

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 21

Section 43

#### FOREIGN EXCHANGE: ANTI-AVOIDANCE

##### *Loan relationships*

F1<sub>1</sub> .....

##### **Textual Amendments**

**F1** Sch. 21 paras. 1-3 omitted (with effect in accordance with Sch. 7 Pt. 6 to the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 7 para. 100**

F1<sub>2</sub> .....

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F1<sub>3</sub> .....

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##### *Derivative contracts*

4 Chapter 3 of Part 7 of CTA 2009 (derivative contracts: credits and debits to be brought into account) is amended as follows.

5 For the heading before section 606 (exchange gains and losses) substitute— “Exchange gains and losses”.

6 (1) Section 606 is amended as follows

(2) In subsection (3), for paragraph (a) (together with the “and” at the end) substitute— “(a) condition A or B is met, and”.

(3) In subsection (4), for the words from “so much” to “currency as” substitute “an exchange gain or loss of a company so far as—

(a) condition A is met, and

(b) it”.

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(4) After that subsection insert—

“(4A) Condition A is that the exchange gain or loss arises in relation to a derivative contract whose underlying subject matter consists wholly or partly of currency.

(4B) Condition B is that the exchange gain or loss arises as a result of the translation from one currency to another of the profit or loss of part of the company's business.

(4C) Subsection (4D) applies where—

- (a) condition A is met, and
- (b) the amount that is recognised in respect of the exchange gain or loss as mentioned in subsection (3)(b) (“the recognised gain or loss”) is not calculated by reference to spot rates of exchange.

(4D) Where this subsection applies—

- (a) the recognised gain or loss is to be treated for the purposes of this Part as comprising two separate exchange gains or losses, namely—
  - (i) an exchange gain or loss calculated by reference to spot rates of exchange, and
  - (ii) a residual exchange gain or loss, and
- (b) subsections (3) and (4) do not have effect in relation to the residual exchange gain or loss.”

(5) After subsection (4D) (inserted by sub-paragraph (4) above) insert—

“(4E) Subsections (3) and (4) do not have effect to disapply subsection (1) in the case of an exchange gain arising in an accounting period of a company so far as—

- (a) the exchange gain arises in relation to a derivative contract whose underlying subject matter consists wholly or partly of currency,
- (b) the derivative contract is part of arrangements that have a one-way exchange effect in relation to the company in the accounting period (see section 606A), and
- (c) the arrangements cause the company or any other company to gain a tax advantage (other than a negligible tax advantage).”

F27 .....

<b>Textual Amendments</b>	
<b>F2</b>	Sch. 21 para. 7 omitted (with effect in accordance with Sch. 7 Pt. 6 to the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), <b>Sch. 7 para. 100</b>

8 Immediately before section 607 (pre-contract or abortive expenses) insert— “Miscellaneous”.

*Interpretation*

F39 .....

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### Textual Amendments

- F3** Sch. 21 para. 9 omitted (with effect in accordance with Sch. 7 Pt. 6 to the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 7 para. 100**

### *Consequential revocation*

- 10 The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2006 (S.I. 2006/843) are revoked.

### *Commencement*

- 11 (1) The amendments made by this Schedule have effect—
- (a) in relation to exchange gains and losses arising in accounting periods beginning on or after 22 April 2009, and
  - (b) subject to the following provisions of this paragraph, in relation to exchange gains and losses arising in straddling accounting periods.
- (2) In this paragraph “straddling accounting period” means an accounting period that—
- (a) begins before 22 April 2009, and
  - (b) ends on or after that date.
- (3) An exchange gain or loss that arises in a straddling accounting period in relation to—
- (a) an asset or liability representing a loan relationship, or
  - (b) a derivative contract,
- is to be treated for the purposes of this paragraph as if it were made up of two amounts.
- (4) Those two amounts are the exchange gains or losses that would arise in relation to the loan relationship or derivative contract in—
- (a) that part of the period that falls before 22 April 2009, and
  - (b) that part of the period that falls on or after that date,
- if those parts were separate accounting periods.
- (5) The amendments made by this Schedule have effect, in relation to an exchange gain or loss of the kind mentioned in sub-paragraph (3), as if the gain or loss were the amount determined in relation to it under sub-paragraph (4)(b).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)
- Sch. 56 para. 3(1)(d) omitted by [2021 c. 26 Sch. 27 para. 40\(4\)\(c\)](#)