



Corporation Tax Act 2009

2009 CHAPTER 4

PART 6

RELATIONSHIPS TREATED AS LOAN RELATIONSHIPS ETC

CHAPTER 1

INTRODUCTION

477 Overview of Part

- (1) This Part deals with matters treated for some or all purposes as loan relationships or rights, payments or profits under loan relationships.
- (2) See, in particular—
 - (a) Chapter 2 (relevant non-lending relationships),
 - (b) Chapter 3 (OEICs, unit trusts and offshore funds),
 - (c) Chapter 4 (building societies),
 - (d) Chapter 5 (industrial and provident societies),
 - (e) Chapter 6 (alternative finance arrangements),
 - [^{F1}(f) Chapter 6A (shares accounted for as liabilities),]
 - (g) Chapter 8 (returns from partnerships),
 - (h) Chapter 9 (manufactured interest etc),
 - (i) Chapter 10 (repos), and
 - (j) Chapter 11 (investment life insurance contracts).
- (3) For the relationship of this Part to other Parts of this Act, see—
 - (a) section 294(2) (which provides for references to Part 5 to be read as including references to this Part), and
 - (b) sections 464 and 465 (relationship of Part 5 and this Part to other provisions).

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Corporation Tax 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)

Textual Amendments

- F1** S. 477(2)(f) substituted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 2\(3\), 12](#)

CHAPTER 2

RELEVANT NON-LENDING RELATIONSHIPS

Introduction: meaning of “relevant non-lending relationship” etc

478 Relevant non-lending relationships: introduction

- (1) This Chapter provides for Part 5 to apply to relevant non-lending relationships in relation to some matters as it applies to loan relationships (see section 481).
- (2) For the meaning of “relevant non-lending relationship”, see—
 - (a) section 479 (relevant non-lending relationships not involving discounts), and
 - (b) section 480 (relevant non-lending relationships involving discounts).
- (3) For provisions extending the meaning of “money debt” and “interest” in this Chapter, see—
 - (a) section 483 (exchange gains and losses: amounts treated as money debts), and
 - (b) section 484 (provision not at arm's length: meaning of “interest” and “money debt”).
- (4) For exclusions from this Chapter, see—
 - (a) section 485 (exclusion of debts where profits or losses within Part 7 or 8), and
 - (b) section 486 (exclusion of exchange gains and losses in respect of tax debts etc).

479 Relevant non-lending relationships not involving discounts

- (1) A company has a relevant non-lending relationship if—
 - (a) the company stands, or has stood, in the position of a creditor or debtor in relation to a money debt,
 - (b) the money debt did not arise from a transaction for the lending of money (and so, because of section 302(1)(b), there is no loan relationship), and
 - (c) the money debt is one of the kinds mentioned in subsection (2).
- (2) The kinds of debt are—
 - (a) a debt on which interest is payable to or by the company,
 - (b) a debt in relation to which exchange gains or losses arise to the company,^{F2}...
 - (c) a debt in relation to which an impairment loss (or credit in respect of the reversal of an impairment loss) [^{F3}or release debit] arises to the company in respect of an unpaid (or previously unpaid) business payment^{F4}, and
 - (d) a debt in relation to which a relevant deduction has been allowed to the company and which is released.]

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- (3) In subsection [F5(2)(c)] “business payment” means a payment which, if it were paid, would fall to be brought into account for corporation tax purposes as a receipt of a trade, UK property business or overseas property business carried on by the company.
- [F6(3A) In subsection (2)(d) “relevant deduction” means a deduction allowed in calculating the profits of a trade, UK property business or overseas property business.]
- (4) For the meaning of “money debt” and “interest” in this Chapter, see—
- (a) section 483 (exchange gains and losses: amounts treated as money debts) and
 - (b) section 484 (provision not at arm's length: meaning of “interest” and “money debt”).
- (5) For the meaning of “exchange gains or losses”, see section 475.
- (6) This section is subject to section 485 (exclusion of debts where profits or losses within Part 7 or 8).

Textual Amendments

- F2** Word in s. 479(2)(b) omitted (22.4.2009 retrospective) by virtue of [Finance Act 2009 \(c. 10\), s. 42\(5\)\(a\)\(12\)](#)
- F3** Words in s. 479(2)(c) inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(5\)\(b\)\(12\)](#)
- F4** S. 479(2)(d) and word inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(5\)\(c\)\(12\)](#)
- F5** Word in s. 479(3) substituted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(6\)\(12\)](#)
- F6** S. 479(3A) inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(7\)\(12\)](#)

480 Relevant non-lending relationships involving discounts

- (1) A company has a relevant non-lending relationship if—
- (a) the company stands in the position of creditor in relation to a money debt,
 - (b) the money debt did not arise from a transaction for the lending of money (and so, because of section 302(1)(b), there is no loan relationship),
 - (c) the money debt is one from which a discount arises to the company,
 - (d) the discount does not fall to be brought into account under section 509 (treatment of alternative finance arrangements as loan relationships etc) as a result of arrangements to which section 503 (purchase and resale arrangements) applies, and
 - (e) in a case where the money debt is some or all of the consideration payable for a disposal of property, conditions A and B are met.
- (2) Condition A is that the property in question is not—
- (a) an asset representing a loan relationship the disposal of which is a disposal to which subsection (3) applies, or
 - (b) an asset representing a derivative contract the disposal of which is such a disposal.
- (3) This subsection applies to a disposal if—
- (a) section 340 (group transfers and transfers of insurance business: transfer at notional carrying value) applies to it or would apply apart from section 341 (transferor using fair value accounting),

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- (b) section 625 (group member replacing another as party to derivative contract) applies to it or would apply apart from section 628 (transferor using fair value accounting), or
 - (c) the whole of the consideration for the disposal is brought into account for the purposes of Part 5 (loan relationships) or Part 7 (derivative contracts).
- (4) Condition B is that, assuming that the money debt will be paid in full, it does not fall to be brought into account for corporation tax purposes as a trading receipt of the company.
- (5) For the purposes of this section, a discount is, in particular, taken to arise from a money debt if—
- (a) there is a sale of property for consideration some or all of which is money which falls to be paid after the sale,
 - (b) the amount or value of the whole consideration exceeds what the purchaser would have paid for the property if payment in full had been required at the time of the sale, and
 - (c) some or all of the excess can reasonably be regarded as representing a return on an investment of money at interest (and so as being a discount arising from the money debt).
- (6) It does not matter for the purposes of subsection (1)(c) whether the discount is of a revenue or capital nature.
- (7) This section is subject to section 485 (exclusion of debts where profits or losses within Part 7 or 8).

Application of Part 5 to relevant non-lending relationships

481 Application of Part 5 to relevant non-lending relationships

- (1) If a company has a relevant non-lending relationship—
- (a) Part 5 (loan relationships) applies in relation to the relevant matters (see subsections (3) and (5)) as it applies in relation to such matters arising under or in relation to a loan relationship, but
 - (b) the only credits or debits to be brought into account for the purposes of that Part in respect of the relationship are those relating to those matters.
- (2) Accordingly, subject to subsection (1)(b), references in the Corporation Tax Acts to a loan relationship include a reference to a relevant non-lending relationship.
- (3) The relevant matters in the case of a relevant non-lending relationship within section 479 are—
- (a) interest payable to or by the company in respect of the relevant non-lending relationship,
 - (b) exchange gains or losses arising to the company as a result of the relationship,
 - (c) in the case of a debt on which interest is payable to the company, profits (but not losses) arising to the company from any related transaction in respect of the right to receive interest,
 - (d) in the case of a debt in relation to which an impairment loss [^{F7}or release debit] arises to the company in respect of an unpaid business payment, the [^{F8}impairment or release,]

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- (e) in the case of a debt in relation to which a credit in respect of the reversal of an impairment loss arises to the company in respect of a previously unpaid business payment, the reversal [^{F9}and
 - (f) in the case of a debt in relation to which a relevant deduction has been allowed to the company and which is released, the release.]
- (4) In subsection [^{F10}(3)(d) and (e)] “business payment” has the meaning given in section 479(3).
- [^{F11}(4A) In subsection (3)(f) “relevant deduction” has the meaning given in section 479(3A).]
- (5) The relevant matters in the case of a relevant non-lending relationship within section 480 are—
- (a) the matters referred to in subsection (3),
 - (b) the discount arising to the company from the money debt,
 - (c) profits (but not losses) arising to the company from any related transaction,
 - (d) any impairment arising to the company in respect of the discount, and
 - (e) any reversal of any such impairment.
- (6) Subsection (7) applies if a company—
- (a) has a relevant non-lending relationship within section 479 because of a debt on which interest is payable to the company, but
 - (b) enters into a related transaction in respect of the right to receive interest as a result of which interest is not so payable.
- (7) Even though the interest is not payable to the company, for the purpose of bringing credits into account in respect of that or any other related transaction as a result of the application of subsection (3)(c), the company is still treated as having a relevant non-lending relationship within section 479.
- (8) Section 480(5) (when discount arises) applies for the purpose of this section as it applies for the purposes of section 480.

Textual Amendments

- F7** Words in s. 481(3)(d) inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(9\)\(a\)\(12\)](#)
- F8** Words in s. 481(3)(d) substituted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(9\)\(a\)\(12\)](#)
- F9** S. 481(3)(f) and word inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(9\)\(b\)\(12\)](#)
- F10** Words in s. 481(4) substituted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(10\)\(12\)](#)
- F11** S. 481(4A) inserted (22.4.2009 retrospective) by [Finance Act 2009 \(c. 10\), s. 42\(11\)\(12\)](#)

482 Miscellaneous rules about amounts to be brought into account because of this Chapter

- (1) Any credits or debits which—
- (a) relate to interest payable under the Tax Acts, and
 - (b) fall to be brought into account because of this Chapter,
- are treated for the purposes of Part 5 as non-trading credits or debits.

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- (2) The credits to be brought into account for the purposes of that Part in respect of a discount arising from a money debt under a relevant non-lending relationship are to be determined using an amortised cost basis of accounting.

Meaning of “money debt” and “interest” in this Chapter

483 Exchange gains and losses: amounts treated as money debts

- (1) This section applies for the purposes of this Chapter so far as relating to exchange gains and losses.
- (2) Any currency held by a company is treated as a money debt owed to the company.
- (3) A provision made by a company for the purposes of its statutory accounts in respect of a liability to which the company may become subject is treated as a money debt owed by the company if it meets conditions A and B.
- (4) Condition A is that if the company became subject to the liability, the duty to settle it would be owed for the purposes of—
 - (a) a trade,
 - (b) a UK property business, or
 - (c) an overseas property business.
- (5) Condition B is that the provision falls to be taken into account (apart from Part 5) in calculating the profits or losses of the trade, UK property business or overseas property business for corporation tax purposes.
- (6) In the case of a company carrying on insurance business—
 - (a) any deferred acquisition costs are treated as a money debt owed to the company, and
 - (b) any provision made by the company for unearned premiums or for unexpired risks is treated as a money debt owed by the company.
- (7) In subsection (6)—
 - (a) “deferred acquisition costs” has the meaning given in Assets item G.II in the Balance Sheet Format set out after paragraph 10 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (S.I. 2008/410), as read with note (17) of the Notes on the Balance Sheet Format (which immediately follow that Format),
 - (b) “provision made by the company for unearned premiums” has the meaning given in Liabilities item C.1 in that Balance Sheet Format, as read with notes (12) and (20) of those Notes, and
 - (c) “provision for unexpired risks” has the meaning given in paragraph 91 of that Schedule.
- (8) This section is subject to section 486 (exclusion of exchange gains and losses in respect of tax debts etc).

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484 Provision not at arm's length: meaning of “interest” and “money debt”

- (1) References in this Chapter to interest payable on a money debt include a reference to any amount which because of Schedule 28AA to ICTA (provision not at arm's length) falls to be treated as—
 - (a) interest on a money debt, or
 - (b) interest on an amount (“the notional debt”) which is treated as a money debt.
- (2) Accordingly, references in this Chapter to a money debt include references to the notional debt.

Exclusions

485 Exclusion of debts where profits or losses within Part 7 or 8

This Chapter does not apply to a debt in respect of which profits or losses (if any) fall to be brought into account under—

- (a) Part 7 (derivative contracts), or
- (b) Part 8 (intangible fixed assets).

486 Exclusion of exchange gains and losses in respect of tax debts etc

- (1) No exchange gains or losses arise for the purposes of this Chapter if the money debt by reference to which the relevant non-lending relationship exists (“the relevant money debt”) is an amount of tax payable under the law of the United Kingdom.
- (2) If the relevant money debt is an amount of tax payable under the law of a territory outside the United Kingdom, exchange gains or losses arise for the purposes of this Chapter only so far as a deduction in respect of the tax falls to be made under section 811 of ICTA (double taxation relief: deduction for foreign tax where no credit allowable).
- (3) No exchange gains or losses arise for the purposes of this Chapter if the relevant money debt is an amount which would be deductible apart from—
 - (a) a statutory provision other than section 53 (capital expenditure), or
 - (b) a rule of law.
- (4) The reference in subsection (3) to an amount being deductible is a reference to its being deductible—
 - (a) as an expense in calculating trading profits,
 - (b) as expenses of management within section 1219 (expenses of management of a company's investment business), or
 - (c) as expenses falling to be brought into account at Step 1 of section 76(7) of ICTA (expenses of insurance companies).

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CHAPTER 3

OEICs, UNIT TRUSTS AND OFFSHORE FUNDS

Introduction

487 Overview of Chapter

- (1) This Chapter provides for the Corporation Tax Acts to apply in some circumstances to holdings in open-ended investment companies, unit trust schemes and offshore funds as if they were rights under a creditor relationship (see section 490).
- (2) That treatment depends on the company, scheme or fund failing the qualifying investments test.
- (3) Sections 493 to 496 deal with when that test is met.
- (4) For the meaning of “open-ended investment company” and “offshore fund” in this Chapter, see sections 488 and 489 respectively.

488 Meaning of “open-ended investment company” etc

- (1) Section 468A(2) and (3) of ICTA (meaning of “open-ended investment company” and “company” and application to parts of umbrella companies) apply for the purposes of this Chapter as they apply for the purposes of section 468A of that Act.
- (2) In this Chapter “umbrella company” has the meaning given by section 468A(4) of ICTA.

489 Meaning of “offshore fund” etc

- (1) Sections 756A to 756C of ICTA (meaning of “offshore fund” and application to parts of umbrella funds and classes of interests in offshore funds) apply for the purposes of this Chapter as they apply for the purposes of Chapter 5 of Part 17 of that Act, except as provided in subsection (2).
- (2) For the purposes of this Chapter “offshore fund” includes anything which would be an offshore fund for the purposes of Chapter 5 of Part 17 of ICTA if the unit trust schemes and arrangements referred to in section 756A(1)(b) and (c) of that Act were not limited to collective investment schemes (and sections 756B and 756C of that Act apply for the purposes of this Chapter accordingly).
- (3) For the purposes of this Chapter an interest in an offshore fund is a material interest in such a fund if it is such an interest for the purposes of section 759 of ICTA or would be if those schemes and arrangements were not so limited.

Holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights

490 Holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights

- (1) This section applies if—
 - (a) at any time in an accounting period of a company it holds—

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- (i) any shares in an open-ended investment company,
 - (ii) any rights under a unit trust scheme, or
 - (iii) a material interest in an offshore fund, and
 - (b) there is a time in the period when that company, scheme or fund fails to meet the qualifying investments test (see section 493).
- (2) The Corporation Tax Acts have effect for the accounting period in accordance with subsections (3) and (4) as if the relevant holding were rights under a creditor relationship of the company.
- (3) The credits and debits to be brought into account for the purposes of Part 5 in respect of the company's relevant holdings are to be determined on the basis of fair value accounting.
- (4) But a credit relating to distributions of an open-ended investment company or authorised unit trust which become due and payable in an accounting period is only to be brought into account for that period if they are interest distributions.
- (5) In subsection (4) “interest distributions” has the meaning given by regulations made under section 17(3) of F(No.2)A 2005.
- (6) In this section and sections 491 and 492 “relevant holding” means a holding within subsection (1)(a).
- (7) But arrangements that are investment bond arrangements for the purposes of Chapter 6 of this Part or are within section 48A of FA 2005 (alternative finance arrangements: alternative finance investment bond: introduction) are not treated as such a holding.
- (8) See section 18(2)(c)(i) of F(No.2)A 2005 (section 17(3): specific powers) for the power to modify “relevant holding” for the purposes of this section and section 492 by regulations under section 17(3) of that Act (regulations about authorised unit trusts and OEICS).

491 Holding coming within section 490: opening valuations

- (1) This section applies if—
- (a) a relevant holding is held by a company both—
 - (i) at the end of one accounting period (“the first period”), and
 - (ii) at the beginning of the next (“the second period”), and
 - (b) section 490 applies to the holding for the second period but not the first period.
- (2) For the purposes of section 490(3), the opening value of the holding as at the beginning of the second period is taken to be equal to its market value for the purposes of TCGA 1992 immediately before the end of the first period (see section 272 of that Act).

492 Disregard of investments made and liabilities incurred with avoidance intention etc

- (1) In determining the credits and debits in respect of a company's relevant holdings under section 490(3), amounts relating to any investment or liability of the open-ended investment company, unit trust scheme or offshore fund must be left out of account if—
- (a) the investment was made, or the liability was incurred, with the relevant avoidance intention, or

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- (b) any transaction or series of transactions was entered into in relation to the investment or liability with that intention.
- (2) The relevant avoidance intention is the intention of—
 - (a) eliminating or reducing the credits to be brought into account for the purposes of Part 5 or this Part as respects the company's relevant holdings, or
 - (b) creating or increasing the debits to be so brought into account.

The qualifying investments test

493 The qualifying investments test

- (1) An open-ended investment company, a unit trust scheme or an offshore fund meets the qualifying investments test for the purposes of this Chapter if the market value of the qualifying investments of the company, scheme or fund does not exceed 60% of the market value of all its investments.
- (2) References in this section and sections 494 and 495 to investments of an open-ended investment company are references—
 - (a) except where paragraph (b) applies, to the property subject to the collective investment scheme constituted by the company, and
 - (b) in a case where under section 468A(3) of ICTA part of an umbrella company is regarded as an open-ended investment company, to such of the property subject to the collective investment scheme constituted by the umbrella company as forms part of the separate pool in question, other than cash awaiting investment.
- (3) References in this section and sections 494 and 495 to investments of a unit trust scheme are references to investments subject to the trusts of the scheme, other than cash awaiting investment.
- (4) References in this section and sections 494 and 495 to investments of an offshore fund are references to assets of the fund, other than cash awaiting investment.
- (5) In this section “collective investment scheme” has the meaning given by section 235 of FISMA 2000.
- (6) A person with rights in a part of an umbrella company which is regarded under section 468A(3) of ICTA as an open-ended investment company is treated for the purposes of this section as not owning shares in the umbrella company.
- (7) For the meaning of references to investments subject to the trusts of the scheme in the case of certain authorised unit trusts, see section 468(9) of ICTA (umbrella schemes).

494 Meaning of “qualifying investments”

- (1) In section 493 “qualifying investments”, in relation to an open-ended investment company, a unit trust scheme or an offshore fund, means investments of the company, scheme or fund of any of the following descriptions—
 - (a) money placed at interest,
 - (b) securities,
 - (c) shares in a building society,

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- (d) qualifying holdings in an open-ended investment company, a unit trust scheme or an offshore fund,
- (e) alternative finance arrangements,
- (f) derivative contracts whose underlying subject matter consists wholly of any one or more of—
 - (i) the matters referred to in paragraphs (a) to (e) (other than diminishing shared ownership arrangements), and
 - (ii) currency,
- (g) contracts for differences whose underlying subject matter consists wholly of any one or more of—
 - (i) interest rates,
 - (ii) creditworthiness, and
 - (iii) currency, and
- (h) derivative contracts not within paragraph (f) or (g) where there is a hedging relationship between the contract and an asset within paragraphs (a) to (d).

(2) In this section—

“contract for differences” has the same meaning as in Part 7 (derivative contracts) (see section 582),

“diminishing shared ownership arrangements” means arrangements to which section 504 applies,

“hedging relationship” has the meaning given by section 496,

“qualifying holding” has the meaning given by section 495(1),

“security” does not include shares in a company, and

“underlying subject matter” has the same meaning as in Part 7 (derivative contracts) (see section 583).

495 Qualifying holdings

- (1) For the purposes of section 494(1)(d) a holding in an open-ended investment company, a unit trust scheme or an offshore fund is a qualifying holding at any time if—
 - (a) at that time, or
 - (b) at any other time in the relevant accounting period,the company, scheme or fund would itself fail to meet the qualifying investments test, even on the assumption in subsection (2).
- (2) The assumption is that investments of the company, scheme or fund are qualifying investments in relation to the company, scheme or fund only if they are within section 494(1)(a), (b), (c), (e), (f), (g) or (h).
- (3) In this section “holding”—
 - (a) in relation to an open-ended investment company, means—
 - (i) except where sub-paragraph (ii) applies, shares in the company, and
 - (ii) in a case where under section 468A(3) of ICTA part of an umbrella company is regarded as an open-ended investment company, rights in the separate pool in question,
 - (b) in relation to a unit trust scheme, means an entitlement to a share in the investments of the scheme, and
 - (c) in relation to an offshore fund, means—

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- (i) shares in any company by which the fund is constituted, or
- (ii) an entitlement to a share in the investments of the fund.

- (4) In this section “relevant accounting period” means the accounting period referred to in section 490(1).

496 Meaning of “hedging relationship”

- (1) For the purposes of section 494, in relation to an open-ended investment company, a unit trust scheme or an offshore fund, there is a hedging relationship between a derivative contract (“the hedging instrument”) and an asset (“the hedged item”) so far as condition A or B is met.
- (2) Condition A is that the hedging instrument and the hedged item are designated as a hedge by the company, scheme or fund.
- (3) Condition B is that the hedging instrument is intended to act as a hedge of exposure to changes in fair value of a hedged item which is—
- (a) a recognised asset which could affect the total net return of the company, scheme or fund, or
 - (b) an identified part of such an asset which is attributable to a particular risk.
- (4) For the purposes of subsection (3) “the total net return” of a company, scheme or fund means its total net return calculated—
- (a) in accordance with generally accepted accounting practice, or
 - (b) in the case of accounts prepared in a jurisdiction outside the United Kingdom, in accordance with generally accepted accounting practice in that jurisdiction.

Power to change investments that are qualifying investments

497 Power to change investments that are qualifying investments

- (1) The Treasury may by order amend sections 493 to 496 so as to extend or restrict the descriptions of investments of an open-ended investment company, a unit trust scheme or an offshore fund that are qualifying investments for the purposes of those provisions.
- (2) The order may make—
- (a) different provision for different cases, and
 - (b) incidental, supplemental, consequential and transitional provision and savings.
- (3) In particular, the order may make such incidental modifications of section 495(2) as the Treasury consider appropriate.

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CHAPTER 4

BUILDING SOCIETIES

498 Building society dividends and interest

- (1) This section deals with how building society dividends and interest are dealt with for corporation tax purposes.
- (2) Liability to pay building society interest or building society dividends is treated for the purposes of Part 5 as a liability arising under a loan relationship (so far as it would not otherwise be such a liability).
- (3) If building society interest or building society dividends are payable to a company, they are treated as so payable as the result of a right arising under a loan relationship of the company (so far as they would not otherwise be so payable).
- (4) Subsection (3) applies to interest paid under a certified SAYE savings arrangement with a building society as if it were a dividend on a share in the society.
- (5) In this section—
 - “building society dividends” means dividends payable in respect of shares in a building society,
 - “building society interest” means interest payable in respect of shares in, deposits with, or loans to, a building society,
 - “certified SAYE savings arrangement” has the meaning given by section 703 of ITTOIA 2005, and
 - “dividend” includes any distribution, however described.

CHAPTER 5

INDUSTRIAL AND PROVIDENT SOCIETIES

499 Industrial and provident society payments treated as interest under loan relationship

- (1) Any dividend, bonus or other sum payable to a shareholder in—
 - (a) a registered industrial and provident society, or
 - (b) a UK agricultural or fishing co-operative,is treated for corporation tax purposes as interest under a loan relationship of the society or co-operative if it is payable by reference to the amount of the shareholder's holding in its share capital.
- (2) If subsection (1) applies—
 - (a) so far as the shareholder's holding is held for the purposes of a trade, the shareholder is treated for the purposes of section 297 as a party to the loan relationship referred to in subsection (1) for that purpose, and
 - (b) so far as the holding is held for any other purpose, the shareholder is treated for the purposes of that section as a party to that loan relationship for that other purpose.

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- (3) In subsection (1) “UK agricultural or fishing co-operative” means a co-operative association—
- (a) which is established in the United Kingdom and UK resident, and
 - (b) whose primary object is assisting its members in—
 - (i) carrying on agricultural or horticultural businesses on land occupied by them in the United Kingdom, or
 - (ii) carrying on businesses consisting in the catching or taking of fish or shellfish.
- (4) In subsection (3) “co-operative association” means a body with a written constitution from which the Secretary of State considers that it is in substance a co-operative association.
- (5) For the purposes of subsection (4), the Secretary of State must have regard to the way in which the body's constitution provides for its income to be applied for its members' benefit and all other relevant provisions.
- (6) In the application of subsections (4) and (5) in Northern Ireland for “the Secretary of State” substitute “ the Department of Agriculture and Rural Development ”.

500 Exclusion of interest where failure to make return

- (1) This section applies if for any accounting period a registered industrial and provident society is obliged to make a return under section 887(2) of ITA 2007.
- (2) If the society has not made the return within 3 months after the end of the period, no interest paid by it in the period is to be brought into account for the period for the purposes of Part 5.
- (3) It does not matter for the purposes of subsection (2) whether the payment would be interest apart from section 499.

CHAPTER 6

ALTERNATIVE FINANCE ARRANGEMENTS

Introduction

501 Introduction to Chapter

- (1) This Chapter provides for alternative finance arrangements between companies and financial institutions to be treated as loan relationships (see sections 509 and 510).
- (2) In this Part “alternative finance arrangements” means—
 - (a) purchase and resale arrangements,
 - (b) diminishing shared ownership arrangements,
 - (c) deposit arrangements,
 - (d) profit share agency arrangements, and
 - (e) investment bond arrangements.
- (3) In this Chapter—

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- (a) “purchase and resale arrangements” means arrangements to which section 503 applies,
- (b) “diminishing shared ownership arrangements” means arrangements to which section 504 applies,
- (c) “deposit arrangements” means arrangements to which section 505 applies,
- (d) “profit share agency arrangements” means arrangements to which section 506 applies, and
- (e) “investment bond arrangements” means arrangements to which section 507 applies.

(4) For the meaning of “financial institution”, see section 502.

502 Meaning of “financial institution”

- (1) In this Chapter “financial institution” means—
- (a) a bank, as defined by section 840A of ICTA,
 - (b) a building society within the meaning of the Building Societies Act 1986 (c. 53),
 - (c) a wholly-owned subsidiary of a bank within paragraph (a) or a building society within paragraph (b),
 - (d) a person authorised by a licence under Part 3 of the Consumer Credit Act 1974 (c. 39) to carry on a consumer credit business or consumer hire business within the meaning of that Act,
 - (e) a bond-issuer, within the meaning of section 507, but only in relation to any bond assets which are rights under purchase and resale arrangements or diminishing shared ownership arrangements, or
 - (f) a person authorised in a jurisdiction outside the United Kingdom—
 - (i) to receive deposits or other repayable funds from the public, and
 - (ii) to grant credits for its own account.
- (2) For the purposes of subsection (1)(c) a company is a wholly-owned subsidiary of a bank or building society (“the parent”) if it has no members except—
- (a) the parent or persons acting on behalf of the parent, and
 - (b) the parent's wholly-owned subsidiaries or persons acting on behalf of the parent's wholly-owned subsidiaries.

Arrangements that are alternative finance arrangements

503 Purchase and resale arrangements

- (1) This section applies to arrangements if—
- (a) they are entered into between two persons (“the first purchaser” and “the second purchaser”), one or both of whom are financial institutions, and
 - (b) under the arrangements—
 - (i) the first purchaser purchases an asset and sells it to the second purchaser,
 - (ii) the sale occurs immediately after the purchase or in the circumstances mentioned in subsection (2),

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- (iii) all or part of the second purchase price is not required to be paid until a date later than that of the sale,
 - (iv) the second purchase price exceeds the first purchase price, and
 - (v) the excess equates, in substance, to the return on an investment of money at interest.
- (2) The circumstances are that—
- (a) the first purchaser is a financial institution, and
 - (b) the asset referred to in subsection (1)(b)(i) was purchased by the first purchaser for the purpose of entering into arrangements within this section.
- (3) In this section—
- “the first purchase price” means the amount paid by the first purchaser in respect of the purchase, and
 - “the second purchase price” means the amount payable by the second purchaser in respect of the sale.
- (4) This section is subject to section 508 (provision not at arm's length: exclusion of arrangements from this section and sections 504 to 507).

504 Diminishing shared ownership arrangements

- (1) This section applies to arrangements if under them—
- (a) a financial institution (“the first owner”) acquires a beneficial interest in an asset,
 - (b) another person (“the eventual owner”) also acquires a beneficial interest in it,
 - (c) the eventual owner is to make payments to the first owner amounting in aggregate to the consideration paid for the acquisition of the first owner's beneficial interest (but subject to any adjustment required for such a reduction as is mentioned in subsection (5)),
 - (d) the eventual owner is to acquire the first owner's beneficial interest (whether or not in stages) as a result of those payments,
 - (e) the eventual owner is to make other payments to the first owner (whether under a lease forming part of the arrangements, or otherwise),
 - (f) the eventual owner has the exclusive right to occupy or otherwise to use the asset, and
 - (g) the eventual owner is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, an increase in its value).
- (2) For the purposes of subsection (1)(a) it does not matter if—
- (a) the first owner acquires its beneficial interest from the eventual owner,
 - (b) the eventual owner, or another person who is not the first owner, also has a beneficial interest in the asset, or
 - (c) the first owner also has a legal interest in it.
- (3) Subsection (1)(f) does not prevent the eventual owner from granting an interest or right in relation to the asset if the conditions in subsection (4) are met.
- (4) The conditions are that—
- (a) the grant is not to—

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- (i) the first owner,
 - (ii) a person controlled by the first owner, or
 - (iii) a person controlled by a person who also controls the first owner, and
- (b) the grant is not required by the first owner or arrangements to which the first owner is a party.
- (5) Subsection (1)(g) does not prevent the first owner from—
- (a) having responsibility for any reduction in the asset's value, or
 - (b) having a share in a loss arising out of any such reduction.
- (6) This section is subject to section 508 (provision not at arm's length: exclusion of arrangements from section 503, this section and sections 505 to 507).

505 Deposit arrangements

- (1) This section applies to arrangements if under them—
- (a) a person (“the depositor”) deposits money with a financial institution,
 - (b) the money, together with money deposited with the institution by other persons, is used by it with a view to producing a profit,
 - (c) from time to time the institution makes or credits a payment to the depositor out of profit resulting from the use of the money,
 - (d) the payment is in proportion to the amount deposited by the depositor, and
 - (e) the payments so made or credited by the institution equate, in substance, to the return on an investment of money at interest.
- (2) This section is subject to section 508 (provision not at arm's length: exclusion of arrangements from sections 503 and 504, this section, and sections 506 and 507).

506 Profit share agency arrangements

- (1) This section applies to arrangements if under them—
- (a) a person (“the principal”) appoints a financial institution as agent,
 - (b) the agent uses money provided by the principal with a view to producing a profit,
 - (c) the principal is entitled, to a specified extent, to profits resulting from the use of the money,
 - (d) the agent is entitled to any additional profits resulting from its use (and may also be entitled to a fee paid by the principal), and
 - (e) payments made because of the principal's entitlement to profits equate, in substance, to the return on an investment of money at interest.
- (2) This section is subject to section 508 (provision not at arm's length: exclusion of arrangements from sections 503 to 505, this section and section 507).

507 Investment bond arrangements

- (1) This section applies to arrangements if—
- (a) they provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),

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- (b) they identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
 - (c) they specify a period at the end of which they cease to have effect (“the bond term”),
 - (d) the bond-issuer undertakes under the arrangements—
 - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,
 - (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
 - (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),
 - (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
 - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
 - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who becomes the bond-holder because of the transfer),
 - (h) the arrangements are a listed security on a recognised stock exchange, and
 - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer, or would be if the bond-issuer applied those standards.
- (2) For the purposes of subsection (1)—
- (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
 - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
 - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but need not) be described as, or accompanied by a document described as, a declaration of trust,
 - (d) a reference to the management of assets includes a reference to disposal,
 - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
 - (f) the amount of the additional payments may be—
 - (i) fixed at the beginning of the bond term,
 - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
 - (iii) determined in some other way,
 - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments,
 - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, and

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- (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.
- (3) This section is subject to section 508.

508 Provision not at arm's length: exclusion of arrangements from sections 503 to 507

- (1) Arrangements to which this section applies are not—
- (a) purchase and resale arrangements,
 - (b) diminishing shared ownership arrangements,
 - (c) deposit arrangements,
 - (d) profit share agency arrangements, or
 - (e) investment bond arrangements.
- (2) This section applies to arrangements if—
- (a) apart from this section they would be alternative finance arrangements,
 - (b) paragraph 1(2) of Schedule 28AA to ICTA (provision not at arm's length) requires the profits and losses of a person who is a party to the arrangements to be calculated for tax purposes as if the arm's length provision referred to in paragraph 1(2)(a) of that Schedule had been made or imposed, rather than in accordance with the arrangements,
 - (c) any person who is an affected person for the purposes of that Schedule (“the affected person”) is entitled to—
 - (i) relevant return in relation to the arrangements, or
 - (ii) an amount representing relevant return in relation to them, and
 - (d) the affected person is not subject—
 - (i) to income tax or corporation tax, or
 - (ii) to any corresponding tax under the law of a territory outside the United Kingdom,on the relevant return or the amount representing it.
- (3) In this section “relevant return”, in relation to arrangements, means any amount which would be alternative finance return if the arrangements were alternative finance arrangements.
- (4) For the meaning of “alternative finance return”, see sections 511 to 513.

Treatment as loan relationships

509 Application of Part 5: general

- (1) Part 5 applies in relation to alternative finance arrangements to which a company (“A”) is a party as if the arrangements were a loan relationship to which A is a party.
- (2) Accordingly, references in the Corporation Tax Acts to a loan relationship include references to such alternative finance arrangements.
- (3) Section 510 makes further provision about the way in which Part 5 applies to particular descriptions of alternative finance arrangements.

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510 Application of Part 5 to particular alternative finance arrangements

- (1) In the case of purchase and resale arrangements, Part 5 applies in relation to A as if—
 - (a) the first purchase price were the amount of a loan made by the first purchaser to the second purchaser, and
 - (b) alternative finance return payable under the arrangements were interest payable on the loan.
- (2) In the case of diminishing shared ownership arrangements, Part 5 applies in relation to A as if—
 - (a) the consideration paid by the first owner for the acquisition of the first owner's beneficial interest (“the acquisition consideration”) were the amount of a loan made by A to the eventual owner, and
 - (b) alternative finance return payable under the arrangements were interest payable on the loan.
- (3) In the case of deposit arrangements, Part 5 applies in relation to A as if—
 - (a) any amount deposited under the arrangements were the amount of a loan made by the depositor to the financial institution, and
 - (b) alternative finance return payable under them were interest on the loan.
- (4) In the case of profit share agency arrangements, Part 5 applies in relation to A as if—
 - (a) any amount provided under the arrangements were the amount of a loan made by the principal to the agent, and
 - (b) alternative finance return payable under them were interest on the loan.
- (5) In the case of investment bond arrangements, Part 5 applies in relation to A as if alternative finance return payable to or by A under them were interest payable under the loan relationship.
- (6) In this section—
 - “the depositor” has the same meaning as in section 505 (see subsection (1) of that section),
 - “the eventual owner” has the same meaning as in section 504 (see subsection (1) of that section),
 - “the first owner” has the same meaning as in section 504 (see subsection (1) of that section),
 - “the first purchaser” has the same meaning as in section 503 (see subsection (1) of that section),
 - “the first purchase price” has the same meaning as in section 503 (see subsection (3) of that section),
 - “the principal” has the same meaning as in section 506 (see subsection (1) of that section), and
 - “the second purchaser” has the same meaning as in section 503 (see subsection (1) of that section).
- (7) For the meaning of “alternative finance return”, see sections 511 to 513.

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Meaning of “alternative finance return”

511 Purchase and resale arrangements

- (1) In the case of purchase and resale arrangements, so much of the second purchase price as is specified under the following provisions of this section is alternative finance return for the purposes of this Part.
- (2) If under the arrangements the whole of the second purchase price is paid on one day, the alternative finance return equals the amount by which the second purchase price exceeds the first purchase price.
- (3) If under the arrangements the second purchase price is paid by instalments, the alternative finance return in each instalment equals the appropriate amount.
- (4) The appropriate amount is an amount equal to the interest which would have been included in the instalment on the assumptions in subsection (5).
- (5) The assumptions are that—
 - (a) interest is payable on a loan by the first purchaser to the second purchaser of an amount equal to the first purchase price,
 - (b) the total interest payable on the loan is equal to the amount by which the second purchase price exceeds the first purchase price,
 - (c) the instalment is a part repayment of the principal of the loan with interest, and
 - (d) the loan is made on arm's length terms and accounted for under generally accepted accounting practice.
- (6) In this section expressions used in section 503 have the same meaning as in that section.

512 Diminishing shared ownership arrangements

- (1) In the case of diminishing shared ownership arrangements, payments by the eventual owner under the arrangements are alternative finance return for the purposes of this Part, except so far as subsection (2) or (3) applies to them.
- (2) This subsection applies to the payments so far as they amount to payments of the kind described in section 504(1)(c) (payments to be made by the eventual owner to the institution, amounting to the consideration paid for the acquisition of the institution's beneficial interest).
- (3) This subsection applies to the payments so far as they amount to payments in respect of any arrangement fee or legal or other expenses which the eventual owner is required under the arrangements to pay.
- (4) In this section “the eventual owner” has the same meaning as in section 504.

513 Other arrangements

- (1) In the case of deposit arrangements, amounts paid or credited as mentioned in section 505(1)(c) by a financial institution under the arrangements (payments to depositor out of profits resulting from use of money) are alternative finance return for the purposes of this Part.

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- (2) In the case of profit share agency arrangements, amounts paid or credited by a financial institution in accordance with such an entitlement as is mentioned in section 506(1)(c) (principal's entitlement to profits under the arrangements) are alternative finance return for the purposes of this Part.
- (3) In the case of investment bond arrangements, the additional payments under the arrangements are alternative finance return for the purposes of this Part.
- (4) In subsection (3) “additional payments” has the same meaning as in section 507 (see subsection (1)(d)(iii) of that section).

Treatment for other tax purposes

514 Exclusion of alternative finance return from consideration for sale of assets

- (1) If under purchase and resale arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Corporation Tax Acts (apart from section 503).
- (2) If under diminishing shared ownership arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Corporation Tax Acts (apart from section 504).
- (3) If under investment bond arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Corporation Tax Acts (apart from section 507).
- (4) Subsections (1) to (3) do not affect the operation of any provision of the [F12Tax Acts or TCGA 1992] which provides that the consideration for a sale or purchase is taken for any purpose to be an amount other than the actual consideration.

Textual Amendments

F12 Words in s. 514(4) substituted (1.4.2009 retrospective) by [Corporation Tax Act 2009 \(Amendment\) Order 2009 \(S.I. 2009/2860\)](#), arts. 1(2), **6(3)**

515 Diminishing shared ownership arrangements not partnerships

Diminishing shared ownership arrangements are not treated as a partnership for the purposes of the Corporation Tax Acts.

516 Treatment of principal under profit sharing agency arrangements

- (1) The principal under profit sharing agency arrangements is not treated for the purposes of the Corporation Tax Acts as entitled to profits to which the agent is entitled in accordance with section 506(1)(d).
- (2) And the agent under such arrangements is treated for those purposes as entitled to those profits and the profits specified in section 506(1)(c).

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- (3) In this section “the principal” and “the agent” are to be read in accordance with section 506.

517 Treatment of bond-holder under investment bond arrangements

- (1) This section applies for the purposes of the Corporation Tax Acts and irrespective of the position for other purposes.
- (2) The bond-holder under investment bond arrangements is not treated as having a legal or beneficial interest in the bond assets.
- (3) The bond-issuer under such arrangements is not treated as a trustee of the bond assets.
- (4) Profits accruing to the bond-issuer in connection with the bond assets are profits of the bond-issuer and not of the bond-holder (and do not arise to the bond-issuer in a fiduciary or representative capacity).
- (5) Payments made by the bond-issuer by way of redemption payment or additional payment are not made in a fiduciary or representative capacity.
- (6) The bond-holder is not entitled to relief for capital expenditure in connection with the bond assets.
- (7) Expressions used in this section have the same meaning as in section 507.

518 Investment bond arrangements: treatment as securities

- (1) Investment bond arrangements are securities for the purposes of the Corporation Tax Acts.
- (2) For those purposes—
- (a) a reference in an enactment to redemption is to be taken as a reference to making the redemption payment,^{F13} ...
 - (b) a reference in an enactment to interest is to be taken as a reference to alternative finance return^{F14}, and
 - (c) the bond-issuer is to be treated for the purposes of section 84 of FA 2005 (taxation of securitisation companies) as being party as debtor to a capital market arrangement.]
- (3) In subsection (2) “the redemption payment” has the same meaning as in section 507 (see subsection (1)(d)(ii) of that section).

Textual Amendments

F13 Word in s. 518(2)(a) omitted (1.4.2009 retrospective) by virtue of [Corporation Tax Act 2009 \(Amendment\) Order 2009 \(S.I. 2009/2860\)](#), arts. 1(2), **6(4)(a)**

F14 S. 518(2)(c) and word inserted (1.4.2009 retrospective) by [Corporation Tax Act 2009 \(Amendment\) Order 2009 \(S.I. 2009/2860\)](#), arts. 1(2), **6(4)(b)**

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519 Investment bond arrangements: other provisions

- (1) A bond-issuer is not a securitisation company for the purposes of section 83 of FA 2005 (application of accounting standards to securitisation companies) unless it is one as a result of arrangements which are not investment bond arrangements.
- (2) For the purposes of section 417 of ICTA (close companies)—
 - (a) a bond-holder is a loan creditor in respect of the bond-issuer, and
 - (b) investment bond arrangements must be ignored in the application of section 417(1)(d) of that Act.
- (3) For the purposes of Schedule 18 to ICTA (group relief)—
 - (a) a bond-holder is a loan creditor in respect of the bond-issuer, and
 - (b) paragraph 1(5)(b) of that Schedule must be ignored in determining whether a person is an equity holder as a result of investment bond arrangements.

520 Provision not at arm's length: non-deductibility of relevant return

- (1) This section applies if arrangements to which section 508 (provision not at arm's length: exclusion of arrangements from sections 503 to 507) applies would, but for that section, be alternative finance arrangements.
- (2) A company paying relevant return under the arrangements is not entitled to—
 - (a) any deduction in calculating profits or gains for corporation tax purposes, or
 - (b) any deduction against total profits,
 in respect of the relevant return.
- (3) In this section “relevant return” has the same meaning as in section 508 (see subsection (3) of that section).

Power to extend this Chapter to other arrangements

521 Power to extend this Chapter to other arrangements

- (1) The Treasury may by order amend the alternative finance provisions.
- (2) The amendments which may be made by such an order include—
 - (a) the variation of provision already included in the alternative finance provisions, and
 - (b) the introduction into those provisions of new provision relating to alternative finance arrangements.
- (3) In this section “alternative finance arrangements” means arrangements which in the Treasury's opinion—
 - (a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest, but
 - (b) achieve a similar effect without including provision for the payment of interest.
- (4) An order under subsection (1) may, in particular—
 - (a) make provision of a kind similar to provision already made by the alternative finance provisions,

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- (b) make other provision about the treatment for the purposes of the Corporation Tax Acts of arrangements to which the order applies,
 - (c) make provision generally or only in relation to specified cases or circumstances,
 - (d) make different provision for different cases or circumstances, and
 - (e) make incidental, supplemental, consequential and transitional provision and savings.
- (5) An order making consequential provision under subsection (4)(e) may, in particular, include provision amending a provision of the Tax Acts.
- (6) In this section “the alternative finance provisions” means—
- (a) this Chapter,
 - (b) section 209(6A) of ICTA (meaning of distribution),
 - (c) section 411ZA of ICTA (no relief where deduction of relevant return under alternative finance arrangements disallowed), and
 - (d) section 151F of TCGA 1992 (treatment of alternative finance arrangements).

[^{F15}CHAPTER 6A

SHARES ACCOUNTED FOR AS LIABILITIES

Textual Amendments

F15 Pt. 6 Ch. 6A inserted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 24 para. 412](#)

521A Introduction to Chapter

- (1) This Chapter contains rules for Part 5 (and the other provisions of the Corporation Tax Acts) to apply in some cases as if at some times in the accounting period of a company (“A”) which holds shares of a certain kind in another company (“B”) the shares were rights under a creditor relationship of A.
- (2) See, in particular—
 - (a) section 521B (application of Part 5 to some shares as rights under creditor relationship), and
 - (b) section 521C (which describes the shares to which the rules apply).
- (3) In this Chapter references to the investing company are to A and references to the issuing company are to B.
- (4) For the purposes of this Chapter, the definition of “share” in section 476(1) only applies so far as it provides that “share” does not include a share in a building society.
- (5) Section 550(3) (repos: ignoring effect on borrower of sale of securities) does not apply for the purposes of this Chapter.
- (6) See section 116B of TCGA 1992 for the effect for chargeable gains purposes of shares beginning or ceasing to be shares to which section 521C applies.

Status: Point in time view as at 22/04/2009.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Corporation Tax 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)

521B Application of Part 5 to certain shares as rights under creditor relationship

- (1) This section applies in relation to the times in a company's accounting period when—
 - (a) the company holds a share in another company, and
 - (b) section 521C (shares accounted for as liabilities) applies to the share.
- (2) Part 5 (and the other provisions of the Corporation Tax Acts) apply as if at those times—
 - (a) the share were rights under a creditor relationship of the investing company, and
 - (b) any distribution in respect of the share were not a distribution (and accordingly is within Part 5).
- (3) Where Part 5 applies in relation to the investing company in accordance with subsection (2) it so applies as if the issuing company stood in the position of debtor as respects the debt in question.
- (4) No debits are to be brought into account by the investing company as respects the share but this does not affect debits to be brought into account in respect of exchange gains or losses.
- (5) Subsection (2)(b) does not affect the operation of Part 1 of Schedule 25 of ICTA (controlled foreign companies: acceptable distribution policy) (including as it continues to have effect in accordance with paragraph 8(1) of Schedule 16 to FA 2009).
- (6) In this Chapter references to “the share” are to the share mentioned in subsection (1).

521C Shares accounted for as liabilities

- (1) This section applies to the share if—
 - (a) the share would be accounted for by the issuing company as a liability in accordance with generally accepted accounting practice,
 - (b) the share produces for the investing company a return in relation to any amount which is economically equivalent to interest,
 - (c) the issuing company and the investing company are not connected companies,
 - (d) the condition in subsection (4) is met,
 - (e) the share is not an excepted share (see section 521D), and
 - (f) the investing company holds the share for an unallowable purpose (see section 521E).
- (2) For the purposes of this section a return produced for a company by an arrangement in relation to any amount is “economically equivalent to interest” if (and only if)—
 - (a) it is reasonable to assume that it is a return by reference to the time value of that amount of money,
 - (b) it is at a rate reasonably comparable to what is (in all the circumstances) a commercial rate of interest, and
 - (c) at the relevant time there is no practical likelihood that it will cease to be produced in accordance with the arrangement unless the person by whom it falls to be produced is prevented (by reason of insolvency or otherwise) from producing it.

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- (3) In subsection (2)(c) “ the relevant time ” means the time when the investing company first holds the share or, if later, when the share begins to produce a return for the investing company.
- (4) The condition mentioned in subsection (1)(d) is that the share does not fall to be treated for the accounting period in question as if it were rights under a creditor relationship of the investing company because of section 490 (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights).
- (5) Section 466 (companies connected for an accounting period) applies for the purposes of this section.

521D Excepted shares

- (1) A share is an excepted share for the purposes of section 521C if it is—
 - (a) a qualifying publicly-issued share (see subsection (2)), or
 - (b) a share which mirrors a public issue (see subsections (3) and (4)).
- (2) A share is a “qualifying publicly-issued share” if—
 - (a) it was issued by a company as part of an issue of shares to persons not connected with the company, and
 - (b) less than 10% of the shares in that issue are held by the investing company or persons connected with it.
- (3) The first case where shares (“the mirroring shares”) mirror a public issue is where—
 - (a) a company (“company A”) issues shares (“the public issue”) to persons not connected with the company,
 - (b) within 7 days of that issue, one or more other companies (“companies BB”) issue the mirroring shares to company A on the same terms as the public issue or substantially the same terms,
 - (c) company A and companies BB are associated companies (see subsection (5)), and
 - (d) the total nominal value of the mirroring shares does not exceed the nominal value of the public issue.
- (4) The second case where shares (“the second level mirroring shares”) mirror a public issue is where, in the circumstances of the first case—
 - (a) within 7 days of the public issue, one or more other companies (“companies CC”) issue the second level mirroring shares to one or more of companies BB on the same terms as the public issue or substantially the same terms,
 - (b) company A, companies BB and companies CC are associated companies (see subsection (5)), and
 - (c) the total nominal value of the second-level mirroring shares does not exceed the nominal value of the public issue.
- (5) For the purposes of subsections (3) and (4) companies are associated companies if they are members of the same group of companies for the purposes of Chapter 4 of Part 10 of ICTA (group relief) (see section 413(3)(a) of that Act).

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521E Unallowable purpose

- (1) For the purposes of section 521C, the investing company holds the share for an unallowable purpose if the main purpose, or one of the main purposes for which the company holds the share is to obtain a relevant tax advantage.
- (2) But the investing company may elect that this Chapter is to apply in relation to the share even though it would otherwise be prevented from applying by subsection (1) (f) of that section.
- (3) An election under subsection (2)—
 - (a) must be made no later than the time when the investing company first holds the share or, if later, when the share begins to produce a return for the investing company, and
 - (b) is irrevocable.
- (4) In this section “ obtain a relevant tax advantage ” means secure that the return produced by the share (or any part of it) is received in a way that means that its treatment for corporation tax purpose is more advantageous to the investing company than it would be if it were—
 - (a) charged to corporation tax as income of the investing company, or
 - (b) brought into account as income of the investing company for corporation tax purposes,
 at the time when amounts would be brought into account in relation to the return in accordance with section 521B.
- (5) Nothing in this section applies in relation to the investing company for an accounting period if it is an excluded controlled foreign company.
- (6) For this purpose the investing company is an excluded controlled foreign company if any of its chargeable profits (within the meaning of Chapter 4 of Part 17 of ICTA)—
 - (a) are apportioned for the accounting period in accordance with section 752 of ICTA by virtue of section 747(3) of that Act, or
 - (b) are not so apportioned because of section 748(1) of that Act.

521F Shares becoming or ceasing to be shares to which section 521B applies

- (1) This section applies if at any time section 521B begins or ceases to apply in the case of a share held by the investing company.
- (2) The investing company is treated for the purposes of Part 5—
 - (a) as having disposed of the share immediately before that time for consideration of an amount equal to the notional carrying value of the share at that time, and
 - (b) as having immediately reacquired it for consideration of the same amount.
- (3) In subsection (2) “ notional carrying value ”, in relation to the share, means the amount which would have been its carrying value in the accounts of the investing company if a period of account had ended immediately before section 521B began or ceased to apply in the case of the share and the investing company.
- (4) For the purposes of subsection (3) “ carrying value ” has the same meaning as it has for the purposes of section 316 (see section 317).]

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CHAPTER 7

SHARES WITH GUARANTEED RETURNS ETC

Application of Part 5 to certain shares as rights under creditor relationship

F16522 Introduction to Chapter

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\)](#), 12

F16523 Application of Part 5 to certain shares as rights under creditor relationship

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\)](#), 12

Shares subject to outstanding third party obligations

F16524 Shares subject to outstanding third party obligations

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\)](#), 12

F16525 Meaning of “interest-like investment”

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\)](#), 12

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Non-qualifying shares

F16526 Non-qualifying shares

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(i), 12**

F16527 The increasing value condition

.....

Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(i), 12**

F16528 Regulations about income-producing assets

.....

Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(i), 12**

F16529 The redemption return condition

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(i), 12**

F16530 The redemption return condition: excepted shares

.....

Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(i), 12**

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F16531 The redemption return condition: unallowable purposes

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\), 12](#)

F16532 The associated transactions condition

.....

Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\), 12](#)

F16533 Power to change conditions for non-qualifying shares

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\), 12](#)

Consequences of section 523 applying or ceasing to apply

F16534 Amounts to be brought into account where section 523 applies

.....

Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\), 12](#)

F16535 Shares ceasing to be shares to which section 523 applies

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Textual Amendments

F16 Pt. 6 Ch. 7 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the commencing Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(i\), 12](#)

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CHAPTER 8

^{F17}536 Introduction to Chapter

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Textual Amendments

F17 Pt. 6 Ch. 8 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(ii), 12**

^{F17}537 Payments in return for capital contribution to partnership

.....

Textual Amendments

F17 Pt. 6 Ch. 8 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(ii), 12**

^{F17}538 Change of partnership shares

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Textual Amendments

F17 Pt. 6 Ch. 8 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(c)(ii), 12**

CHAPTER 9

MANUFACTURED INTEREST ETC

539 Introduction to Chapter

- (1) This Chapter deals with the application of Part 5 to manufactured interest relationships and payments representative of interest.
- (2) For the purposes of the Corporation Tax Acts a company has a manufactured interest relationship if conditions A and B are met.
- (3) Condition A is that—
 - (a) an amount is payable by or on behalf of the company or to the company under any arrangements, and
 - (b) the arrangements relate to the transfer of an asset representing a loan relationship.
- (4) Condition B is that the amount—
 - (a) is representative of interest under the loan relationship, or

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- (b) will fall to be treated as representative of such interest when it is paid.
- (5) In this Chapter—
 - “manufactured interest”, in relation to a manufactured interest relationship, means an amount within subsection (3)(a), and
 - “the real interest” means the interest mentioned in subsection (4)(a).
- (6) References in the Corporation Tax Acts to a company being a party to a manufactured interest relationship are to be read in accordance with this section.
- (7) For cases where a payment representative of interest is treated as having been made for the purposes of this Chapter, see section 736B(2) of ICTA (deemed manufactured payments in the case of stock lending arrangements).

540 Manufactured interest treated as interest under loan relationship

- (1) If a company has a manufactured interest relationship under which manufactured interest is payable by it, Part 5 applies to the company and the manufactured interest as it would if the manufactured interest were interest payable on a loan to the company (and so were interest under a loan relationship to which the company is a party).
- (2) If a company has a manufactured interest relationship under which manufactured interest is payable to it, Part 5 applies to the company and the manufactured interest as it would if—
 - (a) the manufactured interest were interest payable on a loan by the company (and so were interest under a loan relationship to which the company is a party), and
 - (b) the manufactured interest relationship were the loan relationship under which the real interest is payable.
- (3) Accordingly, subject to subsection (2)(b), references in the Corporation Tax Acts to a loan relationship include a reference to a manufactured interest relationship.
- (4) Subsection (5) applies if a company—
 - (a) has a manufactured interest relationship, but
 - (b) enters into a related transaction in respect of the right to receive manufactured interest as a result of which the manufactured interest is not payable to the company.
- (5) Even though the manufactured interest is not payable to the company, for the purpose of bringing credits into account in respect of that or any other related transaction because of the application of subsection (2), the company is still treated as having a manufactured interest relationship.
- (6) This section is subject to Chapter 10 (repos).

541 Debits for deemed interest under stock lending arrangements disallowed

- (1) This section applies if a company is the borrower under a stock lending arrangement for the purposes of section 736B(2) of ICTA (which treats such a borrower as having made a payment representative of interest for the purposes of this Chapter).
- (2) In accordance with section 736B(2A) of that Act (which prevents deductions or group relief for the borrower in stock lending cases), the company may not bring debits into

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account for the purposes of Part 5 in respect of the representative payment which is treated as having been made under section 736B(2) of that Act.

CHAPTER 10

REPOS

Introduction

542 Introduction to Chapter

- (1) The purpose of this Chapter is to secure that in the case of an arrangement—
 - (a) which involves the sale of securities and the subsequent purchase of those or similar securities, and
 - (b) which equates, in substance, to a transaction for the lending of money at interest from or to a company, with the securities which were sold as collateral for the loan,
 the charge to corporation tax reflects the fact that the arrangement equates, in substance, to such a transaction.
- (2) Sections 543 to [F18546] make provision about arrangements which are creditor repos or creditor quasi-repos.
- (3) Sections 548 to 551 make provision about arrangements which are debtor repos or debtor quasi-repos.

Textual Amendments

F18 Figure in s. 542(2) substituted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 10, 12](#)

Creditor repos and creditor quasi-repos

543 Meaning of creditor repo

- (1) For the purposes of this Chapter a company (“the lender”) has a creditor repo if each of conditions A to E is met.
- (2) Condition A is that under an arrangement another person (“the borrower”) receives from the lender any money or other asset (“the advance”).
- (3) Condition B is that, in accordance with generally accepted accounting practice, the accounts of the lender for the period in which the advance is made record a financial asset in respect of the advance.
- (4) Condition C is that under the arrangement the borrower sells any securities at any time to the lender.
- (5) Condition D is that the arrangement makes provision conferring a right or imposing an obligation on the lender to sell those or similar securities at any subsequent time.

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- (6) Condition E is that, in accordance with generally accepted accounting practice, the subsequent sale of those or similar securities would extinguish the financial asset in respect of the advance recorded in the accounts of the lender.
- (7) For the purposes of conditions A to E references to the lender include a firm of which the lender is a member.

544 Meaning of creditor quasi-repo

- (1) For the purposes of this Chapter a company (“the lender”) has a creditor quasi-repo in any case if—
 - (a) the lender does not have a creditor repo in that case, and
 - (b) each of conditions A to E is met in that case.
- (2) Condition A is that under an arrangement a person receives from the lender any money or other asset (“the advance”).
- (3) Condition B is that, in accordance with generally accepted accounting practice, the accounts of the lender for the period in which the advance is made record a financial asset in respect of the advance.
- (4) Condition C is that under that or any other arrangement a person sells any securities at any time to the lender or any other person.
- (5) Condition D is that the arrangement or other arrangement—
 - (a) makes provision conferring a right or imposing an obligation on the lender to sell the securities or any other securities at any subsequent time, or
 - (b) makes provision conferring such a right or imposing such an obligation on any other person and makes other relevant provision.
- (6) For this purpose an arrangement makes other relevant provision if it makes provision—
 - (a) for the receipt of any money, securities or other asset from the lender under that arrangement for the purpose of enabling the other person to make that subsequent sale, or
 - (b) for the discharge of any liability to the lender under that arrangement for that purpose (whether by way of set off or otherwise).
- (7) Condition E is that, in accordance with generally accepted accounting practice—
 - (a) the subsequent sale of the securities or the other securities by the lender, or
 - (b) the receipt of the asset from the lender, or the discharge of the liability to the lender, under the arrangement or other arrangement,would extinguish the financial asset in respect of the advance recorded in the accounts of the lender.
- (8) For the purposes of conditions A to E references to the lender include a firm of which the lender is a member.

545 Ignoring effect on lender etc of sale of securities

- (1) This section applies if a company (“the lender”) has a creditor repo or a creditor quasi-repo.

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- (2) For the purposes of the charge to corporation tax in respect of income of the lender arising while the arrangement is in force, the Corporation Tax Acts have effect as if—
 - (a) the lender did not hold the securities that are initially sold for any period for which the arrangement is in force, and
 - (b) the lender did not make in that period any payment representative of income payable in respect of the securities.
- (3) But subsection (2) is subject to subsections (4) and (5).
- (4) An amount is not to be ignored for the purposes of that charge as a result of subsection (2)(a) if—
 - (a) it is, in accordance with generally accepted accounting practice, recognised in determining the lender's profit or loss for that or any other period, or
 - (b) it is taken into account in calculating the amounts which are so recognised.
- (5) A payment is not to be ignored for the purposes of that charge as a result of subsection (2)(b) if it is, in accordance with that practice, so recognised.
- (6) Nothing in subsection (5) affects the question whether (apart from that provision) the payment (or any part of it) may be deducted in calculating income for corporation tax purposes or against total profits.

546 Charge on lender for finance return in respect of the advance

- (1) This section applies if a company (“the lender”) has a creditor repo or creditor quasi-repo.
- (2) The advance under the creditor repo or creditor quasi-repo is, in the case of the lender, to be treated for the purposes of Part 5 and this Part as a money debt which—
 - (a) is owed to the lender or, if the lender is a member of a firm which makes the advance, to the firm, and
 - (b) is owed by the person who initially sold the securities.
- (3) The arrangement is, in the case of the lender, to be treated for the purposes of those rules as a transaction for the lending of money from which that debt is treated as arising for those purposes.
- (4) Any amount which, in accordance with generally accepted accounting practice, is recorded in—
 - (a) the accounts of the lender, or
 - (b) if the lender is a member of a firm which makes the advance, the accounts of the firm,
 as a finance return in respect of the advance is treated for those purposes as interest receivable under that debt.
- (5) That interest is treated for those purposes as received at the earlier of—
 - (a) the time when the relevant repurchase takes place, and
 - (b) the time when it becomes apparent that that repurchase will not take place.
- (6) For this purpose “the relevant repurchase” means—
 - (a) if the lender has a creditor repo, the subsequent sale of the securities or similar securities, and
 - (b) if the lender has a creditor quasi repo—

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- (i) the subsequent sale of the securities or other securities by the lender,
 - (ii) the receipt of the asset from the lender, or
 - (iii) the discharge of the liability to the lender,
- as the case may be.

F19 547 Repo under arrangement designed to produce quasi-interest: tax avoidance

.....

Textual Amendments

- F19** S. 547 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(c\)\(iii\)](#), 12

Debtor repos and debtor quasi-repos

548 Meaning of debtor repo

- (1) For the purposes of this Chapter a company (“the borrower”) has a debtor repo if each of conditions A to E is met.
- (2) Condition A is that under an arrangement the borrower receives from another person (“the lender”) any money or other asset (“the advance”).
- (3) Condition B is that, in accordance with generally accepted accounting practice, the accounts of the borrower for the period in which the advance is received record a financial liability in respect of the advance.
- (4) Condition C is that under the arrangement the borrower sells any securities at any time to the lender.
- (5) Condition D is that the arrangement makes provision conferring a right or imposing an obligation on the borrower to buy those or similar securities at any subsequent time.
- (6) Condition E is that, in accordance with generally accepted accounting practice, the subsequent buying of those or similar securities would extinguish the financial liability in respect of the advance recorded in the accounts of the borrower.
- (7) For the purposes of conditions A to E references to the borrower include a firm of which the borrower is a member.

549 Meaning of debtor quasi-repo

- (1) For the purposes of this Chapter a company (“the borrower”) has a debtor quasi-repo in any case if—
 - (a) the borrower does not have a debtor repo, and
 - (b) each of conditions A to E is met.
- (2) Condition A is that under an arrangement the borrower receives any money or other asset (“the advance”).

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- (3) Condition B is that, in accordance with generally accepted accounting practice, the accounts of the borrower for the period in which the advance is received record a financial liability in respect of the advance.
- (4) Condition C is that under that or any other arrangement the borrower [^{F20}or any other person] sells any securities at any time.
- (5) Condition D is that the arrangement or other arrangement—
 - (a) makes provision conferring a right or imposing an obligation on the borrower to buy the securities or any other securities at any subsequent time, or
 - (b) makes provision conferring such a right or imposing such an obligation on any other person and makes other relevant provision.
- (6) For this purpose any arrangement makes other relevant provision if it makes provision—
 - (a) for the receipt of any money or other asset from the borrower under that arrangement for the purpose of enabling the other person to make that subsequent purchase, or
 - (b) for the discharge of any liability to the borrower under that arrangement for that purpose (whether by way of set off or otherwise).
- (7) Condition E is that, in accordance with generally accepted accounting practice—
 - (a) the subsequent buying of the securities or the other securities by the borrower, or
 - (b) the receipt of the asset from the borrower, or the discharge of the liability to the borrower, under the arrangement or other arrangement,
 would extinguish the financial liability in respect of the advance recorded in the accounts of the borrower.
- (8) For the purposes of conditions A to E references to the borrower include a firm of which the borrower is a member.

Textual Amendments

F20 Words in s. 549(4) inserted (1.4.2009 retrospective) by [Corporation Tax Act 2009 \(Amendment\) Order 2009 \(S.I. 2009/2860\)](#), arts. 1(2), 6(5)

550 Ignoring effect on borrower of sale of securities

- (1) This section applies if a company (“the borrower”)—
 - (a) has a debtor repo or a debtor quasi-repo, or
 - (b) has a liability which is discharged under a relevant arrangement.
- (2) A relevant arrangement is one—
 - (a) in relation to which conditions C and D in section 549 are met, and
 - (b) the main purpose or one of the main purposes of which is the obtaining of a tax advantage.
- (3) For the purposes of the charge to corporation tax in respect of income of the borrower arising while the arrangement is in force, the Corporation Tax Acts apply as if—

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- (a) the borrower held the securities which are initially sold for any period for which the arrangement is in force, and
 - (b) the borrower did not receive in that period amounts representative of income payable in respect of the securities.
- (4) Subsection (3) is subject to subsections (5) [^{F21}to (6)].
- (5) No amount is to be charged to corporation tax as a result of subsection (3)(a) unless—
- (a) it is, in accordance with generally accepted accounting practice, recognised in determining the borrower's profit or loss for that or any other period, or
 - (b) it is taken into account in calculating the amounts which are so recognised.
- [^{F22}(5A) For the purposes of the charge to corporation tax, an amount representative of income payable in respect of the securities is not to be ignored as a result of subsection (3) (b) if—
- (a) it is, in accordance with generally accepted accounting practice, recognised in determining the borrower's profit or loss for that or any other period, or
 - (b) it is taken into account in calculating the amounts which are so recognised.]
- (6) If the securities which are initially sold are overseas securities, the entitlement of the borrower to double taxation relief in respect of any overseas dividend payable in respect of those securities is determined as if—
- (a) subsection (3) were omitted,
 - (b) the borrower received a payment of an amount which is representative of that dividend,
 - (c) the payment were made under a requirement of the arrangement, and
 - (d) the payment were made on the date on which that dividend is payable.
- (7) For the purposes of this section “double taxation relief” means any relief given under or as a result of Part 18 of ICTA.

Textual Amendments

- F21** Words in s. 550(4) substituted (1.4.2009 retrospective) by [Finance Act 2010 \(c. 13\), s. 45\(2\)\(a\)\(3\)](#)
- F22** S. 550(5A) inserted (retrospectively) by [Finance Act 2010 \(c. 13\), s. 45\(2\)\(b\)\(3\)](#)

551 Relief for borrower for finance charges in respect of the advance

- (1) This section applies if a company (“the borrower”) has a debtor repo or a debtor quasi-repo.
- (2) The advance under the debtor repo or debtor quasi-repo is, in the case of the borrower, to be treated for the purposes of Part 5 and this Part as a money debt which—
 - (a) is owed by the borrower or, if the borrower is a member of a firm which receives the advance, by the firm, and
 - (b) is owed to the person to whom the securities are initially sold.
- (3) The arrangement is, in the case of the borrower, to be treated for the purposes of Part 5 and this Part as a transaction for the lending of money from which that debt is treated as arising for those purposes.

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- (4) Any amount which, in accordance with generally accepted accounting practice, is recorded as a finance charge in respect of the advance in—
- (a) the accounts of the borrower, or
 - (b) if the borrower is a member of a firm which receives the advance, the accounts of the firm,
- is treated for the purposes of Part 5, this Part and Part 15 of ITA 2007 (deduction of income tax at source) as interest payable under that debt.
- (5) That interest is treated for those purposes as paid at the earlier of—
- (a) the time when the relevant repurchase takes place, and
 - (b) the time when it becomes apparent that that repurchase will not take place.
- (6) For this purpose “the relevant repurchase” means—
- (a) if the borrower has a debtor repo, the subsequent buying of the securities or similar securities, and
 - (b) if the borrower has a debtor quasi-repo—
 - (i) the subsequent buying of the securities or other securities by the borrower,
 - (ii) the receipt of the asset from the borrower, or
 - (iii) the discharge of the liability to the borrower,
 as the case may be.

General provisions

552 General provisions about arrangements

- (1) For the purposes of this Chapter it does not matter whether or not provision of any arrangement conferring a right or imposing an obligation on any person to buy any securities is subject to any conditions.
- (2) For the purposes of this Chapter an arrangement is in force from the time when the securities are initially sold until the earlier of—
- (a) the time when the relevant repurchase takes place, and
 - (b) the time when it becomes apparent that that repurchase will not take place.
- (3) In subsection (2) “the relevant repurchase” has the meaning given by subsections (4) to (7).
- (4) In the case of a creditor repo, it means the subsequent sale of the securities or similar securities.
- (5) In the case of a creditor quasi-repo, it means—
- (a) the subsequent sale of the securities or other securities by the lender,
 - (b) the receipt of the asset from the lender, or
 - (c) the discharge of the liability to the lender,
- as the case may be.
- (6) In the case of a debtor repo, it means the subsequent buying of the securities or similar securities.
- (7) In the case of a debtor quasi-repo, it means—

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- (a) the subsequent buying of the securities or other securities by the borrower,
 - (b) the receipt of the asset from the borrower, or
 - (c) the discharge of the liability to the borrower,
- as the case may be.

553 Persons buying or selling for others

- (1) For the purposes of this Chapter, in any case where—
 - (a) a person (“A”) buys securities (or has a right or obligation to buy securities), but
 - (b) the securities are (or are to be) held for the benefit of another person (“B”),B (not A) is treated as buying (or having the right or obligation to buy) the securities.
- (2) In any case where—
 - (a) a person (“C”) sells securities, but
 - (b) the proceeds of the sale are held for the benefit of another person (“D”),D (not C) is treated as selling the securities.

554 Power to modify this Chapter

- (1) The Treasury may by regulations provide for all or any of the provisions of this Chapter to apply with modifications in relation to—
 - (a) cases where section 555 (non-standard repo cases) applies, or
 - (b) cases involving redemption arrangements, or
 - (c) both of those cases.
- (2) A case involves redemption arrangements if—
 - (a) arrangements, corresponding to those made in cases where a company has a repo, are made in relation to securities that are to be redeemed in the period after their sale, and
 - (b) the arrangements are such that a person (instead of having the right or obligation to buy those securities, or similar or other securities, at any subsequent time) has a right or obligation in respect of the benefits which will result from the redemption.
- (3) The regulations may make—
 - (a) different provision for different cases, and
 - (b) incidental, supplemental, consequential and transitional provision and savings.
- (4) In this section and section 555—
 - “modifications” include exceptions and omissions, and
 - “repo” means—
 - (a) a debtor repo or debtor quasi-repo, or
 - (b) a creditor repo or creditor quasi-repo (including anything treated, as a result of section 547, as a creditor repo for the purposes of section 546).

555 Cases where section 554 applies: non-standard repos

- (1) The cases to which this section applies are where—

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- (a) a company has a repo,
 - (b) there has been a sale of the securities under the arrangement or arrangements by reference to which the company has the repo, and
 - (c) any of conditions A to C is met in relation to the repo.
- (2) Condition A is that those securities, or similar or other securities, are not subsequently bought under the arrangement or arrangements.
- (3) Condition B is that provision is made by or under an arrangement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the subsequent purchase, are to represent those initially sold.
- (4) Condition C is that provision is made by or under an arrangement for securities to be treated as not so included.

Interpretation

556 Meaning of securities and similar securities

- (1) In this Chapter “securities” (except in the definition of “overseas securities” in section 559) means—
- (a) shares, stock or other securities issued by—
 - (i) the government of the United Kingdom,
 - (ii) any public or local authority in the United Kingdom, or
 - (iii) any UK resident company or other UK resident body, or
 - (b) overseas securities.
- (2) For the purposes of this Chapter securities are similar if they entitle their holders to—
- (a) the same rights against the same persons as to capital, interest and dividends, and
 - (b) the same remedies for the enforcement of those rights.
- (3) For the purposes of subsection (2) any difference in—
- (a) the total nominal amounts of the respective securities,
 - (b) the form in which they are held, or
 - (c) the way in which they can be transferred,
- is ignored.

557 Meaning of person receiving an asset

For the purposes of this Chapter references to a person receiving any asset include the person—

- (a) obtaining the value of any asset directly or indirectly, or
- (b) otherwise deriving any benefit from it directly or indirectly.

558 Interpretation of accounting expressions

- (1) In determining for the purposes of this Chapter whether an amount is recorded as a financial asset or liability in respect of the advance, it is assumed that the period of account in which the advance is received or made ended immediately after the receipt or making of the advance.

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- (2) In its application for the purposes of this Chapter, section 309(1) applies as if the reference to a company were a reference to a person.

559 Minor definitions

In this Chapter—

“advance”—

- (a) in the case of a creditor repo, has the same meaning as in section 543,
- (b) in the case of a creditor quasi-repo, has the same meaning as in section 544,
- (c) in the case of a debtor repo, has the same meaning as in section 548, and
- (d) in the case of a debtor quasi-repo, has the same meaning as in section 549,

“arrangement” includes any agreement or understanding (whether or not it is legally enforceable),

“creditor quasi-repo” has the meaning given by section 544,

“creditor repo” has the meaning given by section 543,

“debtor quasi-repo” has the meaning given by section 549,

“debtor repo” has the meaning given by section 548,

“discharge”, in relation to a liability, means the discharge of the liability in whole or in part (and “discharged” is to be read accordingly),

“overseas dividend”, in relation to overseas securities, means any interest, dividend or other annual payment payable in respect of the securities, and

“overseas securities” means shares, stock or other securities issued by—

- (a) a government or public or local authority of a territory outside the United Kingdom, or
- (b) any other body of persons not resident in the United Kingdom.

CHAPTER 11

INVESTMENT LIFE INSURANCE CONTRACTS

Introduction

560 Introduction to Chapter

- (1) This Chapter makes provision about investment life insurance contracts to which relevant companies are party.
- (2) See, in particular—
- (a) sections 562 to 565 (which make provision about treating the contracts as creditor relationships in relation to those companies for the purposes of Part 5), and
 - (b) sections 566 to 569 (which make provision for cases where the relevant company was a party to the contract before the beginning of the company's first accounting period beginning on or after 1 April 2008).
- (3) In this Chapter “relevant company” means a company which is not a life insurance company.

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- (4) In subsection (3) “life insurance company” means—
- (a) an insurance company (as defined in section 431(2) of ICTA) which carries on long-term business (as defined in that section), or
 - (b) a friendly society which would be such an insurance company but for the words “(other than a friendly society)” in the definition of “insurance company” in that section.
- (5) For the meaning of “investment life insurance contract”, see section 561.

561 Meaning of “investment life insurance contract”

- (1) In this Chapter “investment life insurance contract” means—
- (a) a policy of life insurance which has, or is capable of acquiring, a surrender value,
 - (b) a contract for a purchased life annuity, or
 - (c) a capital redemption policy,
- other than a relevant excluded contract.
- (2) In subsection (1)—
- “capital redemption policy” means a contract made in the course of capital redemption business (as defined in section 431(2ZF) of ICTA),
- “purchased life annuity” means an annuity—
- (a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and
 - (b) payable for a term ending at a time ascertainable only by reference to the end of a human life (whether or not the annuity may in some circumstances end before or after the life), and
- “relevant excluded contract” means—
- (a) an investment life insurance contract under a registered pension scheme,
 - (b) an investment life insurance contract purchased with sums or assets held for the purposes of a registered pension scheme, or
 - (c) a policy of life insurance issued in respect of an insurance made before 14 March 1989.
- (3) A policy of life insurance issued in respect of an insurance made before 14 March 1989 is treated for the purposes of this Chapter as issued in respect of one made on or after that date if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (4) For the purposes of subsection (3) any exercise of rights conferred by a policy is to be regarded as a variation of it.

Investment life assurance contracts treated as creditor relationships

562 Contract to be loan relationship

- (1) If a relevant company is a party to an investment life insurance contract, for the purposes of Part 5 (loan relationships) the contract is, in relation to the company, a creditor relationship of the company.

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- (2) Subsection (1) is subject to subsection (4).
- (3) Subsection (4) applies if—
 - (a) the amount or value of a lump sum payable under an investment life contract by reason of death or the onset of critical illness, exceeds
 - (b) the surrender value of the contract immediately before the time when the lump sum becomes payable.
- (4) If this subsection applies, that excess is not to be brought into account as a credit under Part 5 representing a profit from a related transaction arising as a result of the lump sum becoming payable.

563 Increased non-trading credits for BLAGAB and EEA taxed contracts

- (1) This section applies if—
 - (a) as a result of section 562 the relevant company is required to bring into account for an accounting period a non-trading credit representing a profit from a related transaction, and
 - (b) the investment life insurance contract is—
 - (i) a BLAGAB contract, or
 - (ii) a contract which is subject to a relevant comparable EEA tax charge.
- (2) For the meaning of “BLAGAB contract” and of a contract being subject to a relevant comparable EEA tax charge, see section 564.
- (3) The non-trading credit is treated as increased by the relevant amount.
- (4) The relevant amount is set off against corporation tax assessable on the company for the accounting period.
- (5) Except where section 565 (relevant amount where the relevant company uses fair value accounting) applies, the relevant amount is—

$$\text{NTC} \times \frac{\text{AR}}{100 - \text{AR}}$$

where—

NTC is the non-trading credit, and

AR is the appropriate rate for the accounting period.

- (6) The appropriate rate for an accounting period is—
 - (a) if a single rate of tax under section 88(1) of FA 1989 (lower corporation tax rate on certain insurance company profits) is applicable in relation to the accounting period, that rate, and
 - (b) if more than one such rate of tax is applicable in relation to the accounting period, the average of those rates over the accounting period.

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564 Section 563: interpretation

- (1) In section 563 “BLAGAB contract” means a contract forming part of basic life assurance and general annuity business of an insurance company but not part of business which is exempt from corporation tax under section 460 of ICTA (friendly society business and former friendly society business).
- (2) For the purposes of section 563 a contract is subject to a relevant comparable EEA tax charge if the contract forms part of the business of a company (other than the relevant company) to which a relevant comparable EEA tax charge has applied.
- (3) For the purposes of subsection (2) a relevant comparable EEA tax charge has applied to a company if each of conditions A to D is met.
- (4) Condition A is that a charge to tax has applied to the company under the laws of a territory outside the United Kingdom that is within the European Economic Area.
- (5) Condition B is that the charge has applied to the company—
 - (a) as a body deriving its status as a company from those laws,
 - (b) as a company with its place of management there, or
 - (c) as a company falling under those laws to be regarded for any other reason as resident or domiciled there.
- (6) Condition C is that the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the company's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available.
- (7) Condition D is that the charge is made otherwise than by reference to the company's profits.

565 Relevant amount where the relevant company uses fair value accounting

- (1) This section applies if the relevant company brings credits and debits in respect of the investment life insurance contract into account on the basis of fair value accounting.
- (2) If this section applies, the relevant amount for section 563 is—

$$PC \times \frac{AR}{100 - AR}$$

where—

PC is the profit from the contract (see subsections (3) and (4)), and

AR is the appropriate rate for the accounting period (as defined in section 563(6)).

- (3) For the purposes of this section, except where subsection (4) applies, the profit from the contract is any amount by which—
 - (a) the amount payable as a result of the related transaction, exceeds
 - (b) the fair value of the contract at the beginning time (see subsection (6)).

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- (4) If the related transaction is an assignment or surrender of only part of the rights conferred by the contract, the profit from the contract is any amount by which—
- (a) the amount payable as a result of the related transaction, exceeds
 - (b) the relevant fraction of the fair value of the contract at the beginning time.
- (5) In subsection (4) “the relevant fraction” means—

$$\frac{C}{FVC}$$

where—

C is the amount payable as a result of the related transaction, and

FVC is the fair value of the contract immediately before the related transaction.

- (6) In this section “the beginning time” means—
- (a) if the contract was made before the beginning of the first accounting period of the company beginning on or after 1st April 2008, at the beginning of that period, and
 - (b) otherwise when the contract was made.

Old accounting period contracts

566 Introduction

- (1) This section and sections 567 to 569 apply if the relevant company was a party to an investment life insurance contract immediately before the beginning of the first accounting period of the company beginning on or after 1 April 2008.

- (2) In those sections—

“the deemed surrender” means the surrender of all the rights under that contract that the relevant company was deemed for the purposes of Chapter 2 of Part 13 of ICTA (life policies etc) to have made ^{F23}... under paragraph 6(1) of Schedule 13 to FA 2008 ^{F24}....,

“the first accounting period” means the first accounting period of the company beginning on or after [^{F25}1 April 2008], and

“the old contract” means the contract mentioned in subsection (1).

Textual Amendments

F23 Words in s. 566(2) omitted (retrospective and with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [Corporation Tax Act 2009 \(Amendment\) Order 2010 \(S.I. 2010/614\)](#), arts. 1(1), [3\(4\)\(a\)\(i\)](#)

F24 Words in s. 566(2) omitted (retrospective and with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [Corporation Tax Act 2009 \(Amendment\) Order 2010 \(S.I. 2010/614\)](#), arts. 1(1), [3\(4\)\(a\)\(ii\)](#)

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F25 Words in s. 566(2) 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(4)(b)

567 Gains on deemed surrenders to be brought into account on related transactions

- (1) Any gain which arose under Chapter 2 of Part 13 of ICTA (life policies etc) as a result of the deemed surrender (“the deemed gain”) is to be brought into account by the relevant company as a non-trading credit for the accounting period in which there is a related transaction (so far as not previously brought into account under this section).
- (2) But if the relevant company is still a party to the old contract immediately after the related transaction, only the relevant fraction of the deemed gain which would otherwise be brought into account under subsection (1) is to be so brought into account.
- (3) “The relevant fraction” is—

$$\frac{P}{SAR}$$

where—

P is the amount payable as a result of the related transaction, and

SAR is the amount which would have been payable on a surrender of all the rights under the old contract immediately before the related transaction.

568 Restriction on credits on old contracts: fair value accounting cases

- (1) This section applies if—
 - (a) at all times since the old contract was made the rights conferred by it have been in the beneficial ownership of the relevant company,
 - (b) the company brings into account credits and debits in respect of the old contract on the basis of fair value accounting, and
 - (c) the old contract cost exceeds the fair value of the contract immediately before the beginning of the first accounting period.
- (2) In subsection (1)(c) “the old contract cost” means—
 - (a) if section 541 of ICTA applied on the deemed surrender, the amount specified in section 541(1)(b)(i) of that Act, less the amount or value of any relevant capital payments (as defined in section 541(5)(a) of that Act), and
 - (b) if section 543 of that Act applied on the deemed surrender, the amount specified in section 543(1)(a)(i) of that Act, less the amount or value of any relevant capital payments (as defined in section 543(3) of that Act).
- (3) No amount is to be brought into account as a credit in relation to the old contract by the relevant company as a result of section 562 except so far as the total of—
 - (a) the amount of the credit, and

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- (b) the amount of any other credits which have previously arisen in relation to the old contract as a result of that section,
is greater than the excess mentioned in subsection (1)(c).

569 Restriction on debits on old contracts: non-fair value accounting cases

- (1) This section applies where—
 - (a) the relevant company brings into account credits and debits in respect of the old contract otherwise than on the basis of fair value accounting, and
 - (b) the carrying value of the old contract, as recognised for accounting purposes immediately before the beginning of the first accounting period, exceeds its fair value at that time.
- (2) No amount is to be brought into account as a debit in relation to the old contract by the relevant company as a result of section 562 except so far as the total of—
 - (a) the amount of the debit, and
 - (b) the amount of any other debits which have previously arisen in relation to the contract as a result of that section,
is greater than the excess mentioned in subsection (1)(b).

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