These notes refer to the Finance Act 2013 (c.29) which received Royal Assent on 17 July 2013

FINANCE ACT 2013

EXPLANATORY NOTES

INTRODUCTION

Section 66: Currency Used in Tax Calculations: Chargeable Gains and Losses

Summary

1. Section 66 provides that companies must compute their chargeable gains and losses on disposals of shares, ships, aircraft and interests in shares in the currency which is their functional currency (or if they are UK resident investment companies which have made a designated currency election, that designated currency) at the time of the disposal.

Details of the Section

2. Subsection (1) amends Chapter 4 of Part 2 of the Corporation Tax Act 2010 (c. 4) (CTA10), which determines the currency to be used in tax calculations.

3. Subsection (2) inserts new subsection (3) after section 5(2) of CTA10 which refers to new section 9C for the application of section 5(1) so far as it relates to calculating chargeable gains.

4. Subsection (3) inserts a new section 9C. New section 9C(1) sets out that section 9C applies if a company disposes of a ship or an aircraft or shares or an interest in shares and, at some point during the ownership of the asset(s), the company had a functional currency which was not sterling, or made a designated currency election for tax purposes.

5. New section 9C(2) defines the term "relevant currency" to include functional currency or designated currency where the conditions in subsection 9C(3) are satisfied.

6. New section 9C(3) sets out the conditions when the relevant currency is the designated currency rather than the company's functional currency.

7. New section 9C(4) provides the methodology for calculating a chargeable gain or allowable loss when the company has a relevant currency which is not sterling.

8. New section 9C(5) determines that subsections (6) to (10) apply to all computations of chargeable gains and losses on disposals of ships, aircraft, shares and interests in shares, regardless of whether or not the relevant currency is sterling at the time of disposal.

9. New section 9C(6) requires allowable expenditure incurred in a currency other than the relevant currency at the time of the expenditure to be translated into the relevant currency using the rate of exchange rate at the date of the expenditure.

10. New section 9C(7) provides for a recalculation of the base cost of the assets on each occasion when there is a change in relevant currency during their ownership.

11. New section 9C(8) provides that on disposal of assets, amounts received as consideration in a currency other than the relevant currency at that time must be translated into the relevant currency using the exchange rate at the date of disposal.

12. New section 9C(9) ensures any translations under section 9C(6) occur before any translations under section 9C(7), and that any translations under section 9C(7) are made in chronological order of the changes of relevant currency.

13. New section 9C(10) provides that where statute requires that the assets are treated for tax purposes as acquired for a deemed amount, then that amount is treated as being incurred on the date the assets are so acquired.

14. New section 9C(11) provides that any reference to a "ship" or "aircraft" for this purpose includes the benefit of finance lease and hire purchase contracts (as per section 67 of the Capital Allowances Act 2001 (c. 2)) under which ships and aircraft are acquired and contracts relate to plant and machinery which is a ship or aircraft.

15. New section 9C(12) defines the terms: "allowable expenditure"; "interest in shares" and "shares" for the purposes of the section.

16. Subsection (4) provides that these amendments will come into force in accordance with a Treasury order provision.

Background

17. All companies must currently compute all of their chargeable gains and losses in sterling. This section provides a limited exception to this rule which will ensure closer alignment between the tax and economic outcomes for companies that do not have a sterling functional currency. This should reduce barriers to commercial decision making by businesses faced with tax gains not matched by a gain of economic substance and reduce administrative burdens for businesses attempting to manage the effects of such gains.