
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2020, Cross
Heading: Debits referable to times before UK property business etc is carried on. (See end of Document for details)

SCHEDULES

SCHEDULE 6

NON-UK RESIDENT COMPANIES CARRYING ON UK PROPERTY BUSINESSES ETC

Debits referable to times before UK property business etc is carried on

3 After section 330 of CTA 2009 insert—

*“Pre-commencement debits of property
businesses etc of non-UK resident companies*

330ZA Debits referable to times before UK property business etc carried on

- (1) This section applies if—
 - (a) a non-UK resident company has debits in respect of a loan relationship to which it is a party for the purposes of its UK property business,
 - (b) the debits are referable to times (“the pre-rental times”) before (but not more than 7 years before) the date on which it starts to carry on the business, and
 - (c) the debits are not otherwise brought into account for tax purposes.
- (2) If, on the assumption that the company had been carrying on the business at the pre-rental times, the debits—
 - (a) would have been recognised in determining its profit or loss for a period consisting of or including those times, and
 - (b) would have been brought into account for the purposes of this Part, the debits are (so far as they exceed relevant credits) treated for the purposes of this Part as if they were debits for the accounting period in which it started to carry on the business.
- (3) For this purpose “relevant credits” means credits of the company in respect of the loan relationship which, on the assumption that the company had been carrying on the business at the pre-rental times—
 - (a) would have been recognised in determining its profit or loss for a period consisting of or including those times,
 - (b) would have been brought into account for the purposes of this Part, and
 - (c) would not otherwise have been brought into account for tax purposes.
- (4) This section is subject to section 327 (disallowance of imported losses etc).

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(5) This section also applies in relation to a non-UK resident company which is a party to a loan relationship for the purpose of enabling it to generate other UK property income (within the meaning given by section 5(6)).”

4 After section 607 of CTA 2009 insert—

“607ZA Debits referable to times before UK property business etc carried on

(1) This section applies if—

- (a) a non-UK resident company has debits in respect of a derivative contract to which it is a party for the purposes of its UK property business,
- (b) the debits are referable to times (“the pre-rental times”) before (but not more than 7 years before) the date on which it starts to carry on the business, and
- (c) the debits are not otherwise brought into account for tax purposes.

(2) If, on the assumption that the company had been carrying on the business at the pre-rental times, the debits—

- (a) would have been recognised in determining its profit or loss for a period consisting of or including those times, and
- (b) would have been brought into account for the purposes of this Part, the debits are (so far as they exceed relevant credits) treated for the purposes of this Part as if they were debits for the accounting period in which it started to carry on the business.

(3) For this purpose “relevant credits” means credits of the company in respect of the derivative contract which, on the assumption that the company had been carrying on the business at the pre-rental times—

- (a) would have been recognised in determining its profit or loss for a period consisting of or including those times,
- (b) would have been brought into account for the purposes of this Part, and
- (c) would not otherwise have been brought into account for tax purposes.

(4) This section also applies in relation to a non-UK resident company which is a party to a derivative contract for the purpose of enabling it to generate other UK property income (within the meaning given by section 5(6)).”

5 In paragraph 40 of Schedule 5 to FA 2019 (transitional provision: imported losses in respect of derivative contracts), at the end insert—

“(7) Section 607ZA of CTA 2009 (debts referable to times before UK property business carried on) has effect subject to this paragraph.”

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