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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, SCHEDULE 6. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 6

Section 37

#### ACCOUNTING PRACTICE AND RELATED MATTERS

##### *Adjustment on change of accounting basis*

- 1 (1) In Schedule 22 to FA 2002 (adjustment on change of accounting basis: corporation tax), in paragraph 4 (adjustment treated as arising on last day of first period for which new basis adopted), for “last day” substitute “first day”.
- (2) This amendment has effect for accounting periods ending after 5th April 2005 in relation to periods of account beginning on or after 1st January 2005.
- 2 (1) In section 227 of ITTOIA 2005 (adjustment on change of accounting basis: income tax), for subsection (4) (meaning of “relevant change of accounting approach”) substitute—
- “(4) A “relevant change of accounting approach” means—
- (a) a change of accounting principle or practice that, in accordance with generally accepted accounting practice, gives rise to a prior period adjustment, or
- (b) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts drawn up in accordance with international accounting standards.”.
- (2) This amendment has effect for the tax year 2005-06 and subsequent tax years in relation to periods of account beginning on or after 1st January 2005.

##### *Meaning of “statutory insolvency arrangement”*

- 3 (1) For section 259 of ITTOIA 2005 (trading income: meaning of “statutory insolvency arrangement”) substitute—

##### **“259 Meaning of “statutory insolvency arrangement”**

In this Part “statutory insolvency arrangement” means—

- (a) a voluntary arrangement that has taken effect under or as a result of the Insolvency Act 1986, Schedule 4 or 5 to the Bankruptcy (Scotland) Act 1985 or the Insolvency (Northern Ireland) Order 1989,
- (b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986, or
- (c) any arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) that has taken effect under

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or by virtue of the law of a country or territory outside the United Kingdom.”.

- (2) This amendment has effect for the tax year 2005-06 and subsequent tax years in relation to periods of account beginning on or after 1st January 2005.

*Minor corrections*

- 4 (1) In Schedule 4 to FA 2005, omit paragraph 6 (which amended section 109A of ICTA for corporation tax purposes when that section has no such application).
- (2) In paragraph 19A of Schedule 9 to FA 1996, in sub-paragraph (4B)(g) after “2,” insert “4A,”.
- (3) In paragraph 25A of Schedule 26 to FA 2002, for “section 85B(1)” substitute “paragraph 17B(1)”.
- (4) In section 103(1) of FA 1996, in the definition of “exchange gain” and “exchange loss”, after “(1A)” insert “, (1AA)”.
- (5) In paragraph 54(1) of Schedule 26 to FA 2002, in the definition of “exchange gain” and “exchange loss”, after “(2)” insert “, (2A)”.
- (6) These amendments shall be deemed always to have had effect.

*Deemed release of liability on impaired debt becoming held by connected company*

- 5 (1) In Schedule 9 to FA 1996 (loan relationships: special computational provisions), for paragraph 4A substitute—

*“Deemed release of liability on impaired debt becoming held by connected company*

- 4A (1) This paragraph applies—
- (a) in the case specified in sub-paragraph (2), subject to the exception in sub-paragraph (3), and
  - (b) in the case specified in sub-paragraph (4).
- (2) The first case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
  - (b) another company (“the creditor company”) becomes party as creditor to the loan relationship,
  - (c) the debtor company and the creditor company are connected immediately after the latter becomes party to the loan relationship,
  - (d) there is no connection between the creditor company and the person from whom it acquires its rights under the loan relationship in the period of account in which it does so, and
  - (e) the carrying value of the liability under the loan relationship in the accounts of the debtor company exceeds the amount or value of any consideration given by the creditor company for its rights under the loan relationship.

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The carrying value referred to in paragraph (e) is the amount that would have been the carrying value of the liability under the loan relationship in the accounts of the debtor company if a period of account had ended immediately before the creditor company became party to the loan relationship.

- (3) The exception to the first case is where—
- (a) the creditor company acquires its rights under the loan relationship under an arm's length transaction, and
  - (b) there has been no connection between the creditor company and the debtor company at any time in the period—
    - (i) beginning four years before the date on which the creditor company acquired those rights, and
    - (ii) ending twelve months before that date.
- (4) The second case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
  - (b) another company (“the creditor company”) that—
    - (i) is party to the loan relationship as creditor, and
    - (ii) is not connected with the debtor company, becomes connected with the debtor company, and
  - (c) the amount that would have been the carrying value of the asset representing the loan relationship in the accounts of the creditor company if a period of account had ended immediately before the companies became connected would have been adjusted for impairment.
- (5) Where this paragraph applies there is deemed to be a release by the creditor company of its rights under the loan relationship.
- (6) In the first case the release is deemed to be of the amount of the excess referred to in sub-paragraph (2)(e) and to take place when the creditor company acquires its rights under the loan relationship.
- (7) In the second case the release is deemed to be of the amount of the impairment adjustment referred to in sub-paragraph (4)(c) and to take place when the creditor company becomes connected with the debtor company.
- (8) For the purposes of this paragraph there is a connection between a company and another person at any time (subject to sub-paragraph (9)) if at that time—
- (a) the other person is a company and one of the companies has control of the other, or
  - (b) the other person is a company and both companies are under the control of the same person,
- and there is a connection between a company and another person in a period of account if there is a connection (within paragraph (a) or (b) above) between the company and the person at any time in that period.

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“Control” here has the meaning given for the purposes of section 87 of this Act by section 87A.

- (9) The provisions of—
- (a) section 87(4) (companies not regarded as connected by virtue of control by government etc), and
  - (b) section 88 (connection between companies to be disregarded in certain circumstances),

apply for the purposes of this paragraph as they apply for the purposes of section 87.

- (10) In determining for the purposes of this paragraph the carrying value of the liability under a loan relationship, or of an asset representing a loan relationship, no account shall be taken of—
- (a) accrued amounts,
  - (b) amounts paid or received in advance, or
  - (c) impairment losses.”.

- (2) The amendment in sub-paragraph (1) has effect where the deemed release occurs on or after 16th March 2005.

*Adjustment on change to international accounting standards: bad debt debits formerly disallowed*

- 6 (1) In paragraph 19A of Schedule 9 to FA 1996 (loan relationships: adjustment on change of accounting policy), after sub-paragraph (4B) insert—

“(4BA) In determining the accounting value of an asset of the company at the end of the earlier period, no account shall be taken of a debit that in a period of account beginning before 1st January 2005 was disallowed for tax purposes—

- (a) because of the assumption required by paragraph 5(1) above, or
- (b) because the exceptions in section 74(1)(j) of the Taxes Act 1988 did not apply.”.

- (2) This amendment has effect for periods of account beginning on or after 1st January 2005.

*Loan relationships with embedded derivatives*

- 7 (1) Where—
- (a) a company is subject to old UK GAAP for a period of account beginning on or after 1st January 2005, and
  - (b) it holds assets (“relevant assets”) that—
    - (i) it is not permitted, under old UK GAAP, to treat as mentioned in subsection (1) of section 94A of FA 1996 (loan relationship with embedded derivative treated as two assets), with the result that that section does not apply, and
    - (ii) it would have been permitted to treat as mentioned in that provision if it had been subject to international accounting standards or new UK GAAP,

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the company may elect that Chapter 2 of Part 4 of FA 1996 (loan relationships) and Schedule 26 to FA 2002 (derivative contracts) shall have effect as if section 94A did apply.

- (2) Any such election—
    - (a) must be made in writing to an officer of Revenue and Customs,
    - (b) must be made—
      - (i) on or before 31st December 2005, or
      - (ii) after that date in accordance with sub-paragraph (3)(a) or (b),
    - and
    - (c) is irrevocable.
  - (3) An election may be made after 31st December 2005—
    - (a) if the company does not hold any relevant assets at the beginning of its first period of account beginning on or after 1st January 2005 but subsequently acquires one (or more) and the election is made no later than 90 days after the acquisition (or, if there is more than one, the first of them), or
    - (b) if the company does not have a period of account beginning in the calendar year 2005 and holds one or more relevant assets at the beginning of its first period of account beginning after the end of that year and the election is made no later than 90 days after the beginning of that period of account.
  - (4) An election under this paragraph has effect in relation to all relevant assets held by the company (including those subsequently acquired).
  - (5) An election under this paragraph—
    - (a) if made on or before 31st December 2005, has effect from the beginning of the company's first period of account beginning on or after 1st January 2005;
    - (b) if made after 31st December 2005 in accordance with sub-paragraph (3)(a), has effect from the beginning of the period of account in which the first relevant asset is acquired;
    - (c) if made after 31st December 2005 in accordance with sub-paragraph (3)(b), has effect from the beginning of the company's first period of account beginning on or after 1st January 2005.
  - (6) Where an election is made under this paragraph the provisions of paragraph 19A of Schedule 9 to FA 1996 and paragraph 50A of Schedule 26 to FA 2002 (adjustments on change of accounting policy) apply as if there were a change of accounting policy (consisting in the company treating its relevant assets as mentioned in section 94A(1) as from the date the election has effect).
  - (7) In this paragraph “old UK GAAP” means UK generally accepted accounting practice as it applied for periods of account beginning before 1st January 2005 and “new UK GAAP” means UK generally accepted accounting practice as it applies for periods of account beginning on or after that date.
  - (8) Any election made under paragraph 28(3) of Schedule 4 to FA 2005 before the passing of this Act shall have effect as if made under this paragraph.
- 8 (1) In section 116(8A) of TCGA 1992 (reorganisations, conversions and reconstructions: application of loan relationships regime in certain cases)—
  - (a) after “shall have effect” insert “, subject to subsection (8B) below, ”, and
  - (b) for “that subsection” substitute “ subsection (6) above ”.

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(2) After that subsection insert—

“(8B) Subsection (8A) above does not apply where the relevant transaction is a conversion of securities occurring in consequence of the operation of the terms of any security or of any debenture which is not a security.

Expressions used in this subsection have the same meaning as they have for the purposes of section 132.”.

(3) These amendments have effect in relation to transactions occurring after 26th May 2005.

*Exchange gains and losses*

9 (1) The following provisions shall cease to have effect—

- (a) section 84A of FA 1996 (exchange gains and losses from loan relationships);
- (b) paragraph 16 of Schedule 26 to FA 2002 (exchange gains and losses arising from derivative contracts).

(2) These amendments come into force on a day to be appointed by the Treasury by order made by statutory instrument.

(3) The order may contain such transitional provision and savings as appear to the Treasury to be appropriate.

10 In section 103 of FA 1996 (loan relationships: general interpretation), for subsection (1AA) substitute—

“(1AA) The Treasury may make provision by regulations as to the manner in which—

- (a) exchange gains or losses, and
- (b) any other profits or gains or losses,

are to be calculated for the purposes of subsection (1A) in a case where fair value accounting is used by the company.

Any such regulations may be made so as to apply to periods of account beginning before the regulations are made, but not earlier than the beginning of the calendar year in which they are made.”.

11 In paragraph 54 of Schedule 26 to FA 2002 (derivative contracts: general interpretation), for sub-paragraph (2A) substitute—

“(2A) The Treasury may make provision by regulations as to the manner in which—

- (a) exchange gains or losses, and
- (b) any other profits or gains or losses,

are to be calculated for the purposes of sub-paragraph (2) in a case where fair value accounting is used by the company.

Any such regulations may be made so as to apply to periods of account beginning before the regulations are made, but not earlier than the beginning of the calendar year in which they are made.”.

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