

Status: Point in time view as at 20/07/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 6

ACCOUNTING PRACTICE AND RELATED MATTERS

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

- 5 (1) In Schedule 9 to FA 1996 (loan relationships: special computational provisions), for paragraph 4A substitute—

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

- 4A (1) This paragraph applies—
- (a) in the case specified in sub-paragraph (2), subject to the exception in sub-paragraph (3), and
 - (b) in the case specified in sub-paragraph (4).
- (2) The first case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
 - (b) another company (“the creditor company”) becomes party as creditor to the loan relationship,
 - (c) the debtor company and the creditor company are connected immediately after the latter becomes party to the loan relationship,
 - (d) there is no connection between the creditor company and the person from whom it acquires its rights under the loan relationship in the period of account in which it does so, and
 - (e) the carrying value of the liability under the loan relationship in the accounts of the debtor company exceeds the amount or value of any consideration given by the creditor company for its rights under the loan relationship.

The carrying value referred to in paragraph (e) is the amount that would have been the carrying value of the liability under the loan relationship in the accounts of the debtor company if a period of account had ended immediately before the creditor company became party to the loan relationship.

- (3) The exception to the first case is where—
- (a) the creditor company acquires its rights under the loan relationship under an arm's length transaction, and
 - (b) there has been no connection between the creditor company and the debtor company at any time in the period—

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- (i) beginning four years before the date on which the creditor company acquired those rights, and
 - (ii) ending twelve months before that date.
- (4) The second case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
 - (b) another company (“the creditor company”) that—
 - (i) is party to the loan relationship as creditor, and
 - (ii) is not connected with the debtor company, becomes connected with the debtor company, and
 - (c) the amount that would have been the carrying value of the asset representing the loan relationship in the accounts of the creditor company if a period of account had ended immediately before the companies became connected would have been adjusted for impairment.
- (5) Where this paragraph applies there is deemed to be a release by the creditor company of its rights under the loan relationship.
- (6) In the first case the release is deemed to be of the amount of the excess referred to in sub-paragraph (2)(e) and to take place when the creditor company acquires its rights under the loan relationship.
- (7) In the second case the release is deemed to be of the amount of the impairment adjustment referred to in sub-paragraph (4)(c) and to take place when the creditor company becomes connected with the debtor company.
- (8) For the purposes of this paragraph there is a connection between a company and another person at any time (subject to sub-paragraph (9)) if at that time—
- (a) the other person is a company and one of the companies has control of the other, or
 - (b) the other person is a company and both companies are under the control of the same person,
- and there is a connection between a company and another person in a period of account if there is a connection (within paragraph (a) or (b) above) between the company and the person at any time in that period.
- “Control” here has the meaning given for the purposes of section 87 of this Act by section 87A.
- (9) The provisions of—
- (a) section 87(4) (companies not regarded as connected by virtue of control by government etc), and
 - (b) section 88 (connection between companies to be disregarded in certain circumstances),
- apply for the purposes of this paragraph as they apply for the purposes of section 87.

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- (10) In determining for the purposes of this paragraph the carrying value of the liability under a loan relationship, or of an asset representing a loan relationship, no account shall be taken of—
- (a) accrued amounts,
 - (b) amounts paid or received in advance, or
 - (c) impairment losses.”.
- (2) The amendment in sub-paragraph (1) has effect where the deemed release occurs on or after 16th March 2005.

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