*These notes refer to the Finance Act 2009 (c.10) which received Royal Assent on 21 July 2009*

# FINANCE ACT 2009

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## EXPLANATORY NOTES

### INTRODUCTION

***Section 42: Release of Trade Etc Debts***

### Background Note

11. The purpose of this section is to correct an anomaly that resulted when impairment losses on trade (or property business) debts were brought within the loan relationships rules by Finance Act 2005. If a trade debt is released by a creditor that is connected with the debtor company, the creditor is denied tax relief under the loan relationships rules. The debtor, however, is still charged to tax under section 94 of CTA – part of the rules on taxation of trade and property income – unless the release is part of a statutory insolvency arrangement.

12. Representations made to the Government indicated that this mismatch was inhibiting group reorganisations being carried out, for example, as part of a merger or acquisition. Groups commonly plan to avoid the tax charge, but at the expense of increased administrative burden and costs.

13. The amendment works by applying the loan relationships rules to the debtor as well as to the creditor. In almost every case this has no effect where the two companies are not connected – in particular, the loan relationships rules continue to give relief to the debtor where the release is part of a statutory insolvency arrangement. But, where the parties are connected, the debtor's "profit" is not taxed, making the transaction neutral in tax terms.

14. The one change affecting debt releases between **unconnected** companies is that, where the debtor is carrying on a UK property business, the profit will now be brought into account as a non-trading loan relationships credit, rather than as property income. This would affect the company's ability to set off surplus property expenses, so that in a very small number of cases the company may be disadvantaged.