
Changes to legislation: Finance Act 2009, SCHEDULE 13 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 13

Section 32

CHARGEABLE GAINS IN STOCK LENDING: INSOLVENCY ETC OF BORROWER

- 1 TCGA 1992 is amended as follows.
- 2 (1) Section 263B (stock lending arrangements) is amended as follows.
- (2) In subsection (2), for “section 263C(2)” substitute “ sections 263C(2) and 263CA(3) and (5) ”.
- (3) In subsection (4)—
- (a) in paragraph (a), insert at the end “for a consideration equal to their market value at that time”,
 - (b) in paragraph (b), after “at that time” insert “ for that consideration ”, and
 - (c) insert at the end (not as part of paragraph (c))— “ This subsection does not apply where section 263CA (insolvency of borrower) applies. ”
- (4) In subsection (7), omit the definition of “interest”.
- 3 After section 263C (stock lending involving redemption) insert—

“263CA Stock lending: insolvency etc of borrower

- (1) This section applies where, in the case of any stock lending arrangement—
- (a) the borrower (B) becomes insolvent after the lender (L) has transferred the securities,
 - (b) as a result of the insolvency, the requirement for B to make a transfer back to L will not be complied with as regards some or all of the securities,
 - (c) collateral is used (whether directly or indirectly) to enable L to acquire securities (“replacement securities”) of the same description as the securities which will not be transferred back, and
 - (d) the replacement securities are acquired before the end of the period of 30 days beginning with the day on which B becomes insolvent (“the insolvency date”).
- (2) In accordance with section 263B(2), the transfer of the securities under the arrangement is not to be regarded as a disposal by L for the purposes of this Act (but this is subject to subsection (5)).
- (3) B is to be treated for the purposes of this Act as having acquired the securities which will not be transferred back to L; and that acquisition is to be treated—
- (a) as being made on the insolvency date, and
 - (b) as being for a consideration equal to their market value on that date.
- (4) The acquisition of the replacement securities is to be treated, as regards L, as if it were a transfer back of securities in accordance with the arrangement

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(so that, in accordance with section 263B(2), that acquisition is not regarded as an acquisition by L for the purposes of this Act).

- (5) If the number of replacement securities is less than the number of securities which B is treated as having acquired, L is to be treated for the purposes of this Act as having made a disposal, at the insolvency date, of the difference (“the deemed disposal”).
- (6) The consideration for the deemed disposal is—
 - (a) where all the collateral is used to enable L to acquire replacement securities, nil, and
 - (b) where not all the collateral is so used, the difference between—
 - (i) the market value (at the insolvency date) of the number of securities which could have been acquired using the collateral, and
 - (ii) the market value (at that date) of the number of securities which were in fact so acquired.
- (7) But if L at any time receives any amount (whether arising out of B's insolvency or otherwise) in respect of B's liability to L in respect of the securities which are treated under subsection (5) as having been disposed of by L that amount is to be treated as a chargeable gain accruing at that time to L.
- (8) The liability mentioned in subsection (7) is not to be treated as giving rise to a relevant non-lending relationship for the purposes of Part 6 of CTA 2009 (relationships treated as loan relationships etc).
- (9) For the purposes of this section, B becomes insolvent—
 - (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
 - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
 - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
 - (d) if an individual voluntary arrangement takes effect under Part 8 of that Act,
 - (e) on the presentation of a bankruptcy petition (within the meaning of Part 9 of that Act),
 - (f) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
 - (g) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
 - (h) if a bank administration order takes effect under Part 3 of that Act, or
 - (i) on the occurrence of any corresponding event which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (10) In this section—
 - (a) “collateral” means an amount of money or other property which—

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- (i) is provided under the arrangement (or under arrangements of which the arrangement forms part), and
 - (ii) is payable to or made available for the benefit of L for the purpose of securing the discharge of the requirement to transfer any or all of the securities back to L, and
 - (b) any expression used in this section and in section 263B has the same meaning as in that section.”
- 4 (1) The amendments made by paragraphs 2(2) and (3)(c) and 3 apply—
 - (a) in any case where B becomes insolvent on or after 24 November 2008, and
 - (b) where L makes an election under this paragraph, in any case where B becomes insolvent in the period beginning on 1 September 2008 and ending on 23 November 2008.
- (2) An election under sub-paragraph (1)(b) must relate to all stock lending arrangements in which L is the lender and B is the borrower and must be made—
 - (a) where L is a company (within the meaning given by section 288(1) of TCGA 1992), no later than the second anniversary of the end of the accounting period of L in which 23 November 2008 falls, and
 - (b) otherwise, no later than 31 January 2011.
- (3) Where section 263CA (inserted by paragraph 3) applies to any case which occurs before a period for which CTA 2009 has effect, the reference in subsection (8) of that section to a relevant non-lending relationship for the purposes of Part 6 of that Act is to be read as a reference to a relationship to which section 100 of FA 1996 applies.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

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

- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 54A para. 2(e)-(g) omitted by [2024 c. 3 Sch. 2 para. 13](#)
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)