

SCHEDULES

SCHEDULE 23

EXCHANGE GAINS AND LOSSES FROM LOAN RELATIONSHIPS ETC

PART 2

AMENDMENTS OF OTHER LEGISLATION

The Income and Corporation Taxes Act 1988

Charges on income

- 17 (1) Section 494 of the Taxes Act 1988 is amended in accordance with the following provisions of this paragraph.
- (2) Subsection (2) (debts not to be brought into account in a manner which results in the reduction of what would otherwise be the company's ring fence profits, except as provided in the subsequent paragraphs) is amended as follows.
- (3) In paragraph (c) (debts in respect of a deemed loan relationship)—
- (a) for “a loan relationship deemed to exist for the purposes of section 100 of that Act,” substitute “a relationship to which section 100 of that Act applies,”;
 - (b) after “to the extent that” insert “(i)”; and
 - (c) after “above;” insert “or
 - (ii) the exchange loss arising from that relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure;as the case may be;”.
- (4) In paragraph (d) (debts in respect of debtor relationship which is creditor relationship of associated company)—
- (a) for “in the case of debits” substitute “in the case of a net debit for an accounting period”; and
 - (b) for “the debit”, in both places where occurring, substitute “the net debit”.
- (5) In the second sentence of that subsection (interpretation) for “any loan relationship deemed to exist for the purposes of section 100 of that Act” substitute “any relationship to which section 100 of that Act applies”.
- (6) After the second sentence insert the following as a third sentence—
- “For the purposes of paragraph (d) above, the net debit for an accounting period in respect of a debtor relationship of a company is the amount if any by which—

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- (i) the aggregate of the debits for the period in respect of the relationship, exceeds
- (ii) the credits in respect of exchange gains arising from the relationship for the period.”.

(7) After subsection (2) insert—

“(2ZA) Credits in respect of exchange gains from a company’s loan relationships shall not be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 in respect of any loan relationship of a company in any manner that results in an increase of what would otherwise be the company’s ring fence profits, except to the extent that, if the credit had been a debit in respect of an exchange loss from the relationship, it would have been brought into account by virtue of any of paragraphs (a) to (c) of subsection (2) above.”.

(8) In subsection (2A) (debts prevented from reducing ring fence profits by subsection (2) to be brought into account for purposes of Chapter 2 of Part 4 of Finance Act 1996 (c. 8) as non-trading debits)—

- (a) after “Where any debit” insert “or credit”;
- (b) in paragraph (b)—
 - (i) after “in accordance with subsection (2)” insert “or (2ZA)”; and
 - (ii) after “reduction” insert “or, as the case may be, increase”; and
- (c) in the closing words—
 - (i) after “that debit” insert “or credit”; and
 - (ii) after “non-trading debit” insert “or, as the case may be, non-trading credit”.

(9) After subsection (2A) insert—

“(2B) Where, in accordance with subsection (2) above, any proportion (including the whole) of a net debit, within the meaning of paragraph (d) of that subsection, cannot be brought into account in a manner that results in any reduction of what would otherwise be the company’s ring fence profits, subsection (2A) above shall apply—

- (a) separately in relation to that proportion of each of the debits and each of the credits brought into account in determining the amount of the net debit, and
- (b) on the assumption that that proportion of each of those debits and credits falls within paragraph (b) of that subsection.”.

Supplementary charge in respect of ring fence trades

- 18 (1) In section 501A of the Taxes Act 1988, subsection (5) (computation of financing costs) is amended as follows.
- (2) In paragraph (a) (costs giving rise to debits in respect of debtor relationships) after “(loan relationships)” insert “, other than debits in respect of exchange losses from such relationships (see section 103(1A) and (1B) of that Act)”.
- (3) For paragraph (b) (exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993 (c. 34), in relation to debt finance) substitute—

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

- “(b) any exchange gain or loss from a debtor relationship, within the meaning of that Chapter (see section 103(1A) and (1B) of that Act), in relation to debt finance;”.

Controlled foreign companies

- 19 In section 747A of the Taxes Act 1988 (controlled foreign companies: special rule for computing chargeable profits) in subsection (9), for paragraph (b) (which defines “the appointed day” as such day as may be appointed under section 165(7) (b) of the Finance Act 1993 (c. 34)) substitute—
- “(b) “the appointed day” is 23rd March 1995.”.

Double taxation relief

- 20 (1) Section 798B of the Taxes Act 1988 (adjustments of interest and dividends for spared tax etc) is amended as follows.
- (2) In subsection (5) (meaning of “qualifying losses”) for paragraph (a) (exchange losses under Finance Act 1993) substitute—
- “(a) exchange losses falling to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships); and”.

Provision not at arm’s length: foreign exchange gains and losses

- 21 (1) In Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length) paragraph 8 (foreign exchange gains and losses etc) is amended as follows.
- (2) In sub-paragraph (1) (exceptions)—
- (a) for “Subject to sub-paragraph (2)” substitute “Subject to sub-paragraph (3)”;
and
- (b) for paragraph (a) (which relates to Chapter 2 of Part 2 of the Finance Act 1993) substitute—
- “(a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) in respect of exchange gains or losses from loan relationships (as defined in section 103(1A) and (1B) of that Act), or”.
- (3) For sub-paragraph (2) (saving for certain provisions of sections 136 and 136A of the Finance Act 1993 (application of arm’s length test)) substitute—
- “(3) Sub-paragraph (1) above shall not affect so much of paragraph 11A of Schedule 9 to the Finance Act 1996 (loan relationships: exchange gains or losses where loan not on arm’s length terms) as has effect by reference to whether profits or losses fall to be computed by virtue of this Schedule as if the whole or any part of a loan had not been made.”.