



Corporation Tax Act 2009

2009 CHAPTER 4

PART 5

LOAN RELATIONSHIPS

CHAPTER 3

THE CREDITS AND DEBITS TO BE BROUGHT INTO ACCOUNT: GENERAL

Rules differing from generally accepted accounting practice

320 Credits and debits treated as relating to capital expenditure

- (1) This section applies if generally accepted accounting practice allows a credit or debit for an accounting period in respect of a company's loan relationship to be treated in the company's accounts as an amount brought into account in determining the value of a fixed capital asset or project.
- (2) Despite that treatment, the credit or debit is to be brought into account for the purposes of this Part, for the accounting period in which it is given, in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.
- (3) But subsection (2) does not apply to a debit which is taken into account in arriving at the amount of expenditure in relation to which a debit may be given by Part 8 (intangible fixed assets).
- (4) Subsections (5) and (6) apply if a debit is brought into account as mentioned in subsection (2).
- (5) No debit may be brought into account in respect of the writing down of so much of the value of the asset or project as is attributable to that debit.

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- (6) No debit may be brought into account in respect of so much of any amortisation or depreciation as represents a writing off of the interest component of the asset.

321 Credits and debits recognised in equity

- (1) This section applies if in accordance with generally accepted accounting practice a credit or debit for a period in respect of a company's loan relationship—
- (a) is recognised in equity or shareholders' funds, and
 - (b) is not recognised in any of the statements mentioned in section 308(1).
- (2) The credit or debit is to be brought into account for the period for the purposes of this Part in the same way as a credit or debit which is brought into account in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.

[^{F1}321A Restriction on debits resulting from release of loans to participators etc

- (1) This section applies if—
- (a) a loan gives rise to a charge to tax under section 455 of CTA 2010 (including a charge by virtue of section 459 or 460 of that Act), and
 - (b) the whole or a part of the debt in respect of the loan is released or written off.
- (2) No debit is to be brought into account for the purposes of this Part in respect of the release or writing off.]

Textual Amendments

F1 S. 321A inserted (with effect in accordance with s. 43(2) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 43\(1\)](#)

322 Release of debts: cases where credits not required to be brought into account

- (1) This section applies if—
- (a) a liability to pay an amount under a company's debtor relationship is released, and
 - (b) the release takes place in an accounting period for which an amortised cost basis of accounting is used in respect of that relationship.
- (2) The company is not required to bring into account a credit in respect of the release for the purposes of this Part if condition A, B or C is met.
- (3) Condition A is that the release is part of a statutory insolvency arrangement.
- (4) Condition B is that the release is [^{F2}not a release of relevant rights and is]—
- (a) in consideration of shares forming part of the ordinary share capital of the debtor company, or
 - (b) in consideration of any entitlement to such shares.

[^{F3}(4A) Relevant rights” has the same meaning for the purposes of this section as it has for the purposes of section 358.]

- (5) Condition C is that—

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- (a) the debtor company meets one of the insolvency conditions (see subsection (6)), and
 - (b) the debtor relationship is not a connected companies relationship (see section 348).
- (6) For the purposes of this section a company meets the insolvency conditions if—
- (a) it is in insolvent liquidation,
 - (b) it is in insolvent administration,
 - (c) it is in insolvent administrative receivership,
 - (d) an appointment of a provisional liquidator is in force in relation to the company under section 135 of the Insolvency Act 1986 (c. 45) or Article 115 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
 - (e) under the law of a country or territory outside the United Kingdom circumstances corresponding to those mentioned in paragraph (a), (b), (c) or (d) exist.
- (7) Section 323 applies for the interpretation of subsection (6).
- (8) For further cases where no credit in respect of the release is to be brought into account, see—
- (a) section 358 (exclusion of credits on release of connected companies debts: general), and
 - (b) section 359 (exclusion of credits on release of connected companies debts during creditor's insolvency).

Textual Amendments

- F2** Words in s. 322(4) inserted (with effect in accordance with Sch. 15 para. 3(1) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 15 para. 1\(2\)](#) (with [Sch. 15 para. 4](#))
- F3** S. 322(4A) inserted (with effect in accordance with Sch. 15 para. 3(1) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 15 para. 1\(3\)](#) (with [Sch. 15 para. 4](#))

323 Meaning of expressions relating to insolvency etc

- (1) For the purposes of section 322(6) a company is in insolvent liquidation during the period—
- (a) beginning when it goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up, and
 - (b) ending when the winding up is completed or otherwise brought to an end (whether under paragraph 37 or 38 of Schedule B1 to the Insolvency Act 1986 (c. 45) or otherwise).
- (2) In subsection (1) “liquidation” has the meaning given in—
- (a) section 247(2) of the Insolvency Act 1986, or
 - (b) Article 6(2) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).
- (3) For the purposes of section 322(6) a company in administration is in insolvent administration if it entered administration under—
- (a) Schedule B1 to the Insolvency Act 1986, or

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- (b) Schedule B1 to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
 at a time when its assets were insufficient for the payment of its debts and other liabilities and the expenses of the administration.
- (4) For the purposes of section 322(6) a company is in insolvent administrative receivership if—
- (a) an appointment of an administrative receiver is in force in relation to the company, and
 - (b) the company was put into administrative receivership at a time when its assets were insufficient for the payment of its debts and other liabilities and the expenses of administrative receivership.
- (5) In subsection (4) “administrative receiver” has the same meaning as in—
- (a) Chapter 1 or 2 of Part 3 of the Insolvency Act 1986 (c. 45), or
 - (b) Part 4 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- and “administrative receivership” is to be read accordingly.

324 Restriction on debits resulting from revaluation

- (1) No debit is to be brought into account for the purposes of this Part as a result of the revaluation of an asset representing a creditor relationship of a company except—
- (a) an impairment loss, or
 - (b) a debit resulting from a release by the company of any liability under the relationship.
- (2) For the meaning of “impairment loss” see section 476(1).
- (3) The reference in subsection (1) to revaluation of an asset includes any case where a provision or allowance is made by the company reducing the carrying value of the asset or of a group of assets including the asset in question.
- (4) This section does not affect the debits to be brought into account in respect of exchange gains or losses.
- (5) This section does not apply if fair value accounting is used.

325 Restriction on credits resulting from reversal of disallowed debits

- (1) No credit is to be brought into account for the purposes of this Part in respect of the reversal of a debit disallowed by section 324(1).
- (2) This section does not apply if fair value accounting is used.
- (3) See also paragraph 61 of Schedule 2 (restriction on bringing into account credits resulting from reversal of debits disallowed in a period of account beginning before 1 January 2005).

326 Writing off government investments

- (1) This section applies if a government investment in a company is written off by the release of a liability to pay any amount under a debtor relationship of the company.

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- (2) The company is not required to bring into account a credit for the purposes of this Part in respect of the release.
- (3) [^{F4}Section 94 of CTA 2010] (write-off of government investment) applies for interpreting the reference in subsection (1) to a government investment in a company being written off as it applies for the purposes of [^{F5}Chapter 7 of Part 4] of that Act.

Textual Amendments

- F4** Words in s. 326(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. 605(a)** (with Sch. 2)
- F5** Words in s. 326(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. 605(b)** (with Sch. 2)

327 Disallowance of imported losses etc

- (1) This section applies for an accounting period of a company (“the loss period”) if—
 - (a) apart from this section, a loss arising in connection with a loan relationship of the company would fall to be brought into account for the purposes of this Part, and
 - (b) the loss is wholly or partly referable to a time when the relationship was not subject to United Kingdom taxation.
- (2) The amounts brought into account for the loss period for the purposes of this Part must be such as to secure that none of the loss referable to a time when the relationship was not so subject is treated for those purposes as arising in the loss period or any other accounting period of the company.
- (3) For the purposes of this section a loss is referable to a time when a relationship is not subject to United Kingdom taxation so far as, at the time to which the loss is referable, the company would not have been chargeable to corporation tax in the United Kingdom on any profits arising from the relationship.
- (4) If the company was not a party to the relationship at the time to which the loss is referable, subsection (3) applies as if the reference to the company were a reference to the person who at that time was in the same position as respects the relationship as is subsequently held by the company.
- (5) An amount which would be brought into account for the purposes of this Part in respect of any matter apart from this section is treated for the purposes of section 464(1) (amounts brought into account under this Part excluded from being otherwise brought into account) as if it were so brought into account.
- (6) Accordingly, that amount must not be brought into account for corporation tax purposes as respects that matter either under this Part or otherwise.
- (7) This section does not apply if fair value accounting is used.

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