



Income Tax Act 2007

2007 CHAPTER 3

PART 13

TAX AVOIDANCE

[^{F1}CHAPTER 5F

INCOME-BASED CARRIED INTEREST

[^{F1}Average holding period: derivatives and hedging

Textual Amendments

F1 Pt. 13 Ch. 5F inserted (with effect in accordance with s. 37(4) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 37\(2\)](#)

809FZG Derivatives

- (1) A derivative contract entered into for the purposes of an investment scheme is an investment, subject to the following provisions of this section.
- (2) The value invested in the derivative contract is—
 - (a) where the contract is an option, the cost of acquiring the option (whether from the grantor or another person),
 - (b) where the contract is a future, the price specified in the contract for the underlying subject matter, or
 - (c) where the contract is a contract for differences, the notional principal of the contract.
- (3) But where entering into a derivative contract constitutes a deemed disposal of an investment or part of an investment by virtue of section 809FZD(2)(a)(ii)—
 - (a) the derivative contract is not an investment, and

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- (b) the subsequent disposal of the derivative contract without a corresponding disposal of the investment or part investment is to be regarded as the making of a new investment to the extent that the scheme becomes materially exposed to risks and rewards in respect of the investment or part investment.
- (4) For the purposes of this Chapter, references to disposal, in the case of a derivative contract, include any of the following events (to the extent that the event is not otherwise a disposal under section 809FZD(1) or (2))—
- (a) the expiry of the contract,
 - (b) the termination of the contract (whether or not in accordance with its terms),
 - (c) the disposal, substantial variation, loss or cancellation of the investment scheme's rights under the contract, and
 - (d) in the case of a derivative contract which is an option, the exercise of the option,
- but do not include the renewal of the contract with the same counterparty on substantially the same terms.
- (5) The substantial variation of an investment scheme's rights under a derivative contract constitutes (in addition to the disposal of the contract as originally entered into (see subsection (4)(c)) a new investment consisting of the contract as varied.

809FZHHedging: exchange gains and losses

- (1) This section applies where—
- (a) an investment scheme has a hedging relationship between a relevant instrument and a relevant investment, and
 - (b) the hedging relationship relates to exchange gains or losses.
- (2) In this section—
- “relevant instrument” means a derivative contract or a liability representing a loan relationship, and
 - “relevant investment” means—
 - (a) where the relevant instrument is a derivative contract, an investment made for the purposes of the scheme or a liability representing a loan relationship;
 - (b) where the relevant instrument is a liability representing a loan relationship, an investment made for the purposes of the scheme.
- (3) An investment scheme has a hedging relationship between a relevant instrument and a relevant investment if or to the extent that—
- (a) the instrument and the investment are designated by the scheme as a hedge, or
 - (b) in any other case, the instrument is intended to act as a hedge of exposure to—
 - (i) changes in fair value of the investment or an identified portion of the investment, or
 - (ii) variability in cash flows,
 where the exposure is attributable to exchange gains or losses and could affect profit or loss of the investment scheme.
- (4) Entering into the hedging relationship is not a deemed disposal of the relevant investment under section 809FZD(2).

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- (5) The relevant instrument is not an investment for the purposes of the investment scheme to the extent that the conditions in subsection (3)(a) and (b) are met.
- (6) But the termination of the hedging relationship is the making of an investment constituting the relevant instrument if or to the extent that that instrument continues to subsist.

809FZI Hedging: interest rates

- (1) This section applies where an investment scheme has a hedging relationship between—
 - (a) an interest rate contract, and
 - (b) a qualifying investment held for the purposes of the fund.
- (2) An investment scheme has a hedging relationship between an interest rate contract and a qualifying investment if or to the extent that—
 - (a) the interest rate contract and the investment are designated by the scheme as a hedge, or
 - (b) in any other case, the interest rate contract is intended to act as a hedge of exposure to—
 - (i) changes in fair value of the investment or an identified portion of the investment, or
 - (ii) variability in cash flows,where the exposure is attributable to interest rates and could affect profit or loss of the investment scheme.
- (3) Entering into the hedging relationship is not a deemed disposal of the relevant investment under section 809FZD(2).
- (4) The interest rate contract is not an investment for the purposes of the investment scheme to the extent that the conditions in subsection (2)(a) and (b) are met.
- (5) But the termination of the hedging relationship is the making of an investment constituting the interest rate contract if or to the extent that the interest rate contract continues to subsist.
- (6) In this section “qualifying investment” means—
 - (a) money placed at interest,
 - (b) securities (excluding shares issued by companies),
 - (c) alternative finance arrangements, and
 - (d) a liability representing a loan relationship.]

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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):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)