

# **CORPORATION TAX ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Loan Relationships**

##### **Overview**

##### *Chapter 1: Introduction*

##### **Overview**

1035. This Chapter acts as an introduction to this Part. It sets out the structure of the Part and the way in which credits and debits on a loan relationship are brought into account in the case of both trading and non-trading loan relationships.

##### *Section 292: Overview of Part*

1036. This section provides an overview of the Part. It is new.

1037. *Subsection (1)* refers only to “profits” on a loan relationship and not “profits and gains” as does the source legislation. This has been followed throughout the Part on the ground that only one term is necessary. “Profits” has been adopted as being the usual taxation term and as making the link to case law on profits for corporation tax purposes clearer for the two Parts.

1038. The term “loan relationship” has been retained for its familiarity although the term is not as appropriate now as it was when the source legislation was enacted in 1996. The provisions now apply to a number of relationships which are not “loans”.

##### *Section 293: Construction of references to profits or losses from loan relationships*

1039. This section provides that profits and losses from loan relationships include profits and losses from related transactions. It is based on section 84(1) of FA 1996. The inclusion of related transactions avoids the repetition of the source legislation (“gains and losses on loan relationships and related transactions, etc”).

##### *Section 294: Matters treated as loan relationships*

1040. This section requires references to this Part of the Act to include references to Part 6 and arises from the decision to spread the loan relationships provisions over two Parts of the Act. It is new.

##### *Section 295: General rule: profits arising from loan relationships chargeable as income*

1041. This section provides the basic rule that all profits on loan relationships are charged as income. It is based on section 80(1) of FA 1996.

***Section 296: Profits and deficits to be calculated using credits and debits given by this Part***

1042. This section is based on section 82(1) of FA 1996.

***Section 297: Trading credits and debits to be brought into account under Part 3***

1043. This section explains how debits and credits are to be treated where a loan relationship is used for the purposes of a trade. It is based on sections 80(2) and 82(2) and (7) of FA 1996.

***Section 298: Meaning of trade and purposes of trade***

1044. This section explains what is meant by a company being a party to a creditor relationship for the purposes of a trade. It is based on section 103(2) and (3) of FA 1996.

***Section 299: Charge to tax on non-trading profits***

1045. This section brings the company into charge to corporation tax on its non-trading profits. It is based on sections 9(1) to (3), 18(1) to (3) and 582(2) of ICTA and section 80(1) and (3) of FA 1996. See *Change 59* in Annex 1 under section 413 in respect of the Schedule D Case VI charge in section 582(2) of ICTA.

***Section 300: Method of bringing non-trading deficits into account***

1046. This section explains how non-trading deficits on loan relationships are brought into account. It is based on section 80(4) of FA 1996.

***Section 301: Calculation of non-trading profits and deficits from loan relationships: non-trading credits and debits***

1047. This section explains the use of the terms “non-trading credits” and “non-trading debits” in respect of loan relationships which are not used for the purposes of a trade and provides the rules for set-offs between the two. It is based on section 82(1) and (3) to (6) of FA 1996.