



Finance Act 2014

2014 CHAPTER 26

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

CORPORATION TAX: GENERAL

29 Disguised distribution arrangements involving derivative contracts

- (1) In Chapter 11 of Part 7 of CTA 2009 (derivative contracts: tax avoidance), after section 695 (but before the following italic heading) insert—

“695A Disguised distribution arrangements involving derivative contracts

- (1) This section applies if—
- (a) a company (“A”) is a party to arrangements involving one or more derivative contracts (each of which is referred to in this section as a “specified contract”),
 - (b) another company (“B”) is also a party to the arrangements (whether or not at the same time as A),
 - (c) A and B are members of the same group,
 - (d) the arrangements result in what is, in substance, a payment (directly or indirectly) from A to B of all or a significant part of the profits of the business of A or of a company which is a member of the same group as A or B (or both) (“the profit transfer”), and
 - (e) the arrangements are not arrangements of a kind which companies carrying on the same kind of business as A would enter into in the ordinary course of that business.

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- (2) No debits in respect of a specified contract, which—
- (a) relate to the profit transfer, and
 - (b) apart from this section, would be brought into account by A or B for the purposes of this Part,
- are to be so brought into account.
- (3) Where one or more debits in respect of a specified contract are not brought into account by virtue of subsection (2), credits arising from the same contract which—
- (a) relate to the same profit transfer, and
 - (b) apart from this section, would be brought into account by A or B for the purposes of this Part,
- are not to be so brought into account to the extent that the total of those credits does not exceed the total of those debits.
- (4) Subsection (3) does not apply to any credit which arises directly or indirectly in consequence of, or otherwise in connection with, arrangements the main purpose of which, or one of the main purposes of which, is the securing of a tax advantage for any person.
- (5) For the purposes of this section a company is a member of the same group as another company if it is (or has been) a member of the same group at a time when the arrangements mentioned in subsection (1) have effect.
- (6) In this section—
- “arrangements” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions;
 - “group” has the meaning given by section 357GD of CTA 2010;
 - “tax advantage” has the meaning given by section 1139 of CTA 2010.”

- (2) The amendment made by this section has effect in relation to accounting periods beginning on or after 5 December 2013.

This is subject to subsections (3) to (6).

- (3) In the case of a company which has an accounting period beginning before 5 December 2013 and ending on or after that date (“the straddling period”), for the purposes of subsections (2) and (4) so much of the straddling period as falls before that date, and so much of that period as falls on or after that date, are treated as separate accounting periods.
- (4) The amendment does not have effect in relation to debits, arising from a specified contract, which relate to the profit transfer and are or would be brought into account for an accounting period beginning on or after 5 December 2013 to the extent that the total of those debits does not exceed the amount (if any) by which—
- (a) the total amount of credits arising from that contract which—
 - (i) relate to the profit transfer, and
 - (ii) are or would be brought into account for the purposes of Part 7 of CTA 2009 for any accounting period ending before 5 December 2013, exceeds

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- (b) the total amount of debits arising from that contract which relate to the profit transfer and are or would be brought into account as mentioned in paragraph (a)(ii).
- (5) In the case of credits to which subsection (6) applies, section 695A of CTA 2009 has effect as if—
 - (a) subsection (2) of that section applied to credits in respect of a specified contract as it applies to debits in respect of a specified contract,
 - (b) subsection (3) of that section were omitted, and
 - (c) in subsection (4) the reference to subsection (3) were to subsection (2).
- (6) This subsection applies to credits which, had A or B had an accounting period beginning with 5 December 2013 and ending with 22 January 2014, would have been brought into account for that period by A or (as the case may be) B for the purposes of Part 7 of that Act (ignoring section 695A of CTA 2009).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)