

# **CORPORATION TAX ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 1: Minor and consequential amendments***

#### **Part 2: Other enactments**

#### **TCGA**

##### ***Section 59 of TCGA***

3472. This section is amended to rewrite section 115(5) to (5C) of ICTA so far as it applies to chargeable gains of a company. The addition of the words “so far as providing for that relief” make clear that the rule (for both capital gains tax and corporation tax) goes no further than removing any exemption for chargeable gains in a double taxation arrangement. See *Change 87* in Annex 1.

##### ***Sections 116A and 116B of TCGA***

3473. These amendments insert two new provisions rewriting section 91G(1) of, and (2) and paragraph 5 of Schedule 10 to, FA 1996 respectively. These two provisions within the loan relationships regime (Chapter 2 of Part 4 of FA 1996) are, in essence, capital gains provisions.

##### ***Sections 151E to 151G of TCGA***

3474. These amendments insert new provisions which rewrite parts of both the loan relationships regime (Chapter 2 of Part 4 of FA 1996) and the rules on alternative finance arrangements in FA 2005 (rewritten as part of the loan relationships regime in Part 6 of the Act). These provisions are, in essence, capital gains provisions.

3475. Section 151E, which rewrites section 84A(8) of FA 1996, is to be repealed from an appointed day (see Part 8 (loan relationships) of Schedule 2).

##### ***Sections 156ZA and 156ZB of TCGA***

3476. These amendments insert new provisions which rewrite those parts of the intangible assets regime in Schedule 29 to FA 2002 which are, in essence, capital gains provisions.

3477. This includes those parts of paragraph 132 of Schedule 29 to FA 2002 which have permanent effect. Paragraph 132(2) to (4) provides rules of transition dealing only with a temporary overlap of the capital gains and intangible fixed assets regimes (unless there is an extension under section 152(3) of TCGA of the time limit) and can never be relevant to disposals after 31 March 2003. So they are not rewritten.

*These notes refer to the Corporation Tax Act 2009  
(c.4) which received Royal Assent on 26 March 2009*

***Section 158 of TCGA***

3478. This Act is drafted on the basis of a company starting or ceasing to carry on a trade etc, rather than on the basis of a trade etc commencing or being discontinued. So section 337(1)(a) of ICTA is not specially rewritten and there is no longer any rule that requires an event to be *regarded* as the equivalent of the setting up, commencement or discontinuance of a trade etc. It follows that the closing words of section 158(2) of TCGA are no longer needed and this Act omits them.

***Section 286A of TCGA***

3479. The residence rules in section 66 of FA 1988 and section 249 of FA 1994 apply for the purposes of the Taxes Acts as defined in section 118 of TMA. This Act rewrites those rules for the purposes of the Corporation Tax Acts (Chapter 3 of Part 2). Because the Corporation Tax Acts are defined more narrowly (Schedule 1 to the Interpretation Act 1978) than the Taxes Acts, this new section is introduced into TCGA to apply to that Act the rules given in Chapter 3 of Part 2.