



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

MISCELLANEOUS PROVISIONS

Alternative finance arrangements

96 Diminishing shared ownership

- (1) In section 46(1) of FA 2005 (alternative finance arrangements: definition) after “47” insert “, 47A, ”.
- (2) In section 47 of FA 2005 (alternative finance return)—
 - (a) omit subsection (5),
 - (b) in subsections (6) and (7) after “is to be taken” insert “ for the purposes of this Chapter ”, and
 - (c) in the heading for “alternative finance return” substitute “ purchase and re-sale ”.
- (3) After section 47 of FA 2005 insert—

“47A Alternative finance arrangements: diminishing shared ownership

- (1) Subject to section 52, arrangements fall within this section if under them—
 - (a) a financial institution acquires a beneficial interest in an asset, and
 - (b) another person (“the eventual owner”)—
 - (i) also acquires a beneficial interest in the asset,

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- (ii) is to make payments to the financial institution amounting in aggregate to the consideration paid for the acquisition of its beneficial interest,
 - (iii) is to acquire the financial institution's beneficial interest (whether or not in stages) as a result of those payments,
 - (iv) is to make other payments to the financial institution (whether in pursuance of a lease forming part of the arrangements, or otherwise),
 - (v) has the exclusive right to occupy or otherwise use the asset,
 - (vi) is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, any increase in the asset's value).
- (2) For the purposes of subsection (1)(a) it is immaterial—
- (a) whether or not the financial institution acquires its beneficial interest from the eventual owner,
 - (b) whether the eventual owner or another person other than the financial institution also has a beneficial interest in the asset, and
 - (c) whether or not the financial institution also has a legal interest in the asset.
- (3) Subsection (1)(b)(v) does not prevent the eventual owner from granting an interest or right in relation to the asset to someone other than—
- (a) the financial institution,
 - (b) a person controlled by the financial institution within the meaning of section 840 of ICTA, and
 - (c) a person controlled by a person who also controls the financial institution, in each case within the meaning of section 840 of ICTA;
- provided that the grant is not required by the financial institution or by arrangements to which the financial institution is party.
- (4) Subsection (1)(b)(vi) does not prevent the financial institution from having responsibility for, or a share in any loss arising out of, any reduction in the asset's value (and subsection (1)(b)(ii) is subject to this subsection).
- (5) Payments by the eventual owner under arrangements to which this section applies are alternative finance return for the purposes of this Chapter except in so far as they amount to—
- (a) payments of the kind described in subsection (1)(b)(ii), or
 - (b) payments in respect of any arrangement fee or legal or other costs or expenses which the eventual owner is required under the arrangements to pay.
- (6) Arrangements to which this section applies shall not be treated as a partnership for the purposes of the Taxes Acts (within the meaning of the Taxes Management Act 1970).”
- (4) In section 50 of FA 2005 (treatment of alternative finance arrangements: companies)—
- (a) in subsection (1) after “section 47” insert “ or 47A ”,
 - (b) at the beginning of subsection (1)(b) add “ in the case of arrangements within section 47, ”, and
 - (c) after subsection (1)(b) insert—

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- “(ba) in the case of arrangements within section 47A, the consideration paid by the financial institution for the acquisition of its beneficial interest were the amount of a loan made (as the case requires) to the company by, or by the company to, the other party to the arrangements.”.
- (5) In section 52 of FA 2005 (provision not at arm's length)—
- (a) in subsection (1)(a) after “47” insert “, 47A ”,
 - (b) in subsection (3) after “47” insert “, 47A ”, and
 - (c) in subsection (4) for “47,” substitute “ 47 or 47A, ”.
- (6) In section 53 of FA 2005 (sale and purchase of asset)—
- (a) in subsection (1) after “47” insert “ or 47A ”,
 - (b) after subsection (2) add—
- “(3) In the application of this section to section 47A a reference to the effective return is a reference to the alternative finance return.”, and
- (c) in the heading after “47” insert “ or 47A ”.
- (7) In the definition of “alternative finance return” in section 57 of FA 2005 for “section 47(5)” substitute “ sections 47(6) and (7) and 47A(5) ”.
- (8) This section shall have effect in relation to alternative finance arrangements entered into on or after—
- (a) 1st April 2006 in relation to corporation tax, and
 - (b) 6th April 2006 in relation to income tax.

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