

Rules relating to recovery of capital and replacement loans. FA74 s35(1) to (3) 249.—(1) (a) Where, at any time after the application of the proceeds of a loan to which section 247 or 248 applies, the investing company or the individual (in this section referred to as “the borrower”) has recovered any amount of capital from the company concerned or from a connected company without using that amount in repayment of the loan, the borrower shall be treated for the purposes of this section as if the borrower had at that time repaid that amount out of the loan and so that out of the interest otherwise eligible for relief and payable for any period after that time there shall be deducted an amount equal to interest on the amount of capital so recovered.

(b) Where part only of a loan referred to in paragraph (a) fulfils the conditions in section 247 or 248 so as to afford relief for interest on that part, the deduction to be made under this subsection shall be made wholly out of interest on that part.

(2) (a) The borrower shall be treated as having recovered an amount of capital from the company or from a connected company if—

(i) the borrower receives consideration of that amount or value for the sale of any part of the ordinary share capital of the company or of a connected company or any consideration of that amount or value by means of repayment of any part of that ordinary share capital,

(ii) the company or a connected company repays that amount of a loan or advance from the borrower, or

(iii) the borrower receives consideration of that amount or value for assigning any debt due to the borrower from the company or from a connected company.

(b) In the case of a sale or assignment otherwise than by means of a bargain made at arm's length, the sale or assignment shall be deemed to be for consideration of an amount equal to the market value of what is disposed of.

(3) Sections 247 (3) and 248 (2) and subsections (1) and (2) shall apply to a loan referred to in section 247 (2)(c) or 248 (1)(c) as if such loan and any loan it replaces were one loan, and as if—

(a) references in sections 247 (3) and 248 (2) and in subsection (1) to the application of the proceeds of the loan were references to the application of the proceeds of the original loan, and

(b) any restriction under subsection (1) which applied to any loan which has been replaced applied also to the loan which replaces that loan.