



Corporation Tax Act 2009

2009 CHAPTER 4

PART 7

DERIVATIVE CONTRACTS

CHAPTER 6

SPECIAL KINDS OF COMPANY

Mutual trading companies

633 Mutual trading companies

For the purposes of this Part, activities carried on by a company in the course of any mutual trading are treated as not constituting the whole or any part of a trade.

Insurance companies

634 Insurance companies

[^{F1}(1)] For the purposes of this Part, activities carried on by a company in the course of—

(a) any mutual insurance or other mutual business which is not life assurance business, ^{F2}...

^{F2}(b)

are treated as not constituting the whole or any part of a trade.

[^{F3}(2) In the case of activities carried on by a company in the course of any basic life assurance and general annuity business, provision corresponding to that made by subsection (1) is made by section 88 of FA 2012 for the purpose of applying the I - E rules.]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Corporation Tax Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** S. 634(1): s. 634 renumbered as s. 634(1) (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 168\(2\)](#)
- F2** S. 634(1)(b) and the word immediately preceding it omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 168\(3\)](#)
- F3** S. 634(2) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 168\(4\)](#)

635 Creditor relationships: embedded derivatives which are options

- (1) This section applies if in any accounting period—
- (a) a company is a party to a creditor relationship for the purposes of its [^{F4}basic life assurance and general annuity business], and
 - (b) that creditor relationship is one in relation to which sections 415 and 585 (which both apply to loan relationships with embedded derivatives) would have effect but for the fact that the company accounts for the creditor relationship at fair value through profit and loss.
- (2) [^{F5}For the purpose of applying the I - E rules, this Part] and Part 5 (loan relationships) have effect for that accounting period as they would if the creditor relationship were one in relation to which those sections have effect.

Textual Amendments

- F4** Words in s. 635(1)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 169\(2\)](#)
- F5** Words in s. 635(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 169\(3\)](#)

636 Modifications of Chapter 5

- (1) Chapter 5 (continuity of treatment on transfers within groups) has effect in relation to insurance companies with the following modifications.
- (2) Section 625(1)(a) (which sets out one of the conditions for that section to apply) has effect as if for “section 626(2)” there were substituted “section 626(2), (2A) or (2B)”.
- (3) Section 626 (transactions to which section 625 applies) has effect as if after subsection (2) there were inserted—
- “(2A) A transaction is within this subsection if it is a transfer between two companies of business consisting of the effecting or carrying out of contracts of long-term insurance which has effect under an insurance business transfer scheme.
- (2B) A transaction is within this subsection if it is a transfer between two companies which is a qualifying overseas transfer.
- [^{F6}(2C) In subsection (2B) “qualifying overseas transfer” means so much of a transfer of the whole or any part of the business of an overseas life insurance company carried on through a permanent establishment in the United Kingdom as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of [^{F7}Article 39 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)].”]

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- (4) Section 625 (group member replacing another as party to derivative contract) does not apply as a result of a transaction or series of transactions within section 626(2) or (3) in relation to a transfer of an asset, or of rights or duties under or an interest in an asset, if^{F8}, immediately before or after the transfer, the asset was held for the purposes of a company's long-term business (but, in the case of an overseas life insurance company, ignoring assets which are not UK assets (within the meaning of section 117 of FA 2012)).]
- (5) Section 625 does not apply as a result of a transaction within section 626(2A) or (2B) in relation to a transfer of an asset, or of rights or duties under or an interest in an asset, if the asset—
- (a) was within one of ^{F9}the applicable categories] immediately before the transfer, and
 - (b) is not within that category immediately after it.

^{F10}(5A) For the purposes of subsection (5)(a) “the applicable categories” means—

- (a) in the case of a UK life insurance company, the long-term business categories or a category of assets which are not held for the purposes of its long-term business, and
 - (b) in the case of an overseas life insurance company, the UK long-term business categories, a category of UK assets which are not held for the purposes of its long-term business or a category of assets which are held by it but which are not UK assets.]
- (6) Subsection (7) applies for the purposes of subsection (5) if one of the companies is an overseas life insurance company.
- (7) An asset is taken to be within the same category both immediately before the transfer and immediately after it if the asset—
- (a) was within one category immediately before the transfer, and
 - (b) is within the corresponding category immediately after it.
- ^{F11}(8) For the purposes of this section—
- (a) “the long-term business categories” has the same meaning as in section 116 of FA 2012, and “the UK long-term business categories” and “UK assets” have the same meanings as in section 117 of FA 2012, and
 - (b) section 122 of FA 2012 applies as it applies for the purposes of Chapter 8 of Part 2 of that Act.]

Textual Amendments

- F6** Words in s. 636(3) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 170\(2\)](#)
- F7** Words in s. 636(3) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. [1\(2\)](#), [Sch. 1 para. 26\(3\)](#)
- F8** Words in s. 636(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 170\(3\)](#)
- F9** Words in s. 636(5)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 170\(4\)](#)
- F10** S. 636(5A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 170\(5\)](#)
- F11** S. 636(8) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 170\(6\)](#)

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Investment and venture capital trusts

637 Investment trusts: profits or losses of a capital nature

- (1) Profits or losses of a capital nature arising to an investment trust from a derivative contract may not be brought into account as credits or debits in accordance with this Part.
- (2) For the purposes of this section, “profits or losses of a capital nature” means profits or losses which—
 - (a) are accounted for through the capital column of the income statement in accordance with the Statement of Recommended Practice, or
 - (b) would have been so accounted for if that Statement had been applied correctly.
- (3) “The Statement of Recommended Practice”, in relation to an accounting period for which it is required or permitted to be used, means—
 - (a) the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2003, as from time to time modified, amended or revised, or
 - (b) any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.
- (4) The Treasury may by order amend the definition of “profits or losses of a capital nature” in subsection (2), so far as it applies in relation to an investment trust which prepares accounts in accordance with international accounting standards.

638 Venture capital trusts: profits or losses of a capital nature

- (1) Profits or losses of a capital nature arising to a venture capital trust from a derivative contract may not be brought into account as credits or debits in accordance with this Part.
- (2) For the purposes of this section, “profits or losses of a capital nature” means profits or losses which—
 - (a) are accounted for through the capital column of the income statement in accordance with the Statement of Recommended Practice, or
 - (b) would have been so accounted for if the venture capital trust had been an investment trust and that Statement had been applied correctly.
- (3) In this section “the Statement of Recommended Practice” has the meaning given by section 637(3) (investment trusts: profits or losses of a capital nature).
- (4) The Treasury may by order amend the definition of “profits or losses of a capital nature” in subsection (2), so far as it applies in relation to a venture capital trust which prepares accounts in accordance with international accounting standards.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 13 Ch. 1A inserted by [2024 c. 3 Sch. 1 para. 5](#)
- Pt. 14A inserted by [2024 c. 3 Sch. 2 para. 1](#)
- s. 1218ZCLA and cross-heading inserted by [2024 c. 3 Sch. 5 para. 9\(1\)](#)
- s. 142(5)(6) inserted by [2024 c. 3 Sch. 1 para. 9\(14\)\(c\)](#)
- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 807A substituted for s. 808-808E by [2024 c. 3 Sch. 2 para. 5\(2\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1040ZA(A1) inserted by [2024 c. 3 Sch. 2 para. 5\(3\)](#)
- s. 1044(2A) inserted by [2024 c. 3 Sch. 1 para. 6\(4\)\(b\)](#)
- s. 1044(5A)(5B) inserted by [2024 c. 3 Sch. 1 para. 6\(4\)\(c\)](#)
- s. 1045(2A) inserted by [2024 c. 3 Sch. 1 para. 6\(5\)\(b\)](#)
- s. 1045(4A) inserted by [2024 c. 3 Sch. 1 para. 6\(5\)\(c\)](#)
- s. 1045ZA inserted by [2024 c. 3 Sch. 1 para. 6\(6\)](#)
- s. 1045ZA(2)(3) modified by [2024 c. 3 Sch. 1 para. 21\(3\)\(4\)](#)
- s. 1052-1053A substituted for ss. 1052, 1053 by [2024 c. 3 Sch. 1 para. 6\(9\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1062A inserted by [2024 c. 3 Sch. 1 para. 6\(15\)](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1129(3)(d) and word inserted by [2024 c. 3 Sch. 1 para. 9\(4\)\(b\)](#)
- s. 1131(4) inserted by [2024 c. 3 Sch. 1 para. 9\(5\)\(b\)](#)
- s. 1132A inserted by [2024 c. 3 Sch. 1 para. 9\(6\)](#)
- s. 1134(3)(e) substituted for s. 1134(3)(d) by [2024 c. 3 Sch. 1 para. 9\(8\)\(e\)\(iv\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)
- s. 1138A1138B inserted by [2024 c. 3 Sch. 1 para. 9\(12\)](#)
- s. 1140A inserted by [2024 c. 3 Sch. 1 para. 9\(13\)](#)
- s. 1142C inserted by [2024 c. 3 Sch. 1 para. 9\(16\)](#)
- s. 1142D inserted by [2024 c. 3 Sch. 1 para. 9\(17\)](#)
- s. 1142E inserted by [2024 c. 3 Sch. 1 para. 9\(18\)](#)
- s. 1179DT(a) omitted by [2024 c. 3 Sch. 1 para. 12\(2\)\(a\)](#)
- s. 1179FL(a) omitted by [2024 c. 3 Sch. 1 para. 12\(2\)\(b\)](#)
- s. 1217FA(2)(bb) inserted by [2024 c. 3 Sch. 3 para. 2\(2\)\(c\)](#)
- s. 1217JA(3)-(10) inserted by [2024 c. 3 Sch. 3 para. 7\(3\)](#)
- s. 1217KB(4A) inserted by [2024 c. 3 Sch. 3 para. 9](#)
- s. 1217KD and cross-heading inserted by [2024 c. 3 Sch. 3 para. 10\(1\)](#)
- s. 1217QA(1)(a)(b) inserted by [2024 c. 3 Sch. 4 para. 2\(1\)](#)
- s. 1217RF(1)(c) and word inserted by [2024 c. 3 Sch. 4 para. 7\(2\)\(b\)](#)
- s. 1217RF(2)(za)(zb) inserted by [2024 c. 3 Sch. 4 para. 8\(1\)\(b\)](#)
- s. 1217RF(2)(za) omitted by [2024 c. 3 Sch. 1 para. 12\(7\)](#)
- s. 1217RF(3)-(10) inserted by [2024 c. 3 Sch. 4 para. 7\(3\)](#)
- s. 1217RI(4A) inserted by [2024 c. 3 Sch. 4 para. 9](#)
- s. 1217RKA and cross-heading inserted by [2024 c. 3 Sch. 4 para. 10\(1\)](#)
- s. 1218ZAA(4A) inserted by [2024 c. 3 Sch. 5 para. 2\(1\)](#)

- s. 1218ZCG(1)(ba) inserted by 2024 c. 3 Sch. 5 para. 6(2)
- s. 1218ZCG(2A)-(2H) inserted by 2024 c. 3 Sch. 5 para. 6(3)
- s. 1218ZCJ(4A) inserted by 2024 c. 3 Sch. 5 para. 8
- s. 1310(4)(zc) inserted by 2024 c. 3 Sch. 1 para. 12(9)(b)