

Guaranteed Returns on Futures and Options Summary

1. The legislation on guaranteed returns on futures and option is found in Schedule 5AA to ICTA 1988. It was enacted in FA 1997 and amended by FA 1998 and FA 2002.
2. The legislation brings within the charge to income tax profits and gains on disposals of futures and options which are designed to give guaranteed returns. By selecting, for example, assets which are unlikely to fluctuate in value to underlie the future or option or by arranging a combination of futures or options to cater for possible price movements it is possible for both parties to predict the likely profit at the outset.
3. The return on such futures and options has more in common with interest than with a profit on a future or option. Without this legislation these profits would, for the most part, be liable to capital gains tax and enjoy the benefits of annual exemptions. Profits from trading in futures or options are not within Schedule 5AA.
4. The present intention is to rewrite Schedule 5AA in Chapter 13 of Part 4 of Bill 3. It may however be more appropriate to include it within Bill 4 along with other legislation dealing with avoidance. In any event the material dealing with losses (clause 484) may not be appropriate for Bill 3 and the material dealing with capital gains (clauses 486 to 488) may be better dealt with in the consequential amendments Schedule to Bill 3. These matters are under consideration.
5. This paper comprises:
 - draft clauses
 - origins of draft clauses
 - draft Explanatory Notes
6. There are no changes of law or technical legal notes arising from the rewrite.
7. Please send comments by 30 September. These should be sent by e-mail where possible to: Jon.N.Fuller@ir.gsi.gov.uk Written comments should be sent to:

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