

FINANCE ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Section 62 Schedule 19: Accounting Standards: Loan Relationships and Derivative Contracts

Summary

1. **Section 62** and Schedule 19 provide for regulations to be made to amend the corporation tax (CT) rules on loan relationships and derivative contracts where changes in accounting standards affect the way in which companies account for taxable amounts arising from financial instruments such as loans and derivatives.

Details of the Schedule

2. Paragraph 1 inserts a new section 465A into the Corporation Tax Act 2009 (CTA), to allow regulations to be made where as a consequence of a “change in accounting standards” there is a “relevant accounting change”.
3. Subsection (2) of new section 465A defines a “change in accounting standards” to mean a change made to an “accounting standard” by an “accounting body”. These terms are defined in subsection (8).
4. Subsection (3) defines a “relevant accounting change” to mean a change in the way a company may or must account for profits and losses that are taxed or relieved under the loan relationships rules in Part 5 of CTA. (By virtue of section 294 of CTA, the provisions of Part 5 also apply to matters treated as loan relationships under Part 6 of CTA.)
5. Subsection (4) allows regulations made under this power to amend the primary legislation on loan relationships.
6. Subsection (5) allows for the regulations to make any necessary consequential and transitional provisions, and to introduce an election.
7. Subsection (6) permits any such consequential changes to include changes in CT provisions outside the loan relationship rules.
8. Subsection (7) allows the regulations to have retrospective effect where a relevant accounting change can be adopted by a company for a period of account beginning before the regulations are made.
9. Subsection (8) defines the terms “accounting body” and “accounting standard”. The term “accounting standards” embraces International Accounting Standards, International Financial Reporting Standards, Statements of Standard Accounting Practice, Statements of Recognised Accounting Practice, Financial Reporting Standards, interpretations issued by the International Financial Reporting Interpretations Committee, and all similar documents.

*These notes refer to the Finance Act 2010 (c.13)
which received Royal Assent on 8 April 2010*

10. Paragraph 2 inserts a new section 701A in CTA. The provisions of this new section mirror those of new section 465A, and allow equivalent regulations to be made in relation to Part 7 of CTA, which sets out the CT rules on derivative contracts.
11. Paragraph 3 provides for any regulations made under either of the new sections to be subject to the affirmative resolution procedure.

Background Note

12. In July 2009, the International Accounting Standards Board (IASB) issued proposals to amend the accounting standard on financial instruments (IAS 39 – “Financial Instruments: Recognition and Measurement”). Changes to IAS 39 will have a significant impact on the CT rules on loan relationships and derivative contracts in Parts 5 to 7 of CTA. One of the key principles in these rules is that amounts brought into account for tax purposes are based closely on the profit or loss shown in accounts drawn up in accordance with generally accepted accounting practice (GAAP). GAAP includes both International Accounting Standards and their UK equivalents issued by the Accounting Standards Board (ASB). Changes made by the IASB are likely to be followed by the ASB for UK GAAP.
13. It is anticipated that the amendments to IAS 39 will be made in stages, between 2009 and 2013. Each draft proposal for changes to the current standard is subject to consultation, and the final version of any new or amended standards may differ from the original draft. The first stage in this programme was the issue of a new standard, International Financial Reporting Standard (IFRS) 9, in November 2009. IFRS 9 allows a company to adopt the new standard for the period ending after it was issued, and it is possible that other new or amended standards will similarly allow for adoption in the period in which they are issued.
14. The CT rules on loan relationships and derivative contracts contain a number of regulation-making powers, but these powers are unlikely to permit the type of amendments to those rules that may be needed to cater for the extensive changes to accounting standards that have recently been, or are expected to be, announced by the IASB.
15. There would be uncertainty for both companies and for the Exchequer if it was necessary to wait for the next Finance Act to address the changes to tax rules which are likely to be needed as a consequence of the accounting changes. The new regulation-making powers inserted by this Schedule enable such changes to be made as and when the accounting changes are announced, and for any period to which they apply.