

Taxation of transactions associated with loans or credit. FA74 s41(1) to (6); CTA76 s140(1) and Sch2 Ptl par45 and s164 and Sch3 PtlI 813.—(1) This section shall apply as respects any transaction effected with reference to the lending of money or the giving of credit, or the varying of the terms on which money is loaned or credit is given, or which is effected with a view to enabling or facilitating any such arrangement concerning the lending of money or the giving of credit.

(2) Subsection (1) shall apply whether the transaction is effected between the lender or creditor and the borrower or debtor, or between either of them and a person connected with the other or between a person connected with one and a person connected with the other.

(3) Where the transaction provides for the payment of any annuity or other annual payment, not being interest but being a payment chargeable to tax under Schedule D, the payment shall be treated for the purposes of the Tax Acts as if it were a payment of annual interest.

(4) Where the transaction is one by which an owner of any securities or other property carrying a right to income (in this subsection referred to as “the owner”) agrees to sell or transfer the property, and by the same or any collateral agreement—

(a) the purchaser or transferee (in this subsection referred to as “the buyer”) or a person connected with the buyer agrees to sell or transfer at a later date the same or any other property to the owner or a person connected with the owner, or

(b) the owner or a person connected with the owner acquires an option, which the owner or the person connected with the owner subsequently exercises, to buy or acquire the same or any other property from the buyer or a person connected with the buyer,

then, without prejudice to the liability of any other person, the owner shall be chargeable to tax under Case IV of Schedule D on an amount equal to any income which arises from the first-mentioned property at any time before the repayment of the loan or the termination of the credit.

(5) Where under the transaction a person assigns, surrenders or otherwise agrees to waive or forego income arising from any property (without a sale or transfer of the property), then, without prejudice to the liability of any other person, the first-mentioned person shall be chargeable to tax under Case IV of Schedule D on a sum equal to the amount of income assigned, surrendered, waived or foregone.

(6) Where credit is given for the purchase price of any property and the rights attaching to the property are such that during the subsistence of the debt the purchaser's rights to income from the property are suspended or restricted, the purchaser shall be treated for the purposes of subsection (5) as having surrendered a right to income of an amount equivalent to the income which the purchaser has in effect foregone by obtaining the credit.

(7) The amount of any income payable subject to deduction of tax at the standard rate shall be taken for the purposes of subsection (5) as the amount before deduction of that tax.