



Finance (No.2) Act 1987

1987 CHAPTER 51

PART I

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CAPITAL GAINS

Companies' chargeable gains

74 General rules.

- (1) This section has effect with respect to the liability of a company to corporation tax where a chargeable gain accrues to the company on or after 17th March 1987; and in the following provisions of this section—
 - (a) “the 1987 date” means 17th March 1987; and
 - (b) a “new accounting period” means an accounting period beginning on or after the 1987 date.
- (2) With respect to any new accounting period, section 85 of the Finance Act 1972 (set off of advance corporation tax against liability to corporation tax on income) shall have effect as follows—
 - (a) in subsections (1) to (3), for the word “income”, in each place where it occurs, there shall be substituted “profits”; and
 - (b) in subsection (6) for the word “income”, in the first place where it occurs, there shall be substituted “profits” and the words from “exclusive” onwards shall be omitted.
- (3) Section 93 of the Finance Act 1972 (reduction of corporation tax liability in respect of chargeable gains) shall not apply with respect to any new accounting period.

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- (4) With respect to any new accounting period, section 95 of the Finance Act 1972 (mitigation of corporation tax liability of small companies) shall have effect as follows—
- (a) in subsections (1) and (2) for the word “income”, in each place where it occurs, there shall be substituted “basic profits”;
 - (b) in subsection (7), after the word “profits”, in the first place where it occurs, there shall be inserted “(but not the basic profits)”; and
 - (c) in subsection (8), for the word “income”, in the first place where it occurs, there shall be substituted “basic profits” and for the words from “is its income”, onwards there shall be substituted “shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne”.
- (5) With respect to any new accounting period, in sections 101(2) and 103(4) of the Finance Act 1972 (each of which refer to income as defined in section 85(6) of that Act) for the word “income” there shall be substituted “profits”.
- (6) In Schedule 5 to this Act—
- (a) Part I has effect with respect to the operation of the provisions of the Finance Act 1972 referred to in subsections (2) to (5) above in relation to any accounting period of a company which begins before and ends on or after the 1987 date; and
 - (b) Part II has effect with respect to the operation of the enactments referred to in sections 75 and 76 below in relation to any such period.

75 Life assurance business.

- (1) In Schedule 18 to the Finance Act 1972 (taxation of insurance companies) in paragraph 2(4) (modifications of section 85 of that Act)—
- (a) for the word “income”, in the first place where it occurs, there shall be substituted “profits”; and
 - (b) for the words from “an amount” onwards there shall be substituted “deducting therefrom such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which, under section 309 of the Taxes Act, is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D”.
- (2) In subsection (2) of section 26 of the Finance Act 1974 (corporation tax on balance of policy holders' share of life assurance gains)—
- (a) for the words from the beginning to “that share” there shall be substituted “Corporation tax charged on so much of the policy holders' share of the life assurance gains”; and
 - (b) for the words from “as if” onwards there shall be substituted “on the basis of a rate of corporation tax of 30 per cent”.
- (3) In subsection (3) of the said section 26—
- (a) in paragraph (a) the words “so much of” and the words from “as remains” to “1972” shall be omitted; and
 - (b) in paragraph (b) the words “as so reduced” shall be omitted.
- (4) Subsections (1) to (3) above have effect with respect to accounting periods beginning on or after 17th March 1987.

76 Gains from oil extraction activities etc.

- (1) The provisions of this section have effect with respect to accounting periods beginning on or after 17th March 1987.
- (2) Section 16 of the Oil Taxation Act 1975 (restriction on setting advance corporation tax against income from oil extraction activities etc.) shall be amended as follows—
 - (a) in subsection (1) the words “on its income” shall be omitted; and
 - (b) in subsection (3) for the words “the company’s income”, in each place where they occur, there shall be substituted “the company’s profits”.
- (3) In section 79 of the Finance Act 1984 (gains on certain disposals related to oil fields) subsection (5) shall be amended as follows—
 - (a) the words from “(reduced” to “Finance Act 1972)” shall be omitted; and
 - (b) for the words from “section 15” to “income)” there shall be substituted “sections 15 and 16 of the Oil Taxation Act 1975”.
- (4) Section 44 of the Finance Act 1987 (limited right to carry back surrendered advance corporation tax) shall be amended as follows—
 - (a) in subsection (1), in paragraph (e) for the words from “income”, in the first place where it occurs, to the end of the paragraph there shall be substituted “profits which consist of or include ring fence profits”;
 - (b) in subsection (7) for the word “income” there shall be substituted “profits”;
 - (c) at the end there shall be added the following subsection—

“(9) In this section “ring fence profits” has the meaning given by section 79(5) of the Finance Act 1984.”
- (5) In section 45 of the Finance Act 1987 (surrender of advance corporation tax where oil extraction company etc. owned by a consortium) in subsection (4)—
 - (a) for the word “income”, in the first two places where it occurs, there shall be substituted “profits”; and
 - (b) for the words from “that income” onwards there shall be substituted “those profits as consists of ring fence profits, as defined in section 79(5) of the Finance Act 1984”.

77 Double taxation relief.

- (1) Section 100 of the Finance Act 1972 (double taxation relief) shall be amended in accordance with this section.
- (2) With respect to accounting periods of a company beginning on or after 17th March 1987—
 - (a) in subsection (6) for the word “income”, in the first place where it occurs, there shall be substituted “profits (within the meaning of that section)”;
 - (b) in paragraphs (a) and (b) of subsection (6) for the word “income”, in each place where it occurs, there shall be substituted “income or gain”;
 - (c) in subsection (6) in the final words, for the words “income of the company” there shall be substituted “profits of the company” and for the words “relevant income” there shall be substituted “relevant income or gain”; and
 - (d) in subsection (6A) for the word “income”, in each place where it occurs, there shall be substituted “income or gain”.

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- (3) With respect to an accounting period of a company which begins before and ends on or after 17th March 1987, subsection (6) shall have effect as follows—
- (a) any reference to the company's income for the accounting period shall be construed as a reference to its income as determined for the purposes of section 85 of the Finance Act 1972, in accordance with paragraph 3 of Schedule 5 to this Act; and
 - (b) if a relevant gain accrues to the company on or after 17th March 1987, the subsection shall apply in relation to that relevant gain as it applies in relation to relevant income;
- and in paragraph (b) above “relevant income” and “relevant gain” have the meaning assigned by subsection (3) of section 100.
- (4) Where the accounting period referred to in subsection (3) above began before 3rd June 1986, any reference in that subsection to subsection (6) of section 100 is a reference to that subsection as it had effect before the amendment made by section 49(2) of the Finance Act 1986.
- (5) Where the accounting period referred to in subsection (3) above began on or after 3rd June 1986 then (without prejudice to the modifications of subsection (6) of section 100 set out in subsection (3) above), subsection (6A) of section 100 (as set out in section 49(3) of the Finance Act 1986)—
- (a) shall apply in relation to the amount of a relevant gain (as defined in subsection (3) of section 100) accruing on or after 17th March as it applies in relation to an amount of income; and
 - (b) shall have effect as if the reference in paragraph (a) to income for the relevant accounting period were a reference to that income as determined for the purposes of section 85 of the Finance Act 1972, in accordance with paragraph 3 of Schedule 5 to this Act.

Miscellaneous

78 Collective investment schemes.

Where arrangements within section 75 of the Financial Services Act 1986 provide for pooling of the kind mentioned in subsection (3)(a) of that section in relation to different parts of the property concerned, any question whether the arrangements constitute a single collective investment scheme shall be determined for the purposes of capital gains tax without regard to any entitlement of the participants to exchange rights in one part of the property for rights in another.

79 Building societies: groups of companies.

In section 272 of the Taxes Act (groups of companies: definitions) at the end of subsection (2) (references to a company) there shall be added “and

- (e) a building society within the meaning of the Building Societies Act 1986.”.

80 Roll-over relief not available for gains on oil licences.

- (1) A licence under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964 is not and, subject to subsection (2) below, shall be

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assumed never to have been an asset falling within any of the classes in section 118 of the Capital Gains Tax Act 1979 (classes of assets for the purposes of roll-over relief under section 115 of that Act)9.

- (2) Nothing in subsection (1) above affects the determination of any Commissioners or the judgment of any court made or given before 14th May 1987.
- (3) A reference in subsection (1) above to a provision of the Capital Gains Tax Act 1979 includes a reference to the corresponding enactment in Part III of the Finance Act 1965 which is re-enacted in that provision.

81 Commodity and financial futures and options.

- (1) In section 72 of the Finance Act 1985 (commodity and financial futures and traded options) in subsection (1) for the words “traded options” and “traded option” there shall be substituted respectively “qualifying options” and “qualifying option”.
- (2) In subsection (2) of that section, for paragraph (b) (definition of “traded option”) there shall be substituted—
 - “(b) “qualifying option” means a traded option or financial option as defined in section 137(9) of that Act.”

- (3) After that subsection there shall be inserted the following subsections—

“(2A) Notwithstanding the provisions of subsection (2)(a) above, where, otherwise than in the course of dealing on a recognised futures exchange, within the meaning of the principal Act,—

- (a) an authorised person or listed institution enters into a commodity or financial futures contract with another person, or
- (b) the outstanding obligations under a commodity or financial futures contract to which an authorised person or listed institution is a party are brought to an end by a further contract between the parties to the futures contract,

then, except in so far as any gain or loss arising to any person from that transaction arises in the course of a trade, that gain or loss shall be regarded for the purposes of subsection (1) above as arising to him in the course of dealing in commodity or financial futures.

- (2B) In subsection (2A) above—

“authorised person” has the same meaning as in the Financial Services Act 1986, and

“listed institution” has the same meaning as in section 43 of that Act.”

- (4) In subsection (4) of section 137 of the Capital Gains Tax Act 1979 (options and forfeited deposits) for paragraph (aa) there shall be substituted the following paragraph—

“(aa) a traded option or financial option, or”.

- (5) For subsection (9) of section 137 of the Capital Gains Tax Act 1979 (definitions) there shall be substituted the following subsections—

“(9) In subsection (4) above and sections 138 and 139 below—

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- (a) “quoted option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange;
 - (b) “traded option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange or a recognised futures exchange; and
 - (c) “financial option” means an option which is not a traded option, as defined in paragraph (b) above, but which, subject to subsection (10) below,—
 - (i) relates to currency, shares, securities or an interest rate and is granted (otherwise than as agent) by a member of a recognised stock exchange, by an authorised person within the meaning of the Financial Services Act 1986 or by a listed institution within the meaning of section 43 of that Act; or
 - (ii) relates to shares or securities which are dealt in on a recognised stock exchange and is granted by a member of such an exchange, acting as agent; or
 - (iii) relates to currency, shares, securities or an interest rate and is granted to such an authorised person or institution as is referred to in sub-paragraph (i) above and concurrently and in association with an option falling within that sub-paragraph which is granted by that authorised person or institution to the grantor of the first-mentioned option; or
 - (iv) relates to shares or securities which are dealt in on a recognised stock exchange and is granted to a member of such an exchange, including such a member acting as agent;
 and in this subsection “recognised stock exchange” has the meaning given by section 535 of the Taxes Act.
- (10) If the Treasury by order so provide, an option of a description specified in the order shall be taken to be within the definition of “financial option” in subsection (9)(c) above; and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (6) In subsection (1) of section 138 of the Capital Gains Tax Act 1979 (application of rules as to wasting assets) for paragraph (aa) there shall be substituted the following paragraph—
- “(aa) to a traded option or financial option, or”.
- (7) In subsection (4) of section 138 of the Capital Gains Tax Act 1979 (definitions for the purpose of that section) for paragraph (a) there shall be substituted the following paragraph—
- “(a) “financial option”, “quoted option” and “traded option” have the meaning given by section 137(9) above, and”.
- (8) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.