



Corporation Tax Act 2009

2009 CHAPTER 4

PART 7

DERIVATIVE CONTRACTS

CHAPTER 13

GENERAL AND SUPPLEMENTARY PROVISIONS

Power to amend certain provisions

701 Power to amend some provisions

- (1) The Treasury may by order amend—
- (a) Chapter 2 (except sections 578(1), (2) and (4), 585, 587 and 588),
 - (b) Chapter 4 (except section 613(4)),
 - (c) section 635,
 - (d) Chapter 7,
 - (e) Chapter 8 (except section 660),
 - (f) section 702,
 - (g) section 706,
 - (h) section 707,
 - (i) section 708,
 - (j) section 709,
 - (k) the definitions in section 710 specified in subsection (2), and
 - (l) paragraphs 80 to 94 of Schedule 2.
- (2) The definitions mentioned in subsection (1)(k) are—
- capital redemption policy,
 - depository receipt (in relation to shares),

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designated,
 intangible fixed asset,
 shares, and
 warrant.

- (3) The provision that may be made by an order under this section includes provision—
- (a) adding to or varying the descriptions of contract which are derivative contracts within section 576 (meaning of “derivative contract”) or removing any such description of contract, or
 - (b) adding to or varying the descriptions of contract which are excluded under section 589 (contracts excluded because of underlying subject matter: general) or removing any such description of contract.
- (4) The provision that may be made under subsection (3)(b), in relation to contracts which are excluded under section 589, includes provision—
- (a) adding to the provisions which qualify the exclusion of contracts under that section,
 - (b) varying any such provision, or
 - (c) removing any such provision.
- (5) An order under this section may provide for any of its provisions to have effect in relation to—
- (a) accounting periods ending on or after the day on which the order comes into force (whenever they begin),
 - (b) periods of account beginning before the order is made, but not earlier than the beginning of the calendar year in which it is made.
- (6) An order under this section may—
- (a) make different provision for different cases, and
 - (b) contain incidental, supplemental, consequential and transitional provision and savings (including provision amending any enactment or any instrument made under an enactment).

Other general definitions

702 “Carrying value”

- (1) For the purposes of this Part, the “carrying value” of a contract includes amounts recognised for accounting purposes in relation to the contract in respect of—
- (a) accrued amounts,
 - (b) amounts paid or received in advance, or
 - (c) impairment losses (including provisions for bad or doubtful debts).
- (2) In determining the profits and losses to be recognised in determining the carrying value of the contract for the purposes of this Part, the provisions in subsection (3) apply as they apply for the purposes of determining the credits and debits to be brought into account in accordance with this Part.
- (3) Those provisions are—
- (a) section 584 (hybrid derivatives with embedded derivatives),
 - (b) section 585 (loan relationships with embedded derivatives),

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- (c) section 586 (other contracts with embedded derivatives),
 - (d) section 625(3) to (5) (transactions within groups),
 - (e) sections 675 and 676 (European cross-border transfers of business), and
 - (f) sections 684 and 685 (European cross-border mergers).
- (4) In this section “impairment loss” means a debit in respect of the impairment of a financial asset, and “impairment” includes uncollectability.

703 “Chargeable asset”

- (1) For the purposes of this Part, an asset is a chargeable asset if any gain accruing on its disposal would be a chargeable gain for corporation tax purposes.
- (2) For the purposes of this section, “asset” includes any obligations under futures contracts which are regarded because of section 143 of TCGA 1992 as assets to the disposal of which that Act applies.

704 “Creditor relationship” and “debtor relationship”

- (1) In this Part “creditor relationship” has the same meaning as in Part 5 (loan relationships) (see section 302(5) (meaning of “creditor relationship”)).
- (2) In this Part “debtor relationship” has the same meaning as in Part 5 (see section 302(6) (meaning of “debtor relationship”)).

705 Expressions relating to exchange gains and losses

- (1) References in this Part to exchange gains or exchange losses, in relation to a company, are references respectively to—
 - (a) profits or gains which arise as a result of comparing at different times the expression in one currency of the whole or some part of the valuation put by the company in another currency on an asset or liability of the company, or
 - (b) losses which so arise.
- (2) If the result of such a comparison is that neither an exchange gain nor an exchange loss arises, for the purposes of this Part an exchange gain of nil is taken to arise in the case of that comparison.
- (3) The Treasury may make provision by regulations as to the way in which exchange gains or losses are to be calculated for the purposes of this section in a case where fair value accounting is used by the company.
- (4) The regulations may be made so as to apply to periods of account beginning before the regulations are made, but not earlier than the beginning of the calendar year in which they are made.
- (5) Any reference in this Part to an exchange gain or loss from a derivative contract of a company is a reference to an exchange gain or loss arising to a company in relation to a derivative contract of the company.

706 “Excluded body”

In this Part “excluded body” means—

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an authorised unit trust,
 an investment trust,
 an open-ended investment company, or
 a venture capital trust.

707 “Hedging relationship”

- (1) This section applies for the purposes of this Part.
- (2) A company has a “hedging relationship” between a relevant contract (“the hedging instrument”) and an asset or liability (“the hedged item”) so far as condition A or B is met.
- (3) Condition A is that the hedging instrument and the hedged item are designated as a hedge by the company.
- (4) Condition B is that—
 - (a) the hedging instrument is intended to act as a hedge of the exposure to changes in fair value of the hedged item which is attributable to a particular risk and could affect the profit or loss of the company, and
 - (b) the hedged item is an asset or liability recognised for accountancy purposes or is an identified portion of such an asset or liability.
- (5) For the purposes of subsections (2) and (4), the liabilities of a company include its own share capital.

708 “Plain vanilla contract”

In this Part “plain vanilla contract” means a relevant contract other than one to which a company is treated as being a party under—

- (a) section 584 (hybrid derivatives with embedded derivatives),
- (b) section 585 (loan relationships with embedded derivatives), or
- (c) section 586 (other contracts with embedded derivatives).

709 “Securities house”

In this Part “securities house” means a person—

- (a) who is authorised for the purposes of FISMA 2000, and
- (b) whose business consists wholly or mainly of dealing as a principal in financial instruments within the meaning of section 984 of ITA 2007.

710 Other definitions

In this Part—

“bank” means—

- (a) the Bank of England,
- (b) a person within section 840A(1)(b) of ICTA, or
- (c) a firm within section 840A(1)(c) of that Act,

“capital redemption policy” means a contract made in the course of capital redemption business (as defined in section 431(2ZF) of ICTA),

“contract of insurance” has the meaning given by section 431(2) of ICTA,

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“contract of long-term insurance” has the meaning given by section 431(2) of ICTA,

“depository receipt”, in relation to shares (as defined in this section), has the same meaning as it has in Part 4 of FA 1986 in relation to shares (within the meaning of that Part),

“designated” has the meaning it has for accounting purposes,

“equity instrument” has the meaning it has for accounting purposes,

“fair value”, in relation to a derivative contract of a company, means the amount which, at the time as at which the value is to be determined, is the amount which the company would obtain from or, as the case may be, would have to pay to an independent person dealing at arm's length for—

- (a) the transfer of the company's rights under the contract, and
- (b) the release of all the company's liabilities under it,

“fair value accounting” means a basis of accounting under which assets and liabilities are shown in the company's balance sheet at their fair value,

“financial trader” means—

- (a) a person who—
 - (i) is within section 31(1)(a), (b) or (c) of FISMA 2000, and
 - (ii) has permission under that Act to carry on one or more of the activities specified in Article 14 and, in so far as it applies to that Article, Article 64 of the Financial Services and Markets Act (Regulated Activities) Order 2001 (S.I. 2001/544), or
- (b) a person not within paragraph (a) who is approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of this section,

“income statement” has the meaning it has for accounting purposes,

“intangible fixed asset” has the same meaning as in Part 8 (intangible fixed assets), and sections 804 to 807 and 809 (assets wholly excluded from that Part) (and sections 800 to 802 so far as they relate to those sections) apply for the purposes of this Part as they apply for the purposes of that Part,

“open-ended investment company” has the meaning given by section 468A(2) of ICTA,

“profit-sharing arrangements”, in relation to a firm, has the meaning given by section 1262(4) (allocation of firm's profits or losses between partners),

“shares”, in relation to a company, means any shares in the company under which an entitlement to receive distributions may arise, including—

- (a) a depository receipt for shares under which such an entitlement may arise, and
- (b) in the case of a company which has no share capital, any interests in the company possessed by members of the company,

“statement of changes in equity” has the meaning it has for accounting purposes,

“statement of comprehensive income” has the meaning it has for accounting purposes,

“statement of income and retained earnings” has the meaning it has for accounting purposes,

“statement of recognised income and expense” has the meaning it has for accounting purposes,

“statement of total recognised gains and losses” has the meaning it has for accounting purposes, and

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“warrant” means an instrument which entitles the holder to subscribe for—

- (a) shares in a company, or
- (b) assets representing a loan relationship of a company,

whether or not the shares or assets exist or are identifiable.

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