***Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Cross Heading: Application of sections 109 and 110 in relation to pre-1 October 2007 cases. (See end of Document for details)*

SCHEDULES

SCHEDULE 9

TRANSITIONALS AND SAVINGS ETC

PART 3

DOUBLE TAXATION RELIEF

Application of sections 109 and 110 in relation to pre-1 October 2007 cases

22 (1) Section 109 does not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section of that Act came into force before 1 October 2007.

(2) Section 110 does not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale before 1 October 2007.

(3) This Act has effect with the modifications set out in sub-paragraphs (4) and (5), but those modifications—

(a) do not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section comes into force on or after 1 October 2007, and

(b) do not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale on or after 1 October 2007.

(4) In section 108(3) for "section 109 or 110" substitute " section 109A ".

(5) For sections 109 and 110 substitute—

"**109A Repo or stock-lending cases in which no disregard under section 108**

(1) Tax attributable to interest accruing to a company under a loan relationship is within this section if—

(a) at the time when the interest accrues, the company has ceased to be a party to the relationship as a result of having made the initial transfer under or in accordance with any repo or stock-lending arrangements relating to the relationship, and

(b) that time is in the period for which those arrangements have effect.

(2) In this section "repo or stock-lending arrangements", in relation to a loan relationship, means (subject to subsection (3)) any arrangements consisting in or involving an agreement or series of agreements under which provision is made—

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(a) for the transfer from one person ("A") to another of any rights under the relationship, and

(b) for A subsequently to be or become entitled, or required—

(i) to have the same or equivalent rights transferred to A, or

(ii) to have rights in respect of benefits accruing in respect of the relationship on redemption.

(3) Arrangements are not repo or stock-lending arrangements for the purposes of this section if they are excluded from section 730A of ICTA by section 730A(8) of ICTA.

(4) For the purposes of subsection (2) rights under a loan relationship are equivalent to rights under another loan relationship if they entitle the holder of an asset representing the relationship—

(a) to the same rights against the same persons as to capital, interest and dividends, and

(b) to the same remedies for the enforcement of those rights,

despite any difference in the total nominal amounts of the assets, in the form in which they are held or in the manner in which they can be transferred.

(5) In this section—

(a) "the initial transfer", in relation to any repo or stock-lending arrangements, is a reference to the transfer mentioned in subsection (2)(a), and

(b) a reference to the period for which repo or stock-lending arrangements have effect is a reference to the period from the making of the initial transfer until whichever is the earlier of the following—

(i) the discharge of the obligations arising by virtue of the entitlement or requirement mentioned in subsection (2)(b), or

(ii) the time when it becomes apparent that the discharge of those obligations will not take place."

Changes to legislation:
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