



Finance Act 2014

2014 CHAPTER 26

PART 6

OTHER PROVISIONS

International matters

292 Amounts allowed by way of double taxation relief

- (1) TIOPA 2010 is amended as follows.
- (2) For section 34(1)(b) (reduction in credit: payment by reference to foreign tax) substitute—
 - “(b) a tax authority makes a payment by reference to that tax, and that payment—
 - (i) is made to P or a person connected with P, or
 - (ii) is made to some other person directly or indirectly in consequence of a scheme that has been entered into.”
- (3) In section 34, after subsection (3) insert—
 - “(4) In subsection (1)(b)(ii) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- (4) For section 112(3)(b) (deduction from income for foreign tax (instead of credit against UK tax)) substitute—
 - “(b) a tax authority makes a payment by reference to that tax, and that payment—
 - (i) is made to P or a person connected with P, or
 - (ii) is made to some other person directly or indirectly in consequence of a scheme that has been entered into,”.
- (5) In section 112, after subsection (7) insert—

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- “(8) In subsection (3)(b)(ii) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- (6) In section 42(4) (provisions relating to the limit imposed by section 42(2) on credit against corporation tax) for the “and” after “(as defined in section 44),” substitute— “ section 49B, which requires subsection (2) to be applied separately to certain non-trading credits, and ”.
- (7) After section 49A insert—

“49B Applying section 42(2) to non-trading credits from loan relationships etc

- (1) Subsection (2) applies for the purposes of section 42(2) if—
- (a) the company has a non-trading credit relating to an item, and
 - (b) there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax.
- (2) Credit for the foreign tax in respect of that item must not exceed—

$$R \times (NTC - D)$$

where—

R has the same meaning as in section 42(2),

NTC is the amount of the non-trading credit, and

D is the amount given by subsection (3).

- (3) D in the formula in subsection (2) is calculated as follows—
- Step 1* Calculate the total amount (“TNTD”) of the non-trading debits which are to be brought into account by the company—
- (a) in the same accounting period, and
 - (b) in respect of the same loan relationship, derivative contract or intangible fixed asset,
- as the non-trading credit.
- Step 2* Calculate the total (“A”) of the amounts which, as amount D, have already been deducted under subsection (2) from other non-trading credits which are to be brought into account in the same period and in respect of the same relationship, contract or asset.
- Step 3* Calculate the amount given by—

$$TNTD - A$$

Step 4 If the amount calculated at step 3 is greater than or equal to NTC, then D equals NTC. Otherwise, D is the amount calculated at step 3.

- (4) In this section—

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“intangible fixed asset” has the same meaning as in Part 8 of CTA 2009,

“non-trading credit” means—

(a) a non-trading credit for the purposes of Part 5 of CTA 2009 (which is about loan relationships but also has application in relation to deemed loan relationships and derivative contracts), or

(b) a non-trading credit for the purposes of Part 8 of CTA 2009 (intangible fixed assets), and

“non-trading debit” means—

(a) a non-trading debit for the purposes of Part 5 of CTA 2009, or

(b) a non-trading debit for the purposes of Part 8 of CTA 2009.”

(8) The amendments made by subsections (2), (3), (4) and (5) have effect in relation to payments made by a tax authority on or after 5 December 2013.

(9) The amendments made by subsections (6) and (7) have effect in relation to accounting periods beginning on or after 5 December 2013.

(10) For the purposes of subsection (9), an accounting period beginning before, and ending on or after, 5 December 2013 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

293 Controlled foreign companies: qualifying loan relationships (1)

(1) In Chapter 9 of Part 9A of TIOPA 2010 (controlled foreign companies: qualifying loan relationships) in section 371IH (exclusions from definition of “qualifying loan relationship”) after subsection (9) insert—

“(9A) Subsection (9B) applies to a creditor relationship of a CFC if—

(a) a creditor relationship (“the UK creditor relationship”) of a UK connected company is made where the debtor is a non-UK resident company connected with the UK connected company,

(b) subsequently, an arrangement (“the relevant arrangement”) is made directly or indirectly in connection with the UK creditor relationship, and

(c) the main purpose, or one of the main purposes, of the relevant arrangement is to secure that—

(i) the relevant UK credits of a UK connected company for a corporation tax accounting period of the company are lower than they would be if the relevant arrangement had not been made, or

(ii) the relevant UK debits of a UK connected company for a corporation tax accounting period of the company are greater than they would be if the relevant arrangement had not been made.

(9B) The CFC's creditor relationship cannot be a qualifying loan relationship if it is, or is connected (directly or indirectly) to, the relevant arrangement.

(9C) Subsection (9D) applies for the purposes of subsection (9A)(c)(i) and (ii) in determining what the relevant UK credits or debits of a UK connected

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company for a corporation tax accounting period would be if the relevant arrangement had not been made.

(9D) Assume that, at all times after the relevant time, the UK creditor relationship remains in place on the same terms as it had at the relevant time.

(9E) In subsections (9A) to (9D)—

“corporation tax accounting period” means an accounting period for corporation tax purposes,

“the relevant time” means the time immediately before—

- (a) the time when the relevant arrangement is made, or
- (b) if earlier, the time when the UK creditor relationship ends,

“relevant UK credits”, in relation to a UK connected company, means credits which the company has under Part 5 or 7 of CTA 2009,

“relevant UK debits”, in relation to a UK connected company, means debits which the company has under Part 5 or 7 of CTA 2009, and

“UK connected company” means a UK resident company which—

- (a) is connected with the CFC, or
- (b) was connected with a company with which the CFC is connected.”

(2) The amendment made by this section has effect for cases in which the relevant arrangement is made on or after 5 December 2013.

294 Controlled foreign companies: qualifying loan relationships (2)

(1) In Chapter 9 of Part 9A of TIOPA 2010 (controlled foreign companies: qualifying loan relationships) in section 371IH (exclusions from definition of “qualifying loan relationship”) in subsection (10)(c) for “wholly or mainly used” substitute “ used to any extent (other than a negligible one) ”.

(2) The amendment made by this section has effect for accounting periods of CFCs beginning on or after 5 December 2013.

(3) The following subsections apply in relation to a qualifying loan relationship of a CFC if—

- (a) profits of the qualifying loan relationship (“the relevant profits”) would, apart from those subsections, be included in the CFC's qualifying loan relationship profits for an accounting period of the CFC (“the straddling period”) which begins before 5 December 2013 but ends on or after that date, and
- (b) the creditor relationship in question would not be a qualifying loan relationship for the straddling period were the amendment made by this section to have effect for accounting periods of CFCs beginning before 5 December 2013.

(4) Apportion the relevant profits between the part of the straddling period falling before 5 December 2013 and the part falling on or after that date—

- (a) in accordance with section 1172 of CTA 2010 (time basis), or
- (b) if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.

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- (5) The relevant profits are to be excluded from the CFC's qualifying loan relationship profits for the straddling period so far as they are apportioned to the part of the straddling period falling on or after 5 December 2013.

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

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

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)