
Changes to legislation: Finance Act 2011, SCHEDULE 4 is up to date with all changes known to be in force on or before 15 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 4

Section 28

AMOUNTS NOT FULLY RECOGNISED FOR ACCOUNTING PURPOSES

Loan relationships

- 1 Part 5 of CTA 2009 (loan relationships) is amended as follows.
 - 2 (1) Section 311 (amounts not fully recognised for accounting purposes) is amended as follows.
 - (2) In subsection (2)—
 - (a) at the end of paragraph (a) insert “ and ”, and
 - (b) for paragraphs (b) and (c) substitute—

“(b) as a result of tax avoidance arrangements to which the company is at any time a party, an amount is (in accordance with generally accepted accounting practice) not fully recognised for the period in respect of the creditor relationship.”
 - (3) Omit subsections (3) to (5A).
 - (4) In subsection (6)—
 - (a) in the opening words—
 - (i) after “section” insert “ and section 312 ”, and
 - (ii) omit “, a contribution to it or securities issued by it”, and
 - (b) in paragraphs (a) and (b), omit “, contribution or securities”.
 - (5) After subsection (6) insert—

“(7) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.

(8) In subsection (7) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

(9) For the purposes of this section a company is to be treated as a party to a creditor relationship even though it has disposed of its rights under the relationship to another person—
 - (a) under a repo or stock lending arrangement, or
 - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).”
- 3 (1) Section 312 (determination of credits and debits where amounts not fully recognised) is amended as follows.

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(2) For subsection (1A) substitute—

“(1A) Subsection (1B) applies in a case where—

- (a) pursuant to the arrangements mentioned in section 311(2)(b), the company becomes, or is treated as becoming, a party to a debtor relationship, and
- (b) an amount is (in accordance with generally accepted accounting practice) not fully recognised for any period in respect of the debtor relationship.”

(3) In subsection (1B) omit “by reference to which that condition is met”.

(4) In subsection (3) for “But” substitute

“But—

- (a) no debits are, as a result of this section, to be brought into account by the company in respect of the creditor relationship mentioned in section 311(2), and
- (b)”.

4 In section 440 (overview of Chapter 15), in subsection (2), omit the “and” at the end of paragraph (e), and after paragraph (f) insert “, and

- (g) for rules about debits arising as a result of the derecognition of creditor relationships, see section 455A.”

5 After section 455 insert—

“Derecognition

455A Debts arising from derecognition of creditor relationships

(1) This section applies where—

- (a) a company is at any time a party to tax avoidance arrangements,
- (b) as a result of those arrangements, a creditor relationship to which the company is party, or any part of such a relationship, is (in accordance with generally accepted accounting practice) derecognised by the company, and
- (c) the company continues to be a party to the creditor relationship immediately after the transaction or other event giving rise to the derecognition.

(2) No debit that would apart from this section be brought into account by the company for the purposes of this Part as a result of the derecognition is to be so brought into account.

(3) An amount that would be brought into account for the purposes of this Part as respects any matter apart from this section—

- (a) is treated for the purposes of section 464(1) (priority of this Part for corporation tax purposes) as if it were so brought into account, and
- (b) accordingly, may not be brought into account for any other corporation tax purposes as respects that matter.

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- (4) For the purposes of this section a company is to be treated as a party to a creditor relationship even though it has disposed of its rights under the relationship to another person—
 - (a) under a repo or stock lending arrangement, or
 - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).
 - (5) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.
 - (6) In subsection (5) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- 6 In section 464 (priority of Part for corporation tax purposes), in subsection (4), omit the “and” at the end of paragraph (a) and after paragraph (b) insert “, and
- (c) section 455A(3) (debts arising from derecognition of creditor relationships).”

Derivative contracts

- 7 Part 7 of CTA 2009 (derivative contracts) is amended as follows.
- 8 (1) Section 599A (amounts not fully recognised for accounting purposes) is amended as follows.
- (2) In subsection (2)—
 - (a) at the end of paragraph (a) insert “ and ”, and
 - (b) for paragraphs (b) and (c) substitute—
 - “(b) as a result of tax avoidance arrangements to which the company is at any time a party, an amount is (in accordance with generally accepted accounting practice) not fully recognised for the period in respect of the contract.”
 - (3) Omit subsections (3) to (5B).
 - (4) In subsection (6)—
 - (a) in the opening words, omit “, a contribution to it or securities issued by it”, and
 - (b) in paragraphs (a) and (b), omit “, contribution or securities”.
 - (5) After subsection (6) insert—
 - “(7) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.
 - (8) In subsection (7)—
 - (a) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions, and

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- (b) “tax advantage” has the meaning given by section 1139 of CTA 2010.
- (9) For the purposes of this section a company is to be treated as a party to a derivative contract even though it has disposed of its rights and liabilities under the contract to another person—
 - (a) under a repo or stock lending arrangement, or
 - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).”
- 9 (1) Section 599B (determination of credits and debits where amounts not fully recognised) is amended as follows.
 - (2) After subsection (2) insert—
 - “(2A) But no debits are, as a result of this section, to be brought into account by the company in respect of the derivative contract.”
 - (3) After subsection (3) insert—
 - “(4) If—
 - (a) the company is, or is treated as, a party to the contract at the beginning of the period referred to in section 599A(1), and
 - (b) the fair value of the contract at that time is greater than the carrying value of that contract at that time,
 a credit of an amount equal to the difference is to be brought into account for that period for the purposes of this Part in respect of the contract.”
- 10 In section 689 (overview of Chapter 11), in subsection (2), omit the “and” at the end of paragraph (c), and after paragraph (d) insert “, and
 - (e) for rules about debits arising as a result of the derecognition of derivative contracts, see section 698A.”
- 11 After section 698 insert—

“Derecognition

698A Debits arising from derecognition of derivative contracts

- (1) This section applies where—
 - (a) a company is at any time a party to tax avoidance arrangements,
 - (b) as a result of those arrangements, a derivative contract to which the company is party, or any part of such a contract, is (in accordance with generally accepted accounting practice) derecognised by the company, and
 - (c) the company continues to be a party to the derivative contract immediately after the transaction or other event giving rise to the derecognition.
- (2) No debit that would apart from this section be brought into account by the company for the purposes of this Part as a result of the derecognition is to be so brought into account.

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- (3) An amount that would be brought into account for the purposes of this Part as respects any matter apart from this section—
 - (a) is treated for the purposes of section 699(1) (priority of this Part for corporation tax purposes) as if it were so brought into account, and
 - (b) accordingly, may not be brought into account for any other corporation tax purposes as respects that matter.
- (4) For the purposes of this section a company is to be treated as a party to a derivative contract even though it has disposed of its rights and liabilities under the contract to another person—
 - (a) under a repo or stock lending arrangement, or
 - (b) under a transaction which is treated as not involving any disposal as a result of section 26 of TCGA 1992 (mortgages and charges not to be treated as disposals).
- (5) For the purposes of this section arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain a tax advantage.
- (6) In subsection (5)—
 - (a) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions, and
 - (b) “tax advantage” has the meaning given by section 1139 of CTA 2010.”

Consequential repeals

- 12 In consequence of the amendments made by this Schedule, omit—
- (a) in Schedule 30 to FA 2009, paragraph 2(1) to (6), and
 - (b) in Schedule 5 to F(No.2)A 2010, paragraphs 1 and 3.

Commencement

- 13 (1) The amendments made by this Schedule have effect in relation to periods of account beginning on or after 6 December 2010.
- (2) But, for the purposes of sub-paragraph (1), a period of account beginning before, and ending on or after, 6 December 2010 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate periods of account.
- (3) The following provisions of CTA 2009 do not have effect where they apply by reason of tax avoidance arrangements to which the company became a party before 23 March 2011—
- (a) section 312(3)(a) (as inserted by paragraph 3(4) of this Schedule);
 - (b) section 599B(2A) (as inserted by paragraph 9(2) of this Schedule);
 - (c) section 599B(4) (as inserted by paragraph 9(3) of this Schedule).

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

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

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)