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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Paragraph 12. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 7

#### AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

*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 arising from the lending of money) is amended as follows.
- (2) In subsection (1)(c) (money debts to which the section applies) after subparagraph (iii) insert “or
- (iv) as respects which the conditions in subsection (1A) below (discount etc) are satisfied;”.
- (3) After subsection (1) insert—
- “(1A) The conditions mentioned in subsection (1)(c)(iv) above are that—
- (a) the company stands in the position of creditor in relation to the money debt;
- (b) the money debt is one from which a discount (whether of an income or capital nature) arises to the company;
- (c) the discount does not fall to be brought into account under section 50 of the Finance Act 2005 by virtue of section 47 of that Act (alternative finance return);
- (d) if the money debt is some or all of the consideration payable for a disposal of property, the money debt (on the assumption that it will be paid in full) does not fall to be brought into account for the purposes of corporation tax as a trading receipt of the company;
- (e) if the money debt is some or all of the consideration payable for a disposal of property, the property in question is not any of the following—
- (i) an asset representing a loan relationship;
- (ii) a derivative contract.”.
- (4) In subsection (2), as it has effect for periods of account beginning on or after 1st January 2005, in paragraph (a), for “matters mentioned in subsection (1)(c) above” substitute “ matters mentioned in subsection (1)(c)(i) to (iii) above or subsection (2ZA) below ”.
- (5) After subsection (2) insert—
- “(2ZA) The matters are—
- (a) in the case of a money debt falling within subsection (1)(c)(i) above, profits (but not losses) arising to the company from any related transaction in respect of the right to receive interest;

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- (b) in the case of a money debt falling within subsection (1)(c)(iv) above, each of the following—
  - (i) the discount arising to the company from the money debt;
  - (ii) profits (but not losses) arising to the company from any related transaction;
  - (iii) any impairment arising to the company in respect of the discount;
  - (iv) any reversal of any such impairment.

(2ZB) Where a company—

- (a) has a relationship to which this section applies by virtue of subsection (1)(c)(i) above, but
- (b) enters into a related transaction in respect of the right to receive interest,

then, for the purpose of bringing credits into account by virtue of subsection (2ZA)(a) above in respect of that or any other related transaction, the company shall continue to be treated as having a relationship to which this section so applies even though the interest is not payable to the company.”.

- (6) After subsection (3) (amounts treated as interest under Schedule 28AA to ICTA) insert—

“(3A) For the purposes of this section, a discount shall, in particular, be taken to arise from a money debt in any case where—

- (a) there is a disposal of property for a consideration some or all of which is money that falls to be paid after the sale;
- (b) the amount or value of the whole consideration exceeds what the purchaser would have paid for the property if he had been required to pay in full at the time of the disposal; and
- (c) some or all of the excess can reasonably be regarded as representing a return on an investment of money at interest (and, accordingly, as being a discount arising from the money debt).

(3B) The credits to be brought into account for the purposes of this Chapter in respect of a discount arising from a money debt must be determined using an amortised cost basis of accounting (see section 103).”.

- (7) Omit subsections (4) to (6) and (8) (which relate to whether debits or credits are trading or non-trading etc and which are unnecessary, in view of the application of sections 82(2) and 103(2) of FA 1996 by virtue of section 100(2) of that Act).
- (8) Omit subsection (13) (express subsection to Schedules 9 and 11 to FA 1996, which is unnecessary in view of the closing words of subsection (2) of the section).
- (9) In consequence of the amendments made by this paragraph, paragraph (c) of the Case III of Schedule D substituted for the purposes of corporation tax by section 18(3A) of ICTA (tax in respect of discount arising otherwise than in respect of a loan relationship) shall not have effect in relation to any discount arising in an accounting period beginning on or after the commencement date.
- (10) Subject to sub-paragraph (9), the amendments made by this paragraph have effect in relation to any money debt to which a company is party as a creditor on or after the commencement date.

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- (11) Where, on or after the commencement date but in a period of account beginning before 1st January 2005, a company is party to a relationship to which section 100 of FA 1996 applies, then, in the application of that section for that period of account, subsection (2) of it shall have effect as follows—
- (a) paragraph (a) shall have effect in relation to—
    - (i) any discount arising to the company from the money debt, and
    - (ii) any profits, impairment of discount, or reversal of impairment of discount, arising to the company as mentioned in subsection (2ZA) of that section,as it has effect (or would have effect) in relation to interest payable to the company under the relationship,
  - (b) paragraph (b) shall have effect as if the reference to interest included a reference to the matters mentioned in paragraph (a)(i) and (ii) above, and
  - (c) the closing words shall have effect accordingly.
- (12) None of the following shall be brought into account for the purposes of Chapter 2 of Part 4 of FA 1996 by virtue of this paragraph—
- (a) credits in respect of discount arising from a money debt, to the extent that the discount accrued before the commencement date;
  - (b) credits in respect of profits arising as mentioned in section 100(2ZA)(a) or (b)(ii) of that Act where the related transaction took place before the commencement date;
  - (c) debits in respect of any impairment arising in respect of discount arising from a money debt, to the extent that the discount accrued before the commencement date;
  - (d) credits in respect of any reversal of any such impairment, to the extent that the discount accrued before the commencement date.
- (13) In this paragraph “the commencement date” means 16th March 2005.

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