



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 2

#### CHARGE TO CORPORATION TAX: BASIC PROVISIONS

### CHAPTER 4

#### NON-UK RESIDENT COMPANIES: CHARGEABLE PROFITS

*The separate enterprise principle: application to non-UK resident banks*

#### **28 Borrowing: permanent establishment acting as agent or intermediary**

- (1) This section applies if—
- (a) the non-UK resident company is a bank, and
  - (b) the permanent establishment borrows funds for the purposes of another part of the company and (in relation to that borrowing) acts only as an agent or intermediary.
- (2) In accordance with the separate enterprise principle—
- (a) the profits attributable to the permanent establishment, and
  - (b) the capital attributable to the permanent establishment under section 21(2)(b),
- are to be those appropriate in the case of an agent acting at arm's length, taking into account the risks and costs borne by the establishment.

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

C1 Ss. 21-28 applied (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 19 para. 26\(3\)](#)

**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.

[View outstanding changes](#)

**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](#)