

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 4

ACCOUNTING PRACTICE AND RELATED MATTERS

PART 1

BAD DEBTS AND RELATED MATTERS

ICTA

- 1 In section 74 of ICTA (general rules as to deductions not allowable), omit subsection (1)(j) and subsection (2) (bad debts and related matters).
- 2 Before section 89 of ICTA insert—

Restriction of deductions in respect of certain debts

“88D(1) This section applies to debts to which the following provisions do not apply—

- (a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships, etc);
- (b) Schedule 26 to the Finance Act 2002 (derivative contracts);
- (c) Schedule 29 to that Act (intangible fixed assets).

(2) In calculating the profits of a company's trade for the purposes of corporation tax, no deduction is allowed in respect of a debt owed to the company, except—

- (a) by way of impairment loss, or
- (b) to the extent that the debt is released wholly and exclusively for the purposes of that trade as part of a statutory insolvency arrangement.

(3) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.

(4) In this section “trade” has the meaning given by section 6(4).”.

- 3 (1) Section 89 of ICTA (debts proving to be irrecoverable after discontinuance etc) is amended as follows.
- (2) In that section as it had effect before ITTOIA 2005—
- (a) make the existing provision subsection (1),
 - (b) for “deduction allowed in respect of them under section 74(j)” substitute “relevant deduction in respect of them”, and
 - (c) at the end add—

“(2) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

The references to a debt being irrecoverable shall be read accordingly.

(3) For the purposes of this section “relevant deduction”, in relation to a debt, means a deduction made for tax purposes in respect of an impairment loss or release.”.

(3) In that section as substituted by ITTOIA 2005—

(a) in subsection (3), for the words from “deduction allowed” to “ITTOIA 2005” substitute “ relevant deduction in respect of them ”, and

(b) after that subsection add—

“(4) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.

The references to a debt being irrecoverable shall be read accordingly.

(5) For the purposes of this section “relevant deduction”, in relation to a debt, means a deduction made for tax purposes in respect of an impairment loss or release.”.

4 (1) Section 94 of ICTA (debts deducted and subsequently released) is amended as follows.

(2) In subsection (1) for “relevant arrangement or compromise” substitute “ statutory insolvency arrangement ”.

(3) Omit subsection (2).

5 (1) Section 103 of ICTA (receipts after discontinuance) is amended as follows.

(2) In subsection (4)(b) for “relevant arrangement or compromise” substitute “ statutory insolvency arrangement ”.

(3) Omit subsection (4A).

(4) In subsection (5) as it had effect before ITTOIA 2005 for “a deduction has been allowed in respect of that sum under section 74(j)” substitute “ a deduction has been made for tax purposes in respect of an impairment loss or a release of liability ”.

(5) In subsection (5) as amended by ITTOIA 2005 for “a deduction has been allowed in respect of that sum under section 74(j) or section 35 of ITTOIA 2005” substitute “ a deduction has been made for tax purposes in respect of an impairment loss or a release of liability ”.

6 ^{F1}

Textual Amendments
F1 Sch. 4 para. 6 repealed (retrospectively) by Finance (No. 2) Act 2005 (c. 22), Sch. 6 para. 4(1)(6), Sch. 11 Pt. 2(6)

7 In section 799 of ICTA (double taxation relief: computation of underlying loss), in subsection (6)(b) after “bad debts” insert “ , impairment losses ”.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

8 In section 834(1) of ICTA (interpretation of the Corporation Tax Acts), at the appropriate place insert—

““statutory insolvency arrangement” means—

- (a) a voluntary arrangement that has taken effect under or as a result of the Insolvency Act 1986, Schedule 4 or 5 to the Bankruptcy (Scotland) Act 1985 or the Insolvency (Northern Ireland) Order 1989,
- (b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986, or
- (c) any arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) above that has taken effect under or by virtue of the law of a country or territory outside the United Kingdom;”.

FA 1996

9 (1) Section 100 of FA 1996 (interest, and exchange gains and losses, on debts etc not arising from the lending of money) is amended as follows.

(2) For the heading substitute “ **Money debts etc not arising from the lending of money** ”.

(3) In subsection (1)(c) (money debts to which the section applies), after subparagraph (ii) insert—

“or

(iii) in respect of which a payment would fall to be brought into account for the purposes of corporation tax as a receipt of a trade, Schedule A business or overseas property business carried on by the company, and in relation to which an impairment loss (or a credit in respect of the reversal of an impairment loss) arises to the company;”.

(4) In subsection (2) for paragraphs (a) and (b) substitute—

- “(a) this Chapter has effect in relation to the matters mentioned in subsection (1)(c) above as it has effect in relation to such matters arising under or in relation to a loan relationship, but
- (b) the only credits or debits to be brought into account for the purposes of this Chapter in respect of the relationship are those relating to those matters;”.

(5) After subsection (13) add—

“(14) This section does not apply to a debt in respect of which profits, gains or losses (if any) fall to be brought into account under—

- (a) Schedule 26 to the Finance Act 2002 (derivative contracts), or
- (b) Schedule 29 to that Act (gains and losses from intangible fixed assets).”.

Status: Point in time view as at 07/04/2005.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2005, Part 1. (See end of Document for details)*

- 10 (1) In Schedule 9 to FA 1996 (loan relationships: special computational provisions), before paragraph 5 insert—

“Deemed release of liability on impaired debt becoming held by connected company

- 4A (1) This paragraph applies—
- (a) in the case specified in sub-paragraph (2), subject to the exception in sub-paragraph (3); and
 - (b) in the case specified in sub-paragraph (4).
- (2) The first case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
 - (b) another company (“the creditor company”) becomes party as creditor to the loan relationship,
 - (c) the debtor company and the creditor company—
 - (i) are connected immediately before the latter becomes party to the loan relationship, or
 - (ii) become connected as a result of its doing so, and
 - (d) the amount remaining payable under the debtor relationship at the time the creditor company becomes party to the loan relationship exceeds the amount or value of any consideration given by the creditor company for its rights under the loan relationship.
- (3) The exception to the first case is where—
- (a) the creditor company acquires its rights under the loan relationship under an arm's length transaction,
 - (b) there was no connection between the creditor company and the person from whom it acquired the asset in the period of account in which it acquired those rights, and
 - (c) there had been no connection between the creditor company and the debtor company at any time in the period—
 - (i) beginning four years before the date on which the creditor company acquired those rights, and
 - (ii) ending twelve months before that date.
- (4) The second case is where—
- (a) a company (“the debtor company”) is party as debtor to a loan relationship,
 - (b) another company (“the creditor company”) that—
 - (i) is party to the loan relationship as creditor, and
 - (ii) is not connected with the debtor company,
becomes connected with the debtor company, and
 - (c) the amount remaining payable under the debtor relationship at the time the companies become connected exceeds its value.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

Its “value” means the amount that would have been its carrying value in the accounts of the creditor company if a period of account had ended immediately before the companies became connected.

(5) Where this paragraph applies there is deemed to be a release by the creditor company of its rights under the loan relationship.

(6) In the first case the release is deemed to be of the amount of the excess referred to in sub-paragraph (2)(d) and to take place when the creditor company acquires its rights under the loan relationship.

(7) In the second case the release is deemed to be of the amount of the excess referred to in sub-paragraph (4)(c) and to take place when the creditor company becomes connected with the debtor company.”.

(2) The amendment in sub-paragraph (1) has effect where the deemed release occurs on or after 16th March 2005.

11 (1) Paragraph 5 of Schedule 9 to FA 1996 (release of liability under debtor relationship) is amended as follows.

(2) In the heading, at the end add “ : *cases in which credit need not be brought into account* ”.

(3) In sub-paragraph (3) for “four” substitute “ five ”.

(4) In sub-paragraph (4) for “relevant arrangement or compromise within the meaning given by section 74(2) of the Taxes Act 1988” substitute “ statutory insolvency arrangement ”.

(5) In sub-paragraph (5) at the end add— “ This condition does not apply in the case of a credit required to be brought into account by virtue of paragraph 4A (deemed release on impaired debt becoming held by connected company). ”.

(6) After sub-paragraph (7) insert—

“(8) Condition 5 is that the release is in consideration of, or of any entitlement to, shares forming part of the ordinary share capital of the debtor company.”.

12 After paragraph 5 of Schedule 9 to FA 1996 insert—

*“Release of liability under creditor relationship:
application of provisions relating to impairment losses*

5ZA The provisions of—

- (a) paragraph 5A (impairment losses and consortium relief), and
- (b) paragraphs 6, 6A and 6C (restrictions on bringing impairment losses into account),

apply in relation to a debit in respect of a release by a company of liability under a creditor relationship of the company as they apply in relation to an impairment loss.”.

13 (1) Paragraph 6 of Schedule 9 to FA 1996 (impairment losses where parties have a connection) is amended as follows.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

- (2) In sub-paragraph (2) for “sub-paragraphs (3) to (6) and paragraphs 6A and 6B” substitute “ sub-paragraph (3) (and the provisions mentioned there) and sub-paragraph (6) ”.
- (3) In sub-paragraph (3) for paragraphs (a) to (c) substitute—
 “(a) sub-paragraph (4) below, or
 (b) paragraph 6A.”.
- (4) For sub-paragraphs (6) and (7) substitute—
 “(6) Where in any period a related transaction takes place in relation to the loan relationship—
 (a) the debits brought into account for that period in respect of the relationship must not be more than they would have been if the transaction had not taken place, and
 (b) the credits brought into account for that period in respect of the relationship must not be less than they would have been if the transaction had not taken place.
 (7) In determining for the purposes of sub-paragraph (6) the debits and credits that would have been brought into account if the related transaction had not taken place, no account shall be taken of any amounts that would have accrued at times after the transaction took place.”.
- (5) The amendments in this paragraph have effect in relation to any related transaction taking place on or after 2nd December 2004.
- 14 Omit paragraph 6B of Schedule 9 to FA 1996 (impairment losses: companies becoming connected).
- 15 In paragraph 6C of Schedule 9 to FA 1996—
 (a) in sub-paragraph (1), for “sub-paragraphs (2) and (3) below shall apply” substitute “ sub-paragraph (3) applies ”, and
 (b) omit sub-paragraph (2).
- 16 After paragraph 6C of Schedule 9 to FA 1996 insert—

“Restriction on bringing into account debits resulting from revaluation

- 6D (1) No debit shall be brought into account for the purposes of this Chapter as a result of the revaluation of an asset representing a creditor relationship of a company, except—
 (a) an impairment loss, or
 (b) a debit resulting from a release by the company of any liability under the relationship.
- (2) No credit may be brought into account for the purposes of this Chapter in respect of the reversal of—
 (a) a debit disallowed by sub-paragraph (1),
 (b) a debit that in a period of account beginning before 1st January 2005 was disallowed for tax purposes—
 (i) because of the assumption required by paragraph 5(1) above, or

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

- (ii) because the exceptions in section 74(1)(j) of the Taxes Act 1988 did not apply.
- (3) The reference in sub-paragraph (1) to revaluation of an asset includes any case where a provision or allowance is made by the company reducing the carrying value of the asset or of a group of assets including the asset in question.
- (4) This paragraph does not affect the debits to be brought into account in respect of exchange gains or losses.
- (5) This paragraph does not apply if fair value accounting is used.”.
- 17 (1) The following provisions of Schedule 9 to FA 1996 shall cease to have effect—
- (a) paragraph 8 (restriction on writing off overseas sovereign debt etc.);
- (b) paragraph 9 (restriction on bringing into account losses on overseas sovereign debt etc.).
- (2) Where at the end of the last period of account of a company before sub-paragraph (1) (a) has effect—
- (a) the company is one to which a relevant overseas debt (within the meaning of paragraph 8) is owed, and
- (b) the effect of that paragraph (or a corresponding earlier enactment) having applied is that the aggregate amount of the debits (less any credits) brought into account by the company for tax purposes in respect of the loan relationship over the period for which the company has been party to it is less than would otherwise have been the case,
- the balance may be brought into account for the purposes of Chapter 2 of Part 4 of FA 1996 (loan relationships) as a debit in the company's next period of account.
- (3) Where at the end of the last period of account of a company before sub-paragraph (1) (b) has effect—
- (a) the company has ceased to be a party to a loan relationship, and
- (b) the effect of paragraph 9 (or a corresponding earlier enactment) is that part of the loss arising has not been brought into account for tax purposes,
- nothing in this paragraph prevents any debit that could have been brought into account for the purposes of Chapter 2 of Part 4 of FA 1996 (loan relationships) under paragraph 9(4) and (5) in a subsequent period of account from being so brought into account.

FA 1997

- 18 (1) Schedule 12 to FA 1997 (leasing arrangements: finance leases and loans) is amended as follows.
- (2) In paragraph 9(7) (relief for bad debts etc: cumulative accountancy rental excess), for the definition of “bad debt deduction” substitute—
- ““bad debt deduction”, in relation to a period of account, means the aggregate of any deductions falling to be made for accounting purposes for that period by way of impairment loss in respect of rents from the lease of the asset;”.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Part 1. (See end of Document for details)

- (3) In paragraph 10(7) (relief for bad debts etc: cumulative normal rental excess), for the definition of “bad debt deduction” substitute—

““bad debt deduction”, in relation to a period of account, means the aggregate of any deductions falling to be made for accounting purposes for that period by way of impairment loss in respect of rents from the lease of the asset;”.

Schedule 26 to FA 2002

- 19 In paragraph 22(5) of Schedule 26 to FA 2002 (derivative contracts release of liability) for “relevant arrangement or compromise within the meaning given by section 74(2) of the Taxes Act 1988” substitute “ statutory insolvency arrangement ”.

Schedule 29 to FA 2002

- 20 (1) In Schedule 29 to FA 2002 (gains and losses of a company from intangible fixed assets), paragraph 115 (bad debts etc) is amended as follows.

- (2) For sub-paragraph (1) substitute—

“(1) No debit may be brought into account for the purposes of this Schedule in respect of a debt owed to the company, except—

- (a) by way of impairment loss, or
 (b) to the extent that the debt is released as part of a statutory insolvency arrangement.”.

- (3) Omit sub-paragraph (2).

- (4) In sub-paragraph (3) for “sub-paragraph (1)(c)” substitute “ sub-paragraph (1)(b) ”.

- (5) After sub-paragraph (5) insert—

“(6) In this paragraph “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.”.

Status:

Point in time view as at 07/04/2005.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2005, Part 1.