

Status: Point in time view as at 18/11/2015.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, Paragraph 51. (See end of Document for details)

SCHEDULES

SCHEDULE 7

LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

PART 1

LOAN RELATIONSHIPS: AMENDMENTS OF PARTS 5 AND 6 OF CTA 2009

51 In Chapter 15 of Part 5, after section 455A insert—

“Counteracting avoidance arrangements

455B Counteracting effect of avoidance arrangements

- (1) Any loan-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to credits and debits to be brought into account for the purposes of this Part.
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) For the meaning of “relevant avoidance arrangements” and “loan-related tax advantage”, see section 455C.

455C Interpretation of section 455B

- (1) This section applies for the interpretation of section 455B (and this section).
- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a loan-related tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any loan-related tax advantages that would (in the absence of section 455B) arise from them can reasonably be regarded as consistent with any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied) and the policy objectives of those provisions.
- (5) A company obtains a “loan-related tax advantage” if—

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- (a) it brings into account a debit to which it would not otherwise be entitled,
 - (b) it brings into account a debit which exceeds that to which it would otherwise be entitled,
 - (c) it avoids having to bring a credit into account,
 - (d) the amount of any credit brought into account by the company is less than it would otherwise be, or
 - (e) it brings a debit or credit into account earlier or later than it otherwise would.
- (6) In subsection (5), references to bringing a debit or credit into account are references to bringing a debit or credit into account for the purposes of this Part.

455D Examples of results that may indicate exclusion not applicable

- (1) Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a loan-related tax advantage are not excluded by section 455C(4) from being “relevant avoidance arrangements” for the purposes of section 455B—
- (a) the elimination or reduction, for purposes of corporation tax, of profits of a company arising from any of its loan relationships, where for economic purposes profits, or greater profits, arise to the company from that relationship;
 - (b) the creation or increase, for purposes of corporation tax, of a loss or expense arising from a loan relationship, where for economic purposes no loss or expense, or a smaller loss or expense, arises from that relationship;
 - (c) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company's accounts as an item of profit or loss or be so recognised earlier;
 - (d) ensuring that a loan relationship is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements;
 - (e) enabling a company to bring into account for the purposes of this Part a debit in respect of an exchange loss, in circumstances where a corresponding exchange gain would not give rise to a credit or would give rise to a credit of a smaller amount;
 - (f) enabling a company to bring into account for the purposes of this Part a debit in respect of a fair value loss in circumstances where a corresponding fair value gain would not give rise to a credit or would give rise to a credit of a smaller amount;
 - (g) ensuring that the effect of the provisions of Chapter 4 is to produce an overall reduction in the credits brought into account for the purposes this Part or an overall increase in the debits brought into account for those purposes;
 - (h) bringing into account for the purposes of this Part an impairment loss or release debit in a case where the provisions of Chapter 6 would but for the arrangements have prevented this.

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- (2) But in each case the result concerned is only capable of indicating that section 455C(4) is not available if it is reasonable to assume that such a result was not the anticipated result when the provisions of this Part that are relevant to the arrangements were enacted.
- (3) In subsection (1)(f) references to a fair value gain or a fair value loss, in relation to a company, are references respectively to—
 - (a) a profit to be brought into account in relation to an asset or liability representing a loan relationship where fair value accounting is used for the period in question, or
 - (b) a loss to be brought into account in relation to such an asset or liability where fair value accounting is used for the period in question.
- (4) “Arrangements” and “loan-related tax advantage” have the same meaning as in section 455C.”

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