

SCHEDULES

SCHEDULE 9

Section 49

DERIVATIVE CONTRACTS: MISCELLANEOUS AMENDMENTS

Introductory

1 Schedule 26 to the Finance Act 2002 (c. 23) is amended as follows.

Power to amend provisions of Schedule 26

2 (1) Paragraph 13 is amended as follows.

(2) For sub-paragraph (1) (power to amend paragraphs 2 to 12) substitute—

“(1) The Treasury may by order amend—

- (a) any of paragraphs 2 to 12, or
- (b) Part 9 of this Schedule.”.

(3) For sub-paragraph (4) (power to make certain orders so as to have effect in relation to accounting periods ending on or after day on which order comes into force (whenever beginning)) substitute—

“(4) An order under this paragraph may provide for any of its provisions to have effect in relation to accounting periods ending on or after the day on which the order comes into force (whenever beginning).”.

(4) In consequence of the amendment made by sub-paragraph (2), the heading to the paragraph accordingly becomes “Power to amend paragraphs 2 to 12 and Part 9”.

Deemed assignment of derivative contracts on company ceasing to be resident in UK etc

3 (1) At the beginning of Part 6 (special computational provisions) insert—

“Deemed assignment of derivative contracts on company ceasing to be resident in UK etc

22A (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 not resident in the United Kingdom, the rights and liabilities of the company under a derivative contract to any extent cease to be held or owed for the purposes of a permanent establishment of the company in the United Kingdom in circumstances not involving a related transaction.

(2) In a case falling within sub-paragraph (1)(a), this Schedule shall have effect as if the company had—

Status: This is the original version (as it was originally enacted).

- (a) immediately before the relevant time, assigned its rights and liabilities under its derivative contracts 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) does not apply in relation to a derivative contract to the extent that, immediately after the relevant time, the company's rights and liabilities under the contract are 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), this Schedule shall have effect as if the company had—
- (a) immediately before the relevant time, assigned the rights and liabilities, so far as ceasing to be held or owed for the purposes of the permanent establishment, 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.
- (5) In this paragraph “fair value” shall be construed in accordance with paragraph 17.”.
- (2) The amendment made by this paragraph has effect where the cessation in question occurs on or after 17th March 2004.

Derivative contracts for unallowable purposes

- 4 (1) In paragraph 23, in sub-paragraph (7) (definition of amount of accumulated credits against which accumulated net losses may be brought into account) in paragraph (b) after “an amount equal to” insert “—
- (i) so much of any debits arising, in the case of the derivative contract, for that accounting period or any earlier accounting period as is not, in accordance with sub-paragraph (3), referable to the unallowable purpose, and
 - (ii)”.
- (2) The amendment made by this paragraph has effect in relation to accounting periods ending on or after 17th March 2004.

Open-ended investment companies: capital profits and losses

- 5 (1) In paragraph 33(4)(b) (which refers to a subsequent statement of recommended practice issued by Financial Services Authority) omit “issued by the Financial Services Authority”.
- (2) This amendment has effect in relation to accounting periods beginning on or after 1st February 2004.