

Securitisation of assets. FA91 s31; FA96 s55(1) 110.—(1) In this section—

“qualifying asset” means—

(a) in the case of a qualifying company which is a qualified company ), an asset—

(i) denominated in a foreign currency which consists of, or of an interest in or a contractual right to, any loan, lease, trade or consumer receivable or other debt or receivable whether secured or unsecured, and

(ii) of a person (in this section referred to as “the originator”), being any government, public or local authority, company or other body corporate which—

(I) is not resident in the State, and

(II) (A) is not carrying on a trade in the State through a branch or agency, or

(B) is carrying on a trade in the State through a branch or agency and the asset was not created, acquired or held by or in connection with the branch or agency,

and

(b) in any other case, a loan made by a company (in this section referred to as “the original lender”) on the security of a mortgage of a freehold or leasehold estate or interest in the ordinary course of a trade carried on by it which consists of or includes the lending of money on such security;

“qualifying company” means a company resident in the State which carries on a business of the management of qualifying assets which it acquired from the original lender or original lenders or the originator or originators, as the case may be, and does not carry on any other business, apart from activities which are ancillary to the business of the management of those qualifying assets, but a company shall not be a qualifying company if any transaction is carried out by it otherwise than by means of a bargain made at arm's length.

(2) For the purposes of the Tax Acts—

(a) activities carried out in the course of a business carried on by a qualifying company shall be deemed to be activities carried out in the course of a trade, the profits or gains of which are chargeable to tax under Case I of Schedule D,

(b) there shall be deducted as an expense of the trade the amount, in so far as it is not—

(i) otherwise deductible, or

(ii) recoverable from the original lender or the originator, as the case may be, or under any insurance,

contract of indemnity or otherwise howsoever,

of any debt which is proved to the satisfaction of the inspector to be bad and of a doubtful debt to the extent that it is estimated to be bad; but, in the case of a company referred to in paragraph (b) of the definition of “qualifying asset”, the amount of the debt shall not be deducted under this paragraph unless it would have been deductible as an expense of the trade of the original lender if that debt had been proved or estimated to be bad before it was acquired by the qualifying company, and

(c) where at any time an amount or part of an amount which has been deducted as an expense under paragraph (b) is recovered or is no longer estimated to be bad, the amount which has been so deducted shall, in so far as it is recovered or is no longer estimated to be bad, be treated as trading income of the trade at that time.