



Finance Act 2005

2005 CHAPTER 7

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 5

ALTERNATIVE FINANCE ARRANGEMENTS

Arrangements giving rise to alternative finance return

[^{F1}48A Alternative finance arrangements: alternative finance investment bond: introduction

- (1) Subject to section 52, arrangements fall within this section if—
- (a) the arrangements provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),
 - (b) the arrangements identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
 - (c) the arrangements specify a period at the end of which they cease to have effect (“the bond term”),
 - (d) the bond-issuer undertakes under the arrangements—
 - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer’s possession,
 - (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
 - (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Section 48A. (See end of Document for details)

- (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
 - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
 - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who thereby becomes the bond-holder),
 - (h) the arrangements are a listed security on a recognised stock exchange (within the meaning of section 1005 of ITA 2007), and
 - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer (or would be if the bond-issuer applied those standards).
- (2) For the purposes of subsection (1)—
- (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
 - (b) bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
 - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but need not) be described as, or accompanied by a document described as, a declaration of trust,
 - (d) a reference to the management of assets includes a reference to disposal,
 - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
 - (f) the amount of the additional payments may be—
 - (i) fixed at the beginning of the bond term,
 - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
 - (iii) determined in some other way,
 - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments,
 - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, and
 - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.
- (3) An order under section 1005 of ITA 2007 (recognised stock exchanges: designation) may designate a stock exchange for the purposes of that section in its application for the purposes of this section [^{F2}and section 507 of CTA 2009 (investment bond arrangements)] only.]

Textual Amendments

F1 Ss. 48A, 48B inserted (with effect in accordance with s. 53(13)(14) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 53\(1\)](#)

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F2 Words in s. 48A(3) 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. 650** (with Sch. 2 Pts. 1, 2)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2005, Section 48A.