



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

#### CHAPTER IV

##### BUILDING SOCIETIES, BANKS, SAVINGS BANKS, INDUSTRIAL AND PROVIDENT SOCIETIES AND OTHERS

#### **476 Building societies: regulations for payment of tax.**

**F1** .....

##### **Textual Amendments**

**F1** S. 476 repealed by [Finance Act 1990 \(c. 29\), Sch. 5 para. 2, Sch. 19 Pt. 4](#), Note 8

#### **477 Investments becoming or ceasing to be relevant building society investments.**

**F2** .....

##### **Textual Amendments**

**F2** S. 477 repealed by [Finance Act 1990 \(c. 29\), Sch. 5 para. 3, Sch. 19 Pt. 4](#), Note 8

#### **[<sup>F3</sup>477A Building societies: regulations for deduction of tax.**

- (1) The Board may by regulations make provision with respect to any year of assessment requiring any building society—

*Status: Point in time view as at 28/09/2004.*

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- (a) in such cases as may be prescribed by the regulations to deduct out of any dividend or interest paid or credited in the year in respect of shares in, or deposits with or loans to, the society a sum representing the amount of income tax on it, and
- (b) to account for and pay any amount required to be deducted by the society by virtue of this subsection.

[ Regulations under subsection (1) above may not make provision with respect to any  
<sup>F4</sup>(1A) dividend or interest paid or credited, on or after the day on which the Finance Act 1991 was passed, in respect of a security (other than a qualifying certificate of deposit [<sup>F5</sup>and other than a qualifying deposit right]) which was quoted, or capable of being [<sup>F6</sup>listed], on a recognised stock exchange at the time the dividend or interest became payable.

- (2) Regulations under subsection (1) above may—
  - (a) make provision with respect to the furnishing of information by building societies or their investors, including, in the case of societies, the inspection of books, documents and other records on behalf of the Board;
  - (b) contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.

[ Without prejudice to the generality of subsection (2)(a) above, regulations under  
<sup>F7</sup>(2A) subsection (1) above may make provision with respect to the furnishing of information to or by building societies corresponding to any provision that is made by, or may be made under, section 482 with respect to the furnishing of information to or by deposit-takers.]

- (3) For any year of assessment to which regulations under subsection (1) above apply, dividends or interest payable in respect of shares in, or deposits with or loans to, a building society shall be dealt with for the purposes of corporation tax as follows—
  - <sup>F8</sup>(a) [<sup>F9</sup>to the extent that it would not otherwise fall to be so regarded,] liability to pay the dividends or interest shall be treated for the purposes of Chapter II of Part IV of the Finance Act 1996 as a liability arising under a loan relationship of the building society;
  - (aa) if the dividends or interest are payable to a company, [<sup>F10</sup>then, to the extent that they would not otherwise fall to be so regarded,] they shall be treated for those purposes as payable to that company in pursuance of a right arising under a loan relationship of that company;
  - (b) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.

<sup>F11</sup>(3A) [<sup>F12</sup>.....]

(3B) <sup>F12</sup>.....

(3C) <sup>F12</sup>.....]

- (4) Subsection (3)(a) above shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.
- (5) Notwithstanding anything in sections 64, 66 and 67, for any year of assessment to which regulations under subsection (1) above apply income tax chargeable under Case

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III of Schedule D shall, in the case of any relevant sum, be computed on the full amount of the income arising in the year of assessment.

(6) For the purposes of subsection (5) above a sum is relevant if it is a sum in respect of which a liability to deduct income tax—

- (a) is imposed by regulations under subsection (1) above, or
- (b) would be so imposed if a certificate were not supplied, in accordance with the regulations, to the effect that the person beneficially entitled to the sum is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the sum is paid.

(7) Notwithstanding anything in sections 348 to 350, for any year of assessment to which regulations under subsection (1) above apply income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.

(8) <sup>F13</sup> . . . . .

(9) In this section “dividend” has the meaning given by regulations under subsection (1) above, but any sum which is paid by a building society by way of dividend and which is not paid under deduction of income tax shall be treated for the purposes of Schedule D as paid by way of interest.]

[<sup>F14</sup>(10) In this section—

“qualifying certificate of deposit” has the same meaning as in section 349, and

<sup>F15</sup> “qualifying deposit right” has the meaning given by section 349(4), reading “paid” as “paid or credited”, and]

“security” includes share.

#### Textual Amendments

- F3** S. 477A inserted (with effect in accordance with Sch. 5 para. 4(2) of the amending Act) by Finance Act 1990 (c. 29), **Sch. 5 para. 4(1)**
- F4** S. 477A(1A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 52(1), **Sch. 11 para. 2(2)**
- F5** Words in s. 477A(1A)(3A) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 3(2), **6**
- F6** Word in s. 477A(1A) substituted (with effect in accordance with Sch. 38 para. 6(7) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 6(1)(2)(g)**
- F7** S. 477A(2A) inserted (28.7.2000) by Finance Act 2000 (c. 17), s. **111(4)**
- F8** S. 477A(3)(a)(aa) substituted for s. 477A(3)(a) (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 28(1)** (with Sch. 15)
- F9** Words in s. 477A(3)(a) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 47(2)**
- F10** Words in s. 477A(3)(aa) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 47(3)**
- F11** S. 477A(3A)-(3C) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. **52(2)(3)**
- F12** S. 477(3A)-(3C) repealed with effect in accordance with s. 105(1) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 14 para. 28(2), **Sch. 41 Pt. 5(3)**, Note (with Sch. 15)
- F13** S. 477(8) repealed (with effect in accordance with s. 38(3)(4) of the repealing Act) by Finance Act 1999 (c. 16), **Sch. 20 Pt. 3(7)**, Note 4
- F14** S. 477A(10) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 52(1), **Sch. 11 para. 2(3)**
- F15** S. 477A(10): definition of “qualifying deposit right” inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 3(3), **6**

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#### **Modifications etc. (not altering text)**

- C1** See 1990 Sch.5 para.16(1), (2), (3)—regulations may also require building societies to account for tax on transitional sums.
- C2** See 1990 Sch.5 para.16(1), (4), (5)—for the year 1991-92, the words from “actual” to the end of the paragraph are replaced by “appropriate amount”; and the following subs. is inserted after subs.(3):—“(3A) In subsection (3)(a) above the reference to the appropriate amount is to the actual amount paid or credited in the accounting period of any such dividends or interest together with—(a) in the case of dividends or interest paid or credited in the year 1990-91, any amount accounted for and paid by the society in respect thereof as representing income tax, and (b) in the case of dividends or interest paid or credited in the year 1991-92, any amount of income tax accounted for and paid by the society in respect thereof.”

#### **[<sup>F16</sup>477B Building societies: incidental costs of issuing qualifying shares.**

- (1) In computing for the purposes of corporation tax the income of a building society from the trade carried on by it, there shall be allowed as a deduction, if subsection (2) below applies, the incidental costs of obtaining finance by means of issuing shares in the society which are qualifying shares.

[ A deduction shall not be allowed by virtue of subsection (1) above to the extent that the <sup>F17</sup>(1A) costs in question fall to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships).]

- (2) This subsection applies if any amount payable in respect of the shares by way of dividend or interest is deductible in computing for the purposes of corporation tax the income of the society from the trade carried on by it.
- (3) In subsection (1) above, “the incidental costs of obtaining finance” means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.
- (4) This section shall not be construed as affording relief—
- (a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies, or
  - (b) for the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or to their having been issued at a discount.
- (5) In this section—
- “dividend” has the same meaning as in section 477A, and
- “qualifying share” has the same meaning as in section [<sup>F18</sup>117(4) of the 1992 Act].

#### **Textual Amendments**

- F16** S. 477B inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, **Sch. 10 para. 3(1)(2)**
- F17** S. 477B(1A) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 48**

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**F18** Words in s. 477B(5) substituted (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. 289, 290(1), **Sch. 10 para. 14(28)** (with ss. 60, 101(1), 171, 201(3))

#### **478 Building societies: time for payment of tax.**

**F19** .....

##### **Textual Amendments**

**F19** S. 478 repealed (with effect in accordance with s. 199(2) of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 26 Pt. 5(23)**, Note 4; S.I. 1998/3173, **art. 2**

#### **479 Interest paid on deposits with banks etc.**

**F20** .....

##### **Textual Amendments**

**F20** S. 479 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 5, **Sch. 19 Pt. 4**, Note 8

#### **480 Deposits becoming or ceasing to be composite rate deposits.**

**F21** .....

##### **Textual Amendments**

**F21** S. 480 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 6, **Sch. 19 Pt. 4**, Note 8

#### **[<sup>F22</sup>480A] Relevant deposits: deduction of tax from interest payments.**

- (1) Any deposit-taker making a payment of interest in respect of a relevant deposit shall, on making the payment, deduct out of it a sum representing the amount of income tax on it for the year of assessment in which the payment is made.
- (2) Any payment of interest out of which an amount is deductible under subsection (1) above shall be a relevant payment for the purposes of Schedule 16 whether or not the deposit-taker making the payment is resident in the United Kingdom.
- (3) Schedule 16 shall apply in relation to any payment which is a relevant payment by virtue of subsection (2) above—
  - (a) with the substitution for any reference to a company of a reference to a deposit-taker,
  - (b) as if paragraph 5 applied only in relation to payments received by the deposit-taker and falling to be taken into account in computing his income chargeable to corporation tax, and
  - (c) as if in paragraph 7 the reference to section 7(2) included a reference to sections 11(3) and 349(1).

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- (4) In relation to any deposit-taker who is not a company, Schedule 16 shall have effect as if—
- (a) paragraph 5 were omitted, and
  - (b) references to accounting periods were references to periods for which the deposit-taker makes up his accounts.
- (5) For the purposes of this section, crediting interest shall be treated as paying it.]

#### Textual Amendments

**F22** Ss. 480A-480C inserted (with effect in accordance with [Sch. 5 para. 7\(2\)](#) of the amending Act) by [Finance Act 1990 \(c. 29\)](#), [Sch. 5 para. 7\(1\)](#)

#### Modifications etc. (not altering text)

**C3** Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 2 para. 6](#)

**C4** See S.I. 1990 No. 2232.

#### [<sup>F23</sup> **480B Relevant deposits: exception from section 480A.**

- (1) The Board may by regulations provide that section 480A(1) shall not apply as regards a payment of interest if such conditions as may be prescribed by the regulations are fulfilled.
- (2) In particular, the regulations may include—
- (a) provision for a certificate to be supplied to the effect that the person beneficially entitled to a payment is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the payment is made;
  - (b) provision for the certificate to be supplied by that person or such other person as may be prescribed by the regulations;
  - (c) provision about the time when, and the manner in which, a certificate is to be supplied;
  - (d) provision about the form and contents of a certificate.
- (3) Any provision included under subsection (2)(d) above may allow the Board to make requirements, in such manner as they see fit, as to the matters there mentioned.
- (4) For the purposes of this section, crediting interest shall be treated as paying it.]

#### Textual Amendments

**F23** Ss. 480A-480C inserted (with effect in accordance with [Sch. 5 para. 7\(2\)](#) of the amending Act) by [Finance Act 1990 \(c. 29\)](#), [Sch. 5 para. 7\(1\)](#)

#### Modifications etc. (not altering text)

**C5** Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 2 para. 6](#)

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[<sup>F24</sup>**480C Relevant deposits: computation of tax on interest.**

Notwithstanding anything in sections 64, 66 and 67, income tax chargeable under Case III of Schedule D on interest in respect of a relevant deposit shall be computed on the full amount of the income arising in the year of assessment.]

**Textual Amendments**

**F24** Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), Sch. 5 para. 7(1)

**481 “Deposit-taker”, “deposit” and “relevant deposit”.**

(1) In this section “the relevant provisions” means sections 479 and 480, this section and section 482 <sup>F25</sup>.

[<sup>F26</sup>(1A) In this section “the relevant provisions” also means sections 480A and 480C.]

(2) In the relevant provisions “deposit-taker” means any of the following—

(a) the Bank of England;

[<sup>F27</sup>(b) any person falling within section 840A(1)(b) whose permission under Part 4 of the Financial Services and Markets Act 2000 includes permission to accept deposits which are relevant deposits;

(ba) any company within the meaning of the Companies Act 1985 <sup>M1</sup>—

(i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 <sup>M2</sup> or section 103(3) of the Banking Act 1987; and

(ii) which is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits which are relevant deposits;]

(c) <sup>F28</sup> .....

[<sup>F29</sup>(ca) any local authority;]

<sup>F30</sup>(d) any company to which property and rights belonging to a trustee savings bank were transferred by section 3 of the <sup>M3</sup>Trustee Savings Bank Act 1985;

<sup>F30</sup>(e) any bank formed under the <sup>M4</sup>Savings Bank (Scotland) Act 1819; and

(f) any person or class of person who receives deposits in the course of his business or activities and which is for the time being prescribed by order made by the Treasury for the purposes of this paragraph.

(3) <sup>M5</sup>In the relevant provisions “deposits” means a sum of money paid on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made.

(4) For the purposes of the relevant provisions a deposit is a relevant deposit if, but only if—

(a) the person who is beneficially entitled to any interest in respect of the deposit is an individual or, where two or more persons are so entitled, all of them are individuals; or

(b) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals; or

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- (c) the person entitled to any such interest receives it as a personal representative in his capacity as such;<sup>F31</sup> or
- (d) any interest in respect of the deposit is income arising to the trustees of a discretionary or accumulation trust in their capacity as such;]

and the deposit is not prevented from being a relevant deposit by [<sup>F32</sup>any of subsections (5) to (5B)] below.

[<sup>F33</sup>(4A) For the purposes of the relevant provisions a trust is a discretionary or accumulation trust if it is such that some or all of any income arising to the trustees would fall (unless treated as income of the settlor <sup>F34</sup> . . . ) to be comprised for the year of assessment in which it arises in income to which section 686 applies.]

(5) A deposit is not a relevant deposit if—

- (a) a qualifying certificate of deposit has been issued in respect of it or it is a qualifying time deposit;
- (b) it is a debt on a debenture (“debenture” having the meaning given in section 744 of the <sup>M6</sup>Companies Act 1985) issued by the deposit-taker;
- (c) it is a loan made by a deposit-taker in the ordinary course of his business or activities;
- (d) it is a debt on a security which is listed on a recognised stock exchange;
- (e) it is a general client account deposit;
- (f) it forms part of a premiums trust fund (within the meaning of [<sup>F35</sup>section 184 of the Finance Act 1993) of an underwriting or former underwriting member] of Lloyd’s;
- (g) <sup>F36</sup> . . . . .
- (h) in the case of a deposit-taker resident in the United Kingdom for the purposes of income tax or corporation tax, it is held at a branch of his situated outside the United Kingdom;
- (j) in the case of a deposit-taker who is not so resident, it is held otherwise than at a branch of his situated in the United Kingdom; or
- (k) the appropriate person has declared in writing to the deposit-taker liable to pay interest in respect of the deposit <sup>F37</sup> . . . —
  - (i) [<sup>F38</sup>in a case falling within subsection (4)(a) or (b) above, that] at the time when the declaration is made, the person who is beneficially entitled to the interest is not, or, as the case may be, all the persons who are so entitled are not, ordinarily resident in the United Kingdom;
  - (ii) in a case falling within subsection (4)(c) above [<sup>F39</sup>, that] the deceased was, immediately before his death, not ordinarily resident in the United Kingdom.
  - [<sup>F40</sup>(iii) in a case falling within subsection (4)(d) above, that, at the time when the declaration is made, the trustees are not resident in the United Kingdom and do not have any reasonable grounds for believing that any of the beneficiaries of the trust is an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom.]

[<sup>F41</sup>(5A) In a case where—

- (a) there is an arrangement falling within section 56A,
- (b) the deposit is with a deposit-taker,



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(c) no certificate of deposit, as defined in section 56(5), has been issued in respect of the right at the time the interest mentioned in section 480A or 480C is paid, and

(d) the conditions set out in paragraphs (a) and (b) in the definition of “qualifying certificate of deposit” in section 482(6) apply,

the deposit is not a relevant deposit.]

[<sup>F42</sup>(5B) In a case falling within subsection (4)(d) above, a deposit shall not be taken to be a relevant deposit in relation to a payment of interest in respect of that deposit if—

(a) the deposit was made before 6th April 1995; and

(b) the deposit-taker has not, at any time since that date but before the making of the payment, been given a notification by the Board or any of the trustees in question that interest in respect of that deposit is income arising to the trustees of a discretionary or accumulation trust.]

(6) <sup>M7</sup>The Treasury may by order make amendments in this section and sections [<sup>F43</sup>480A, 480C] 479(2) to (7), 480 <sup>F44</sup> and 482 providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-takers as may be so specified.

#### Textual Amendments

- F25** Words "sections 479 and 480" repealed by 1990 s.132 and Sch.19 Part IV on and after 6 April 1991
- F26** 1990 s. 30 and Sch. 5 para. 8(2)
- F27** S. 481(2)(b)(ba) substituted for s. 481(2)(b) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 39\(2\)](#)
- F28** S. 481(2)(c) repealed (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), [art. 1\(2\)](#), [Sch. 2](#)
- F29** 1990 s. 30 and Sch. 5 para. 8(3) as regards interest paid or credited on or after 6 April 1991
- F30** Subs (d) and (e) omitted by 1990 s.30 and Sch. 5 para. 8(3)(5) and s.132 and Sch.19 Part IV as regards interest paid or credited on or after 6 April 1991
- F31** S. 481(4)(d) and word inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(1\)](#) (with [s. 86\(14\)](#))
- F32** Words in s. 481(4) substituted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(1\)](#) (with [s. 86\(14\)](#))
- F33** S. 481(4A) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(2\)](#) (with [s. 86\(14\)](#))
- F34** Words in s. 481(4A) repealed (with effect in accordance with Sch. 7 para. 12(4) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(7\)](#), Note 1
- F35** Words in s. 481(5)(f) substituted (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, [ss. 183\(2\)](#), 184(3)
- F36** S. 481(5)(g) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 39\(3\)](#)
- F37** Word in s. 481(5)(k) repealed (with effect in accordance with [s. 86\(10\)](#) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(a\)](#), [Sch. 29 Pt. 8\(11\)](#), Note
- F38** Words in s. 481(5)(k)(i) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(b\)](#) (with [s. 86\(14\)](#))
- F39** Word in s. s. 481(5)(k)(ii) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(c\)](#) (with [s. 86\(14\)](#))

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- F40** S. 481(5)(k)(iii) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(3)(d) (with s. 86(14))
- F41** S. 481(5A) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 4, 6
- F42** S. 481(5B) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(4) (with s. 86(14))
- F43** 1990 s. 30 and Sch. 5 para. 8(4)
- F44** Words "479(2) to (7), 480" repealed by 1990 s.132 and Sch.19 Part IV on and after 6 April 1991

#### Marginal Citations

- M1** 1985 c. 6.
- M2** 1979 c. 37; section 48(3) was repealed, together with other sections, by section 108(2) of, and Part 1 of Schedule 7 to, the Banking Act 1987 (c. 22).
- M3** 1985 c. 58.
- M4** 1819 c. 62.
- M5** Source—1984 Sch.8 3(1)-(3); 1985 s.38(3), (4)
- M6** 1985 c. 6.
- M7** Source—1984 Sch.8 3A(1); 1985 s.38(7)

## 482 Supplementary provisions.

- (1) <sup>M8</sup>For the purposes of sections 479, 480 and <sup>F45</sup>481 and this section, any amount which is credited as interest in respect of a relevant deposit shall be treated as a payment of interest.
- (2) <sup>M9</sup>A declaration under section 481(5)(k) shall—
- [<sup>F46</sup>(a) if made under sub-paragraph (i) or (iii), contain an undertaking by the person making it that where—
- (i) the individual or any of the individuals in respect of whom it is made becomes ordinarily resident in the United Kingdom,
- (ii) the trustees or any company in respect of whom it is made become or becomes resident in the United Kingdom, or
- (iii) an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom becomes or is found to be a beneficiary of a trust to which the declaration relates,
- the person giving the undertaking will notify the deposit-taker accordingly; and]
- (b) in any case, be in such form as may be prescribed or authorised, and contain such information as may reasonably be required, by the Board.
- [<sup>F47</sup>(2A) A declaration under section 481(5)(k)(i) must contain—
- (a) in a case falling within section 481(4)(a), the name and principal residential address of the individual who is beneficially entitled to the interest or, where two or more individuals are so entitled, of each of them;
- (b) in a case falling within section 481(4)(b), the name and principal residential address of each of the partners.]
- (3) <sup>M10</sup>A deposit-taker shall, on being so required by notice given to him by an inspector, make all declarations which have been made to him under section 481(5) available for inspection by the inspector or by a named officer of the Board.
- (4) Where a notice has been given to a deposit-taker under subsection (3) above, the declarations shall be made available within such time as may be specified in the notice,

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and the person to whom they are to be made available may take copies of or extracts from them.

- (5) A deposit-taker shall treat every deposit made with him as a relevant deposit unless satisfied that it is not a relevant deposit, but where he has satisfied himself that a deposit is not a relevant deposit he shall be entitled to continue to so treat it until such time as he is in possession of information which can reasonably be taken to indicate that the deposit is or may be a relevant deposit.

[<sup>F48</sup>(5A) The persons who are to be taken for the purposes of section 481(5)(k)(iii) and subsection (2) above to be the beneficiaries of a discretionary or accumulation trust shall be every person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either—

- (a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or
- (b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust;

and for the purposes of this subsection references, in relation to a trust, to income under the trust shall include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income.]

- (6) In section 481(5)—

“appropriate person”, in relation to a deposit, means any person who is beneficially entitled to any interest in respect of the deposit or entitled to receive any such interest [<sup>F49</sup> in his capacity as a personal representative or as a trustee of a discretionary or accumulation trust] or to whom any such interest is payable;

“general client account deposit” means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account;

“qualifying certificate of deposit” means a certificate of deposit, as defined in section 56(5), which is issued by a deposit-taker and under which—

- (a) the amount payable by the deposit-taker, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made); and
- (b) the obligation of the deposit-taker to pay that amount arises after a period of not less than seven days beginning with the date on which the deposit is made; and

“qualifying time deposit” means a deposit which is made by way of loan for an amount which is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made) and on terms which—

- (a) prevent repayment of the deposit before the expiry of the period of seven days beginning with the date on which the deposit is made, but which require repayment at the end of a specified period;
- (b) do not make provision for the transfer of the right to repayment; and
- (c) prevent partial withdrawals of, or additions to, the deposit.

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In relation to deposits made before 20th May 1986 this subsection shall have effect with the substitution for “seven” of “ 28 ” (in both places).

- (7) For the purposes of section 481(5)(h) and (j) a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.
- (8) <sup>M11</sup>A certificate of deposit, as defined in section 56(5), which was issued before 13th March 1984 on terms which provide for interest to be payable on the deposit at any time after 5th April 1985 (whether or not interest is payable on it before that date) shall, if it is not a qualifying certificate of deposit, be treated for the purposes of section 481(5) as if it were a qualifying certificate of deposit.
- (9) <sup>M12</sup>Any deposit which was made before 6th July 1984 but which is not a qualifying time deposit shall, where it is made on terms which—
- (a) do not make provision for the transfer of the right to repayment;
  - (b) prevent partial withdrawals of, or additions to, the deposit; and
  - (c) require—
    - (i) the deposit-taker to repay the sum at the end of a specified period which ends after 5th April 1985; or
    - (ii) in a case where interest is payable only at the time of repayment of the deposit, the deposit-taker to repay the sum on demand or on notice;
 be treated for the purposes of section 481(5) as if it were a qualifying time deposit.
- (10) A <sup>M13</sup>n order under section 481(2)(f) may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order.
- (11) The Board may by regulations make provision—
- (a) <sup>F50</sup> .....
  - [<sup>F51</sup>(aa) with respect to the furnishing of information by depositors or deposit-takers, including, in the case of deposit-takers, the inspection of books, documents and other records on behalf of the Board; and]
  - [<sup>F52</sup>(ab) with respect to—
    - (i) the manner and form in which a notification for the purposes of section 481(5B) is to be given or may be withdrawn, and
    - (ii) the circumstances in which the deposit-taker is to be entitled to delay acting on such a notification,
 and]
  - (b) generally for giving effect to sections 479 to 481 and this section.
- [<sup>F53</sup>(11A) In subsection (11)(aa) above the reference to depositors is to persons who are appropriate persons (within the meaning given by subsection (6) above) in relation to deposits.]
- (12) <sup>M14</sup>Regulations under subsection (11) above or an order under section 481(6) may contain such incidental and consequential provision as appears to the Board or the Treasury, as the case may be, to be appropriate.

#### Textual Amendments

**F45** Words "479, 480 and" repealed by 1990 s. 132 and Sch.19 Part IV on and after 6 April 1991

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- F46** S. 482(2)(a) substituted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(5) (with s. 86(14))
- F47** S. 482(2A) inserted (with effect in accordance with s. 111(6)(c) of the amending Act) by Finance Act 2000 (c. 17), s. 111(3)(a)
- F48** S. 482(5A) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(6) (with s. 86(14))
- F49** Words in s. 482(6) substituted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(7) (with s. 86(14))
- F50** S. 482(11)(a) repealed (with effect in accordance with s. 111(6)(c) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(3)(b), Sch. 40 Pt. 2(17), Note 3
- F51** 1990 s. 30 and Sch. 5 para. 9(4)
- F52** S. 482(11)(ab) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(8) (with s. 86(14))
- F53** 1990 s. 30 and Sch.5 para.9(5)

**Modifications etc. (not altering text)**

- C6** See 1990 s. 30 and Sch. 5 para. 9(2)(6)— words "less than seven days" replaced by "more than 5 years" as regards interest paid or credited on or after 6 April 1991
- C7** See 1990 s. 30 and Sch. 5 para. 9(3)(6)— sub (a) replaced by the following as regards interest paid or credited on or after 6 April 1991:— "(a) require repayment of the deposit at a specified time falling before the end of the period of five years beginning with the date on which the deposit is made;"
- C8** See 1990 s.132 and Sch.19 Part IV - proviso repealed on and after 6 April 1991.

**Marginal Citations**

- M8** Source—1984 Sch. 8 1(2)
- M9** Source—1984 Sch.8 3(4), (4A); 1985 s.38(5)
- M10** Source—1984 Sch.8 3(5)-(9); 1985 s.38(6); 1986 No.771
- M11** Source—1984 Sch.8 6(2)
- M12** Source—1984 Sch.8 6(3)
- M13** Source—1984 Sch.8 2(2); 1985 s.38(2)
- M14** Source—1984 Sch.8 3A(3); 1985 s.38(7)

[<sup>F54</sup> **482A Audit powers in relation to non-residents.**

<sup>F55</sup> ..... ]

**Textual Amendments**

- F54** S. 482A inserted by Finance Act 1991 (c. 31, SIF 63:1), s.75
- F55** S. 482A repealed (with effect in accordance with s. 145(11), Sch. 40 Pt. 5 Note of the repealing Act) by Finance Act 2000 (c. 17), s. 145(10), Sch. 40 Pt. 5

**483 Determination of reduced rate for building societies and composite rate for banks etc.**

- <sup>F56</sup>(1) .....
- <sup>F56</sup>(2) .....
- <sup>F56</sup>(3) .....

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- (4) If the order made under section 26 of the Finance Act 1984 in the year 1987-88 is made in pursuance of subsection (4) of that section, that order shall, notwithstanding that that subsection is not re-enacted by this Act, apply for the purposes of sections 476 and 479 for the year 1988-89.

<sup>F56</sup>(5) .....

#### Textual Amendments

**F56** S. 483(1)-(3)(5) repealed by [Finance Act 1990 \(c. 29\), Sch. 5 para. 12, Sch. 19 Part IV](#), Note 8

### 484 Savings banks: exemption from tax.

<sup>F57</sup> .....

#### Textual Amendments

**F57** S. 484 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\), Sch. 14 para 29, Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

### 485 Savings banks: supplemental.

<sup>F58</sup> .....

#### Textual Amendments

**F58** S. 485 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\), Sch. 14 para. 29, Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

### 486 Industrial and provident societies and co-operative associations.

- (1) <sup>M15</sup>Notwithstanding anything in the Tax Acts, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution; [<sup>F59</sup>but interest payable by such a society (whether as share interest or loan interest) shall be treated for the purposes of corporation tax as interest under a loan relationship of the society.]
- (2) Notwithstanding anything in sections 348 to 350, any share interest or loan interest paid by a registered industrial and provident society, except any to which subsection (3) below applies, shall be paid without deduction of income tax.
- (3) This subsection applies to any share interest or loan interest payable to a person whose usual place of abode is not within the United Kingdom, and in any such case section 349(2) shall apply to the payment as it applies to a payment of yearly interest, and income tax shall be deducted accordingly.
- (4) Any share interest or loan interest paid by a registered industrial and provident society shall be chargeable under Case III of Schedule D.
- (5) Where at any time, by virtue of this section, the income of a person from any source, not having previously been chargeable by direct assessment on that person, becomes

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- so chargeable, section 66(3) shall apply as if the source of that income were a new source of income acquired by that person at that time.
- (6) Every registered industrial and provident society shall, within three months after the end of any accounting period of the society, deliver to the inspector a return showing—
- (a) the name and place of residence of every person to whom the society has by virtue of this section paid without deduction of income tax sums amounting to more than £15 in that period; and
  - (b) the amount so paid in that period to each of those persons.
- (7) If for any accounting period a return under subsection (6) above is not duly made by a registered industrial and provident society, share and loan interest paid by the society in that period shall <sup>F60</sup>not be brought into account in that period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).]
- (8) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the society making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to that society on the disposal.
- (9) Subsections (1) and (8) above shall have effect as if references to a registered industrial and provident society included any co-operative association established and resident in the United Kingdom, and having as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shellfish.
- (10) It is hereby declared that, in computing, for the purposes of any provision of the Tax Acts relating to <sup>F61</sup>profits] chargeable under Case I of Schedule D (“the tax computation”), any <sup>F61</sup>profits] of—
- (a) any registered industrial and provident society which does not sell to persons not members thereof; or
  - (b) any registered industrial and provident society the number of the shares in which is not limited by its rules or practice;
- there are to be deducted as expenses any sums which—
- (i) represent a discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company, being transactions which are taken into account in the tax computation; and
  - (ii) are calculated by reference to those amounts or to the magnitude of those transactions and not by reference to the amount of any share or interest in the capital of the company.
- (11) No dividends or bonus deductible in computing income as mentioned in subsection (10) above shall be regarded as a distribution.
- (12) In this section—
- “co-operative association” means a body of persons having a written constitution from which the Minister is satisfied, having regard to the provision made as to the manner in which the income of the body is to be

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applied for the benefit of its members and all other relevant provisions, that the body is in substance a co-operative association;

“the Minister” means—

the [<sup>F62</sup>Secretary of State], as regards England and Wales;

the Secretary of State, as regards Scotland; and

the Department of Agriculture for Northern Ireland, as regards Northern Ireland;

“registered industrial and provident society” means a society registered or deemed to be registered under the <sup>M16</sup>Industrial and Provident Societies Act 1965 or under the <sup>M17</sup>Industrial and Provident Societies Act (Northern Ireland) 1969;

“share interest” means any interest, dividend, bonus or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society;

“loan interest” means any interest payable by the society in respect of any mortgage, loan, loan stock or deposit;

and references to the payment of share interest or loan interest include references to the crediting of such interest.

#### Textual Amendments

- F59** Words in s. 486(1) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 30(a)** (with Sch. 15)
- F60** Words in s. 486(7) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 30(b)** (with Sch. 15)
- F61** Words in s. 486(10) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), **Sch. 7 para. 1**
- F62** Words in s. 486(12) substituted (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 1(2), **Sch. 1 para. 31**

#### Modifications etc. (not altering text)

- C9** See 1988(F) Sch.8 para.1—*re-basing to 1982.*
- C10** S. 486(8) excluded (with effect in accordance with s. 131(4) of the affecting Act) by Finance Act 1995 (c. 4), s. **131(1)(2)(b)**
- C11** S. 486(8) excluded by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 117A(7)(8)(b)**, 117B(5)(6) (b) (as inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 62 (with Sch. 15))

#### Marginal Citations

- M15** Source—1970 s.340, 345; CUA 1979 s.25(2)
- M16** 1965 c. 12.
- M17** 1969 c. 24 (N.I.).

## 487 Credit unions.

(1) <sup>M18</sup>Subject to subsection (2) below, in computing for the purposes of corporation tax the income of a credit union for any accounting period—

- (a) neither the activity of the credit union in making loans to its members nor in placing on deposit or otherwise investing from time to time its surplus funds shall be regarded as the carrying on of a trade or part of a trade; and



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- [<sup>F63</sup>(b) no credits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a debtor as respects the debt in question.]
- (2) Paragraph (b) of subsection (1) above shall not apply to an accounting period of a credit union for which the credit union is obliged to make a return under section 486(6) and has not done so within three months after the end of that accounting period or such longer period as the inspector shall allow.
- (3) [<sup>F64</sup>An annuity or other annual payment (not being a payment of share interest or loan interest) which is] paid or payable by a credit union in any accounting period shall [<sup>F65</sup>not] be deductible in computing for the purposes of corporation tax the income of the credit union for that period from any trade carried on by it or be treated for those purposes as a charge on income.
- [<sup>F66</sup>(3A) No debits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a creditor as respects the debt in question.]
- (4) A credit union shall not be regarded as [<sup>F67</sup>a company with investment business] for the purposes of section 75 above or [<sup>F68</sup>Part 2 of the Capital Allowances Act (plant and machinery allowances)].
- (5) In this section—
- “credit union” means a society registered as a credit union under the <sup>M19</sup>Industrial and Provident Societies Act 1965 or the <sup>M20</sup>Credit Unions (Northern Ireland) Order 1985;
- “share interest” and “loan interest” have the same meaning as in section 486;
- “surplus funds”, in relation to a credit union, means funds not immediately required for its purposes;
- and references to the payment of share interest or loan interest include references to the crediting of such interest.

#### Textual Amendments

- F63** S. 487(1)(b) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 31(1) (with Sch. 15)
- F64** Words in s. 487(3) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 31(2)(a) (with Sch. 15)
- F65** Word in s. 487(3) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 31(2)(b) (with Sch. 15)
- F66** S. 487(3A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 31(3) (with Sch. 15)
- F67** Words in s. 487(4) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 2, Sch. para. 22
- F68** Words in s. 487(4) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 40

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#### **Marginal Citations**

**M18** Source—1970 s.340A; CUA 1979 s.25(1)

**M19** 1965 c. 12.

**M20** S.I. 1985/1205 (N.I. 12.).

### **488 Co-operative housing associations.**

- (1) Where a housing association makes a claim in that behalf for any year or part of a year of assessment during which the association was approved for the purposes of this section—
  - (a) <sup>M21</sup>rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes; and
  - (b) any yearly interest payable by the association for the year or part shall be treated for tax purposes [<sup>F69</sup>in relation to the association as if there were no interest so payable].
  - (c) <sup>F70</sup> .....
- (2) Where the property, or any of the properties, to which any such interest as is mentioned in paragraph (b) of subsection (1) above relates is for any period not subject to a tenancy—
  - (a) that paragraph shall not apply in relation to so much of the interest as is attributable to the property not subject to a tenancy;<sup>F71</sup> . . .
  - (b) <sup>F71</sup> .....
- (3) <sup>F72</sup> .....
- (4) Where a claim under subsection (1) above has effect, any adjustment of the liability to tax of <sup>F73</sup> . . . the association which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.
- (5) Where a housing association makes a claim in that behalf for an accounting period or part of an accounting period during which it was approved for the purposes of this section, the housing association shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association.
- (6) References in this section to the approval of an association shall be construed as references to approval—
  - (a) by the Secretary of State in the case of a housing association in Great Britain;
  - (b) by the Head of the Department of the Environment for Northern Ireland in the case of a housing association in Northern Ireland;
 and an association shall not be approved unless the approving authority is satisfied—
  - (i) that the association is, or is deemed to be, duly registered under the <sup>M22</sup>Industrial and Provident Societies Act 1965 or the <sup>M23</sup>Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association within the meaning of the <sup>M24</sup>Housing Associations Act 1985 or [<sup>F74</sup>Article 3 of the Housing (Northern Ireland) Order 1992];
  - (ii) that the rules of the association restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting

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or assignment (or, in Scotland, the granting or assignation) of tenancies to persons other than members; and

- (iii) that the association satisfies such other requirements as may be prescribed by <sup>F75</sup>the Secretary of State as respects Great Britain, or the Head of the Department for Social Development for Northern Ireland as respects Northern Ireland], and will comply with such conditions as may for the time being be so prescribed.

- (7) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the approving authority and shall cease to have effect if revoked.

<sup>F76</sup>(7A) The Secretary of State may delegate any of his functions under subsections (6) and (7)—

- (a) to the Housing Corporation, in the case of a body registered as a social landlord in the register maintained by the Housing Corporation under Part I of the Housing Act 1996, <sup>F77</sup> . . . . .  
(b) <sup>F77</sup> . . . . .

to such extent and subject to such conditions as he may specify.]

- (8) The Secretary of State as respects Great Britain, or the Head of the Department of the Environment for Northern Ireland as respects Northern Ireland, may make regulations for the purpose of carrying out the provisions of this section; and, from the coming into operation of regulations under this subsection prescribing requirements or conditions for the purposes of subsection (6)(iii) above, “prescribed” in subsection (6)(iii) above shall mean prescribed by or under such regulations.

The power to make regulations under this subsection shall be exercisable by the Secretary of State by statutory instrument and by the Head of the Department of the Environment for Northern Ireland by statutory rule for the purposes of the <sup>M25</sup>Statutory Rules (Northern Ireland) Order 1979.

<sup>F78</sup>(9) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.]

Section 42 of the Management Act shall not apply to a claim under this section.

(10) Subject to subsection (11) below, <sup>F79</sup>no claim shall be made under this section unless] during the year or accounting period, or part thereof, to which the claim relates—

- (a) no property belonging to the association making the claim was let otherwise than to a member of the association;  
(b) no property let by the association, and no part of such property, was occupied, whether solely or as joint occupier, by a person not being a member of the association;  
(c) the association making the claim satisfies the conditions specified in subsection (6)(i) and (ii) above and has complied with the conditions prescribed under subsection (6)(iii) for the time being in force; and  
(d) any covenants required to be included in grants of tenancies by those conditions have been observed.

For the purposes of paragraph (b) above occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member,

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shall be treated during the first six months after the death as if it were occupation by a member.

<sup>F80</sup>(11) A housing association may make a claim under this section notwithstanding anything in subsection (10) above, if the association reasonably considers that the requirements of that subsection are substantially complied with.

(11A) If as a result of an enquiry—

- (a) [<sup>F81</sup>into a company tax return], in which a claim under this section by a housing association is included, or
- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a housing association, or an amendment of such a claim,

an amendment is made to the association's [<sup>F82</sup>return] or, as the case may be, to the claim, the liability of [<sup>F83</sup>the association] to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.]

(12) <sup>F84</sup> .....

#### Textual Amendments

- F69** Words in s. 488(1)(b) substituted (with effect in accordance with Sch. 4 para. 18(2) of the amending Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(2)(a)
- F70** S. 488(1)(c) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(2)(b), Sch. 20 Pt. 3(7), Note 2
- F71** S. 488(2)(b) and preceding word repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(3), Sch. 20 Pt. 3(7), Note 2
- F72** S. 488(3) repealed (with effect in accordance with s. 38(2)(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 27 Pt. 3(4), Note
- F73** Words in s. 488(4) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(4), Sch. 20 Pt. 3(7), Note 2
- F74** Words in s. 488(6) substituted (15.9.1992) by S.I. 1992/1725 (N.I. 15), arts. 1(2), 107, Sch. 8 para. 5
- F75** Words in s. 488(6)(iii) substituted (29.7.2004) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I. 2004/2030), arts. 1(1), 5
- F76** S. 488(7A) inserted (1.10.1996) by Housing Act 1996 (c. 52), s. 232(3), Sch. 3 para. 8(2); S.I. 1996/2402, art. 3 (with Sch.)
- F77** S. 488(7A)(b) and preceding word repealed (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158, Sch. 16 para. 56, Sch. 18 Pt. 6; S.I. 1998/2244, art. 5
- F78** S. 488(9) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(2)
- F79** Words in s. 488(10) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(3)
- F80** S. 488(11)(11A) substituted for s. 488(11) (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(4)
- F81** Words in s. 488(11A)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 19 para. 48(2)(a); S.I. 1998/3173, art. 2
- F82** Words in s. 488(11A) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 19 para. 48(2)(b); S.I. 1998/3173, art. 2
- F83** Words in s. 488(11A) substituted (with effect in accordance with Sch. 4 para. 18(2) of the amending Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(5)
- F84** S. 488(12) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(6), Sch. 20 Pt. 3(7), Note 2

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**Modifications etc. (not altering text)**

- C12** S. 488: functions transferred (1.7.1999 with effect in accordance with art. 1(2) of the affecting S.I.) by [The National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#), art. 2, **Sch. 1**
- C13** See reference to approved housing associations in 1988(F) s.43(3) and 44.
- C14** S. 488(7A) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 1**; S.I. 2008/3068, **arts. 1(2), 2(1)(b)**

**Marginal Citations**

- M21** Source—1970 s.341; 1972 Sch.11 6
- M22** 1965 c. 12.
- M23** 1969 c.24 (N.I.).
- M24** 1985 c. 68.
- M25** S.I. 1979/1573 (N.I.12.).

**489 Self-build societies.**

- (1) <sup>M26</sup>Where a self-build society makes a claim in that behalf for any year or part of a year of assessment during which the society was approved for the purposes of this section, rent to which the society was entitled from its members for the year or part shall be disregarded for tax purposes.
  - (2) Where a claim under subsection (1) above has effect, any adjustment of the society's liability to tax which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.
  - (3) Where a self-build society makes a claim in that behalf for an accounting period or part during which it was approved for the purposes of this section, the society shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part thereof on the disposal of any land to a member of the society.
  - (4) References in this section to the approval of a self-build society are references to its approval by the Secretary of State, and the Secretary of State shall not approve a self-build society for the purposes of this section unless he is satisfied—
    - (a) that the society is, or is deemed to be, duly registered under the <sup>M27</sup>Industrial and Provident Societies Act 1965; and
    - (b) that the society satisfies such other requirements as may be prescribed by or under regulations under subsection (6) below and will comply with such conditions as may for the time being be so prescribed.
  - (5) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the Secretary of State and shall cease to have effect if revoked by him.
- [<sup>F85</sup>(5A) The Secretary of State may delegate any of his functions under subsections (4) and (5) to—
- (a) the Housing Corporation, where the society has its registered office in England for the purposes of the Industrial and Provident Societies Act 1965,<sup>F86</sup> . . .
  - (b) <sup>F86</sup> . . . . .
- to such extent and subject to such conditions as he may specify.]
- (6) The Secretary of State may by statutory instrument make regulations for the purpose of carrying out the provisions of this section; and a statutory instrument containing

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any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

[<sup>F87</sup>(7) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.]

(8) Subject to subsection (9) below, [<sup>F88</sup>no claim shall be made under this section unless] during the year or accounting period, or part thereof, to which the claim relates—

- (a) no land owned by the society was occupied, in whole or in part and whether solely or as joint occupier, by a person who was not, at the time of his occupation, a member of the society; and
- (b) the society making the claim satisfies the condition specified in paragraph (a) of subsection (4) above and has complied with the conditions prescribed under paragraph (b) of that subsection and for the time being in force;

and for the purposes of paragraph (a) above, occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

[<sup>F89</sup>(9) A self-build society may make a claim under this section notwithstanding anything in subsection (8) above, if the society reasonably considers that the requirements of that subsection are substantially complied with.

(9A) If as a result of an enquiry—

- (a) [<sup>F90</sup>into a company tax return], in which a claim under this section by a self-build society is included, or
- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a self-build society or an amendment of such a claim,

an amendment is made to the society's [<sup>F91</sup>return] or, as the case may be, to the claim, the society's liability to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.]

(10) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board.

(11) In this section—

“self-build society” has the same meaning as in the <sup>M28</sup>Housing Associations Act 1985 or, in Northern Ireland, Part VII of the <sup>M29</sup>Housing (Northern Ireland) Order 1981; and

“rent” includes any sums to which a self-build society is entitled in respect of the occupation of any of its land under a licence or otherwise.

(12) In the application of this section to Northern Ireland—

- (a) any reference in subsections (4) and (5) above to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland;
- (b) the reference in subsection (4)(a) to the <sup>M30</sup>Industrial and Provident Societies Act 1965 shall be construed as a reference to the <sup>M31</sup>Industrial and Provident Societies Act (Northern Ireland) 1969; and
- (c) for subsection (6) there shall be substituted the following subsection—

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“(6) the Department of the Environment for Northern Ireland may by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 make regulations for the purpose of carrying out the provisions of this section; and a statutory rule containing any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

#### Textual Amendments

- F85** S. 489(5A) inserted (1.10.1996) by [Housing Act 1996 \(c. 52\)](#), s. 232(3), [Sch. 3 para. 8\(3\)](#); S.I. 1996/2402, [art. 3](#) (with Sch.)
- F86** S. 489(5A)(b) and preceding word repealed (1.11.1998) by [Government of Wales Act 1998 \(c. 38\)](#), ss. 140, 158, [Sch. 16 para. 57](#), [Sch. 18 Pt. 6](#); S.I. 1998/2244, [art. 5](#)
- F87** S. 489(7) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 29\(2\)](#)
- F88** Words in s. 489(8) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 29\(3\)](#)
- F89** S. 489(9)(9A) substituted for s. 489(9) (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 29\(4\)](#)
- F90** Words in s. 489(9A)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 49\(a\)](#); S.I. 1998/3173, [art. 2](#)
- F91** Word in s. 489(9A) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 49\(b\)](#); S.I. 1998/3173, [art. 2](#)

#### Modifications etc. (not altering text)

- C15** S. 489: functions transferred (1.7.1999 with effect in accordance with art. 1(2) of the affecting S.I.) by [The National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#), [art. 2](#), [Sch. 1](#)
- C16** See 1976(D)—*exemption of certain housing associations from development land tax*. 1976(D) repealed from 19 March 1985.
- C17** See reference to approved self-build societies in 1988(F) s.43(3) and s.44.
- C18** S. 489(5A) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, [Sch. para. 1](#); S.I. 2008/3068, [arts. 1\(2\)](#), 2(1)(b)

#### Marginal Citations

- M26** Source—1970 s.341A
- M27** 1965 c. 12.
- M28** 1985 c. 68.
- M29** S.I. 1981/156 (N.I. 3).
- M30** 1965 c. 12.
- M31** 1969 c. 24 (N.I.).

## 490 Companies carrying on a mutual business or not carrying on a business.

- (1) <sup>M32</sup> Subject to subsection (2) below, where a company carries on any business of mutual trading or mutual insurance or other mutual business the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company notwithstanding that they are made to persons participating in the mutual activities of that business and derive from those activities, but shall so apply only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income <sup>F92</sup> . . . . <sup>F93</sup> . . . .



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- (2) In the case of a company carrying on any mutual life assurance business, the provisions of the Tax Acts relating to distributions shall not apply to distributions made to persons participating in the mutual activities of that business and derived from those activities<sup>F94</sup> . . . .
- (3) Subject to subsections (1) and (2) above, the fact that a distribution made by a company carrying on any such business is derived from the mutual activities of that business and the recipient is a person participating in those activities shall not affect the character which the payment or other receipt has for purposes of corporation tax or income tax in the hands of the recipient.
- (4) Where a company does not carry on, and never has carried on, a trade or a business of holding investments, and is not established for purposes which include the carrying on of a trade or of such a business, the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income<sup>F95</sup> . . . .
- (5)<sup>F96</sup> . . . . .

#### Textual Amendments

- F92** Words in s. 490(1) repealed (with effect in accordance with Sch. 3 para. 28(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 28(2), **Sch. 27 Pt. 3(2)**, Note
- F93** Words in s. 490(1) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(2), **Sch. 8 Pt. 2(11)**, Note
- F94** Words in s. 490(2) repealed (with effect in accordance with Sch. 18 Pt. 6(6) Note of the repealing Act) by Finance Act 1997 (c. 16), **Sch. 18 Pt. 6(6)**
- F95** Words in s. 490(4) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(3), **Sch. 8 Pt. 2(11)**, Note
- F96** S. 490(5) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(4), **Sch. 8 Pt. 2(11)**, Note

#### Modifications etc. (not altering text)

- C19** S. 490 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

#### Marginal Citations

- M32** Source—1970 s.346

### 491 Distribution of assets of body corporate carrying on mutual business.

- (1)<sup>M33</sup> Where any person receives any money or money's worth—
- (a) forming part of the assets of a body corporate, other than assets representing capital; or
  - (b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate; or
  - (c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,



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- and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.
- (2) If a transfer or surrender of a right under subsection (1)(c) above is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.
  - (3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the [<sup>F97</sup>profits] or losses of a trade, then—
    - (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade; and
    - (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons, carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the [<sup>F97</sup>profits] or losses of the trade, the recipient shall, subject to subsection (6) below, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.
  - (4) Subsection (3)(a) above applies notwithstanding that, as a result of a change in the persons carrying on the trade, the [<sup>F97</sup>profits] are under section 113 or 337(1) determined as if it had been permanently discontinued and a new trade set up and commenced.
  - (5) Where an individual is chargeable to tax by virtue of subsection (3)(b) above and the [<sup>F97</sup>profits] of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.
  - (6) If the trade mentioned in subsection (3)(b) above was permanently discontinued before the time of the receipt, then in computing the charge to tax under subsection (3)(b) above there shall be deducted from the amount or value of the receipt—
    - (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the [<sup>F97</sup>profits] or losses of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits as so computed, and
    - (b) any capital allowance to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.
  - (7) Relief shall not be given under subsection (6) above or under section 105(1) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 103.
  - (8) For the purposes of subsection (1) above assets representing capital consist of—
    - (a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including

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- profits from the employment of that capital for the purposes of the mutual business of the body corporate;
- (b) assets representing any [<sup>F97</sup>profits] charged to tax as being [<sup>F97</sup>profits] of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business;
- (c) (so far as not comprised in paragraphs (a) and (b) above) assets representing taxed income from any investments.
- (9) In this section “mutual business” includes any business of mutual insurance or mutual trading.
- (10) Subsections (3) to (7) above shall apply with any necessary modifications—
- (a) to a profession or vocation; and
- (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D;
- as they apply to a trade.
- (11) It is hereby declared that the description of trades in subsection (1) above does not include any trade all the [<sup>F97</sup>profits] of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.

#### **Textual Amendments**

**F97** Words in s. 491(3)(4)(5)(6)(8)(b)(11) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 1](#)

#### **Modifications etc. (not altering text)**

**C20** See 1988(F) Sch.14 Part V—*repeal of (b) from 6 April 1993.*

#### **Marginal Citations**

**M33** Source—1970 s.347

**Status:**

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