
Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 4

TAXATION PROVISIONS

PART I

CORPORATION TAX

Chargeable gains: disposal of debts

- 9 (1) Where in the case of any relevant transfer—
- (a) any debt owed to the predecessor is transferred by virtue of the transfer to the transferee, and
 - (b) the predecessor would, apart from this sub-paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts),
- that Act shall have effect as if the transferee and not the predecessor were the original creditor for those purposes.
- (2) Subject to the following provisions of this paragraph, where in the case of any relevant transfer—
- (a) there is transferred by virtue of the transfer to the transferee either a debt owed to the predecessor or the rights and liabilities of the predecessor under any guarantee, and
 - (b) the transferred debt is, or any debt arising by virtue of those rights and liabilities would be, either—
 - (i) a right to the repayment of any amount outstanding as principal on a loan which is a qualifying loan for the purposes of either of sections 253 and 254 of the 1992 Act, or
 - (ii) a right to recover any amount paid under a guarantee for the repayment of such a loan or of any loan which would be such a loan but for section 253(1)(c) of that Act,
- those sections shall have effect as if the loan or, as the case may be, the guarantee and any payment by the predecessor under the guarantee had been made or given by the transferee and, accordingly, as if there had been no assignment of the right to recover the principal of the loan or of any right to recover an amount paid under the guarantee.
- (3) Where sub-paragraph (2) above applies, sections 253 and 254 of the 1992 Act and this paragraph shall have effect as if the companies which, in relation to times before the relevant transfer comes into force, are to be treated as having been members of the same group of companies as the transferee included the predecessor and any company which at any such time was a member of the same group of companies as the predecessor.

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(4) Where—

- (a) any right to the recovery of any amount is transferred by virtue of any relevant transfer,
- (b) any amount outstanding in respect of that right is recovered at any time by the transferee or by a company in the same group of companies as the transferee, and
- (c) that amount is such that, if that transfer had not come into force and the amount in question had been recovered by the predecessor or a company in the same group as the predecessor, a chargeable gain would be treated as having accrued to the predecessor or that company under section 253(5) to (8) or 254(9) or (10) of the 1992 Act,

then a chargeable gain of the same amount shall be treated, instead, as having accrued at that time to the transferee, or as the case may be, the company in the same group as the transferee.

(5) Sub-paragraph (2) above shall not, in relation to any relevant transfer—

- (a) affect the allowable losses that have been or are to be treated, in pursuance of any claim made under section 253(3) or (4) or 254(2) of the 1992 Act before the coming into force of the transfer, as having accrued to the predecessor in respect of any amount; or
- (b) entitle the transferee to make any claim under section 253(3) or (4) or 254(2) of that Act for the purpose of requiring any allowable loss to be treated as having accrued to the transferee in respect of any amount in respect of which an allowable loss to which paragraph (a) above applies has been or is to be treated as having accrued;

and a relevant transfer shall be disregarded for the purposes of section 253(9) of the 1992 Act.

(6) For the purposes of subsection (10) of section 253 of the 1992 Act, where there is a relevant transfer, any amount taken into account as mentioned in that subsection in the case of the predecessor shall be deemed also to have been so taken into account in the case of the transferee.

(7) Section 253(13) and section 255(3) of the 1992 Act shall apply in relation to sub-paragraph (4) above for the purposes, respectively, of cases corresponding to those falling within subsections (7) and (8) of section 253 of that Act and cases corresponding to those falling within subsection (10) of section 254 of that Act, as they apply for the purposes of those subsections.

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