



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 7

#### DERIVATIVE CONTRACTS

### CHAPTER 3

#### CREDITS AND DEBITS TO BE BROUGHT INTO ACCOUNT: GENERAL

##### *Introduction*

#### **594 Overview of Chapter**

- (1) This Chapter contains rules of general application about the credits and debits to be brought into account for the purposes of this Part.
- (2) In particular, it—
  - [<sup>F1</sup>(za) makes provision about the matters in respect of which amounts are to be brought into account (see section 594A),]
  - (a) sets out the general principles which are to apply in relation to the bringing into account of credits and debits, including the use of generally accepted accounting practice and the taking into account of related transactions (see sections 595 and 596),
  - (b) makes provision about the interpretation of the expression “amounts recognised in determining a company's profit or loss” (see sections 597 to 599),
  - (c) makes provision in relation to the application of fair value accounting (see sections 600 to 603),
  - (d) sets out some general rules which differ from generally accepted accounting practice (see sections 604 and 605),
  - (e) makes provision about exchange gains and losses (see section 606),
  - (f) makes provision about pre-contract or abortive expenses (see section 607),



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- [<sup>F2</sup>(g) makes provision about cases where amounts are recognised even though companies are not, or have ceased to be, parties to derivative contracts (see section 607A),
- (ga) makes provision about companies moving abroad (see sections 609 and 610), and]
- (h) makes provision in relation to statutory insolvency arrangements (see section 611).

#### Textual Amendments

- F1** S. 594(2)(za) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 60\(a\)](#)
- F2** S. 594(2)(g)(ga) substituted for s. 594(2)(g) (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 60\(b\)](#)

*[<sup>F3</sup>Matters in respect of which amounts are to be brought into account*

#### Textual Amendments

- F3** S. 594A and cross-heading inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 61](#)

### **594A Matters in respect of which amounts are to be brought into account**

- (1) The matters in respect of which amounts are to be brought into account for the purposes of this Part in respect of a company's derivative contracts are—
  - (a) profits and losses of the company which arise to it from its derivative contracts and related transactions (excluding expenses), and
  - (b) expenses incurred by the company under or for the purposes of those contracts and transactions.
- (2) Expenses are only treated as incurred as mentioned in subsection (1)(b) if they are incurred directly—
  - (a) in bringing any of the derivative contracts into existence,
  - (b) in entering into or giving effect to any of the related transactions,
  - (c) in making payments under any of those contracts or as a result of any of those transactions, or
  - (d) in taking steps to secure the receipt of payments under any of those contracts or in accordance with any of those transactions.
- (3) For the treatment of pre-contract or abortive expenses, see section 607.
- (4) In subsection (1) “profits and losses” include profits and losses of a capital nature.
- (5) For the meaning of “related transaction”, see section 596.]



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## General principles

### 595 General principles about the bringing into account of credits and debits

- (1) This Part operates by reference to the accounts of companies and amounts recognised for accounting purposes in those accounts.
- (2) The general rule is that the amounts to be brought into account by a company as credits or debits for any period for the purposes of this Part [<sup>F4</sup>in respect of the matters mentioned in section 594A(1)] are those which are recognised in determining the company's profit or loss for the period in accordance with generally accepted accounting practice <sup>F5</sup>... .
- [<sup>F6</sup>(2A) Subsections (2B) and (2C) apply if an accounting period of a company does not coincide with one or more of its periods of account.
- (2B) The amounts referred to in subsection (2) are to be determined by apportionment in accordance with section 1172 of CTA 2010 (time basis).
- (2C) But if it appears that apportionment in accordance with that section would work unreasonably or unjustly for an accounting period, subsection (2) is to be read as referring to amounts that would have been recognised in determining the company's profit or loss for that period in accordance with generally accepted accounting practice if accounts had been drawn up for that period.]
- <sup>F7</sup>(3) .....
- <sup>F7</sup>(4) .....
- <sup>F7</sup>(5) .....
- <sup>F7</sup>(6) .....
- (7) This section is subject to the following provisions of this Part.
- <sup>F8</sup>(8) .....

#### Textual Amendments

- F4** Words in s. 595(2) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 62\(2\)\(a\)](#)
- F5** Words in s. 595(2) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 62\(2\)\(b\)](#)
- F6** S. 595(2A)-(2C) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 62\(3\)](#)
- F7** S. 595(3)-(6) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 62\(4\)](#)
- F8** S. 595(8) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 62\(4\)](#)

### 596 Meaning of “related transaction”

- (1) In this Part “related transaction”, in relation to a derivative contract, means any disposal or acquisition (in whole or in part) of rights or liabilities under the contract.



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(2) For this purpose the cases where there is taken to be such a disposal or acquisition include—

- (a) those where rights or liabilities under the derivative contract are transferred or extinguished by any sale, gift, surrender or release, and
- (b) those where the contract is discharged by performance in accordance with its terms.

*Amounts recognised in determining a company's profit or loss*

## 597 Amounts recognised in determining a company's profit or loss

(1) References in this Part to an amount recognised in determining a company's profit or loss for a period are to an amount [<sup>F9</sup>that is recognised in the company's accounts for the period as an item of profit or loss].

[<sup>F10</sup>(1A) The reference in subsection (1) to an amount recognised in the company's accounts for the period as an item of profit or loss includes a reference to an amount that—

- (a) was previously recognised as an item of other comprehensive income, and
- (b) is transferred to become an item of profit or loss in determining the company's profit or loss for the period.

(1B) In subsections (1) and (1A) “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.]

<sup>F11</sup>(2) .....

<sup>F11</sup>(3) .....

### Textual Amendments

**F9** Words in s. 597(1) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 63\(2\)](#)

**F10** S. 597(1A)(1B) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 63\(3\)](#)

**F11** S. 597(2)(3) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 7 para. 63\(4\)](#)

## 598 Regulations about recognised amounts

(1) The Treasury may by regulations make provision—

- (a) excluding amounts of a specified description from section 597(1) (amounts recognised in determining a company's profit or loss),
- (b) requiring amounts of a specified description which are not within section 597(1) to be brought into account in determining a company's profit or loss for a period in specified circumstances, and
- (c) as to the way in which any such amounts are to be brought into account.

(2) For the purposes of subsection (1)(b), it does not matter whether the amounts are not within section 597(1) because of regulations under subsection (1)(a) or otherwise.



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- (3) The regulations may (in particular) make provision by reference to the fact that amounts derive from or otherwise relate to amounts brought into account in a specified way in a previous period of account.
- (4) The regulations may—
  - (a) make different provision for different cases, and
  - (b) make provision subject to an election or to other specified conditions.
- (5) The regulations may apply, exclude or modify any of the provisions of this Part in relation to cases for which provision is made by the regulations.
- (6) The regulations may apply to periods of account beginning before they are made, but not earlier than the beginning of the calendar year in which they are made.

## 599 Meaning of “amounts recognised for accounting purposes”

- (1) If a company—
  - (a) draws up accounts which are not GAAP-compliant accounts, or
  - (b) does not draw up accounts at all,this Part applies as if GAAP-compliant accounts had been drawn up.
- (2) Accordingly, references in this Part to amounts recognised for accounting purposes include references to the amounts which would have been recognised if GAAP-compliant accounts had been drawn up for the period of account in question and any relevant earlier period.
- (3) For this purpose a period of account is relevant to a later period if the accounts for the later period rely to any extent on amounts derived from the earlier period.
- (4) In this section “GAAP-compliant accounts” means accounts drawn up in accordance with generally accepted accounting practice.

## [<sup>F12</sup>599A Amounts not fully recognised for accounting purposes: introduction

- (1) Section 599B applies for the purpose of determining the credits and debits which a company is to bring into account for a period for the purposes of this Part in the following case.
- (2) The case is where—
  - (a) the company is, or is treated as, a party to a derivative contract in the period, [<sup>F13</sup>and]
  - [<sup>F14</sup>(b) as a result of tax avoidance arrangements to which the company is at any time a party, an amount is (in accordance with generally accepted accounting practice) not fully recognised for the period in respect of the contract.]

<sup>F15</sup>(3) .....

<sup>F15</sup>(4) .....

<sup>F15</sup>(5) .....

<sup>F15</sup>(5A) .....

<sup>F15</sup>(5B) .....



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- (6) For the purposes of this section an amount is not fully recognised for a period in respect of a contract of a company <sup>F16</sup>... if—
- (a) no amount in respect of the contract <sup>F17</sup>... is recognised in determining its profit or loss for the period, or
  - (b) an amount is so recognised in respect of only part of the contract <sup>F17</sup>....]
- [<sup>F18</sup>(7) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.
- (8) In subsection (7)—
- (a) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions, and
  - (b) “tax advantage” has the meaning given by section 1139 of CTA 2010.
- (9) For the purposes of this section a company is to be treated as a party to a derivative contract even though it has disposed of its rights and liabilities under the contract to another person—
- (a) under a repo or stock lending arrangement, or
  - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).]

#### Textual Amendments

- F12** Ss. 599A, 599B inserted (with effect in accordance with Sch. 30 para. 3(3)(4) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 30 para. 3(1)**
- F13** Word in s. 599A(2)(a) inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(2)(a)**
- F14** S. 599A(2)(b) substituted (19.7.2011) for s. 599A(2)(b) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(2)(b)**
- F15** Ss. 599A(3)-(5B) omitted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(3)**
- F16** Words in s. 599A(6) omitted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(4)(a)**
- F17** Words in s. 599A(6)(a)(b) omitted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(4)(b)**
- F18** Ss. 599A(7)-(9) inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 4 para. 8(5)**

#### [<sup>F12</sup>599B] Determination of credits and debits where amounts not fully recognised

- (1) In determining the credits and debits which a company is to bring into account for the period referred to in section 599A(1) for the purposes of this Part in respect of the derivative contract mentioned in section 599A(2), the assumption in subsection (2) is to be made.
- (2) The assumption is that an amount in respect of the whole of the contract in question is recognised in determining the company's profit or loss for the period.



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[ But no debits are, as a result of this section, to be brought into account by the company <sup>F19</sup>(2A) in respect of the derivative contract.]

- (3) The credits and debits which are to be brought into account for the purposes of this Part by the company in respect of the contract are to be determined on the basis of fair value accounting.]

[<sup>F20</sup>(4) If—

- (a) the company is, or is treated as, a party to the contract at the beginning of the period referred to in section 599A(1), and
- (b) the fair value of the contract at that time is greater than the [<sup>F21</sup>tax-adjusted carrying value] of that contract at that time,

a credit of an amount equal to the difference is to be brought into account for that period for the purposes of this Part in respect of the contract.]

#### Textual Amendments

**F12** Ss. 599A, 599B inserted (with effect in accordance with Sch. 30 para. 3(3)(4) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 3\(1\)](#)

**F19** S. 599B(2A) inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 4 para. 9\(2\)](#)

**F20** S. 599B(4) inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 4 para. 9\(3\)](#)

**F21** Words in s. 599B(4)(b) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 64](#)

#### *Application of fair value accounting*

### **600 Contract which is or forms part of financial asset or liability**

- (1) This section applies to a derivative contract which meets the condition in section 579(1)(b) (contract which is or forms part of a financial asset or liability for accounting purposes).
- (2) The amounts to be brought into account in accordance with this Part in respect of the contract are to be determined on the basis of fair value accounting.

### **601 Contract relating to holding in OEIC, unit trust or offshore fund**

- (1) This section applies if a company is a party in an accounting period to a relevant contract which is treated as a derivative contract under section 587 (contract relating to holding in OEIC, unit trust or offshore fund).
- (2) The credits and debits which are to be brought into account in accordance with this Part in respect of the relevant contract are to be determined on the basis of fair value accounting.

### **602 Contract becoming one relating to holding in OEIC, unit trust or offshore fund**

- (1) This section applies if—



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- (a) a company is a party to a relevant contract in two successive accounting periods,
  - (b) section 587 (contract relating to holding in OEIC, unit trust or offshore fund) applies in relation to the relevant contract for the second accounting period but not the first accounting period, and
  - (c) immediately before the beginning of the second accounting period the relevant contract was a chargeable asset.
- (2) For the purposes of section 601(2), the opening valuation of the contract as at the beginning of the second accounting period is taken to be equal to the market value of the contract.
- (3) In subsection (2) “the market value of the contract” means the amount which would have been the market value of the contract for the purposes of corporation tax on chargeable gains if it had been disposed of immediately before the end of the first accounting period.
- (4) For the rules which apply where the company ceases to be a party to the contract, see section 660 (company ceasing to be party to contract relating to holding in OEIC, unit trust or offshore fund).

### **603 Associated transaction treated as derivative contract**

- (1) This section is to be read as if it were in Chapter 7 (shares with guaranteed returns etc) of Part 6 (relationships treated as loan relationships etc).
- (2) See, in particular, section 532(3) (meaning of “associated transaction”).
- (3) Subsection (4) applies if credits and debits are required to be brought into account in accordance with this Part in respect of any associated transaction because of section 588 (which treats such a transaction which is not a derivative contract as if it were).
- (4) Those credits and debits are to be determined on the basis of fair value accounting.

*Rules differing from generally accepted accounting practice*

### **604 Credits and debits treated as relating to capital expenditure**

[<sup>F22</sup>(1) This section applies if—

- (a) an amount for an accounting period in respect of a company's derivative contract relates to any of the matters in section 594A(1),
  - (b) generally accepted accounting practice allows the amount to be treated in the company's accounts as an amount recognised in determining the carrying value of an asset or liability, and
  - (c) any profit or loss for corporation tax purposes in relation to that asset or liability will not fall to be calculated in accordance with generally accepted accounting practice.
- (2) Despite that treatment, the amount must be brought into account as a credit or debit in accordance with this Part, for the accounting period in which it is recognised, in the same way as an amount which is brought into account as a credit or debit in



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determining the company's profit or loss for that period in accordance with generally accepted accounting practice.

- (3) But subsection (2) does not apply to an amount which relates to an intangible fixed asset to which an election under section 730 (writing down at fixed rate: election for fixed-rate basis) applies.]

<sup>F23</sup>(4) . . . . .

[<sup>F24</sup>(5) If an amount is brought into account as mentioned in subsection (2) as a debit, no debit may be brought into account in accordance with this Part in respect of—

- (a) the writing down of so much of the value of the asset or liability as is attributable to that debit, or
- (b) so much of any amortisation or depreciation representing a writing off of that value as is attributable to that debit.]

#### Textual Amendments

**F22** S. 604(1)-(3) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 65\(2\)](#)

**F23** S. 604(4) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 65\(3\)](#)

**F24** S. 604(5) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 65\(4\)](#)

#### [<sup>F25</sup>**604A** Amounts recognised in other comprehensive income and not transferred to profit or loss

- (1) This section applies if—
- (a) in a period of account a derivative contract of a company ceases in accordance with generally accepted accounting practice to be recognised in the company's accounts,
  - (b) amounts relating to the matters mentioned in section 594A(1) in respect of that derivative contract have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and
  - (c) condition A or B is met.
- (2) Condition A is that, at the time when the derivative contract ceases to be recognised, it is not expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (4) The amounts mentioned in subsection (1)(b)—
- (a) must be brought into account for the purposes of this Part as credits or debits for the period of account in which the time mentioned in subsection (2) or (3) falls, in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice, and



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- (b) must not be brought into account for a later period of account even if they are subsequently transferred to become items of profit or loss for the later period.
- (5) This section applies in a case where part of a derivative contract of a company ceases to be recognised in the company's accounts as it applies in a case where the whole of a derivative contract ceases to be recognised, but as if the reference in subsection (1)(b) to amounts in respect of a derivative contract were a reference to so much of those amounts as are attributable to that part of the derivative contract.
- (6) In determining what amounts fall within subsection (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.
- (7) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in subsection (6), that different assumption applies in determining what amounts fall within subsection (1)(b) at the time in question.
- (8) In this section “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.]

#### Textual Amendments

- F25** S. 604A inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 66](#)

### <sup>F26</sup>605 Credits and debits recognised in equity

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#### Textual Amendments

- F26** S. 605 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 67](#)

*[<sup>F27</sup>Exchange gains and losses]*

#### Textual Amendments

- F27** Pt. 7 Ch. 3 crossheading substituted (with effect in accordance with Sch. 21 para. 11 of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 21 para. 5](#)

### 606 Exchange gains and losses

- (1) The reference in [<sup>F28</sup>section 594A(1)] to the profits and losses arising to a company from its derivative contracts includes a reference to exchange gains and losses so arising.

<sup>F29</sup>(2) .....



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<sup>F29</sup>(2A) . . . . .

[<sup>F30</sup>(3) But subsection (1) does not apply to an exchange gain or loss of a company so far as it—

- (a) arises as a result of the translation of the assets, liabilities, income and expenses of all or part of the company's business from the functional currency of the business, or that part of the business, into another currency, and
- (b) has been recognised as an item of other comprehensive income.

(3A) In subsection (3)—

- (a) the reference to the functional currency of a business or part of a business is a reference to the currency of the primary economic environment in which the business or part operates, and
- (b) “assets, liabilities, income and expenses” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.

(3B) No amount is to be brought into account for the purposes of this Part in respect of an exchange gain or loss of an investment company (within the meaning of section 17 of CTA 2010) which would not have arisen but for a change in the company's functional currency (within the meaning of section 17(4) of that Act) as between—

- (a) the period of account of the company in which the gain or loss arises, and
- (b) a period of account of the company ending in the 12 months immediately preceding that period.

(3C) But subsection (3B) does not apply to an exchange gain or loss arising at a time when an election under section 9A of CTA 2010 (designated currency of UK resident investment company) has effect in relation to the company.]

[<sup>F31</sup>(4) The Treasury may by regulations make provision—

- (a) excluding exchange gains or losses of a specified description from being brought into account for the purposes of this Part,
- (b) requiring exchange gains or losses of a specified description which would not otherwise be brought into account for the purposes of this Part to be brought into account in specified circumstances,
- (c) as to the way in which, including the currency by reference to which, any exchange gains or losses to be brought into account as a result of provision made under paragraph (b) are to be calculated, and
- (d) as to the way in which any such exchange gains or losses are to be brought into account.

(4ZA) For the purposes of subsection (4)(b), it does not matter whether the exchange gains or losses would otherwise be excluded from being brought into account by regulations under subsection (4)(a) or otherwise.]

<sup>F32</sup>(4A) . . . . .

<sup>F32</sup>(4B) . . . . .

<sup>F32</sup>(4C) . . . . .

<sup>F32</sup>(4D) . . . . .

<sup>F32</sup>(4E) . . . . .



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- <sup>F32</sup>(5) . . . . .
- (6) [<sup>F33</sup>References in subsection (4)] to bringing amounts into account [<sup>F34</sup>are references] to bringing amounts into account—
- (a) for the purposes of this Part as credits or debits arising to a company from its derivative contracts, or
  - (b) for the purposes of corporation tax on chargeable gains.
- (7) The regulations may—
- (a) make different provision for different cases, and
  - (b) make provision subject to an election or to other specified conditions.
- (8) For the meaning of references to exchange gains or losses from derivative contracts, see section 705.

#### Textual Amendments

- F28** Words in s. 606(1) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(2\)](#)
- F29** S. 606(2)(2A) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(3\)](#)
- F30** S. 606(3)-(3C) substituted for s. 606(3) (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(4\)](#)
- F31** S. 606(4)(4ZA) substituted for s. 606(4) (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(5\)](#)
- F32** S. 606(4A)-(5) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(6\)](#)
- F33** Words in s. 606(6) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(7\)\(a\)](#)
- F34** Words in s. 606(6) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 68\(7\)\(b\)](#)

#### Modifications etc. (not altering text)

- C1** S. 606(3)(4) excluded by SI 2004/3256 reg. 7A(7) (as inserted (with application in accordance with reg. 1(2) of the amending S.I.) by [Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2009 \(S.I. 2009/1886\)](#), regs. 1(1), 5)

### <sup>F35</sup>606A Arrangements that have a “one-way exchange effect”

. . . . .

#### Textual Amendments

- F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

### <sup>F35</sup>606B Meaning of “relevant exchange gain” and “relevant exchange loss”

. . . . .



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#### Textual Amendments

**F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

#### <sup>F35</sup> 606C Meaning of “test day”

.....

#### Textual Amendments

**F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

#### <sup>F35</sup> 606D Counterfactual currency movement assumptions

.....

#### Textual Amendments

**F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

#### <sup>F35</sup> 606E Counterfactual currency movement assumptions: treatment of options

.....

#### Textual Amendments

**F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

#### <sup>F35</sup> 606F Meaning of “option”

.....

#### Textual Amendments

**F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

#### <sup>F35</sup> 606G Meaning of “relevant contingent contract” and “operative condition”

.....



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#### Textual Amendments

- F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

### <sup>F35</sup>606H Other interpretative provisions

.....

#### Textual Amendments

- F35** Ss. 606A-606H omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 69](#)

*[<sup>F36</sup>Miscellaneous]*

#### Textual Amendments

- F36** Pt. 7 Ch. 3 cross-heading inserted (with effect in accordance with Sch. 21 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 21 para. 8](#)

### 607 Pre-contract or abortive expenses

- (1) This section applies if—
- (a) a company may enter into a derivative contract or related transaction but has not yet done so,
  - (b) it incurs any expenses for purposes connected—
    - (i) with entering into it, or
    - (ii) with giving effect to any obligation which might arise under it, and
  - (c) had the company entered into the contract or transaction, the expenses would be expenses within [<sup>F37</sup>section 594A(1)(b)].
- (2) The expenses are treated as expenses in relation to which debits may be brought into account in accordance with [<sup>F38</sup>section 595(2)] to the same extent as if the company had entered into the contract or transaction.

#### Textual Amendments

- F37** Words in s. 607(1)(c) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 70\(2\)](#)
- F38** Words in s. 607(2) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 70\(3\)](#)

### [<sup>F39</sup>607Z] Debts referable to times before UK property business etc carried on

- (1) This section applies if—



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- (a) a non-UK resident company has debits in respect of a derivative contract to which it is a party for the purposes of its UK property business,
  - (b) the debits are referable to times (“the pre-rental times”) before (but not more than 7 years before) the date on which it starts to carry on the business, and
  - (c) the debits are not otherwise brought into account for tax purposes.
- (2) If, on the assumption that the company had been carrying on the business at the pre-rental times, the debits—
- (a) would have been recognised in determining its profit or loss for a period consisting of or including those times, and
  - (b) would have been brought into account for the purposes of this Part,
- the debits are (so far as they exceed relevant credits) treated for the purposes of this Part as if they were debits for the accounting period in which it started to carry on the business.
- (3) For this purpose “relevant credits” means credits of the company in respect of the derivative contract which, on the assumption that the company had been carrying on the business at the pre-rental times—
- (a) would have been recognised in determining its profit or loss for a period consisting of or including those times,
  - (b) would have been brought into account for the purposes of this Part, and
  - (c) would not otherwise have been brought into account for tax purposes.
- (4) This section also applies in relation to a non-UK resident company which is a party to a derivative contract for the purpose of enabling it to generate other UK property income (within the meaning given by section 5(6)).]

#### Textual Amendments

**F39** S. 607ZA inserted (6.4.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 6 paras. 4, 10](#)

#### Modifications etc. (not altering text)

**C2** S. 607ZA modified by [2019 c. 1](#), [Sch. 5 para. 40\(7\)](#) (as inserted (6.4.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 6 paras. 5, 10](#))

### [<sup>F40</sup> 607A Company is not, or has ceased to be, party to derivative contract

- (1) This section applies if—
- (a) amounts in respect of a qualifying contract are recognised in a company's accounts for an accounting period (“the current period”) as an item of profit or loss even though during all or part of the period the company is not a party to the qualifying contract,
  - (b) any of conditions A to D is met, and
  - (c) in the absence of this section, the credits and debits brought into account by the company for the purposes of this Part for the current period would not include credits or debits representing the whole of those amounts.
- (2) In this section “qualifying contract” means—
- (a) a derivative contract, or
  - (b) a contract that would be a derivative contract if references in section 576(1) to a company were references to any person.



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- (3) Condition A is that—
- (a) the company was a party to the qualifying contract,
  - (b) amounts in respect of the qualifying contract were recognised in the company's accounts as an item of profit or loss when it was a party to the contract, and
  - (c) any amounts in respect of the contract continue to be recognised in those accounts as an item of profit or loss.
- (4) Condition B is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a transaction which has the effect of transferring to the company all or part of the risk or reward relating to the qualifying contract without a corresponding transfer of rights or obligations under the contract.
- (5) Condition C is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a related transaction in relation to a qualifying contract to which the company was, but has ceased to be, a party.
- (6) Condition D is that—
- (a) the amounts recognised as mentioned in subsection (1)(a) are recognised because the company may enter into a qualifying contract or related transaction but has not yet done so, and
  - (b) the amounts are not expenses to which section 607 applies.
- (7) The company must bring credits and debits into account for the purposes of this Part for the accounting period as if the company were a party to the qualifying contract for the whole of the accounting period.
- (8) The amounts that must be brought into account are those amounts in respect of the qualifying contract that are recognised in the company's accounts for the accounting period as an item of profit or loss (but subject to the provisions of this Part).
- (9) This section is subject to sections 607B and 607C.
- (10) In this section—
- “item of profit or loss” has the meaning it has for accounting purposes;
  - “recognised” means recognised in accordance with generally accepted accounting practice;
  - “related transaction”, in relation to a qualifying contract, is to be read as if the references in section 596(1) and (2) to a derivative contract were to a qualifying contract.

#### Textual Amendments

**F40** Ss. 607A-607C inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 71](#)

### 607B Exclusion of debit where relief allowed to another

A company is not to bring into account as a debit for the purposes of this Part as a result of section 607A any amount which—

- (a) is brought into account as a debit for those purposes by another company,



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- (b) is brought into account so as to reduce the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
- (c) is allowable as a deduction by a person for the purposes of income tax.

#### Textual Amendments

**F40** Ss. 607A-607C inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 71](#)

### 607C Avoidance of double charge

- (1) This section applies if at any time a company (“the relevant company”) is required by section 607A to bring into account as a credit for the purposes of this Part an amount—
  - (a) which is brought into account as a credit for those purposes by another company,
  - (b) which is brought into account in determining the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
  - (c) on which a person is charged to income tax.
- (2) In order to avoid a double charge to tax in respect of the amount, the relevant company may make a claim for one or more consequential adjustments to be made in respect of the amount brought into account as a credit.
- (3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (4) Consequential adjustments may be made—
  - (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  - (c) despite any time limit imposed by or under any enactment.]

#### Textual Amendments

**F40** Ss. 607A-607C inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 71](#)

### <sup>F41</sup>608 Company ceasing to be party to derivative contract

.....

#### Textual Amendments

**F41** S. 608 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 72](#)



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## 609 Company ceasing to be UK resident

- (1) If a company ceases to be UK resident, this Part applies as if—
  - (a) immediately before so ceasing the company had assigned the rights and liabilities under its derivative contracts for consideration of an amount equal to their fair value at that time, and
  - (b) it had immediately reacquired them for consideration of the same amount.
- (2) Subsection (1) does not apply in relation to a derivative contract so far as immediately after the company ceases to be UK resident its rights and liabilities under the contract are held or owed<sup>F42</sup>—
  - (a)] for the purposes of a permanent establishment of the company in the United Kingdom<sup>F43</sup>,
  - (b) for the purposes of the company's trade of dealing in or developing UK land,
  - (c) for the purposes of the company's UK property business, or
  - (d) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(6)).]
- (3) Subsection (1) does not apply if—
  - (a) the conditions in section 630(1)(a) and (b) are met in relation to the company (transferee leaving group after replacing transferor as party to derivative contract), and
  - (b) it ceases to be UK resident at the same time as it ceases to be a member of the relevant group.
- (4) In subsection (3) “the relevant group” has the meaning given by section 630(4).

### Textual Amendments

- F42** Words in s. 609(2) renumbered as s. 609(2)(a) (6.4.2020) by virtue of [Finance Act 2019 \(c. 1\), Sch. 5 paras. 19\(a\), 35](#) (with [Sch. 5 para. 36](#))
- F43** S. 609(2)(b)-(d) inserted (6.4.2020) by [Finance Act 2019 \(c. 1\), Sch. 5 paras. 19\(b\), 35](#) (with [Sch. 5 para. 36](#))

## 610 Non-UK resident company ceasing to hold derivative contract for <sup>F44</sup>section 609(2) purposes]

- (1) This section applies if the rights and liabilities under a derivative contract of a company which is not UK resident cease to any extent to be held or owed for <sup>F45</sup>section 609(2) purposes] in circumstances not involving a related transaction.
- (2) This Part applies as if—
  - (a) immediately before the rights and liabilities so cease the company had assigned them, so far as so ceasing, for consideration of an amount equal to their fair value at that time, and
  - (b) the company had immediately reacquired them for consideration of the same amount.
- (3) This section does not apply if—
  - (a) the conditions in section 630(1)(a) and (b) are met in relation to the company (transferee leaving group after replacing transferor as party to derivative contract), and



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- (b) the rights and liabilities mentioned in subsection (1) cease to be held or owed for [<sup>F46</sup>section 609(2) purposes] at the same time as the company ceases to be a member of the relevant group.

(4) In subsection (3) “the relevant group” has the meaning given by section 630(4).

[<sup>F47</sup>(5) A right or liability ceases to be held or owed for section 609(2) purposes if and in so far as—

- (a) it ceases to be held or owed for any purposes mentioned in section 609(2), and
- (b) on doing so, it does not begin or continue to be held or owed for any of the other purposes so mentioned.]

#### Textual Amendments

- F44** Words in s. 610 heading substituted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 20\(2\)](#), 35 (with [Sch. 5 para. 36](#))
- F45** Words in s. 610(1) substituted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 20\(3\)](#), 35 (with [Sch. 5 para. 36](#))
- F46** Words in s. 610(3)(b) substituted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 20\(4\)](#), 35 (with [Sch. 5 para. 36](#))
- F47** S. 610(5) inserted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 20\(5\)](#), 35 (with [Sch. 5 para. 36](#))

#### 611 Release under statutory insolvency arrangement of liability under derivative contract

No credit is required to be brought into account by a company in respect of the release of the company's liability to pay an amount under a derivative contract of the company if the release is part of a statutory insolvency arrangement.



**Changes to legislation:**

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)