



# Finance Act 2013

## 2013 CHAPTER 29

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 5

#### OTHER PROVISIONS

##### *Employee shareholder shares*

#### **55 Employee shareholder shares**

Schedule 23 contains—

- (a) provision about employee shareholder shares, and
- (b) provision for an exemption from income tax in connection with advice relating to proposed employee shareholder agreements.

##### *Seed enterprise investment scheme*

#### **56 SEIS: income tax relief**

- (1) ITA 2007 is amended as follows.
- (2) In section 29 (tax reductions: supplementary), in subsection (4B), after the entry for Chapter 1 of Part 5 insert— “ Chapter 1 of Part 5A (SEIS relief), ”.
- (3) In section 32 (liability not dealt with in the calculation), after the entry for section 235 insert— “ under section 257G (withdrawal or reduction of SEIS relief), ”.
- (4) In section 257DG (the control and independence requirement), for subsection (2) substitute—

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- “(2) The independence element of the requirement is that—
- (a) the issuing company must not at any time in period A (ignoring any on-the-shelf period) be within subsection (2A), and
  - (b) no arrangements must be in existence at any time in period A by virtue of which the issuing company could be within that subsection (whether during period A or otherwise).
- (2A) The issuing company is within this subsection at any time if it is under the control of any other company (or of another company and any other person connected with that other company).
- (2B) In subsection (2)(a) “on-the-shelf period” means a period during which the issuing company—
- (a) has not issued any shares other than subscriber shares, and
  - (b) has not begun to carry on, or make preparations for carrying on, any trade or business.”
- (5) The amendments made by subsections (2) and (3) have effect for the tax year 2013-14 and subsequent tax years.
- (6) The amendment made by subsection (4) has effect in relation to shares issued on or after 6 April 2013.

## 57 SEIS: re-investment relief

- (1) Schedule 5BB to TCGA 1992 (seed enterprise investment scheme: re-investment) is amended as follows.
- (2) In paragraph 1 (SEIS re-investment relief)—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (a), after “the tax year 2012-13” insert “ or the tax year 2013-14 (the year in question being referred to in this Schedule as “the relevant year”) ”, and
    - (ii) in paragraph (b), for “that year” substitute “ the relevant year ”,
  - (b) in sub-paragraph (3)(a), for “tax year 2012-13” substitute “ relevant year ”, and
  - (c) for sub-paragraph (5) substitute—
 

“(5) The relevant percentage of the available SEIS expenditure is to be set against a corresponding amount of the original gain.

(5A) In sub-paragraph (5)—

“the available SEIS expenditure” means so much of the SEIS expenditure as—

    - (a) is specified in the claim,
    - (b) is unused, and
    - (c) does not exceed so much of the original gain as is unmatched;

“the relevant percentage” means—

      - (a) if the relevant year is the tax year 2012-13, 100%, and
      - (b) if the relevant year is the tax year 2013-14, 50%.”

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- (3) In paragraph 2 (restrictions on relief under paragraph 1)—
  - (a) in sub-paragraph (1), for “tax year 2012-13” substitute “ relevant year ”, and
  - (b) in sub-paragraph (2)—
    - (i) for “tax year 2012-13” substitute “ relevant year ”, and
    - (ii) for “that tax year” substitute “ that year ”.
- (4) In paragraph 5 (removal or reduction of relief) in sub-paragraph (2) for “2012-13” substitute “ in which the shares were issued ”.
- (5) Accordingly, in section 150G of TCGA (which introduces Schedule 5BB), for “tax year 2012-13” substitute “ tax years 2012-13 and 2013-14 ”.

### *Disincorporation*

## **58 Disincorporation relief**

- (1) A claim for relief under this section (“disincorporation relief”) may be made where—
  - (a) a company transfers its business to some or all of the shareholders of the company,
  - (b) the transfer of the business is a qualifying business transfer (see section 59), and
  - (c) the business transfer date falls within the period of 5 years beginning with 1 April 2013.
- (2) As to the consequences of a claim for disincorporation relief being made, see—  
sections 162B and 162C of TCGA 1992;  
section 849A of CTA 2009.
- (3) In this section and sections 59 to 61 “the business transfer date”, in relation to the transfer of a business, is the date on which the business is transferred.  
  
For this purpose, where the business is transferred under a contract—
  - (a) the date on which the business is transferred is to be determined in accordance with section 28 of TCGA 1992, and
  - (b) if the business in question is transferred by more than one contract, then for the purposes of that section the contract under which the business is transferred is to be taken to be the contract under which the goodwill of the business is transferred.
- (4) This section and sections 59 and 60 apply to a transfer of a business with a business transfer date of 1 April 2013 or a later date.

## **59 Qualifying business transfer**

- (1) The transfer of a business from a company to some or all of the shareholders of the company is a qualifying business transfer for the purposes of section 58 if conditions A to E are met.
- (2) Condition A is that the business is transferred as a going concern.
- (3) Condition B is that the business is transferred together with all of the assets of the business, or together with all of those assets other than cash.

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- (4) Condition C is that the total market value of the qualifying assets of the business included in the transfer does not exceed £100,000.
- (5) Condition D is that all of the shareholders to whom the business is transferred are individuals.
- (6) Condition E is that each of those shareholders held shares in the company throughout the period of 12 months ending with the business transfer date.
- (7) For the purposes of condition D, the reference to individuals includes an individual acting as a member of a partnership, but does not include an individual acting as a member of a limited liability partnership.
- (8) Section 60 of TCGA 1992 (nominees and bare trustees) applies for the purposes of this section as it applies for the purposes of that Act.
- (9) In this section “market value”, in relation to an asset, means the price which the asset might reasonably be expected to fetch on a sale in the open market.
- (10) In this section a “qualifying asset” means—
  - (a) goodwill, or
  - (b) an interest in land which is not held as trading stock.

## 60 Making a claim

- (1) A claim for disincorporation relief under section 58—
  - (a) is to be made jointly by the company and all of the shareholders to whom the business is transferred, and
  - (b) is irrevocable.
- (2) Any claim for disincorporation relief must be made within the period of 2 years beginning with the business transfer date.

## 61 Effect of disincorporation relief

- (1) In Part 5 of TCGA 1992 (transfer of business assets), in Chapter 1 (general provisions), after section 162A insert—

*“Transfer of business from company to shareholders*

### **162B Disincorporation relief: assets (including pre-FA 2002 goodwill)**

- (1) This section applies where—
  - (a) a company transfers its business to some or all of the shareholders of the company, and
  - (b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013.
- (2) The disposal and acquisition of any qualifying asset of the business included in the transfer is to be deemed to be for a consideration equal to the lower of—
  - (a) the sums allowable under section 38 as a deduction in the computation of the gain accruing to the company on the disposal of the asset in question, and

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- (b) the market value of the asset.
- (3) In subsection (2) a “qualifying asset” means—
  - (a) goodwill, or
  - (b) an interest in land which is not held as trading stock.
- (4) But subsection (2) does not apply to the goodwill of the business if section 162C applies to it.

### **162C Disincorporation relief: post-FA 2002 goodwill**

- (1) This section applies where—
  - (a) a company transfers its business to some or all of the shareholders of the company,
  - (b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013, and
  - (c) section 849A of CTA 2009 (disincorporation relief: transfer values for post-FA 2002 goodwill) applies to the transfer of the goodwill of the business.
- (2) The acquisition of the goodwill of the business is deemed to be for a consideration equal to the value at which the goodwill is treated as transferred by virtue of section 849A of CTA 2009.”
- (2) In Part 8 of CTA 2009 (intangible fixed assets), Chapter 13 (transactions between related parties) is amended as follows.
- (3) In section 844 (overview of Chapter), in subsection (2) for “849” substitute “ 849A ”.
- (4) In section 845 (transfer between company and related party treated as at market value), in subsection (4) (exceptions to basic rule)—
  - (a) omit the “and” at the end of paragraph (ca), and
  - (b) after paragraph (d) insert “, and
  - (e) section 849A (disincorporation relief: transfer values for post-FA 2002 goodwill).”
- (5) After section 849 insert—

### **“849A Disincorporation relief: transfer values for post-FA 2002 goodwill**

- (1) This section applies where—
  - (a) a company transfers its business to some or all of the shareholders of the company, and
  - (b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013.
- (2) If section 735 applies to the transfer of the goodwill of the business, the transfer is treated for the purposes of this Part as being at the lower of—
  - (a) the tax written-down value of the goodwill, and
  - (b) its market value.
- (3) If section 736 applies to the transfer of the goodwill of the business, the transfer is treated for the purposes of this Part as being at the lower of—

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- (a) the cost of the goodwill, and
  - (b) its market value.
- (4) If section 738 applies to the transfer of the goodwill of the business, the proceeds of realisation of the goodwill are treated for the purposes of this Part as being nil.
- (5) In subsection (2)(a) the reference to the tax written-down value of the goodwill is to its tax written-down value immediately before the transfer.
- (6) In subsection (3)(a) “the cost of the goodwill” means the cost recognised for tax purposes (determined in accordance with section 736(6) and (7)).
- (7) In this section market value has the meaning given in section 845(5).”
- (6) The amendments made by this section have effect in relation to a transfer of a business with a business transfer date of 1 April 2013 or a later date.

### *Capital gains*

## **62 Attribution of gains to members of non-resident companies**

- (1) TCGA 1992 is amended as follows.
- (2) In subsection (4) of section 13 (members to whom rule for attributing gains to members of non-resident companies does not apply), for “one tenth” substitute “one quarter”.
- (3) In subsection (5) of that section (cases where rule for attributing gains to members of non-resident companies does not apply), after the “or” at the end of paragraph (b) insert—
- “(ca) a chargeable gain accruing on the disposal of an asset used, and used only, for the purposes of economically significant activities carried on by the company wholly or mainly outside the United Kingdom, or
  - (cb) a chargeable gain accruing to the company on a disposal of an asset where it is shown that neither—
    - (i) the disposal of the asset by the company, nor
    - (ii) the acquisition or holding of the asset by the company,
 formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax, or”.
- (4) After section 13 insert—

### **“13A Section 13(5): interpretation**

- (1) For the purposes of section 13(5)(b) a disposal of an asset is to be regarded as a disposal of an asset used for the purposes of a trade carried on wholly outside the United Kingdom by a company if—
- (a) the asset is accommodation, or an interest or right in accommodation, which is situated outside the United Kingdom, and
  - (b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.

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*Status: Point in time view as at 12/02/2019.*

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- (2) For the purposes of subsection (1)(b) each of the following is “a relevant period”—
- (a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or
  - (b) if the company has been the beneficial owner of the accommodation (or interest or right) for a period longer than 36 months, the period of 12 months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company has been the beneficial owner of the accommodation (or interest or right).
- (3) The reference in subsection (1)(b) to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but—
- (a) as if sections 266, 268 and 268A were omitted, and
  - (b) as if, in section 267(1), the reference to an accounting period were a reference to a relevant period as defined by subsection (2) above.
- (4) For the purposes of section 13(5)(ca) activities carried on by a company are “economically significant activities” if they are activities which consist of the provision by the company of goods or services to others on a commercial basis and involve—
- (a) the use of staff in numbers, and with competence and authority,
  - (b) the use of premises and equipment, and
  - (c) the addition of economic value, by the company, to those to whom the goods or services are provided,
- commensurate with the size and nature of those activities.
- (5) In subsection (4) “staff” means employees, agents or contractors of the company.”
- (5) The amendments made by this section have effect in relation to disposals made on or after 6 April 2012.
- (6) But, in the case of a disposal made on or after that date but before 6 April 2013, a person to whom a part of a chargeable gain or allowable loss would (but for the amendments made by this section) have accrued on the disposal may make an election in writing for section 13 of TCGA 1992 to apply in relation to the disposal without those amendments.
- (7) An election under subsection (6) in respect of a disposal must be made—
- (a) in the case of a person within the charge to capital gains tax, within 4 years from the end of the tax year in which the disposal was made, and
  - (b) in the case of a person within the charge to corporation tax, within 4 years from the end of the accounting period in which the disposal was made.

## **63 Heritage maintenance settlements**

- (1) In section 169D of TCGA 1992 (gifts to settlor-interested settlements etc: exceptions to sections 169B and 169C), in subsection (1), after “elected” insert “, or could have elected,”.
- (2) The amendment made by this section has effect for the tax year 2012-13 and subsequent tax years.

*Status: Point in time view as at 12/02/2019.*

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**64 EMI options and entrepreneurs' relief etc**

Schedule 24 makes provision for capital gains tax purposes in connection with shares acquired under options which are qualifying options under the EMI code.

**65 Charge on certain high value disposals by companies etc**

Schedule 25 contains provision for a new capital gains tax charge on gains accruing to companies etc on certain high value disposals.

**66 Currency used in tax calculations: chargeable gains and losses**

(1) Chapter 4 of Part 2 of CTA 2010 (currency) is amended as follows.

(2) In section 5 (basic rule: sterling to be used), after subsection (2) insert—

“(3) See section 9C for provision about the application of subsection (1) so far as it relates to calculating chargeable gains.”

(3) After section 9B insert—

**“9C Chargeable gains and losses of companies**

(1) This section applies if—

- (a) a company disposes of an asset which is a ship, an aircraft, shares or an interest in shares, and
- (b) at any time beginning with the company's acquisition of the asset (or, if earlier, the time allowable expenditure was first incurred in respect of the asset) and ending with the disposal, the company's relevant currency is not sterling.

(2) A company's relevant currency at any time is its functional currency at that time, subject to subsection (3).

(3) If, at any time—

- (a) a company is a UK resident investment company, and
- (b) the company has a designated currency (see sections 9A and 9B) which is different from its functional currency,

the company's relevant currency at that time is that designated currency.

(4) If the relevant currency of the company at the time of the disposal is not sterling, the chargeable gain or loss accruing to the company on the disposal must be calculated as follows—

*Step 1* Calculate the chargeable gain or loss in the relevant currency of the company at the time of the disposal.

*Step 2* Translate the amount of the chargeable gain or loss into sterling by reference to the spot rate of exchange on the day of the disposal.

(5) In any case, subsections (6) to (10) apply for the purposes of calculating the chargeable gain or loss.

(6) Where any allowable expenditure is incurred in a currency which is not the company's relevant currency at the time it is incurred, that expenditure is to be



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

translated into that relevant currency by reference to the spot rate of exchange for the day on which it is incurred.

- (7) Where, at any time after any allowable expenditure is incurred but before the asset is disposed of, there is a change in the company's relevant currency, that expenditure is to be translated (or, if it has previously been translated under this section, further translated) into the relevant currency of the company immediately following the change, by reference to the spot rate of exchange for the day of the change.
- (8) Any amount of consideration for the disposal which is given in a currency other than the company's relevant currency is to be translated into that relevant currency by reference to the spot rate of exchange on the day of disposal.
- (9) For the purposes of subsections (6) and (7)—
- (a) any translation of expenditure under subsection (6) is to be done before any translation of the expenditure under subsection (7), and
  - (b) if subsection (7) applies as a result of more than one change in the company's relevant currency, it is to be applied in relation to each change in the order the changes were made (with the earliest first).
- (10) Where, by virtue of any enactment, the company was at any time treated for the purposes of corporation tax on chargeable gains as acquiring the asset—
- (a) for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the person disposing of the asset, or
  - (b) for a consideration equal to the market value of the asset,
- for the purposes of this section that allowable expenditure is treated as incurred by the company at that time.
- (11) For the purposes of this section, a reference to a ship or aircraft includes a reference to the benefit of a contract—
- (a) to which section 67 of CAA 2001 applies, and
  - (b) which relates to plant or machinery which is a ship or aircraft.
- (12) In this section—
- “allowable expenditure” means expenditure which, immediately before the disposal, was attributable to the asset under section 38(1) (a) to (c) of TCGA 1992;
  - “interest in shares” has the same meaning as in Schedule 7AC to TCGA 1992 (see paragraph 29 of that Schedule);
  - “shares” includes stock.”
- (4) The amendments made by this section come into force in accordance with provision made by the Treasury by order.

#### **Commencement Information**

- II** [S. 66](#) in force at 1.9.2013 for the purposes of the amendments made by that section, with effect in relation to disposals after that date by [S.I. 2013/1815](#), [art. 2](#)

*Status: Point in time view as at 12/02/2019.*

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### *Capital allowances*

#### **F1 67 Allowances for energy-saving plant and machinery: Northern Ireland**

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##### **Textual Amendments**

- F1** S. 67 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019](#) (c. 1), s. 33(2)(c)(x)(a)

#### **68 Cars with low carbon dioxide emissions**

- (1) In section 45D of CAA 2001 (first year qualifying expenditure on cars with low carbon dioxide emissions)—
- (a) in subsection (1)(a), for “2013” substitute “2015”, and
  - (b) in subsection (4), for “110” substitute “95”.

**F2**(2) .....

- (3) In section 104AA of that Act (special rate expenditure: meaning of “main rate car”), in subsection (4) for “160” substitute “130”.
- (4) Accordingly, in section 77 of FA 2008 omit—
- (a) subsection (2), and
  - (b) subsection (3).
- (5) The amendments made by subsections (1)(b), (2) and (4)(b) have effect in relation to expenditure incurred on or after 1 April 2013.
- (6) The amendment made by subsection (3) has effect in relation to expenditure incurred on or after the relevant date.
- (7) But in relation to expenditure incurred on the hiring of a car—
- (a) for a period of hire which begins before the relevant date, and
  - (b) under a contract entered into before that date,
- section 49(1A) of ITTOIA 2005 and section 57(1A) of CTA 2009 apply on or after the relevant date as if the amendment made by subsection (3) did not have effect.
- (8) “The relevant date” means—
- (a) in the case of income tax, 6 April 2013, and
  - (b) in the case of corporation tax, 1 April 2013.

##### **Textual Amendments**

- F2** S. 68(2) repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019](#) (c. 1), s. 33(2)(c)(x)(b)

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*Status: Point in time view as at 12/02/2019.*

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**69 Gas refuelling stations: extension of time limit for capital allowance**

In section 45E(1)(a) of CAA 2001 (time limit for incurring of expenditure qualifying for first-year allowance), for “2013” substitute “ 2015 ”.

**70 First-year allowance to be available for ships and railway assets**

- (1) In section 46(2) of CAA 2001 (general exclusions from first-year allowance), omit—
  - (a) general exclusion 3 (ships), and
  - (b) general exclusion 4 (railway assets),and the italicised headings preceding them.
- (2) The amendments made by this section have effect for expenditure incurred on or after 1 April 2013.

**71 Restrictions on buying capital allowances**

Schedule 26 contains provision amending Chapter 16A of Part 2 of CAA 2001 (restrictions on allowance buying).

**72 Hire cars for disabled persons**

- (1) In section 268D of CAA 2001 (hire cars for disabled persons), in subsection (2), after paragraph (a) insert—
  - “(aa) personal independence payment under the Welfare Reform Act 2012, or the corresponding provision having effect in Northern Ireland, because of entitlement to the mobility component,
  - (ab) armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,”.
- (2) The amendment made by this section has effect in relation to expenditure incurred on or after 1 April 2013.

**73 Contribution allowances: plant and machinery**

- (1) Section 538 of CAA 2001 (contribution allowances: plant and machinery) is amended as follows.
- (2) In subsection (1), omit the “and” at the end of paragraph (a) and after that paragraph insert—
  - “(aa) C's contribution is to expenditure on the provision of plant or machinery, and”.
- (3) In subsection (2)—
  - (a) in paragraph (a), for “asset provided by means of C's contribution” substitute “ plant or machinery ”,
  - (b) in paragraph (b), for “asset” substitute “ plant or machinery ”, and
  - (c) in paragraph (c)—
    - (i) for “asset” substitute “ plant or machinery ”, and
    - (ii) after “times” insert “ plant or machinery ”.

*Status: Point in time view as at 12/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

- (4) The amendments made by this section have effect in relation to expenditure pooled, and to claims made, on or after 29 May 2013 (“the commencement date”).
- (5) In relation to such expenditure and claims, when determining for the purposes of section 536(3)(a) of CAA 2001 whether an allowance can be made under Chapter 2 of Part 11 of that Act, the amendments made by this section are to be treated as always having had effect.
- (6) Nothing in this section applies to a claim by a person for a contribution allowance under Part 2 of CAA 2001 in respect of a contribution made before the commencement date.
- (7) Subsection (8) applies if—
  - (a) expenditure which a person has been regarded as having incurred (despite section 532(1) of CAA 2001) by virtue of section 536(1) of that Act has been pooled by virtue of section 53 of that Act—
    - (i) on or after 1 January 2013 but before the commencement date, or
    - (ii) before 1 January 2013 in circumstances where no claim was made in respect of the expenditure before that date, and
  - (b) had the amendments made by this section had effect at the time the expenditure was incurred, that person would not have been regarded as having incurred that expenditure (“the relevant expenditure”).
- (8) Part 2 of CAA 2001 has effect as if an event had occurred as a result of which the person is required to bring into account as a disposal receipt under that Part, for the chargeable period in which the commencement date falls, a disposal value of an amount equal to  $E - A$ .
- (9) For the purposes of subsection (8)—
 

$E$  is the amount of the relevant expenditure, and

$A$  is the total amount of writing-down allowances made in respect of the relevant expenditure.
- (10) For the purpose of calculating  $A$ , the total amount of writing-down allowances made in respect of expenditure on an item of plant or machinery is to be determined as if that item were the only item of plant or machinery in relation to which Chapter 5 of Part 2 of CAA 2001 had effect.
- (11) The event mentioned in subsection (8) is not to be regarded as a disposal event for the purposes of section 60(3) of CAA 2001.

### *Miscellaneous*

#### **74 Community investment tax relief**

Schedule 27 makes provision about community investment tax relief.

#### **75 Lease premium relief**

Schedule 28 makes provision in relation to relief for lease premiums.

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*Status: Point in time view as at 12/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

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## **76 Manufactured payments: stock lending arrangements**

(1) Section 596 of ITA 2007 (deemed manufactured payments: stock lending arrangements) is amended in accordance with subsections (2) and (3).

(2) For subsection (1) substitute—

“(1) This section applies if conditions A to C are met.

(1A) Condition A is that there is a stock lending arrangement in respect of securities.

(1B) Condition B is that a dividend or interest on the securities is paid, as a result of the arrangement, to a person other than the person who is the lender under the arrangement.

(1C) Condition C is that—

(a) no provision is made for securing that the lender receives payments representative of the dividend or interest, or

(b) provision is made for securing that the lender receives—

(i) payments representative of the dividend or interest, and

(ii) another benefit in respect of the dividend or interest (including the release of the whole or part of any liability to pay an amount).”

(3) In subsection (2), for paragraph (a) substitute—

“(a) were required, under the arrangement—

(i) in a case falling within paragraph (a) of subsection (1C), to pay the lender an amount representative of the dividend or interest, or

(ii) in a case falling within paragraph (b) of that subsection, to pay the lender an amount representative of the dividend or interest but deducting from that amount any payment mentioned in sub-paragraph (i) of that paragraph on which tax has been, or is to be, charged, and”.

(4) Section 812 of CTA 2010 (deemed manufactured payments: stock lending arrangements) is amended in accordance with subsections (5) to (7).

(5) For subsection (1) substitute—

“(1) This section applies if conditions A to C are met.

(1A) Condition A is that there is a stock lending arrangement in respect of securities.

(1B) Condition B is that a dividend or interest on the securities is paid, as a result of the arrangement, to a person other than the person who is the lender under the arrangement.

(1C) Condition C is that—

(a) no provision is made for securing that the lender receives payments representative of the dividend or interest, or

(b) provision is made for securing that the lender receives—

(i) payments representative of the dividend or interest, and

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

- (ii) another benefit in respect of the dividend or interest (including the release of the whole or part of any liability to pay an amount).”
- (6) In subsection (2), for paragraph (a) substitute—
  - “(a) were required, under the arrangement—
    - (i) in a case falling within paragraph (a) of subsection (1C), to pay the lender an amount representative of the dividend or interest, or
    - (ii) in a case falling within paragraph (b) of that subsection, to pay the lender an amount representative of the dividend or interest but deducting from that amount any payment mentioned in sub-paragraph (i) of that paragraph on which tax has been, or is to be, charged, and”.
- (7) After subsection (6) insert—
  - “(7) This section has effect regardless of section 358 of CTA 2009 (exclusion of credits on release of connected companies debts) or any other provision of Part 5 of that Act (loan relationships) which prevents a credit from being brought into account.”
- (8) The amendments made by this section have effect in relation to cases in which a dividend or interest is paid, or is treated as paid, on or after 5 December 2012.

## 77 **Manufactured payments: general**

Schedule 29 contains provision for, and in connection with, the application of the Tax Acts to manufactured payment relationships and payments representative of dividends and interest.

## 78 **Relationship between rules prohibiting and allowing deductions**

- (1) In section 31 of ITTOIA 2005 (trade profits: relationship between rules prohibiting and allowing deductions)—
  - (a) after subsection (1) insert—
    - “(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a trade in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—
      - (a) does not have priority under subsection (1)(a), and
      - (b) is subject to any relevant prohibitive rule in this Part (and to the provisions mentioned in subsection (1)(b)).”, and”
  - (b) after subsection (3) insert—
    - “(4) In this section “relevant tax avoidance arrangements” means arrangements—
      - (a) to which the person carrying on the trade is a party, and
      - (b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

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*Status: Point in time view as at 12/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

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“Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”

(2) In section 274 of ITTOIA 2005 (property businesses: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

“(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a property business in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

- (a) does not have priority under subsection (1)(a), and
- (b) is subject to any relevant prohibitive rule in this Part (and to the provisions mentioned in subsection (1)(b)).”, and”

(b) after subsection (3) insert—

“(3A) In this section “relevant tax avoidance arrangements” means arrangements—

- (a) to which the person carrying on the property business is a party, and
- (b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

“Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”

(3) In section 51 of CTA 2009 (trade profits: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

“(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a trade in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

- (a) does not have priority under subsection (1)(a), and
- (b) is subject to any relevant prohibitive rule (and to the provisions mentioned in subsection (1)(b)).”, and

(b) after subsection (3) insert—

“(4) In this section “relevant tax avoidance arrangements” means arrangements—

- (a) to which the company carrying on the trade is a party, and
- (b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

“Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”

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*Status: Point in time view as at 12/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5. (See end of Document for details)*

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- (4) In section 214 of CTA 2009 (property businesses: relationship between rules prohibiting and allowing deductions)—
- (a) after subsection (1) insert—
- “(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a property business in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—
- (a) does not have priority under subsection (1)(a), and
- (b) is subject to any relevant prohibitive rule (and to the provisions mentioned in subsection (1)(b)).”, and
- (b) after subsection (3) insert—
- “(3A) In this section “relevant tax avoidance arrangements” means arrangements—
- (a) to which the company carrying on the property business is a party, and
- (b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).
- “Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (5) The amendments made by this section have effect in relation to deductions in respect of amounts which arise directly or indirectly in consequence of, or otherwise in connection with—
- (a) arrangements which are entered into on or after 21 December 2012, or
- (b) any transaction forming part of arrangements which is entered into on or after that date.
- (6) 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.
- (7) “An unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

## 79 Close companies

Schedule 30 (which makes provision about close companies) has effect.



**Status:**

Point in time view as at 12/02/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2013, CHAPTER 5.