

SCHEDULES

SCHEDULE 15

TAX TREATMENT OF FINANCING COSTS AND INCOME

PART 7

“FINANCING EXPENSE AMOUNT” AND “FINANCING INCOME AMOUNT”

The financing expense amounts of a company

- 54 (1) References in this Schedule to a “financing expense amount” of a company for a period of account of the worldwide group are to any amount that meets condition A, B or C.
- (2) Condition A is that the amount is a debit that—
- (a) would, apart from this Schedule, be brought into account in a relevant accounting period of the company,
 - (b) would be so brought into account in respect of a loan relationship—
 - (i) under Part 3 of CTA 2009 by virtue of section 297 of that Act (loan relationships for purposes of trade), or
 - (ii) under Part 5 of that Act (other loan relationships), and
 - (c) is not an excluded debit.
- (3) A debit is “excluded” if it is in respect of—
- (a) an impairment loss,
 - (b) an exchange loss, or
 - (c) a related transaction.
- (4) Condition B is that the amount is an amount that would, apart from this Schedule, be brought into account for the purposes of corporation tax in a relevant accounting period of the company in respect of the financing cost implicit in payments made under finance leases.
- (5) Condition C is that the amount is an amount that would, apart from this Schedule, be brought into account for the purposes of corporation tax in a relevant accounting period of the company in respect of the financing cost payable on debt factoring, or any similar transaction.
- (6) In a case where—
- (a) a debit or other amount would, apart from this Schedule, be brought into account in an accounting period, and
 - (b) a proportion of that period does not fall within the period of account of the worldwide group,
- the debit or other amount is to be reduced, for the purposes of this paragraph, by the same proportion.

Status: This is the original version (as it was originally enacted).

(7) This paragraph is subject to paragraphs 57 to 68.

The financing income amounts of a company

- 55 (1) References in this Schedule (except in Part 5 and paragraph 52) to a “financing income amount” of a company for a period of account of the worldwide group are to any amount that meets condition A, B or C.
- (2) Condition A is that the amount is a credit that—
- (a) would, apart from this Schedule, be brought into account in a relevant accounting period of the company,
 - (b) would be so brought into account in respect of a loan relationship—
 - (i) under Part 3 of CTA 2009 by virtue of section 297 of that Act (loan relationships for purposes of trade), or
 - (ii) under Part 5 of that Act (other loan relationships), and
 - (c) is not an excluded credit.
- (3) A credit is “excluded” if it is in respect of—
- (a) the reversal of an impairment loss,
 - (b) an exchange gain, or
 - (c) a profit from a related transaction.
- (4) Condition B is that the amount is an amount that would, apart from this Schedule, be brought into account for the purposes of corporation tax in a relevant accounting period of the company in respect of the financing income implicit in amounts received under finance leases.
- (5) Condition C is that the amount is an amount that would, apart from this Schedule, be brought into account for the purposes of corporation tax in a relevant accounting period of the company in respect of the financing income receivable on debt factoring, or any similar transaction.
- (6) In a case where—
- (a) a credit or other amount would, apart from this Schedule, be brought into account in an accounting period, and
 - (b) a proportion of that period does not fall within the period of account of the worldwide group,
- the credit or other amount is to be reduced, for the purposes of this paragraph, by the same proportion.
- (7) This paragraph is subject to paragraphs 57 to 68.

Interpretation of paragraphs 54 and 55

- 56 In paragraphs 54 and 55 the following expressions have the same meaning as they have in Part 5 of the Corporation Tax Act 2009 (loan relationships)—
- “exchange gain” and “exchange loss”;
 - “impairment”;
 - “impairment loss”;
 - “related transaction”.

Group treasury companies

- 57 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is—
- (a) a financing expense amount of a group treasury company by virtue of meeting condition A, B or C in paragraph 54, or
 - (b) a financing income amount of a group treasury company by virtue of meeting condition A, B or C in paragraph 55.
- (2) The relevant amount, and all other amounts that are relevant amounts in respect of the group treasury company and the relevant period, are treated as not being a financing expense amount or a financing income amount of the group treasury company, but only if that company makes an election for the purposes of this paragraph in respect of the relevant period.
- (3) An election under this paragraph must be made within 3 years after the end of the relevant period.
- (4) If two or more members of the worldwide group are group treasury companies in the relevant period, an election under this paragraph made by any of them is not valid unless each of them makes such an election in respect of the relevant period before the end of the 3 year period mentioned in sub-paragraph (3).
- (5) A company is a group treasury company in the relevant period if the following conditions are met.
- (6) The first condition is that the company is a member of the worldwide group.
- (7) The second condition is that the company undertakes treasury activities for the worldwide group in the relevant period (whether or not it also undertakes other activities).
- (8) The third condition is that—
- (a) if the company is the only company to meet the first and second conditions in the relevant period, or the only other companies to meet those conditions are not UK group companies, at least 90% of the relevant income of the company for the relevant period is group treasury revenue, or
 - (b) if the company and one or more other companies each of which is a UK group company meet the first and second conditions in the relevant period, at least 90% of the aggregate relevant income of those companies for the relevant period is group treasury revenue.
- (9) For the purposes of this paragraph a company undertakes treasury activities for the worldwide group in the relevant period if, in that period, it does one or more of the following things in relation to, or on behalf of, the worldwide group or any of its members—
- (a) managing surplus deposits of money or overdrafts,
 - (b) making or receiving deposits of money,
 - (c) lending money,
 - (d) subscribing for or holding shares in another company which is a UK group company and a group treasury company,
 - (e) investing in debt securities, and
 - (f) hedging assets, liabilities, income or expenses.

Status: This is the original version (as it was originally enacted).

- (10) For the purposes of this paragraph “group treasury revenue”, in relation to a company, means revenue—
- (a) arising from the treasury activities that the company undertakes for the worldwide group, and
 - (b) accounted for as such under generally accepted accounting practice; before any deduction (whether for expenses or otherwise).
- (11) But revenue consisting of a dividend or other distribution is not group treasury revenue unless it is a dividend or distribution from a company that is, in the relevant period—
- (a) a UK group company, and
 - (b) a group treasury company.
- (12) In this paragraph—
- “debt security” has the same meaning as in the FSA Handbook;
 - “relevant income”, in relation to a company, means income—
 - (a) arising from the activities of the company, and
 - (b) accounted for as such under generally accepted accounting practice, before any deduction (whether for expenses or otherwise);
 - “relevant period” means the period of account of the worldwide group to which the relevant amount relates.

Real estate investment trusts

- 58 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is—
- (a) a financing expense amount of a company by virtue of meeting condition A in paragraph 54, or
 - (b) a financing income amount of a company by virtue of meeting condition A in paragraph 55.
- (2) The relevant amount is treated as not being a financing expense amount or a financing income amount of the company if the finance arrangement is one to which section 211 of CTA 2009 does not apply by virtue of section 120(3)(a) of FA 2006.

Companies engaged in oil extraction activities

- 59 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is—
- (a) a financing expense amount of a company by virtue of meeting condition A or condition B in paragraph 54, or
 - (b) a financing income amount of a company by virtue of meeting condition A or condition B in paragraph 55.
- (2) The relevant amount is treated as not being a financing expense amount or a financing income amount of the company if the following conditions are met.
- (3) The first condition is that the company is treated, in the accounting period in which the amount is brought into account, as carrying on a ring fence trade (see section 502 of ICTA).

- (4) The second condition is that the amount falls to be brought into account in calculating the profits of that trade for that accounting period.

Intra-group short-term finance: financing expense

- 60 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is a financing expense amount of a company (“company A”) by virtue of meeting condition A in paragraph 54.
 - (2) The relevant amount is treated as not being a financing expense amount of company A, but only if an election is made for this purpose.
 - (3) Such an election may not be made unless the following conditions are met.
 - (4) The first condition is that company A and the other party to the loan relationship (“company B”) are both members of the worldwide group.
 - (5) The second condition is that the finance arrangement is a short-term loan relationship as respects the period of account of the worldwide group.
 - (6) An election under this paragraph may only be made—
 - (a) jointly by company A and company B, and
 - (b) within 36 months of the end of the period of account of the worldwide group to which the relevant amount relates.
 - (7) An election under this paragraph is irrevocable.
 - (8) In this paragraph “short-term loan relationship” has the meaning given in paragraph 62.

Intra-group short-term finance: financing income

- 61 (1) This paragraph applies where—
 - (a) under paragraph 60, the relevant amount is treated as not being a financing expense amount of company A, and
 - (b) apart from this paragraph, the relevant amount is a financing income amount of company B by virtue of meeting condition A in paragraph 55.
- (2) The relevant amount is treated as not being a financing income amount of company B.
- (3) In this paragraph “company A” and “company B” have the same meanings as in paragraph 60.

Short-term loan relationships

- 62 (1) For the purposes of paragraph 60 the finance arrangement is a short-term loan relationship as respects the period of account of the worldwide group (“the relevant period”) if—
 - (a) regulations made by the Commissioners provide for it to be so, or
 - (b) one or other of the following conditions is met.
- (2) The first condition is that the finance arrangement does not terminate during the relevant period and—

Status: This is the original version (as it was originally enacted).

- (a) to the extent that the finance arrangement provides for the creation of money debt, its terms require all money debt created under it to be settled within 12 months of money debt first being created under it, and
 - (b) to the extent that the finance arrangement is otherwise a loan relationship, its terms provide for it to terminate within 12 months of its coming into force.
- (3) The second condition is that the finance arrangement terminates during, or after the end of, the relevant period and—
- (a) to the extent that the relationship provided for the creation of money debt, all money debt created under it was settled within 12 months of money debt first being created under it, and
 - (b) to the extent that the relationship was otherwise a loan relationship, it terminated within 12 months of its coming into force.
- (4) The Treasury may by regulations make provision about other circumstances in which the finance arrangement is to be taken not to be a short-term loan relationship as respects—
- (a) the relevant period, or
 - (b) any part or parts of the relevant period.
- (5) Regulations under sub-paragraph (4) may include provision for the finance arrangement to be taken never to have been a short-term loan relationship as respects the relevant period or the part or parts of it.
- (6) No regulations may be made under sub-paragraph (4) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- (7) The Commissioners may by regulations make provision (including provision conferring a discretion on the Commissioners) about circumstances in which regulations under sub-paragraph (4) are not to apply in relation to the finance arrangements.

Stranded deficits in non-trading loan relationships: financing expense

- 63 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is a financing expense amount of a company (“company A”) by virtue of meeting condition A in paragraph 54.
- (2) The relevant amount is to be treated as not being a financing expense amount of company A, but only if an election is made for this purpose.
- (3) Such an election may not be made unless the following conditions are met.
- (4) The first condition is that company A and the other party to the loan relationship (“company B”) are both members of the worldwide group.
- (5) The second condition is that company B—
- (a) is resident in the United Kingdom, or
 - (b) is not resident in the United Kingdom and is carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- (6) The third condition is that, under section 457 of CTA 2009, company B carries forward an amount of non-trading deficit and sets it off against non-trading profits

of an accounting period that falls wholly or partly within the period of account of the worldwide group.

- (7) The fourth condition is that the amount of non-trading deficit carried forward and set off is equal to, or greater than, the relevant amount.
- (8) An election under this paragraph may only be made—
 - (a) jointly by company A and company B, and
 - (b) within 36 months of the end of the period of account of the worldwide group to which the relevant amount relates.

Stranded deficits in non-trading loan relationships: financing income

- 64 (1) This paragraph applies where—
- (a) under paragraph 63, the relevant amount is treated as not being a financing expense amount of company A, and
 - (b) apart from this paragraph, the relevant amount is a financing income amount of company B by virtue of meeting condition A in paragraph 55.
- (2) The relevant amount is treated as not being a financing income amount of company B.
- (3) In this paragraph “company A” and “company B” have the same meanings as in paragraph 63.

Stranded management expenses in non-trading loan relationships: financing expense

- 65 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is a financing expense amount of a company (“company A”) by virtue of meeting condition A in paragraph 54.
- (2) The relevant amount is treated as not being a financing expense amount of company A, but only if an election is made for this purpose.
- (3) Such an election may not be made unless the following conditions are met.
- (4) The first condition is that company A and the other party to the finance arrangement (“company B”) are both members of the worldwide group.
- (5) The second condition is that company B is a company with investment business (within the meaning of Part 16 of CTA 2009) and—
- (a) is resident in the United Kingdom, or
 - (b) is not resident in the United Kingdom and is carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- (6) The third condition is that company B is allowed a deduction under section 1219 of CTA 2009 (expenses of management of a company’s investment business) in respect of an accounting period that falls wholly or partly within the period of account of the worldwide group (“the relevant period”).
- (7) The fourth condition is that the amount of the deduction allowed is equal to, or greater than, the relevant amount.

Status: This is the original version (as it was originally enacted).

- (8) The fifth condition is that the calculation of company B’s total profits for the relevant period for the purposes of corporation tax results in a loss if company B’s credit is not included in that calculation.
- (9) An election under this paragraph may only be made—
 - (a) jointly by company A and company B, and
 - (b) within 36 months of the end of the period of account of the worldwide group to which the relevant amount relates.
- (10) In this paragraph “company B’s credit” means the credit to company B that arises from the debit to company A by virtue of which condition A in paragraph 54 is met.

Stranded management expenses in non-trading loan relationships: financing income

- 66 (1) This paragraph applies where—
- (a) under paragraph 65, the relevant amount is treated as not being a financing expense amount of company A, and
 - (b) apart from this paragraph, the relevant amount is a financing income amount of company B by virtue of meeting condition A in paragraph 55.
- (2) The relevant amount is treated as not being a financing income amount of company B.
- (3) In this paragraph “company A” and “company B” have the same meanings as in paragraph 65.

Charities

- 67 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is a financing expense amount of a company by virtue of meeting condition A, B or C in paragraph 54.
- (2) The relevant amount is treated as not being a financing expense amount of the company if the creditor is a charity.
- (3) In this paragraph—
- “charity” means any body of persons or trust established for charitable purposes only;
 - “creditor” means—
 - (a) in a case where the relevant amount is a debit that meets condition A in paragraph 54, the loan creditor who receives the payment in relation to which the relevant amount arises;
 - (b) in a case where the relevant amount meets condition B or C in paragraph 54, the recipient of the payment in relation to which the relevant amount arises.

Educational and public bodies

- 68 (1) This paragraph applies where, apart from this paragraph, an amount (“the relevant amount”) is a financing expense amount of a company by virtue of meeting condition A, B or C in paragraph 54.

Status: This is the original version (as it was originally enacted).

- (2) The relevant amount is treated as not being a financing expense amount of the company if the creditor is—
- (a) a designated educational establishment,
 - (b) a health service body,
 - (c) a local authority, or
 - (d) a person that is prescribed, or is of a description of persons prescribed, in an order made by the Commissioners for the purposes of this paragraph.
- (3) The Commissioners may not prescribe a person, or a description of persons, for the purposes of this paragraph unless they are satisfied that the person, or each of the persons within the description, has functions some or all of which are of a public nature.
- (4) In this paragraph—
- “creditor” means—
 - (a) in a case where the relevant amount is a debit that meets condition A in paragraph 54, the loan creditor who receives the payment in relation to which the relevant amount arises;
 - (b) in a case where the relevant amount meets condition B or C in paragraph 54, the recipient of the payment in relation to which the relevant amount arises;
 - “designated educational establishment” has the same meaning as in section 105 of CTA 2009;
 - “health service body” has the same meaning as in section 519A of ICTA.

Interpretation of paragraphs 57 to 68

- 69 In paragraphs 57 to 68 “finance arrangement” means—
- (a) in the case of an amount that is a debit or credit that meets the condition in paragraph 54(2) or 55(2), the loan relationship to which the debit or credit relates;
 - (b) in the case of an amount that meets the condition in paragraph 54(4) or 55(4), the finance lease to which the amount relates;
 - (c) in the case of an amount that meets the condition in paragraph 54(5) or 55(5), the debt factoring or similar transaction to which the amount relates.