



# Finance Act 1995

## 1995 CHAPTER 4

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **152 Open-ended investment companies.**

- (1) The Treasury may, by regulations, make such provision as they consider appropriate for securing that the enactments specified in subsection (2) below have effect in relation to—
- (a) open-ended investment companies of any such description as may be specified in the regulations,
  - (b) holdings in, and the assets of, such companies, and
  - (c) transactions involving such companies,
- in a manner corresponding, subject to such modifications as the Treasury consider appropriate, to the manner in which they have effect in relation to unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.
- (2) The enactments referred to in subsection (1) above are—
- (a) the Tax Acts and the <sup>M1</sup>Taxation of Chargeable Gains Act 1992; and
  - (b) the enactments relating to stamp duty and Part IV of the <sup>M2</sup>Finance Act 1986 (stamp duty reserve tax).
- (3) The power of the Treasury to make regulations under this section in relation to any such enactments shall include power to make provision which does any one or more of the following, that is to say—
- (a) identifies the payments which are or are not to be treated, for the purposes of any prescribed enactment, as the distributions of open-ended investment companies;

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*Status: Point in time view as at 01/05/1995.*

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- (b) modifies the operation of Chapters II, III and VA of Part VI of the Taxes Act 1988 in relation to open-ended investment companies or in relation to payments falling to be treated as the distributions of such companies;
  - (c) applies and adapts any of the provisions of Part IV of the <sup>M3</sup>Finance Act 1986 for the purpose of making in relation to transactions involving open-ended investment companies any provision corresponding (with or without modifications) to that which applies under the enactments relating to stamp duty in the case of equivalent transactions involving unit trusts;
  - (d) provides for any or all of the provisions of sections 75 to 77 of the <sup>M4</sup>Finance Act 1986 to have effect or not to have effect in relation to open-ended investment companies or the undertakings of, or any shares in, such companies;
  - (e) so modifies the operation of any prescribed enactment in relation to any such companies as to secure that arrangements for treating the assets of an open-ended investment company as assets comprised in separate pools are given an effect corresponding, in prescribed respects, to that of equivalent arrangements constituting the separate parts of an umbrella scheme;
  - (f) requires prescribed enactments to have effect in relation to an open-ended investment company as if it were, or were not, a member of the same group of companies as one or more other companies;
  - (g) identifies the holdings in open-ended investment companies which are, or are not, to be treated for the purposes of any prescribed enactment as comprised in the same class of holdings;
  - (h) preserves a continuity of tax treatment where, in connection with any scheme of re-organisation, assets of one or more unit trusts become assets of one or more open-ended investment companies, or vice versa;
  - (i) treats the separate parts of the undertaking of an open-ended investment company in relation to which provision is made by virtue of paragraph (e) above as distinct companies for the purposes of any regulations under this section;
  - (j) amends, adapts or applies the provisions of any subordinate legislation made under or by reference to any enactment modified by the regulations.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument and shall include power—
- (a) to make different provision for different cases; and
  - (b) to make such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.
- (5) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) In this section—

“the enactments relating to stamp duty” means the <sup>M5</sup>Stamp Act 1891, and any enactment (including any Northern Ireland legislation) which amends or is required to be construed together with that Act;

“Northern Ireland legislation” shall have the meaning given by section 24(5) of the <sup>M6</sup>Interpretation Act 1978;

“open-ended investment company” has the same meaning as in the <sup>M7</sup>Financial Services Act 1986;

“prescribed” means prescribed by regulations under this section;

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“subordinate legislation” means any subordinate legislation within the meaning of the <sup>M8</sup>Interpretation Act 1978 or any order or regulations made by statutory instrument under Northern Ireland legislation; and

“umbrella scheme” shall have the meaning given by section 468 of the Taxes Act 1988;

and references in this section to the enactments relating to stamp duty, or to any of them, or to Part IV of the Finance Act 1986 shall have effect as including references to enactments repealed by sections 107 to 110 of the <sup>M9</sup>Finance Act 1990.

- (7) Any reference in this section to unit trusts has effect—
- (a) for the purposes of so much of this section as confers power in relation to the enactments specified in paragraph (a) of subsection (2) above, as a reference to authorised unit trusts (within the meaning of section 468 of the Taxes Act 1988), and
  - (b) for the purposes of so much of this section as confers power in relation to the enactments specified in paragraph (b) of that subsection, as a reference to any unit trust scheme (within the meaning given by section 57 of the <sup>M10</sup>Finance Act 1946).
- (8) For the purposes of this section the enactments which shall be taken to make provision in relation to companies that are members of the same group of companies shall include any enactments which make provision in relation to a case—
- (a) where one company has, or in relation to another company is, a subsidiary, or a subsidiary of a particular description, or
  - (b) where one company controls another or two or more companies are under the same control. <sup>M11</sup>

#### Marginal Citations

<b>M1</b>	1992 c. 12.
<b>M2</b>	1986 c. 41.
<b>M3</b>	1986 c. 41.
<b>M4</b>	1986 c. 41.
<b>M5</b>	1891 c. 39.
<b>M6</b>	1978 c. 30.
<b>M7</b>	1986 c. 60.
<b>M8</b>	1978 c. 30.
<b>M9</b>	1986 c. 41.
<b>M10</b>	1946 c. 64.
<b>M11</b>	1990 c. 29.

### 153 Electronic lodgement of tax returns, etc.

Schedule 28 to this Act (which makes provision with respect to the electronic lodgement of certain tax returns and documents required in connection with tax returns) shall have effect.

### 154 Short rotation coppice.

- (1) The cultivation of short rotation coppice shall be regarded for the purposes of the Tax Acts and the <sup>M12</sup>Taxation of Chargeable Gains Act 1992 as farming (and, where

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relevant, as husbandry or agriculture) and not as forestry; and land in the United Kingdom on which the activity is carried on shall accordingly be regarded for those purposes as farm land or agricultural land, as the case may be, and not as woodlands.

- (2) For the purposes of the <sup>M13</sup> Inheritance Tax Act 1984 the cultivation of short rotation coppice shall be regarded as agriculture; and accordingly for those purposes—
- (a) land on which short rotation coppice is cultivated shall be regarded as agricultural land, and
  - (b) buildings used in connection with the cultivation of short rotation coppice shall be regarded as farm buildings.
- (3) In subsections (1) and (2) “short rotation coppice” means a perennial crop of tree species planted at high density, the stems of which are harvested above ground level at intervals of less than ten years.
- (4) Subsection (1) and subsection (3) so far as relating to subsection (1) shall be deemed to have come into force on 29th November 1994.
- (5) Subsection (2) and subsection (3) so far as relating to subsection (2) shall have effect in relation to transfers of value or other events occurring on or after 6th April 1995.

#### Marginal Citations

M12 1992 c. 12.

M13 1984 c.51

### 155 Inheritance tax: agricultural property.

- (1) In section 116 of the Inheritance Tax Act 1984 (relief for transfers of agricultural property) in subsection (2) (rate of relief) the word “either” shall be omitted and at the end of paragraph (b) there shall be inserted “or
- (c) the interest of the transferor in the property immediately before the transfer does not carry either of the rights mentioned in paragraph (a) above because the property is let on a tenancy beginning on or after 1st September 1995;”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) In the application of this section as respects property in Scotland, the reference in subsection (2)(c) above to a tenancy beginning on or after 1st September 1995 includes a reference to its being acquired on or after that date by right of succession (the date of acquisition being taken to be the date on which the successor gives relevant notice under section 12 of the <sup>M14</sup>Agricultural Holdings (Scotland) Act 1991).”
- (3) Subsections (1) and (2) above shall apply in relation to transfers of value made, and other events occurring, on or after 1st September 1995.

#### Marginal Citations

M14 1991 c. 55.

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## **156 Proceedings for tax in sheriff court.**

- (1) Section 67 of the <sup>M15</sup>Taxes Management Act 1970 (proceedings for tax in sheriff court) shall be amended as follows.
- (2) In subsection (1) (tax not exceeding a specified sum recoverable in sheriff court) for the words from “where” to “the tax” there shall be substituted “ tax due and payable under any assessment ”.
- (3) The following subsection shall be inserted after subsection (1)—

“(1A) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section.”
- (4) This section shall apply in relation to proceedings commenced after the day on which this Act is passed.

### **Marginal Citations**

**M15** 1970 c. 9.

## **157 Certificates of tax deposit.**

- (1) If, whether before or after the passing of this Act—
  - (a) any person (“the depositor”) has received any sum on the making, on or after 6th April 1990, of a withdrawal for cash of a tax deposit made before that date,
  - (b) the whole or any part of any qualifying tax liability has been discharged by any payment made otherwise than by the application of a tax deposit, and
  - (c) that payment was made in the period beginning one month before the withdrawal and ending one month afterwards,the depositor shall be entitled to receive compensation under this section from the Board.
- (2) In this section “qualifying tax liability”, in relation to a tax deposit, means so much of any liability as is—
  - (a) a liability of any person for any tax for the year 1990-91 or any subsequent year of assessment, or for interest on such tax;
  - (b) a liability that relates to tax for a year of assessment during the whole or any part of which that person was married to the depositor; and
  - (c) a liability of such a description that, if it had been a liability of the depositor (and the withdrawal were to be disregarded), the whole or any part of it could have been discharged, immediately before the time of the payment mentioned in subsection (1)(b) above, by the application of that deposit and of accrued interest thereon.
- (3) Subject to the following provisions of this section, the amount of the compensation to which the depositor is entitled under this section in the case of any deposit withdrawn for cash shall be equal to the difference between—
  - (a) the sum received as mentioned in subsection (1)(a) above on the withdrawal; and
  - (b) the sum that would have been received if interest had accrued on the relevant part of the sum received at the rate applicable under the relevant terms to sums

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applied in the payment of tax, instead of at the rate applicable to a withdrawal for cash.

- (4) In subsection (3) above, the reference to the relevant part of the sum received on the withdrawal of a deposit is a reference to the following amount, that is to say—
  - (a) in a case where the sum received on the withdrawal is equal to or smaller than the amount of the liability discharged by the payment mentioned in subsection (1)(b) above, the amount equal to such part of the sum actually received as does not represent interest that has accrued under the relevant terms; and
  - (b) in any other case, to the amount which would have been the amount specified in paragraph (a) above if the sum actually received on the withdrawal had been equal to the amount of qualifying tax liability so discharged.
- (5) The amount of compensation to which any person is entitled under this section shall also include an amount equal to interest, for the period from the withdrawal mentioned in subsection (1)(a) above until the payment of the compensation, on the amount determined in accordance with subsection (3) above; and a liability to compensation under this section shall not bear interest apart from in accordance with this subsection.
- (6) Section 178 of the <sup>M16</sup>Finance Act 1989 (interest rates) shall apply to subsection (5) above for determining the rate of the interest treated, by virtue of that subsection, as included in any compensation under this section; and any regulations under that section which are in force at the passing of this Act shall be deemed, subject to the powers of the Treasury under that section, to have effect in relation to this section as they have effect in relation to the enactments specified in subsection (2)(f) of that section (interest on overdue tax).
- (7) The part of any compensation under this section that represents interest under subsection (5) above shall not be treated as included in the income of the depositor for the purposes of income tax; but the remainder shall be chargeable to income tax under Case III of Schedule D.
- (8) No compensation shall be paid under this section unless a claim for it has been made to the Board.
- (9) Where any claim is made under this section with respect to any withdrawal for cash of a tax deposit—
  - (a) this section shall have effect if there is, in the period mentioned in subsection (1)(c) above, more than one such payment as is mentioned in subsection (1)(b) above as if (subject to paragraph (b) below) all the payments in that period were, for the purposes of that claim, to be aggregated and treated as one such payment; and
  - (b) the amount of compensation payable under this section on that claim shall be computed without regard to so much of any payment discharging a qualifying tax liability as, in pursuance of any claim under this section, has been or is to be so taken into account as to affect the amount of compensation payable in the case of any other withdrawal.
- (10) Sums required by the Board for paying compensation under this section shall be issued to the Board by the Treasury out of the National Loans Fund.
- (11) A withdrawal for cash of a tax deposit shall be taken for the purposes of this section to occur at the same time as, under the relevant terms, it is deemed to occur for the purposes of the calculation of interest on the amount withdrawn.

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- (12) This section shall be construed as one with the Tax Acts, and in this section—
- (a) references to a tax deposit are references to the whole or any part of any deposit in respect of which a certificate of tax deposit has been issued by the Treasury under section 12 of the <sup>M17</sup>National Loans Act 1968; and
  - (b) references to the relevant terms, in relation to a tax deposit, are references to the terms applicable to that deposit and to the certificate issued in respect of it.

**Marginal Citations**

**M16** 1989 c. 26.

**M17** 1968 c. 13.

**158 Amendment of the Exchequer and Audit Departments Act 1866.**

Section 10 of the <sup>M18</sup>Exchequer and Audit Departments Act 1866 (Commissioners of Customs and Excise and of Inland Revenue to deduct repayments from gross revenues) shall have effect, and be deemed always to have had effect, as if the reference in that section to repayments included references to—

- (a) payments in respect of any actual or deemed credits relating to any tax or duty; and
- (b) payments of any interest on sums which are or are deemed to be repayments for the purposes of that section.

**Marginal Citations**

**M18** 1866 c. 39.

**159 Ports levy.**

- (1) In Part I of the <sup>M19</sup>Ports Act 1991 (transfer of statutory port undertakings), after section 15 (duty to provide information for purposes of levy) insert—

**“15A Notice of assessment: supplementary provisions.**

- (1) Where a notice of assessment has been served under section 14(2) above on a former relevant port authority (“the authority”), the authority may, within the period mentioned in section 14(3) above, by notice in writing request the appropriate Minister to reconsider the amount of the assessment.

The request shall set out the grounds on which the authority allege that the amount assessed is incorrect.

- (2) If it appears to the Minister that there are reasonable grounds for believing that the amount of the assessment may be excessive, he may direct that section 14(3) and (4) above shall not apply to the whole amount of the assessment but only to such lesser amount as he may specify.
- (3) If a request for reconsideration is duly made, the appropriate Minister shall reconsider the amount of the assessment and may confirm or reduce it.

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An appeal lies to the High Court or, in Scotland, to the Court of Session as the Court of Exchequer in Scotland from any decision of the Minister under this subsection.

- (4) The appropriate Minister may reconsider the amount of an assessment under section 14(2) above in any other case, if he thinks fit, and may confirm or reduce it.
- (5) When the amount of the assessment is finally determined—
  - (a) if the amount of the assessment is less than the amount paid by the authority, the appropriate Minister shall make such payment to the authority as is required to put the authority in the same position as if the reduced amount had been specified in the original assessment;
  - (b) if a further amount is payable by the authority, section 14(3) and (4) above shall apply in relation to that amount as if the reference to the date of issue of the notice of assessment were a reference to the date of the determination.
- (6) Except as provided by this section a notice of assessment under section 14(2) above shall not be questioned in any legal proceedings whatsoever.”.
- (2) Sections 115 to 120 of the <sup>M20</sup>Finance Act 1990 (levy on privatisation of certain ports) shall cease to have effect.
- (3) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M21</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of subsection (1) above—
  - (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament), but
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

**M19** 1991 c. 52.  
**M20** 1990 c. 29.  
**M21** 1974 c. 28.

**160**

- (1) The Inland Revenue shall prepare and present to Treasury Ministers a report on tax simplification.
- (2) The report shall be laid before Parliament and published before 31st December 1995.
- (3) The report shall give—
  - (a) an account of recent tax legislation history;
  - (b) full details of recent annual additions to both primary and secondary legislation;
  - (c) a summary of recent criticism of both the complexity of tax legislation and of parliamentary procedure; and
  - (d) the advantages and disadvantages of possible solutions including a Royal Commission on taxation and a tax law commission.



**Status:**

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