sch. 26 para. 30H(4) substituted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2008 \(S.I. 2008/1579\)](#), **Sch. 3 para. 7(4)**
- F5** Words in Sch. 26 para. 30H(5)(a) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2008 \(S.I. 2008/1579\)](#), **Sch. 3 para. 7(5)**

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

- C1** Sch. 26 paras. 30G-30I modification to earlier affecting provision S.I. 2007/3186, reg. 3(3) (8.7.2008) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2008 \(S.I. 2008/1579\)](#), regs. 1(2), **4(2)**

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