

Status: Point in time view as at 19/07/2006.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Cross
Heading: Deemed interest: cash collateral under stock lending arrangements. (See end of Document for details)*

SCHEDULES

SCHEDULE 6

AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

Deemed interest: cash collateral under stock lending arrangements

- 3 (1) After section 736B of ICTA (deemed manufactured payments in the case of stock lending arrangements) insert—

“736C Deemed interest: cash collateral under stock lending arrangements

- (1) This section applies where—
- the borrower under a stock lending arrangement is treated under section 736B(2) as paying under that arrangement an amount representative of interest on any securities (“the relevant securities”),
 - an amount of money (“cash collateral”) is payable to or for the benefit of the lender for the purpose of securing the discharge of the requirement to transfer the relevant securities back to the lender,
 - the stock lending arrangement is designed to produce a return to the borrower which equates, in substance, to the return on an investment of money at interest, and
 - the main purpose, or one of the main purposes, of the stock lending arrangement is the obtaining of a tax advantage.
- (2) Where this section applies—
- the Tax Acts are to apply as if the borrower receives an amount of interest payable in respect of the cash collateral, and
 - the amount of the interest is calculated in accordance with the following provisions of this section (see, in particular, subsections (3) to (7)).
- (3) The interest is treated for the purposes of the Tax Acts as if it were received on the date (“the return date”) on which the borrower transfers the relevant securities back to the lender.
- (4) The interest is treated for the purposes of the Tax Acts as if it were payable in respect of the period (“the interest period”)—
- beginning with the date on which the lender transfers the relevant securities to the borrower, and
 - ending with the return date.
- (5) The rate of interest payable in respect of the cash collateral is a rate that is reasonably comparable to the rate that the borrower could obtain by placing the cash collateral on deposit for the interest period.

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- (6) For the purposes of this section, the amount of the cash collateral on which the interest is payable is taken to be—
- (a) in any case where the amount of the cash collateral varies at any time on or before the return date, the highest amount of the cash collateral at any time on or before the return date, and
 - (b) in any other case, the amount of the cash collateral as at the return date.
- (7) The amount of the interest which the borrower is treated as receiving in respect of the cash collateral for the interest period is reduced (but not below nil) by any interest which the borrower actually receives in respect of that collateral for that period.
- (8) If the borrower is a person within the charge to income tax, the interest which the borrower is treated as receiving is charged to income tax under Chapter 2 of Part 4 of ITTOIA 2005 (interest).
- (9) If the borrower is a company within the charge to corporation tax—
- (a) the interest which the borrower is treated as receiving is treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) as payable to it on a money debt,
 - (b) that money debt is treated for those purposes as a relationship to which section 100 of the Finance Act 1996 applies (money debts etc not arising from the lending of money), and
 - (c) the credits to be brought into account for those purposes in respect of the interest must be determined using an amortised cost basis of accounting.
- (10) The fact that the borrower is treated as receiving an amount of interest is not to be taken as implying that the interest is payable by the lender or any other person.
- (11) For the purposes of this section—
- “money” includes money expressed in a currency other than sterling,
 - “stock lending arrangement” and “securities” have the same meanings as in section 263B of the 1992 Act,
 - “tax advantage” has the meaning given by section 709(1).
- (12) For the purposes of this section—
- (a) any reference to the transfer of securities back has the same meaning as in section 263B of the 1992 Act (see, in particular, sections 263B(5) and 263C(1) of that Act), but
 - (b) if it becomes apparent that the borrower will not comply with the requirement to transfer any securities back, the borrower is treated as if he transfers them back on the date on which it becomes so apparent.
- (13) For the purposes of this section it does not matter—
- (a) whether the cash collateral is payable by the borrower or by any other person,

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- (b) whether the cash collateral is payable under the stock lending arrangement or under any other arrangement,
 - (c) whether collateral in another form is also provided in connection with the stock lending arrangement.”.
- (2) Section 736C of ICTA has effect in relation to any stock lending arrangement made on or after 5th December 2005.
- (3) In relation to any stock lending arrangement made on or after that date but before 22nd March 2006, that section has effect as if subsection (6) were omitted.
- (4) If—
 - (a) a stock lending arrangement was made before 5th December 2005 in respect of any securities (“the original securities”), and
 - (b) on or after that date the lender under the stock lending arrangement transfers securities (“the substituted securities”) in substitution for some or all of the original securities,section 736C of ICTA has effect as if that arrangement were made on the date of the substitution (and the substituted securities were the relevant securities).

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