

SCHEDULES

SCHEDULE 25

LOAN RELATIONSHIPS

PART 2

AMENDMENTS OF OTHER ENACTMENTS

The Taxes Act 1988

Introductory

43 The Taxes Act 1988 is amended as follows.

Incidental costs of obtaining loan finance

44 In section 77(2)(a) (meaning of “qualifying loan” etc) omit sub-paragraph (ii) (interest deductible under section 338 against total profits).

Group relief

45 In section 403ZC (amounts eligible for group relief: non-trading deficit on loan relationships) omit subsection (2) (which refers to a claim under section 83(2) of the Finance Act 1996 (c. 8)).

Apportionment of income and gains

- 46 (1) Section 432A is amended as follows.
- (2) In subsection (9A)(a) (meaning of “net value”) for “money debt” substitute “loan relationship”.
- (3) In subsection (9B) (definitions)—
- (a) in paragraph (b) of the definition of “investment reserve” for “money debt” substitute “loan relationship”; and
 - (b) omit the definition of “money debt”.

Building society shares: regulations for deduction of tax

47 (1) Section 477A(3) (where regulations apply for any year of assessment, dividends or interest to be dealt with for the purposes of corporation tax as there described) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In paragraph (a) (liability to pay to be treated as a liability arising under a loan relationship) at the beginning insert “to the extent that it would not otherwise fall to be so regarded.”.
- (3) In paragraph (aa) (dividends or interest payable to company to be treated as payable in pursuance of right under loan relationship) after “payable to a company,” insert “then, to the extent that they would not otherwise fall to be so regarded.”.

Building society shares: incidental costs of issuing qualifying shares

- 48 In section 477B, after subsection (1) (which allows deduction of such costs) insert—
- “(1A) A deduction shall not be allowed by virtue of subsection (1) above to the extent that the costs in question fall to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships).”.

European Economic Interest Groupings

- 49 (1) Section 510A is amended as follows.
- (2) In paragraph (b) of subsection (3) (charging tax in respect of gains) for “gains” substitute “chargeable gains”.
 - (3) After that paragraph add

“;but paragraph (a) above is subject to subsection (6A) below.”.
 - (4) After subsection (6) (trade or profession carried on by grouping treated for tax on income and gains as carried on by a partnership) insert—

“(6A) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) shall have effect in relation to a grouping as it has effect in relation to a partnership (see in particular section 87A of, and paragraphs 19 and 20 of Schedule 9 to, that Act).”.

Funding bonds issued in respect of interest on certain debts

- 50 In section 582, after subsection (3) insert—
- “(3A) Chapter 2 of Part 4 of the Finance Act 1996 has effect subject to and in accordance with this section, notwithstanding anything in section 80(5) of that Act (matters to be brought into account in the case of loan relationships only under Chapter 2 of Part 4 of that Act).”.

Transfers of income arising from securities

- 51 In section 730, after subsection (2) insert—
- “(2A) This section does not have effect for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships).”.

Treatment of price differential on sale and repurchase of securities

- 52 (1) Section 730A is amended as follows.

(2) After subsection (5) insert—

“(5A) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—

- (a) the circumstances are as set out in subsection (1) above; and
- (b) interest on a deemed loan is deemed by virtue of subsection (2) above to be paid by or to the company;

and references to a relationship to which this section applies, and to a company’s being party to such a relationship, shall be construed accordingly.”.

(3) For subsection (6) (application of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) in relation to deemed interest) substitute—

“(6) Where a company has a relationship to which this section applies—

- (a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) shall, as respects that company, have effect in relation to the interest deemed by virtue of subsection (2) above to be paid or received by the company under that relationship as it would have effect if it were interest under a loan relationship to which the company is a party,
- (b) the debits and credits falling to be brought into account for the purposes of that Chapter so far as they relate to the deemed interest shall be those given by the use in relation to the deemed interest of an authorised accruals basis of accounting, and
- (c) the only debits or credits to be brought into account for the purposes of that Chapter by virtue of this subsection in respect of a relationship are those relating to that deemed interest,

and, subject to paragraphs (b) and (c) above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.”.

(4) After subsection (6A) (trading or non-trading debits or credits) insert—

“(6B) To the extent that debits or credits fall to be brought into account by a company under section 82(2) above in the case of a relationship to which this section applies, the company shall be regarded for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as being party to the relationship for the purposes of a trade carried on by the company.”.

Restriction of relief for payments of interest

53 (1) Section 787 is amended as follows.

(2) After subsection (1) insert—

“(1A) This section has effect in relation to Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) but taking the reference in subsection (1) above to giving relief to any person in respect of any payment of interest as including a reference to the bringing into account by any person in accordance with that Chapter of any debit in respect of interest (whether a payment or not); and other references in this section to relief shall be construed accordingly.”.

Status: This is the original version (as it was originally enacted).

- (3) For subsection (3) (determination of question as to benefit that might be expected to accrue in a case where the relief is claimed by virtue of section 83(2)(b) of the Finance Act 1996) substitute—

“(3) Where the relief is claimed by virtue of section 403—

- (a) in respect of a deficit to which section 83 of the Finance Act 1996 applies (non-trading deficit on loan relationships), or
- (b) in respect of trading losses, in a case where in computing those losses debits in respect of loan relationships are treated under section 82(2)(b) of that Act as expenses of the trade which are deductible in computing the profits of the trade,

any question under this section as to what benefit might be expected to accrue from the transaction in question shall be determined by reference to the claimant company and the surrendering company taken together.”.

Limits on credit: corporation tax

- 54 In section 797, in subsection (3B) (amounts that must be allocated to trading profits) in paragraph (b) (claims under section 83(2)(d) of the Finance Act 1996) for “a claim under subsection (2)(d) of” substitute “subsection (3A) of”.

Foreign tax on items giving rise to a non-trading credit

- 55 (1) Section 797A is amended as follows.
- (2) In subsection (5) (which specifies certain amounts under section 83 of the Finance Act 1996 (c. 8) which are to be aggregated for the purposes of subsection (4))—
- (a) in paragraph (a)—
 - (i) for “(2)(b), (c) or (d)” substitute “(2)(c)”; and
 - (ii) for the words from “(group relief” to “deficits)” substitute “(deficit carried back and set against profits)”;
 - (b) after paragraph (a) insert—
 - “(aa) so much of any non-trading deficit for that period as is surrendered as group relief by virtue of section 403 of the Taxes Act 1988; and”;
 - (c) in paragraph (b), for “(3)” substitute “(3A)”.
- (3) In subsection (6), for “in pursuance of a claim under section 83(2)(d)” substitute “under section 83(3A)”.

Investment trusts

- 56 (1) Section 842 is amended as follows.
- (2) In paragraph (a) of subsection (1) (income must be wholly or mainly eligible investment income)—
- (a) after “the company’s income” insert “(as determined in accordance with subsection (1AB) below)”; and
 - (b) after “eligible investment income” insert “(as so determined)”.
- (3) In paragraph (e) of subsection (1) (company must not retain more than 15% of eligible investment income)—

Status: This is the original version (as it was originally enacted).

- (a) for “more than” substitute “an amount which is greater than”; and
- (b) after “eligible investment income” insert “(determined in accordance with subsection (1AB) below)”.

(4) After subsection (1AA) insert—

“(1AB) In determining for the purposes of paragraph (a) or (e) of subsection (1) above (and accordingly of subsection (2A)(b) below)—

- (a) the amount of a company’s income, or
- (b) the amount of income which a company derives from shares or securities,

the amounts to be brought into account under Chapter 2 of Part 4 of the Finance Act 1996 in respect of the company’s loan relationships shall be determined without reference to any debtor relationships of the company.”.

Venture capital trusts

57 (1) Section 842AA is amended as follows.

- (2) In paragraph (f) of subsection (2) (company must not retain more than 15% of income derived from shares or securities) for “more than” substitute “an amount which is greater than”.
- (3) In section 842AA(11) (which applies provisions of section 842 to provisions of section 842AA)—
 - (a) before paragraph (a) insert the following paragraph—

“(za) subsection (1AB) of that section shall apply in relation to subsection (2)(a) above as it applies in relation to subsection (1)(a) of that section;”;
 - (b) in paragraph (b) (which applies subsections (2A) to (2C) of section 842 to subsection (2)(f) of section 842AA) after “subsections” insert “(1AB) and”.

Change in ownership of investment company

58 (1) Schedule 28A is amended as follows.

- (2) In paragraph 6(dc) (amounts in issue for the purposes of section 768B: non-trading deficit carried forward under section 83(3) of the Finance Act 1996 (c. 8)) for “83(3)” substitute “83(3A)”.
- (3) In paragraph 7(1)(d) (apportionment for section 768B in case of debits falling to be brought into account otherwise than on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
 - (iv) so falls to be brought into account without any adjustment under paragraph 17 or 18 of that Schedule (debit relating to amount of discount referable to the relevant accounting period to be brought into account instead for the accounting period in which the security is redeemed),”.
- (4) In paragraph 7(1)(e) (apportionment for section 768B in case of debits falling to be brought into account on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and

Status: This is the original version (as it was originally enacted).

- (iv) so falls to be brought into account with such an adjustment as is mentioned in paragraph (d)(iv) above.”.
- (5) Omit paragraph 7(2) (which relates to charges consisting of interest and which accordingly has no further application).
- (6) In paragraph 11(1) (debits that fall within paragraph 11)—
- (a) for the word “and” immediately preceding paragraph (c) substitute the following paragraph—
- “(bb) so falls to be brought into account with an adjustment under paragraph 17 or 18 of that Schedule (debit relating to amount of discount referable to the relevant accounting period to be brought into account instead for the accounting period in which the security is redeemed); and”;
- (b) in paragraph (c) (accounting period in which the debit would have been brought into account, apart from the sub-paragraph mentioned in paragraph (b)) for “apart from that sub-paragraph” substitute “apart from paragraphs 2(2), 17 and 18 of that Schedule.”.
- (7) In paragraph 13(1)(ec) (amounts in issue for the purposes of section 768C: non-trading deficit carried forward under section 83(3) of the Finance Act 1996 (c. 8)) for “83(3)” substitute “83(3A)”.
- (8) In paragraph 16(1)(d) (manner of apportionment in case of debits falling to be brought into account otherwise than on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
- (iv) so falls to be brought into account without any adjustment under paragraph 17 or 18 of that Schedule (debit relating to amount of discount referable to the relevant accounting period to be brought into account instead for the accounting period in which the security is redeemed),”.
- (9) In paragraph 16(1)(e) (manner of apportionment in case of debits falling to be brought into account on the assumption that interest does not accrue until paid) omit “and” immediately preceding sub-paragraph (iii) and at the end of that sub-paragraph insert “, and
- (iv) so falls to be brought into account with such an adjustment as is mentioned in paragraph (d)(iv) above.”.
- (10) Omit paragraph 16(2) (which relates to charges consisting of interest and which accordingly has no further application).