



# Finance Act 2016

## 2016 CHAPTER 24

### PART 2

#### CORPORATION TAX

##### *Miscellaneous*

#### **65 Power to make regulations about the taxation of securitisation companies**

- (1) Section 624 of CTA 2010 (power to make regulations about the application of the Corporation Tax Acts in relation to securitisation companies) is amended in accordance with subsections (2) to (4).
- (2) In subsection (1), for “Corporation Tax Acts” substitute “Taxes Acts”.
- (3) In subsection (2), for “Corporation Tax Acts” substitute “Taxes Acts”.
- (4) In subsection (9), after “section” insert “—  
the Taxes Acts” has the meaning given by section 118(1) of TMA 1970, and”.
- (5) In section 625 of CTA 2010 (regulations: supplementary provision) in subsection (3) (power to include retrospective provision) after “may” insert “, insofar as they concern the application of the Corporation Tax Acts in relation to a securitisation company, ”.

#### **66 Hybrid and other mismatches**

Schedule 10 contains provision that counteracts, for corporation tax purposes, hybrid and other mismatches that would otherwise arise.

#### **67 Insurance companies carrying on long-term business**

- (1) Part 2 of FA 2012 (insurance companies carrying on long-term business) is amended as follows.

---

**Changes to legislation:** Finance Act 2016, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 13 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (2) In section 73 (the I-E basis), in step 4—
  - (a) for “(but not below nil) by the” substitute “ by the relievable ”, and
  - (b) at the end of the step insert—
 

“In this step, “the relievable amount” of a non-trading deficit means so much of the deficit as does not exceed the total of—

    - (a) the amount given by the calculation required by step 1,
    - (b) the amount given by the calculation required by step 2, and
    - (c) any amount of an I-E receipt under section 92 brought into account under step 3.”
- (3) In section 88 (loan relationships, derivative contracts and intangible fixed assets), in subsection (6), for “excess—” and paragraphs (a) and (b), substitute “ excess is treated for the purposes of section 76 as a deemed BLAGAB management expense for that period. ”
- (4) In section 126 (restrictions in respect of non-trading deficit), in subsection (2), for “would have under section 388” to the end substitute “has, calculated by reference only to credits and debits—
  - (a) arising in respect of such of the company's loan relationships as are debtor relationships (see section 302(6) of CTA 2009), and
  - (b) referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business.”
- (5) The amendments made by this section have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

## 68 Taking over payment obligations as lessee of plant or machinery

- (1) In Part 20 of CTA 2010 (tax avoidance involving leasing plant or machinery), after section 894 insert—

### “CHAPTER 3

#### CONSIDERATION FOR TAKING OVER PAYMENT OBLIGATIONS AS LESSEE TREATED AS INCOME

#### **894A Consideration for taking over payment obligations as lessee treated as income**

- (1) This section applies where under any arrangements—
  - (a) a company chargeable to corporation tax (C) agrees to take over obligations of another person (D) as lessee under a lease of plant or machinery,
  - (b) as a result of that agreement C, or a person connected with C, becomes entitled to income deductions (whether deductions in calculating income or from total profits), and
  - (c) a payment is payable to C, or a person connected with C, by way of consideration for that agreement.

---

**Changes to legislation:** Finance Act 2016, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 13 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (2) The payment is treated for the purposes of corporation tax as income received by C in the period of account in which C takes over the obligations mentioned in subsection (1)(a).
  - (3) Subsection (2) does not apply if and to the extent that the payment is (apart from this section)—
    - (a) charged to tax on C, or a person connected with C, as an amount of income,
    - (b) brought into account in calculating for tax purposes any income of C or a person connected with C, or
    - (c) brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of C or a person connected with C.
  - (4) It does not matter how C takes over the obligations of D (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise).
  - (5) In this section—
 

“arrangements” include any scheme, arrangement, understanding, transaction or series of transactions (whether or not legally enforceable);

“lease of plant or machinery” means any kind of agreement or arrangement under which sums are paid for the use of, or otherwise in respect of, plant or machinery;

“payment” includes the provision of any benefit, the assumption of any liability or the transfer of money or money's worth (and “payable” is to be construed accordingly);

“payment by way of consideration” means any payment made, directly or indirectly, in consequence of or otherwise in connection with, the agreement mentioned in subsection (1)(a), where it is reasonable to assume the agreement would not have been made unless the arrangements included provision for the payment.
  - (6) Any priority rule (other than section 212(1) of FA 2013 (general anti-abuse rule to have priority over other rules)) has effect subject to this section, despite the terms of the priority rule.
  - (7) For that purpose “priority rule” is a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.
  - (8) Examples of priority rules are section 464 of CTA 2009 (priority of loan relationships rules) and section 6(1) of TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment).”
- (2) In Chapter 6 of Part 13 of ITA 2007 (avoidance involving leases of plant or machinery), after section 809ZF insert—

**“809ZFA Consideration for taking over payment obligations as lessee treated as income**

- (1) This section applies where under any arrangements—

---

**Changes to legislation:** Finance Act 2016, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 13 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (a) a person within the charge to income tax (P) agrees to take over obligations of another person (Q) as lessee under a lease of plant or machinery,
  - (b) as a result of that agreement P, or a person connected with P, becomes entitled to income deductions (whether deductions in calculating income or from total profits), and
  - (c) a payment is payable to P, or a person connected with P, by way of consideration for that agreement.
- (2) The payment is treated for the purposes of income tax as income received by P in the tax year in which P takes over the obligations mentioned in subsection (1)(a).
- (3) Subsection (2) does not apply if and to the extent that the consideration is (apart from this section)—
  - (a) charged to tax on P, or a person connected with P, as an amount of income,
  - (b) brought into account in calculating for tax purposes any income of P or a person connected with P, or
  - (c) brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of P or a person connected with P.
- (4) It does not matter how P takes over the obligations of Q (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise).
- (5) In this section—
  - “arrangements” include any scheme, arrangement, understanding, transaction or series of transactions (whether or not legally enforceable);
  - “lease of plant or machinery” means any kind of agreement or arrangement under which sums are paid for the use of, or otherwise in respect of, plant or machinery;
  - “payment” includes the provision of any benefit, the assumption of any liability or the transfer of money or money's worth (and “payable” is to be construed accordingly);
  - “payment by way of consideration” includes a payment made, directly or indirectly, in consequence of or otherwise in connection with, the agreement mentioned in subsection (1)(a), where it is reasonable to assume the agreement would not have been made unless the arrangements included provision for the payment.
- (6) Any priority rule (other than section 212(1) of FA 2013 (general anti-abuse rule to have priority over other rules)) has effect subject to this section, despite the terms of the priority rule.
- (7) For that purpose “priority rule” is a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.
- (8) An example of a priority rule is section 6(1) of TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment)."

---

**Changes to legislation:** Finance Act 2016, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 13 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (3) This section applies to agreements of the kind mentioned in section 894A(1)(a) of CTA 2010 or section 809ZFA of ITA 2007 that are made on or after 25 November 2015.

**Changes to legislation:**

Finance Act 2016, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 13 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**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):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)