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Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV **U.K.**

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER II **U.K.**

INCOME TAX: BASIS OF ASSESSMENT ETC.

Cases III, IV and V

[^{F1}64 Case III assessments. **U.K.**

Income tax under Case III of Schedule D shall be computed on the full amount of the income arising within the year of assessment, and shall be paid on the actual amount of that income, without any deduction.]

Textual Amendments

F1 S. 64 substituted (with effect in accordance with s. 218 of the amending Act) by Finance Act 1994 (c. 9), s. 206 (with Sch. 20)

65 Cases IV and V assessments: general. **U.K.**

(1) ^{M1}subject to the provisions of this section ^{F2}. . . , income tax chargeable under Case IV or Case V of Schedule D shall be computed on the full amount of the income arising in ^{F2}. . . the year of assessment, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom—

(a) to the same deductions and allowances as if it had been so received, and

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- (b) to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom.
- (2)^{M2} Subject to section 330, income tax chargeable under Case IV or V of Schedule D on income arising from any pension shall be computed on the amount of that income subject to a deduction of one-tenth of the amount of the income.
- [^{F3}(2A) Subject to section 65A and to the provisions of section 41(5) to (9) of the Finance Act 1995 (which contain transitional provisions for the years 1995-96 to 1997-98), income tax chargeable under Case V of Schedule D on income which—
- (a) arises from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land outside the United Kingdom; and
 - (b) is not income immediately derived by any person from the carrying on by him of any trade, profession or vocation, either solely or in partnership,
- shall be computed in accordance with the rules which are applicable under the Income Tax Acts to the computation of the profits or gains of a Schedule A business.
- (2B) The provisions of Schedule A shall apply for determining for the purposes of subsection (2A) above whether income falls within paragraph (a) of that subsection as they would apply if—
- (a) the land in question were in the United Kingdom, or
 - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom;
- and any provision of the Income Tax Acts in pursuance of which there is deemed in certain cases to be a Schedule A business in relation to any land in the United Kingdom shall have effect, where the corresponding circumstances arise with respect to land outside the United Kingdom, as if, for the purposes of that subsection, there were deemed to be a business such as is mentioned in that paragraph.]
- (3)^{M3} Income tax chargeable under Case IV or V of Schedule D on income which is immediately derived by a person from the carrying on by him of any trade, profession or vocation either solely or in partnership shall be computed in accordance with the rules applicable to Cases I and II of Schedule D [^{F4}(including sections 60 to 63A and 113)]; and subsection (1)(a) above shall not apply.
- ^{F5}
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- (4) [^{F6M4}Subsections (1) to (3)] above shall not apply to any person who, [^{F7}makes a claim to the Board stating] that he is not domiciled in the United Kingdom, or that, being a Commonwealth citizen or a citizen of the Republic of Ireland, he is not ordinarily resident in the United Kingdom.
- (5)^{M5} Where subsection (4) above applies the tax shall, ^{F8} . . . , be computed—
- (a) in the case of tax chargeable under Case IV, on the full amount, so far as the same can be computed, of the sums received in the United Kingdom in ^{F8} . . . the year of assessment, without any deduction or abatement; and
 - (b) in the case of tax chargeable under Case V, on the full amount of the actual sums received in the United Kingdom in ^{F8} . . . the year of assessment from remittances payable in the United Kingdom, or from property imported, or from money or value arising from property not imported, or from money or

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value so received on credit or on account in respect of any such remittances, property, money or value brought or to be brought into the United Kingdom, without any deduction or abatement other than is allowed under the provisions of the Income Tax Acts in respect of profits or gains charged under Case I of Schedule D.

- (6) For the purposes of subsection (5) above, any income arising from securities or possessions out of the United Kingdom which is applied outside the United Kingdom by a person ordinarily resident in the United Kingdom in or towards satisfaction of—
- (a) any debt for money lent to him in the United Kingdom or for interest on money so lent, or
 - (b) any debt for money lent to him outside the United Kingdom and received in or brought to the United Kingdom, or
 - (c) any debt incurred for satisfying in whole or in part a debt falling within paragraph (a) or (b) above,

shall be treated as received by him in the United Kingdom (and, for the purposes of subsection (5)(b) above, as so received from remittances payable in the United Kingdom).

- (7) Where a person ordinarily resident in the United Kingdom receives in or brings to the United Kingdom money lent to him outside the United Kingdom, but the debt for that money is wholly or partly satisfied before he does so, subsection (6) above shall apply as if the money had been received in or brought to the United Kingdom before the debt was so satisfied, except that any sums treated by virtue of that subsection as received in the United Kingdom shall be treated as so received at the time when the money so lent is actually received in or brought to the United Kingdom.

- (8) Where—
- (a) a person (“the borrower”) is indebted for money lent to him, and
 - (b) income is applied by him in such a way that the money or property representing it is held by the lender on behalf of or to the account of the borrower in such circumstances as to be available to the lender for the purpose of satisfying or reducing the debt by set-off or otherwise,

that income shall be treated as applied by the borrower in or towards satisfaction of the debt if, under any arrangement between the borrower and the lender, the amount for the time being of the borrower’s indebtedness to the lender, or the time at which the debt is to be repaid in whole or in part, depends in any respect directly or indirectly on the amount or value so held by the lender.

- (9) For the purposes of subsections (6) to (8) above—
- (a) a debt for money lent shall, to the extent to which that money is applied in or towards satisfying another debt, be deemed to be a debt incurred for satisfying that other debt, and a debt incurred for satisfying in whole or in part a debt falling within paragraph (c) of subsection (6) above shall itself be treated as falling within that paragraph; and
 - (b) “lender” includes, in relation to any money lent, any person for the time being entitled to repayment.

Textual Amendments

- F2** Words in s. 65(1) repealed (with effect in accordance with s. 218(1) of the repealing Act) by Finance Act 1994 (c. 9), ss. 207(1), 258, Sch. 26 Pt. 5(24), Note 7 (with Sch. 20)

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- F3** S. 65(2A)(2B) inserted (with effect in accordance with s. 41(5)-(10) of the amending Act) by Finance Act 1995 (c. 4), s. 41(1)
- F4** Words in s. 65(3) inserted (with effect in accordance with ss. 207(6) and 218 of the amending Act) by Finance Act 1994 (c. 9), s. 207(2)(a) (with Sch. 20)
- F5** Words in s. 65(3) repealed (with effect in accordance with ss. 207(6) and 218(1)(b) of the repealing Act) by Finance Act 1994 (c. 9), ss. 207(2)(b), 258, Sch. 26 Pt. 5(24), Note 1 (with Sch. 20)
- F6** Words in s. 65(4) substituted (with effect in accordance with s. 41(5)-(10) of the amending Act) by Finance Act 1995 (c. 4), s. 41(1)
- F7** Words in s. 65(4) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), s. 134(1), Sch. 20 para. 3
- F8** Words in s. 65(5) repealed (with effect in accordance with s. 218(1) of the repealing Act) by Finance Act 1994 (c. 9), ss. 207(3), 258, Sch. 26 Pt. 5(24), Note 7 (with Sch. 20)

Modifications etc. (not altering text)

- C1** See 1990 s.56 and Sch.10 para.12(4)—*tax on income in respect of chargeable securities on income of year of assessment.*
- C2** See—1979(C) s.14(2)—*capital gains tax on gains applied outside the United Kingdom in payment of certain debts.* 1989 s.94 and Sch.11 paras.5, 13—*deep gain securities.*
- C3** See 1988(F) s.38(9)—*no deduction under s.65(1)(b) on account of a payment to which s.38 (maintenance payments) applies.*
- C4** S. 65(6)-(9) applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 12(2), 289 (with ss. 60, 101(1), 171, 201(3)).

Marginal Citations

- M1** SOURCE-1970 s. 122(1)(a), (b)
- M2** SOURCE-1974 S. 22(1)
- M3** SOURCE-1974 s. 23(1), 6(b)
- M4** SOURCE-1970 s. 122(2)(a)
- M5** SOURCE-1970 s. 122(3)-(7)

[^{F9}65A Case V income from land overseas etc. U.K.]

- (1) Notwithstanding anything in section 21(4), subsection (2A) of section 65 shall require the rules referred to in that subsection to be applied separately in relation to—
- (a) any business which is treated for the purposes of that subsection as if it were a Schedule A business, and
 - (b) any actual Schedule A business of the person chargeable,
- as if, in each case, that business were the only Schedule A business carried on by that person.
- (2) Section 21(3), so far as applied by virtue of section 65(2A) for the purposes of the computation of the amount of any income chargeable to tax under Case V of Schedule D, shall have effect as if it required sections 80 and 81 to be disregarded in the computation of the amount of any profits or gains, or losses, of a Schedule A business.
- (3) Sections 503 and 504 of this Act and section 29 of the 1990 Act (furnished holiday accommodation) shall be disregarded in the computation in accordance with section 65(2A) of any income chargeable to tax under Case V of Schedule D.
- (4) Section 65(2A) and this section shall not apply for the purposes of corporation tax.]

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Textual Amendments

- F9** S. 65A inserted (with effect in accordance with s. 41(5)-(10) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 41\(2\)](#)

66 Special rules for fresh income. **U.K.**

F10

Textual Amendments

- F10** S. 66 repealed (with effect in accordance with s. 218(1) of the repealing Act) by [Finance Act 1994 \(c. 9\), ss. 207\(4\), 258, Sch. 26 Pt. 5\(24\)](#), Note 7 (with Sch. 20)

67 Special rules where source of income disposed of or yield ceases. **U.K.**

F11

Textual Amendments

- F11** S. 67 repealed (with effect in accordance with s. 218(1) of the repealing Act) by [Finance Act 1994 \(c. 9\), ss. 207\(4\), 258, Sch. 26 Pt. 5\(24\)](#), Note 7 (with Sch. 20)

68 Special rules where property etc. situated in Republic of Ireland. **U.K.**

- (1) ^{M6}Notwithstanding anything in [^{F12}section 65], but subject to the provisions of this section, income tax chargeable under Case IV or V of Schedule D shall, in the case of property situated and profits or gains arising in the Republic of Ireland, be computed on the full amount of the income arising in the year of assessment, whether the income has been or will be received in the United Kingdom or not, subject in the case of income not received in the United Kingdom—
- (a) to the same deductions and allowances as if it had been so received; and
 - (b) to a deduction on account of any annuity or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom.
- (2) Subsection (1) above shall not apply—
- (a) to any income which is immediately derived by a person from the carrying on by him of any trade, profession or vocation, either solely or in partnership; or
 - (b) to any income which arises from any pension.
- (3) The tax in respect of any such income as is mentioned in subsection (2) above arising in the Republic of Ireland shall be computed either—
- (a) on the full amount thereof arising in the year of assessment; or
 - (b) on the full amount thereof on an average of such period as the case may require and as may be directed by the inspector;

so that, according to the nature of the income, the tax may be computed on the same basis as that on which it would have been computed if the income had arisen in the United Kingdom, and subject in either case to a deduction on account of any annuity

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or other annual payment (not being interest) payable out of the income to a person not resident in the United Kingdom; and the person chargeable and assessable shall be entitled to the same allowances, deductions and reliefs as if the income had arisen in the United Kingdom.

The jurisdiction of the General or Special Commissioners on any appeal shall include jurisdiction to review the inspector's decision under this subsection.

[^{F13}(3A) The fact that the allocations of shares in the company to which persons who are not directors or employees of the company are entitled are smaller than those to which directors or employees of the company are entitled shall not be regarded for the purposes of subsection (2)(b) above as meaning that they are not entitled on similar terms if—

- (a) each of the first-mentioned persons is also entitled, by reason of his office or employment and in priority to members of the public, to an allocation of shares in another company or companies which are offered to the public (at a fixed rate or by tender) at the same time as the shares in the company, and
- (b) in the case of each of those persons the aggregate value (measured by reference to the fixed price or the lowest price successfully tendered) of all the shares included in the allocations to which he is entitled is the same, or as nearly the same as is reasonably practicable, as that of the shares in the company included in the entitlement of a comparable director or employee of the company.]

(4) In charging any income which is excluded from subsection (1) above by subsection (2) (a) above there shall be the same limitation on reliefs as under section 391(2) in the case of income computed by virtue of section 65(3) in accordance with the rules applicable to Cases I and II of Schedule D.

(5) In charging income arising from a pension under subsection (3) above, a deduction of one-tenth shall be allowed unless it is the income of a person falling within section 65(4).

Textual Amendments

F12 Words in s. 68(1) substituted (with effect in accordance with s. 218 of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 207(5) (with [Sch. 20](#))

F13 1990 s.79 in relation to offers made on or after 26 July 1990.

Marginal Citations

M6 SOURCE-1970 Sch. 12 Pt. III 2; 1976 s. 49(4), (6)

VALID FROM 06/04/2003

[^{F14}**68A Share incentive plans: application of section 68B** **U.K.**

- (1) Section 68B applies for income tax purposes in connection with shares awarded under an approved share incentive plan.
- (2) But that section does not apply to an individual if, at the time of the award of shares in question—

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- (a) the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, or
 - (b) in the case of an award made before 6th April 2003, he was not chargeable to tax under Schedule E in respect of the employment by reference to which he met the requirement of paragraph 14 of Schedule 8 to the Finance Act 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (3) For the purposes of subsection (2)(a)—
- (a) “the eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan, and
 - (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).]

Textual Amendments

F14 Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 10** (with Sch. 7)

Modifications etc. (not altering text)

C5 Ss. 68A-68C applied (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 2 para. 87** (with Sch. 7)

VALID FROM 06/04/2003

[^{F14}68B Share incentive plans: cash dividends and dividend shares **U.K.**

- (1) Where a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested), the participant is chargeable to tax on the amount paid over, to the extent that it represents a foreign cash dividend, under Case V of Schedule D for the year of assessment in which the dividend is paid over to the participant.
- (2) If dividend shares cease to be subject to the plan before the end of the period of three years beginning with the date on which the shares were acquired on the participant’s behalf, the participant is chargeable to tax on the amount of the relevant dividend, to the extent that it represents a foreign cash dividend, under Case V of Schedule D for the year of assessment in which the shares cease to be subject to the plan.

For this purpose “the relevant dividend” is the cash dividend applied to acquire those shares on the participant’s behalf.
- (3) Where the participant is charged to tax under subsection (2) the tax due shall be reduced by the amount or aggregate amount of any tax paid on any capital receipts under section 501 of ITEPA 2003 in respect of those shares.
- (4) Subsection (2) has effect subject to section 498 of that Act (no charge on shares ceasing to be subject to plan in certain circumstances).]

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F14 Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 6 para. 10** (with Sch. 7)

Modifications etc. (not altering text)

C6 Ss. 68A-68C applied (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 2 para. 87** (with Sch. 7)

VALID FROM 06/04/2003

[^{F14}68C Share incentive plans: interpretation **U.K.**

- (1) Sections 68A and 68B and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in those sections and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In section 68B, “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.]

Textual Amendments

F14 Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 6 para. 10** (with Sch. 7)

Modifications etc. (not altering text)

C7 Ss. 68A-68C applied (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 2 para. 87** (with Sch. 7)

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