



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 5

#### LOAN RELATIONSHIPS

#### CHAPTER 15

#### TAX AVOIDANCE

##### **Modifications etc. (not altering text)**

- C1** Pt. 5 modified by 2007 c. 3, s. 809FZZ(9) (as inserted (with effect in accordance with s. 37(4) of the amending Act) by Finance Act 2016 (c. 24), s. 37(2))

#### *Introduction*

#### **440 Overview of Chapter**

- (1) This Chapter contains rules connected with tax avoidance.
- (2) In particular—
  - (a) for rules about unallowable purposes <sup>F1</sup>..., see sections 441 [<sup>F2</sup>and 442],
  - (b) for rules relating to credits and debits where transactions are not at arm's length (other than credits and debits relating to exchange gains and losses), see sections 444 to 446,
  - (c) for rules relating to credits and debits relating to exchange gains and losses where transactions are not at arm's length, see sections 447 to 452,
  - (d) for rules about connected parties deriving benefit from creditor relationships, see section 453,
  - (e) for rules dealing with tax advantages from resetting interest rates, see section 454, <sup>F3</sup>...

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- <sup>F4</sup>(f) .....
- <sup>F5</sup>(g) for rules about debits arising as a result of the derecognition of creditor relationships, see section 455A,]<sup>F6</sup>and
- (h) for rules dealing with tax avoidance arrangements, see sections 455B to 455D.]

#### Textual Amendments

- F1** Words in s. 440(2)(a) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 45\(a\)\(i\)](#)
- F2** Words in s. 440(2)(a) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 45\(a\)\(ii\)](#)
- F3** Word in s. 440(2)(e) omitted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 4 para. 4](#)
- F4** S. 440(2)(f) omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 45\(b\)](#)
- F5** S. 440(2)(g) and word inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 4 para. 4](#)
- F6** S. 440(2)(h) and word inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 45\(c\)](#)

### *Unallowable purposes and tax relief schemes*

#### 441 Loan relationships for unallowable purposes

- (1) This section applies if in any accounting period a loan relationship of a company has an unallowable purpose.
- (2) The company may not bring into account for that period for the purposes of this Part so much of any credit in respect of exchange gains from that relationship as on a just and reasonable apportionment is attributable to the unallowable purpose.
- (3) The company may not bring into account for that period for the purposes of this Part so much of any debit in respect of that relationship as on a just and reasonable apportionment is attributable to the unallowable purpose.

<sup>F7</sup>(3A) If—

- (a) a credit brought into account for that period for the purposes of this Part by the company would (in the absence of this section) be reduced, and
  - (b) the reduction represents an amount which, if it did not reduce a credit, would be brought into account as a debit in respect of that relationship,
- subsection (3) applies to the amount of the reduction as if it were an amount that would (in the absence of this section) be brought into account as a debit.]
- (4) An amount which would be brought into account for the purposes of this Part as respects any matter apart from this section is treated for the purposes of section 464(1) (amounts brought into account under this Part excluded from being otherwise brought into account) as if it were so brought into account.
  - (5) Accordingly, that amount is not to be brought into account for corporation tax purposes as respects that matter either under this Part or otherwise.

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- (6) For the meaning of “has an unallowable purpose” and “the unallowable purpose” in this section, see section 442.

#### Textual Amendments

- F7** S. 441(3A) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 46](#)

#### Modifications etc. (not altering text)

- C2** S. 441 excluded by 2010 c. 4, s. 938N (as inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 5 para. 2](#))
- C3** S. 441 excluded by 2010 c. 4, s. 938V(a) (as inserted (with effect in accordance with Sch. 20 para. 6 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 20 para. 3](#))

## 442 Meaning of “unallowable purpose”

- (1) For the purposes of section 441 a loan relationship of a company has an unallowable purpose in an accounting period if, at times during that period, the purposes for which the company—
- is a party to the relationship, or
  - enters into transactions which are related transactions by reference to it,
- include a purpose (“the unallowable purpose”) which is not amongst the business or other commercial purposes of the company.

[<sup>F8</sup>(1A) In subsection (1)(b) “related transaction”, in relation to a loan relationship, includes anything which equates in substance to a disposal or acquisition of the kind mentioned in section 304(1) (as read with section 304(2)).]

- (2) If a company is not within the charge to corporation tax in respect of a part of its activities, for the purposes of this section the business and other commercial purposes of the company do not include the purposes of that part.
- (3) Subsection (4) applies if a tax avoidance purpose is one of the purposes for which a company—
- is a party to a loan relationship at any time, or
  - enters into a transaction which is a related transaction by reference to a loan relationship of the company.
- (4) For the purposes of subsection (1) the tax avoidance purpose is only regarded as a business or other commercial purpose of the company if it is not—
- the main purpose for which the company is a party to the loan relationship or, as the case may be, enters into the related transaction, or
  - one of the main purposes for which it is or does so.
- (5) The references in subsections (3) and (4) to a tax avoidance purpose are references to any purpose which consists of securing a tax advantage for the company or any other person.

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#### Textual Amendments

- F8** S. 442(1A) inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 47](#)

### <sup>F9</sup>443 **Restriction of relief for interest where tax relief schemes involved**

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#### Textual Amendments

- F9** S. 443 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 48](#)

#### *Transactions not at arm's length: general*

### **444 Transactions not at arm's length: general**

- (1) If—
- (a) credits or debits in respect of a loan relationship of a company are to be brought into account for the purposes of this Part in respect of a related transaction, and
  - (b) that transaction is not a transaction at arm's length,
- those credits or debits are to be determined for the purposes of this Part in accordance with the independent terms assumption.
- (2) The independent terms assumption is that the transaction was entered into on the terms on which it would have been entered into between knowledgeable and willing parties dealing at arm's length.
- (3) This section is subject to section 445 (disapplication of this section where [<sup>F10</sup>Part 4 of TIOPA 2010] applies).
- (4) Subsection (1) does not apply to debits arising from the acquisition of rights under a loan relationship if those rights are acquired for less than market value.
- (5) In a case where the related transaction is a transaction within section 336(2) or part of a series of transactions within 336(3) (group transactions), subsection (1) does not apply if—
- (a) section 340 (group transfers and transfers of insurance business: transfer at notional carrying value) applies as a result of that transaction or, as the case may be, that series of transactions, or
  - (b) section 340 would so apply apart from section 341 (transferor using fair value accounting).
- (6) Subsection (1) does not apply to exchange gains or losses (but see sections 447 to 452).

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### Textual Amendments

- F10** Words in s. 444(3) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 132](#) (with [Sch. 9 paras. 1-9, 22](#))

### 445 Disapplication of section 444 where <sup>F11</sup>Part 4 of TIOPA 2010] applies

- (1) Section 444 does not apply, and <sup>F12</sup>Part 4 of TIOPA 2010] (provision not at arm's length) applies instead, to credits or debits in respect of amounts which—
- (a) fall to be adjusted for tax purposes under <sup>F13</sup>that Part], or
  - (b) are within <sup>F13</sup>that Part] without falling to be so adjusted (see subsection (3)).
- (2) Subsection (1) applies despite section 464 (amounts brought into account under this Part excluded from being otherwise brought into account), but is subject to—
- (a) section 340(7) (disapplication of <sup>F14</sup>Part 4 of TIOPA 2010] where group member replaces another as party to loan), and
  - (b) section 447(5) (disapplication of <sup>F15</sup>that Part] for exchange gains and losses).
- (3) For the purposes of subsection (1), an amount is within <sup>F16</sup>Part 4 of TIOPA 2010] without falling to be adjusted under it in a case where—
- <sup>F17</sup>(a) the condition in section 147(1)(a) of TIOPA 2010 is met,
    - (aa) the participation condition is met (see subsection (3A)), and]
    - (b) the actual provision does not differ from the arm's length provision.
- <sup>F18</sup>(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (3)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.]
- (4) For the way in which this Part applies where adjustments are made under <sup>F19</sup>Part 4 of TIOPA 2010,] see section 446.
- (5) In this section “the actual provision” and “the arm's length provision” have the same meaning as in <sup>F20</sup>Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act)].

### Textual Amendments

- F11** Words in s. 445 title substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(11\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F12** Words in s. 445(1) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F13** Words in s. 445(1)(a)(b) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(3\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F14** Words in s. 445(2)(a) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(4\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F15** Words in s. 445(2)(b) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(5\)](#) (with [Sch. 9 paras. 1-9, 22](#))

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- F16** Words in s. 445(3) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(6\)](#) (with Sch. 9 paras. 1-9, 22)
- F17** S. 445(3)(a)(aa) substituted for s. 445(3)(a) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(7\)](#) (with Sch. 9 paras. 1-9, 22)
- F18** S. 445(3A) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(8\)](#) (with Sch. 9 paras. 1-9, 22)
- F19** Words in s. 445(4) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(9\)](#) (with Sch. 9 paras. 1-9, 22)
- F20** Words in s. 445(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 133\(10\)](#) (with Sch. 9 paras. 1-9, 22)

#### **446 Bringing into account adjustments made under <sup>F21</sup>Part 4 of TIOPA 2010]**

- (1) This section deals with the credits and debits which are to be brought into account for the purposes of this Part as a result of <sup>F22</sup>Part 4 of TIOPA 2010] (provision not at arm's length) applying in relation to a company's loan relationships or related transactions.
- (2) Subsection (3) applies if under <sup>F23</sup>Part 4 of TIOPA 2010] an amount (“the imputed amount”) is treated as an amount of profits or losses arising to a company from any of its loan relationships or related transactions.
- (3) Credits or debits relating to the imputed amount are to be brought into account for the purposes of this Part to the same extent as they would be in the case of an actual amount of such profits or losses.
- (4) Subsection (5) applies if under <sup>F24</sup>Part 4 of TIOPA 2010] an amount is treated as interest payable under any of a company's loan relationships.
- (5) Credits or debits relating to that amount are to be brought into account for the purposes of this Part to the same extent as they would be in the case of an actual amount of such interest.
- (6) Subsection (7) applies if under <sup>F25</sup>Part 4 of TIOPA 2010] an amount is treated as expenses incurred by a company under or for the purposes of any of its loan relationships or related transactions.
- (7) Debits relating to the amount are to be brought into account for the purposes of this Part to the same extent as they would be in the case of an actual amount of such expenses.
- <sup>F26</sup>(8) No credit is to be brought into account for the purposes of this Part to the extent that it corresponds to an amount which, as a result of the preceding provisions of this section, has not previously been brought into account as a debit.]

#### **Textual Amendments**

- F21** Words in s. 446 title substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 134\(2\)](#) (with Sch. 9 paras. 1-9, 22)

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- F22** Words in s. 446(1) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 134\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F23** Words in s. 446(2) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 134\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F24** Words in s. 446(4) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 134\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F25** Words in s. 446(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 134\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F26** S. 446(8) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 3](#)

### *[<sup>F27</sup>Non-market loans*

#### **Textual Amendments**

- F27** S. 446A and cross-heading inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 2](#)

#### **446A Non-market loans**

- (1) This section applies as respects any accounting period if—
- a company has a debtor relationship in the period,
  - the amount recognised in the company's accounts in respect of the debt at the time the company became party to the debtor relationship was less than the transaction price,
  - credits in respect of the whole or part of the discount were not brought into account for the purposes of this Part, and
  - in a case where the creditor is a company, the non-qualifying territory condition is met.
- (2) The debits which are to be brought into account for the accounting period for the purposes of this Part by the debtor company in respect of the loan relationship are not to include debits relating to the relevant discount amount, to the extent that that amount is referable to the accounting period.
- (3) In this section “relevant discount amount” means—
- in a case where credits in respect of the whole of the discount were not brought into account for the purposes of this Part, an amount equal to the whole discount, and
  - in a case where credits in respect of part of the discount were not brought into account for the purposes of this Part, an amount equal to that part of the discount.
- (4) The non-qualifying territory condition referred to in subsection (1)(d) is that the creditor company is—
- resident for tax purposes in a non-qualifying territory at any time in the accounting period, or

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(b) effectively managed in a non-taxing non-qualifying territory at any such time.

(5) In this section—

“discount” means the difference between the two amounts referred to in subsection (1)(b);

“non-qualifying territory” has the meaning given in section 173 of TIOPA 2010;

“non-taxing non-qualifying territory” means a non-qualifying territory under whose law companies are not liable to tax by reason of domicile, residence or place of management;

“resident for tax purposes” means liable, under the law of the non-qualifying territory, to tax there by reason of domicile, residence or place of management.]

*Transactions not at arm's length: exchange gains and losses*

**447 Exchange gains and losses on debtor relationships: loans disregarded under [F28Part 4 of TIOPA 2010]**

(1) Subsections (2) and (3) apply if—

- (a) a company has a debtor relationship in an accounting period,
- (b) an exchange gain or loss arises in the period in respect of a liability representing the relationship, and
- (c) as a result of [F29section 147(3) or (5) of TIOPA 2010] (provision not at arm's length) the profits and losses of the company are calculated for tax purposes for the period as if—
  - (i) the loan had not been made, or
  - (ii) part of the loan had not been made.

(2) In a case where subsection (1)(c)(i) applies, the exchange gain or loss must be left out of account in determining the credits or debits to be brought into account for the purposes of this Part.

(3) In a case where subsection (1)(c)(ii) applies, a proportion of the exchange gain or loss must be left out of account in determining those credits or debits.

(4) That proportion is the proportion that the part of the loan that is treated as if it had not been made bears to the whole of the loan.

[F30(4A) If the debtor relationship is to any extent matched, subsections (2) and (3) apply to leave out of account only the lesser of—

- (a) the amount of the exchange gain or loss (in the case of subsection (2)) or the proportion of the exchange gain or loss (in the case of subsection (3)) which would be left out of account apart from this subsection, and
- (b) the amount of the exchange gain or loss arising in respect of a liability representing the debtor relationship to the extent that the debtor relationship is unmatched (an amount which may be nil).]

(5) Nothing in [F31Part 4 of TIOPA 2010] requires the amounts brought into account under this Part in respect of exchange gains or losses from loan relationships to be calculated on the assumption that the arm's length provision had been made instead of the actual provision.



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- (6) But subsection (5) does not affect the application of subsections (2) and (3) under subsection (1).
- (7) In this section “the arm's length provision” and “the actual provision” have the same meaning as in <sup>F32</sup>Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act)].

#### Textual Amendments

- F28** Words in s. 447 title substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 135\(5\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F29** Words in s. 447(1)(c) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 135\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F30** S. 447(4A) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 5](#)
- F31** Words in s. 447(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 135\(3\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F32** Words in s. 447(7) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 135\(4\)](#) (with [Sch. 9 paras. 1-9, 22](#))

#### 448 Exchange gains and losses on debtor relationships: equity notes where holder associated with issuer

- (1) This section applies if—
- (a) a company has a debtor relationship in an accounting period,
  - (b) an exchange gain or loss arises in the period in respect of a liability representing the relationship, and
  - (c) the whole of any interest or other distribution out of the assets of the company in respect of securities of the company which represent the relationship is regarded as a distribution because of <sup>F33</sup>section 1015(6) of CTA 2010] (equity notes held by company associated with issuer or by a funded company).
- (2) The exchange gain or loss must be left out of account in determining the credits or debits to be brought into account for the purposes of this Part.
- <sup>F34</sup>(3) If the debtor relationship is to any extent matched, subsection (2) applies to leave out of account only the amount of the exchange gain or loss arising in respect of a liability representing the debtor relationship to the extent that the debtor relationship is unmatched (an amount which may be nil).]

#### Textual Amendments

- F33** Words in s. 448(1)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 617](#) (with [Sch. 2](#))
- F34** S. 448(3) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 6](#)

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#### **449 Exchange gains and losses on creditor relationships: no corresponding debtor relationship**

- (1) This section applies if—
  - (a) a company has a creditor relationship in an accounting period, and
  - (b) an exchange gain or loss arises in the period in respect of an asset representing the relationship.
- (2) The exchange gain or loss must be left out of account in determining the credits or debits to be brought into account for the purposes of this Part if conditions A and B are met.
- (3) Condition A is that the transaction giving rise to the loan is such that it would not have been entered into at all if the parties had been dealing at arm's length.
- (4) Condition B is that there is no corresponding debtor relationship.
- [<sup>F35</sup>(4A) If the creditor relationship is to any extent matched, subsection (2) applies to leave out of account only the amount of the exchange gain or loss arising in respect of an asset representing the creditor relationship to the extent that the creditor relationship is unmatched (an amount which may be nil).]
- (5) For the meaning of “corresponding debtor relationship”, see section 450.
- (6) This section is subject to section 451 (exception to this section where loan exceeds arm's length amount).

##### **Textual Amendments**

**F35** S. 449(4A) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 7](#)

#### **450 Meaning of “corresponding debtor relationship”**

- (1) In section 449 “corresponding debtor relationship” means a debtor relationship which—
  - (a) corresponds to the creditor relationship mentioned in section 449(1), and
  - (b) is of such a kind that conditions A and B are met.
- (2) Condition A is that such credits as are mentioned in subsection (3) would fall to be brought into account for the purposes of this Part in respect of exchange gains from that debtor relationship.
- (3) Those credits are credits corresponding to, and of the same amount as, the debits that would fall to be so brought into account in respect of exchange losses from the creditor relationship apart from section 449.
- (4) Condition B is that such debits as are mentioned in subsection (5) would fall to be so brought into account in respect of exchange losses from that debtor relationship.
- (5) Those debits are debits corresponding to, and of the same amount as, the credits that would fall to be so brought into account in respect of exchange gains from the creditor relationship apart from section 449.

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- (6) In determining for the purposes of this section whether credits or debits would fall to be so brought into account, section [F36328(3) to (7)] (as a result of which some exchange gains and losses are excluded from this Part) is ignored.

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**Textual Amendments**

**F36** Words in s. 450(6) substituted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 49](#)

**451 Exception to section 449 where loan exceeds arm's length amount**

- (1) Section 449 does not apply if the circumstances are such that, had the parties to the relevant transaction been dealing at arm's length, the amount of the loan would have been an amount (“the arm's length amount”) greater than nil, but less than its actual amount.
- (2) Accordingly, an exchange gain or loss which arises in the accounting period in respect of an asset representing the creditor relationship is not required by that section to be left out of account.
- (3) But if—
- (a) the circumstances are as mentioned in subsection (1), and
  - (b) there is no corresponding debtor relationship,
- only a proportion of the exchange gain or loss may be taken into account in determining the credits or debits to be brought into account for the purposes of this Part.
- (4) That proportion is the proportion which the arm's length amount bears to the actual amount of the loan.
- [F37(4A) If the creditor relationship is to any extent matched, subsections (3) and (4) apply to leave out of account only the lesser of—
- (a) the proportion of the exchange gain or loss which would be left out of account apart from this subsection, and
  - (b) the amount of the exchange gain or loss arising in respect of an asset representing the creditor relationship to the extent that the creditor relationship is unmatched (an amount which may be nil).]

(5) In this section—

    - “corresponding debtor relationship” has the same meaning as in section 449 (see section 450), and
    - “the relevant transaction” means the transaction giving rise to the loan as a result of which the company has the creditor relationship in the accounting period in question.

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**Textual Amendments**

**F37** S. 451(4A) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 8](#)

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## 452 Exchange gains and losses where loan not on arm's length terms

- (1) This subsection applies if—
- (a) a company would be treated as having a debtor relationship in an accounting period if a claim were made under [<sup>F38</sup>section 192(1) of TIOPA 2010] in relation to that period, and
  - (b) for that period there is a connection between that company and the company that would have the corresponding creditor relationship.
- (2) If subsection (1) applies, it is assumed that such a claim is made for the purpose of determining the debits or credits to be brought into account for the purposes of this Part in respect of any exchange gains or losses arising in that period in respect of the liability representing that debtor relationship.
- [<sup>F39</sup>(3) Subsections (4) and (5) apply if, because of a claim made under section 192(1) of TIOPA 2010, or because of the claim that is assumed to be made under subsection (2) —
- (a) one company is treated for any purpose as having a debtor relationship, or
  - (b) more than one company is treated for any purpose as having a debtor relationship represented by the same liability.]
- (4) The total amount of the credits brought into account for the purposes of this Part in respect of exchange gains [<sup>F40</sup>from that debtor relationship (in a subsection (3)(a) case) or] from those debtor relationships [<sup>F41</sup>(in a subsection (3)(b) case)] must not exceed the total amount of the [<sup>F42</sup>exchange gains or the proportion of the exchange gains to be left out of account under section 447 by the issuing company in respect of the loan relationship].
- (5) The total amount of the debits brought into account for those purposes in respect of exchange losses [<sup>F43</sup>from that debtor relationship (in a subsection (3)(a) case) or] from those debtor relationships [<sup>F44</sup>(in a subsection (3)(b) case)] must not exceed the total amount of the [<sup>F45</sup>exchange losses or the proportion of the exchange losses to be left out of account under section 447 by the issuing company in respect of the loan relationship].
- [<sup>F46</sup>(5A) In this section “issuing company” is to be construed in accordance with section 191(1) (a) of TIOPA 2010.]
- (6) Section 466 (companies connected for an accounting period) applies for the purposes of this section.

### Textual Amendments

- F38** Words in s. 452(1)(a) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 136](#) (with [Sch. 9 paras. 1-9, 22](#))
- F39** S. 452(3) substituted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 9\(2\)](#)
- F40** Words in s. 452(4) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 9\(3\)\(a\)](#)
- F41** Words in s. 452(4) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 9\(3\)\(b\)](#)
- F42** Words in s. 452(4) substituted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 7 para. 9\(3\)\(c\)](#)

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- F43** Words in s. 452(5) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 9\(4\)\(a\)](#)
- F44** Words in s. 452(5) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 9\(4\)\(b\)](#)
- F45** Words in s. 452(5) substituted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 9\(4\)\(c\)](#)
- F46** S. 452(5A) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 7 para. 9\(5\)](#)

*Connected parties deriving benefit from creditor relationships*

**<sup>F47</sup>453 Connected parties deriving benefit from creditor relationships**

.....

**Textual Amendments**

- F47** S. 453 omitted (19.7.2011) (with effect in accordance with Sch. 5 para. 8(2)(3) of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 5 para. 8\(1\)](#)

*Tax advantages from resetting interest rates (“reset bonds”)*

**<sup>F48</sup>454 Application of fair value accounting: reset bonds etc**

.....

**Textual Amendments**

- F48** Ss. 454, 455 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 50](#)

*Disposals for consideration not fully recognised by accounting practice*

**<sup>F48</sup>455 Disposals for consideration not fully recognised by accounting practice**

.....

**Textual Amendments**

- F48** Ss. 454, 455 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 50](#)

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## *[<sup>F49</sup>Derecognition*

### Textual Amendments

**F49** S. 455A and cross-heading inserted (19.7.2011) (with effect in accordance with Sch. 4 para. 13 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 4 para. 5](#)

### **455A Debits arising from derecognition of creditor relationships**

- (1) This section applies where—
  - (a) a company is at any time a party to tax avoidance arrangements,
  - (b) as a result of those arrangements, a creditor relationship to which the company is party, or any part of such a relationship, is (in accordance with generally accepted accounting practice) derecognised by the company, and
  - (c) the company continues to be a party to the creditor relationship immediately after the transaction or other event giving rise to the derecognition.
- (2) No debit that would apart from this section be brought into account by the company for the purposes of this Part as a result of the derecognition is to be so brought into account.
- (3) An amount that would be brought into account for the purposes of this Part as respects any matter apart from this section—
  - (a) is treated for the purposes of section 464(1) (priority of this Part for corporation tax purposes) as if it were so brought into account, and
  - (b) accordingly, may not be brought into account for any other corporation tax purposes as respects that matter.
- (4) For the purposes of this section a company is to be treated as a party to a creditor relationship even though it has disposed of its rights under the relationship to another person—
  - (a) under a repo or stock lending arrangement, or
  - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).
- (5) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.
- (6) In subsection (5) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.]

## *[<sup>F50</sup>Counteracting avoidance arrangements*

### Textual Amendments

**F50** Ss. 455B-455D and cross-heading inserted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 7 para. 51](#)

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#### **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—
  - (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;

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- (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.
- (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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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)