



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 5

#### LOAN RELATIONSHIPS

#### CHAPTER 12

##### SPECIAL RULES FOR PARTICULAR KINDS OF SECURITIES

##### *Introduction*

### **398 Overview of Chapter**

- (1) This Chapter sets out rules relating to the holding of particular kinds of securities.
- (2) In particular, see—
  - (a) sections 399 to 405 (gilt-edged securities),
  - (b) sections 406 to 412 (deeply discounted securities: connected companies and close companies),
  - (c) sections 413 and 414 (funding bonds),
  - (d) sections 415 to 419 (derivatives), and
  - (e) section 420 (assumptions where options etc apply).
- (3) For other special rules about deeply discounted securities, see section 385 (company partners' shares where firm owns deeply discounted securities).

##### *Gilt-edged securities*

### **399 Index-linked gilt-edged securities: basic rules**

- (1) This section applies if a loan relationship is represented by an index-linked gilt-edged security.

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- (2) The amounts to be brought into account for the purposes of this Part are to be determined using fair value accounting.
- (3) But, in calculating those amounts, the adjustment specified in section 400 (adjustments for changes in index) must be made if that section applies.
- (4) In this section and section 400 “index-linked gilt-edged securities” means any gilt-edged securities under which the amounts of the payments are determined wholly or partly by reference to the retail prices index.
- (5) For the meaning of “gilt-edged securities”, see section 476(1).

#### **400 Index-linked gilt-edged securities: adjustments for changes in index**

- (1) This section applies if—
  - (a) the amounts to be brought into account for the purposes of this Part in respect of <sup>F1</sup>[an index-linked gilt-edged security] fall to be determined by reference to its value at two different times, and
  - (b) there is a change in the retail prices index between the earlier and the later time.
- (2) If that change is an increase, the carrying value of the security at the earlier time is increased by the same percentage as the percentage increase in the retail prices index between those times.
- (3) If that change is a reduction, the carrying value of the security at the earlier time is reduced by the same percentage as the percentage reduction in the retail prices index between those times.
- (4) The Treasury may, in relation to any description of index-linked gilt-edged securities, by order provide that—
  - (a) there are to be no adjustments under this section, or
  - (b) an adjustment specified in the order is to be made instead.
- (5) An order under subsection (4)—
  - (a) may not apply to a security issued before the making of the order, but
  - (b) may make different provision for different descriptions of securities.
- (6) The general rule is that the percentage increase or reduction in the retail prices index is determined for the purposes of this section by reference to the difference between—
  - (a) the index for the month in which the earlier time falls, and
  - (b) the index for the month in which the later time falls.
- (7) But if the earlier time falls at the beginning of an accounting period which begins with the first day of a month, the index for the previous month is used for the purposes of subsection (6)(a).

#### **Textual Amendments**

- F1** Words in s. 400(1)(a) substituted (retrospective and with effect in accordance with art. 1(2) of the commencing S.I.) by [Corporation Tax Act 2009 \(Amendment\) Order 2010 \(S.I. 2010/614\)](#), arts. 1(1), 3(2)

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#### 401 Gilt strips

- (1) This section applies if a loan relationship is represented by—
  - (a) a strip of a gilt-edged security, or
  - (b) any other gilt-edged security.
- (2) Subsections (3) and (4) apply if a person exchanges a gilt-edged security for strips of that security.
- (3) The security is treated as having been redeemed at the time of the exchange by the payment to that person of its market value.
- (4) The person is treated as having acquired each strip for an amount equal to—

$$A \times \frac{B}{C}$$

where—

A is the market value of the security at the time of the exchange,

B is the market value of the strip at that time, and

C is the total of the market values at that time of all the strips received in the exchange.

- (5) Subsections (6) and (7) apply if strips of a gilt-edged security are consolidated into a single gilt-edged security by being exchanged by any person for that security.
- (6) Each strip is treated as having been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value.
- (7) The person is treated as having acquired the security for the amount equal to the total of the market values of all the strips given in the exchange.
- (8) For the meaning of “market value” and “strip” in relation to securities, see section 402 and section 403 respectively.

#### 402 Market value of securities

- (1) References in section 401 to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.
- (2) The Treasury may by regulations make provision for the purposes of section 401 and this section as to the way of determining the market value at any time of—
  - (a) any strip, or
  - (b) any other gilt-edged security.
- (3) The regulations may make—
  - (a) different provision for different cases, and
  - (b) incidental, supplemental, consequential and transitional provision and savings.

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### **403 Meaning of “strip”**

- (1) In sections 401 and 402 “strip”, in relation to a gilt-edged security, means a security issued under the National Loans Act 1968 (c. 13) which meets conditions A, B and C.
- (2) Condition A is that the security is issued for the purpose of representing the right to or of securing—
  - (a) a payment corresponding to a payment of interest or principal remaining to be made under the gilt-edged security, or
  - (b) two or more payments each corresponding to a payment to be so made.
- (3) Condition B is that the security is issued in conjunction with the issue of one or more other securities which, together with that security—
  - (a) represent the right to, or
  - (b) secure,
 payments corresponding to every payment remaining to be made under the gilt-edged security.
- (4) Condition C is that the security is not itself a security that—
  - (a) represents the right to, or
  - (b) secures,
 payments corresponding to a part of every payment remaining to be made under the gilt-edged security.
- (5) After the balance has been struck for a dividend on a gilt-edged security, a payment to be made in respect of that dividend is treated for the purposes of conditions A, B and C as not being a payment remaining to be made under that security.

### **404 Restriction on deductions etc relating to FOTRA securities**

- (1) A company which meets conditions A and B is not to bring into account for the purposes of this Part—
  - (a) any amount relating to changes in the value of a FOTRA security, or
  - (b) any debit in respect of the loan relationship represented by the security, including any expenses related to holding the security or any transaction concerning it.
- (2) Condition A is that the company is the beneficial owner of the security.
- (3) Condition B is that the company is a company which would be exempt from corporation tax on the security under section 1279 (exemption of profits from FOTRA securities).
- (4) In this section “FOTRA security” has the same meaning as in that section (see section 1280(1)).

### **405 Certain non-UK residents with interest on 3½% War Loan 1952 Or After**

- (1) This section applies if—
  - (a) in any accounting period a non-UK resident company carries on a business in the United Kingdom—
    - (i) consisting of banking or insurance, or
    - (ii) consisting wholly or partly of dealing in securities, and

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- (b) in calculating the profits of the business for the period any amount is disregarded as a result of section 1279 (exemption of profits from FOTRA securities) because of a condition subject to which any 3½% War Loan 1952 Or After was issued.
- (2) Interest on money borrowed for the purposes of the business is to be brought into account as a debit for the purposes of this Part for that period only so far as it exceeds the ineligible amount.
- (3) The ineligible amount is found as follows—

*Step 1*

Add together all sums borrowed for the purposes of the business and still owing in the accounting period.

*Step 2*

Deduct any sums carrying interest that is not brought into account as a debit under this Part (otherwise than because of subsection (2)).

*Step 3*

If the amount found at Step 2 exceeds the total cost of the 3½% War Loan 1952 Or After held for the purposes of the business in the accounting period, deduct the excess from that amount.

*Step 4*

Calculate the average rate of interest in the accounting period on money borrowed for the purposes of the business.

*Step 5*

Calculate the amount of interest payable on the amount found at Step 3 at the rate found at Step 4 for the accounting period.

The result is the ineligible amount.

- (4) If the company's holding of 3½% War Loan 1952 Or After has fluctuated during the accounting period, the total cost for the purposes of Step 3 is taken to be—

$$C \times \frac{AH}{TH}$$

where—

C is the cost of acquisition of the initial holding (if any) and any holdings acquired during the accounting period,

AH is the average holding in that period, and

TH is the total of the initial holding (if any) and any holdings acquired during the accounting period.

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- (5) In subsection (4) “initial holding” means the holding held by the company at the beginning of the accounting period.

*Deeply discounted securities: connected companies and close companies*

#### **406 Introduction**

- (1) The following sections deal with deeply discounted securities—
- (a) sections 407 and 408 (deeply discounted securities where companies have a connection),
  - (b) sections 409 to 411 (deeply discounted securities of close companies), and
  - (c) section 412 (persons indirectly standing in the position of creditor).
- (2) In this section and sections 407 to 412 “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act).
- (3) In sections 407 to 412 “the discount” means the difference between—
- (a) the issue price of the security, and
  - (b) the amount payable on redemption.
- (4) The provisions of Chapter 8 of Part 4 of ITTOIA 2005 apply for the purposes of this section and sections 407 to 412 for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of section 430 of that Act.

#### **407 Postponement until redemption of debits for connected companies' deeply discounted securities**

- (1) This section applies as respects any accounting period (“the relevant period”) if—
- (a) a debtor relationship of a company (“the issuing company”) is represented by a deeply discounted security issued by it,
  - (b) at any time in the relevant period another company [<sup>F2</sup>(“the creditor company”)] stands in the position of a creditor as respects the security,
  - (c) there is a connection between those companies for the relevant period,
  - (d) the period is not the accounting period in which the security is redeemed, <sup>F3</sup>...
  - (e) credits representing the full amount of the discount which is referable to the relevant period are not brought into account for the purposes of this Part in respect of the corresponding creditor relationship for any accounting period (see section 412(2)) [<sup>F4</sup>, and
  - (f) the condition in subsection (1A) is met.]

[<sup>F5</sup>(1A) The condition is that the creditor company is—

- (a) resident for tax purposes in a non-qualifying territory at any time in the relevant period, or
  - (b) effectively managed in a non-taxing non-qualifying territory at any such time.]
- (2) The debits to be brought into account for the purposes of this Part in respect of the loan relationship by the issuing company are to be adjusted so that any debit relating to the amount of the discount which is referable to the relevant period—
- (a) is not brought into account for the relevant period, but

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- (b) is brought into account for the accounting period in which the security is redeemed.
- (3) The amount of the discount which is referable to the relevant period is the amount of it which would be brought into account for that period apart from this section.
- (4) For the meaning of “standing in the position of a creditor” and the meaning of “corresponding creditor relationship” where a company indirectly stands in that position, see section 412.
- (5) Whether there is a connection between companies for the purposes of this section is determined in accordance with section 408.
- [<sup>F6</sup>(6) For the purposes of this section—
  - (a) “non-qualifying territory” has the meaning given by [<sup>F7</sup>section 173 of TIOPA 2010],
  - (b) a non-qualifying territory is “non-taxing” if companies are not under its law liable to tax by reason of domicile, residence or place of management, and
  - (c) “resident for tax purposes” means liable, under the law of the non-qualifying territory, to tax there by reason of domicile, residence or place of management.]

#### Textual Amendments

- F2** Words in s. 407(1)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 6\(2\)\(a\)](#)
- F3** Word in s. 407(1)(d) omitted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 6\(2\)\(b\)](#)
- F4** S. 407(1)(f) and word inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 6\(2\)\(c\)](#)
- F5** S. 407(1A) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 6\(3\)](#)
- F6** S. 407(6) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 6\(4\)](#)
- F7** Words in s. 407(6)(a) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 130](#) (with [Sch. 9 paras. 1-9, 22](#))

#### 408 Companies connected for section 407

- (1) For the purposes of section 407 there is a connection between two companies for an accounting period if condition A or B is met.
- (2) Condition A is that there is a time in the period when one of the companies has control of, or a major interest in, the other.
- (3) Condition B is that there is a time in the period when both companies are under the control of the same person.
- (4) Section 472 (meaning of “control”) applies for the purposes of this section.
- (5) For the meaning of “major interest”, see section 473.

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#### **409 Postponement until redemption of debits for close companies' deeply discounted securities**

- (1) This section applies for any accounting period (“the relevant period”) if—
- (a) a debtor relationship of a close company (“the issuing company”) is represented by a deeply discounted security it has issued,
  - (b) at any time in the period there is a person [<sup>F8</sup> (“C”) ] who stands in the position of a creditor as respects the security and is—
    - (i) a participator in the issuing company,
    - (ii) an associate of such a participator,
    - (iii) a company of which such a participator has control,
    - (iv) a person who controls a company which is such a participator,
    - (v) an associate of a person within sub-paragraph (iv), or
    - (vi) a company controlled by a person within sub-paragraph (iv),
  - (c) the period is not the accounting period in which the security is redeemed, and
  - (d) this section is not disapplied by section 410
- [<sup>F9</sup> and, where it applies, the non-qualifying territory condition is met. ]
- (2) The debits which are to be brought into account for the purposes of this Part by the issuing company in respect of the loan relationship are to be adjusted so that debits relating to the amount of the discount that is referable to the relevant period (“relevant debits”)—
- (a) are not brought into account for the relevant period, but
  - (b) are brought into account for the accounting period in which the security is redeemed.
- (3) If there is a person within subsection (1)(b) for only part of the relevant period, subsection (2) applies only to the appropriate proportion of the relevant debits.
- (4) In subsection (3) “the appropriate proportion” means the proportion that the part of the relevant period for which there is such a person bears to the whole of that period.
- (5) The amount of the discount that is referable to the relevant period is the amount of it which would be brought into account for the purposes of this Part for the relevant period in the case of the issuing company, apart from subsections (2) and (3).
- (6) For the meaning of other expressions used in this section, see—
- (a) section 411 (interpretation of this section), and
  - (b) section 412 (persons indirectly standing in the position of creditor).

#### **Textual Amendments**

- F8** Word in s. 409(1)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 7\(a\)](#)
- F9** Words in s. 409(1) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 7\(b\)](#)

#### **410 Exceptions to section 409**

- (1) Section 409 does not apply for any accounting period (“the relevant period”) if any of the following conditions are met—



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- (a) the corresponding creditor relationship conditions (see subsection (2)),
  - (b) the CIS-based close company conditions (see subsection (3)), or
  - (c) the CIS limited partnership conditions (see subsection (4)).
- (2) The corresponding creditor relationship conditions are that—
- (a) at all times in the relevant period when there is a person within section 409(1)(b), that person is a company, and
  - (b) credits representing the full amount of the discount that is referable to the period are brought into account for the purposes of this Part for any accounting period in respect of the corresponding creditor relationship (see section 412(3)).
- (3) The CIS-based close company conditions are that—
- (a) the issuing company is a CIS-based close company,
  - (b) at no time in the relevant period when there is a person within section 409(1)(b) is that person resident [<sup>F10</sup>for tax purposes] in a non-qualifying territory, and
  - (c) the issuing company is a small or medium-sized enterprise for the relevant period.
- (4) The CIS limited partnership conditions are that—
- (a) the debt is one which is owed to, or to persons acting for, a CIS limited partnership,
  - (b) no member of that partnership is resident [<sup>F11</sup>for tax purposes] in a non-qualifying territory at any time in the relevant period when there is a person within section 409(1)(b),
  - (c) the issuing company has received written notice from the partnership containing information from which it appears that the condition in paragraph (b) is met, and
  - (d) the issuing company is a small or medium-sized enterprise for the relevant period.
- [<sup>F12</sup>(4A) The non-qualifying territory condition applies if C is a company; and the non-qualifying territory condition is that C is—
- (a) resident for tax purposes in a non-qualifying territory at any time in the relevant period, or
  - (b) effectively managed in a non-taxing non-qualifying territory at any such time.]

(5) In this section—

“CIS-based close company” means a company that would not be a close company apart from the rights and powers of one or more partners in a CIS limited partnership being attributed to another of the partners under [<sup>F13</sup>section 451(4) to (6) of CTA 2010 because of section 448(1)(a) of that Act],

“CIS limited partnership” means a limited partnership—

- (a) which is a collective investment scheme, or
- (b) which would be a collective investment scheme if it were not a body corporate,

“issuing company” has the same meaning as in section 409 (see subsection (1)(a) of that section),

“non-qualifying territory” has the meaning given by [<sup>F14</sup>section 173 of TIOPA 2010] (provision not at arm's length),

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[<sup>F15</sup> “resident for tax purposes” means liable, under the law of the non-qualifying territory, to tax there by reason of domicile, residence or place of management, and ]

“small or medium-sized enterprise” has the meaning given by [<sup>F16</sup>section 172 of TIOPA 2010].

[<sup>F17</sup>(5A) For the purposes of this section, a non-qualifying territory is “non-taxing” if companies are not under its law liable to tax by reason of domicile, residence or place of management.]

(6) For the meaning of “corresponding creditor relationship”, see section 412 (persons indirectly standing in the position of creditor).

#### Textual Amendments

- F10** Words in s. 410(3)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(2\)](#)
- F11** Words in s. 410(4)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(2\)](#)
- F12** S. 410(4A) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(3\)](#)
- F13** Words in s. 410(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 613](#) (with [Sch. 2](#))
- F14** Words in s. 410(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 131\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F15** Definition in s. 410(5) substituted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(4\)](#)
- F16** Words in s. 410(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 131\(3\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F17** S. 410(5A) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(5\)](#)

#### 411 Interpretation of section 409

- (1) Section 472 (meaning of “control”) applies for the purposes of section 409 and this section.
- (2) A person who is a participator in a company which controls another company is treated for the purposes of section 409 as being a participator in that other company also.
- (3) Subject to that, in section 409 and this section “participator”, in relation to a company, means a person who is a participator in the company [<sup>F18</sup>within the meaning given by section 454 of CTA 2010], but not a person who is [<sup>F19</sup>such a participator] just because of being a loan creditor of the company.
- (4) In determining whether a person who carries on the trade of banking is a participator in a company for the purposes of section 409 and this section, securities of the company acquired by the person in the ordinary course of the person's business are ignored.

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### Textual Amendments

- F18** Words in s. 411(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 614\(a\)](#) (with [Sch. 2](#))
- F19** Words in s. 411(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 614\(b\)](#) (with [Sch. 2](#))

## 412 Persons indirectly standing in the position of creditor

- (1) For the purposes of sections 407(1)(b) and 409 a person is treated as standing in the position of a creditor if the person indirectly stands in that position by reference to a series of loan relationships or relevant money debts.
- (2) If a company (“C”) is so treated for the purposes of section 407(1)(b), the reference in section 407(1)(e) to the corresponding creditor relationship is a reference to C’s creditor relationship.
- (3) If a person (“P”) is so treated for the purposes of section 409, the reference in section 410(2)(b) to the corresponding creditor relationship is a reference to P’s creditor relationship.
- (4) In subsection (1) “relevant money debt” means a money debt which would be a loan relationship if a company directly stood in the position of creditor or debtor.

### *Funding bonds*

## 413 Issue of funding bonds

- (1) This section applies to the issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a body corporate, a government, a public institution or other public authority.
- (2) The issue is treated for the purposes of the Corporation Tax Acts as if it were the payment of so much of that interest as equals the market value of the bonds at their issue.
- (3) In this section “funding bonds” includes any bonds, stocks, shares, securities or certificates of indebtedness.

## 414 Redemption of funding bonds

- (1) The redemption of funding bonds is not treated as the payment of interest on a debt for the purposes of the Corporation Tax Acts if their issue was treated as the payment of interest on the debt under—
  - (a) section 413, or
  - (b) section 380 of ITTOIA 2005 (which makes provision corresponding to section 413 for income tax purposes).
- (2) In this section “funding bonds” includes any bonds, stocks, shares, securities or certificates of indebtedness.

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### *Derivatives*

#### **415 Loan relationships with embedded derivatives**

- (1) This section applies if in accordance with generally accepted accounting practice a company treats the rights and liabilities under a loan relationship to which it is a party as divided between—
  - (a) rights and liabilities under a loan relationship (“the host contract”), and
  - (b) rights and liabilities under one or more derivative financial instruments or equity instruments.
- (2) The company is treated for the purposes of this Part as a party to a loan relationship whose rights and liabilities consist only of those of the host contract.
- (3) For the corresponding treatment of the rights and liabilities within subsection (1)(b), see section 585 (loan relationships with embedded derivatives).

#### **416 Election for application of sections 415 and 585**

- (1) This section applies if—
  - (a) a company is subject to old UKGAAP for a period of account,
  - (b) at the beginning of its first relevant period of account the company did not hold any assets (“relevant assets”) which it is not permitted under old UK GAAP to treat as mentioned in section 415(1),
  - (c) the company subsequently acquires one or more relevant assets (to which sections 415 and 585 do not apply because of the company being subject to old UK GAAP), and
  - (d) the company would have been permitted to treat the relevant assets as mentioned in section 415(1) if it had been subject to—
    - (i) international accounting standards, or
    - (ii) new UK GAAP.
- (2) The company may elect that this Part and Part 7 (derivative contracts) should apply as if sections 415 and 585 did apply.
- (3) The election has effect in relation to all relevant assets held by the company including those subsequently acquired, except as provided in subsection (4).
- (4) An election made on or after 12 March 2008 does not have effect in relation to any relevant assets in the case of which section 418 (loan relationships treated differently by connected debtor and creditor) applies.
- (5) If an election is made under this section, sections 315 to 318 (adjustments on change of accounting policy) apply as if there were a change of accounting policy consisting of the company treating its relevant assets as mentioned in section 415(1) as from the date the election has effect.
- (6) See also section 613(4) (which makes provision corresponding to subsection (5) for the purposes of Part 7).
- (7) In this section—
 

“first relevant period of account”, in relation to a company, means the first period of account of the company beginning on or after 1 January 2005 (the

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first period in relation to which section 94A of FA 1996 (which is rewritten in section 415) had effect),

“old UK GAAP” means UK generally accepted accounting practice as it applied for periods of account beginning before 1 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) Section 417 makes further provision about elections under this section.

#### **417 Further provisions about elections under section 416**

- (1) An election under section 416 must be made not later than 90 days after the acquisition of the relevant assets or, if there is more than one acquisition, the first of them.
- (2) The election is irrevocable.
- (3) The election has effect from the beginning of the period of account in which the first relevant asset is acquired.
- (4) In this section “relevant assets” has the same meaning as in section 416.

#### **418 Loan relationships [<sup>F20</sup>involving connected debtor and creditor where debits exceed credits]**

- (1) This section applies if—
  - (a) two connected companies are party to a loan relationship, one (“the debtor”) as debtor and the other (“the creditor”) as creditor, and
  - (b) conditions [<sup>F21</sup>A and B] are met.

[<sup>F22</sup>(2) Condition A is that the rights under the loan relationship include provision by virtue of which the creditor company—

- (a) is or may become entitled, or
- (b) is or may be required,

to acquire (whether by conversion or exchange or otherwise) any shares in any company.

- (3) Condition B is that—
  - (a) the debits brought into account by the debtor under this Part in respect of the loan relationship for any accounting period, exceed
  - (b) the credits brought into account (otherwise than as a result of this section) by the creditor in respect of the loan relationship for the corresponding accounting period or periods of the creditor.]
- (5) The creditor is treated for the purposes of this Part as bringing into account for the corresponding accounting period or periods additional credits in respect of the loan relationship of an amount equal to the excess.
- (6) But if the creditor is a party to the loan relationship as creditor during only part of the corresponding accounting period (or any of the corresponding periods), it is treated for the purposes of this Part as bringing into account for the period only such part of the excess as is just and reasonable.

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- [<sup>F23</sup>(6A) For the purposes of this section the creditor is to be treated as continuing to be a party to the loan relationship even though the creditor has disposed of the creditor's rights under the loan relationship to another person—
- (a) under a repo or stock lending arrangement, or
  - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).
- (6B) For the purposes of this section the creditor is to be treated as continuing to be a party to the loan relationship even though the creditor has disposed of the creditor's rights under the loan relationship to another person if the disposal was made with the relevant avoidance intention.
- (6C) The relevant avoidance intention is the intention of eliminating or reducing the credits to be brought into account for the purposes of this Part.]
- (7) [<sup>F24</sup>Sections 418A and 419 supplement] this section.

#### Textual Amendments

- F20** Words in s. 418 heading substituted (with effect in accordance with Sch. 30 para. 4(8) of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(6\)](#)
- F21** Words in s. 418(1)(b) substituted (with effect in accordance with Sch. 30 para. 4(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(2\)](#)
- F22** S. 418(2)(3) substituted for s. 418(2)-(4) (with effect in accordance with Sch. 30 para. 4(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(3\)](#)
- F23** S. 418(6A)-(6C) inserted (with effect in accordance with Sch. 30 para. 4(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(4\)](#)
- F24** Words in s. 418(7) substituted (with effect in accordance with Sch. 30 para. 4(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(5\)](#)

#### [<sup>F25</sup>418A Cases involving host contract

- (1) This section applies where the debtor or the creditor, in accordance with generally accepted accounting practice, treats the rights and liabilities under the loan relationship as divided between—
  - (a) rights and liabilities under a loan relationship (“the host contract”), and
  - (b) rights and liabilities under one or more derivative financial instruments or equity instruments.
- (2) Where the debtor, in accordance with generally accepted accounting practice, treats the rights and liabilities under the loan relationship as so divided, section 418 has effect as if the reference to the loan relationship in subsection (3)(a) were to the host contract.
- (3) Where the creditor, in accordance with generally accepted accounting practice, treats the rights and liabilities under the loan relationship as so divided, section 418 has effect as if the reference to the loan relationship in subsection (3)(b) were to the host contract.
- (4) In this section “ the debtor ” and “ the creditor ” have the same meaning as in section 418. ]

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#### Textual Amendments

**F25** S. 418A inserted (with effect in accordance with Sch. 30 para. 4(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 4\(7\)](#)

### 419 Section 418: supplementary

- (1) References in section 418 to a company being a party to a loan relationship as debtor or creditor include a company which indirectly stands in the position of a debtor or creditor as respects the loan relationship by reference to a series of loan relationships or relevant money debts.
- (2) In subsection (1) “relevant money debt” means a money debt that would be a loan relationship if a company directly stood in the position of debtor or creditor.
- (3) For the purposes of section 418 an accounting period of the creditor corresponds with an accounting period of the debtor if—
  - (a) it coincides with it, or
  - (b) it is wholly or partly within it.
- (4) If a corresponding accounting period of the creditor does not coincide with that of the debtor, such apportionments as are just and reasonable are to be made for the purposes of section 418.
- (5) Two companies are connected for the purposes of section 418 if their accounting results are reflected in the consolidated group accounts of a group of companies.
- (6) Subsection (5) does not affect the application of [<sup>F26</sup>section 1122 of CTA 2010] (how to tell whether persons are connected).
- (7) In this section “the debtor” and “the creditor” have the same meaning as in section 418.

#### Textual Amendments

**F26** Words in s. 419(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 615](#) (with [Sch. 2](#))

### *Options etc*

### 420 Assumptions where options etc apply

- (1) This section applies if—
  - (a) the answer to any question specified in subsection (2)—
    - (i) depends on the exercise of an option by a party to a loan relationship (“A”) or A's associate, or
    - (ii) is otherwise under the control of A or A's associate, and
  - (b) an amortised cost basis of accounting applies for an accounting period.
- (2) The questions are—
  - (a) whether any amount will become due under the relationship after the period ends,

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- (b) how much will become due under it after the period ends, and
  - (c) when after the end of the period an amount will become due under the relationship.
- (3) In determining the credits and debits to be brought into account for the accounting period in accordance with an amortised cost basis, the assumption in subsection (4) is to be made.
- (4) The assumption is that A or A's associate will exercise the power to determine whether and on what date any amount will become due in the way which appears to be the most advantageous to A.
- (5) That way is to be determined—
  - (a) as at the end of the accounting period, and
  - (b) ignoring taxation.



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