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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIX

#### SUPPLEMENTAL

##### *Miscellaneous*

#### **817 Deductions not to be allowed in computing profits or gains.**

- <sup>M1</sup>(1) In arriving at the amount of profits or gains for tax purposes—
- (a) no other deductions shall be made than such as are expressly enumerated in the Tax Acts; and
  - (b) no deduction shall be made on account of any annuity or other annual payment (not being interest) to be paid out of such profits or gains in regard that a proportionate part of income tax is allowed to be deducted on making any such payment.
- (2) In arriving at the amount of profits or gains from any property described in the Tax Acts, or from any office or employment, no deduction shall be made on account of diminution of capital employed, or of loss sustained, in any trade or in any profession, employment or vocation.

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

- C1** See s.125—*annual payments for non-taxable consideration.*
- C2** S. 817(1)(b) restricted (with effect in accordance with Sch. 29 Pt. 14 of the affecting Act) by **Finance Act 2002 (c. 23), Sch. 29 para. 8(3)** (with Sch. 29 para. 8(4))

#### **Marginal Citations**

- M1** Source—1970 s.519.

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## 818 Arrangements for payments of interest less tax or of fixed net amount.

- <sup>M2</sup>(1) It is hereby declared that any provision made before or after the passing of this Act, whether orally or in writing, for the payment of interest “less tax”, or using words to that effect, is to be construed, in relation to interest payable without deduction of tax, as if the words “less tax”, or the equivalent words, were not included.
- (2) In relation to interest on which the recipient is chargeable to tax under Case III of Schedule D, and which is payable without deduction of tax, any provision, made before or after the passing of this Act, whether orally or in writing, and however worded, for the payment of interest at such a rate (“the gross rate”) as shall, after the deduction of income tax, be equal to a stated rate, shall be construed as if it were a provision requiring the payment of interest at the gross rate.

### Marginal Citations

**M2** Source—1970 s.425; 1971 Sch.6 51

## 819 Old references to standard rate tax.

- <sup>M3</sup>(1) Where any provision, however worded, contained in an instrument (of whatever nature) made on or after 3rd September 1939 or in a will or codicil taking effect on or after that date provides for the payment, whether periodically or otherwise—
- (a) of a stated amount free of income tax other than surtax; or
  - (b) of an amount which, after deduction of income tax at the standard rate, is equal to a stated amount;
- it shall have effect as follows.
- (2) If it is such a provision as is mentioned in subsection (1)(a) above it shall have effect as if it provided for the payment of the stated amount free of income tax other than such as exceeds the amount to which the person to whom the payment is made would be liable if all income tax [<sup>F1</sup>not chargeable at the lower rate] were charged at the basic rate to the exclusion of any higher rate.
- (3) If it is such a provision as is mentioned in subsection (1)(b) above it shall have effect as if it provided for the payment of an amount which after deduction of income tax at the basic rate is equal to the stated amount.
- (4) Any instrument however worded conferring on any person a right to receive a dividend or interest the amount of which depends on the standard rate of income tax shall have effect as if instead of referring to the standard rate it referred to the basic rate.
- (5) Any reference in a statutory instrument made under the Tax Acts to the standard rate of income tax shall have effect as if it were a reference to the basic rate.

### Textual Amendments

**F1** Words in s. 819(2) inserted (16.7.1992 for the year 1992-93 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 19(3)(7)

### Marginal Citations

**M3** Source—1971 Sch.7 2-4; 1978 Sch.2 14

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## 820 Application of Income Tax Acts from year to year.

<sup>M4</sup> In order to ensure the collection in due time of income tax which may be granted for any year commencing on 6th April, all such provisions contained in the Income Tax Acts as were in force on the preceding day shall have full force and effect with respect to tax which may be so granted, in the same manner as if that tax had been actually granted by Act of Parliament and those provisions had been applied thereto by the Act.

### Modifications etc. (not altering text)

**C3** S. 820 applied (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)\(2\), Sch. 2 para. 160](#)

### Marginal Citations

**M4** Source—1970 s.520

## 821 Under-deductions from payments made before passing of annual Act.

<sup>M5</sup>(1) Where, in any year of assessment, any half-yearly or quarterly payments have been made on account of any interest, dividends or other annual profits or gains, previously to the passing of the Act imposing income tax for that year, and tax has not been charged thereon or deducted therefrom or has not been charged thereon or deducted therefrom at the rate ultimately imposed for that year—

- (a) the amount not so charged or deducted shall be charged under Schedule D in respect of those payments, as profits or gains not charged by virtue of any other Schedule, under Case VI of Schedule D; and
- (b) the agents entrusted with the payment of the interest, dividends or other annual profits or gains shall furnish to the Board a list containing the names and addresses of the persons to whom payments have been made and the amount of those payments, upon a requisition made by the Board in that behalf.

(2) Any person liable to pay any rent, interest or annuity, or to make any other annual payment—

- (a) shall be authorised—
  - (i) to make any deduction on account of income tax for any year of assessment which he has failed to make previously to the passing of the Act imposing the tax for that year, or
  - (ii) to make up any deficiency in any such deduction which has been so made,

on the occasion of the next payment of the rent, interest or annuity or making of the other annual payment after the passing of the Act so imposing the tax, in addition to any other deduction which he may be by law authorised to make; and

- (b) shall also be entitled, if there is no future payment from which the deduction may be made, to recover the sum which might have been deducted as if it were a debt due from the person as against whom the deduction could originally have been made if the Act imposing the tax for the year had been in force.

(3) Subsection (2) above shall apply with respect to—

- (a) any payment for or in respect of copyright to which section 536 applies or of public lending right to which that section applies by virtue of section 537; and

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- [<sup>F2</sup>(aa) any payment for or in respect of a right in a design to which section 537B applies; and;]
- (b) any royalty or other sum paid in respect of the user of a patent; and
- (c) any rent, royalty or other payment which by section 119 or 120 is declared to be subject to deduction of tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent;
- as it applies with respect to any rent, interest, annuity or other annual payment.
- (4) In this section “interest” and “dividends” do not include any interest or dividend which is a distribution.

#### Textual Amendments

**F2** S. 821(3)(aa) inserted (1.8.1989) by *Copyright, Designs and Patents Act 1988 (c. 48), Sch. 7 para. 36(7)*; S.I. 1989/816 art. 2

#### Marginal Citations

**M5** Source—1970 s.521; 1972 Sch.24 29; 1983 s.27.

## 822 Over-deductions from interest on loan capital etc. made before passing of annual Act.

- <sup>M6</sup>(1) If in any year of assessment (“the year”) a resolution having statutory effect under the Provisional Collection of Taxes Act 1968 provides for the charging of income tax at a basic rate lower than that charged for the previous year, the following provisions of this section shall have effect with respect to deductions in respect of income tax by any body corporate, from payments of interest (not being a distribution) on any of its securities.
- (2) Any deduction which was made before the expiration of one month from the passing of the resolution and which would, if the tax had been renewed at the rate imposed for the previous year, have been a legal deduction, shall be deemed to be a deduction rendered legal by section 2 of the Provisional Collection of Taxes Act 1968 and that section shall, subject to this section, apply accordingly.
- (3) Any over-deduction to be made good under that section may be made good by a reduction of the amount of tax deducted from the next payment of like nature made on the security in question after the passing of the Act imposing the tax for the year.
- (4) Any amount made good under section 2 of the Provisional Collection of Taxes Act 1968 shall—
- (a) in the case of an over-deduction which is made good under subsection (3) above, enure to the benefit of the person entitled to the payment on the occasion of which the over-deduction is made good; and
- (b) in any other case, enure to the benefit of the person entitled to the security in question at the date when the amount is made good,
- irrespective, in either case, of whether or not he is the person who was entitled to the payment, or to the security at the date when the original deduction was made.
- (5) Subsection (3) above shall not authorise the retention of any part of the amount over-deducted for more than one year from the passing of the Act imposing the tax for the year.

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

**C4** See Part II Vol.5.

**Marginal Citations**

**M6** Source—1970 s.522; 1971 Sch.6 76; 1972 Sch.24 30

**823 Adjustments of reliefs where given at different times.**

- <sup>M7</sup> Where under the provisions of the Income Tax Acts an individual—
- (a) is entitled to claim relief from income tax (other than relief in respect of life insurance premiums), by repayment or otherwise, in respect of—
    - (i) any amount which is paid or borne by him out of his income or which is allowable or may be deducted from his income; or
    - (ii) any reduction of an assessment relating to his income or any part of his income; or
    - (iii) any adjustment or set-off with regard to a loss; and
  - (b) claims that relief for any year of assessment,

any relief granted shall not extend so as to make the total income tax paid or payable by him for that year less than it would have been if the amount in respect of which relief is claimed had been deducted in computing his total income for that year and the amount of any other deductions or reliefs to which he is entitled for that year had been determined accordingly.

**Marginal Citations**

**M7** Source—1970 s.523

**824 Repayment supplements: individuals and others.**

- (1) Subject to the provisions of this section, where—
- [<sup>F3</sup>(a) in the case of income tax or surtax paid by or on behalf of an individual for a year of assessment for which he was resident in the United Kingdom, a repayment of the tax of not less than £25 is made by the Board or an inspector after the end of the 12 months following that year of assessment; or
  - (b) in the case of the special charge under Part IV of the Finance Act 1968, a repayment of the charge of not less than £25 is made by the Board or an inspector,]

the repayment shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount repaid at the [<sup>F4</sup>rate applicable under section 178 of the Finance Act 1989] for the period (if any) between the relevant time and the end of the tax month in which the order for the repayment is issued.

[<sup>F5</sup>(1A) *In relation to so much (if any) of the last-mentioned period as preceded 6th April 1974, subsection (1) above shall have effect as if the rate of interest specified in it were 6 per cent. per annum (instead of the rate so specified or any other rate in force by virtue of subsection (6) below or section 47(7) of the Finance (No.2) Act 1975).* <sup>F6</sup>]

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(2) [<sup>F5M8</sup>Subsections (1) and<sup>F6</sup> 1A] above shall with the necessary modifications apply to a payment of the whole or part of a tax credit as [<sup>F5</sup>they apply to a repayment falling within subsection (1)] of income tax paid in the year of assessment to which the tax credit relates.

[<sup>F5</sup>(2A) Subsection (1) above shall apply to a repayment made in consequence of a claim under section 228 of the Income Tax Act 1952 (relief in respect of income accumulated under trusts) as if the repayment were of income tax paid by the claimant for the year of assessment in which the contingency mentioned in that section happened.]

[<sup>F7</sup>(2B) Subsection (1) above shall apply to a payment made by the Board under section 375(8) (payment of amount which borrower would have been able to deduct from interest payment under section 369(1)) as if the payment were a repayment falling within that subsection.]

(3) <sup>M9</sup>For the purposes of subsection (1) above—

[<sup>F8</sup>(aa) if the repayment is a payment made by the Board under section 375(8), the relevant time is—

(i) if the interest payment was made in the year 1996-97 or a subsequent year of assessment, the 31st January next following that year;

(ii) if the interest payment was made in an earlier year of assessment, the 5th April next following that year;]

(a) if the repayment is of tax that was paid after the end of the 12 months following the year of assessment for which it was payable, the relevant time is the end of the year of assessment in which that tax was paid;

[<sup>F5</sup>(aa) if the repayment is of the special charge, the relevant time, as regards so much of the charge as was paid before the end of the year 1969-70, is the end of that year, and, as regards so much of the charge as was paid in any later year of assessment, is the end of the year of assessment in which it was paid;]

(b) in any other case, the relevant time is the end of the 12 months mentioned in that subsection;

and, subject to subsection (5) below, where a repayment to which subsection (1) above applies is of tax paid in two or more years of assessment, the repayment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid in a later rather than an earlier year among those years.

(4) <sup>M10</sup>For the purposes of subsections (1) and (3) above, income tax deducted by virtue of regulations made under section 203 from a person's emoluments during any year of assessment shall (without prejudice to subsection (5) below) be treated as paid by him for that and no other year of assessment.

(5) Where in consequence of an assessment under Schedule E for any year of assessment there is made by the Board or an inspector a repayment of income tax of not less than £25, being an amount which takes account of tax overpaid or remaining unpaid for one or more earlier years of assessment, then—

(a) the repayment shall for the purposes of this subsection be attributable to such of the years in question, and in such proportions, as may be determined in accordance with regulations made under and for the purposes of this subsection by the Board; and

(b) subsections (1) and (3) above shall have effect in relation to so much of the repayment as is by virtue of paragraph (a) above attributed to any particular

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year of assessment as if in subsection (1) the words “of not less than £25” were omitted.

- (6) <sup>F9</sup>Without prejudice to subsection (1A) <sup>F10</sup>above the Treasury may by order from time to time increase or decrease the rate of interest by reference to which—
- (a) repayment supplements are calculated under subsection (1) above; and
  - (b) repayment supplements are calculated under section 47 of the Finance (No. 2) Act 1975.

- (7) A repayment supplement shall not be payable under this section in respect of a repayment or payment made in consequence of an order or judgment of a court having power to allow interest on the repayment or payment, or in respect of a repayment of a post-war credit within the meaning of the Income Tax (Repayment of Post-War Credits) Act 1959.

- (8) A repayment supplement paid to any person under this section or under section <sup>F11</sup>283 of the 1992 Act shall not be income of that person for any tax purposes.

- (9) <sup>M11</sup>Subsections (1) to (8) above shall apply in relation to a partnership, <sup>F12</sup>the trustees of a settlement] <sup>F13</sup>or personal representatives (within the meaning of section 111 of the Finance Act 1989)] as they apply in relation to an individual.

- (10) In this section—

“tax month” means the period beginning with the 6th day of any calendar month and ending with the 5th day of the following calendar month;

“United Kingdom estate” has the meaning given by section 701 <sup>F14</sup>.

#### Textual Amendments

- F3** 1988(F) s.146 and Sch.13 para.7 (*deemed always to have had effect*). Previously “(a) income tax has been paid by or on behalf of an individual for a year of assessment for which he was resident in the United Kingdom; and (b) a repayment of that tax of not less than £25 is made by the Board or an inspector after the end of the 12 months following that year of assessment;”.
- F4** 1989 s.179(1)(a)(vii) and S.I. 1989 No.1298 *on and after 18 August 1989*. Previously “rate of 8.25 per cent. per annum”. Add see S.I. 1989 No.1297 *for regulations made, and rate of interest set, under 1989 s.178*. See Table I Vol.1.
- F5** S. 824(1A) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, 7(b)
- F6** S. 824(1A) repealed (from 18.8.1989) by Finance Act 1989 (c. 26), ss. 178(7), 187, Sch. 17 Pt. 10, Note; S.I. 1989/1298
- F7** S. 824(2B) inserted (retrospectively, with effect in accordance with s. 41(4)-(6) of the amending Act) by Finance Act 1999 (c. 16), s. 41(2)
- F8** S. 824(3)(aa) inserted (retrospectively, with effect in accordance with s. 41(4)-(6) of the amending Act) by Finance Act 1999 (c. 16), s. 41(3)
- F9** Words in s. 824(6) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, 7(f)
- F10** Words in s. 824(6) repealed (from 18.8.1989) by Finance Act 1989 (c. 26), ss. 178(7), 187, Sch. 17 Pt. 10, Note; S.I. 1989/1298
- F11** Words in s. 824(8) 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, Sch. 10 para. 14(52) (with ss. 60, 101(1), 171, 201(3))
- F12** Words in s. 824(9) substituted (1989-90 and subsequent years) by Finance Act 1989 (c. 26), s. 110(5)(6)-(9)
- F13** Words in s. 824(9) substituted (1989-90 and subsequent years) by Finance Act 1989 (c. 26), s. 111(4)(5)-(8)
- F14** Words repealed by 1989 s.187 and Sch.17 Part IV but in accordance with 1989 ss.110 and 111.

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

- C5** See s.281 (repayment to wives), S.I. 1978 No.1117 (in Part III Vol.5) (repayments to wives) and s.289(15) (business expansion scheme).
- C6** S. 824 excluded (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by Finance Act 1993 (c. 34), ss. 173, 184(3), Sch. 19 Pt. III para. 13(4)
- C7** See 1989 s.158(2)(b) for repeal to be made from a day to be appointed.
- C8** See 1989 ss.158(2) and 187 and Sch.17 Part VIII for repeals to be made from a day to be appointed.
- C9** See Table I in Vol.1.
- C10** See 1989 s.178 for further regulation making powers and for regulations see Part III Vol.5. (under “Interest on unpaid tax and repayment supplement”).

#### Marginal Citations

- M8** Source—1975 (No.2) s.47(3)(a)
- M9** Source—1975 (No.2) s.47(4)(a)(c)
- M10** Source—1975 (No.2) s.47(5)-(9)
- M11** Source—1975 (No.2) s.47(11), (12).

## 825 Repayment supplements: companies.

- (1)<sup>M12</sup> This section applies to the following payments made to a company in connection with any accounting period for which the company was resident in the United Kingdom (“the relevant accounting period”), that is to say—
- a repayment of corporation tax paid by the company for that accounting period (including advance corporation tax paid in respect of distributions made by the company in that accounting period and any sum paid in respect of that period on an assessment under section 430(7)(a)<sup>F15</sup>; or
  - a repayment of income tax in respect of a payment received by the company in that accounting period on which the company bore income tax by deduction; or
  - a payment of the whole or part of the tax credit comprised in any franked investment income received by the company in that accounting period.
- <sup>F16</sup>(2) Subject to the following provisions of this section, where a payment of not less than £100 to which this section applies is made by the Board or an inspector after the end of the 12 months beginning with the material date, the payment shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount paid at the [<sup>F17</sup>rate applicable under section 178 of the Finance Act 1989] for each complete tax month contained in the period (if any) beginning with the relevant date and ending at the end of the tax month in which the order for the payment is issued.
- [<sup>F18</sup>(2A) In relation to any complete tax month beginning before 6th April 1974 which is contained in the last-mentioned period, subsection (2) above shall have effect as if the rate of interest specified in it were 6 per cent. per annum (instead of the rate so specified or any other rate in force by virtue of subsection (5) below or section 48(6) of the Finance (No.2) Act 1975).<sup>F19</sup>]
- (3)<sup>M13</sup> For the purposes of subsection (2) above—
- if the payment is a repayment of corporation tax that was paid on or after the first anniversary of the material date, the relevant date is the anniversary of the material date that occurs next after the date on which that tax was paid;
  - in any other case, the relevant date is the first anniversary of the material date;



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and where a payment to which this section applies is a repayment of corporation tax paid by a company on different dates, the payment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid on a later rather than an earlier date among those dates.

- (4) For the purposes of this section—
- (a) a repayment of corporation tax made in consequence of a claim by a company under section 239(3) to have the whole or any part of an amount of surplus advance corporation tax arising in the case of any accounting period treated as if it were advance corporation tax paid in respect of distributions made by the company in any earlier accounting period shall be treated as a repayment of corporation tax paid for the accounting period in the case of which that amount of surplus advance corporation tax arose; and
  - (b) a repayment of income tax or corporation tax made on a claim under subsection (4) of section 419 shall be treated as if it were a repayment of corporation tax paid for the accounting period in which the repayment of, or of the part in question of, the loan or advance mentioned in that subsection was made. <sup>F20</sup>and
  - (c) a repayment of corporation tax or income tax falling to be made as a result of a claim under section 393A(1) to have the whole or any part of a loss incurred in an accounting period set off against profits of an earlier accounting period (“the earlier period”)—
    - (i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss was incurred, be treated as a repayment of tax paid for the earlier period; and
    - (ii) in any other case, shall be treated as a repayment of tax paid for the accounting period in which the loss is incurred; and
  - (d) a payment of the whole or part of a tax credit falling to be made as a result of a claim under section 242, to the extent that a surplus of franked investment income for an accounting period (the “earlier period”) is treated as there mentioned for the purpose of setting a loss incurred in a later accounting period against total profits under section 393A(1)—
    - (i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss is incurred, be treated as a payment in respect of franked investment income received in the earlier period; and
    - (ii) in any other case, shall be treated as a payment in respect of franked investment income received in the accounting period in which the loss is incurred.]
- (5) <sup>F21</sup>Without prejudice to subsection (2A) above] the Treasury may by order from time to time increase or decrease the rate of interest by reference to which repayment supplements are calculated under subsection (2) above.
- (6) A repayment supplement shall not be payable under this section in respect of a payment made in consequence of an order or judgment of a court having power to allow interest on the payment.
- (7) A repayment supplement paid under this section shall be disregarded for all purposes of income tax and corporation tax.
- (8) In this section—

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“tax month” means the period beginning with the 6th day of any calendar month and ending with the 5th day of the following calendar month;

“the material date” in relation to a payment to which this section applies, means the last date on which corporation tax on any of the profits of the company in question arising in the relevant accounting period could have been paid—

- (a) in a case where section 10(1) applies, within the nine months there mentioned;
- (b) in a case where section 478 applies, within the time limit imposed by subsection (2)(a) of that section, but subject to subsection (6) of that section.

(9) This section has effect subject to section 826(8).

#### Textual Amendments

- F15** Words in s. 825(1)(a) repealed (for accounting periods beginning after 31.3.1989) by Finance Act 1989 (c. 26), s. 187, Sch. 17 Pt. V, Note 6
- F16** Words in s. 825(2) repealed (with effect in relation to payments made on and after 6.4.1993) by Finance Act 1989 (c. 26), ss. 158(2), 187, Sch. 17 Pt. 8, Note 5; S.I. 1993/753
- F17** Words in s. 825(2) substituted (from 18.8.1989) by Finance Act 1989 (c. 26), s. 179(1)(a)(vii); S.I. 1989/1298
- F18** S. 825(2A) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, 8(a)
- F19** Repealed by 1989 s.178(7) and 187 and Sch.17 Part X from 18 August 1989 (see S.I. 1989 No.1298).
- F20** Words in s. 825(4) added by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), Sch. 15 para.22
- F21** Words in s. 825(2A) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, 8(b)

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

- C11** S. 825(4)(a) modified (27.7.1993) by Finance Act 1993 (c. 34), s. 120, Sch. 14 para. 10(6)  
S. 825(4)(a) modified (1.5.1995) by Finance Act 1995 (c. 4), s. 120, Sch. 24 para. 12(5)
- C12** See Table I in Vol.1 and see 1989 s.178 for further regulation making powers and Part III Vol.5 for regulations.
- C13** And see Sch.30 para.1(9).

#### Marginal Citations

- M12** Source—1975 (No.2) s.48(1), (2)
- M13** Source—1975 (No.2) s.48(4)-(9)

## 826 Interest on tax overpaid.

<sup>M14</sup>(1) In any case where—

- (a) a repayment falls to be made of corporation tax paid by a company for an accounting period which ends after the appointed day; or
- (b) a repayment of income tax falls to be made in respect of a payment received by a company in such an accounting period; or
- (c) a payment falls to be made to a company of the whole or part of the tax credit comprised in any franked investment income received by the company in such an accounting period,

then, from the material date until [F22the order for repayment or payment is issued], the repayment or payment shall carry interest at the rate which, under section 89 of

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the Management Act, is for the time being the prescribed rate for the purposes of this section.

- (2) In relation to corporation tax paid by a company for an accounting period, the material date for the purposes of this section is the date on which corporation tax was paid or, if it is later, the date on which corporation tax for that accounting period became (or, as the case may be, would have become) due and payable in accordance with section 10.
- (3) In relation to a repayment of income tax falling within subsection (1)(b) above or a payment of the whole or part of a tax credit falling within subsection (1)(c) above, the material date is the date on which corporation tax became (or, as the case may be, would have become) due and payable for the accounting period in which the payment referred to in subsection (1)(b) above or, as the case may be, the franked investment income referred to in subsection (1)(c) above was received by the company.
- (4) For the purposes of this section a repayment of tax made on a claim under section 419(4) shall be treated as if it were a repayment of corporation tax for the accounting period in which the repayment of, or of the part in question of, the loan or advance mentioned in section 419(4) was made but, in relation to such a repayment of tax, the material date for the purposes of this section is—
  - (a) the date on which the loan or advance (or part thereof) is repaid; or
  - (b) if it is later, the date on which the tax which is to be repaid was in fact paid.
- (5) Interest paid under this section shall be paid without any deduction of income tax and shall not be brought into account in computing any profits or income.
- (6) Where a repayment of corporation tax is a repayment of tax paid by a company on different dates, the repayment shall so far as possible be treated for the purposes of this section as a repayment of tax paid on a later rather than an earlier date among those dates.
- (7) In any case where—
  - (a) there is in any accounting period of a company (“the later period”) an amount of surplus advance corporation tax, as defined in section 239(3); and
  - (b) pursuant to a claim under section 239(3), the whole or any part of that amount is treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an earlier accounting period (“the earlier period”); and
  - (c) a repayment falls to be made of corporation tax made for the earlier period,then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from section 239(3) except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (2) above).

[<sup>F23</sup>(7A) In any case where—

- (a) a company carrying on a trade incurs a loss in the trade in an accounting period (“the later period”),
- (b) as a result of a claim under section 393A(1), the whole or any part of that loss is set off for the purposes of corporation tax against profits (of whatever description) of an earlier accounting period (“the earlier period”) which does not fall wholly within the period of twelve months immediately preceding the later period, and

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- (c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period,

then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that repayment as a result of the claim under section 393A(1), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above.

(7B) In any case where—

- (a) a company carrying on a trade incurs a loss in the trade in an accounting period (“the later period”),
- (b) as a result of a claim under section 242, the whole or any part of a surplus of franked investment income for an earlier accounting period (the “earlier period”) which does not fall wholly within the period of twelve months immediately preceding the later period is treated as there mentioned for the purpose of setting the loss against total profits under section 393A(1), and
- (c) a payment falls to be made of the whole or part of a tax credit comprised in franked investment income received by the company in the earlier period,

then, in determining the amount of interest (if any) payable under this section on the payment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that payment as a result of the claim under section 242 (to the extent that that section relates to section 393A(1)), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above.]

- (8) In consequence of the preceding provisions of this section, no repayment supplement (within the meaning of section 825) shall be paid in respect of any repayment of tax or payment of tax credit where the relevant accounting period (within the meaning of that section) ends after the appointed day.

- (9) In this section “the appointed day” means such day or days, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of this section.

#### Textual Amendments

**F22** 1989 s.180(6)—*deemed always to have had effect. Previously*  
“that repayment or payment is made”.

**F23** S. 826(7A)(7B) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 73(3)(4)(5), [Sch. 15 para. 23](#)

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

**C14** See 1989 s.178 for further regulation making powers.

**C15** S. 826: 30.9.1993 is the day appointed for the purposes of s. 826 by [S.I. 1992/3066](#), [art. 2\(2\)\(b\)](#)

**C16** See 1989 s.179(1)(c)(ii) for change in the event of regulations affecting s.826 being made under 1989 s.178.

#### Marginal Citations

**M14** Source—1987 (No.2) s.87

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VALID FROM 31/07/1998

**[<sup>F24</sup>826A Interest on payments in respect of corporation tax and meaning of “the material date”.**

- (1) The Treasury may by regulations make provision applying section 826, with such modifications as may be prescribed, for the purpose of conferring on companies of such descriptions as may be prescribed a right to interest—
  - (a) on such payments made by them in respect of corporation tax as may be prescribed,
  - (b) at the rate applicable under section 178 of the <sup>M15</sup>Finance Act 1989, and
  - (c) for such period as may be prescribed,and for treating any such interest for the purposes, or prescribed purposes, of the Tax Acts as interest under section 826(1)(a) on a repayment of corporation tax.
- (2) The Treasury may by regulations make provision modifying section 826(2) in relation to companies of such description as may be prescribed.
- (3) Subsections (1) and (2) above do not apply in relation to companies in relation to which section 826(2) is modified or otherwise affected by regulations under section 59E of the Management Act (alteration of date on which corporation tax becomes due and payable) in relation to the accounting period to which the corporation tax in question relates.
- (4) Where the Treasury make regulations under subsection (2) above in relation to companies of any description, they may also make regulations modifying section 59DA(2) of the Management Act in relation to those companies, or any description of such companies, by varying the date before which the claim there mentioned may not be made.
- (5) Regulations under this section—
  - (a) may make different provision in relation to different cases or circumstances or in relation to companies or accounting periods of different descriptions;
  - (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (6) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the <sup>M16</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (7) In this section “prescribed” means prescribed by regulations made under this section.]

**Textual Amendments**

**F24** S. 826A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 4 para. 1\(2\)](#)

**Marginal Citations**

**M15** 1989 c. 26.

**M16** 1994 c. 9.

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## 827 VAT penalties etc.

<sup>M17</sup>(1) Where, under Chapter II of Part I of the <sup>M18</sup>Finance Act 1985 (value added tax), a person is liable to make a payment by way of—

- (a) penalty under any of sections 13 to [<sup>F25</sup>17A]; or
- (b) interest under section 18; or
- (c) surcharge under section 19;

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

(2) A sum paid to any person by way of supplement under section 20 of the Finance Act 1985 (VAT repayment supplements) shall be disregarded for all purposes of corporation tax and income tax.

### Textual Amendments

**F25** Word in s. 827(1)(a) substituted (1.12.1992 insofar as it affects any provision of any act which confers a power to make any order or regulations or to publish any notice, 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. III para. 95**; S.I. 1992/2979, art. 4, **Sch. Pt. II**; S.I. 1992/3261, art. 3, Sch.

### Marginal Citations

**M17** Source—1986 s.53.

**M18** 1985 c. 54.

VALID FROM 06/04/2005

### [<sup>F26</sup>827A Territorial scope of charges under certain provisions to which section 836B applies

- (1) This section applies in relation to any amount chargeable to income tax under or by virtue of any provision to which section 836B applies (other than a provision listed in Part 2 of the table in that section).
- (2) An amount arising to a person who is resident in the United Kingdom is chargeable to tax whether or not it is from a source in the United Kingdom.
- (3) An amount arising to a person who is not resident in the United Kingdom is chargeable to tax only if it is from a source in the United Kingdom.
- (4) References in this section to amounts which are from a source in the United Kingdom include, in the case of any amount which does not have a source, references to amounts which have a comparable connection to the United Kingdom.
- (5) This section is subject to any express or implied provision to the contrary in any provision of the Income Tax Acts.
- (6) This section does not apply for the purposes of corporation tax.]

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### Textual Amendments

- F26** S. 827A inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 333](#) (with [Sch. 2](#))

## 828 Orders and regulations made by the Treasury or the Board.

- (1) <sup>M19</sup>Subject to subsection (2) below, any power of the Treasury or the Board to make any order or regulations under this Act or under any other provision of the Tax Acts (including enactments passed after this Act) shall be exercisable by statutory instrument.
- (2) Subsection (1) above shall not apply in relation to any power conferred by section 124(6) or 841(1)(b) or paragraph 15(4) of Schedule 3 [<sup>F27</sup>or section 178(5) of the Finance Act 1989.]
- (3) <sup>M20</sup>Subject to subsection (4) below and to any other provision to the contrary, any statutory instrument containing any order or regulations made by the Treasury or the Board under this Act or under any other provision of the Tax Acts (including enactments passed after this Act) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (3) above shall not apply in relation to an order or regulations made under section 1(6), [<sup>F28</sup>257C], 324, 376(5), 377(8), [<sup>F29</sup>582A(1)], [<sup>F30</sup>590C(6)] 658(3) or 791 or paragraph 7 of Schedule 14 [<sup>F31</sup>or section 22(6)(d) or 36(4)(d) of the 1990 Act] or—
  - (a) if any other Parliamentary procedure is expressly provided;
  - (b) if the order in question is an order appointing a day for the purposes of any provision of the Tax Acts, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect.

### Textual Amendments

- F27** 1989 s.178(6).  
**F28** Words in s. 828(4) substituted (1990-91 and subsequent years of assessment) by [Finance Act 1990 \(c. 29\)](#), [s. 17\(3\)](#)  
**F29** Words in s. 828(4) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s. 118\(2\)](#)  
**F30** Words in s. 828(4) inserted by [Finance Act 1989 \(c. 26\)](#), [Sch. 6 para. 16](#)  
**F31** Words in s. 828(4) inserted by [Capital Allowances Act 1990 \(c. 1\)](#), [Sch. 1 para. 8\(34\)](#)

### Modifications etc. (not altering text)

- C17** See Part III Vol.5.

### Marginal Citations

- M19** Source—1970 ss.65(5), 204, 231(3), 343 (1A); 1970(F) s.29(6), Sch.5 2(3), 10; 1972 ss.91(3), 108(4); 1973 Sch.16 17(2); 1975 (No.2) ss.47(10), 48(6), 69(9), 70(8), 70A(3); 1976 ss.64(4), 64A, (4) Sch.4 16(2); 1980 s.24(9); [Sch.10](#) 13(3); 1982 ss.28(5), 29(1), (3), Sch.7 14(2); 1984 ss.26(1), 88(8), 126(1), Sch.8 2(1)(f), 3A; 1983 Sch.5 5A(9), 6(8); 1986 s.28, 61, Sch.11 11, Sch.12 3, Sch.17 6(7).  
**M20** Source—1970 ss.65(5), 204, 343(1B); 1970(F) s.29(8), Sch.5 2(3), 10; 1973 Sch.16 17(2); 1975 (No.2) ss.47(10), 48(6), 69(9), 70(8), 70A(3); 1976 ss.64(4), 64A(4); 1982 s.29(5); 1983 Sch.5 5A(9), 6(9); 1984 ss.26(6), 88(8), Sch.8 2(1), 3A; 1986 ss.26, 27(7), 55, Sch.11 11, Sch.12 3, Sch.17 6(7)

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## **829 Application of Income Tax Acts to public departments and avoidance of exempting provisions.**

- <sup>M21</sup>(1) Subject to subsections (2) and (3) below, all the provisions of the Income Tax Acts relating to the assessment, charge, deduction and payment of income tax shall apply in relation to public offices and departments of the Crown.
- (2) Nothing in those provisions of the Income Tax Acts shall require the payment by any such office or department of any tax which would be ultimately borne by the Crown.
- (3) Subsection (1) above shall not apply to public offices and departments of any country, state, province or colony within section 320(3)(b) or (c) and nothing in subsection (1) above shall exempt any government from taxation to which it is liable in connection with any office or department by virtue of section 25 of the Finance Act 1925 (liability in respect of trading operations of Dominion governments and others).
- (4) No letters patent granted or to be granted by the Crown to any person, city, borough or town corporate of any liberty, privilege or exemption from subsidies, tolls, taxes, assessments or aids, and no statute which grants any salary, annuity or pension to any person free of any taxes, deductions or assessments, shall be construed or taken to exempt any person, city, borough or town corporate, or any inhabitant of any city, borough or town corporate, from income tax, and all non-obstantes in any such letters patent or statute made or to be made to the contrary effect shall be void.

### **Marginal Citations**

**M21** Source—1970 ss.524, 525(1)

## **830 Territorial sea and designated areas.**

- <sup>M22</sup>(1) The territorial sea of the United Kingdom shall for all purposes of income tax and corporation tax (including the following provisions of this section) be deemed to be part of the United Kingdom.
- (2) In this section—
- “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area;
  - “exploration or exploitation rights” means rights to assets to be produced by exploration or exploitation activities or to interests in or to the benefit of such assets; and
  - “designated area” means an area designated by Order in Council under section 1(7) of the <sup>M23</sup>Continental Shelf Act 1964.
- (3) Any profits or gains from exploration or exploitation activities carried on in a designated area or from exploration or exploitation rights shall be treated for the purposes of income tax or corporation tax as profits or gains from activities or property in the United Kingdom.
- (4) Any profits or gains arising to any person not resident in the United Kingdom from exploration or exploitation activities or rights shall for the purposes of corporation tax be treated as profits or gains of a trade carried on by that person in the United Kingdom through a branch or agency.



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- (5) Any emoluments from an office or employment in respect of duties performed in a designated area in connection with exploration or exploitation activities shall be treated for the purposes of income tax as emoluments in respect of duties performed in the United Kingdom.

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

**C18** See 1970(M) s.31(3)—*appeals against assessments made by this section, otherwise than under Sch.E, to go to Special Commissioners.*

**C19** See 1990(C) s.42(1)—*assets leased outside the UK.*

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**Marginal Citations**

**M22** Source—1973 s.38(1), (2)-(4), (6)

**M23** 1964 c. 29.

**Status:**

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