

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 24

#### SIDEWAYS RELIEF ETC

##### *Amendments of Chapter 2 of Part 4 of ITA 2007*

- 1 Chapter 2 of Part 4 of ITA 2007 (trade losses) is amended as follows.
- 2 In section 60(1)(c) (overview of Chapter), for “(see sections 75” substitute “ and capital gains relief (see sections 74ZA ”.
- 3 In section 64(8) (deduction of losses from general income)—
  - (a) in paragraph (ba), for “74A” substitute “ 74ZA ”,
  - (b) at the end of paragraph (c), insert “ and ”, and
  - (c) omit paragraph (e).
- 4 In section 72(5) (relief for individuals for losses in first 4 years of trade)—
  - (a) in paragraph (ba), for “74A” substitute “ 74ZA ”,
  - (b) at the end of paragraph (c), insert “ and ”, and
  - (c) omit paragraph (e).
- 5 Before section 74A insert—

#### **No relief for tax-generated losses**

- “74ZA1) This section applies if—
- (a) during a tax year a person carries on (alone or in partnership) a trade, profession or vocation (“the relevant activity”),
  - (b) the person makes a loss in the relevant activity in that tax year, and
  - (c) the loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (2) No sideways relief or capital gains relief may be given to the person for the loss (but subject to subsection (5)).
- (3) In subsection (1) “relevant tax avoidance arrangements” means arrangements—
  - (a) to which the person is a party, and
  - (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability by means of sideways relief or capital gains relief.
- (4) In subsection (3) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

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- (5) This section has no effect in relation to any loss that derives wholly from qualifying film expenditure (see section 74D).
- (6) For the purposes of this section—
- (a) capital gains relief is, in relation to a loss, the treatment of a loss as an allowable loss by virtue of section 261B of TCGA 1992 (use of trading loss as a CGT loss), and
  - (b) capital gains relief is given for a loss when it is so treated.”
- 6 Omit section 74B (no relief for tax-generated losses in case of non-active individuals carrying on trade).
- 7 (1) Section 74C (meaning of “non-active capacity” for purposes of sections 74A and 74B etc) is amended as follows.
- (2) In subsection (1), for “sections 74A and 74B” substitute “ section 74A ”.
  - (3) In the heading, for “**sections 74A and 74B**” substitute “ **section 74A** ”.
- 8 (1) Section 74D (meaning of “qualifying film expenditure” for purposes of sections 74A and 74B) is amended as follows.
- (2) In subsections (1) and (4), for “74A and 74B” substitute “ 74ZA and 74A ”.
  - (3) In the heading, for “**74A and 74B**” substitute “ **74ZA and 74A** ”.
- 9 Omit section 81 (dealings in commodity futures).

#### *Other amendments*

- 10 In FA 2009, in Schedule 6, in paragraph 1(11)—
- (a) in paragraph (b), for “74B” substitute “ 74ZA ”,
  - (b) at the end of paragraph (c), insert “ and ”, and
  - (c) omit paragraph (e) (and the “and” before it).

#### *Commencement*

- 11 (1) The amendments made by this Schedule have effect in relation to a loss if it arises directly or indirectly in consequence of, or otherwise in connection with—
- (a) arrangements which are entered into on or after 21 October 2009, or
  - (b) any transaction forming part of arrangements which is entered into on or after that date.
- (2) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.
- (3) “An unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether or not under the contract).

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