

SCHEDULES

SCHEDULE 5

NON-UK RESIDENT COMPANIES CARRYING ON UK PROPERTY BUSINESSES ETC

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS

Transitional provisions

- 42 (1) Where—
- (a) before the commencement date a company is chargeable to income tax on the profits of its UK property business,
 - (b) on the commencement date the company becomes chargeable to corporation tax on the profits arising from a derivative contract that it is a party to for the purposes of its UK property business, and
 - (c) there is a tax asymmetry in relation to the derivative contract,
- the amounts to be brought into account in respect of the derivative contract for the purposes of Part 7 of CTA 2009 are to be adjusted in such manner as is just and reasonable having regard to the tax asymmetry.
- (2) For the purposes of subparagraph (1) there is a tax asymmetry in relation to the derivative contract if—
- (a) fair value amounts arising in relation to the derivative contract are brought into account in calculating for the purposes of income tax the profits or losses of the company's UK property business for tax years ending before the commencement date, but
 - (b) by reason of regulation 9 of the Disregard Regulations, fair value amounts arising in relation to the contract are not brought into account for the purposes of Part 7 of CTA 2009 for accounting periods of the company beginning on or after the commencement date.
- (3) In this paragraph—
- “fair value amount” means an amount representing a change in the fair value of a derivative contract which is recognised in determining a company's profit or loss for a period of account in accordance with generally accepted accounting practice;
 - “the Disregard Regulations” means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 ([S.I. 2004/3256](#)).