

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, Cross Heading: TCGA 1992. (See end of Document for details)

SCHEDULES

SCHEDULE 12

DISGUISED INTEREST

TCGA 1992

- 5 TCGA 1992 is amended as follows.
- 6 In section 37 (consideration chargeable to tax on income), after subsection (2) insert—
- “(2A) Subsection (1) is not to be taken as excluding from the consideration so taken into account any money or money's worth which is, or is taken into account in computing, a return on which income tax is charged under Chapter 2A of Part 4 of ITTOIA 2005 (disguised interest) (but see section 381D of that Act).”
- 7 In section 39 (exclusion of expenditure by reference to tax on income), after subsection (3) insert—
- “(3A) This section is not to be taken as excluding, from the sums allowable under section 38 as a deduction in the computation of the gain, expenditure allowable as a deduction in computing a return on which income tax is charged under Chapter 2A of Part 4 of ITTOIA 2005 (disguised interest) (but see section 381D of that Act).”
- 8 Omit sections 148A to 148C (provision dealing with the capital gains tax consequences of Chapter 12 of Part 4 of ITTOIA 2005).
- 9 (1) Section 263A (agreements for sale and repurchase of securities) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) For the purposes of this section there is a repo in respect of securities if—
- (a) a person (“the original owner”) has agreed to sell the securities to another person (“the interim holder”), and
- (b) the original owner or a person connected with the original owner—
- (i) is required to buy back the securities by the agreement or a related agreement,
- (ii) is required to buy back the securities as a result of the exercise of an option acquired under the agreement or a related agreement, or
- (iii) exercises an option to buy back the securities which was acquired under the agreement or a related agreement.”
- (3) In subsection (1), for the words from “falling” to “repos)” substitute “ where under a repo in respect of securities the original owner has transferred the securities to the interim holder ”.

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- (4) Omit subsection (5).
- 10 After section 263A insert—
- “263AA Section 263A: interpretation**
- (1) Subsections (2) to (7) apply for the purposes of section 263A.
- (2) References to buying back securities include references to—
- (a) buying similar securities, and
 - (b) in the case of a person connected with the person who is the original owner under the repo, buying the securities sold by the original owner or similar securities.
- (3) Subsection (2) applies even if the person buying the securities has not held them before.
- (4) References to repurchase or a repurchaser are to be read accordingly.
- (5) For the purposes of subsection (2) securities are similar if they give their holders—
- (a) the same rights against the same persons as to capital and distributions, interest and dividends, and
 - (b) the same remedies to enforce those rights.
- (6) Subsection (5) applies even if there is a difference in—
- (a) the total nominal amounts of the securities,
 - (b) the form in which they are held, or
 - (c) the manner in which they can be transferred.
- (7) Agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (8) In section 263A and this section “securities” means—
- (a) shares in a company wherever resident,
 - (b) loan stock or other securities of—
 - (i) the government of the United Kingdom,
 - (ii) a local authority in the United Kingdom,
 - (iii) another public authority in the United Kingdom,
 - (iv) a company resident in the United Kingdom or other body resident in the United Kingdom, or
 - (c) shares, loan stock, stock or other securities issued by—
 - (i) a government, local authority or other public authority of a territory outside the United Kingdom, or
 - (ii) another body of persons not resident in the United Kingdom.”
- 11 (1) Section 263F (power to modify repo provisions: non-standard repo cases) is amended as follows.
- (2) In subsection (2), for the words from “cases” to the end substitute “ any case mentioned in section 263A(1). ”

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(3) For subsection (9) substitute—

“(9) Post-agreement fluctuations” are fluctuations in the value of—

- (a) securities transferred in pursuance of the original sale, or
- (b) representative securities,

which occur in the period after the making of the agreement for the original sale.

(10) “Representative securities” are securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale.”

12 In section 263G (power to modify repo provisions: redemption arrangements)—

- (a) in subsection (2), for the words from “cases” to the end substitute “ any case mentioned in section 263A(1). ”, and
- (b) omit subsection (4).

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