

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 61 and Schedule 30: Financial Arrangements Avoidance

Background Note

Paragraphs 2 and 3:

61. Section 595 of CTA provides that the amounts to be brought into account for the purposes of derivative contracts rules in Part 7 of CTA are those that, in accordance with GAAP, are recognised in determining a company's profit or loss for the period.
62. In certain circumstances, where a derivative contract of a company is matched with shares or similar securities issued by it then it may be permissible under GAAP for the contract or amounts arising in respect of the contract not to be recognised in determining the company's accounting profits or losses for the period.
63. It is HMRC's view that such non-recognition or de-recognition is not observed for tax purposes where the accounting treatment does not fairly represent the profits. But sections 599A and 599B codify the treatment, and prevent companies arguing that where a receipt under a derivative contract is matched with the payment of a dividend on "liabilities", there is no net liability to tax, even though no deduction is due for the dividend under the Corporation Tax Acts.