



# Finance Act 2004

## 2004 CHAPTER 12

### PART 3

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 10

#### AVOIDANCE: MISCELLANEOUS

#### 138 Gilt strips

- (1) Schedule 13 to the Finance Act 1996 (c. 8) (discounted securities: income tax provisions) is amended as follows.
- (2) In paragraph 8 (transfers between connected persons deemed to be at market value) after sub-paragraph (3) insert—
  - “(4) Where the relevant discounted security is a strip, its market value at any time shall be determined for the purposes of this paragraph in accordance with paragraph 14E below.”.
- (3) In paragraph 9 (other transactions deemed to be at market value) after sub-paragraph (2) insert—
  - “(3) Where the relevant discounted security is a strip, its market value at any time shall be determined for the purposes of this paragraph in accordance with paragraph 14E below.”.
- (4) In paragraph 14 (strips of government securities) for sub-paragraph (6) (regulations as to manner of determining market value) substitute—
  - “(6) Paragraph 14E below makes provision as to the manner of determining for the purposes of this paragraph the market value at any time of—
    - (a) any strip, or
    - (b) any security exchanged for strips of that security.”.

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(5) After paragraph 14A (strips of government securities: losses) insert—

*“Strips of government securities: manipulation of acquisition, sale or redemption price*

14B (1) This paragraph applies in any case where, as a result of any scheme or arrangement,—

- (a) the amount paid by a person in respect of his acquisition of a strip is or was more than the market value of the strip at the time of that acquisition,
- (b) the amount payable to a person on a transfer of a strip by him is less than the market value of the strip at the time of the transfer, or
- (c) on redemption of a strip, the amount payable to a person, as the person holding the strip, is less than the market value of the strip on the day before redemption,

and the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.

- (2) In a case falling within sub-paragraph (1)(a) above, the person shall be treated for the purposes of paragraphs 1(2)(b) and 14A(3)(b) above on a transfer of the strip by him as if he had paid in respect of his acquisition of the strip an amount equal to the market value of the strip at the time of that acquisition.
- (3) In a case falling within sub-paragraph (1)(b) above, the person shall be treated for the purposes of paragraphs 1(2)(b) and 14A(3)(b) above as if the amount payable to him on the transfer were an amount equal to the market value of the strip at the time of the transfer.
- (4) In a case falling within sub-paragraph (1)(c) above, the person shall be treated for the purposes of paragraphs 1(2)(b) and 14A(3)(b) above as if the amount payable to him on redemption were an amount equal to the market value of the strip on the day before redemption.
- (5) For the purposes of this paragraph, no account shall be taken of any costs incurred in connection with any transfer or redemption of a strip or its acquisition.
- (6) Paragraph 14E below makes provision as to the manner of determining for the purposes of this paragraph the market value at any time of a strip.
- (7) In this paragraph “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.”

(6) After paragraph 14B insert—

*“Strips: manipulation of price: associated payment giving rise to capital gains tax loss*

14C (1) Where—

- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been,

as mentioned in paragraph (a), (b) or (c) of paragraph 14B(1) above,

- (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a strip, and
- (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person for the purposes of capital gains tax,

the loss shall not be an allowable loss for the purposes of capital gains tax.

- (2) For the purposes of this paragraph a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits, that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from paragraph 14B above and this paragraph) is—
  - (a) the obtaining of a tax advantage by any person, or
  - (b) the accrual to any person of an allowable loss for the purposes of capital gains tax.
- (3) In this paragraph “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.”.

(7) After paragraph 14C insert—

*“Restriction of profits and losses on strips by reference to original acquisition cost*

- 14D (1) This paragraph has effect for the purpose of excluding from charge or, as the case may be, relief under this Schedule so much of—
- (a) any profit realised by a person from the discount on a strip, or
  - (b) any loss sustained by a person from the discount on a strip,
- as is referable to a relevant amount being less than the person’s original acquisition cost for the strip.

For this purpose a relevant amount is any amount that falls to be brought into account as paid in respect of the acquisition of the strip or as payable on the transfer or redemption of the strip.

- (2) Where, on the transfer or redemption of a strip,—
  - (a) a person realises a profit (apart from this paragraph) from the discount on the strip and amount C exceeds amount A, or
  - (b) a person sustains a loss (apart from this paragraph) from the discount on the strip and amount C exceeds amount P,

then, for the purposes of the other provisions of this Schedule, the profit or loss shall be restricted or eliminated in accordance with the following provisions of this paragraph.

- (3) For the purposes of this paragraph—
  - “amount A” is the amount that falls to be brought into account as the amount paid by the person in respect of his acquisition of the strip in determining the amount of the profit or loss apart from this paragraph;

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“amount C” is the person’s original acquisition cost for the strip (see sub-paragraph (6) below);

“amount L” is the amount (apart from this paragraph) of the loss mentioned in sub-paragraph (2)(b) above;

“amount P” is the amount that falls to be brought into account as the amount payable on the transfer or redemption of the strip in determining the amount of the profit or loss apart from this paragraph.

- (4) In a case falling within sub-paragraph (2)(a) above (person realising a profit)—
- (a) if amount P exceeds amount C, the amount of the profit is restricted to the amount of that excess;
  - (b) if amount P does not exceed amount C, the person shall be treated as not realising a profit from the discount on the strip.
- (5) In a case falling within sub-paragraph (2)(b) above (person sustaining a loss)—
- (a) if amount A exceeds amount C, the amount of the loss is restricted to so much of amount L as remains after deducting from it the amount by which amount C exceeds amount P;
  - (b) if amount A does not exceed amount C, the person shall be treated for the purposes of this Schedule as not sustaining a loss from the discount on the strip.
- (6) For the purposes of this paragraph a person’s “original acquisition cost” in the case of a strip is the amount which—
- (a) disregarding any deemed transfers or re-acquisitions under paragraph 14(4) above (other than the transfer mentioned in sub-paragraph (2) above, if it is such a transfer), but
  - (b) otherwise giving effect, so far as applicable, to paragraph 8, 9, 14 or 14B above (each of which treats a person acquiring a security as having paid an amount equal to its market value determined in accordance with paragraph 14E below),
- would fall to be taken into account as the amount paid by the person in respect of his acquisition of the strip in determining whether a profit is realised, or a loss is sustained, from the discount on the strip.
- (7) In this paragraph any reference to a transfer includes a reference to a deemed transfer under paragraph 14(4) above.
- (8) In this paragraph any reference to sustaining a loss from the discount on a strip shall be construed in accordance with paragraph 14A above.”.

(8) After paragraph 14D insert—

*“Market value of strips etc for the purposes of paragraphs 8, 9, 14 and 14B*

- 14E (1) This paragraph makes provision as to the manner of determining—
- (a) for the purposes of paragraph 8, 9, 14 or 14B above, the market value at any time of a strip, and
  - (b) for the purposes of paragraph 14(2) above, the market value at any time of a security exchanged for strips of that security.

- (2) The market value on any day of a strip or security quoted in the Daily List shall be—
- (a) the lower of the two figures shown in the Daily List for the strip or security for that day,
  - plus
  - (b) one-quarter of the difference between those two figures,
- unless the Stock Exchange is closed on that day.
- (3) If the Stock Exchange is closed on any day, the market value on that day of any such strip or security shall be taken to be its market value on the latest previous day or earliest subsequent day on which the Stock Exchange is open, whichever affords the lower value.
- (4) In the case of a strip or security which—
- (a) is a security, or a strip of a security, issued by or on behalf of the government of a territory outside the United Kingdom, and
  - (b) is not quoted in the Daily List, but
  - (c) is quoted in a foreign stock exchange list,
- the market value shall be determined in accordance with sub-paragraph (5) below.
- (5) In any such case, sub-paragraphs (2) and (3) above shall have effect for determining the market value of the strip or security, but for this purpose those provisions shall have effect—
- (a) with the substitution for references to the Daily List of references to the foreign stock exchange list,
  - (b) with the substitution for references to the Stock Exchange of references to the foreign stock exchange to which that list relates, and
  - (c) with any modifications which are necessary by reason of the form of quotation adopted in the foreign stock exchange list (including, in a case where a single figure only is published, taking that figure as the market value).
- (6) Where a strip or security is quoted in more than one foreign stock exchange list—
- (a) any such list published for a foreign stock exchange in the territory of the issuing government shall be used for the purposes of sub-paragraph (5) above in preference to any other such list, and
  - (b) any such list published for a foreign stock exchange which is regarded as the major exchange in that territory for strips or securities shall be used for those purposes in preference to any other such list.
- (7) In this paragraph—
- “the Daily List” means the The Stock Exchange Daily Official List;
  - “foreign stock exchange” means a recognised stock exchange in a territory outside the United Kingdom on which strips are traded;

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“foreign stock exchange list” means any publication which performs in the case of a foreign stock exchange a function equivalent, or broadly similar, to that performed by the Daily List in relation to strips;

“issuing government” means the government which issued the security mentioned in sub-paragraph (4)(a) above.

- (8) The Treasury may by regulations make provision as to the manner of determining, for any of the purposes mentioned in sub-paragraph (1) above, the market value at any time of—
- (a) any strip, or
  - (b) any security exchanged for strips of that security.
- (9) Regulations under sub-paragraph (8) above may—
- (a) amend or modify any provision of this paragraph other than that sub-paragraph, sub-paragraph (1) above or this sub-paragraph;
  - (b) make different provision for different cases; and
  - (c) contain such incidental, supplemental, consequential and transitional provision and savings as the Treasury may think fit.”.

(9) In paragraph 15(1) (general interpretation) in the definition of “market value” (which applies except in paragraph 14) for “(except in paragraph 14 above)” substitute “(except as provided in relation to paragraph 8, 9, 14 or 14B above by paragraph 14E above)”.

(10) The amendments made by—

    - (a) subsections (2) and (3), and
    - (b) subsections (8) and (9), so far as relating to paragraph 8 or 9 of Schedule 13 to the Finance Act 1996 (c. 8),

have effect in relation to any transfer of a strip on or after 17th March 2004.

(11) The amendments made by—

    - (a) subsection (4), and
    - (b) subsections (8) and (9), so far as relating to paragraph 14 of Schedule 13 to the Finance Act 1996,

have effect in relation to exchanges on or after 17th March 2004 and deemed transfers and re-acquisitions under sub-paragraph (4) of that paragraph on or after that date.

(12) The amendments made by—

    - (a) subsection (5), and
    - (b) subsections (8) and (9), so far as relating to paragraph 14B of Schedule 13 to the Finance Act 1996,

have effect in relation to any strip held on 15th January 2004 or acquired after that date (and see subsection (15)).

(13) The amendment made by subsection (6) has effect in relation to losses accruing on or after 17th March 2004.

(14) The amendment made by subsection (7) has effect in relation to any strip acquired on or after 15th January 2004 (and see subsection (15)).

- (15) In determining when a strip is acquired for the purposes of subsection (12) or (14), any deemed transfers or re-acquisitions under paragraph 14(4) of Schedule 13 to the Finance Act 1996 shall be disregarded.