

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Derivative contracts

Overview

Chapter 1: Introduction

Section 570: Overview of Part

1496. This section contains a brief description of the Part and includes a signpost to the key definition for the Part, that of “derivative contract”. It is new.

Section 571: General rule: profits chargeable as income

1497. This section provides that profits arising to a company from its derivative contracts are chargeable to corporation tax as income. It is based on paragraph 1(1) of Schedule 26 to FA 2002.

1498. Profits arising to a company from its derivative contracts are generally chargeable to corporation tax as income, even if they would otherwise be regarded as capital profits under accounting rules. But some such profits are charged instead to corporation tax as chargeable gains. *Subsection (2)* signposts this exception to the general rule.

1499. Profits are so chargeable “in accordance with this Part”. That is, this Part contains all the necessary rules for identifying and quantifying the amount to be charged to tax. These rules take priority over any rule that might otherwise apply. See in particular section 699 (priority of this Part for corporation tax purposes).

Section 572: Profits and losses to be calculated using credits and debits given by this Part

1500. This section sets out how profits and losses from derivative contracts are calculated. It is based on paragraph 14(1) of Schedule 26 to FA 2002.

1501. The terms “credit” and “debit” are used in accounting practice. The Part operates by reference to accounts drawn up in accordance with generally accepted accounting practice (see section 595 (general principles about the bringing into account of credits and debits)).

1502. Chapter 3 contains the main rules for finding the relevant credits and debits. *Subsection (2)* indicates that in some cases profits and losses are calculated using other factors (the sections in question all give rise to amounts to be charged to corporation tax as chargeable gains).

Section 573: Trading credits and debits to be brought into account under Part 3

- 1503. This section provides for the treatment of credits and debits if the company is a party to the derivative contract for the purposes of a trade it carries on. It is based on paragraph 14(2) and (4) of Schedule 26 to FA 2002.
- 1504. Credits and debits are treated respectively as receipts and expenses of the company's trade. Profits and losses in respect of the derivative contract are therefore charged under Part 3 (trading income).
- 1505. The provisions referred to in *subsection (4)* are those that would otherwise prevent a debit being taken into account as an expense of the trade.
- 1506. The provisions referred to in *subsection (5)* disapply this section, either because the contract in question is taken outside the scope of this Part or because credits and debits are taken into account instead in computing chargeable gains.

Section 574: Non-trading credits and debits to be brought into account under Part 5

- 1507. This section provides for credits and debits to be brought into account under Part 5 (loan relationships) if section 573 does not apply to them. It is based on paragraph 14(3) of Schedule 26 to FA 2002.
- 1508. Credits and debits are treated as non-trading credits and non-trading debits for the purposes of Part 5 and lumped in with any non-trading credits and non-trading debits arising on the company's loan relationships to determine whether there is an amount to charge (or to relieve as a deficit) under that Part. Profits and losses in respect of such credits and debits arising from the derivative contract are therefore charged under Part 5.
- 1509. *Subsection (3)* has the same function for non-trading credits and debits as does section 573(5) for trading credits and debits. The paragraphs in Part 10 of Schedule 2 headed "existing assets representing creditor relationships: options", "existing assets representing creditor relationships: contracts for differences" and "disapplication of section 658" also disapply this section.