



# Finance Act 1991

## 1991 CHAPTER 31

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Miscellaneous*

**<sup>F1</sup>68 Gifts to educational establishments.**

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**Textual Amendments**

- F1** S. 68 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**<sup>F2</sup>69 Expenses of entertainers.**

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**Textual Amendments**

- F2** S. 69 repealed (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003](#) (c. 1), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

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**F<sup>3</sup>70 Personal equity plans.**

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**Textual Amendments**  
**F3** S. 70 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005](#) (c. 5), s. 883(1), **Sch. 3** (with [Sch. 2](#))

**71 Donations to charity.**

(1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.

F<sup>4</sup>(2) .....

(3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.

(4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—  
(a) in subsections (1) and (2), after the words “in that period”, in the first place where they occur, there were inserted “and before 19th March 1991”; and  
(b) in subsection (3)(b), after “that section” there were inserted “in respect of payments made before 19th March 1991”.

(5) In section 25 of the <sup>M1</sup>Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect.

(6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

**Textual Amendments**  
**F4** S. 71(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010](#) (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**Marginal Citations**  
**M1** 1990 c. 29.

**F<sup>5</sup>72 Deduction of trading losses.**

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**Textual Amendments**  
**F5** S. 72 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007](#) (c. 3), s. 1034(1), [Sch. 1 para. 287](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**73 Relief for company trading losses.**

F<sup>6</sup>(1) .....

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- (2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.
- (3) Schedule 15 to this Act shall have effect.
- (4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.
- (5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

**Textual Amendments**

- F6** S. 73(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F74 Trade unions and employers' associations.**

**Textual Amendments**

- F7** S. 74 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**75 Audit powers in relation to non-residents.**

The following section shall be inserted after section 482 of the Taxes Act 1988—

**“482A Audit powers in relation to non-residents.**

- (1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) (“audit powers”).
- (2) Regulations under subsection (1) above may in particular—
  - (a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;
  - (b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;
  - (c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;
  - (d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and

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- (e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.
- (3) Regulations under subsection (1) above may—
  - (a) make different provision for different cases; and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.
- (4) In this section “deposit-taker has the meaning given by section 481(2).”

## 76 Capital element in annuities.

<sup>F8</sup>(1) . . . . .

- (2) Section 230 of the <sup>M2</sup>Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for “(2)(a)” and “(4)(c)”, in each place where they occur, of “(2A)(a)” and “(3)(c)” respectively.
- (3) Section 27 of the <sup>M3</sup>Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of “(3)(c)” for “(4)(c)” in both places where it occurs.

### Textual Amendments

**F8** S. 76(1) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(b)**

### Marginal Citations

**M2** 1970 c. 10.  
**M3** 1956 c. 54.

## 77 Definition of “normal commercial loan”.

- (1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—
  - “(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—
    - (a) shall not be treated as depending to any extent on the results of the company’s business or any part of it by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the results of the company’s business or any part of it improving, and
    - (b) shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of

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the loan provide for the rate of interest to be reduced in the event of the value of any of the company's assets increasing.

(5F) Sub-paragraph (5H) below applies where—

- (a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and
- (b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

- (a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,
- (b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and
- (c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it.”

<sup>F9</sup>(2) .....

(3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.

#### Textual Amendments

**F9** S. 77(2) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with s. 201(3), [Sch. 11 paras. 20, 22, 26\(2\), 27](#))

## 78 Sharing of transmission facilities.

(1) This section applies to any agreement relating to the sharing of transmission facilities—

- (a) to which the parties are national broadcasting companies,
- (b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and

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- (c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.

<sup>F10</sup>(2) .....

<sup>F10</sup>(3) .....

- (4) Where under an agreement to which this section applies one party to the agreement disposes of [<sup>F11</sup>plant or machinery] to another party to the agreement, the [<sup>F12</sup>Capital Allowances Act] shall apply—

- (a) in the case of the party making the disposal, as if the disposal value of the [<sup>F11</sup>plant or machinery] for the purposes of [<sup>F13</sup>section 60 of that Act] were equal to the capital expenditure incurred by that party on its provision, and
- (b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the [<sup>F11</sup>plant or machinery] were equal to the capital expenditure so incurred.

- (5) In subsection (4) above, references to [<sup>F14</sup>plant or machinery] include a share in [<sup>F14</sup>plant or machinery].

<sup>F10</sup>(6) .....

<sup>F10</sup>(7) .....

- (8) In this section, “national broadcasting company means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

#### Textual Amendments

- F10** S. 78(2)(3)(6)(7) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)
- F11** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(b)**
- F12** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(a)**
- F13** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(c)**
- F14** Words in s. 78(5) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(2)**

#### 79 Abolition of CRT: consequential amendment.

- (1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for “section 476” there shall be substituted “section 477A ”.
- (2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.

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## 80 Interest on certain debentures.

Paragraph 8(2) of Schedule 11 to the <sup>M4</sup>Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and be deemed always to have had effect, with the addition after paragraph (b) of the words—

“ and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture. ”

### Marginal Citations

M4 1989 c. 29.

## <sup>F15</sup>81 .....

### Textual Amendments

F15 S. 81 repealed (1.5.1995 for the purposes mentioned in Sch. 29 Pt.VIII(16) Note 5 of the amending Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII Note 5

## 82 Certificates of non-liability to tax.

(1) In the <sup>M5</sup>Taxes Management Act 1970, the following section shall be inserted after section 99—

### “99A Certificates of non-liability to income tax.

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or
- (b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.”

(2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.

(3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.

### Marginal Citations

M5 1970 c. 9.

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