



Finance Act 1994

1994 CHAPTER 9

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Exchange gains and losses

114 Assets and liabilities

- (1) In section 154 of the Finance Act 1993 (definitions connected with assets) the following subsections shall be inserted after subsection (5)—

“(5A) The question whether a company becomes unconditionally entitled at a particular time to an asset falling within section 153(1)(a) above shall be determined without reference to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.

(5B) Where an asset falling within section 153(1)(a) above consists of a right to interest—

- (a) a company becomes unconditionally entitled to the asset at the time when or (as the case may be) before which the interest is required to be paid to the company, and
- (b) subsection (5A) above shall not apply.”

- (2) In that section the following subsections shall be inserted after subsection (13)—

“(13A) In a case where—

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- (a) a company would (apart from this subsection) become entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to become entitled to the asset at the later time and not at the earlier time.

(13B) In a case where—

- (a) a company would (apart from this subsection) cease to be entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as ceasing to be entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to cease to be entitled to the asset at the later time and not at the earlier time.”

(3) In section 155 of that Act (definitions connected with liabilities) the following subsections shall be inserted after subsection (4)—

“(4A) The question whether a company becomes unconditionally subject at a particular time to a liability falling within section 153(2)(a) above shall be determined without reference to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.

(4B) Where a liability falling within section 153(2)(a) above consists of a duty to pay interest—

- (a) a company becomes unconditionally subject to the liability at the time when or (as the case may be) before which the company is required to pay the interest, and
- (b) subsection (4A) above shall not apply.”

115 Currency contracts: net payments

(1) In section 126 of the Finance Act 1993 (accrual on currency contracts) the following subsection shall be inserted after subsection (1)—

“(1A) In deciding whether a contract falls within subsection (1) above it is immaterial that the rights and duties there mentioned may be exercised and discharged by a payment made to or, as the case may require, by the qualifying company of an amount (in whatever currency) designed to represent any

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difference in value at the specified time between the two payments referred to in that subsection.”

- (2) In section 146 of that Act (early termination of currency contract) the following subsection shall be inserted after subsection (1)—

“(1A) This section also applies where—

- (a) a qualifying company ceases to be entitled to rights and subject to duties under a currency contract, and
- (b) it so ceases by virtue of the making of a payment to or by the company of an amount (in whatever currency) designed to represent any difference in value at the specified time between the two payments referred to in section 126(1) above.”

- (3) In section 164(2) of that Act (definition of currency contract for purposes of the Chapter) after “(1)” there shall be inserted “and (1A)”.

116 Currency contracts: matching

- (1) Schedule 15 to the Finance Act 1993 (alternative calculation) shall be amended as follows.

- (2) The following shall be inserted after paragraph 4—

“Currency contracts: matching

- 4A (1) Regulations may provide that where—
- (a) as regards a contract an initial exchange gain or initial exchange loss accrues to a company for an accrual period under section 126(5) of this Act or would so accrue apart from regulations under this Schedule,
 - (b) the relevant duty is eligible to be matched on any day in the accrual period with an asset held by the company, and such other conditions as may be prescribed are fulfilled, and
 - (c) an election is made in accordance with the regulations to match the duty with the asset on any such day and the election has effect by virtue of the regulations,
- the amount of the gain or loss shall be found in accordance with the alternative method of calculation.
- (2) Regulations may also provide that as regards any day in respect of which an election has effect the accrued amount shall be ascertained in accordance with prescribed rules.
- (3) The reference in sub-paragraph (1) above to the relevant duty is to the duty to which, under the contract, the company becomes subject as regards the second currency (within the meaning given by section 126 of this Act).
- (4) Where regulations are made under this paragraph, sub-paragraphs (3) to (12) of paragraph 4 above shall apply as they apply where regulations are made under that paragraph; but in the application of those sub-paragraphs by virtue of this sub-paragraph—
- (a) the references to a liability in sub-paragraphs (3), (4), (9) and (11) shall be construed as references to a duty,

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- (b) the references to liabilities in sub-paragraphs (3) and (4) shall be construed as references to duties, and
 - (c) the reference in sub-paragraph (11)(a) to sub-paragraph (1) of paragraph 4 shall be construed as a reference to sub-paragraph (1) above.”
- (3) The following paragraph shall be inserted after paragraph 5—
 - “5A (1) This paragraph applies where regulations under both paragraph 2 and paragraph 4A above apply—
 - (a) as regards the same contract, and
 - (b) for the same accrual period.
 - (2) Regulations may provide that, as regards any day falling within the period and identified in accordance with prescribed rules, the accrued amount shall be ascertained in accordance with rules prescribed under this paragraph (rather than provisions made under either of those paragraphs).”
- (4) In paragraph 6—
 - (a) for “paragraphs 2 to 5 above” there shall be substituted “the relevant paragraphs”;
 - (b) at the end there shall be inserted “; and the relevant paragraphs are paragraphs 2, 3, 4 and 5 above.”
- (5) In paragraph 7 for “5” there shall be substituted “5A”.