



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 6

#### RELATIONSHIPS TREATED AS LOAN RELATIONSHIPS ETC

### CHAPTER 2

#### RELEVANT NON-LENDING RELATIONSHIPS

*Introduction: meaning of “relevant non-lending relationship” etc*

#### **478 Relevant non-lending relationships: introduction**

- (1) This Chapter provides for Part 5 to apply to relevant non-lending relationships in relation to some matters as it applies to loan relationships (see section 481).
- (2) For the meaning of “relevant non-lending relationship”, see—
  - (a) section 479 (relevant non-lending relationships not involving discounts), and
  - (b) section 480 (relevant non-lending relationships involving discounts).
- (3) For provisions extending the meaning of “money debt” and “interest” in this Chapter, see—
  - (a) section 483 (exchange gains and losses: amounts treated as money debts), and
  - (b) section 484 (provision not at arm's length: meaning of “interest” and “money debt”).
- (4) For exclusions from this Chapter, see—
  - (a) section 485 (exclusion of debts where profits or losses within Part 7 or 8), and
  - (b) section 486 (exclusion of exchange gains and losses in respect of tax debts etc).

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#### **479 Relevant non-lending relationships not involving discounts**

- (1) A company has a relevant non-lending relationship if—
  - (a) the company stands, or has stood, in the position of a creditor or debtor in relation to a money debt,
  - (b) the money debt did not arise from a transaction for the lending of money (and so, because of section 302(1)(b), there is no loan relationship), and
  - (c) the money debt is one of the kinds mentioned in subsection (2).
- (2) The kinds of debt are—
  - (a) a debt on which interest is payable to or by the company,
  - (b) a debt in relation to which exchange gains or losses arise to the company, and
  - (c) a debt in relation to which an impairment loss (or credit in respect of the reversal of an impairment loss) arises to the company in respect of an unpaid (or previously unpaid) business payment.
- (3) In subsection (2) “business payment” means a payment which, if it were paid, would fall to be brought into account for corporation tax purposes as a receipt of a trade, UK property business or overseas property business carried on by the company.
- (4) For the meaning of “money debt” and “interest” in this Chapter, see—
  - (a) section 483 (exchange gains and losses: amounts treated as money debts) and
  - (b) section 484 (provision not at arm's length: meaning of “interest” and “money debt”).
- (5) For the meaning of “exchange gains or losses”, see section 475.
- (6) This section is subject to section 485 (exclusion of debts where profits or losses within Part 7 or 8).

#### **480 Relevant non-lending relationships involving discounts**

- (1) A company has a relevant non-lending relationship if—
  - (a) the company stands in the position of creditor in relation to a money debt,
  - (b) the money debt did not arise from a transaction for the lending of money (and so, because of section 302(1)(b), there is no loan relationship),
  - (c) the money debt is one from which a discount arises to the company,
  - (d) the discount does not fall to be brought into account under section 509 (treatment of alternative finance arrangements as loan relationships etc) as a result of arrangements to which section 503 (purchase and resale arrangements) applies, and
  - (e) in a case where the money debt is some or all of the consideration payable for a disposal of property, conditions A and B are met.
- (2) Condition A is that the property in question is not—
  - (a) an asset representing a loan relationship the disposal of which is a disposal to which subsection (3) applies, or
  - (b) an asset representing a derivative contract the disposal of which is such a disposal.
- (3) This subsection applies to a disposal if—

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- (a) section 340 (group transfers and transfers of insurance business: transfer at notional carrying value) applies to it or would apply apart from section 341 (transferor using fair value accounting),
  - (b) section 625 (group member replacing another as party to derivative contract) applies to it or would apply apart from section 628 (transferor using fair value accounting), or
  - (c) the whole of the consideration for the disposal is brought into account for the purposes of Part 5 (loan relationships) or Part 7 (derivative contracts).
- (4) Condition B is that, assuming that the money debt will be paid in full, it does not fall to be brought into account for corporation tax purposes as a trading receipt of the company.
- (5) For the purposes of this section, a discount is, in particular, taken to arise from a money debt if—
- (a) there is a sale of property for consideration some or all of which is money which falls to be paid after the sale,
  - (b) the amount or value of the whole consideration exceeds what the purchaser would have paid for the property if payment in full had been required at the time of the sale, and
  - (c) some or all of the excess can reasonably be regarded as representing a return on an investment of money at interest (and so as being a discount arising from the money debt).
- (6) It does not matter for the purposes of subsection (1)(c) whether the discount is of a revenue or capital nature.
- (7) This section is subject to section 485 (exclusion of debts where profits or losses within Part 7 or 8).

#### *Application of Part 5 to relevant non-lending relationships*

### **481 Application of Part 5 to relevant non-lending relationships**

- (1) If a company has a relevant non-lending relationship—
- (a) Part 5 (loan relationships) applies in relation to the relevant matters (see subsections (3) and (5)) as it applies in relation to such matters arising under or in relation to a loan relationship, but
  - (b) the only credits or debits to be brought into account for the purposes of that Part in respect of the relationship are those relating to those matters.
- (2) Accordingly, subject to subsection (1)(b), references in the Corporation Tax Acts to a loan relationship include a reference to a relevant non-lending relationship.
- (3) The relevant matters in the case of a relevant non-lending relationship within section 479 are—
- (a) interest payable to or by the company in respect of the relevant non-lending relationship,
  - (b) exchange gains or losses arising to the company as a result of the relationship,
  - (c) in the case of a debt on which interest is payable to the company, profits (but not losses) arising to the company from any related transaction in respect of the right to receive interest,

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- (d) in the case of a debt in relation to which an impairment loss arises to the company in respect of an unpaid business payment, the impairment, and
  - (e) in the case of a debt in relation to which a credit in respect of the reversal of an impairment loss arises to the company in respect of a previously unpaid business payment, the reversal.
- (4) In subsection (3) “business payment” has the meaning given in section 479(3).
- (5) The relevant matters in the case of a relevant non-lending relationship within section 480 are—
- (a) the matters referred to in subsection (3),
  - (b) the discount arising to the company from the money debt,
  - (c) profits (but not losses) arising to the company from any related transaction,
  - (d) any impairment arising to the company in respect of the discount, and
  - (e) any reversal of any such impairment.
- (6) Subsection (7) applies if a company—
- (a) has a relevant non-lending relationship within section 479 because of a debt on which interest is payable to the company, but
  - (b) enters into a related transaction in respect of the right to receive interest as a result of which interest is not so payable.
- (7) Even though the interest is not payable to the company, for the purpose of bringing credits into account in respect of that or any other related transaction as a result of the application of subsection (3)(c), the company is still treated as having a relevant non-lending relationship within section 479.
- (8) Section 480(5) (when discount arises) applies for the purpose of this section as it applies for the purposes of section 480.

## **482 Miscellaneous rules about amounts to be brought into account because of this Chapter**

- (1) Any credits or debits which—
- (a) relate to interest payable under the Tax Acts, and
  - (b) fall to be brought into account because of this Chapter,
- are treated for the purposes of Part 5 as non-trading credits or debits.
- (2) The credits to be brought into account for the purposes of that Part in respect of a discount arising from a money debt under a relevant non-lending relationship are to be determined using an amortised cost basis of accounting.

*Meaning of “money debt” and “interest” in this Chapter*

## **483 Exchange gains and losses: amounts treated as money debts**

- (1) This section applies for the purposes of this Chapter so far as relating to exchange gains and losses.
- (2) Any currency held by a company is treated as a money debt owed to the company.

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- (3) A provision made by a company for the purposes of its statutory accounts in respect of a liability to which the company may become subject is treated as a money debt owed by the company if it meets conditions A and B.
- (4) Condition A is that if the company became subject to the liability, the duty to settle it would be owed for the purposes of—
  - (a) a trade,
  - (b) a UK property business, or
  - (c) an overseas property business.
- (5) Condition B is that the provision falls to be taken into account (apart from Part 5) in calculating the profits or losses of the trade, UK property business or overseas property business for corporation tax purposes.
- (6) In the case of a company carrying on insurance business—
  - (a) any deferred acquisition costs are treated as a money debt owed to the company, and
  - (b) any provision made by the company for unearned premiums or for unexpired risks is treated as a money debt owed by the company.
- (7) In subsection (6)—
  - (a) “deferred acquisition costs” has the meaning given in Assets item G.II in the Balance Sheet Format set out after paragraph 10 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (S.I. 2008/410), as read with note (17) of the Notes on the Balance Sheet Format (which immediately follow that Format),
  - (b) “provision made by the company for unearned premiums” has the meaning given in Liabilities item C.1 in that Balance Sheet Format, as read with notes (12) and (20) of those Notes, and
  - (c) “provision for unexpired risks” has the meaning given in paragraph 91 of that Schedule.
- (8) This section is subject to section 486 (exclusion of exchange gains and losses in respect of tax debts etc).

#### **484 Provision not at arm's length: meaning of “interest” and “money debt”**

- (1) References in this Chapter to interest payable on a money debt include a reference to any amount which because of Schedule 28AA to ICTA (provision not at arm's length) falls to be treated as—
  - (a) interest on a money debt, or
  - (b) interest on an amount (“the notional debt”) which is treated as a money debt.
- (2) Accordingly, references in this Chapter to a money debt include references to the notional debt.

#### *Exclusions*

#### **485 Exclusion of debts where profits or losses within Part 7 or 8**

This Chapter does not apply to a debt in respect of which profits or losses (if any) fall to be brought into account under—

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- (a) Part 7 (derivative contracts), or
- (b) Part 8 (intangible fixed assets).

#### **486 Exclusion of exchange gains and losses in respect of tax debts etc**

- (1) No exchange gains or losses arise for the purposes of this Chapter if the money debt by reference to which the relevant non-lending relationship exists (“the relevant money debt”) is an amount of tax payable under the law of the United Kingdom.
- (2) If the relevant money debt is an amount of tax payable under the law of a territory outside the United Kingdom, exchange gains or losses arise for the purposes of this Chapter only so far as a deduction in respect of the tax falls to be made under section 811 of ICTA (double taxation relief: deduction for foreign tax where no credit allowable).
- (3) No exchange gains or losses arise for the purposes of this Chapter if the relevant money debt is an amount which would be deductible apart from—
  - (a) a statutory provision other than section 53 (capital expenditure), or
  - (b) a rule of law.
- (4) The reference in subsection (3) to an amount being deductible is a reference to its being deductible—
  - (a) as an expense in calculating trading profits,
  - (b) as expenses of management within section 1219 (expenses of management of a company's investment business), or
  - (c) as expenses falling to be brought into account at Step 1 of section 76(7) of ICTA (expenses of insurance companies).

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