

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 6

DISCLOSURE OF VALUE ADDED TAX AVOIDANCE SCHEMES

Introduction

- 1 Schedule 11A to VATA 1994 (disclosure of avoidance schemes) is amended in accordance with this Schedule.

Commencement Information

- I1** Sch. 1 para. 1 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

Interpretative provisions

- 2 In paragraph 1 (interpretation), after the definition of “designated scheme” insert—
““non-deductible tax”, in relation to a taxable person, has the meaning given by paragraph 2A;”.

Commencement Information

- I2** Sch. 1 para. 2 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

- 3 For paragraph 2 substitute—
- “2 (1) For the purposes of this Schedule, a taxable person obtains a tax advantage if—
- (a) in any prescribed accounting period, the amount by which the output tax accounted for by him exceeds the input tax deducted by him is less than it would otherwise be,
 - (b) he obtains a VAT credit when he would not otherwise do so, or obtains a larger VAT credit or obtains a VAT credit earlier than would otherwise be the case,
 - (c) in a case where he recovers input tax as a recipient of a supply before the supplier accounts for the output tax, the period between the time when the input tax is recovered and the time when the output tax is accounted for is greater than would otherwise be the case, or
 - (d) in any prescribed accounting period, the amount of his non-deductible tax is less than it would otherwise be.
- (2) For the purposes of this Schedule, a person who is not a taxable person obtains a tax advantage if his non-refundable tax is less than it would otherwise be.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In sub-paragraph (2), “non-refundable tax”, in relation to a person who is not a taxable person, means—
- (a) VAT on the supply to him of any goods or services,
 - (b) VAT on the acquisition by him from another member State of any goods, and
 - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States,
- but excluding (in each case) any VAT in respect of which he is entitled to a refund from the Commissioners by virtue of any provision of this Act.”

Commencement Information

I3 Sch. 1 para. 3 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

- 4 After paragraph 2 insert—

“Meaning of “non-deductible tax”

- 2A (1) In this Schedule “non-deductible tax”, in relation to a taxable person, means—
- (a) input tax for which he is not entitled to credit under section 25, and
 - (b) any VAT incurred by him which is not input tax and in respect of which he is not entitled to a refund from the Commissioners by virtue of any provision of this Act.
- (2) For the purposes of sub-paragraph (1)(b), the VAT “incurred” by a taxable person is—
- (a) VAT on the supply to him of any goods or services,
 - (b) VAT on the acquisition by him from another member State of any goods, and
 - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States.”

Commencement Information

I4 Sch. 1 para. 4 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

Duty to notify Commissioners

- 5 (1) Paragraph 6 (duty to notify Commissioners) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) omit the word “or” at the end of paragraph (a), and
 - (b) after paragraph (b) insert “, or
 - (c) the amount of his non-deductible tax in respect of any prescribed accounting period is less than it would be but for such a scheme.”
- (3) After sub-paragraph (2) insert—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(2A) Sub-paragraph (2) does not apply to a taxable person in relation to any scheme if he has on a previous occasion—

- (a) notified the Commissioners under that sub-paragraph in relation to the scheme, or
- (b) provided the Commissioners with prescribed information under sub-paragraph (3) (as it applied before the scheme became a designated scheme) in relation to the scheme.”

(4) For sub-paragraph (5) substitute—

“(5) Sub-paragraph (3) also does not apply where the scheme is one in respect of which the taxable person has on a previous occasion provided the Commissioners with prescribed information under that sub-paragraph.”

Commencement Information

I5 Sch. 1 para. 5 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with arts. 3, 4)

6 In paragraph 7 (exemptions from duty to notify) in the definition of “relevant period” in sub-paragraph (9) for “6(1)(a) or (b)” substitute “6(1)(a), (b) or (c)”.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

Amount of penalty

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

(2) In sub-paragraph (3)—

- (a) omit the word “and” at the end of paragraph (a), and
- (b) after paragraph (b) insert “, and
- (c) to the extent that—
 - (i) the case falls within paragraph 6(1)(c), and
 - (ii) the excess of the notional non-deductible tax of the taxable person for the relevant periods over his non-deductible tax for those periods is not represented by a corresponding amount which by virtue of paragraph (a) or (b) is part of the VAT saving,the amount of the excess.”

(3) In sub-paragraph (4), after “(3)(a)” insert “ and (c) ”.

(4) After sub-paragraph (4) insert—

“(5) In sub-paragraph (3)(c), “notional non-deductible tax”, in relation to a taxable person, means the amount that would, but for the scheme, have been the amount of his non-deductible tax.”

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

17 Sch. 1 para. 7 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

Penalty assessments

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

“(3) In a case where—

- (a) the penalty falls to be calculated by reference to the VAT saving as determined under paragraph 11(3), and
- (b) the notional tax cannot readily be attributed to any one or more prescribed accounting periods,

the notional tax shall be treated for the purposes of this Schedule as attributable to such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the penalty.

(3A) In sub-paragraph (3) “the notional tax” means—

- (a) the VAT that would, but for the scheme, have been shown in returns as payable by or to the taxable person, or
- (b) any amount that would, but for the scheme, have been the amount of the non-deductible tax of the taxable person.”

Commencement Information

18 Sch. 1 para. 8 in force at 1.8.2005 by S.I. 2005/2010, art. 2 (with art. 4)

SCHEDULE 2

Section 12

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 of “securities” etc.) is amended as follows.

(2) In subsection (1), after paragraph (a) insert—

“(aa) rights under contracts of insurance other than excluded contracts of insurance.”.

(3) In paragraph (b) of that subsection, insert at the end “ (other than contracts of insurance) ”.

(4) In paragraph (g) of that subsection, insert at the end “ (other than contracts of insurance) ”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) After that subsection insert—

“(1A) For the purposes of subsection (1)(aa) a contract of insurance is an excluded contract of insurance if it is—

- (a) a contract for an annuity which is (or will be) pension income (see Part 9),
- (b) a contract of long-term insurance, other than an annuity contract, which does not have a surrender value and is not capable of acquiring one (whether on conversion or in any other circumstances), or
- (c) a contract of general insurance other than one which falls, in accordance with generally accepted accounting practice, to be accounted for as a financial asset or liability.

(1B) In this section—

“contract of insurance”,
“contract of long-term insurance”, and
“contract of general insurance”,

have the same meaning as in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”

(6) In subsection (5)—

- (a) at the end of paragraph (c) insert “ and ”, and
- (b) omit paragraph (d) (exclusion of insurance contracts).

(7) In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate place—

“generally accepted accounting practice Section 832(1) of ICTA”

(8) This paragraph has effect on and after 2nd December 2004 and applies in relation to rights under contracts of insurance acquired before that date, as well as those acquired on or after that date; and—

- (a) for the purposes of the application of Chapter 3B of Part 7 of ITEPA 2003 (securities with artificially enhanced market value) by reason of this paragraph in relation to rights under contracts of insurance acquired before that date, section 446O of that Act (meaning of “relevant period”) has effect as if they were acquired on that date, and
- (b) for the purposes of section 420(1A)(c) of ITEPA 2003, section 50 of FA 2004 (meaning of “generally accepted accounting practice”) has effect on and after that date, in spite of subsection (6) of that section.

Restricted securities

3 Chapter 2 of Part 7 (restricted securities) is amended as follows.

4 (1) Section 424 (employment-related securities which are not restricted securities or restricted interest in securities) is renumbered as subsection (1) of that section.

(2) In that subsection—

- (a) at the end of paragraph (a) insert “ or ”, and

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) omit paragraph (c) (employment-related securities which are, or are an interest in, redeemable securities) and the word “or” before it.
- (3) After that subsection insert—
- “(2) Subsection (1) does not apply if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions.”
- (4) This paragraph has effect on and after 2nd December 2004 and applies in relation to employment-related securities acquired before that date, as well as those acquired on or after that date; and section 422 of ITEPA 2003 (application of Chapter 2 of Part 7) applies to employment-related securities in relation to which this paragraph has effect and which were acquired before that date with the omission of the words “at the time of the acquisition”.
- 5 (1) In section 428 (amount of charge under section 426), after subsection (9) insert—
- “(10) But subsection (9) does not apply if something which affects the employment-related securities has been done (at or before the time of the chargeable event) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 428(10) of ITEPA 2003 has been done on or after 2nd December 2004.
- 6 (1) In section 429 (exception from charge under section 426 for certain company shares), for subsection (1A) substitute—
- “(1A) This subsection is satisfied unless something which affects the employment-related securities has been done (at or before the time when section 426 would apply) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 429(1A) of ITEPA 2003 has been done on or after 2nd December 2004.
- 7 (1) After section 431A insert—

“431B Securities acquired for purpose of avoidance

Where employment-related securities are restricted securities or a restricted interest in securities, the employer and the employee are to be treated as making an election under section 431(1) in relation to the employment-related securities if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions.”

- (2) This paragraph has effect in relation to employment-related securities acquired on or after 2nd December 2004.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Convertible securities

- 8 Chapter 3 of Part 7 (convertible securities) is amended as follows.
- 9 (1) In section 436(a) (meaning of “convertible securities”), for “immediate or conditional entitlement” substitute “entitlement (whether immediate or deferred and whether conditional or unconditional)”.
- (2) Section 437 (adjustment of acquisition charge) is renumbered as subsection (1) of that section.
- (3) After that subsection insert—
- “(2) Subsection (1) does not apply if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions unless the market value of the employment-related securities determined under subsection (1) would be greater than that determined under subsection (3).
- (3) Where subsection (1) does not apply by virtue of subsection (2) the market value of the employment-related securities is to be determined—
- (a) where the securities which are (or an interest in which is) the employment-related securities fall within paragraph (a) of section 436 and the entitlement to convert is not both immediate and unconditional, as if it were,
- (b) where they fall within paragraph (b) of that section, as if the circumstances are such that an entitlement to convert arises immediately, and
- (c) where they fall within paragraph (c) of that section, as if provision were made for their immediate conversion;
- and in each case is to be determined as if they were immediately and fully convertible.
- (4) In subsection (3) “immediately and fully convertible” means convertible immediately after the acquisition of the employment-related securities so as to obtain the maximum gain that would be possible on a conversion at that time (assuming, where the securities into which the securities may be converted were not in existence at that time and it is appropriate to do so, that they were) without giving any consideration for the conversion or incurring any expenses in connection with it.”
- (4) This paragraph has effect in relation to acquisitions on or after 2nd December 2004.
- 10 (1) In section 440 (amount of charge under section 438), after subsection (3) insert—
- “(3A) If (because of subsection (2) of section 437) subsection (1) of that section did not apply in relation to the employment-related securities, the taxable amount is to be reduced by the amount by which—
- (a) the market value of the employment-related securities for the purposes specified in that subsection, exceeded
- (b) what it would have been had that subsection applied,
- (less the aggregate of any amount by which the taxable amount on any previous chargeable event relating to the employment-related securities has been reduced under this subsection).”

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) This paragraph has effect on and after 2nd December 2004.
- 11 (1) In section 443 (exception from charge under section 438 for certain company shares), for subsection (1A) substitute—
- “(1A) This subsection is satisfied unless something which affects the employment-related securities has been done (at or before the time when section 438 would apply) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 443(1A) of ITEPA 2003 has been done on or after 2nd December 2004.

Securities acquired for less than market value

- 12 Chapter 3C of Part 7 (securities acquired for less than market value) is amended as follows.
- 13 (1) In section 446R (exception from Chapter for certain company shares), for subsection (1A) substitute—
- “(1A) This subsection is satisfied unless something which affects the employment-related securities has been done (at or before the time of the acquisition) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 446R(1A) of ITEPA 2003 has been done on or after 2nd December 2004.
- 14 (1) In section 446U(1) (discharge of notional loan), insert at the end “or
- (c) something which affects the employment-related securities is done as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 443U(1) (c) of ITEPA 2003 has been done on or after 2nd December 2004.
- 15 (1) After section 446U insert—

“446UA Pre-acquisition avoidance cases

- (1) Sections 446S to 446U do not apply if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions.
- (2) But instead an amount equal to what would (apart from this section) be the amount of the notional loan initially outstanding by virtue of sections 446S and 446T counts as employment income of the employee for the tax year in which the acquisition takes place.”
- (2) This paragraph has effect in relation to acquisitions on or after 2nd December 2004.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 16 (1) Section 698 (PAYE: special charges on employment-related securities) is amended as follows.
- (2) In subsection (1), after paragraph (e) insert—
- “(ea) section 446UA (securities or interest acquired for less than market value: charge in avoidance cases),”.
- (3) In subsection (6), after paragraph (d) insert—
- “(da) in relation to an amount counting as employment income under section 446UA, the date of the acquisition of the securities or interest in securities in question,”.
- (4) This paragraph has effect on and after the day on which this Act is passed.

Post-acquisition benefits from securities

- 17 Chapter 4 of Part 7 (post-acquisition benefits from securities) is amended as follows.
- 18 (1) Section 447 (charge on other chargeable benefits from securities) is amended as follows.
- (2) In subsection (1), for “by virtue of the ownership of employment-related securities by that person or another associated person” substitute “ in connection with employment-related securities ”.
- (3) For subsection (4) substitute—
- “(4) If the benefit is otherwise chargeable to income tax this section does not apply unless something has been done which affects the employment-related securities as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (4) Sub-paragraph (2) has effect on and after 2nd December 2004 and sub-paragraph (3) has effect where something such as is mentioned in section 447(4) of ITEPA 2003 has been done on or after that date.
- 19 (1) In section 449 (exception from charge under section 447 for certain company shares), for subsection (1A) substitute—
- “(1A) This subsection is satisfied unless something which affects the employment-related securities has been done as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 449(1A) of ITEPA 2003 has been done on or after 2nd December 2004.

Corporation tax relief: minor and consequential amendments

F120

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F1 Sch. 2 para. 20 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F2SCHEDULE 3

Section 24

Textual Amendments

F2 Sch. 3 repealed (1.4.2010, with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 155, **Sch. 10 Pt. 3** (with Sch. 9 paras. 1-9, 22)

SCHEDULE 4

Section 34

CHARGEABLE GAINS: LOCATION OF ASSETS ETC

PART 1

LOCATION OF ASSETS

Exceptions from sections 713 and 714 of ICTA

F3₁

Textual Amendments

F3 Sch. 4 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

Foreign securities: delayed remittances

F4₂

Textual Amendments

F4 Sch. 4 para. 2 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

Designated international organisations

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

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In subsection (3) (securities issued by designated international organisations to be taken to be situated outside UK for the purposes of capital gains tax) for “capital gains tax” substitute “this Act”.

Location of assets: general

- 4 (1) Section 275 of TCGA 1992 is amended as follows.
- (2) Re-number that section as subsection (1) of that section.
- (3) In that subsection, in paragraph (d) (location of shares or securities issued by municipal or governmental authority etc) for “securities” substitute “debentures”.
- (4) In that subsection, after that paragraph insert—
- “(da) subject to paragraph (d) above, shares in or debentures of a company incorporated in any part of the United Kingdom are situated in the United Kingdom.”.
- (5) In that subsection, in paragraph (e) (location of registered shares or securities)—
- (a) for “subject to paragraph (d)” substitute “subject to paragraphs (d) and (da)”;
- (b) for “securities” substitute “debentures”.
- (6) In that subsection, for paragraph (h) (location of patents, trade marks and registered designs) substitute—
- “(h) patents, trade marks, registered designs and corresponding rights are situated where they are registered, and if registered in more than one register, where each register is situated, and licences or other rights in respect of any such rights are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom.”.
- (7) In that subsection, for paragraph (j) (location of copyright, design right and franchises) substitute—
- “(j) copyright, design right, franchises and corresponding rights, and licences or other rights in respect of any such rights, are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom.”.
- (8) After that subsection insert—
- “(2) In subsection (1) above—
- (a) in paragraphs (d), (da) and (e), the references to shares or debentures, in relation to a company that has no share capital, include any interests in the company possessed by members of the company, and
- (b) in paragraphs (d) and (e), the references to debentures, in relation to a person other than a company, include securities.
- (3) In subsection (1) above, in each of paragraphs (h) and (j), “corresponding rights” means any rights under the law of a country or territory outside the United Kingdom that correspond or are similar to those within that paragraph.
- (4) Subsection (1) above is subject to—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

section 265(3) (securities issued by designated international organisations to be taken to be situated outside UK),
 section 266 (securities issued by Inter-American Development Bank to be taken to be situated outside UK), and
 section 275C (location of assets: interests of co-owners).”.

Location of certain intangible assets

5 After section 275 of TCGA 1992 insert—

“275A Location of certain intangible assets

- (1) This section applies for the purpose of determining whether the situation of an intangible asset (“asset A”) is in the United Kingdom if the situation of asset A is not otherwise determined (see section 275B(1)).
- (2) In this section “intangible asset” means—
 - (a) intangible or incorporeal property and includes a thing in action, or
 - (b) anything that under the law of a country or territory outside the United Kingdom corresponds or is similar to intangible or incorporeal property or a thing in action.
- (3) If asset A is subject to UK law (see section 275B(2)) at the time it is created, it shall be taken for the purposes of this Act to be situated in the United Kingdom at all times.
- (4) Subsections (5) to (9) below have effect if asset A—
 - (a) is a future or option (see section 275B(3)), and
 - (b) is not subject to UK law at the time it is created.
- (5) If, as a result of the application of the rule in subsection (6) below in relation to asset A or any other asset or assets, asset A falls to be treated as being subject to UK law at the time it is created, it shall be taken for the purposes of this Act to be situated in the United Kingdom at all times.
- (6) That rule is that where, in the case of any intangible asset,—
 - (a) the asset is a future or option,
 - (b) the underlying subject matter (see section 275B(4)) of the asset consists of or includes an asset which is an intangible asset, and
 - (c) either—
 - (i) that intangible asset is subject to UK law at the time it is created and, on the assumption that there were no rights or interests in or over that asset, the situation of that asset would not be otherwise determined, or
 - (ii) that intangible asset is treated by this subsection as being so subject at that time,

the intangible asset mentioned in paragraph (a) above is to be treated for the purposes of subsection (5) above and this subsection as being so subject at the time it is created.

(7) If—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) asset A is not taken to be situated in the United Kingdom by virtue of subsection (5) above, and
 - (b) as a result of the application of the rule in subsection (8) below in relation to asset A or any other asset or assets, asset A falls to be treated as being situated in the United Kingdom at any time,
- it shall be taken for the purposes of this Act to be situated in the United Kingdom at that time.
- (8) That rule is that where, in the case of any intangible asset,—
- (a) the asset is a future or option, and
 - (b) the underlying subject matter of the asset consists of or includes an asset—
 - (i) which is, by virtue of subsection (9) below or of any provision of this Act apart from this section, situated in the United Kingdom at any time, or
 - (ii) which is treated by this subsection as being so situated at any time,
- the intangible asset mentioned in paragraph (a) above is to be treated for the purposes of subsection (7) above and this subsection as being so situated at that time.
- (9) Where—
- (a) the underlying subject matter of a future or option consists of or includes shares or debentures issued by a company incorporated in any part of the United Kingdom, but
 - (b) at the time the future or option is created, those shares or debentures have not been issued,
- the underlying subject matter of the future or option, so far as consisting of or including those shares or debentures, is to be taken, for the purposes of subsection (8) above, to consist of or include an asset which is situated in the United Kingdom at all times.

275B Section 275A: supplementary provisions

- (1) For the purposes of section 275A, the situation of an asset is not otherwise determined if, apart from that section, this Act does not make any provision for determining—
 - (a) the situation of the asset, or
 - (b) whether the situation of the asset is in the United Kingdom.
- (2) For the purposes of section 275A, an intangible asset is subject to UK law at a particular time if any right or interest which comprises or forms part of the asset is, at that time,—
 - (a) governed by, or otherwise subject to, or
 - (b) enforceable under,the law of any part of the United Kingdom.
- (3) Sub-paragraphs (6) to (10) of paragraph 12 of Schedule 26 to the Finance Act 2002 (meaning of “future” and “option”) apply for the purposes of section 275A as they apply for the purposes of Part 2 of that Schedule.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) For the purposes of section 275A—
- (a) the underlying subject matter of a future is the property which, if the future were to run to delivery, would fall to be delivered at the date and price agreed when the contract is made, and
 - (b) the underlying subject matter of an option is the property which would fall to be delivered if the option were exercised.
- (5) Section 275A is subject to section 275C (location of assets: interests of co-owners).
- (6) This section is to be construed as one with section 275A.”.

Location of assets: interests of co-owners

6 After section 275B of TCGA 1992 (as inserted by paragraph 5) insert—

“275C Location of assets: interests of co-owners

- (1) This section applies for determining for the purposes of this Act—
 - (a) the situation of an interest (see subsection (4)) in an asset, or
 - (b) whether the situation of an interest in an asset is in the United Kingdom.
- (2) The situation of the interest in the asset shall be taken to be the same as the situation of the asset, as determined in accordance with subsection (3) below.
- (3) The situation of the asset for the purposes of subsection (2) above shall be determined on the assumption that the asset is wholly-owned by the person holding the interest in the asset.
- (4) In this section “interest”, in relation to an asset, means an interest as a co-owner of the asset (whether the asset is owned jointly or in common and whether or not the interests of the co-owners are equal).”.

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.
- (2) In subsection (3) (loss accruing to person in year of assessment during which he is not resident or ordinarily resident in UK not to be allowable loss unless, under section 10, he would be chargeable to tax in respect of chargeable gain if the loss had been a gain) after “section 10” insert “ or 10B ”.

Reallocation within group of gain or loss accruing under section 179

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F5** Sch. 4 para. 8 repealed (with effect in accordance with Sch. 10 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 10 para. 8\(c\)](#)

Exemptions for disposals by companies with substantial shareholding

- 9 (1) Schedule 7AC to TCGA 1992 is amended as follows.
- (2) In paragraph 3(2)(c)(ii) (one of conditions for exemption that chargeable gain accruing to company on disposal would by virtue of section 10(3) form part of company's chargeable profits for corporation tax) for “section 10(3)” substitute “section 10B”.

PART 3

COMMENCEMENT

Commencement

- 10 (1) The amendments made by Part 1 of this Schedule have effect for determining for the purposes of TCGA 1992—
- (a) the situation of any asset, or
 - (b) whether the situation of any asset is in the United Kingdom,
- at any time on or after 16th March 2005 (irrespective of when the asset was acquired by the person holding it).
- (2) The amendment made by paragraph 7 has effect in relation to any loss accruing to a company in an accounting period ending on or after 16th March 2005.
- ^{F6}(3)
- (4) The amendment made by paragraph 9 has effect in relation to disposals on or after 16th March 2005.

Textual Amendments

- F6** Sch. 4 para. 10(3) repealed (with effect in accordance with Sch. 10 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 10 para. 8\(c\)](#)

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 5

Section 35

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.
- (2) In subsection (1) (cases in which the section applies) at the beginning insert “ Subject to section 144ZB, ”.
- (3) In subsection (4) (where market value rule is set aside by the section, amount or value to be taken into account is, subject to section 120, to be actual amount or value) for “(subject to section 120) the actual amount or value” substitute “ (subject to section 119A) the exercise price ”.
- (4) After that subsection insert—
- “(4A) In subsection (4) above “exercise price”, in relation to an option, means the amount or value of the consideration which, under the terms of the option, is—
- (a) receivable (if the option binds the grantor to buy), or
- (b) payable (if the option binds the grantor to sell),
- as a result of the exercise of the option (and does not include the amount or value of any consideration for the acquisition of the option (whether directly from the grantor or not)).”.
- (5) For subsection (5) substitute—
- “(5) Subsections (5) and (6) of section 144 shall apply for the purposes of this section and sections 144ZB to 144ZD as they apply for the purposes of that section.”.

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

- 2 After section 144ZA of TCGA 1992 insert—

“144ZB Exception to rule in section 144ZA

- (1) This section applies where—
- (a) section 144ZA would apply but for this section in relation to an option, and
- (b) the exercise of the option is non-commercial (see section 144ZC).
- (2) But this section does not apply if—
- (a) the option is a securities option within the meaning of Chapter 5 of Part 7 of ITEPA 2003 (see section 420(8) of that Act) to which that Chapter applies or would, apart from section 474 of that Act, apply (see section 471 of that Act), or

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) section 144ZD of this Act (value of underlying subject matter of option altered with a view to obtaining a tax advantage) applies in relation to the option.
- (3) Where this section applies, neither section 144ZA nor the following provisions of section 144 shall apply in relation to the option—
 - (a) in subsection (2), the words from “and accordingly” to the end of that subsection, and
 - (b) in subsection (3), the words from “and accordingly” to the end of that subsection;but subsection (4) or (5) below shall instead have effect (subject to subsection (6) below).
- (4) If the option binds the grantor to buy—
 - (a) the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option, and
 - (b) the consideration for the disposal of what is bought by the grantor, shall be deemed for the purposes of tax in respect of chargeable gains to be the market value, at the time the option is exercised, of what is bought.
- (5) If the option binds the grantor to sell—
 - (a) the consideration for the sale, and
 - (b) the cost to the person exercising the option of acquiring what is sold, shall be deemed for the purposes of tax in respect of chargeable gains to be the market value, at the time the option is exercised, of what is sold.
- (6) But if the whole or any part of the underlying subject matter of the option (see subsection (7)) is subject to any right or restriction which is enforceable by the person disposing of the underlying subject matter or a person connected with him—
 - (a) the market value of the underlying subject matter shall be determined for the purposes of subsection (4) or (5) above as if the right or restriction did not exist, and
 - (b) to the extent that subsection (6) or (7) of section 18 would apply apart from this paragraph, it shall be disregarded.
- (7) In this section “underlying subject matter”, in relation to an option, means—
 - (a) if the option binds the grantor to sell, what falls to be sold on exercise of the option;
 - (b) if the option binds the grantor to buy, what falls to be bought on exercise of the option.

144ZC Section 144ZB: non-commercial exercise of option

- (1) For the purposes of section 144ZB, the exercise of an option which binds the grantor to buy is non-commercial if the exercise price for the option (see subsection (3)) is less than the open market price (see subsection (4)) of what is bought.
- (2) For the purposes of section 144ZB, the exercise of an option which binds the grantor to sell is non-commercial if the exercise price for the option is greater than the open market price of what is sold.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In this section “exercise price”, in relation to an option, means the amount or value of the consideration which, under the terms of the option, is—
- (a) receivable (if the option binds the grantor to buy), or
 - (b) payable (if the option binds the grantor to sell),
- as a result of the exercise of the option (and does not include the amount or value of any consideration for the acquisition of the option (whether directly from the grantor or not)).
- (4) In this section “open market price”, in relation to the underlying subject matter of an option (see section 144ZB(7)), means the price which the underlying subject matter might reasonably be expected to fetch on a sale in the open market at the time the option is exercised; and subsections (5) to (7) below apply for the purposes of this subsection.
- (5) If the whole or any part of the underlying subject matter of the option is subject to any right or restriction which is enforceable by—
- (a) the person disposing of the underlying subject matter, or
 - (b) a person connected with him,
- the open market price of the underlying subject matter shall be determined as if the right or restriction did not exist.
- (6) Section 272(2) (no reduction in estimated market value on account of assumption that whole of assets are placed on market at one time) shall apply in estimating the open market price of the underlying subject matter of an option as it applies in estimating the market value of any assets.
- (7) Where the underlying subject matter of an option comprises or includes assets to which section 273 applies (unquoted shares and securities), subsection (3) of that section (assumption that relevant information is available) shall apply in determining the open market price of those assets as it applies for the purposes of a determination falling within subsection (1) of that section.
- (8) This section is to be construed as one with section 144ZB.

144ZD Section 144ZB: alteration of value to obtain tax advantage

- (1) This section applies in relation to an option if each of the following conditions is satisfied (as to the effect of this section applying, see section 144ZB(2)(b)).
- (2) Condition 1 is that section 144ZB would, apart from subsection (2)(b) of that section, apply in relation to the option.
- (3) Condition 2 is that, at the time the option is exercised, the open market price (see section 144ZC(4)) of the underlying subject matter of the option (see section 144ZB(7)) differs from the open market price of the underlying subject matter of the option at the time the option was granted.
- (4) Condition 3 is that some or all of that change in the open market price of the underlying subject matter of the option results to any extent, directly or indirectly, from arrangements (see subsection (8)) (“the relevant arrangements”)—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) to which a relevant person is or has been a party, or
 - (b) which include one or more transactions to which a relevant person is or has been a party.
- (5) In subsection (4) above “relevant person” means any of the following—
- (a) the grantor of the option;
 - (b) any person who at any time holds the option;
 - (c) a person connected with one or more of the persons mentioned in paragraph (a) or (b) above.
- (6) Condition 4 is that, if there were to be disregarded so much of that change in the open market price of the underlying subject matter of the option as results to any extent, directly or indirectly, from the relevant arrangements, the exercise of the option would not be non-commercial (see section 144ZC).
- (7) Condition 5 is that (apart from this section) as a result, directly or indirectly, of the relevant arrangements—
- (a) the grantor of the option, or
 - (b) the person exercising the option,
- would obtain or might be expected to obtain an advantage (see subsection (9)) in relation to capital gains tax or corporation tax in respect of chargeable gains directly or indirectly in consequence of, or otherwise in connection with, the exercise of the option.
- (8) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (9) In this section “advantage”, in relation to capital gains tax or corporation tax in respect of chargeable gains, means—
- (a) relief or increased relief from, or repayment or increased repayment of, that tax, or the avoidance or reduction of a charge to that tax or an assessment to that tax or the avoidance of a possible assessment to that tax, or
 - (b) the deferral of any payment of that tax or the advancement of any repayment of that tax.
- (10) This section is to be construed as one with sections 144ZB and 144ZC.”

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.
- (2) In subsection (1) (cases in which subsection (2) applies) in paragraph (b) (some of the acquired shares to be approved-scheme shares) for sub-paragraphs (i) and (ii) substitute—
- “(i) the exercise of a qualifying option within the meaning given by section 527(4) of ITEPA 2003 (enterprise management

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- incentives) in circumstances where section 530 or 531 of that Act (exercise of option to acquire shares) applies, or
- (ii) the exercise of an option to which Chapter 7 or 8 of Part 7 of that Act (approved share option schemes) applies in circumstances where section 519(1) or 524(1) of that Act applies.”.

Employment-related securities options

- 4 (1) Section 149A of TCGA 1992 is amended as follows.
- (2) In subsection (1) (cases in which the section applies) for paragraph (b) (option to consist of right to acquire shares in body corporate and to be obtained by individual by reason of his office or employment) substitute—
- “ (b) the option is a securities option within the meaning of Chapter 5 of Part 7 of ITEPA 2003 (see section 420(8) of that Act) to which that Chapter applies or would, apart from section 474 of that Act, apply (see section 471 of that Act), and”.
- (3) In that subsection, in paragraph (c) (section 17(1) to apply for calculating consideration for grant of option) after “section 17(1)” insert “of this Act”.
- (4) The heading of the section accordingly becomes “ Employment-related securities options ”.

Interpretation of TCGA 1992

- 5 (1) Section 288 of TCGA 1992 is amended as follows.
- (2) In subsection (1A) (employment-related securities options) for the second sentence substitute— “ In this subsection “employment-related securities option” means a securities option within the meaning of Chapter 5 of Part 7 of ITEPA 2003 (see section 420(8) of that Act) to which that Chapter applies or would, apart from section 474 of that Act, apply (see section 471 of that Act); and other expressions used in this subsection and that Chapter have the same meaning in this subsection as in that Chapter. ”.

PART 3

COMMENCEMENT

Commencement

- 6 (1) The amendments made by paragraphs 1 to 3 have effect in relation to cases where the option in question is exercised on or after 2nd December 2004 (whenever the option was acquired).
- (2) The amendments made by paragraphs 4 and 5 have effect in relation to options granted on or after 2nd December 2004.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 6

Section 37

ACCOUNTING PRACTICE AND RELATED MATTERS

Adjustment on change of accounting basis

F71

Textual Amendments

F7 Sch. 6 para. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

2 (1) In section 227 of ITTOIA 2005 (adjustment on change of accounting basis: income tax), for subsection (4) (meaning of “relevant change of accounting approach”) substitute—

“(4) A “relevant change of accounting approach” means—

- (a) a change of accounting principle or practice that, in accordance with generally accepted accounting practice, gives rise to a prior period adjustment, or
- (b) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts drawn up in accordance with international accounting standards.”.

(2) This amendment has effect for the tax year 2005-06 and subsequent tax years in relation to periods of account beginning on or after 1st January 2005.

Meaning of “statutory insolvency arrangement”

3 (1) For section 259 of ITTOIA 2005 (trading income: meaning of “statutory insolvency arrangement”) substitute—

“259 Meaning of “statutory insolvency arrangement”

In this Part “statutory insolvency arrangement” means—

- (a) a voluntary arrangement that has taken effect under or as a result of the Insolvency Act 1986, Schedule 4 or 5 to the Bankruptcy (Scotland) Act 1985 or the Insolvency (Northern Ireland) Order 1989,
- (b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986, or
- (c) any arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) that has taken effect under or by virtue of the law of a country or territory outside the United Kingdom.”.

(2) This amendment has effect for the tax year 2005-06 and subsequent tax years in relation to periods of account beginning on or after 1st January 2005.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Minor corrections

F8₄

Textual Amendments
F8 Sch. 6 paras. 4-6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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

F8₅

Textual Amendments
F8 Sch. 6 paras. 4-6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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

F8₆

Textual Amendments
F8 Sch. 6 paras. 4-6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Loan relationships with embedded derivatives

F9₇

Textual Amendments
F9 Sch. 6 para. 7 repealed (1.4.2009, with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 673(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2, Pt. 8 para. 64)

- 8 (1) In section 116(8A) of TCGA 1992 (reorganisations, conversions and reconstructions: application of loan relationships regime in certain cases)—
 - (a) after “shall have effect” insert “, subject to subsection (8B) below, ”, and
 - (b) for “that subsection” substitute “ subsection (6) above ”.
- (2) After that subsection insert—
 - “(8B) Subsection (8A) above does not apply where the relevant transaction is a conversion of securities occurring in consequence of the operation of the terms of any security or of any debenture which is not a security.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Expressions used in this subsection have the same meaning as they have for the purposes of section 132.”.

(3) These amendments have effect in relation to transactions occurring after 26th May 2005.

Exchange gains and losses

F10₉

Textual Amendments

F10 Sch. 6 para. 9 repealed (1.4.2009, with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 673(b), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2, Pt. 8 para. 64)

F11₁₀

Textual Amendments

F11 Sch. 6 para. 10 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F12₁₁

Textual Amendments

F12 Sch. 6 para. 11 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 7

Section 39

AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

Rent factoring

F13₁

Textual Amendments

F13 Sch. 7 para. 1 repealed (with effect in accordance with Sch. 26 Pt. 3(12) Note of the amending Act) by Finance Act 2006 (c. 25), **Sch. 26 Pt. 3(12)**

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

F14₂

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F14** Sch. 7 para. 2 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 25 para. 9\(3\)\(f\)](#)

Change in ownership of company with investment business

F153

Textual Amendments

- F15** Sch. 7 para. 3 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

Transfers of rights to receive annual payments

F164

Textual Amendments

- F16** Sch. 7 para. 4 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 25 para. 9\(3\)\(f\)](#)

Disposals and acquisitions of company loan relationships with or without interest

F175

Textual Amendments

- F17** Sch. 7 para. 5 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 9\(c\), 12](#)

Manufactured interest and the accrued income scheme

F186

Textual Amendments

- F18** Sch. 7 para. 6 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

Consideration due after time of disposal: creditor relationships etc

- 7 (1) Section 48 of TCGA 1992 (consideration due after time of disposal) is amended as follows.
- (2) At the beginning insert “ (1) ”.
- (3) At the end add—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “(2) Subsection (1) above does not apply in relation to so much of any consideration as consists of rights under a creditor relationship to which a company becomes a party as a result of the disposal.
- (3) In the computation of the gain in a case where subsection (2) above has effect in relation to any consideration, the amount to be brought into account in respect of that consideration is the fair value of the creditor relationship.
- (4) In this section—
- (a) “creditor relationship”, and
 - (b) “fair value”, in relation to a creditor relationship,
- each have the same meaning as in Chapter 2 of Part 4 of the Finance Act 1996 (see section 103(1) of that Act).”.

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

- 8 In TCGA 1992, after section 151C (strips: manipulation of price: associated payment giving rise to loss) insert—

“151D Corporate strips: manipulation of price: associated payment giving rise to loss

- (1) This section applies if—
- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been, as mentioned in paragraph (a), (b) or (c) of section 452G(2) of ITTOIA 2005,
 - (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a corporate strip, and
 - (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person.
- (2) The loss shall not be an allowable loss.
- (3) For the purposes of this section a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits, that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from section 452G of ITTOIA 2005 and this section) is—
- (a) the obtaining of a tax advantage by any person, or
 - (b) the accrual to any person of an allowable loss.
- (4) The reference in subsection (1)(b) above to the acquisition or disposal of a corporate strip shall be construed as if it were in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see, in particular, sections 437 and 452F of that Act for the meaning of “disposal” and section 452E of that Act for the meaning of “corporate strip”).
- (5) In subsection (3)(a) above “tax advantage” has the meaning given by section 709(1) of the Taxes Act.
- (6) This section applies to losses accruing on or after 6th April 2005.”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Transactions within a group: shares subject to third party obligations

F19⁹

Textual Amendments

F19 Sch. 7 para. 9 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 9(c), 12**

Shares treated as loan relationships

F20¹⁰

Textual Amendments

F20 Sch. 7 para. 10 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Related transactions in relation to right to receive manufactured interest

F21¹¹

Textual Amendments

F21 Sch. 7 para. 11 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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;
- (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).

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.
- (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.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Meaning of “commercial rate of interest”

^{F22}13

Textual Amendments

F22 Sch. 7 para. 13 omitted (with effect in accordance with Sch. 22 para. 19(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 22 para. 19\(2\)\(b\)](#)

Capital redemption policies: removal of exclusion from loan relationships computations

- 14 (1) Schedule 9 to FA 1996 (loan relationships: special computational provisions) is amended as follows.
- (2) In paragraph 1A(1) (credits and debits relating to life policies and capital redemption policies not to be brought into account) paragraph (b) (capital redemption policies) shall cease to have effect.
- (3) This paragraph has effect in relation to a capital redemption policy on and after 10th February 2005 (whenever the capital redemption policy was effected).
- (4) Where a capital redemption policy—
- (a) is held by a company immediately before 10th February 2005, and
 - (b) on or after that date, is, for the purposes of Chapter 2 of Part 4 of FA 1996 [^{F23}or Part 5 of CTA 2009], a creditor relationship of the company,
- sub-paragraphs (5) and (6) apply.
- (5) In any such case, Chapter 2 of Part 13 of ICTA (life policies etc: chargeable events) shall have effect as if—
- (a) immediately before 10th February 2005, the company had assigned the whole of the rights conferred by the policy for money or money's worth, and
 - (b) the value of the consideration for the assignment had been equal to what the carrying value of the creditor relationship would have been had an accounting period of the company ended on that date;
- and Chapter 2 of Part 4 of FA 1996 [^{F24}and Part 5 of CTA 2009] shall have effect as if, immediately after 9th February 2005, the company had acquired the creditor relationship at a cost equal to that carrying value.
- (6) But if—
- (a) the accounting period in which the assignment is deemed to have happened (“the assignment period”), and
 - (b) the accounting period in which the company ceases to be party to the creditor relationship (“the cessation period”),
- are not the same accounting period, any gain which, by virtue of the deemed assignment, would have fallen to be brought into account in accordance with section 547(1)(b) of ICTA for the assignment period shall instead be brought into account for the cessation period.
- (7) In this paragraph—
- “assignment”, in relation to Scotland, means an assignation;

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“carrying value” has the same meaning as it has for the purposes of paragraph 19A of Schedule 9 to FA 1996, as it has effect for periods of account beginning on or after 1st January 2005.

Textual Amendments

F23 Words in Sch. 7 para. 14(4)(b) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 674(a)** (with [Sch. 2 Pts. 1, 2](#))

F24 Words in Sch. 7 para. 14(5) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 674(b)** (with [Sch. 2 Pts. 1, 2](#))

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

F25¹⁵

Textual Amendments

F25 Sch. 7 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

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

F25¹⁶

Textual Amendments

F25 Sch. 7 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

Continuity of treatment of groups etc: treatment of transferee company

F25¹⁷

Textual Amendments

F25 Sch. 7 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

Transferee leaving group after replacing transferor as party to loan relationship

F25¹⁸

Textual Amendments

F25 Sch. 7 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Avoidance involving repos or stock lending

F26 19

Textual Amendments

F26 Sch. 7 para. 19 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

Capital redemption policies: computations on the I minus E basis

F27 20

Textual Amendments

F27 Sch. 7 para. 20 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

Relevant discounted securities: corporate strips

- 21 (1) Schedule 13 to FA 1996 (discounted securities: income tax) is amended as follows.
- (2) In paragraph 3 (meaning of “relevant discounted security”) in sub-paragraph (1), for “paragraph 14(1)” substitute “ paragraphs 13B(1) and 14(1) ”.
- (3) In paragraph 4 (meaning of “transfer”)—
- (a) in sub-paragraph (1), after “Subject to sub-paragraph (2)” insert “ and paragraph 13B(4) ”;
- (b) in sub-paragraph (5), after “without prejudice to paragraph” insert “ 13B(2) to (5) or ”.
- (4) In paragraph 5 (redemption to include conversion), in sub-paragraph (3), after “This paragraph does not apply to” insert “—
- (a) the conversion of an interest-bearing corporate security into corporate strips (see paragraph 13A(2) to (7) below), or
- (b) ”.
- (5) After paragraph 13 (excluded indexed securities) insert—

“Meaning of corporate strip and conversion into corporate strips

- 13A(1) In this Schedule “corporate strip” means any asset—
- (a) which is, or has at any time been, one of the separate assets mentioned in sub-paragraph (2) below, and
- (b) which is not prevented from being a corporate strip by sub-paragraph (9) below.
- (2) For the purposes of this Schedule a person converts an interest-bearing corporate security into corporate strips of the security if he has an interest-bearing corporate security (“the converted corporate security”) but—
- (a) as a result of any scheme or arrangements, he comes to have two or more separate assets in place of the converted corporate security,
- (b) each of those separate assets satisfies condition A,

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) those separate assets, taken together, satisfy condition B, and
 - (d) at least one of those separate assets is not prevented from being a corporate strip by sub-paragraph (9) below,
- and related expressions shall be construed accordingly.
- (3) Condition A is that the asset—
- (a) represents the right to, or
 - (b) secures,
- one or more stripped payments.
- (4) For the purposes of this paragraph, a “stripped payment” is—
- (a) the payment of, or
 - (b) a payment corresponding to,
- the whole or a part of one or more payments (whether of interest or principal) remaining to be made under the converted corporate security.
- (5) Condition B is that the assets, taken together,—
- (a) represent the right to, or
 - (b) secure,
- every payment (whether of interest or principal) remaining to be made under the converted corporate security (or payments corresponding to every such payment).
- (6) Where a person—
- (a) has an interest-bearing corporate security, but
 - (b) sells or transfers the right to one or more payments remaining to be made under it (so that, as a result, there are two or more separate assets which, taken together, satisfy condition B),
- this Schedule has effect as if, as a result of a scheme or arrangements, the person had come to have the separate assets in place of the security immediately before the sale or transfer.
- (7) For the purposes of this Schedule, sub-paragraphs (2) to (6) above also have effect in relation to each of the separate assets mentioned in sub-paragraph (2) above as if it were itself an interest-bearing corporate security (if that is not in fact the case).
- (8) Where sub-paragraphs (2) to (6) above have effect by virtue of sub-paragraph (7) above—
- (a) any reference in this Schedule to converting an interest-bearing corporate security into corporate strips of the security shall be construed accordingly, and
 - (b) sub-paragraph (1) above (meaning of “corporate strip”) has effect accordingly.
- (9) An asset is not a corporate strip if it—
- (a) represents the right to, or
 - (b) secures,
- payments of, or corresponding to, a part of every payment remaining to be made under an interest-bearing corporate security or a corporate strip.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) After a balance has been struck for a dividend on an interest-bearing corporate security, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated for the purposes of this paragraph as not being a payment remaining to be made under the security.

References to payments the right to which a separate asset represents or secures shall be construed accordingly.

Corporate strips deemed to be relevant discounted securities

- 13B (1) Every corporate strip is a relevant discounted security.
- (2) Where a person converts an interest-bearing corporate security into corporate strips of the security, he shall be deemed to have paid, in respect of his acquisition of each corporate strip, an amount determined in accordance with sub-paragraph (3) below.
- (3) The amount is that which bears to the acquisition cost of the converted corporate security the proportion that SMV bears to TMV, where—
SMV is the market value of the corporate strip, and
TMV is the total of the market values of all the separate assets resulting from the conversion.
- (4) If the converted corporate security is a relevant discounted security—
(a) its conversion into corporate strips is deemed to be a transfer of the security, and
(b) the amount payable on the transfer is deemed to be an amount equal to the acquisition cost of the converted corporate security.
- (5) Where corporate strips are consolidated into a single security—
(a) by being exchanged by any person for that security, or
(b) by being otherwise converted by any person into that security under any arrangements,
each of the corporate strips shall be deemed to have been redeemed, at the time of the exchange or other conversion, by the payment to that person of an amount equal to its market value.
- (6) Sub-paragraphs (2) to (5) above have effect for the purposes of this Schedule.
- (7) For the purposes of this paragraph, the acquisition cost of the converted corporate security is the amount paid in respect of his acquisition of the security by the person who has it immediately before the conversion (no account being taken of any costs incurred in connection with that acquisition).
- (8) References in this paragraph to the market value of a security given or received in exchange for, or otherwise converted into, another are references to its market value at the time of the exchange or conversion.

Corporate strips: manipulation of acquisition, sale or redemption price

- 13C (1) This paragraph applies in any case where, as a result of any scheme or arrangement,—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the amount paid by a person in respect of his acquisition of a corporate strip is or was more than the market value of the corporate strip at the time of that acquisition,
 - (b) the amount payable to a person on a transfer of a corporate strip by him is less than the market value of the corporate strip at the time of the transfer, or
 - (c) on redemption of a corporate strip, the amount payable to a person, as the person holding the corporate strip, is less than the market value of the corporate strip on the day before redemption,
- and the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.
- (2) In a case falling within sub-paragraph (1)(a) above, the person shall be treated for the purposes of paragraph 1(2)(b) above on a transfer of the corporate strip by him as if he had paid in respect of his acquisition of the corporate strip an amount equal to the market value of the corporate strip at the time of that acquisition.
 - (3) In a case falling within sub-paragraph (1)(b) above, the person shall be treated for the purposes of paragraph 1(2)(b) above as if the amount payable to him on the transfer were an amount equal to the market value of the corporate strip at the time of the transfer.
 - (4) In a case falling within sub-paragraph (1)(c) above, the person shall be treated for the purposes of paragraph 1(2)(b) above as if the amount payable to him on redemption were an amount equal to the market value of the corporate strip on the day before redemption.
 - (5) The market value of a corporate strip at any time shall be determined for the purposes of this paragraph without regard to any increase or diminution in the value of the corporate strip as a result of the scheme or arrangement mentioned in sub-paragraph (1) above.
 - (6) For the purposes of this paragraph, no account shall be taken of any costs incurred in connection with any transfer or redemption of a corporate strip or its acquisition.
 - (7) In this paragraph “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.

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

13D(1) Where—

- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been, as mentioned in paragraph (a), (b) or (c) of paragraph 13C(1) above,
- (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a corporate strip, and
- (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person for the purposes of capital gains tax,

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the loss shall not be an allowable loss for the purposes of capital gains tax.

- (2) For the purposes of this paragraph, a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits, that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from paragraph 13C above and this paragraph) is—
- (a) the obtaining of a tax advantage by any person, or
 - (b) the accrual to any person of an allowable loss for the purposes of capital gains tax.
- (3) In this paragraph “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.”
- (6) In paragraph 15(1) (general interpretation) insert each of the following definitions at the appropriate place—
- ““corporate strip” has the meaning given by paragraph 13A above;”;
 - ““interest-bearing corporate security” means any interest-bearing security other than—
 - (a) a security issued by the government of a territory;
 - (b) a share in a company;”;
 - ““interest-bearing security” includes any loan stock or similar security;”.
- (7) In paragraph 15(1)—
- (a) in the definition of “relevant discounted security”, after “paragraphs 3” insert “ , 13B(1) ”;
 - (b) in the definition of “strip”, after “ “strip” ” insert “ , except in the expression “corporate strip”, ”.
- (8) The amendments made by this paragraph have effect in any case where a person acquires a corporate strip on or after 2nd December 2004 otherwise than in pursuance of an agreement entered into before that date.

Transactions within groups: treatment of transferee company

^{F28}22

Textual Amendments

F28 Sch. 7 paras. 22-24 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Transactions within groups: fair value accounting

^{F28}23

Textual Amendments

F28 Sch. 7 paras. 22-24 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Transferee leaving group after replacing transferor as party to derivative contract

F28 24

Textual Amendments

F28 Sch. 7 paras. 22-24 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Deeply discounted securities: corporate strips

- 25 (1) Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) is amended as follows.
- (2) In section 430 (meaning of “deeply discounted security”) in subsection (6) (subjections) omit “and” before the entry relating to section 443(1) and at the end of that entry add “, and section 452A(1) (corporate strips).”.
- (3) In section 437 (transactions which are disposals) after subsection (4) insert—
- “ (5) In the case of interest-bearing corporate securities, further provision about occasions counting as disposals is made by section 452F(2)(a).
- (6) In the case of corporate strips, further provision about occasions counting as disposals is made by section 452F(2)(a) and (3)(a).”.
- (4) In section 438 (timing of transfers and acquisitions) for subsection (4) substitute—
- “ (4) This section is subject to—
- section 445(7) (exchanges for and consolidations of strips);
- section 452F(4) (conversion into and consolidations of corporate strips).”.
- (5) In section 440 (market value disposals) for subsection (5) substitute—
- “ (5) Subsection (4) is subject to—
- section 445(8) (exchanges for and consolidations of strips);
- section 452F(5) (conversion into and consolidations of corporate strips).”.
- (6) In section 441 (market value acquisitions) for subsection (3) substitute—
- “ (3) Subsection (2) is subject to—
- section 445(8) (exchanges for and consolidations of strips);
- section 452F(5) (conversion into and consolidations of corporate strips).”.
- (7) In section 444 (meaning of “strip” in Chapter 8) after subsection (5) insert—
- “ (6) Nothing in this section affects the meaning of the expression “corporate strip” in this Chapter (see section 452E).”.
- (8) After section 452 insert—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“Special rules for corporate strips

452A Application of this Chapter to corporate strips

- (1) All corporate strips are treated as deeply discounted securities for the purposes of this Chapter, whether or not they would otherwise be so.
- (2) This Chapter applies to corporate strips subject to the rules in—
 - (a) section 452F (corporate strips: acquisitions and disposals), and
 - (b) section 452G (corporate strips: manipulation of acquisition, transfer or redemption payments).

452B Meaning of “interest-bearing corporate security” in Chapter 8

- (1) In this Chapter “interest-bearing corporate security” means any interest-bearing security other than—
 - (a) a security issued by the government of a territory, or
 - (b) a share in a company.
- (2) In this section “interest-bearing security” includes any loan stock or similar security.
- (3) Section 452D(4)(a) gives an extended meaning to references to converting an interest-bearing corporate security into corporate strips (and related expressions).

452C Conversion of interest-bearing corporate securities into corporate strips

- (1) For the purposes of this Chapter a person converts an interest-bearing corporate security into corporate strips of the security if he has an interest-bearing corporate security (“the converted corporate security”) but—
 - (a) as a result of any scheme or arrangements, he acquires two or more separate assets in place of the converted corporate security,
 - (b) each of those separate assets satisfies condition A,
 - (c) those separate assets, taken together, satisfy condition B, and
 - (d) at least one of those separate assets is not prevented from being a corporate strip by section 452E(2) or (3),and related expressions shall be construed accordingly.
- (2) Condition A is that the asset—
 - (a) represents the right to, or
 - (b) secures,one or more stripped payments.
- (3) For the purposes of this section, a “stripped payment” is—
 - (a) the payment of, or
 - (b) a payment corresponding to,the whole or a part of one or more payments (whether of interest or principal) remaining to be made under the converted corporate security.
- (4) Condition B is that the assets, taken together,—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) represent the right to, or
 - (b) secure,
- every payment (whether of interest or principal) remaining to be made under the converted corporate security (or payments corresponding to every such payment).
- (5) Where a person—
- (a) has an interest-bearing corporate security, but
 - (b) sells or transfers the right to one or more payments remaining to be made under it (so that, as a result, there are two or more separate assets which, taken together, satisfy condition B),
- this Chapter has effect as if, as a result of a scheme or arrangements, the person had acquired the separate assets in place of the security immediately before the sale or transfer.
- (6) After a balance has been struck for a dividend on an interest-bearing corporate security, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated for the purposes of this paragraph as not being a payment remaining to be made under the security.

452D Conversion into corporate strips: lower level conversions

- (1) For the purposes of this Chapter, section 452C also has effect in relation to each of the separate assets mentioned in subsection (1) of that section as if that separate asset were itself an interest-bearing corporate security (if that is not in fact the case).
- (2) In subsection (1), the reference to section 452C includes a reference to that section as it has effect by virtue of this section.
- (3) In the application of section 452C by virtue of this section, references to payments the right to which a separate asset represents or secures shall be construed in accordance with subsection (6) of that section.
- (4) Where section 452C has effect by virtue of subsection (1)—
 - (a) any reference in this Chapter to converting an interest-bearing corporate security into corporate strips of the security shall be construed accordingly, and
 - (b) section 452E (meaning of “corporate strip”) has effect accordingly.

452E Meaning of “corporate strip” in Chapter 8

- (1) In this Chapter “corporate strip” means any asset—
 - (a) which is, or has at any time been, one of the separate assets mentioned in section 452C(1), and
 - (b) which is not prevented from being a corporate strip by subsection (2) or (3).
- (2) An asset is not a corporate strip if it—
 - (a) represents the right to, or
 - (b) secures,

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

payments of, or corresponding to, a part of every payment remaining to be made under an interest-bearing corporate security or a corporate strip.

- (3) An asset is a corporate strip in the case of any person only if he acquired it—
- (a) on or after 2nd December 2004, and
 - (b) otherwise than in pursuance of an agreement entered into before that date.

452F Corporate strips: acquisitions and disposals

- (1) A person who converts an interest-bearing corporate security into corporate strips of the security is treated as having acquired each corporate strip by the payment of an amount equal to—

$$A \times \frac{B}{C}$$

where—

A is the acquisition cost of the converted corporate security;

B is the market value of the corporate strip;

C is the total of the market values of all the separate assets resulting from the conversion.

- (2) If the converted corporate security is a deeply discounted security—
- (a) its conversion into corporate strips is to be treated for the purposes of this Chapter as a transfer of the security, but
 - (b) the amount payable on the transfer is taken to be an amount equal to the acquisition cost of the converted corporate security.
- (3) For the purposes of this Chapter—
- (a) the consolidation of a corporate strip with other corporate strips into a single security is a disposal of the corporate strip by the person consolidating it (whether or not it would be apart from this subsection), and
 - (b) an amount equal to the market value of the corporate strip at the consolidation is treated as payable on the disposal.
- (4) Section 438 (timing of transfers and acquisitions) does not apply to a conversion within subsection (1) or a consolidation within subsection (3).
- (5) Subsections (1) to (3) apply instead of sections 440(4) (market value on general conversions of deeply discounted securities) and 441 (market value acquisitions).
- (6) For the purposes of this section, the acquisition cost of the converted corporate security is the amount paid in respect of his acquisition of the security by the person who has it immediately before the conversion

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(no account being taken of any costs incurred in connection with that acquisition).

- (7) References in this section to the market value of a security given or received in exchange for, or otherwise converted into, another are references to its market value at the time of the exchange or conversion.

452G Corporate strips: manipulation of acquisition, transfer or redemption payments

- (1) This section applies if—
- (a) as a result of any scheme or arrangement, an amount referred to in subsection (2)(a), (b) or (c) differs from the market value of the corporate strip in a way specified in that subsection, and
 - (b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.
- (2) The ways are that—
- (a) the amount paid by a person in respect of the acquisition of the corporate strip is or was more than the market value of the corporate strip at the time of that acquisition,
 - (b) the amount payable to a person on transferring the corporate strip is less than the market value at the time of the transfer, or
 - (c) on redemption of the corporate strip the amount payable to a person, as the person holding the corporate strip, is less than the market value on the day before redemption.
- (3) In a case within subsection (2)(a), for the purposes of section 439(1) on transferring the corporate strip the person is treated as if the person had paid to acquire the corporate strip an amount equal to the market value of the corporate strip at the time of the acquisition.
- (4) In a case falling within subsection (2)(b), for those purposes the person is treated as if the amount payable to the person on the transfer were an amount equal to the market value of the corporate strip at the time of the transfer.
- (5) In a case falling within subsection (2)(c), for those purposes the person is treated as if the amount payable to the person on redemption were an amount equal to the market value of the corporate strip on the day before redemption.
- (6) The market value of a corporate strip at any time is to be determined for the purposes of this section without regard to any increase or diminution in the value of the corporate strip as a result of the scheme or arrangement mentioned in subsection (1).
- (7) For the purposes of this section, no account is to be taken of any incidental expenses incurred in connection with any disposal or acquisition of a corporate strip.”
- (9) In Schedule 4 (abbreviations and defined expressions) in Part 2 (expressions defined in the Act or in ICTA) insert each of the following entries at the appropriate place—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“conversion of an interest-bearing corporate security into corporate strips of the security (for the purposes of Chapter 8 of Part 4) sections 452C and 452D”;

“corporate strip (for the purposes of Chapter 8 of Part 4) section 452E”;

“interest-bearing corporate security (for the purposes of Chapter 8 of Part 4) section 452B”.

(10) ITTOIA 2005 shall have effect as if it had been originally enacted with the amendments made by this paragraph.

SCHEDULE 8

Section 40

FINANCING OF COMPANIES ETC: TRANSFER PRICING AND LOAN RELATIONSHIPS

Amendments of Schedule 28AA to ICTA

F29 1

Textual Amendments

F29 Sch. 8 para. 1 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9, 22)

Amendments of Schedule 9 to FA 1996

F30 2

Textual Amendments

F30 Sch. 8 para. 2 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

F31 3

Textual Amendments

F31 Sch. 8 para. 3 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

Commencement and transitional provisions

F32 4

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F32** Sch. 8 para. 4 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 9

Section 42

INSURANCE COMPANIES ETC

Expenses of insurance companies

- 1 (1) Section 76 of ICTA is amended as follows.
- (2) In subsection (8) (expenses attributable to basic life assurance and general annuity business for the purposes of Step 1 are to be those so attributable under proper internal accounting practice) in the second sentence (meaning of “proper internal accounting practice”) at the end of paragraph (b) insert “, or
(c) the Integrated Prudential Sourcebook.”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

Interpretative provisions relating to insurance companies

- 2 (1) Section 431(2) of ICTA is amended as follows.
- (2) Insert the following definition at the appropriate place—
““the Integrated Prudential Sourcebook” means the Integrated Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.
- (3) For the definition of “liabilities” substitute—
““liabilities”, in relation to an insurance company, means—
(a) the mathematical reserves of the company as determined in accordance with chapter 7.3 of the Integrated Prudential Sourcebook, and
(b) liabilities of the company (whose value falls to be determined in accordance with chapter 1.3 of that Sourcebook) which arise from deposit back arrangements;
and for this purpose “deposit back arrangements” has the same meaning as in that Sourcebook;”.
- (4) Omit the definition of “long-term liabilities”.
- (5) For the definition of “value” substitute—
““value”, in relation to an asset of an insurance company, means the value of the asset as determined in accordance with chapter 1.3, as read with chapter 3.2, of the Integrated Prudential Sourcebook;”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) The amendments made by this paragraph have effect in relation to periods of account ending on or after 31st December 2004.

Amendment of Chapter 1 of Part 12 of ICTA etc

3 For section 431A of ICTA substitute—

“431A Amendment of Chapter etc

- (1) The Treasury may by order amend any insurance company taxation provision where it is expedient to do so in consequence of the exercise of any power under the Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies.
- (2) Where any exercise of a power under that Act has effect for a period ending on or before, or beginning before and ending after, the day on which an order containing an amendment in consequence of that exercise is made under subsection (1) above, the power conferred by that subsection includes power to provide for the amendment to have effect in relation to that period.
- (3) The Treasury may by order amend any of the following provisions—
 - (a) sections 432ZA, 432A, 432B to 432G and 755A and Schedule 19AA;
 - (b) sections 83A, 85, 88 and 89 of the Finance Act 1989;
 - (c) section 210A of the Taxation of Chargeable Gains Act 1992.
- (4) An order under subsection (3) above may only be made so as to have effect in relation to periods of account—
 - (a) beginning on or after 1st January 2005, and
 - (b) ending before 1st October 2006.
- (5) The Treasury may by order amend subsection (4)(b) above by substituting for “1st October 2006” a date no later than 1st October 2007.
- (6) Any power conferred by this section to make an order includes power to make—
 - (a) different provision for different cases or different purposes, and
 - (b) incidental, supplemental, consequential or transitional provision and savings.
- (7) In this section “insurance company taxation provision” means any of the following—
 - (a) a provision of this Chapter;
 - (b) any other provision of the Tax Acts so far as relating to insurance companies.”.

Apportionment of income and gains

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F33 Sch. 9 para. 4 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(10)**

Section 432B apportionment: participating funds

- 5 (1) Section 432E of ICTA is amended as follows.
- (2) In subsection (2A) (increase in amount determined under subsection (2) where amount is taken into account under subsection (2) of section 83 of FA 1989 by virtue of subsection (2B) of that section) in the opening words—
 - (a) for “an amount is” substitute “ an amount or amounts are ”;
 - (b) after “subsection (2B) of that section” insert “ or by virtue of section 444ACA(2) of this Act ”.
- (3) In that subsection, for the definition of “RP” substitute—
 - “RP is the amount or the aggregate of the amounts taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of any of the following provisions—
 - (a) subsection (2B) of that section;
 - (b) section 444ACA(2) of this Act.”.
- (4) The amendments made by this paragraph have effect in relation to insurance business transfer schemes (within the meaning given by section 444AC(11) of ICTA) taking place on or after 2nd December 2004.

Transfers of business: deemed periodical return

F34⁶

Textual Amendments

F34 Sch. 9 para. 6 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(9)**

Transfers of business: modification of section 444AC of ICTA

F35⁷

Textual Amendments

F35 Sch. 9 para. 7 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(9)**

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

F36⁸

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F36 Sch. 9 para. 8 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

Equalisation reserves for general business

- 9 (1) Section 444BA of ICTA is amended as follows.
- (2) In subsection (11) (meaning of “equalisation reserves rules”) for “Chapter 6 of the Prudential Sourcebook (Insurers)” substitute “ chapter 7.5 of the Integrated Prudential Sourcebook ”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

Unappropriated surplus on valuation

- 10 (1) Section 82B of FA 1989 is amended as follows.
- (2) In subsection (1) (section to apply where insurance company has unappropriated surplus on valuation and has not made an election in accordance with Rule 4.1(6) of the Prudential Sourcebook (Insurers) for the period of account in question) in paragraph (b), for “Rule 4.1(6)” substitute “ Rule 9.10(c) ”.
- (3) The amendment made by this paragraph has effect in relation to periods of account ending on or after 31st December 2004.

Relevant financial reinsurance contracts

^{F37}11

Textual Amendments

F37 Sch. 9 para. 11 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

Receipts to be taken into account

- 12 (1) Section 83 of FA 1989 is amended as follows.
- (2) In subsection (2A) (amounts not required to be taken into account by subsection (2)) for paragraph (a) (amounts which are entirely notional) substitute—
- “(a) comprises notional income for the period of account (see subsections (2AA) and (2AB)),
- (aa) represents an inter-fund transfer (see subsections (2AC) and (2AD)),”.
- (3) After that subsection insert—
- “(2AA) For the purposes of subsection (2A)(a) above, an amount brought into account as mentioned in paragraphs (a) to (d) of subsection (2) above for a period of account is to be regarded as notional income for the period of account if—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) it represents income which has not been received, and is not receivable, from another person, and
- (b) a corresponding notional expense of the same amount is brought into account in the period of account;

and where particular income falls to be regarded as notional income under this subsection, the notional expense by virtue of which that income falls to be so regarded may not be taken into account for determining whether any other income is to be so regarded.

(2AB) In subsection (2AA) above “notional expense” means an expense which has not been paid, and is not payable, to another person and which—

- (a) is not deductible in computing the profits of the company in respect of its life assurance business in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, but
- (b) had it represented an amount paid or payable to another person, would have been so deductible.

(2AC) For the purposes of subsection (2A)(aa) above, where—

- (a) one or more inter-fund transfers (“transfers-in”) are made into a fund and one or more inter-fund transfers (“transfers-out”) are made out of the fund, and
- (b) the amount brought into account for the period of account as other income in respect of the transfers-in represents the amount by which—
 - (i) the amount or aggregate amount of the transfers-in, exceeds
 - (ii) the amount or aggregate amount of the transfers-out,

only the amount of that excess shall be taken to represent the transfers-in.

(2AD) In this section “inter-fund transfer” means a transfer between two funds which in the company's periodical return is shown in, or included in amounts shown in, line 14 or 33 of the Forms 58 for the funds.”.

^{F38}(4)

(5) The amendments made by sub-paragraphs (2) and (3) have effect in relation to periods of account ending on or after 2nd December 2004.

^{F39}(6)

Textual Amendments

F38 Sch. 9 para. 12(4) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

F39 Sch. 9 para. 12(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

Meaning of “brought into account”

13 (1) Section 83A of FA 1989 is amended as follows.

(2) In subsection (2) (accounts which are recognised for the purposes of sections 82A to 83AB)—

- (a) in paragraph (b) (separate revenue account prepared under Chapter 9 of the Prudential Sourcebook (Insurers) in respect of a part of the company's

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

long-term business to be a recognised account) for “part of that business” substitute “ with-profits fund (see subsection (6)) ”;

(b) omit the words from “Paragraph (b) above” to the end of the subsection.

(3) After subsection (3) insert—

“(3A) Where, in the case of any with-profits fund in respect of which there is prepared such a separate account (“the sub-fund”),—

- (a) the sub-fund forms part of another with-profits fund (“the wider fund”) in respect of which such a separate account is also prepared,
- (b) in the case of a company whose life assurance business is mutual business, the sub-fund and each other with-profits fund which forms part of the wider fund are 100:0 funds, and
- (c) the wider fund—
 - (i) does not form part of another with-profits fund in respect of which such a separate account is also prepared, or
 - (ii) forms part of another with-profits fund in respect of which such a separate account is also prepared and that separate account is treated by this subsection as not being a recognised account for the purposes of those sections,

the account in respect of the wider fund shall not be a recognised account for the purposes of those sections.

(3B) Where, in the case of such a separate account prepared in respect of a with-profits fund,—

- (a) the account is not prevented from being a recognised account for the purposes of those sections by virtue of subsection (3A) above, but
- (b) if paragraph (b) of that subsection were to be omitted, the account would be prevented from being such a recognised account by virtue of that subsection,

no such separate account prepared in respect of a with-profits fund forming part of that fund shall be such a recognised account.

(3C) In subsection (3A) above “100:0 fund” means a fund in the case of which—

- (a) the policy holders of the fund are entitled to participate in all the profits of the fund, and
- (b) no other persons are entitled to participate in any of the profits of the fund.

(3D) Subsection (3E) below applies where there is prepared such a separate account (“the with-profits account”) in respect of a with-profits fund—

- (a) of which no other with-profits fund forms part, but
- (b) of which a non-profit fund (see subsection (6)) forms part.

(3E) Where this subsection applies—

- (a) the with-profits account shall not be a recognised account for the purposes of those sections, but
- (b) there shall be treated as having been required and prepared a further separate revenue account covering so much of the items brought into account in the with-profits account as remains after excluding the items brought into account in that account in respect of the non-profit fund.”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) For subsection (4) substitute—

“(4) If—

- (a) a company prepares a revenue account in respect of the whole of its long-term business (“the main account”),
- (b) it prepares one or more such separate accounts as are mentioned in subsection (2)(b) above, and
- (c) the total of the items brought into account in the separate accounts—
 - (i) excluding any such accounts which by virtue of subsection (3A), (3B) or (3E)(a) above are not recognised accounts for the purposes of those sections, but
 - (ii) including any such accounts which by virtue of subsection (3E)(b) above are treated as having been required and prepared,

is not equal to the total amount brought into account in the main account,

there shall be treated as having been required and prepared a further separate revenue account covering the balance.”.

^{F40}(5)

(6) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1st January 2005.

Textual Amendments

F40 Sch. 9 para. 13(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

14 (1) After section 83A of FA 1989 insert—

“83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988

- (1) This section applies to a company where any revenue account that is recognised for a period of account (the “new period of account”) relates to funds or business which is different from the funds or business to which a revenue account that was recognised for the preceding period of account relates.
- (2) Any subsection (2) excess (within the meaning of section 432F(2) of the Taxes Act 1988) which would have been available under section 432F(3) or (4) of that Act to reduce a subsection (3) figure (within the meaning of section 432F(1) of that Act) of the company in the new period of account shall be attributed between the revenue accounts that are recognised for that period of account in such manner as is appropriate.
- (3) In this section “recognised” means recognised, by virtue of section 83A, for the purposes of sections 82A to 83AB.”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The amendment made by this paragraph has effect in relation to new periods of account (within the meaning given by section 83B(1) of FA 1989) beginning on or after 1st January 2005.

Charge of certain receipts of basic life assurance business

- 15 (1) Section 85 of FA 1989 is amended as follows.
- (2) In subsection (2) (receipts excluded from charge under Case VI of Schedule D in respect of receipts referable to company's basic life assurance and general annuity business) after paragraph (e) insert “; or
- (f) any payment received under the Financial Services Compensation Scheme to enable the company to meet its obligations to policy holders.”.
- (3) In subsection (2C) (rules as to whether receipt is referable to company's basic life assurance and general annuity business for the purposes of subsection (1)) after paragraph (a) insert—
- “(aa) in the case of a repayment or refund of expenses other than acquisition expenses, the expenses—
- (i) were attributable to basic life assurance and general annuity business for the purposes of Step 1 in subsection (7) of the new section 76 (see subsection (8) of that section), or
- (ii) fell to be deducted by virtue of subsection (1) of the old section 76;
- and for this purpose, “the new section 76” and “the old section 76” have the same meaning as in section 44 of the Finance Act 2004 (see subsection (8) of that section).”.
- (4) The amendments made by this paragraph have effect in relation to accounting periods ending on or after 16th March 2005.

Corporation tax: policy holders' fraction of profits

^{F41}16

Textual Amendments

F41 Sch. 9 para. 16 repealed (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), arts. 1, **10(b)**

Overseas life insurance companies

- 17 (1) Section 156 of FA 2003 is amended as follows.
- (2) For subsection (4) (regulations amending certain provisions relating to overseas life insurance companies may be made with effect from 1st January 2003) substitute—
- “(4) Regulations under this section may be made so as to have effect in relation to accounting periods or periods of account (whenever beginning) which end on or after the day on which the regulations come into force.”.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Meaning of “pension business”

- 18 (1) Schedule 35 to FA 2004 is amended as follows.
- (2) Paragraph 20 (life assurance: meaning of “pension business”) is amended as follows.
- (3) In the section 431B of ICTA substituted by that paragraph, in subsection (2)—
 - (a) after “registered pension scheme” (where first occurring) insert “ by virtue of the withdrawal of registration of the pension scheme under section 157 of the Finance Act 2004 ”;
 - (b) after “in which the pension scheme” insert “ so ”.
- (4) In that section, insert at the end—
 - “(3) Where—
 - (a) immediately before 6th April 2006 an annuity contract falls within any of the descriptions of contracts specified in subsection (2) of this section as it had effect immediately before that date, but
 - (b) on or after that date the contract does not fall to be regarded for the purposes of this section as having been entered into for the purposes of a registered pension scheme,
 the contract is to be treated for the purposes of this section as having been entered into for such purposes.”
- F42(5)
- F42(6)
- (7) The preceding provisions of this paragraph come into force on 6th April 2006.

Textual Amendments
 F42 Sch. 9 para. 18(5)(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

Commencement Information
 I9 Sch. 9 para. 18 wholly in force at 6.4.2006; Sch. 9 para. 18(7) in force at Royal Assent and Sch. 9 para. 18(1)-(6) in force at 6.4.2006, see Sch. 9 para. 18(7)

Miscellaneous references to “class” of business

- 19 F43(1)
- F43(2)
- F43(3)
- F44(4)
- (5) The amendments made by this paragraph have effect in relation to periods of account beginning on or after 1st January 2005.

Textual Amendments
 F43 Sch. 9 para. 19(1)-(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F44 Sch. 9 para. 19(4) omitted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 17\(11\)\(f\)](#)

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

20 (1) Section 12 of ICTA (corporation tax: basis of, and periods for, assessment) is amended as follows.

^{F45}(2)

^{F46}(3)

^{F46}(4)

^{F46}(5)

^{F47}(6)

(7) The amendments made by sub-paragraphs (2) to (5) have effect in relation to insurance business transfer schemes taking place on or after 16th March 2005.

(8) The amendment made by sub-paragraph (6) has effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period beginning on or after 1st January 2003.

Textual Amendments

F45 Sch. 9 para. 20(2) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), art. 1(1), [Sch. Pt. 1](#)

F46 Sch. 9 para. 20(3)-(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

F47 Sch. 9 para. 20(6) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), art. 1(1), [Sch. Pt. 1](#)

SCHEDULE 10

Section 49

STAMP DUTY LAND TAX: MISCELLANEOUS AMENDMENTS

PART 1

AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 16

Introduction

1 Part 4 of FA 2003 (stamp duty land tax) is amended in accordance with this Part of this Schedule.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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

- 2 In section 45 (contract and conveyance: effect of transfer of rights) at the end of subsection (3) insert “ except in a case where the secondary contract gives rise to a transaction that is exempt from charge by virtue of subsection (3) of section 73 (alternative property finance: land sold to financial institution and re-sold to individual) ”.

Group relief

- 3 In paragraph 1 of Schedule 7 (group relief), in sub-paragraph (7) for “paragraph 3” substitute “ paragraphs 3 and 4A ”.

- 4 In paragraph 3 of Schedule 7 (withdrawal of group relief)—

- (a) for sub-paragraph (2) substitute—

“(2) The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for group relief if the chargeable consideration for that transaction had been an amount equal to—

- (a) the market value of the subject-matter of the transaction, and

(b) if the acquisition was the grant of a lease at a rent, that rent, or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.”, and

- (b) at the end of sub-paragraph (5) insert “ and paragraph 4A (withdrawal of group relief in certain cases involving successive transactions) ”.

- 5 In paragraph 4 of Schedule 7 (cases in which group relief is not withdrawn)—

- (a) in sub-paragraph (3), for paragraph (b) substitute—

“(b) another company that—

(i) is above the vendor in the group structure, and

(ii) as a result of the transaction ceases to be a member of the same group as the purchaser.”, and

- (b) in sub-paragraph (5), for “this purpose” substitute “ the purposes of sub-paragraphs (3) and (4) ”.

- 6 After paragraph 4 of Schedule 7 insert—

“Withdrawal of group relief in certain cases involving successive transactions

- 4A (1) Where, in the case of a transaction (“the relevant transaction”) that is exempt from charge by virtue of paragraph 1 (group relief)—

- (a) there is a change in the control of the purchaser,

- (b) that change occurs—

(i) before the end of the period of three years beginning with the effective date of the relevant transaction, or

(ii) in pursuance of, or in connection with, arrangements made before the end of that period,

- (c) apart from this paragraph, group relief in relation to the relevant transaction would not be withdrawn under paragraph 3, and

- (d) any previous transaction falls within sub-paragraph (2),

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

paragraphs 3 and 4 have effect in relation to the relevant transaction as if the vendor in relation to the earliest previous transaction falling within sub-paragraph (2) were the vendor in relation to the relevant transaction.

- (2) A previous transaction falls within this sub-paragraph if—
- (a) the previous transaction is exempt from charge by virtue of paragraph 1, 7 or 8,
 - (b) the effective date of the previous transaction is less than three years before the date of the event falling within sub-paragraph (1)(a),
 - (c) the chargeable interest acquired under the relevant transaction by the purchaser in relation to that transaction is the same as, comprises, forms part of, or is derived from, the chargeable interest acquired under the previous transaction by the purchaser in relation to the previous transaction, and
 - (d) since the previous transaction, the chargeable interest acquired under that transaction has not been acquired by any person under a transaction that is not exempt from charge by virtue of paragraph 1, 7 or 8.
- (3) For the purposes of sub-paragraph (1)(a) there is a change in the control of a company if—
- (a) any person who controls the company (alone or with others) ceases to do so,
 - (b) a person obtains control of the company (alone or with others), or
 - (c) the company is wound up.

References to “control” in this sub-paragraph shall be construed in accordance with section 416 of the Taxes Act 1988.

- (4) If two or more transactions effected at the same time are the earliest previous transactions falling within sub-paragraph (2), the reference in sub-paragraph (1) to the vendor in relation to the earliest previous transaction is a reference to the persons who are the vendors in relation to the earliest previous transactions.

- (5) In this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.”

- 7 In Schedule 17A (further provisions relating to leases) in paragraph 11(5)(a) for the words from “the purchaser” to the end substitute “ the event falling within paragraph 3(1)(a) of Schedule 7 (purchaser ceasing to be a member of the same group as the vendor), as read with paragraph 4A of that Schedule ”.

Reconstruction and acquisition reliefs

- 8 In paragraph 8 of Schedule 7 (acquisition relief)—
- (a) in sub-paragraph (1)(b) for “the first and second conditions” substitute “ all the conditions ”, and
 - (b) after sub-paragraph (5) insert—

“(5A) The third condition is that the undertaking or part acquired by the acquiring company has as its main activity the carrying on

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

of a trade that does not consist wholly or mainly of dealing in chargeable interests.

In this sub-paragraph “trade” has the same meaning as in the Taxes Act 1988.”

- 9 In paragraph 9 of Schedule 7 (withdrawal of reconstruction or acquisition relief) for sub-paragraph (2) substitute—

“(2) The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for reconstruction or acquisition relief if the chargeable consideration for that transaction had been an amount equal to—

- (a) the market value of the subject-matter of the transaction, and
 - (b) if the acquisition was the grant of a lease at a rent, that rent,
- or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.”

Withdrawal of money etc from partnership after transfer of chargeable interest

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

“Withdrawal of money etc from partnership after transfer of chargeable interest

- 17A (1) This paragraph applies where—

- (a) there is a transfer of a chargeable interest to a partnership (“the land transfer”);
- (b) the land transfer falls within paragraph (a), (b) or (c) of paragraph 10(1);
- (c) during the period of three years beginning with the date of the land transfer, a qualifying event occurs.

- (2) A qualifying event is—

- (a) a withdrawal from the partnership of money or money's worth which does not represent income profit by the relevant person—
 - (i) withdrawing capital from his capital account,
 - (ii) reducing his interest, or
 - (iii) ceasing to be a partner, or
- (b) in a case where the relevant person has made a loan to the partnership—
 - (i) the repayment (to any extent) by the partnership of the loan, or
 - (ii) a withdrawal by the relevant person from the partnership of money or money's worth which does not represent income profit.

- (3) For this purpose the relevant person is—

- (a) where the land transfer falls within paragraph 10(1)(a) or (b), the person who makes the land transfer, and
- (b) where the land transfer falls within paragraph 10(1)(c), the partner concerned or a person connected with him.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The qualifying event—
 - (a) shall be taken to be a land transaction, and
 - (b) is a chargeable transaction.
- (5) The partners shall be taken to be the purchasers under the transaction.
- (6) Paragraphs 6 to 8 (responsibility of partners) have effect in relation to the transaction.
- (7) The chargeable consideration for the transaction shall be taken to be—
 - (a) in a case falling within sub-paragraph (2)(a), equal to the value of the money or money's worth withdrawn from the partnership,
 - (b) in a case falling within sub-paragraph (2)(b)(i), equal to the amount repaid, and
 - (c) in a case falling within sub-paragraph (2)(b)(ii), equal to so much of the value of the money or money's worth withdrawn from the partnership as does not exceed the amount of the loan, but (in any case) shall not exceed the market value, as at the effective date of the land transfer, of the chargeable interest transferred by the land transfer, reduced by any amount previously chargeable to tax.”

Grant of lease to bare trustee

11 For paragraph 3 of Schedule 16 substitute—

“Bare trustee

- 3 (1) Subject to sub-paragraph (2), where a person acquires a chargeable interest as bare trustee, this Part applies as if the interest were vested in, and the acts of the trustee in relation to it were the acts of, the person or persons for whom he is trustee.
- (2) Sub-paragraph (1) does not apply in relation to the grant of a lease.
- (3) Where a lease is granted to a person as bare trustee, he is treated for the purposes of this Part, as it applies in relation to the grant of the lease, as purchaser of the whole of the interest acquired.
- (4) Where a lease is granted by a person as bare trustee, he is to be treated for the purposes of this Part, as it applies in relation to the grant of the lease, as vendor of the whole of the interest disposed of.”

12 In paragraph 11 of Schedule 17A (cases where assignment of lease treated as grant of lease), for sub-paragraph (1) substitute—

“(1) This paragraph applies where the grant of a lease is exempt from charge by virtue of any of the provisions specified in sub-paragraph (3).”

Variation of lease

13 In paragraph 15A of Schedule 17A (leases: reduction of rent or term)—

- (a) after sub-paragraph (1) insert—

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “(1A) Where any consideration in money or money's worth (other than an increase in rent) is given by the lessee for any variation of a lease, other than a variation of the amount of the rent or of the term of the lease, the variation is treated for the purposes of this Part as an acquisition of a chargeable interest by the lessee.”, and
- (b) for the heading preceding that paragraph substitute “ Reduction of rent or term or other variation of lease ”.

Loan or deposit in connection with grant or assignment of lease

14 After paragraph 18 of Schedule 17A insert—

“Loan or deposit in connection with grant or assignment of lease

- 18A (1) Where, under arrangements made in connection with the grant of a lease—
- (a) the lessee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
 - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the lessee or on the death of the lessee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the grant of the lease.
- (2) Where, under arrangements made in connection with the assignment of a lease—
- (a) the assignee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
 - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the assignee or on the death of the assignee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the assignment of the lease.
- (3) Sub-paragraph (1) or (2) does not apply in relation to a deposit if the amount that would otherwise fall within the sub-paragraph in question in relation to the grant or (as the case requires) assignment of the lease is not more than twice the relevant maximum rent.
- (4) The relevant maximum rent is—
- (a) in relation to the grant of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term;
 - (b) in relation to the assignment of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term remaining outstanding as at the date of the assignment,
- the highest amount of rent being determined (in either case) in the same way as the highest amount of rent mentioned in paragraph 7(3).

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Tax is not chargeable by virtue of this paragraph—
- (a) merely because of paragraph 9(2) of Schedule 5 (which excludes the 0% band in the Tables in section 55(2) in cases where the relevant rental figure exceeds £600 a year), or
 - (b) merely because of paragraph 5(4)(b), 6(6)(b), 9(4)(b) or 10(6)(b) of Schedule 6 (which make similar provision in relation to land which is wholly or partly residential property and is wholly or partly situated in a disadvantaged area).
- (6) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.”
- 15 In section 80 (adjustment where contingency ceases or consideration is ascertained) after subsection (4) insert—
- “(4A) Where the transaction (“the relevant transaction”) is the grant or assignment of a lease, no claim may be made under subsection (4)—
- (a) in respect of the repayment (in whole or part) of any loan or deposit that is treated by paragraph 18A of Schedule 17A as being consideration given for the relevant transaction, or
 - (b) in respect of the refund of any of the consideration given for the relevant transaction, in a case where the refund—
 - (i) is made under arrangements that were made in connection with the relevant transaction, and
 - (ii) is contingent on the determination or assignment of the lease or on the grant of a chargeable interest out of the lease.”

Commencement

- 16 (1) Subject to sub-paragraph (7), paragraphs 3 to 7 have effect where the effective date of the relevant transaction (within the meaning of paragraph 3 or 4A of Schedule 7 to FA 2003) is after 19th May 2005.
- (2) Subject to sub-paragraph (7), paragraph 9 has effect where the effective date of the relevant transaction (within the meaning of paragraph 9 of Schedule 7 to FA 2003) is after 19th May 2005.
- (3) Subject to sub-paragraph (7), paragraph 10 has effect where the effective date of the transaction transferring the chargeable interest to the partnership is after 19th May 2005.
- (4) Subject to sub-paragraph (7), paragraphs 11 and 12 have effect where the effective date of the land transaction consisting of the grant of the lease is after 19th May 2005.
- (5) Subject to sub-paragraph (7), the amendments made by the other provisions of this Part of this Schedule have effect in relation to any transaction of which the effective date is after 19th May 2005.
- (6) In sub-paragraphs (7) and (8) “the specified date” means—
- (a) in relation to the amendments made by paragraphs 4(a) and 9, 19th May 2005, and
 - (b) in relation to the amendments made by the other provisions of this Part of this Schedule, 16th March 2005.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) The amendments made by this Part of this Schedule do not have effect—
- (a) in relation to any transaction which is effected in pursuance of a contract entered into and substantially performed on or before the specified date, or
 - (b) subject to sub-paragraph (8), in relation to any other transaction which is effected in pursuance of a contract entered into on or before the specified date.
- (8) The exclusion by sub-paragraph (7)(b) of transactions effected in pursuance of contracts entered into on or before the specified date does not apply—
- (a) if there is any variation of the contract or assignment of rights under the contract after that date,
 - (b) if the transaction is effected in consequence of the exercise after that date of any option, right of pre-emption or similar right, or
 - (c) if after that date there is an assignment, subsale or other transaction (relating to the whole or part of the subject-matter of the contract) as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance to him.
- (9) In this paragraph “assignment”, “effective date” and “substantially performed” have the same meaning as in Part 4 of FA 2003.

PART 2

AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 22

Introduction

- 17 Part 4 of FA 2003 (stamp duty land tax) is amended in accordance with this Part of this Schedule.

Transfers involving public bodies

- 18 In section 66 of FA 2003 (transfers involving public bodies) after subsection (5) insert—

“(6) In this section “company” means a company as defined by section 735(1) of the Companies Act 1985 or Article 3(1) of the Companies (Northern Ireland) Order 1986.”

Group relief: avoidance arrangements

- 19 In paragraph 2 of Schedule 7 (restrictions on availability of group relief) after sub-paragraph (4) insert—

“(4A) Group relief is not available if the transaction—

- (a) is not effected for bona fide commercial reasons, or
- (b) forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.”

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Acquisition relief: avoidance arrangements

- 20 In paragraph 8 of Schedule 7 (acquisition relief)—
- (a) for sub-paragraph (5) substitute—
- “(5) For this purpose companies are associated if one has control of the other or both are controlled by the same person or persons.
- The reference to control shall be construed in accordance with section 416 of the Taxes Act 1988.”, and
- (b) after sub-paragraph (5A) (inserted by paragraph 8 of this Schedule) insert—
- “(5B) The fourth condition is that the acquisition is effected for bona fide commercial reasons and does not form part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.
- “Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.
- (5C) In this paragraph “arrangements” include any scheme, agreement or understanding, whether or not legally enforceable.”

Stamp duty on transfers of partnership interests

- 21 (1) In Schedule 15 (stamp duty land tax: partnerships), paragraph 33 (which relates to stamp duty on transfers of partnership interests) is amended as follows.
- (2) For sub-paragraphs (1) and (2) substitute—
- “(1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) is, apart from this paragraph, chargeable on an instrument effecting a transfer of an interest in a partnership.
- (1A) If the relevant partnership property does not include any stock or marketable securities, no stamp duty shall (subject to sub-paragraph (8)) be chargeable on the instrument.”
- (3) In sub-paragraph (3)—
- (a) at the beginning insert “ If the relevant partnership property includes stock or marketable securities, ”,
- (b) in paragraph (a), for the words from “the stock” to “property” substitute “ that stock and those securities ”, and
- (c) for paragraph (b) substitute—
- “(b) the consideration for the transfer were equal to the appropriate proportion of the net market value of that stock and those securities immediately after the transfer.”
- (4) After sub-paragraph (3) insert—
- “(3A) The “relevant partnership property”, in relation to a transfer of an interest in a partnership, is the partnership property immediately after the transfer, other than any partnership property that was transferred to the partnership in connection with the transfer.”

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Omit sub-paragraph (4).
- (6) In sub-paragraph (5), for “That” substitute “ The appropriate ”.

Commencement

- 22 (1) Subject to sub-paragraph (2), paragraphs 18 to 20 have effect in relation to any transaction of which the effective date is on or after the day on which this Act is passed.
- (2) Paragraphs 19 and 20 do not have effect—
- (a) in relation to any transaction which is effected in pursuance of a contract entered into and substantially performed on or before 16th March 2005, or
 - (b) (subject to sub-paragraph (3)) in relation to any other transaction which is effected in pursuance of a contract entered into on or before that date.
- (3) The exclusion by sub-paragraph (2)(b) of transactions effected in pursuance of contracts entered into on or before 16th March 2005 does not apply—
- (a) if there is any variation of the contract or assignment of rights under the contract after that date,
 - (b) if the transaction is effected in consequence of the exercise after that date of any option, right of pre-emption or similar right, or
 - (c) if after that date there is an assignment, subsale or other transaction (relating to the whole or part of the subject-matter of the contract) as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance to him.
- (4) Paragraph 21 has effect in relation to any instrument executed on or after the day on which this Act is passed.
- (5) In this paragraph “assignment”, “effective date” and “substantially performed” have the same meaning as in Part 4 of FA 2003.

SCHEDULE 11

Section 70

REPEALS

PART 1

VALUE ADDED TAX

DISCLOSURE OF AVOIDANCE SCHEMES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	In Schedule 11A— (a) in paragraph 6(1), the word “or” at the end of paragraph (a), and

These repeals come into force in accordance with an order under section 6(2) of this Act.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) in paragraph 11(3), the word “and” at the end of paragraph (a).

These repeals come into force in accordance with an order under section 6(2) of this Act.

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) EMPLOYEE SECURITIES: ANTI-AVOIDANCE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	Section 420(5)(d). In section 424(1), paragraph (c) and the word “or” before it.
Finance Act 2004 (c. 12)	Section 86(4).

These repeals have effect in accordance with Schedule 2 to this Act.

(2) SCIENTIFIC RESEARCH ORGANISATIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Trading and Other Income) Act 2005 (c. 5)	Section 88(4)(a). In Schedule 1, paragraph 55(b).

1 The repeal of section 88(4)(a) of ITTOIA 2005 has effect in accordance with section 14 of this Act.

2 The repeal of paragraph 55(b) of Schedule 1 to that Act has effect in accordance with section 15 of this Act.

(3) UNIT TRUSTS AND OPEN-ENDED INVESTMENT COMPANIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 349B(4)(b). Sections 468H to 468Q.
Finance Act 1996 (c. 8)	Paragraphs 2A and 2B of Schedule 10.
Finance Act 2002 (c. 23)	Paragraphs 32 and 33 of Schedule 26.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	Section 373(4) and (6). Section 376(4) and (6). Paragraph 151(2) of Schedule 1. Paragraph 350(2) and (3) of Schedule 1.

1 The repeal of paragraph 350(2) and (3) of Schedule 1 to ITTOIA 2005 comes into force on the day on which this Act is passed.

2 The other repeals have effect in accordance with section 19(1) of this Act.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) CHARGEABLE GAINS: TEMPORARY NON-RESIDENTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 10A(10).
This repeal has effect in accordance with section 32(7) of this Act.	

(5) CHARGEABLE GAINS: OPTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1996 (c. 8)	Section 111(2) and (5).
These repeals have effect in accordance with paragraph 6(2) of Schedule 5 to this Act.	

(6) ACCOUNTING PRACTICE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
F48	F48
...	...
F48	F48
...	...
F48	F48
...	...
Finance Act 2005 (c. 7)	In Schedule 4, paragraphs 6, 10, 28(3) and (4) and 29.
<ol style="list-style-type: none"> The repeal of paragraph 6 of Schedule 4 to FA 2005 has effect in accordance with paragraph 4(6) of Schedule 6 to this Act. The repeal of paragraph 10 of Schedule 4 to FA 2005 has effect in accordance with paragraph 5(2) of Schedule 6 to this Act. 	
F48	
...	

Textual Amendments

F48 Sch. 11 Pt. 2(6) entries and note repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

(7) CHARGES ON INCOME FOR CORPORATION TAX

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 125(1), the words “and shall not be a charge on income for the purposes of corporation tax”. Section 338A(2)(a) and (4). Section 338B.
These repeals have effect in accordance with section 38 of this Act.	

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	<p>In section 402(6)(b), the words “or a charge on income”.</p> <p>Section 434A(2)(a)(i).</p> <p>In section 487(3), the words “or be treated for those purposes as a charge on income”.</p> <p>In section 494—</p> <p>(a) in subsection (1), the words “Section 338 of this Act and”;</p> <p>(b) subsection (3).</p> <p>In section 494A—</p> <p>(a) in subsection (2), paragraph (b) and the word “or” before it;</p> <p>(b) in subsection (3), paragraph (b) and the word “and” before it.</p> <p>In Schedule 28AA—</p> <p>(a) in paragraph 7A(2)(b), the words “or charges on income”;</p> <p>(b) in paragraph 7C(2)(b), the words “or charges on income”.</p>
Finance Act 1989 (c. 26)	<p>In section 102(7)(b), the words “or a charge on income”.</p>
Taxation of Chargeable Gains Act 1992 (c. 12)	<p>In section 171A(5)(b), the words “or a charge on income”.</p> <p>In section 179A(11)(b), the words “or a charge on income”.</p>
Finance Act 2002 (c. 23)	<p>In Schedule 29, in paragraph 71(4)(b), the words “or a charge on income”.</p>

These repeals have effect in accordance with section 38 of this Act.

(8) AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	<p>In section 18, paragraph (c) of the Case III of Schedule D substituted by subsection (3A).</p> <p>Section 43C(1).</p> <p>Section 43E(1)(a) and (b).</p> <p>In section 730—</p> <p>(a) subsection (1)(c);</p> <p>(b) subsection (2A);</p> <p>(c) in subsection (8), the words from “and for the purpose” onwards.</p>
Finance Act 1996 (c. 8)	<p>In section 97—</p> <p>(a) in subsection (2), paragraph (b) and the word “but” before it, and</p> <p>(b) subsections (3) and (3A).</p> <p>Section 100(4) to (6), (8) and (13).</p> <p>In Schedule 9—</p>

These repeals have effect in accordance with Schedule 7 to this Act.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	(a) in paragraph 1A(1), paragraph (b) and the word “or” before it;
	(b) paragraph 11(5);
	(c) in paragraph 15(4A), paragraph (b) and the word “and” before it.
Finance Act 2000 (c. 17)	In Schedule 29, paragraph 44(3).
Finance Act 2002 (c. 23)	In Schedule 25, paragraphs 13(4) and 51.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In section 430(6), the word “and” before the entry relating to section 443(1). In Schedule 1, paragraph 300(5).

These repeals have effect in accordance with Schedule 7 to this Act.

(9) LOAN RELATIONSHIPS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1996 (c. 8)	In Schedule 9— (a) in paragraph 2(1B), the words “, but not a CIS-based close company,”, the word “or” preceding paragraph (c) and the words after paragraph (c); (b) in paragraph 18(1), paragraph (aa), and paragraph (c) and the word “and” preceding it; (c) in paragraph 18(4), the word “and” preceding the definition of “participator”.
Finance Act 2002 (c. 23)	In Schedule 25, paragraph 34(4).
Finance Act 2004 (c. 12)	In Schedule 8, paragraphs 2(2) and 6(2) and (3).

These repeals have effect in accordance with paragraph 4 of Schedule 8 to this Act.

(10) INSURANCE COMPANIES ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 76(8), in the second sentence, the word “or” at the end of paragraph (a).
1	The repeals in ICTA have effect in relation to periods of account ending on or after 31st December 2004.
2	The repeals in section 82C of FA 1989 have effect in accordance with paragraph 11(4) of Schedule 9 to this Act.
3	The repeal in section 83A of FA 1989 has effect in accordance with paragraph 13(6) of Schedule 9 to this Act.
4	The repeal in section 88 of FA 1989 has effect in accordance with paragraph 16(3) of Schedule 9 to this Act.
5	The repeals in paragraph 1(2)(b) of Schedule 6 to FA 1990 have effect in accordance with paragraph 2(6) of Schedule 9 to this Act.
6	The repeal of paragraph 2 of Schedule 6 to FA 1990 comes into force on the day on which this Act is passed.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	In section 431(2), the definition of “long-term liabilities”.
Finance Act 1989 (c. 26)	Section 82C(4), (5), (8) and (9). In section 83A(2), the words from “Paragraph (b) above” to the end of the subsection. In section 88(3A), the word “and” at the end of paragraph (a).
Finance Act 1990 (c. 29)	In Schedule 6— (a) in paragraph 1(2)(b), the definitions of “liabilities” and “value”; (b) paragraph 2.

- 1 The repeals in ICTA have effect in relation to periods of account ending on or after 31st December 2004.
- 2 The repeals in section 82C of FA 1989 have effect in accordance with paragraph 11(4) of Schedule 9 to this Act.
- 3 The repeal in section 83A of FA 1989 has effect in accordance with paragraph 13(6) of Schedule 9 to this Act.
- 4 The repeal in section 88 of FA 1989 has effect in accordance with paragraph 16(3) of Schedule 9 to this Act.
- 5 The repeals in paragraph 1(2)(b) of Schedule 6 to FA 1990 have effect in accordance with paragraph 2(6) of Schedule 9 to this Act.
- 6 The repeal of paragraph 2 of Schedule 6 to FA 1990 comes into force on the day on which this Act is passed.

(11) LLOYD'S NAMES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1993 (c. 34)	Section 173. In section 182(1)(a), “(so far as not provided for by Schedule 19 to this Act)”. Schedule 19.
Finance Act 1994 (c. 9)	Section 221. In section 229(1)(a), “(so far as not provided for by Schedule 19 to the 1993 Act as applied by section 221 above)”. In Schedule 21, paragraphs 9 and 10.
Finance Act 2001 (c. 9)	In Schedule 29, paragraph 36.

These repeals have effect in accordance with section 45(8) and (9) of this Act.

(12) ENERGY ACT 2004 AND HEALTH PROTECTION AGENCY ACT 2004

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 349B(3)(g) and (h). Section 512.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 271(7)—

These repeals have effect in accordance with section 46 of this Act.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the words “, the United Kingdom Atomic Energy Authority”;
- (b) the words “and the National Radiological Protection Board”;
- (c) the words from “; and for the purposes” to the end of the subsection.

Income Tax (Trading and Other Income) Act 2005 (c. 5) In Schedule 1, paragraph 199.

These repeals have effect in accordance with section 46 of this Act.

PART 3

STAMP TAXES

(1) STAMP DUTY LAND TAX: MISCELLANEOUS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2003 (c. 14)	In Schedule 15, paragraph 33(4).

This repeal has effect in relation to any instrument executed on or after the day on which this Act is passed.

(2) STAMP DUTY AND STAMP DUTY RESERVE TAX: EXTENSION OF EXCEPTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2002 (c. 23)	Section 117.

This repeal has effect in accordance with section 50 of this Act.

PART 4

EUROPEAN COMPANY STATUTE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 140A(7) the definition of “securities”. In section 140C(9) the definition of “securities”.

These repeals have effect in accordance with section 59(7) of this Act.

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 5

MISCELLANEOUS MATTERS

(1) VEHICLE EXCISE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vehicle Excise and Registration Act 1994 (c. 22)	Section 7A(4)(a).

This repeal comes into force on the day on which this Act is passed.

(2) ABOLITION OF ADJUDICATOR FOR NATIONAL SAVINGS AND INVESTMENTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
National Savings Bank Act 1971 (c. 29)	Sections 10 and 11. In section 27, the definition of “the adjudicator”.
National Debt Act 1972 (c. 65)	Section 5.
Friendly Societies Act 1992 (c. 40)	Section 84. In Schedule 21, paragraphs 2 to 4.
Tribunals and Inquiries Act 1992 (c. 53)	In Schedule 1, in the first column, the entry relating to National Savings Bank and National Savings Stock Register, and, in the second column, paragraph 33B.

These repeals have effect in accordance with section 69 of this Act.

Status:

Point in time view as at 19/07/2011.

Changes to legislation:

Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.