

*Status: Point in time view as at 05/10/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Part 6. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 29

#### GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS

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

- C1** Sch. 29 applied (with modifications) (15.8.2002) by [S.I. 2002/1967, regs. 3-6](#)
- C1** Sch. 29 modified (5.10.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\)](#), [Sch. 9 para. 28](#) (with [s. 38\(2\)](#)); [S.I. 2004/2575, art. 2\(1\)](#), [Sch. 1](#)

#### **PART 6**

##### HOW CREDITS AND DEBITS ARE GIVEN EFFECT

###### *Introduction*

- 30 (1) Credits and debits to be brought into account for tax purposes under this Schedule are given effect in accordance with this Part.
- (2) Credits and debits in respect of assets held for the purposes mentioned in—
- (a) paragraph 31 (assets held for purposes of trade), or
  - (b) paragraph 32 (assets held for purposes of property business) or
  - (c) paragraph 33 (assets held for purposes of certain concerns taxed under Case I of Schedule D),
- are given effect in accordance with the paragraph in question.
- (3) Other credits and debits (“non-trading credits and debits”) are given effect in accordance with paragraphs 34 and 35.
- (4) Any apportionment necessary where an asset is held for purposes falling within more than one of the provisions mentioned above shall be made on a just and reasonable basis.
- (5) The provisions mentioned in this paragraph have effect subject to paragraph 36 (special provisions relating to insurance companies).

###### *Asset held for purposes of trade*

- 31 Credits and debits to be brought into account in any accounting period in respect of an asset held by the company for the purposes of a trade carried on by it in that period are given effect by treating—
- (a) credits as receipts of the trade, and
  - (b) debits as expenses of the trade,
- in calculating the profits of the trade for tax purposes.

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*Asset held for purposes of property business*

- 32 (1) Credits and debits to be brought into account in any accounting period in respect of an asset held by the company for the purposes of a property business carried on by it in that period are given effect by treating—
- (a) credits as receipts of the business, and
  - (b) debits as expenses of the business,
- in computing the profits of the business for tax purposes.
- (2) A “property business” means—
- (a) an ordinary Schedule A business,
  - (b) a furnished holiday lettings business, or
  - (c) an overseas property business.
- (3) In this paragraph—
- “ordinary Schedule A business” means a Schedule A business except in so far as it is a furnished holiday lettings business; and
  - “furnished holiday lettings business” means a Schedule A business in so far as it consists of the commercial letting of furnished holiday accommodation (as defined in section 504 of the Taxes Act 1988) in the United Kingdom.
- (4) Section 503 of the Taxes Act 1988 (letting of furnished holiday accommodation treated as separate, single trade) applies for the purposes of this Schedule.

*Assets held for purposes of mines, transport undertakings, etc*

- 33 Credits and debits to be brought into account in any accounting period in respect of an asset held by the company for the purposes of a concern listed in section 55(2) of the Taxes Act 1988 (mines, transport undertakings, etc) that is carried on by the company in that period are given effect by treating—
- (a) credits as receipts of the concern, and
  - (b) debits as expenses of the concern,
- in computing the profits of the concern under Case I of Schedule D.

*Non-trading credits and debits*

- 34 (1) Where, or to the extent that, in an accounting period, there are—
- (a) credits in respect of intangible fixed assets that are not within any of paragraphs 31 to 33 (“non-trading credits”), or
  - (b) debits in respect of intangible fixed assets that are not within any of those paragraphs (“non-trading debits”),
- the company’s aggregate non-trading gain or loss on intangible fixed assets must be calculated.
- (2) There is a non-trading gain on intangible fixed assets if—
- (a) there are only non-trading credits, or
  - (b) there are both non-trading credits and non-trading debits and the aggregate of the former exceeds the aggregate of the latter.
- The amount of the non-trading gain is the aggregate amount of the credits or, as the case may be, the amount of the excess.

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- (3) There is a non-trading loss on intangible fixed assets if—
- (a) there are only non-trading debits, or
  - (b) there are both non-trading credits and non-trading debits and the aggregate of the latter exceeds the aggregate of the former.

The amount of the non-trading loss is the aggregate amount of the debits or, as the case may be, the amount of the excess.

- (4) A non-trading gain on intangible fixed assets is chargeable to tax under Case VI of Schedule D.
- (5) A non-trading loss on intangible fixed assets is given effect in accordance with the following paragraph.

*Claim to set non-trading loss against total profits*

- 35 (1) A company that has a non-trading loss on intangible fixed assets for an accounting period may claim to have the whole or part of the loss set off against the company's total profits for that period.
- (2) Any such claim must be made not later than the end of the period of two years immediately following the end of the accounting period to which it relates, or within such further period as the Inland Revenue may allow.
- (3) To the extent that the loss is not—
- (a) set off against total profits on a claim under sub-paragraph (1), or
  - (b) surrendered by way of group relief (see section 403 of the Taxes Act 1988),
- it is carried forward to the next accounting period of the company and treated as if it were a non-trading debit of that period.

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

C1 Sch. 29 para. 35 restricted (24.7.2002) by 1988 c. 1, s. 768E(4)(5) (as inserted (24.7.2002) by 2002 c. 23, s. 84(2), Sch. 30 para. 4(3))

*Special provisions relating to insurance companies*

- 36 (1) Nothing in this Schedule shall be read as preventing profits and gains arising from intangible fixed assets of an insurance company from being included, where—
- (a) the assets are referable to life assurance business carried on by the company, and
  - (b) the I minus E basis is applied in relation to that business,
- in profits and gains on which the company is chargeable to tax in accordance with that basis.
- (2) Where for any accounting period the I minus E basis is applied in relation to life assurance business carried on by an insurance company, the effect of applying that basis is that credits or debits falling to be brought into account under this Schedule in respect of intangible fixed assets of the company referable to that business—
- (a) are not brought into account as mentioned in paragraph 31 (assets held for purposes of trade), but

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- (b) subject to the following provisions of this paragraph, are instead brought into account under paragraph 34 as non-trading credits or, as the case may be, non-trading debits.
- (3) Where an insurance company carries on basic life assurance and general annuity business—
- (a) a separate computation of the credits and debits referable to that business shall be made under paragraph 34 (non-trading credits and debits),
- (b) any resulting non-trading gain in respect of intangible assets is chargeable to tax as mentioned in sub-paragraph (4) of that paragraph, and
- [<sup>F1</sup>(c) any resulting non-trading loss in respect of intangible assets is treated as expenses payable falling to be brought into account at Step 3 in section 76(7) of the Taxes Act 1988.]
- (4) References in any enactment to the computation of any profits of an insurance company in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D have effect as if those provisions included the provisions of this Schedule, but only to the extent that they relate to the bringing into account of debits in respect of royalties.
- (5) Where an insurance company carries on life assurance business or any category of life assurance business—
- (a) the credits and debits under this Schedule referable to that business or category of business, other than debits in respect of royalties, shall be disregarded for the purposes of any computations falling to be made in relation to that business or category of business in accordance with the provisions applicable to Case I of Schedule D, and
- (b) accordingly, the amounts to be brought into account in any such computations shall be determined under the provisions applicable apart from this Schedule.
- (6) In this paragraph “the I minus E basis” means the basis commonly so called under which a company carrying on life assurance business is charged to tax on that business otherwise than under Case I of Schedule D.

#### Textual Amendments

- F1** Sch. 29 para. 36(3)(c) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), **Sch. para. 67(2)**

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

- C2** Sch. 29 para. 36 modified by SI 1997/473 reg. 53H (as inserted (30.1.2003) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2003 \(S.I. 2003/23\)](#), regs. 1(1), **10**

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