

*Status: Point in time view as at 24/05/2024.*

*Changes to legislation: Finance Act 2008, SCHEDULE 22 is up to date with all changes known to be in force on or before 25 July 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 22

Section 62

#### AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

##### *Rent factoring of leases of plant or machinery*

- 1 (1) Section 785A of ICTA (rent factoring of leases of plant or machinery) is amended as follows.
- (2) In subsection (1), omit paragraph (d).
- (3) In subsection (2)—
- (a) for “relevant portion of the consideration” substitute “ market value of the rights transferred ”, and
- (b) for “in a period of account to the extent that it is receivable in that period of account” substitute “ at the time of the transfer ”.
- (4) After that subsection insert—
- “(2A) But subsection (2) does not apply if and to the extent that any of the market value of the rights transferred is (apart from this section) brought into account—
- (a) as income, or
- (b) as a capital allowances disposal receipt.”
- (5) After subsection (5) insert—
- “(5ZA) The references in subsections (1)(c) and (3) to another person include any person in which P has an interest, including any partnership of which P is a member and the trustees of any trust of which P is a beneficiary.”
- (6) The amendments made by this paragraph have effect in relation to arrangements for transfers of rights entered into on or after 12 March 2008.

##### *Credit allowable in relation to interest*

- 2 (1) In section 807A of ICTA (disposals and acquisitions of company loan relationships with or without interest), omit subsection (3) (credit allowable as if amount of foreign tax had been paid).
- (2) Accordingly, omit—
- (a) in section 807A of ICTA, subsections (5) and (6) and, in subsection (7), the definitions of “related transaction” and “trading credit”, and
- (b) section 91(4) of FA 1997.
- (3) The repeals made by this paragraph have effect in relation to related transactions on or after 12 March 2008.

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*Distributions arising from tax arrangements*

F13 .....

**Textual Amendments**

F1 Sch. 22 paras. 3-16 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Disposals for consideration not recognised by accounting practice*

F14 .....

**Textual Amendments**

F1 Sch. 22 paras. 3-16 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)

*Avoidance relying on continuity of treatment provisions*

F15 .....

**Textual Amendments**

F1 Sch. 22 paras. 3-16 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)

*Distributions from shares treated as loan relationships*

F16 .....

**Textual Amendments**

F1 Sch. 22 paras. 3-16 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)

*Depreciatory transactions*

F17 .....

**Textual Amendments**

F1 Sch. 22 paras. 3-16 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)

F18 .....

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**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

<sup>F1</sup>9 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Falsifying transactions*

<sup>F1</sup>10 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

<sup>F1</sup>11 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

<sup>F1</sup>12 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Non-qualifying shares*

<sup>F1</sup>13 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Income producing assets*

<sup>F1</sup>14 .....

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**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Exit arrangements*

<sup>F1</sup>15 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Schemes etc designed to reproduce interest-like return*

<sup>F1</sup>16 .....

**Textual Amendments**

**F1** Sch. 22 paras. 3-16 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)

*Partnerships*

17 <sup>F2</sup>(1) .....

(2) In section 131 of FA 2004 (companies in partnership), insert at the end—

“(10) Subsection (4) does not apply if and to the extent that the chargeable amount is brought into account under section 91H or 91I of the Finance Act 1996.”

(3) The amendments made by this paragraph have effect in relation to returns arising on or after 12 March 2008.

**Textual Amendments**

**F2** Sch. 22 para. 17(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)

*Loan relationships treated differently by debtor and creditor*

<sup>F3</sup>18 .....

**Textual Amendments**

**F3** Sch. 22 paras. 18-20 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)

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### *Commercial rate of interest*

F<sup>3</sup>19 .....

#### **Textual Amendments**

**F3** Sch. 22 paras. 18-20 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)

### *Derivative contracts*

F<sup>3</sup>20 .....

#### **Textual Amendments**

**F3** Sch. 22 paras. 18-20 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)

### *Restrictions on relief for interest payments*

- 21 (1) Section 384 of ITA 2007 (general restrictions on relief for interest payments) is amended as follows.
- (2) In subsection (2), for “interest is paid at a rate in excess of a reasonable commercial rate” substitute “ the interest paid on a loan in a tax year exceeds a reasonable commercial amount of interest on the loan for the relevant period ”.
- (3) After subsection (2) insert—
- “(3) The relevant period is the tax year or, if the loan exists for part only of the tax year, the part of the tax year for which the loan exists.
- (4) A reasonable commercial amount of interest on the loan for the relevant period is an amount which, together with any interest paid before that period (other than unrelieved interest), represents a reasonable commercial rate of interest on the loan from the date it was made to the end of that period.
- (5) “Unrelieved interest” means interest which because of subsection (2) is not eligible for relief under this Chapter.”
- (4) The amendments made by this paragraph have effect in relation to interest paid on or after 9 October 2007; but in relation to interest paid in the period beginning with that date and ending with 5 April 2008, they have effect as if the references in section 384(2) and (3) to a tax year were to that period.

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