

Factoring of income etc (Corporation Tax provisions, with a Schedule of Income Tax provisions)

CONTENTS

PART 1

FACTORING OF INCOME ETC

CHAPTER 1

FINANCE ARRANGEMENTS

Type 1 arrangements

- 1 Type 1 finance arrangement defined [j3A17A]
- 2 Certain tax consequences not to have effect [j3A16]
- 3 Payments treated as borrower's income [j3A16A]
- 4 Deemed loan relationship [j3A18]

Type 2 arrangements

- 5 Type 2 finance arrangement defined [j3A19]
- 6 Relevant change in relation to partnership [j3A21]
- 7 Certain tax consequences not to have effect [j3A20]
- 8 Deemed loan relationship [j3A22]

Type 3 arrangements

- 9 Type 3 finance arrangement defined [j3A27]
- 10 Certain tax consequences not to have effect [j3A28]
- 11 Deemed loan relationship [j3A29]

Exceptions

- 12 Exceptions: preliminary [j3A33X]
- 13 Exceptions [j3A34]
- 14 Exceptions: relevant person [j3A33]
- 15 Power to make further exceptions [j3A35]

Interpretation

- 16 Accounts [j3A40]

- 17 Arrangements [j3A42]
- 18 Assets [j3A39]

CHAPTER 2

OTHER PROVISIONS

Transfer of right to distribution on shares

- 19 Transfer of right to distribution on shares [j3A1]
- 20 Transfer where owner not beneficially entitled [j3A2]
- 21 Power to obtain information [j3A4]
- 22 Meaning of shares [j3A5]

Transfer of right to receive annual payments

- 23 Transfer of right to receive annual payment [j3A9]

Loan or credit transactions

- 24 Loan or credit transaction defined [j3A14]
- 25 Certain payments treated as interest [j3A12A]
- 26 Tax charged on income transferred [j3A15]

Schedule – Factoring of income etc: new Part 12B of ITA 2007 [j3ASch]

PART 1

FACTORING OF INCOME ETC

CHAPTER 1

FINANCE ARRANGEMENTS

Type 1 arrangements

1 Type 1 finance arrangement defined [j3A17A]

- (1) For the purposes of this Chapter an arrangement is a type 1 finance arrangement if conditions A and B are met.

Origin: ICTA s.774A(1).

- (2) Condition A is that under the arrangement—
- (a) a person (the borrower) receives money or another asset (the advance) from another person (the lender),
 - (b) the borrower or a person connected with the borrower makes a disposal of an asset (the security) to or for the benefit of the lender or a person connected with the lender, and
 - (c) the lender or a person connected with the lender is entitled to payments in respect of the security.

Origin: ICTA s.774A(2).

- (3) Condition B is that in accordance with generally accepted accounting practice—
- (a) the borrower's accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.

Origin: ICTA s.774A(2).

- (4) If the borrower is a partnership the reference to the borrower's accounts includes a reference to the accounts of any member of the partnership.

Origin: ICTA s.774A(3).

- (5) For the purposes of this section the borrower and the lender are not connected with one another.

Origin: ICTA s.774A(4).

2 Certain tax consequences not to have effect [j3A16]

- (1) This section applies if a type 1 finance arrangement would have the relevant effect (ignoring this section).

Origin: ICTA s.774B(1), (1A).

- (2) The arrangement is not to have that effect.

Origin: ICTA s.774B(1A).

- (3) The relevant effect is that –
- (a) an amount of income on which the borrower or a person connected with the borrower would otherwise have been charged to corporation tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for corporation tax purposes any income of the borrower or of a person connected with the borrower is not so brought into account, or
 - (c) the borrower or a person connected with the borrower becomes entitled to an income deduction.

Origin: ICTA s.774B(2).

- (4) But if the borrower is a partnership the relevant effect is that –
- (a) an amount of income on which a member of the partnership would otherwise have been charged to corporation tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for corporation tax purposes any income of a member of the partnership is not so brought into account, or
 - (c) a member of the partnership becomes entitled to an income deduction.

Origin: ICTA s.774B(3).

- (5) For the purposes of this section the borrower and the lender are not connected with one another.

Origin: ICTA s.774A(4).

- (6) An income deduction is –
- (a) a deduction in calculating income for corporation tax purposes, or
 - (b) a deduction against total profits.

Origin: ICTA s.774G(2).

3 Payments treated as borrower's income [j3A16A]

- (1) This section applies if –
- (a) a type 1 finance arrangement would not have the relevant effect (ignoring section 2(2)),
 - (b) [that arrangement would not have the corresponding income-tax effect (ignoring section 681EA(2) of ITA 2007)], and
 - (c) the borrower is a company within the charge to corporation tax.

Origin: ICTA s.774B(1), (1B); drafting.

- (2) The payments mentioned in section 1(2)(c) must be treated for corporation tax purposes as income of the company payable in respect of the security.

Origin: ICTA s.774B(1B).

- (3) Subsection (2) applies whether or not the payments are also the income of another person for tax purposes.

Origin: ICTA s.774B(1B).

- (4) Subsections (3) to (6) of section 2 (meaning of relevant effect) apply for the purposes of this section as for those of that.

Origin: ICTA s.774A(4), s.774B(2), (3), s.774G(2).

- (5) [In subsection (1)(b) “the corresponding income-tax effect” means the relevant effect as defined by section 681EA of ITA 2007 (provision for income tax corresponding to section 2).]

Origin: ICTA s.774(1B).

4 Deemed loan relationship [j3A18]

- (1) This section applies if a type 1 finance arrangement is prevented by section 2 from having the relevant effect in relation to a company.

Origin: ICTA s.774B(5).

- (2) This section also applies if section 3 applies to a company.

Origin: ICTA s.774B(5).

- (3) These provisions have effect in relation to the company for the purposes of Part [6] of [the Corporation Tax Act 2009] (loan relationships) –

- (a) the advance is treated as a money debt owed by the company, and
- (b) the arrangement is treated as a loan relationship of the company (as a debtor relationship).

Origin: ICTA s.774B(5).

- (4) And any amount which in accordance with generally accepted accounting practice is recorded in the company’s accounts as a finance charge in respect of the advance is treated as interest payable under the loan relationship.

Origin: ICTA s.774B(5).

- (5) If the borrower is a partnership –

- (a) the reference in subsection (4) to the company’s accounts includes a reference to the partnership’s accounts, and
- (b) any amount treated as interest under subsection (4) is treated as payable by the partnership (whether or not the finance charge is recorded in the partnership’s accounts).

Origin: ICTA s.774B(6), (8).

- (6) If an amount is treated as interest (deemed interest) under subsection (4), to find out when it is paid –

- (a) treat the payments mentioned in section 1(2)(c) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
- (b) treat the interest elements of the payments as paid when the payments are paid, and
- (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.

Origin: ICTA s.774B(7), (8).

Type 2 arrangements

5 Type 2 finance arrangement defined [j3A19]

- (1) For the purposes of this Chapter an arrangement is a type 2 finance arrangement if conditions A and B are met.

Origin: ICTA s.774C(1).

- (2) Condition A is that –
- (a) under the arrangement a person (the transferor) makes a disposal of an asset (the security) to a partnership,
 - (b) the transferor is a member of the partnership immediately after the disposal (whether or not a member immediately before it),
 - (c) under the arrangement the partnership receives money or another asset (the advance) from another person (the lender),
 - (d) there is a relevant change in relation to the partnership (see section 6), and
 - (e) under the arrangement the share in the partnership's profits of the person involved in the change is determined by reference (wholly or partly) to payments in respect of the security.

Origin: ICTA s.774C(2).

- (3) Condition B is that in accordance with generally accepted accounting practice –
- (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.

Origin: ICTA s.774C(2).

- (4) The reference to the partnership's accounts includes a reference to the transferor's accounts.

Origin: ICTA s.774C(3).

6 Relevant change in relation to partnership [j3A21]

- (1) For the purposes of this Chapter there is a relevant change in relation to a partnership if condition 1 or condition 2 is met.

Origin: ICTA s.774C(6).

- (2) Condition 1 is that in connection with the arrangement the lender or a person connected with the lender becomes a member of the partnership at any time.

Origin: ICTA s.774C(6).

- (3) Condition 2 is that –
- (a) in connection with the arrangement there is at any time a change in a member's share in the partnership's profits, and
 - (b) the member is the lender or a person connected with the lender or a person who in connection with the arrangement becomes at any time connected with the lender.

Origin: ICTA s.774C(6), (7).

- (4) An event occurs in connection with the arrangement if it occurs directly or indirectly in consequence of it or otherwise in connection with it.

Origin: ICTA s.774C(6), (7).

7 Certain tax consequences not to have effect [j3A20]

- (1) This section applies if –
- (a) there is a type 2 finance arrangement, and
 - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).

Origin: ICTA s.774D(1).

- (2) In such a case –
- (a) [section 114 of ICTA 1988 (partnerships involving companies)] is to have effect in relation to the transferor as if the relevant change in relation to the partnership had not occurred, and
 - (b) accordingly the finance arrangement is not to have the relevant effect.

Origin: ICTA s.774D(3), (4).

- (3) The relevant effect is that –
- (a) an amount of income on which the transferor would otherwise have been charged to corporation tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for corporation tax purposes any income of the transferor is not so brought into account, or
 - (c) the transferor becomes entitled to an income deduction.

Origin: ICTA s.774D(2), (3).

- (4) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 5(2)(e) were payable to the partnership before the relevant change in relation to it occurred.

Origin: ICTA s.774D(2A).

- (5) An income deduction is –
- (a) a deduction in calculating income for corporation tax purposes, or
 - (b) a deduction against total profits.

Origin: ICTA s.774G(2).

8 Deemed loan relationship [j3A22]

- (1) This section applies if –
- (a) there is a type 2 finance arrangement, and
 - (b) the transferor is a company within the charge to corporation tax.

Origin: ICTA s.774D(7).

- (2) These provisions have effect in relation to the company –
- (a) the advance is treated for the purposes of Part [6] of [the Corporation Tax Act 2009] (loan relationships) as a money debt owed by the partnership, and

- (b) the arrangement is treated as a transaction for the lending of money from which the debt is treated as arising for those purposes.

Origin: ICTA s.774D(7).

- (3) And any amount which in accordance with generally accepted accounting practice is recorded in the partnership's accounts as a finance charge in respect of the advance is treated as interest payable by the company under the transaction.

Origin: ICTA s.774D(7).

- (4) The reference in subsection (3) to the partnership's accounts includes a reference to the transferor's accounts.

Origin: ICTA s.774D(8).

- (5) If an amount is treated as interest (deemed interest) under subsection (3), to find out when it is paid—
 - (a) treat the payments mentioned in section 5(2)(e) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
 - (b) treat the interest elements of the payments as paid when the payments are paid, and
 - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.

Origin: ICTA s.774D(12), (13).

Type 3 arrangements

9 Type 3 finance arrangement defined [j3A27]

- (1) For the purposes of this Chapter an arrangement is a type 3 finance arrangement if conditions A and B are met.

Origin: ICTA s.774C(1).

- (2) Condition A is that—
 - (a) a partnership holds an asset (the security) as a partnership asset at any time before the arrangement is made,
 - (b) under the arrangement the partnership receives money or another asset (the advance) from another person (the lender),
 - (c) there is a relevant change in relation to the partnership (see section 6), and
 - (d) under the arrangement the share in the partnership's profits of the person involved in the change is determined by reference (wholly or partly) to payments in respect of the security.

Origin: ICTA s.774C(4).

- (3) Condition B is that in accordance with generally accepted accounting practice—
 - (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.

Origin: ICTA s.774C(4).

- (4) The reference to the partnership's accounts includes a reference to the accounts of any person who is a member of the partnership immediately before the arrangement is made.

Origin: ICTA s.774C(5).

10 Certain tax consequences not to have effect [j3A28]

- (1) This section applies if –
- (a) there is a type 3 finance arrangement, and
 - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).

Origin: ICTA s.774D(1).

- (2) The relevant effect is that –
- (a) an amount of income on which a relevant member would otherwise have been charged to corporation tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for corporation tax purposes any income of a relevant member is not so brought into account, or
 - (c) a relevant member becomes entitled to an income deduction.

Origin: ICTA s.774D(2).

- (3) A relevant member is a person who –
- (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
 - (b) is not the lender.

Origin: ICTA s.774D(3).

- (4) If this section applies –
- (a) [section 114 of ICTA 1988 (partnerships involving companies)] is to have effect in relation to any relevant member as if the relevant change in relation to the partnership had not occurred, and
 - (b) accordingly the finance arrangement is not to have the relevant effect.

Origin: ICTA s.774D(3), (4).

- (5) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 9(2)(d) were payable to the partnership before the relevant change in relation to it occurred.

Origin: ICTA s.774D(2A).

- (6) An income deduction is –
- (a) a deduction in calculating income for corporation tax purposes, or
 - (b) a deduction against total profits.

Origin: ICTA s.774G(2).

11 Deemed loan relationship [j3A29]

- (1) This section applies if –

- (a) there is a type 3 finance arrangement, and
- (b) a relevant member is a company within the charge to corporation tax.

Origin: ICTA s.774D(10).

- (2) These provisions have effect in relation to the company –
 - (a) the advance is treated for the purposes of Part [6] of [the Corporation Tax Act 2009] (loan relationships) as a money debt owed by the partnership, and
 - (b) the arrangement is treated as a transaction for the lending of money from which the debt is treated as arising for those purposes.

Origin: ICTA s.774D(10).

- (3) And any amount which in accordance with generally accepted accounting practice is recorded in the partnership's accounts as a finance charge in respect of the advance is treated as interest payable by the partnership under the transaction.

Origin: ICTA s.774D(10).

- (4) The reference in subsection (3) to the partnership's accounts includes a reference to the accounts of any relevant member.

Origin: ICTA s.774D(11).

- (5) If an amount is treated as interest (deemed interest) under subsection (3), to find out when it is paid –
 - (a) treat the payments mentioned in section 9(2)(d) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
 - (b) treat the interest elements of the payments as paid when the payments are paid, and
 - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.

Origin: ICTA s.774D(12), (13).

- (6) A relevant member is a person who –
 - (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
 - (b) is not the lender.

Origin: ICTA s.774D(3).

Exceptions

12 Exceptions: preliminary [j3A33X]

- (1) Sections 13 to 15 make provision for finance arrangement codes not to apply in certain circumstances.

Origin: Drafting.

- (2) For the purposes of those sections each of these groups of provisions is a finance arrangement code –
 - (a) sections 1 to 4 (type 1 arrangements),

- (b) sections 5 to 8 (type 2 arrangements), and
- (c) sections 9 to 11 (type 3 arrangements).

Origin: Drafting.

13 Exceptions [j3A34]

- (1) A finance arrangement code does not apply if the whole of the advance under the arrangement –
 - (a) is charged to tax on a relevant person as an amount of income,
 - (b) is brought into account in calculating for tax purposes any income of a relevant person, or
 - (c) is brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of a relevant person.

Origin: ICTA s.774E(1).

- (2) In applying subsection (1) ignore the effect of [section 785A of ICTA 1988 (rent factoring of leases of plant or machinery)].

Origin: ICTA s.774E(1).

- (3) Treat subsection (1)(c) as not met if –
 - (a) the receipt gives rise, or proceeds give rise, to a balancing charge, and
 - (b) the amount of the balancing charge is limited by any provision of CAA 2001.

Origin: ICTA s.774E(2).

- (4) A finance arrangement code does not apply if at all times the whole of the advance under the arrangement –
 - (a) is a debtor relationship of a relevant person for the purposes of Part [6] of [the Corporation Tax Act 2009] (loan relationships), or
 - (b) would be a debtor relationship of a relevant person for those purposes if that person were a company within the charge to corporation tax.

Origin: ICTA s.774E(3).

- (5) In subsection (4) references to a debtor relationship do not include references to a relationship to which Chapter [2] of Part [7] of [the Corporation Tax Act 2009] applies (relevant non-lending relationships).

Origin: ICTA s.774E(3).

- (6) A finance arrangement code does not apply so far as –
 - (a) section 263A of TCGA 1992 applies in relation to the arrangement (agreements for sale and repurchase of securities), or
 - (b) [Schedule 13 to FA 2007] or Chapter [9] of Part [7] of [the Corporation Tax Act 2009] applies in relation to the arrangement (sale and repurchase of securities, and repos).

Origin: ICTA s.774E(4).

- (7) A finance arrangement code does not apply so far as [Chapter 5 of Part 2 of FA 2005] or Chapter [6] of Part [7] of [the Corporation Tax Act 2009] has effect in relation to the arrangement (alternative finance arrangements).

Origin: ICTA s.774E(4).

- (8) A finance arrangement code does not apply so far as the security is plant or machinery which is the subject of a sale and finance leaseback.

Origin: ICTA s.774E(5).

- (9) For the purposes of subsection (8) apply section 221 of CAA 2001 to determine whether plant or machinery is the subject of a sale and finance leaseback.

Origin: ICTA s.774E(6).

- (10) A finance arrangement code does not apply so far as sections 228B and 228C of CAA 2001 (finance leaseback) apply in relation to the arrangement.

Origin: ICTA s.774E(5).

- (11) Section 14 defines a relevant person for the purposes of this section.

Origin: Drafting.

14 Exceptions: relevant person [j3A33]

- (1) This section defines a relevant person for the purposes of section 13.

Origin: Drafting.

- (2) If (apart from sections 13 and 15) sections 1 to 4 would apply, each of these is a relevant person –

- (a) the borrower, and
- (b) a person connected with the borrower or (if the borrower is a partnership) a member of the partnership.

Origin: ICTA s.774E(7).

- (3) If (apart from sections 13 and 15) sections 5 to 8 would apply, the transferor is a relevant person.

Origin: ICTA s.774E(7).

- (4) If (apart from sections 13 and 15) sections 9 to 11 would apply, a relevant member as there defined is a relevant person.

Origin: ICTA s.774E(7).

15 Power to make further exceptions [j3A35]

- (1) The Treasury may make regulations prescribing other circumstances in which a finance arrangement code is not to apply.

Origin: ICTA s.774F(1).

- (2) The regulations may amend sections 13 and 14.

Origin: ICTA s.774F(2).

- (3) The power to make regulations includes –

- (a) power to make provision that has effect in relation to times before the making of the regulations (but not times before 6 June 2006),

- (b) power to make different provision for different cases or different purposes, and
- (c) power to make incidental, supplemental, consequential and transitional provision and savings.

Origin: ICTA s.774F(3).

Interpretation

16 Accounts [j3A40]

- (1) This section applies for the purposes of this Chapter.

Origin: Drafting.

- (2) A reference to the accounts of a person includes (if the person is a company) a reference to the consolidated group accounts of a group of companies of which it is a member.

Origin: ICTA s.774G(5).

- (3) In determining whether accounts record an amount as a financial liability in respect of an advance, assume that the period in which the advance is received ended immediately after the receipt of the advance.

Origin: ICTA s.774G(5A).

- (4) If a person does not draw up accounts in accordance with generally accepted accounting practice, assume that the person drew up the accounts in accordance with that practice.

Origin: ICTA s.774G(6).

17 Arrangements [j3A42]

A reference in this Chapter to an arrangement includes a reference to an agreement or understanding (whether or not legally enforceable).

Origin: ICTA s.774G(1).

18 Assets [j3A39]

- (1) This section applies for the purposes of this Chapter.

Origin: Drafting.

- (2) A reference to a person receiving an asset includes a reference to –
 - (a) the person obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it,
 - (b) the discharge (in whole or part) of a liability of the person.

Origin: ICTA s.774G(3).

- (3) A reference to a disposal of an asset includes a reference to anything constituting a disposal of it for the purposes of TCGA 1992.

Origin: ICTA s.774G(3).

- (4) A reference to payments in respect of an asset includes a reference to –

- (a) payments in respect of another asset substituted for it under the arrangement,
- (b) obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it.

Origin: ICTA s.774G(3).

CHAPTER 2

OTHER PROVISIONS

Transfer of right to distribution on shares

19 Transfer of right to distribution on shares [j3A1]

- (1) This section applies if –
 - (a) a person who owns shares (the owner) sells or transfers the right to receive a distribution payable in respect of them,
 - (b) the owner does not sell or transfer the shares,
 - (c) the proceeds of the sale or transfer are not chargeable to tax,
 - (d) the case does not fall within section 20(1)(d) (owner not beneficial owner of shares and some other person beneficially entitled to income), and
 - (e) the owner is a company within the charge to corporation tax.

Origin: ICTA s.730(1), (2); drafting.

- (2) For the purposes of the Corporation Tax Acts, the distribution must be treated as the company's income for the accounting period in which the sale or transfer takes place.

Origin: ICTA s.730(1).

- (3) The charge to corporation tax on income applies to the distribution.

Origin: ICTA s.730(6).

- (4) Subsection (3) –
 - (a) applies subject to the provisions of the Tax Acts about distributions, and
 - (b) does not apply if the company shows that the proceeds of a sale or other realisation of the right to receive the distribution have been charged to tax by virtue of section [298] [j062950] of [the Corporation Tax Act 2009].

Origin: ICTA s.730(6).

- (5) This section applies –
 - (a) whether the distribution is payable before or after the sale or transfer, and
 - (b) whether or not the distribution would be chargeable to tax apart from this section.

Origin: ICTA s.730(1).

20 Transfer where owner not beneficially entitled [j3A2]

- (1) This section applies if—
- (a) a person who owns shares (the owner) sells or transfers the right to receive a distribution payable in respect of them,
 - (b) the proceeds of the sale or transfer are not chargeable to tax,
 - (c) the owner does not sell or transfer the shares,
 - (d) the owner is not the beneficial owner of the shares and some other person (a beneficiary) is beneficially entitled to the income arising from them, and
 - (e) the beneficiary is a company within the charge to corporation tax.

Origin: ICTA s.730(1), (2); drafting.

- (2) For the purposes of the Corporation Tax Acts, the distribution must be treated as the beneficiary's income for the accounting period in which the sale or transfer takes place.

Origin: ICTA s.730(1).

- (3) The charge to corporation tax on income applies to the distribution.

Origin: ICTA s.730(6).

- (4) Subsection (3)—
- (a) applies subject to the provisions of the Tax Acts about distributions, and
 - (b) does not apply if the beneficiary shows that the proceeds of a sale or other realisation of the right to receive the distribution have been charged to tax by virtue of section [298] [j062950] of [the Corporation Tax Act 2009] (sales of foreign dividend coupons).

Origin: ICTA s.730(6).

- (5) This section applies—
- (a) whether the distribution is payable before or after the sale or transfer, and
 - (b) whether or not the distribution would be chargeable to tax apart from this section.

Origin: ICTA s.730(1).

21 Power to obtain information [j3A4]

- (1) An officer of Revenue and Customs may by notice require any person to provide the officer with such particulars as the officer reasonably requires for the purposes of section 19 or 20 in relation to shares the person owned at any time in the period specified in the notice.

Origin: ICTA s.730(8); Annex 1, change [jc601]; Annex 1, change [jc608].

- (2) The officer may direct the time within which the particulars must be provided and that time must be at least 30 days.

Origin: ICTA s.730(8); Annex 1, change [jc601]; Annex 1, change [jc607].

22 Meaning of shares [j3A5]

In sections 19 to 21 “shares” means shares in a company.

Origin: ICTA s.730(7).

Transfer of right to receive annual payments

23 Transfer of right to receive annual payment [j3A9]

- (1) This section applies if—
- (a) a company sells or transfers the right to receive an annual payment to which this section applies (see subsection (3)),
 - (b) the consideration (if any) for the sale or transfer would not be chargeable to tax apart from this section, and
 - (c) the company is within the charge to corporation tax.

Origin: ICTA s.775A(1); drafting.

- (2) In such a case—
- (a) corporation tax is charged under [Case III of Schedule D],
 - (b) the tax is charged on an amount equal to the market value of the right,
 - (c) the tax is charged for the accounting period in which the sale or transfer takes place, and
 - (d) the company which sells or transfers the right is liable for the tax.

Origin: ICTA s.775A(2), (3).

- (3) This section applies to any annual payment other than one under a life annuity as defined in section 473(2) of ITTOIA 2005.

Origin: ICTA s.775A(4), (7).

- (4) This section applies in relation to part of an annual payment as it applies in relation to the whole of one.

Origin: ICTA s.775A(5).

Loan or credit transactions

24 Loan or credit transaction defined [j3A14]

- (1) This section defines a loan or credit transaction for the purposes of sections 25 and 26.

Origin: Drafting.

- (2) A transaction is a loan or credit transaction if it is—
- (a) effected with reference to the lending of money or the varying of the terms on which money is lent, or
 - (b) effected with a view to enabling or facilitating an arrangement concerning the lending of money or the varying of the terms on which money is lent.

Origin: ICTA s.786(1).

- (3) A transaction is a loan or credit transaction if it is—

- (a) effected with reference to the giving of credit or the varying of the terms on which credit is given, or
- (b) effected with a view to enabling or facilitating an arrangement concerning the giving of credit or the varying of the terms on which credit is given.

Origin: ICTA s.786(1).

- (4) Subsection (2) has effect whether the transaction is effected –
 - (a) between the lender and the borrower,
 - (b) between either of them and a person connected with the other, or
 - (c) between a person connected with one and a person connected with the other.

Origin: ICTA s.786(2).

- (5) Subsection (3) has effect whether the transaction is effected –
 - (a) between the creditor and the debtor,
 - (b) between either of them and a person connected with the other, or
 - (c) between a person connected with one and a person connected with the other.

Origin: ICTA s.786(2).

25 Certain payments treated as interest [j3A12A]

- (1) This section applies if a loan or credit transaction provides for a payment which is not interest but is –
 - (a) an annuity or other annual payment falling within Part 5 of ITTOIA 2005 and chargeable to income tax otherwise than as relevant foreign income, or
 - (b) an annuity or other annual payment chargeable to corporation tax under [Case III of Schedule D].

Origin: ICTA s.786(3), (3A).

- (2) The payment must be treated for the purposes of the Corporation Tax Acts as if it were a payment of interest.

Origin: ICTA s.786(3).

26 Tax charged on income transferred [j3A15]

- (1) This section applies if –
 - (a) under a loan or credit transaction a company transfers income arising from property without a sale or transfer of the property,
 - (b) the company is not, as a result of Chapter 1 (finance arrangements), chargeable to corporation tax on the income transferred, and
 - (c) the company is within the charge to corporation tax.

Origin: ICTA s.786(5), (5ZA); drafting.

- (2) In such a case –
 - (a) corporation tax is charged under the charge to corporation tax on income,
 - (b) the tax is charged on an amount equal to the income transferred, and

(c) the company which transfers the income is liable for the tax.

[Origin: ICTA s.786\(5\).](#)

(3) This section does not prejudice the liability of any other person to tax.

[Origin: ICTA s.786\(5\).](#)

(4) For the purposes of this section a company transfers income if it assigns, surrenders, waives or forgoes it.

[Origin: ICTA s.786 \(5\), \(5ZA\).](#)

(5) Subsection (6) applies for the purposes of this section if –

(a) credit is given for the purchase price of property, and

(b) the buyer's rights to income from the property are suspended or restricted during the life of the debt.

[Origin: ICTA s.786\(6\).](#)

(6) The buyer must be treated as surrendering income of an amount equal to the income the buyer in effect forgoes by obtaining the credit.

[Origin: ICTA s.786\(6\).](#)

(7) For the purposes of this section an amount of income payable subject to deduction of income tax must be taken as the amount before deduction of tax.

[Origin: ICTA s.786\(7\).](#)

SCHEDULE

FACTORING OF INCOME ETC: NEW PART 12B OF ITA 2007 [j3ASCH]

- 1 ITA 2007 is amended as follows.
- 2 After section 681DQ (to be inserted by [Bill 7]) insert –

“PART 12B

FACTORING OF INCOME ETC

CHAPTER 1

FINANCE ARRANGEMENTS

Type 1 arrangements

681E Type 1 finance arrangement defined

- (1) For the purposes of this Chapter an arrangement is a type 1 finance arrangement if conditions A and B are met.
- (2) Condition A is that under the arrangement –
 - (a) a person (the borrower) receives money or another asset (the advance) from another person (the lender),
 - (b) the borrower or a person connected with the borrower makes a disposal of an asset (the security) to or for the benefit of the lender or a person connected with the lender, and
 - (c) the lender or a person connected with the lender is entitled to payments in respect of the security.
- (3) Condition B is that in accordance with generally accepted accounting practice –
 - (a) the borrower’s accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.
- (4) If the borrower is a partnership the reference to the borrower’s accounts includes a reference to the accounts of any member of the partnership.
- (5) For the purposes of this section the borrower and the lender are not connected with one another.

681EA Certain tax consequences not to have effect

- (1) This section applies if a type 1 finance arrangement would have the relevant effect (ignoring this section).
- (2) The arrangement is not to have that effect.

- (3) The relevant effect is that –
 - (a) an amount of income on which the borrower or a person connected with the borrower would otherwise have been charged to income tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of the borrower or of a person connected with the borrower is not so brought into account, or
 - (c) the borrower or a person connected with the borrower becomes entitled to an income deduction.
- (4) But if the borrower is a partnership the relevant effect is that –
 - (a) an amount of income on which a member of the partnership would otherwise have been charged to income tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of a member of the partnership is not so brought into account, or
 - (c) a member of the partnership becomes entitled to an income deduction.
- (5) For the purposes of this section the borrower and the lender are not connected with one another.
- (6) An income deduction is –
 - (a) a deduction in calculating income for income tax purposes, or
 - (b) a deduction against total income.

681EB Payments treated as borrower's income

- (1) This section applies if –
 - (a) a type 1 finance arrangement would not have the relevant effect (ignoring section 681EA(2)),
 - (b) [that arrangement would not have the corresponding corporation-tax effect (ignoring section 2(2) of [Bill 6]), and
 - (c) the borrower is within the charge to income tax.
- (2) The payments mentioned in section 681E(2)(c) must be treated for income tax purposes as income of the borrower payable in respect of the security.
- (3) Subsection (2) applies whether or not the payments are also the income of another person for tax purposes.
- (4) Subsections (3) to (6) of section 681EA (meaning of relevant effect) apply for the purposes of this section as for those of that.
- (5) [In subsection (1)(b) “the corresponding corporation-tax effect” means the relevant effect as defined by section 2 of [Bill 6] (provision for corporation tax corresponding to section 681EA).]

681EC Deemed interest

- (1) This section applies if –
 - (a) a type 1 finance arrangement is prevented by section 681EA from having the relevant effect in relation to a person, and

- (b) in accordance with generally accepted accounting practice the person's accounts record an amount as a finance charge in respect of the advance.
- (2) This section also applies if –
 - (a) section 681EB applies to a person, and
 - (b) in accordance with generally accepted accounting practice the person's accounts record an amount as a finance charge in respect of the advance.
- (3) For income tax purposes the person may treat the amount as interest payable on a loan.
- (4) If the borrower is a partnership –
 - (a) the references in subsections (1) and (2) to the person's accounts include references to the partnership's accounts, and
 - (b) any amount treated as interest under subsection (3) is treated as payable by the partnership (whether or not the finance charge is recorded in the partnership's accounts).
- (5) If an amount is treated as interest (deemed interest) under subsection (3), to find out when it is paid –
 - (a) treat the payments mentioned in section 681E(2)(c) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
 - (b) treat the interest elements of the payments as paid when the payments are paid, and
 - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.”

Origin: ICTA s.774A(1), (2), (3), (4), s.774B(1), (1A), (1B), (2), (3), (4), (6), (7), (8), s.774G(2); drafting.

3 After section 681EC insert –

"Type 2 arrangements

681ED Type 2 finance arrangement defined

- (1) For the purposes of this Chapter an arrangement is a type 2 finance arrangement if conditions A and B are met.
- (2) Condition A is that –
 - (a) under the arrangement a person (the transferor) makes a disposal of an asset (the security) to a partnership,
 - (b) the transferor is a member of the partnership immediately after the disposal (whether or not a member immediately before it),
 - (c) under the arrangement the partnership receives money or another asset (the advance) from another person (the lender),
 - (d) there is a relevant change in relation to the partnership (see section 681EE), and
 - (e) under the arrangement the share in the partnership's profits of the person involved in the change is determined by

reference (wholly or partly) to payments in respect of the security.

- (3) Condition B is that in accordance with generally accepted accounting practice –
 - (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.
- (4) The reference to the partnership's accounts includes a reference to the transferor's accounts.

681EE Relevant change in relation to partnership

- (1) For the purposes of this Chapter there is a relevant change in relation to a partnership if condition 1 or condition 2 is met.
- (2) Condition 1 is that in connection with the arrangement the lender or a person connected with the lender becomes a member of the partnership at any time.
- (3) Condition 2 is that –
 - (a) in connection with the arrangement there is at any time a change in a member's share in the partnership's profits, and
 - (b) the member is the lender or a person connected with the lender or a person who in connection with the arrangement becomes at any time connected with the lender.
- (4) An event occurs in connection with the arrangement if it occurs directly or indirectly in consequence of it or otherwise in connection with it.

681EF Certain tax consequences not to have effect

- (1) This section applies if –
 - (a) there is a type 2 finance arrangement, and
 - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).
- (2) In such a case –
 - (a) Part 9 of ITTOIA 2005 (partnerships) is to have effect in relation to the transferor as if the relevant change in relation to the partnership had not occurred, and
 - (b) accordingly the finance arrangement is not to have the relevant effect.
- (3) The relevant effect is that –
 - (a) an amount of income on which the transferor would otherwise have been charged to income tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of the transferor is not so brought into account, or
 - (c) the transferor becomes entitled to an income deduction.
- (4) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 681ED(2)(e)

were payable to the partnership before the relevant change in relation to it occurred.

- (5) An income deduction is –
 - (a) a deduction in calculating income for income tax purposes, or
 - (b) a deduction against total income.

681EG Deemed interest

- (1) This section applies if –
 - (a) there is a type 2 finance arrangement,
 - (b) the transferor is a person within the charge to income tax, and
 - (c) in accordance with generally accepted accounting practice the partnership's accounts record an amount as a finance charge in respect of the advance.
- (2) For income tax purposes the transferor may treat the amount as interest payable by the transferor on a loan.
- (3) The reference in subsection (1) to the partnership's accounts includes a reference to to the transferor's accounts.
- (4) If an amount is treated as interest (deemed interest) under subsection (2), to find out when it is paid –
 - (a) treat the payments mentioned in section 681ED(2)(e) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
 - (b) treat the interest elements of the payments as paid when the payments are paid, and
 - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.”

Origin: ICTA s.774C(1), (2), (3), (6), (7) s.774D(1), (2), (2A), (3), (4), (6), (8), (12), (13), s.774G(2).

4 After section 681EG insert –

"Type 3 arrangements

681EH Type 3 finance arrangement defined

- (1) For the purposes of this Chapter an arrangement is a type 3 finance arrangement if conditions A and B are met.
- (2) Condition A is that –
 - (a) a partnership holds an asset (the security) as a partnership asset at any time before the arrangement is made,
 - (b) under the arrangement the partnership receives money or another asset (the advance) from another person (the lender),
 - (c) there is a relevant change in relation to the partnership (see section 681EE), and
 - (d) under the arrangement the share in the partnership's profits of the person involved in the change is determined by reference (wholly or partly) to payments in respect of the security.

- (3) Condition B is that in accordance with generally accepted accounting practice—
 - (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
 - (b) the payments reduce the amount of the financial liability.
- (4) The reference to the partnership's accounts includes a reference to the accounts of any person who is a member of the partnership immediately before the arrangement is made.

681EI Certain tax consequences not to have effect

- (1) This section applies if—
 - (a) there is a type 3 finance arrangement, and
 - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).
- (2) The relevant effect is that—
 - (a) an amount of income on which a relevant member would otherwise have been charged to income tax is not so charged,
 - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of a relevant member is not so brought into account, or
 - (c) a relevant member becomes entitled to an income deduction.
- (3) A relevant member is a person who—
 - (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
 - (b) is not the lender.
- (4) If this section applies—
 - (a) Part 9 of ITTOIA 2005 (partnerships) is to have effect in relation to any relevant member as if the relevant change in relation to the partnership had not occurred, and
 - (b) accordingly the finance arrangement is not to have the relevant effect.
- (5) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 681EH(2)(d) were payable to the partnership before the relevant change in relation to it occurred.
- (6) An income deduction is—
 - (a) a deduction in calculating income for income tax purposes, or
 - (b) a deduction against total income.

681EJ Deemed interest

- (1) This section applies if—
 - (a) there is a type 3 finance arrangement,
 - (b) a relevant member is a person within the charge to income tax, and
 - (c) in accordance with generally accepted accounting practice the partnership's accounts record an amount as a finance charge in respect of the advance.

- (2) For income tax purposes the relevant member may treat the amount as interest payable by the partnership on a loan.
- (3) The reference in subsection (1) to the partnership's accounts includes a reference to the accounts of any relevant member.
- (4) If an amount is treated as interest (deemed interest) under subsection (2), to find out when it is paid –
 - (a) treat the payments mentioned in section 681EH(2)(d) as consisting of amounts for repaying the advance and amounts (the interest elements) in respect of interest on the advance,
 - (b) treat the interest elements of the payments as paid when the payments are paid, and
 - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.
- (5) A relevant member is a person who –
 - (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
 - (b) is not the lender.”

Origin: ICTA s.774C(1), (4), (5), s.774D(1), (2), (2A), (3), (4), (9), (11), (12), (13), s.774G(2).

5 After section 681EJ insert –

"Exceptions

681EK Exceptions: preliminary

- (1) Sections 681EL to 681EN make provision for finance arrangement codes not to apply in certain circumstances.
- (2) For the purposes of those sections each of these groups of provisions is a finance arrangement code –
 - (a) sections 681E to 681EC (type 1 arrangements),
 - (b) sections 681ED to 681EG (type 2 arrangements), and
 - (c) sections 681EH to 681EJ (type 3 arrangements).

681EL Exceptions

- (1) A finance arrangement code does not apply if the whole of the advance under the arrangement –
 - (a) is charged to tax on a relevant person as an amount of income,
 - (b) is brought into account in calculating for tax purposes any income of a relevant person, or
 - (c) is brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of a relevant person.
- (2) In applying subsection (1) ignore the effect of [section 785A of ICTA 1988 (rent factoring of leases of plant or machinery)].
- (3) Treat subsection (1)(c) as not met if –
 - (a) the receipt gives rise, or proceeds give rise, to a balancing charge, and

- (b) the amount of the balancing charge is limited by any provision of CAA 2001.
- (4) A finance arrangement code does not apply if at all times the whole of the advance under the arrangement –
 - (a) is a debtor relationship of a relevant person for the purposes of Part [6] of [the Corporation Tax Act 2009] (loan relationships), or
 - (b) would be a debtor relationship of a relevant person for those purposes if that person were a company within the charge to corporation tax.
- (5) In subsection (4) references to a debtor relationship do not include references to a relationship to which [Chapter 2 of Part 7] of [the Corporation Tax Act 2009] applies (relevant non-lending relationships).
- (6) A finance arrangement code does not apply so far as –
 - (a) section 263A of TCGA 1992 applies in relation to the arrangement (agreements for sale and repurchase of securities), or
 - (b) [Schedule 13 to FA 2007] or [Chapter 9 of Part 7] of [the Corporation Tax Act 2009] applies in relation to the arrangement (sale and repurchase of securities, and repos).
- (7) A finance arrangement code does not apply so far as [Chapter 5 of Part 2 of FA 2005] or [Chapter 6 of Part 7] of [the Corporation Tax Act 2009] has effect in relation to the arrangement (alternative finance arrangements).
- (8) A finance arrangement code does not apply so far as the security is plant or machinery which is the subject of a sale and finance leaseback.
- (9) For the purposes of subsection (8) apply section 221 of CAA 2001 to determine whether plant or machinery is the subject of a sale and finance leaseback.
- (10) A finance arrangement code does not apply so far as sections 228B and 228C of CAA 2001 (finance leaseback) apply in relation to the arrangement.
- (11) Section 681EM defines a relevant person for the purposes of this section.

681EM Exceptions: relevant person

- (1) This section defines a relevant person for the purposes of section 681EL.
- (2) If (apart from sections 681EL and 681EN) sections 681E to 681EC would apply, each of these is a relevant person –
 - (a) the borrower, and
 - (b) a person connected with the borrower or (if the borrower is a partnership) a member of the partnership.
- (3) If (apart from sections 681EL and 681EN) sections 681ED to 681EG would apply, the transferor is a relevant person.

- (4) If (apart from sections 681EL and 681EN) sections 681EH to 681EJ would apply, a relevant member as there defined is a relevant person.

681EN Power to make further exceptions

- (1) The Treasury may make regulations prescribing other circumstances in which a finance arrangement code is not to apply.
- (2) The regulations may amend sections 681EL and 681EM.
- (3) The power to make regulations includes –
 - (a) power to make provision that has effect in relation to times before the making of the regulations (but not times before 6 June 2006),
 - (b) power to make different provision for different cases or different purposes, and
 - (c) power to make incidental, supplemental, consequential and transitional provision and savings.”

Origin: ICTA s.774E(1), (2), (3), (4), (5), (6), (7), s.774F(1), (2), (3); drafting.

6 After section 681EN insert –

"Interpretation

“681EO Accounts

- (1) This section applies for the purposes of this Chapter.
- (2) A reference to the accounts of a person includes (if the person is a company) a reference to the consolidated group accounts of a group of companies of which it is a member.
- (3) In determining whether accounts record an amount as a financial liability in respect of an advance, assume that the period in which the advance is received ended immediately after the receipt of the advance.
- (4) If a person does not draw up accounts in accordance with generally accepted accounting practice, assume that the person drew up the accounts in accordance with that practice.

681EP Arrangements

A reference in this Chapter to an arrangement includes a reference to an agreement or understanding (whether or not legally enforceable).

681EQ Assets

- (1) This section applies for the purposes of this Chapter.
- (2) A reference to a person receiving an asset includes a reference to –
 - (a) the person obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it,
 - (b) the discharge (in whole or part) of a liability of the person.

- (3) A reference to a disposal of an asset includes a reference to anything constituting a disposal of it for the purposes of TCGA 1992.
- (4) A reference to payments in respect of an asset includes a reference to –
 - (a) payments in respect of another asset substituted for it under the arrangement,
 - (b) obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it.”

Origin: ICTA s.774G(1), (3), (5), (5A), (6); drafting.

7 After section 681EQ insert –

“CHAPTER 2

OTHER PROVISIONS

Transfer of right to distribution on shares

681F Transfer of right to distribution on shares

- (1) This section applies if –
 - (a) a person who owns shares (the owner) sells or transfers the right to receive a distribution payable in respect of them,
 - (b) the owner does not sell or transfer the shares,
 - (c) the proceeds of the sale or transfer are not chargeable to tax,
 - (d) the case does not fall within section 681FA(1)(d) (owner not beneficial owner of shares and some other person beneficially entitled to income), and
 - (e) the owner is within the charge to income tax.
- (2) For the purposes of the Income Tax Acts, the distribution must be treated as the owner’s income for the tax year in which the sale or transfer takes place.
- (3) The distribution must be charged to income tax if –
 - (a) the shares are of such a character that the distribution may be paid without deduction of income tax, and
 - (b) the owner does not show that the proceeds of a sale or other realisation of the right to receive the distribution have been charged to income tax under Chapter 13 of Part 4 of ITTOIA 2005 (sales of foreign dividend coupons).
- (4) Income tax chargeable under subsection (3) must be charged on the full amount of the distribution in the tax year, unless subsection (5) applies.
- (5) This subsection applies if (had the distribution been relevant foreign income) tax would have been calculated by reference to the amount received in the United Kingdom.
- (6) If subsection (5) applies, income tax chargeable under subsection (3) must be charged on the full amount of the sums which have been or will be received in the United Kingdom in the tax year or any later tax year in which the owner remains the owner of the shares.

- (7) The person liable for income tax chargeable under subsection (3) is the owner, who is entitled to credit for any tax which the distribution is shown to have borne.
- (8) This section applies –
 - (a) whether the distribution is payable before or after the sale or transfer, and
 - (b) whether or not the distribution would be chargeable to tax apart from this section.

681FA Transfer where owner not beneficially entitled

- (1) This section applies if –
 - (a) a person who owns shares (the owner) sells or transfers the right to receive a distribution payable in respect of them,
 - (b) the proceeds of the sale or transfer are not chargeable to tax,
 - (c) the owner does not sell or transfer the shares,
 - (d) the owner is not the beneficial owner of the shares and some other person (a beneficiary) is beneficially entitled to the income arising from them, and
 - (e) the beneficiary is within the charge to income tax.
- (2) For the purposes of the Income Tax Acts, the distribution must be treated as the beneficiary's income for the tax year in which the sale or transfer takes place.
- (3) The distribution must be charged to income tax if –
 - (a) the shares are of such a character that the distribution may be paid without deduction of income tax, and
 - (b) the beneficiary does not show that the proceeds of a sale or other realisation of the right to receive the distribution have been charged to income tax under Chapter 13 of Part 4 of ITTOIA 2005 (sales of foreign dividend coupons).
- (4) Income tax chargeable under subsection (3) must be charged on the full amount of the distribution in the tax year, unless subsection (5) applies.
- (5) This subsection applies if (had the distribution been relevant foreign income) tax would have been calculated by reference to the amount received in the United Kingdom.
- (6) If subsection (5) applies, income tax chargeable under subsection (3) must be charged on the full amount of the sums which have been or will be received in the United Kingdom in the tax year or any later tax year in which the owner remains the owner of the shares.
- (7) The person liable for income tax chargeable under subsection (3) is the beneficiary, who is entitled to credit for any tax which the distribution is shown to have borne.
- (8) This section applies –
 - (a) whether the distribution is payable before or after the sale or transfer, and
 - (b) whether or not the distribution would be chargeable to tax apart from this section.

681FB Power to obtain information

- (1) An officer of Revenue and Customs may by notice require any person to provide the officer with such particulars as the officer reasonably requires for the purposes of section 681F or 681FA in relation to shares the person owned at any time in the period specified in the notice.
- (2) The officer may direct the time within which the particulars must be provided and that time must be at least 30 days.

681FC Meaning of shares

In sections 681F to 681FB “shares” means shares in a company.”

Origin: ICTA s.730(1), (2), (4), (4A), (4B), (5), (7), (8); Annex 1, change jc7601; Annex 1, change jc707; Annex 1, change jc708; drafting.

- 8 After section 681FC insert –

"Transfer of right to receive annual payments

681FD Transfer of right to receive annual payment

- (1) This section applies if –
 - (a) a person sells or transfers the right to receive an annual payment to which this section applies (see subsection (3)),
 - (b) the consideration (if any) for the sale or transfer would not be chargeable to tax apart from this section, and
 - (c) the person is within the charge to income tax.
- (2) In such a case –
 - (a) income tax is charged under this section,
 - (b) the tax is charged on an amount equal to the market value of the right,
 - (c) the tax is charged for the tax year in which the sale or transfer takes place, and
 - (d) the person who sells or transfers the right is liable for the tax.
- (3) This section applies to any annual payment other than –
 - (a) one under a life annuity,
 - (b) one under a pension annuity,
 - (c) one in respect of which, by virtue of section 727 of ITTOIA 2005 (payments by individuals arising in UK), no liability to income tax arises under Part 5 of that Act.
- (4) This section applies in relation to part of an annual payment as it applies in relation to the whole of one.
- (5) In this section –

“life annuity” means a life annuity as defined in section 473(2) of ITTOIA 2005;

“pension annuity” means an annuity which is pension income within the meaning of Part 9 of ITEPA 2003 (see section 566(2) of that Act).”

Origin: ICTA s.775A(1), (2), (3), (4), (5), (7); drafting.

9 After section 681FD insert –

"Loan or credit transactions

681FE Loan or credit transaction defined

- (1) This section defines a loan or credit transaction for the purposes of sections 681FF and 681FG.
- (2) A transaction is a loan or credit transaction if it is –
 - (a) effected with reference to the lending of money or the varying of the terms on which money is lent, or
 - (b) effected with a view to enabling or facilitating an arrangement concerning the lending of money or the varying of the terms on which money is lent.
- (3) A transaction is a loan or credit transaction if it is –
 - (a) effected with reference to the giving of credit or the varying of the terms on which credit is given, or
 - (b) effected with a view to enabling or facilitating an arrangement concerning the giving of credit or the varying of the terms on which credit is given.
- (4) Subsection (2) has effect whether the transaction is effected –
 - (a) between the lender and borrower,
 - (b) between either of them and a person connected with the other, or
 - (c) between a person connected with one and a person connected with the other.
- (5) Subsection (3) has effect whether the transaction is effected –
 - (a) between the creditor and debtor,
 - (b) between either of them and a person connected with the other, or
 - (c) between a person connected with one and a person connected with the other.

681FF Certain payments treated as yearly interest

- (1) This section applies if a loan or credit transaction provides for a payment which is not interest but is –
 - (a) an annuity or other annual payment falling within Part 5 of ITTOIA 2005 and chargeable to income tax otherwise than as relevant foreign income, or
 - (b) an annuity or other annual payment chargeable to corporation tax under [Case III of Schedule D].
- (2) The payment must be treated for the purposes of the Income Tax Acts as if it were a payment of yearly interest.

681FG Tax charged on income transferred

- (1) This section applies if –

- (a) under a loan or credit transaction a person transfers income arising from property without a sale or transfer of the property,
 - (b) the person is not, as a result of Chapter 1 (finance arrangements), chargeable to income tax on the income transferred, and
 - (c) the person is within the charge to income tax.
- (2) In such a case –
- (a) income tax is charged under this section,
 - (b) the tax is charged on an amount equal to the full amount of the income transferred,
 - (c) the tax is charged for the tax year in which the transfer takes place, and
 - (d) the person who transfers the income is liable for the tax.
- (3) This section does not prejudice the liability of any other person to tax.
- (4) For the purposes of this section a person transfers income if the person assigns, surrenders, waives or forgoes it.
- (5) Subsection (6) applies for the purposes of this section if –
- (a) credit is given for the purchase price of property, and
 - (b) the buyer’s rights to income from the property are suspended or restricted during the life of the debt.
- (6) The buyer must be treated as surrendering income of an amount equal to the income the buyer in effect forgoes by obtaining the credit.
- (7) For the purposes of this section an amount of income payable subject to deduction of income tax must be taken as the amount before deduction of tax.”

Origin: ICTA s.786(1), (2), (3), (3A), (5), (5ZA), (5A), (6), (7); drafting.