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1 Capital gains tax: cryptoasset arrangements



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1 Capital gains tax: cryptoasset arrangements

(1) After Part 4 of TCGA 1992 (shares, securities, options etc.) insert—

“PART 4A

CRYPTOASSETS ETC

CHAPTER 1

GENERAL

Taxation of cryptoassets

151YA Cryptoassets: capital gains tax

(1) This Part has effect for the purposes of capital gains tax where a person other than a company disposes of or acquires qualifying cryptoassets under the following arrangements—

- (a) single cryptoasset lending arrangements (see Chapter 2),
- (b) single cryptoasset borrowing arrangements (see Chapter 3), and
- (c) automated market making arrangements (see Chapter 4).

(2) For the purposes of this Part—

- (a) “cryptoasset” means a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, and
- (b) one cryptoasset is of the same type as another if those cryptoassets are of a nature to be dealt in without identifying the particular cryptoasset involved (and references to a particular type of cryptoasset are to be construed accordingly).

(3) For the purposes of this Part—

- (a) a cryptoasset is “qualifying” if it is neither—
 - (i) a security, nor
 - (ii) a tokenised asset,
- (b) a “security” means any asset that is a security for the purposes of section 263A (see section 263AA(8)), and
- (c) a “tokenised asset” means a cryptoasset that represents a right in respect of another asset (whether or not the cryptoasset represents anything else) unless—
 - (i) the right is a right in respect of another qualifying cryptoasset,

(ii) the right is a right in respect of returns under single cryptoasset lending arrangements, single cryptoasset borrowing arrangements or automated market making arrangements,

(iii) the right is a right for the redemption of the cryptoasset for a fixed amount of sterling or other currency, or

(iv) the extent to which the value of the cryptoasset is derived from it representing rights in respect of assets, other than rights falling within paragraphs (i) to (iii), is insignificant.

(4) The Treasury may by regulations amend this section for the purpose of altering whether cryptoassets are “qualifying” or not.

(5) A statutory instrument containing regulations under subsection (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

CHAPTER 2

SINGLE CRYPTOASSET LENDING ARRANGEMENTS

151YB Meaning of “single cryptoasset lending arrangements” etc

(1) This Chapter makes provision about the treatment of single cryptoasset lending arrangements for the purposes of capital gains tax.

(2) “Single cryptoasset lending arrangements” means arrangements—

(a) under which qualifying cryptoassets of a particular type (“the invested cryptoassets”) are made available to be used in connection with the arrangements,

(b) under which a person other than a company (who may or may not be the person who made them available) acquires an interest that comprises a right, relating to a number (“the relevant number”) of the invested cryptoassets being available to be so used, to become unconditionally entitled to—

(i) the relevant number of eligible cryptoassets, and

(ii) a return,

(c) the effect of which, taken as a whole, is economically equivalent to a lending transaction resulting in a return to the person,

(d) which, taken as a whole, are genuine commercial arrangements, and

(e) in relation to which—

(i) the low-risk-of-loss condition is met, and

(ii) either the unconnected parties condition or the widely available condition is met. * (3) The low-risk-of-loss condition is met in relation to single cryptoasset lending arrangements if, considering all the characteristics of the arrangements, it would be reasonable to conclude that there is no significant risk that the person will not be able to realise the entitlement mentioned in subsection (2)(b)(i).

(4) The unconnected parties condition is met in relation to single cryptoasset lending arrangements if the person who acquires the interest is not connected with any person to whom eligible cryptoassets may be transferred as a result of the arrangements.

(5) The widely available condition is met in relation to single cryptoasset lending arrangements if interests in the arrangements are available to be acquired by a substantial number of persons acting independently.

(6) For the purposes of this Chapter—

(a) an “interest”, in relation to single cryptoasset lending arrangements, means the interest described in subsection (2)(b);

(b) “eligible cryptoassets”, in relation to an interest, means cryptoassets of the same type as the invested cryptoassets to which the interest relates;

151YC Acquisition of interest in single cryptoasset lending arrangements

(1) Each interest of a person in single cryptoasset lending arrangements is treated as an asset for the purposes of capital gains tax.

(2) The person is not to be regarded as having any interest in any other asset by virtue of having that interest in the arrangements.

(3) Where the consideration for the acquisition of the interest by the person includes the provision of any assets—

(a) held by the person immediately before acquiring the interest, and

(b) the provision of which is not otherwise a disposal, the person is treated as having disposed of the assets at that time.

(4) Subsections (5) and (6) apply where—

(a) the consideration for the acquisition of the interest by the person includes the disposal by the person of chargeable eligible cryptoassets, and

(b) section 151YD(1) (exempt interests) would not apply on the subsequent disposal of the interest by the person.

(5) Neither a gain nor a loss accrues on the disposal of those cryptoassets.

(6) The consideration for the acquisition of the interest in the arrangements is deemed to be the sum of—

(a) the amount of consideration as would secure the result in subsection (5), and

(b) the amount (if any) of consideration given for the acquisition of the interest that does not arise from the disposal to which that subsection applies.

(7) Subsection (6) applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal.

(8) Eligible cryptoassets disposed of by the person are “chargeable eligible cryptoassets” if any gain accruing on the disposal (apart from this section) would be a chargeable gain.

151YD Exemption for certain interests in single cryptoasset lending arrangements

(1) Any gain accruing on the disposal by a person of an interest in a single cryptoasset lending arrangement is not a chargeable gain if the invested cryptoassets to which the interest relates were exempt cryptoassets at the time of the acquisition of the interest.

(2) For the purposes of subsection (1), invested cryptoassets are “exempt cryptoassets” in relation to the person at the time of the acquisition if—

(a) they were eligible stablecoins within the meaning of section 269A at any time—

(i) on the day on which the interest was acquired, or

(ii) if the interest was acquired before 6 April 2027, on 6 April 2027, or

(b) had the cryptoassets been acquired and immediately disposed of by the person at that time and had a gain accrued on that disposal, that gain would not have been a chargeable gain.

(3) Subsection (4) applies where, by virtue of section 104, a person is treated as holding—

(a) a single asset comprising securities to the disposal of which subsection (1) would apply (the “exempt section 104 holding”), and

(b) another single asset comprising securities which, but for section 104(4C), would be regarded as part of the same asset (the “non-exempt section 104 holding”).

(4) If the person disposes of some, but not all, of the securities forming those holdings, the securities disposed of shall be identified with—

(a) so far as their quantity does not exceed that of the securities forming the non-exempt section 104 holding, securities forming part of that holding, and

(b) to the extent their quantity does exceed that amount, securities forming part of the exempt section 104 holding.

(5) Subsection (4) applies notwithstanding that some or all of the securities disposed of are otherwise identified—

(a) by the disposal, or

(b) by a transfer or delivery giving effect to it.

(6) In this section “securities” has the same meaning as in section 104.

151YE Disposal of interest in single cryptoasset lending arrangements

(1) This section applies where an interest of a person in single cryptoasset lending arrangements is disposed of.

(2) The person is (if this were not already the case) treated as acquiring any assets provided to the person as consideration for the disposal.

(3) Subsections (4) to (6) apply where—

(a) the consideration for the disposal includes the provision to the person of chargeable eligible cryptoassets, and

(b) section 151YD(1) (exempt interests) does not apply to the disposal of the interest.

(4) The disposal of the interest is treated as—

(a) the disposal of the qualifying share of the interest for so many (the “qualifying number”) of the chargeable eligible cryptoassets as do not exceed the relevant number, and

(b) a separate transaction constituting—

(i) the disposal of the remainder of the interest (if any) for any remaining consideration, or

(ii) where there is no remainder but there is remaining consideration, the disposal, for that remaining consideration, of an asset that was acquired for nil consideration.

(But this subsection does not apply if the disposal is already of the type described in paragraph (a)).

(5) Neither a gain nor a loss accrues on a disposal of the type described in subsection (4)(a).

(6) The qualifying number of the chargeable eligible cryptoassets are to be treated as having been acquired for such consideration as would have secured the result in subsection (5).

(7) Subsection (6) applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal.

(8) The “qualifying share” means the share of the interest that bears to the whole interest the same proportion as the qualifying number bears to the relevant number.

(9) This section applies to the disposal of part of an interest in single cryptoasset lending arrangements as it applies to the disposal of an interest in single cryptoasset arrangements, but as if references to the relevant number were to the proportion of the relevant number that is same as the proportion that the part of the interest disposed of bears to the whole of the interest.

(10) Eligible cryptoassets acquired by the person are “chargeable eligible cryptoassets” if, were a gain to accrue on their immediate disposal, the gain would be a chargeable gain.

CHAPTER 3

SINGLE CRYPTOASSET BORROWING ARRANGEMENTS

151YF Meaning of “single cryptoasset borrowing arrangements” etc

(1) This Chapter makes provision about the treatment of the borrower under single cryptoasset borrowing arrangements for the purposes of capital gains tax.

(2) “Single cryptoasset borrowing arrangements” means arrangements between a borrower who is a person other than a company and a lender—

(a) under which the lender transfers qualifying cryptoassets of a particular type to the borrower otherwise than by way of sale, and

(b) under which—

(i) a requirement is imposed on the borrower to transfer those cryptoassets back to the lender, or to transfer cryptoassets of the same type to the lender, otherwise than by way of sale, or

(ii) collateral is provided by the borrower.

(3) In this Chapter references to “the lender”—

(a) include a lender who is not a person, and

(b) are not to be taken as requiring that the identity of “the lender” remains static over the course of the arrangements.

(4) References in this Chapter (other than the reference in subsection (2)(b)(i)) to the transfer of the cryptoassets back to the lender include references to any case where cryptoassets of the same type are transferred to the lender in accordance with the arrangements.

- (5) For the purposes of this Chapter “collateral” means property which—
- (a) is provided under the arrangements (or under arrangements of which the arrangements form part), and
 - (b) is transferred to or otherwise made available for the benefit of the lender to be forfeited if any or all of the cryptoassets transferred to the borrower are not transferred back to the lender.

151YG Single cryptoasset borrowing arrangements: disposals and acquisitions of the borrower

(1) This section applies where qualifying cryptoassets are transferred to the borrower under single cryptoasset borrowing arrangements, unless the cryptoassets are eligible stablecoins within the meaning of section 269A at the time of the transfer.

(2) The borrower is to be treated for the purposes of this Act as—

- (a) acquiring each cryptoasset transferred to the borrower under the single cryptoasset borrowing arrangements at the time it is transferred for a consideration equal to the market value of the cryptoasset at that time (the “acquisition value”), and
- (b) where any cryptoassets are transferred back to the lender under the arrangements, disposing of each such cryptoasset at the time it is transferred for the acquisition value (but see subsection (7)).

(3) Subsection (4) applies where, at any time after the cryptoassets are transferred to the borrower and before all of the cryptoassets are transferred back to the lender under the arrangements—

- (a) it becomes apparent that some or all of the cryptoassets transferred will not be transferred back to the lender, or
- (b) the cryptoassets transferred become eligible stablecoins within the meaning of section 269A.

(4) The borrower is to be treated as—

- (a) acquiring the retained number of cryptoassets of the same type as those transferred to the borrower under the arrangements for consideration equal to the market value at the time described in subsection (3) of that number of cryptoassets of that type, and
- (b) immediately disposing of each such cryptoasset for the acquisition value.

(5) Section 269A (no chargeable gains on disposal of eligible stablecoins) does not apply to a disposal under subsection (4)(b).

(6) The “retained number” means the number of cryptoassets that —

(a) in the case described in subsection (3)(a), will not be transferred back to the lender;

(b) in the case described in subsection (3)(b), have not been transferred back to the lender.

(7) Where the borrower has disposed of any cryptoassets by virtue of subsection (4)(b), subsection (2)(b) does not subsequently apply to the extent that its application would result in the total number of cryptoassets disposed of by the borrower by virtue of this section exceeding the number of cryptoassets acquired by virtue of subsection (2)(a).

151YH Single cryptoasset borrowing arrangements: treatment of collateral

(1) Subject to subsection (2), the disposals and acquisitions made by the borrower under single cryptoasset borrowing arrangements in relation to assets that are provided as collateral under the arrangements are to be disregarded for the purposes of capital gains tax.

(2) If at any time it becomes apparent that some or all of the assets provided as collateral under the arrangements will not be returned to the borrower, the borrower is to be treated for the purposes of this Act as disposing of those assets at that time for a consideration equal to the market value of those assets at that time.

CHAPTER 4

AUTOMATED MARKET MAKING ARRANGEMENTS

151YI Meaning of “automated market making arrangements”

(1) This Chapter makes provision about the treatment of automated market making arrangements (“AMM arrangements”) for the purposes of capital gains tax.

(2) “AMM arrangements” means arrangements—

(a) under which cryptoassets of at least two types (“the invested cryptoassets”) are made available to be used in connection with the arrangements,

(b) which operate by way of smart contract and include an automated protocol which sets the price for each type of invested cryptoassets by reference to the total number of all types of invested cryptoassets in a cryptoasset liquidity pool,

(c) under which—

- (i) a person other than a company acquires interests in the arrangements in respect of each type of invested cryptoassets that each comprise a right to become unconditionally entitled to a number of eligible cryptoassets, and
 - (ii) that number is determined by the smart contract by reference to a number of the invested cryptoassets of that type being available to be used in connection with the arrangements,
 - (d) under which the person acquires an interest in the arrangements that comprises a right to become unconditionally entitled to a return,
 - (e) which, taken as a whole, are genuine commercial arrangements, and
 - (f) in relation to which the widely available condition is met.
- (3) The widely available condition is met in relation to AMM arrangements if—
- (a) a substantial number of persons acting independently may acquire interests described in subsection (2)(c) in the arrangements, and
 - (b) a substantial number of persons acting independently may trade in the types of invested cryptoassets in the cryptoasset liquidity pool by way of the smart contract.
- (4) In this section—
- “cryptoasset liquidity pool” means a pool of at least two types of cryptoasset;
- “smart contract” means a set of contractual terms or rules-based operations which—
- (a) consist of lines of computer code designed to execute predetermined actions,
 - (b) operate in whole or in part automatically, and
 - (c) relies on a form of distributed ledger technology.
- (5) In this Chapter— “an interest”, in relation to automated market making arrangements, means an interest described in subsection (2)(c) relating to invested cryptoassets of a particular type; “eligible cryptoassets”, in relation to an interest, means cryptoassets of the same type as the invested cryptoassets to which the interest relates.

151YJ Acquisition of interest in automated market making arrangements

- (1) Each interest of a person in AMM arrangements is treated as an asset for the purposes of capital gains tax.
- (2) The person is not to be regarded as having any interest in any other asset by virtue of having an interest in AMM arrangements.

(3) Where the consideration for the acquisition of an interest in AMM arrangements by the person includes the provision of any assets—

- (a) held by the person immediately before acquiring the interest, and
- (b) the provision of which is not otherwise a disposal, the person is treated as having disposed of the assets at that time.

(4) Where the consideration for the acquisition of an interest in AMM arrangements by the person includes the disposal by the person of chargeable eligible cryptoassets, neither a gain nor a loss accrues on the disposal of those eligible cryptoassets.

(5) In a case where subsection (4) applies, the consideration for the acquisition of that interest in the arrangements is deemed to be the sum of—

- (a) the amount of consideration as would secure the result in that subsection, and
- (b) the amount (if any) of any consideration given for the acquisition of the interest that does not arise from the disposal to which subsection (4) applies.

(6) Subsection (5) applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal.

(7) Eligible cryptoassets disposed of by the person are “chargeable eligible cryptoassets” if any gain accruing on the disposal (apart from this section) would be a chargeable gain.

151YK Disposal of interest in automated market making arrangements

(1) This section applies where an interest of a person in AMM arrangements is disposed of.

(2) The person is (if this were not already the case) treated as acquiring any assets provided to the person as consideration for the disposal.

(3) Subsections (4) to (6) apply where the consideration for that disposal includes the provision to the person of chargeable eligible cryptoassets.

(4) The disposal of the interest is treated as—

- (a) the disposal of the qualifying share of the interest for so many (the “qualifying number”) of the chargeable eligible cryptoassets as do not exceed the relevant number at that time, and
- (b) a separate transaction constituting—
 - (i) the disposal of the remainder of the interest (if any) for any remaining consideration, or

(ii) where there is no remainder but there is remaining consideration, the disposal, for that remaining consideration, of an asset that was acquired for nil consideration. (But this subsection does not apply if the disposal is already of the type described in paragraph (a)).

(5) Neither a gain nor a loss accrues on a disposal of the type described in subsection (4)(a).

(6) The qualifying number of the chargeable eligible cryptoassets are to be treated as having been acquired for such consideration as would have secured the result in subsection (5).

(7) Subsection (6) applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal.

(8) This section applies to the disposal of part of an interest in automated market making arrangements as it applies to the disposal of an interest in automated market making arrangements, but as if references to the relevant number were to the proportion of the relevant number that is same as the proportion that the part of the interest disposed of bears to the whole of the interest.

(9) In this section, the “relevant number” at any time is determined as follows—

(a) take the number which is—

(i) the number of eligible cryptoassets to which the person became unconditionally entitled at the time of the acquisition of the interest (see section 151YI(2)(c)), or

(ii) where the interest was acquired at different times, the sum of the number of eligible cryptoassets to which the person became entitled at the time of each such acquisition, and

(b) where there has been any part disposal of the interest before that time, deduct from that number—

(i) the number which is the proportion of the relevant number described in subsection (8) in respect of that part disposal, or

(ii) where there have been multiple part disposals, the sum of the number which is that proportion of the relevant number in respect of each such part disposal.

(10) In this section—

(a) eligible cryptoassets acquired by the person are “chargeable eligible cryptoassets” if, were a gain to accrue on their immediate disposal, the gain would be a chargeable gain;

(b) the “qualifying share” means the share of the interest that bears to the whole interest the same proportion as the qualifying number bears to the relevant number.”

(2) In consequence of the amendments made by subsection (1), TCGA 1992 is amended as follows—

(a) in section 288 (interpretation), in subsection (3A), after “140E,” insert “151YC, 151YE, 151YJ, 151YK,”;

(b) in section 104 (share pooling: general interpretative provisions) after subsection (4B) (as inserted by section 1 (tax treatment of stablecoins)(2)) insert—

“(4C) For the purposes of this Chapter, securities which are held by a person and to the disposal of which section 151YD(1) would apply by virtue of subsection (2)(a) of that section, are to be treated as of a different class from any securities—

(a) that would otherwise fall to be treated as of the same class, and

(b) to the disposal of which section 151YD(1) would not apply.”;

(c) in section 106A (identification of securities: capital gains tax), in subsection (5ZB) (as inserted by section 1 (tax treatment of stablecoins)(3)) —

(i) after “(4B)” insert “or (4C)”;

(ii) after “stablecoins”, in the first place it occurs, insert “and related interests”;

(iii) after “269A(5)” insert “and section 151YD(2)(a)”.

(3) In section 8C of TMA 1970 (returns so far as relating to capital gains tax), in subsection (3)—

(a) omit the “and” at the end of paragraph (a);

(b) at the end of paragraph (b) insert “, and

(c) a disposal to which section 151YC(5), section 151YE(5), section 151YJ(4) or section 151YK(5) of the 1992 Act applies (disposal of cryptoassets for interest in single cryptoasset lending arrangements).”

(4) The amendments made by this section have effect—

(a) so far as they relate to single cryptoasset borrowing arrangements, in relation to arrangements under which the lender transfers qualifying cryptoassets to the borrower on or after 6 April 2027, and

(b) otherwise, in relation to transactions occurring on or after 6 April 2027.

(5) Subsections (6) and (7) apply where —

(a) an interest in single cryptoasset lending arrangements or AMM arrangements was acquired by a person before the commencement date, and

(b) the interest is not (apart from this subsection) an asset for the purposes of capital gains tax.

(6) The interest is treated as always having been an asset for the purposes of capital gains tax.

(7) From 6 April 2027, the person is not to be regarded as—

(a) having any interest in any other asset by virtue of having that interest in the arrangements, or

(b) holding any assets—

(i) provided as consideration for the acquisition of the interest by the person, and

(ii) the provision of which was not a disposal.

(8) Subsection (9) applies where a person holds an interest in single cryptoasset lending arrangements immediately before 6 April 2027 to the disposal of which section 151YD(1) of TCGA 1992 would apply on or after that date.

(9) The person is treated for the purposes of TCGA 1992 as having—

(a) disposed of an asset immediately before 6 April 2027, and

(b) immediately reacquired it, at the market value of the interest in the single cryptoasset lending arrangements at that time.

(10) Any gain or loss accruing on the disposal under subsection (9) is to be treated as accruing on 6 April 2027.

