



# Finance (No. 2) Act 2005

## CHAPTER 22

### FINANCE (NO. 2) ACT 2005

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- 2 Cars: determination of consideration for fuel supplied for private use
- 3 Credit for, or repayment of, overstated or overpaid VAT
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- 5 Reverse charge: gas and electricity valuation
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*Status: Point in time view as at 17/07/2012.*

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## PART 3

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## PART 6

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## SCHEDULES

### SCHEDULE 1 — Disclosure of value added tax avoidance schemes

#### *Introduction*

- 1 Schedule 11A to VATA 1994 (disclosure of avoidance schemes) is...

#### *Interpretative provisions*

- 2 In paragraph 1 (interpretation), after the definition of “designated scheme”...
- 3 For paragraph 2 substitute— (1) For the purposes of this Schedule, a taxable person...
- 4 After paragraph 2 insert— Meaning of “non-deductible tax” (1) In this Schedule “non-deductible tax”, in relation to a...

#### *Duty to notify Commissioners*

- 5 (1) Paragraph 6 (duty to notify Commissioners) is amended as...
- 6 In paragraph 7 (exemptions from duty to notify) in the...

#### *Amount of penalty*

- 7 (1) Paragraph 11 (amount of penalty) is amended as follows....

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### *Penalty assessments*

- 8 In paragraph 12 (penalty assessments) for sub-paragraph (3) substitute

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### SCHEDULE 2 — Employee securities: anti-avoidance

#### *Introductory*

- 1 ITEPA 2003 is amended as follows.

#### *Rights under certain insurance contracts to be securities*

- 2 (1) Section 420 (income and exemptions relating to securities: meaning...

#### *Restricted securities*

- 3 Chapter 2 of Part 7 (restricted securities) is amended as...  
4 (1) Section 424 (employment-related securities which are not restricted securities...  
5 (1) In section 428 (amount of charge under section 426),...  
6 (1) In section 429 (exception from charge under section 426...  
7 (1) After section 431A insert— Securities acquired for purpose of...

#### *Convertible securities*

- 8 Chapter 3 of Part 7 (convertible securities) is amended as...  
9 (1) In section 436(a) (meaning of “convertible securities”), for “immediate...  
10 (1) In section 440 (amount of charge under section 438),...  
11 (1) In section 443 (exception from charge under section 438...

#### *Securities acquired for less than market value*

- 12 Chapter 3C of Part 7 (securities acquired for less than...  
13 (1) In section 446R (exception from Chapter for certain company...  
14 (1) In section 446U(1) (discharge of notional loan), insert at...  
15 (1) After section 446U insert— Pre-acquisition avoidance cases (1) Sections 446S to 446U do not apply if the...  
16 (1) Section 698 (PAYE: special charges on employment-related securities) is...

#### *Post-acquisition benefits from securities*

- 17 Chapter 4 of Part 7 (post-acquisition benefits from securities) is...  
18 (1) Section 447 (charge on other chargeable benefits from securities)...  
19 (1) In section 449 (exception from charge under section 447...

#### *Corporation tax relief: minor and consequential amendments*

- 20 (1) Schedule 23 to FA 2003 (corporation tax relief for...

### SCHEDULE 3 — Qualifying scheme

#### Part 1 — INTRODUCTORY

- 1 For the purposes of section 24 a scheme is a...

#### Part 2 — SCHEMES INVOLVING HYBRID ENTITIES

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2 A scheme falls within this Part if a party to...

3 (1) An entity is a hybrid entity if—

Part 3 — SCHEMES INVOLVING HYBRID EFFECT

*Schemes involving hybrid effect*

4 A scheme falls within this Part if it satisfies the...

*Instruments of alterable character*

5 (1) A scheme satisfies the requirements of this paragraph if...

*Shares subject to conversion*

6 (1) A scheme satisfies the requirements of this paragraph if...

*Securities subject to conversion*

7 (1) A scheme satisfies the requirements of this paragraph if...

*Debt instruments treated as equity*

8 (1) A scheme satisfies the requirements of this paragraph if...

Part 4 — SCHEMES INVOLVING HYBRID EFFECT AND CONNECTED PERSONS

*Schemes involving hybrid effect and connected persons*

9 A scheme falls within this Part if it satisfies the...

*Scheme including issue of shares not conferring a qualifying beneficial entitlement*

10 (1) A scheme satisfies the requirements of this paragraph if...

*Scheme including transfer of rights under a security*

11 (1) A scheme satisfies the requirements of this paragraph if...

*Interpretation*

12 Section 839 of ICTA has effect for the purposes of...

SCHEDULE 4 — Chargeable gains: location of assets etc

Part 1 — LOCATION OF ASSETS

*Exceptions from sections 713 and 714 of ICTA*

1 (1) Section 715 of ICTA is amended as follows.

*Foreign securities: delayed remittances*

2 (1) Section 723 of ICTA is amended as follows.

*Designated international organisations*

3 (1) Section 265 of TCGA 1992 is amended as follows....

*Location of assets: general*

4 (1) Section 275 of TCGA 1992 is amended as follows....

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*Location of certain intangible assets*

- 5 After section 275 of TCGA 1992 insert— Location of certain...

*Location of assets: interests of co-owners*

- 6 After section 275B of TCGA 1992 (as inserted by paragraph...  
Part 2 — MINOR AMENDMENTS: NON-RESIDENT COMPANY WITH UK  
PERMANENT ESTABLISHMENT

*Computation of losses*

- 7 (1) Section 16 of TCGA 1992 is amended as follows....

*Reallocation within group of gain or loss accruing under section 179*

- 8 (1) Section 179A of TCGA 1992 is amended as follows....

*Exemptions for disposals by companies with substantial shareholding*

- 9 (1) Schedule 7AC to TCGA 1992 is amended as follows....  
Part 3 — COMMENCEMENT

*Commencement*

- 10 (1) The amendments made by Part 1 of this Schedule...

SCHEDULE 5 — Chargeable gains: options

Part 1 — APPLICATION OF MARKET VALUE RULE IN CASE OF EXERCISE OF  
OPTION

*Application of market value rule in case of exercise of option*

- 1 (1) Section 144ZA of TCGA 1992 is amended as follows....

*Application of market value rule in case of exercise of option: exception*

- 2 After section 144ZA of TCGA 1992 insert— Exception to rule...  
Part 2 — MISCELLANEOUS AMENDMENTS RELATING TO SHARE OPTIONS  
ETC

*Shares acquired on same day: election for alternative treatment*

- 3 (1) Section 105A of TCGA 1992 is amended as follows....

*Employment-related securities options*

- 4 (1) Section 149A of TCGA 1992 is amended as follows....

*Interpretation of TCGA 1992*

- 5 (1) Section 288 of TCGA 1992 is amended as follows....  
Part 3 — COMMENCEMENT

*Commencement*

- 6 (1) The amendments made by paragraphs 1 to 3 have...

SCHEDULE 6 — Accounting practice and related matters

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*Adjustment on change of accounting basis*

- 1 (1) In Schedule 22 to FA 2002 (adjustment on change...
- 2 (1) In section 227 of ITTOIA 2005 (adjustment on change...

*Meaning of “statutory insolvency arrangement”*

- 3 (1) For section 259 of ITTOIA 2005 (trading income: meaning...

*Minor corrections*

- 4 (1) In Schedule 4 to FA 2005, omit paragraph 6...

*Deemed release of liability on impaired debt becoming held by connected company*

- 5 (1) In Schedule 9 to FA 1996 (loan relationships: special...

*Adjustment on change to international accounting standards: bad debt debits formerly disallowed*

- 6 (1) In paragraph 19A of Schedule 9 to FA 1996...

*Loan relationships with embedded derivatives*

- 7 (1) Where— (a) a company is subject to old UK...
- 8 (1) In section 116(8A) of TCGA 1992 (reorganisations, conversions and...

*Exchange gains and losses*

- 9 (1) The following provisions shall cease to have effect—
- 10 In section 103 of FA 1996 (loan relationships: general interpretation),...
- 11 In paragraph 54 of Schedule 26 to FA 2002 (derivative...

SCHEDULE 7 — Avoidance involving financial arrangements

*Rent factoring*

- 1 (1) Part 2 of ICTA (which, at sections 43A to...

*Section 730: restriction to income consisting of distributions in respect of company shares etc*

- 2 (1) Section 730 of ICTA (transfers of income arising from...

*Change in ownership of company with investment business*

- 3 (1) In section 768B(10) of ICTA (Part 4 of Schedule...

*Transfers of rights to receive annual payments*

- 4 (1) After section 775 of ICTA (sale by individual of...

*Disposals and acquisitions of company loan relationships with or without interest*

- 5 (1) Section 807A of ICTA is amended as follows.

*Manufactured interest and the accrued income scheme*

- 6 (1) In Schedule 23A to ICTA (manufactured dividends and interest)...



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*Consideration due after time of disposal: creditor relationships etc*

7 (1) Section 48 of TCGA 1992 (consideration due after time...

*Corporate strips: manipulation of price: associated payment giving rise to loss*

8 In TCGA 1992, after section 151C (strips: manipulation of price:...

*Transactions within a group: shares subject to third party obligations*

9 (1) Section 171 of TCGA 1992 (transfers within a group:...

*Shares treated as loan relationships*

10 (1) After section 91 of FA 1996 insert the following...

*Related transactions in relation to right to receive manufactured interest*

11 (1) Section 97 of FA 1996 (manufactured interest) is amended...

*Money debts etc not arising from lending of money: discounts and profits from transactions*

12 (1) Section 100 of FA 1996 (money debts etc not...

*Meaning of "commercial rate of interest"*

13 (1) In section 103 of FA 1996 (interpretation) after subsection...

*Capital redemption policies: removal of exclusion from loan relationships computations*

14 (1) Schedule 9 to FA 1996 (loan relationships: special computational...

*Deemed disposal of assets and liabilities on company ceasing to be resident in UK etc*

15 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

*Transactions not at arm's length: exceptions relating to groups of companies*

16 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

*Continuity of treatment of groups etc: treatment of transferee company*

17 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

*Transferee leaving group after replacing transferor as party to loan relationship*

18 (1) In Schedule 9 to FA 1996 (loan relationships) after...

*Avoidance involving repos or stock lending*

19 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

*Capital redemption policies: computations on the I minus E basis*

20 (1) In Schedule 11 to FA 1996 (loan relationships: special...

*Relevant discounted securities: corporate strips*

21 (1) Schedule 13 to FA 1996 (discounted securities: income tax)...

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*Transactions within groups: treatment of transferee company*

- 22 (1) In Schedule 26 to FA 2002 (derivative contracts) paragraph...

*Transactions within groups: fair value accounting*

- 23 (1) In Schedule 26 to FA 2002 (derivative contracts) paragraph...

*Transferee leaving group after replacing transferor as party to derivative contract*

- 24 (1) In Schedule 26 to FA 2002 (derivative contracts) after...

*Deeply discounted securities: corporate strips*

- 25 (1) Chapter 8 of Part 4 of ITTOIA 2005 (profits...

SCHEDULE 8 — Financing of companies etc: transfer pricing and loan relationships

*Amendments of Schedule 28AA to ICTA*

- 1 (1) Schedule 28AA to ICTA (provision not at arm's length)...

*Amendments of Schedule 9 to FA 1996*

- 2 (1) In Schedule 9 to FA 1996 (loan relationships: computational...  
3 (1) Paragraph 18 of that Schedule (discounted securities of close...

*Commencement and transitional provisions*

- 4 (1) Except where sub-paragraph (2) or (3) applies, the amendments...

SCHEDULE 9 — Insurance companies etc

*Expenses of insurance companies*

- 1 Insurance companies

*Interpretative provisions relating to insurance companies*

- 2 Insurance companies

*Amendment of Chapter 1 of Part 12 of ICTA etc*

- 3 Insurance companies

*Apportionment of income and gains*

- 4 Insurance companies

*Section 432B apportionment: participating funds*

- 5 Insurance companies

*Transfers of business: deemed periodical return*

- 6 Insurance companies

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*Transfers of business: modification of section 444AC of ICTA*

7 Insurance companies

*Transfers of business: transferor shares are assets  
of transferee's long-term insurance fund etc*

8 Insurance companies

*Equalisation reserves for general business*

9 (1) Section 444BA of ICTA is amended as follows.

*Unappropriated surplus on valuation*

10 Insurance companies

*Relevant financial reinsurance contracts*

11 Insurance companies

*Receipts to be taken into account*

12 Insurance companies

*Meaning of "brought into account"*

13 Insurance companies

*Changes in recognised accounts: attribution of  
amounts carried forward under s.432F of ICTA*

14 Insurance companies

*Charge of certain receipts of basic life assurance business*

15 Insurance companies

*Corporation tax: policy holders' fraction of profits*

16 Insurance companies

*Overseas life insurance companies*

17 Insurance companies

*Meaning of "pension business"*

18 Insurance companies

*Miscellaneous references to "class" of business*

19 Insurance companies

*Transfers of business: references to accounting period ending with day of transfer*

20 (1) Section 12 of ICTA (corporation tax: basis of, and...

SCHEDULE 10 — Stamp duty land tax: miscellaneous amendments

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## Part 1 — AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 16

### *Introduction*

- 1 Part 4 of FA 2003 (stamp duty land tax) is...

### *Transfer of rights: exclusion of transaction to which alternative finance provisions apply*

- 2 In section 45 (contract and conveyance: effect of transfer of...

### *Group relief*

- 3 In paragraph 1 of Schedule 7 (group relief), in sub-paragraph...  
4 In paragraph 3 of Schedule 7 (withdrawal of group relief)—...  
5 In paragraph 4 of Schedule 7 (cases in which group...  
6 After paragraph 4 of Schedule 7 insert— Withdrawal of group...  
7 In Schedule 17A (further provisions relating to leases) in paragraph...

### *Reconstruction and acquisition reliefs*

- 8 In paragraph 8 of Schedule 7 (acquisition relief)—  
9 In paragraph 9 of Schedule 7 (withdrawal of reconstruction or...

### *Withdrawal of money etc from partnership after transfer of chargeable interest*

- 10 In Schedule 15 (partnerships) after paragraph 17 insert— Withdrawal  
of...

### *Grant of lease to bare trustee*

- 11 For paragraph 3 of Schedule 16 substitute— Bare trustee (1) Subject to  
sub-paragraph (2), where a person acquires a...  
12 In paragraph 11 of Schedule 17A (cases where assignment of...

### *Variation of lease*

- 13 In paragraph 15A of Schedule 17A (leases: reduction of rent...

### *Loan or deposit in connection with grant or assignment of lease*

- 14 After paragraph 18 of Schedule 17A insert— Loan or deposit...  
15 In section 80 (adjustment where contingency ceases or consideration  
is...

### *Commencement*

- 16 (1) Subject to sub-paragraph (7), paragraphs 3 to 7 have...

## Part 2 — AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 22

### *Introduction*

- 17 Part 4 of FA 2003 (stamp duty land tax) is...

### *Transfers involving public bodies*

- 18 In section 66 of FA 2003 (transfers involving public bodies)...

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*Group relief: avoidance arrangements*

19 In paragraph 2 of Schedule 7 (restrictions on availability of...

*Acquisition relief: avoidance arrangements*

20 In paragraph 8 of Schedule 7 (acquisition relief)—

*Stamp duty on transfers of partnership interests*

21 (1) In Schedule 15 (stamp duty land tax: partnerships), paragraph...

*Commencement*

22 (1) Subject to sub-paragraph (2), paragraphs 18 to 20 have...

SCHEDULE 11 — Repeals

Part 1 — VALUE ADDED TAX

Part 2 — INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Part 3 — STAMP TAXES

Part 4 — EUROPEAN COMPANY STATUTE

Part 5 — MISCELLANEOUS MATTERS

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