

*Status: Point in time view as at 17/07/2012.*

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## SCHEDULES

### SCHEDULE 2

#### ALTERNATIVE FINANCE ARRANGEMENTS

#### PART 3

##### OTHER AMENDMENTS

##### *Income and Corporation Taxes Act 1988 (c. 1)*

46 ICTA is amended as follows.

47 After section 367 insert—

##### **“367A Alternative finance arrangements**

(1) Sections 353 and 365 have effect as if—

- (a) purchase and resale arrangements involved the making of a loan, and
- (b) alternative finance return were interest.

(2) Section 366 has effect accordingly.

(3) In this section—

“alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007, and

“purchase and resale arrangements” means arrangements to which section 564C of ITA 2007 applies.”

##### *Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

48 ITEPA 2003 is amended as follows.

49 After section 173 (loans to which Chapter 7 of Part 3 (taxable benefits: loans) applies) insert—

##### **“173A Alternative finance arrangements**

(1) For the purposes of this Chapter a reference to a loan includes a reference to arrangements—

- (a) to which section 564C of ITA 2007 or section 503 of CTA 2009 (purchase and resale arrangements) applies (or would apply assuming one of the parties were a financial institution), or
- (b) to which section 564D of ITA 2007 or section 504 of CTA 2009 (diminishing shared ownership arrangements) applies (or would apply on that assumption).

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- (2) In the application of this Chapter as a result of this section, a reference to interest is to be treated as including alternative finance return (or anything that would be such return on that assumption).
- (3) In the application of this Chapter as a result of this section, a reference to the amount outstanding is to be taken—
- (a) in the case of arrangements within subsection (1)(a), as a reference to the purchase price minus such part of the aggregate payments made as does not represent alternative finance return (or anything that would be such return on that assumption),
  - (b) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 applies, as a reference to the amount of the financial institution's original beneficial interest minus such part of the aggregate payments made as does not represent alternative finance return, and
  - (c) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 would apply assuming one of the parties were a financial institution, as a reference to the amount of that party's original beneficial interest minus such part of the aggregate payments made as does not represent anything that would be alternative finance return on that assumption.
- (4) In this section—
- “alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007 or sections 511 to 513 of CTA 2009, and
- “financial institution” has the meaning given in section 564B of ITA 2007 or section 502 of CTA 2009.
- (5) This section does not apply to arrangements entered into before 22 March 2006.”

*Income Tax Act 2007 (c. 3)*

- 50 ITA 2007 is amended as follows.
- 51 At the beginning of Chapter 7 of Part 7 (Community Investment Tax Relief: supplementary and general) insert—

*“Alternative finance arrangements*

**Meaning of “loan” and “interest”**

- 372A(1) In this Part and regulations made under Chapter 2 of this Part—
- (a) references to a “loan” include references to alternative finance arrangements, and
  - (b) references to “interest” include references to alternative finance return.
- (2) In subsection (1)—
- “alternative finance arrangements” means arrangements to which any of the following applies—
- (a) section 564C (purchase and resale arrangements),

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(b) section 564E (deposit arrangements), and  
(c) section 564F (profit share agency arrangements), and  
“alternative finance return” has the meaning given by  
section 564I and 564L(1) and (2).

- (3) Subsection (1) needs to be read with—
- (a) section 372B, in the case of arrangements to which section 564C applies,
  - (b) section 372C, in the case of arrangements to which section 564E applies, and
  - (c) section 372D, in the case of arrangements to which section 564F applies.”

52 After section 372A insert—

**“372B Purchase and resale arrangements**

- (1) This section applies if, under arrangements to which section 564C applies, a person (“the first purchaser”) purchases an asset that is sold to another person (“the second purchaser”).
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The first purchaser is treated as making a loan to the second purchaser.
- (4) The amount of the loan is treated as being equal to the first purchase price.
- (5) If the arrangements provide that the first purchaser will transfer ownership of the asset to the second purchaser in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the asset being transferred to the second purchaser in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to the second purchaser, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date.
- (6) In calculating the amount of capital outstanding on the loan, each payment of the second purchase price (or part of the second purchase price), as reduced by any amount of alternative finance return included within each payment, is treated as repayment of the loan capital.
- (7) References to the beneficial owner of the loan include references to the person beneficially entitled to payment of the second purchase price.
- (8) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding second purchase price.
- (9) If arrangements to which section 564C applies are, as a result of this section, qualifying investments under Chapter 3 of this Part, paragraph (f) of section 366(1) is to be ignored in relation to the arrangements concerned.

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- (10) In this section “the first purchase price” and “the second purchase price” have the same meaning as in section 564C.”

53 After section 372B insert—

**“372C Deposit arrangements**

- (1) This section applies if, under arrangements to which section 564E applies, a person (“the depositor”) deposits money with a financial institution.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The depositor is treated as making a loan to the financial institution.
- (4) The amount of the loan is treated as being equal to the money deposited under the arrangements.
- (5) If the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money with the financial institution in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is deposited with the financial institution, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments deposited with the financial institution at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable deposit.
- (7) References to any repayment of the loan include references to any repayment of the deposit.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the deposit.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the deposit.
- (10) In this section “financial institution” has the same meaning as in Part 10A (see section 564B).”

54 After section 372C insert—

**“372D Profit share agency arrangements**

- (1) This section applies if, under arrangements to which section 564F applies, a person (“the principal”) appoints a financial institution as agent.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).

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- (3) The principal is treated as making a loan to the agent.
- (4) The amount of the loan is treated as being equal to the money provided by the principal to the agent under the arrangements.
- (5) If the arrangements provide that the principal will provide a sum of money to the agent in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the principal providing a sum of money to the agent in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is provided to the agent, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments provided to the agent at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable money provided to the agent.
- (7) References to any repayment of the loan include references to any repayment of the money provided to the agent.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the money provided to the agent.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the money provided to the agent.
- (10) In subsection (1) “financial institution” has the same meaning as in Part 10A (see section 564B).”

55 In section 1005 (meaning of “recognised stock exchange” etc) after subsection (2) insert—

“(2A) An order under subsection (1) may designate a stock exchange for the purposes of this section in its application to section 564G of this Act, section 151N of TCGA 1992 and section 507 of CTA 2009 only.”

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