



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

INCOME TAX AND CORPORATION TAX CHARGE AND RATE BANDS

Income tax

^{F1}23 Charge and rates for 2004-05

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Textual Amendments

- F1** S. 23 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

^{F2}24 Personal allowances for those aged 65 or more

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Textual Amendments

- F2** S. 24 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Corporation tax

25 Charge and main rate for financial year 2005

Corporation tax shall be charged for the financial year 2005 at the rate of 30%.

F³26 Small companies' rate and fraction for financial year 2004

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Textual Amendments
F3 S. 26 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

27 Corporation tax starting rate and fraction for financial year 2004

For the financial year 2004—

- (a) the corporation tax starting rate shall be 0%, and
- (b) the fraction mentioned in section 13AA of the Taxes Act 1988 (marginal relief for small companies) shall be 19/400ths.

F⁴28 The non-corporate distribution rate

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Textual Amendments
F4 S. 28 repealed (with effect in accordance with Sch. 26 Pt. 3(1) Note of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 26 Pt. 3\(1\)](#)

Trusts

F⁵29 Special rates of tax applicable to trusts

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Textual Amendments
F5 S. 29 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Status: Point in time view as at 06/04/2021.

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CHAPTER 2

CORPORATION TAX: GENERAL

Transfer pricing

F630 Provision not at arm's length: transactions between UK taxpayers etc

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Textual Amendments

- F6** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

F631 Exemptions for dormant companies and small and medium-sized enterprises

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Textual Amendments

- F6** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

F632 Special applications of paragraph 6 of Schedule 28AA to the Taxes Act 1988

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Textual Amendments

- F6** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

Penalties: temporary relaxation

33 Provision not at arm's length: temporary relaxation of liability to penalty

- (1) This section has effect in relation to—
- (a) the years of assessment 2004-05 and 2005-06, and
 - (b) accounting periods beginning on or after 1st January 2004 and ending on or before 31st March 2006,
- and in the following provisions of this section “relevant period” means any of those years of assessment or accounting periods.

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- (2) In this section “records relating to an arm’s length provision” means such records as might have been requisite for the purpose of making and delivering a correct and complete return, so far as relating to the determination of the provision asserted to be the arm’s length provision for the purposes of Schedule 28AA to the Taxes Act 1988 in a case where that Schedule applies.
- (3) In relation to any relevant period, the following provisions (which provide for penalties for failure to keep and preserve records for purposes of returns)—
 - (a) section 12B(5) of the Taxes Management Act 1970 (c. 9), and
 - (b) paragraph 23 of Schedule 18 to the Finance Act 1998 (c. 36),
 do not apply if the records which the person in question fails to keep or preserve are records relating to an arm’s length provision.
- (4) In the application of subsection (2) in relation to paragraph 23 of Schedule 18 to the Finance Act 1998—
 - (a) for “requisite” substitute “ needed ”, and
 - (b) for “making and delivering” substitute “ delivering ”.
- (5) Where a person delivers an incorrect return for any relevant period, he shall not be regarded as doing so negligently for the purposes of—
 - (a) section 95 of the Taxes Management Act 1970, or
 - (b) paragraph 20 of Schedule 18 to the Finance Act 1998,
 by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.
- (6) For the purposes of section 95A of the Taxes Management Act 1970, where a partner delivers an incorrect partnership return for any relevant period—
 - (a) he shall not be regarded as doing so negligently, and
 - (b) his doing so shall not be regarded as attributable to negligent conduct on the part of any relevant partner,
 by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.
- (7) For the purposes of section 99 of the Taxes Management Act 1970 (penalty for assisting in preparation of incorrect documents) a person shall not be taken to know that a return is incorrect by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.

Thin capitalisation

34 Payments of excessive interest etc

- (1) In section 209 of the Taxes Act 1988 (meaning of “distribution”) the following provisions shall cease to have effect—
 - (a) in subsection (2), paragraph (da) (interest etc in respect of securities where issuing company is 75% subsidiary of holder etc and the interest represents an amount that would not have been paid but for a special relationship etc); and
 - (b) subsections (8A) to (8F) (application of section 808A(2) to (4) for purposes of paragraph (da) of subsection (2)).

^{F7}(2)

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F7(3)

F8(4)

Textual Amendments

- F7** S. 34(2)(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)
- F8** S. 34(4) 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)

F935 Elimination of double counting etc
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Textual Amendments

- F9** S. 36 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

F936 Balancing payments and elections to pay tax instead
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Textual Amendments

- F9** S. 36 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

Transfer pricing and thin capitalisation: commencement

37 Commencement and transitional provisions

- (1) In this section “the amending provisions” means—
- (a) sections 30 to 32 (transfer pricing);
 - (b) sections 34 to 36 (thin capitalisation);
 - (c) Schedule 5 (provision not at arm’s length: related amendments).
- (2) The amendments made by those provisions have effect in relation to chargeable periods beginning on or after 1st April 2004 (whenever the actual provision, within the meaning of Schedule 28AA to the Taxes Act 1988, is or was made or imposed).
- (3) Where an accounting period of a company begins before, and ends on or after, 1st April 2004, it shall be assumed for the purposes of the amending provisions, the amendments which they make and subsection (2) that that accounting period (“the straddling period”) consists of two separate accounting periods—
- (a) the first beginning with the straddling period and ending with 31st March 2004, and

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(b) the second beginning with 1st April 2004 and ending with the straddling period,
and the company’s profits and losses shall be computed accordingly for tax purposes.

(4) Where a period of account of any person within the charge to income tax begins before, and ends on or after, 6th April 2004, it shall be assumed for the purposes of the amending provisions, the amendments which they make and subsection (2) that that period (“the straddling period of account”) consists of two separate periods of account—

- (a) the first beginning with the straddling period of account and ending with 5th April 2004, and
- (b) the second beginning with 6th April 2004 and ending with the straddling period of account,

and the person’s profits and losses shall be computed accordingly for the purposes of income tax.

Expenses of companies with investment business and insurance companies

F10 38 Expenses of management: companies with investment business

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Textual Amendments

F10 S. 38 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](#))

F11 39 Accounting period to which expenses of management are referable

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Textual Amendments

F11 S. 39 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](#))

F12 40 Expenses of insurance companies

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Textual Amendments

F12 S. 40 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(l\)\(i\)](#)

F13 41 Related amendments to other enactments

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Textual Amendments

F13 S. 41 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(1\)\(i\)](#)

42 Commencement of sections 38 to 41

- (1) The amendments made by sections 38 to 41 and Schedule 6 have effect for accounting periods beginning on or after 1st April 2004.
- (2) This is subject to the transitional provisions in sections 43 and 44 and that Schedule.

43 Companies with investment business: transitional provisions

- (1) Any amount which, apart from this subsection, would have fallen to be treated under the old section 75(3) as if it had been disbursed as expenses of management for the first new accounting period of a company shall instead be treated as if it were expenses of management deductible for that period by virtue of the new section 75(9).
- (2) To the extent that any amount was deductible under subsection (1) of section 75 for an old accounting period, the amount shall not again be deductible under that subsection for a new accounting period.
- (3) Subsection (2) is without prejudice to the old section 75(3) and the new section 75(9) (carry forward of unrelieved excess to later accounting period).
- (4) To the extent that an amount—
 - (a) was not deductible under section 75(1) by an investment company for any old accounting period, but
 - (b) would have been deductible under the new section 75(1) for an old accounting period if the amendments made by sections 38 and 39 and Schedule 6 or any order under section 46 (so far as having effect in relation to the first new accounting period) had been in force in relation to that period,the amount shall be deductible under section 75(1) for the first new accounting period of the company.
- (5) Where there is an accounting period that begins before, and ends on or after, 1st April 2004 (“the commencement date”), it shall be assumed, for the purpose of determining the amounts that are deductible for that period under section 75(1) of the Taxes Act 1988, that that accounting period (the “straddling period”) consists of two separate accounting periods—
 - (a) the first beginning with the straddling period and ending with the day preceding the commencement date, and
 - (b) the second beginning with the commencement date and ending with the straddling period,but this is subject to subsection (6).
- (6) In the case of an investment company, subsection (5) does not have effect for the purpose of determining the amounts that are deductible for the straddling period under section 75(1) by virtue of—
 - (a) subsection (3) of the old section 75, or
 - (b) any provision of the Corporation Tax Acts, apart from section 75 and this section.

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- (7) Where, for the purposes of section 768B or 768C of the Taxes Act 1988, there is a change in the ownership of a company during the straddling period, then for the purposes of the section in question (and Schedule 28A to that Act), before making any such division as is required by section 768B(4) or 768C(3) of that Act,—
 - (a) the straddling period shall be divided into two parts in accordance with subsection (5), and
 - (b) those parts shall be treated in accordance with that subsection as two separate accounting periods, but
 - (c) subsection (6) shall be disregarded,
 and section 768B or 768C of, and Schedule 28A to, the Taxes Act 1988 shall have effect accordingly.

- (8) In this section—
 - “the commencement date” shall be construed in accordance with subsection (5);
 - “investment company” has the same meaning as in Part 4 of the Taxes Act 1988 (see section 130 of that Act);
 - “new accounting period” means an accounting period beginning on or after the commencement date;
 - “old accounting period” means an accounting period beginning before the commencement date;
 - “the new section 75” means section 75 as it has effect in relation to a new accounting period;
 - “the old section 75” means section 75 as it has effect (apart from subsection (5) above) in relation to an old accounting period;
 - “section 75” means section 75 of the Taxes Act 1988.

F14 44 Insurance companies: transitional provisions

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Textual Amendments
F14 S. 44 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\), Sch. 16 para. 247\(1\)\(ii\)](#)

Amounts reversing expenses of management deducted

45 Amounts reversing expenses of management deducted: charge to tax

- F15**(1)
- F15**(2)
- F15**(3)
- F16**(4)

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Textual Amendments

- F15** S. 45(1)-(3) 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**)
- F16** S. 45(4) 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**)

Power to make consequential amendments

46 Power to make consequential amendments

- (1) The Treasury may by order make such amendments, repeals or revocations in any enactment (including an enactment amended by this Act) as appear to them to be appropriate in consequence of sections 38 to 40 and 45 and Schedule 6.
- (2) The power conferred by subsection (1) to make an order includes power—
 - (a) to make different provision for different cases, and
 - (b) to make incidental, consequential, supplemental or transitional provision and savings.
- (3) Any order made under this section on or before 31st December 2004 may make provision having effect in relation to accounting periods ending before the date on which the order is made (but not before 1st April 2004).
- (4) In this section—
 - “enactment” includes an enactment comprised in subordinate legislation;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (see section 21 of that Act).

Insurance companies: miscellaneous

47 Insurance companies etc.

Schedule 7 to this Act (which makes provision about insurance companies and companies which have ceased to be insurance companies after a transfer of business) shall have effect.

Loan relationships and derivative contracts

^{F17}48 Loan relationships: miscellaneous amendments

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Textual Amendments

- F17** S. 48 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**)

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49 **Derivative contracts: miscellaneous amendments**

Schedule 9 to this Act (which makes amendments relating to derivative contracts) shall have effect.

Accounting practice

^{F18}50 **Generally accepted accounting practice**

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Textual Amendments

F18 S. 50 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 424](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F19}51 **Use of different accounting practices within a group of companies**

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Textual Amendments

F19 S. 51 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 425](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

52 **Amendment of enactments that operate by reference to accounting practice**

- (1) Schedule 10 makes amendments of provisions of the Tax Acts that operate by reference to accounting practice.
- (2) In that Schedule—
 - Part 1 makes amendments relating to loan relationships;
 - Part 2 makes amendments relating to derivative contracts;
 - Part 3 makes amendments relating to intangible fixed assets;
 - Part 4 makes amendments relating to foreign currency accounting.
- (3) The amendments have effect in relation to—
 - (a) periods of account beginning on or after 1st January 2005, ^{F20}...
 - ^{F20}(b)

Textual Amendments

F20 S. 52(3)(b) and word repealed (retrospective to 7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 50](#), [Sch. 11 Pt. 2\(7\)](#)

53 **Treatment of expenditure on research and development**

- (1) Expenditure by a company on research and development, if not of a capital nature, is not prevented from being regarded for tax purposes as deductible in computing profits

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by reason of the fact that for accounting purposes it is brought into account by the company in determining the value of an intangible asset.

- (2) Subsection (1) applies, in particular, for the purposes of—
section 82A of the Taxes Act 1988 (deduction of expenditure on research and development),
Schedule 20 to the Finance Act 2000 (c. 17) (R&D tax relief),
Schedule 12 to the Finance Act 2002 (c. 23) (tax relief for expenditure on research and development), and
Schedule 13 to that Act (tax relief for expenditure on vaccine research etc.).
- (3) Where expenditure is brought into account by a company for tax purposes in accordance with subsection (1), no deduction may be made in computing for tax purposes the profits of the company in respect of the writing down of so much of the value of an intangible asset as is attributable to that expenditure.
- (4) Expenditure shall not be regarded by virtue of subsection (1) as deductible in computing a company's profits for an accounting period to the extent that—
(a) a deduction has been made in respect of it in computing the company's profits for a previous accounting period, or
(b) the company has benefited from a tax relief in respect of it for a previous accounting period under any of the provisions specified in subsection (2).
- (5) In this section—
“intangible asset” has the meaning it has for accounting purposes; and
“research and development” has the meaning given by section 837A of the Taxes Act 1988.
- (6) This section shall come into force in accordance with provision made by the Treasury by order made by statutory instrument.

Commencement Information

- II** S. 53 in force at 1.1.2005 with effect as specified in art. 2 of the commencing S.I. by [S.I. 2004/3268, art. 2](#)

^{F21}54 **Trading profits etc. from securities: taxation of amounts taken to reserves**

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Textual Amendments

- F21** S. 54 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](#))

Miscellaneous

55 **Duty of company to give notice of coming within charge to corporation tax**

- (1) A company must give notice to the Board—

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- (a) of the beginning of its first accounting period, and
 - (b) of the beginning of any subsequent accounting period that does not immediately follow the end of a previous accounting period.
- (2) The notice required by this section—
- (a) must be in writing;
 - (b) must state when the accounting period began;
 - (c) must contain such other information as may be prescribed;
 - (d) may be given to any officer of the Board; and
 - (e) must be given not later than three months after the beginning of the accounting period.
- (3) “Prescribed” in subsection (2)(c) means prescribed by regulations made by the Board.
- (4) A company that has a reasonable excuse for failing to give notice as required by this section—
- (a) is not to be regarded as having failed to comply with this section until the excuse ceases, and
 - (b) after the excuse ceases is not to be regarded as having failed to comply with this section if the required notice is given without unreasonable delay after the excuse ceases.
- (5) In this section—
- (a) “accounting period” means an accounting period for the purposes of corporation tax;
 - (b) “company” means a body corporate and does not include an unincorporated association or a partnership; and
 - (c) “the Board” means the Commissioners of Inland Revenue.
- (6) In the second column of the Table in section 98 of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), at the appropriate place insert— “section 55 of the Finance Act 2004 ”.
- (7) This section applies in relation to accounting periods beginning on or after the day on which this Act is passed.

[^{F22}55A Section 55: exception to duty to give notice

- (1) A company is not required to give notice under section 55 of the beginning of an accounting period if it reasonably expects that—
- (a) all the income on which it will be chargeable to corporation tax for the period will consist of payments on which it bears income tax by deduction, ^{F23}...
 - (b) it will have no chargeable gains for the period [^{F24}, and
 - (c) in consequence of the deduction of the income tax mentioned in paragraph (a) at the fourth step in paragraph 8 of Schedule 18 to the Finance Act 1998 (calculation of tax payable), the amount of tax payable for the period will be nil.]
- (2) Subsection (3) applies if—
- (a) by reason of subsection (1) a company is not required to give notice under section 55 of the beginning of an accounting period (“the unreported period”), and

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- (b) a subsequent accounting period immediately follows the end of the unreported period.
- (3) The subsequent accounting period is to be treated for the purposes of section 55 as if it does not immediately follow the end of a previous accounting period.
- (4) If by reason of subsection (1) ceasing to apply a company becomes subject to the duty to give notice under section 55 of the beginning of an accounting period the notice must be given not later than three months after the date on which it becomes subject to that duty.]

Textual Amendments

- F22** S. 55A inserted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 7, 35](#) (with [Sch. 5 para. 36](#))
- F23** Word in s. 55A(1) omitted (6.4.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 6 para. 7\(a\)](#)
- F24** S. 55A(1)(c) and word inserted (6.4.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 6 para. 7\(b\)](#)

^{F25}56 Relief for community amateur sports clubs

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Textual Amendments

- F25** S. 56 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](#))

CHAPTER 3

CONSTRUCTION INDUSTRY SCHEME

Introduction

57 Introduction

- (1) This Chapter provides for certain payments (see section 60) under construction contracts to be made under deduction of sums on account of tax (see sections 61 and 62).
- (2) In this Chapter “construction contract” means a contract relating to construction operations (see section 74) which is not a contract of employment but where—
 - (a) one party to the contract is a sub-contractor (see section 58); and
 - (b) another party to the contract (“the contractor”) either—
 - (i) is a sub-contractor under another such contract relating to all or any of the construction operations, or
 - (ii) is a person to whom section 59 applies.
- (3) In sections 60 and 61 “the contractor” has the meaning given by this section.
- (4) In this Chapter—

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- (a) references to registration for gross payment are to registration under section 63(2),
 - (b) references to registration for payment under deduction are to registration under section 63(3), and
 - (c) references to registration under section 63 are to registration for gross payment or registration for payment under deduction.
- (5) To the extent that any provision of this Chapter would not, apart from this subsection, form part of the Tax Acts, it shall be taken to form part of those Acts.

58 Sub-contractors

For the purposes of this Chapter a party to a contract relating to construction operations is a sub-contractor if, under the contract—

- (a) he is under a duty to the contractor to carry out the operations, or to furnish his own labour (in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the operations or to arrange for the labour of others to be furnished in the carrying out of the operations; or
- (b) he is answerable to the contractor for the carrying out of the operations by others, whether under a contract or under other arrangements made or to be made by him.

59 Contractors

(1) This section applies to the following bodies or persons—

- (a) any person carrying on a business which includes construction operations;
- (b) any public office or department of the Crown (including any Northern Ireland department^[F26], the Welsh Assembly Government] and any part of the Scottish Administration);
- (c) the Corporate Officer of the House of Lords, the Corporate Officer of the House of Commons^[F27], the Scottish Parliamentary Corporate Body and the National Assembly for Wales Commission];
- (d) any local authority;
- (e) any development corporation or new town commission;
- (f) the ^[F28]Homes and Communities Agency];
- ^[F29](fa) the Greater London Authority in the exercise of its functions relating to housing or regeneration or its new towns and urban development functions;]
- (g) the Secretary of State if the contract is made by him under section 89 of the Housing Associations Act 1985 (c. 69);
- (h) the ^[F30]Regulator of Social Housing], a housing association, a housing trust, Scottish Homes, and the Northern Ireland Housing Executive;
- (i) any NHS trust;
- (j) any HSS trust;
- (k) any such body or person, being a body or person (in addition to those falling within paragraphs (b) to (j)) which has been established for the purpose of carrying out functions conferred on it by or under any enactment, as may be designated as a body or person to which this section applies in regulations made by the Board of Inland Revenue;

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- [^{F31}(1) a person carrying on a business at any time if, in the period of one year ending with that time, the person's expenditure on construction operations exceeds £3,000,000.]
- [^{F32}(2) But this section only applies to a body or person falling within any of paragraphs (b) to (fa) or (h) to (k) of subsection (1) at any time if, in the period of one year ending with that time, the body or person's expenditure on construction operations exceeds £3,000,000.
- (3) Where the condition in subsection (1)(l) or (2) is met in relation to a body or person at any time, the body or person may elect for the condition to be treated as no longer being met if, at that time, the body or person is not expected to make any further expenditure on construction operations.
- (3A) Where the condition in subsection (1)(l) or (2) ceases to be met in relation to a body or person at any time, the body or person may elect for the condition to be treated as continuing to be met until the body or person is not expected to make any further expenditure on construction operations.
- (3B) Subsections (3) and (3A) do not prevent the condition in subsection (1)(l) or (2) from being met again in relation to the body or person.]
- (4) Where the whole or part of a trade is transferred by a company (“the transferor”) to another company (“the transferee”) and [^{F33}Chapter 1 of Part 22 of the Corporation Tax Act 2010] has effect in relation to the transfer, then in determining for the purposes of this section the amount of expenditure incurred by the transferee—
- (a) the whole or, as the case may be, a proportionate part of any expenditure incurred by the transferor at a time before the transfer is to be treated as if it had been incurred at that time by the transferee; and
- (b) where only a part of the trade is transferred, the expenditure is to be apportioned in such manner as appears to the Board of Inland Revenue, or on appeal to the [^{F34}tribunal], to be just and reasonable.
- (5) In this section—
- “development corporation” has the same meaning as in—
- (a) the New Towns Act 1981 (c. 64), or
- (b) the New Towns (Scotland) Act 1968 (c. 16);
- “enactment” includes an enactment comprised in an Act of the Scottish Parliament and a provision comprised in Northern Ireland legislation;
- “housing association” has the same meaning as in—
- (a) the Housing Associations Act 1985 (c. 69), or
- (b) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));
- “housing trust” has the same meaning as in the Housing Associations Act 1985;
- “HSS trust” means a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1));
- “new town commission” has the same meaning as in the New Towns Act (Northern Ireland) 1965 (c. 13 (N.I.));
- “NHS trust” means a National Health Service trust—

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- (a) established under [^{F35}section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006], or
- (b) constituted under section 12A of the National Health Service (Scotland) Act 1978 (c. 29).
- (6) In this section references to a body or person include references to an office or department.
- (7) The Board of Inland Revenue may make regulations amending this section for the purpose of removing references to bodies which have ceased to exist.
- [^{F36}(8) This section is subject to section 73A (designated international organisations: exemption from section 59).]

Textual Amendments

- F26** Words in s. 59(1)(b) inserted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), [Sch. 1 para. 107\(a\)](#)
- F27** Words in s. 59(1)(c) substituted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), [Sch. 1 para. 107\(b\)](#)
- F28** Words in s. 59(1)(f) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 82](#); [S.I. 2008/3068](#), art. 2(1)(b)(3) (with arts. 6-13)
- F29** S. 59(1)(fa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 42\(2\)](#); [S.I. 2012/628](#), art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F30** Words in s. 59(1)(h) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 33](#); [S.I. 2010/862](#), art. 2 (with Sch.)
- F31** S. 59(1)(l) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 2\(2\)](#)
- F32** S. 59(2)-(3B) substituted for s. 59(2)(3) (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 2\(3\)](#) (with Sch. 6 para. 3)
- F33** Words in s. 59(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 426](#) (with Sch. 2)
- F34** Word in s. 59(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 420](#)
- F35** Words in s. 59(5) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 256](#) (with Sch. 3 Pt. 1)
- F36** S. 59(8) inserted (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. 459](#) (with Sch. 2)

Modifications etc. (not altering text)

- C1** S. 59(1)(h) modified (E.W.) (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](#) (with art. 6)

Deductions on account of tax from contract payments to sub-contractors

60 Contract payments

- (1) In this Chapter “contract payment” means any payment which is made under a construction contract and is so made by the contractor (see section 57(3)) to—
- (a) the sub-contractor,
- (b) a person nominated by the sub-contractor or the contractor, or

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- (c) a person nominated by a person who is a sub-contractor under another such contract relating to all or any of the construction operations.
- (2) But a payment made under a construction contract is not a contract payment if any of the following exceptions applies in relation to it.
- (3) This exception applies if the payment is treated as earnings from an employment by virtue of Chapter 7 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (agency workers).
- [^{F37}(3A) This exception applies in so far as—
- (a) the payment can reasonably be taken to be for the services of an individual, and
 - (b) the provision of those services gives rise to an engagement to which Chapter 10 of Part 2 of ITEPA 2003 applies (workers' services provided through intermediaries to public authorities or medium or large clients).
- (3B) But the exception in subsection (3A) does not apply if, in the case of the engagement mentioned in paragraph (b) of that subsection, the client for the purposes of section 61M(1) of ITEPA 2003—
- (a) is not a public authority, and
 - (b) either—
 - (i) does not qualify as medium or large for the tax year in which the payment concerned is made, or
 - (ii) does not have a UK connection for the tax year in which the payment concerned is made.
- (3C) Sections 60I (when a person has a UK connection for a tax year), 61K(3) (when a person qualifies as medium or large for a tax year) and 61L (meaning of public authority) of ITEPA 2003 apply for the purposes of subsection (3B).]
- (4) This exception applies if the person to whom the payment is made or, in the case of a payment made to a nominee, each of the following persons—
- (a) the nominee,
 - (b) the person who nominated him, and
 - (c) the person for whose labour (or, where that person is a company, for whose employees' or officers' labour) the payment is made,
- is registered for gross payment when the payment is made.
- But this is subject to subsections (5) and (6).
- (5) Where a person is registered for gross payment as a partner in a firm (see section 64), subsection (4) applies only in relation to payments made under contracts under which—
- (a) the firm is a sub-contractor, or
 - (b) where a person has nominated the firm to receive payments, the person who has nominated the firm is a sub-contractor.
- (6) Where a person is registered for gross payment otherwise than as a partner in a firm but he is or becomes a partner in a firm, subsection (4) does not apply in relation to payments made under contracts under which—
- (a) the firm is a sub-contractor, or

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- (b) where a person has nominated the firm to receive payments, the person who has nominated the firm is a sub-contractor.
- (7) This exception applies if such conditions as may be prescribed in regulations made by the Board of Inland Revenue for the purposes of this subsection are satisfied; and those conditions may relate to any one or more of the following—
- (a) the payment,
 - (b) the person making it, and
 - (c) the person receiving it.
- (8) For the purposes of this Chapter a payment (including a payment by way of loan) that has the effect of discharging an obligation under a contract relating to construction operations is to be taken to be made under the contract; and if—
- (a) the obligation is to make a payment to a person (“A”) within paragraph (a) to (c) of subsection (1), but
 - (b) the payment discharging that obligation is made to a person (“B”) not within those paragraphs,
- the payment is for those purposes to be taken to be made to A.

Textual Amendments

F37 S. 60(3A)-(3C) inserted (with effect in accordance with Sch. 1 para. 27 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 1 para. 20** (with Sch. 1 paras. 30-34)

61 Deductions on account of tax from contract payments

- (1) On making a contract payment the contractor (see section 57(3)) must deduct from it a sum equal to the relevant percentage of so much of the payment as is not shown to represent the direct cost to [^{F38}the sub-contractor] of materials used or to be used in carrying out the construction operations to which the contract under which the payment is to be made relates.
- (2) In subsection (1) “the relevant percentage” means such percentage as the Treasury may by order determine.
- (3) That percentage must not exceed—
- (a) if the person for whose labour (or for whose employees' or officers' labour) the payment in question is made is registered for payment under deduction, the percentage which is the basic rate for the year of assessment in which the payment is made, or
 - (b) if that person is not so registered, the percentage which is the higher rate for that year of assessment.
- [^{F39}(4) Subsection (5) applies where the contractor is a person falling within section 59(1)(1).
- (5) An officer of Revenue and Customs may, if the officer considers it appropriate to do so, by notice in writing—
- (a) exempt the contractor from the requirement to deduct sums from contract payments under subsection (1) for a specified period;
 - (b) treat the contractor as if such an exemption had applied in relation to—
 - (i) specified contract payments made before the date of the notice, or

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- (ii) contract payments made during a specified period before the date of the notice.
- (6) The period referred to in subsection (5)(a)—
- (a) must not exceed 90 days, but
 - (b) may be extended by one or more further notices under subsection (5).
- (7) In subsection (5) “specified” means specified in the notice.]

Textual Amendments

- F38** Words in s. 61(1) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 4](#)
- F39** S. 61(4)-(7) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 5](#)

62 Treatment of sums deducted

- (1) A sum deducted under section 61 from a payment made by a contractor—
- (a) must be paid to the Board of Inland Revenue, and
 - (b) is to be treated for the purposes of income tax or, as the case may be, corporation tax as not diminishing the amount of the payment.
- (2) If the sub-contractor is not a company a sum deducted under section 61 and paid to the Board is to be treated as being income tax paid in respect of the sub-contractor’s relevant profits.

If the sum is more than sufficient to discharge his liability to income tax in respect of those profits, so much of the excess as is required to discharge any liability of his for Class 4 contributions is to be treated as being Class 4 contributions paid in respect of those profits.

- (3) If the sub-contractor is a company—
- (a) a sum deducted under section 61 and paid to the Board is to be treated, in accordance with regulations, as paid on account of any relevant liabilities of the sub-contractor;
 - (b) regulations must provide for the sum to be applied in discharging relevant liabilities of the year of assessment in which the deduction is made;
 - (c) if the amount is more than sufficient to discharge the sub-contractor’s relevant liabilities, the excess may be treated, in accordance with the regulations, as being corporation tax paid in respect of the sub-contractor’s relevant profits; and
 - (d) regulations must provide for the repayment to the sub-contractor of any amount not required for the purposes mentioned in paragraphs (b) and (c).

[^{F40}(3A) Regulations under subsection (3) may include provision authorising an officer of Revenue and Customs to—

- (a) correct an error or omission relating to a set-off claim;
- (b) remove a set-off claim;
- (c) prohibit a person from making a further set-off claim, for a specified period or indefinitely.

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- (3B) Regulations under subsection (3) that include provision of the kind mentioned in subsection (3A) may, for example, include provision—
- (a) allowing the things mentioned in subsection (3A)(a) to (c) to be done by amending a return (including a return not made under the regulations) or otherwise;
 - (b) allowing a set-off claim to be removed where the claimant is not eligible to make the claim (including where the claimant is not a company, not a sub-contractor, or is registered for gross payment);
 - (c) requiring information to be given to the Commissioners of Revenue and Customs, at such times as may be specified in the regulations.
- (3C) In subsections (3A) and (3B), “set-off claim” means a claim for treating a sum deducted under section 61 as paid on account of any relevant liabilities.]
- (4) For the purposes of [F41this section] the “relevant liabilities” of a sub-contractor are any liabilities of the sub-contractor, whether arising before or after the deduction is made, to make a payment to the Inland Revenue in pursuance of an obligation as an employer or contractor.
- (5) In this section—
- (a) “the sub-contractor” means the person for whose labour (or for whose employees' or officers' labour) the payment is made;
 - (b) references to the sub-contractor’s “relevant profits” are to the profits from the trade, profession or vocation carried on by him in the course of which the payment was received;
 - (c) “Class 4 contributions” means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992 (c. 4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (6) References in this section to regulations are to regulations made by the Board of Inland Revenue.
- (7) Regulations under this section may contain such supplementary, incidental or consequential provision as appears to the Board to be appropriate.

Textual Amendments

F40 S. 62(3A)-(3C) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 6\(2\)](#)

F41 Words in s. 62(4) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 6\(3\)](#)

Registration of sub-contractors

63 Registration for gross payment or for payment under deduction

- (1) If the Board of Inland Revenue are satisfied, on the application of an individual or a company, that the applicant has provided—
- (a) such documents, records and information as may be required by or in accordance with regulations made by the Board, and

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- (b) such additional documents, records and information as may be required by the Inland Revenue in connection with the application,
the Board must register the individual or company under this section.
- (2) If the Board are satisfied that the requirements of subsection (2), (3) or (4) of section 64 are met, the Board must register—
 - (a) the individual or company, or
 - (b) in a case falling within subsection (3) of that section, the individual or company as a partner in the firm in question,
for gross payment.
- (3) In any other case, the Board must register the individual or company for payment under deduction.

64 Requirements for registration for gross payment

- (1) This section sets out the requirements (in addition to that in subsection (1) of section 63) for an applicant to be registered for gross payment.
- (2) Where the application is for the registration for gross payment of an individual (otherwise than as a partner in a firm), he must satisfy the conditions in Part 1 of Schedule 11 to this Act.
- (3) Where the application is for the registration for gross payment of an individual or a company as a partner in a firm—
 - (a) the applicant must satisfy the conditions in Part 1 of Schedule 11 to this Act (if an individual) or Part 3 of that Schedule (if a company), and
 - (b) in either case, the firm itself must satisfy the conditions in Part 2 of that Schedule.
- (4) Where the application is for the registration for gross payment of a company (otherwise than as a partner in a firm)—
 - (a) the company must satisfy the conditions in Part 3 of Schedule 11 to this Act, and
 - (b) if the Board of Inland Revenue have given a direction under subsection (5), each of the persons to whom any of the conditions in Part 1 of that Schedule applies in accordance with the direction must satisfy the conditions which so apply to him.
- (5) Where the applicant is a company, the Board may direct that the conditions in Part 1 of Schedule 11 to this Act or such of them as are specified in the direction shall apply to—
 - (a) the directors of the company,
 - (b) if the company is a close company, the persons who are the beneficial owners of shares in the company, or
 - (c) such of those directors or persons as are so specified,
as if each of them were an applicant for registration for gross payment.
- (6) See also section 65(1) (power of Board to make direction under subsection (5) on change in control of company applying for registration etc).
- (7) In subsection (5) “director” has the meaning given by section 67 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

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65 Change in control of company registered for gross payment

- (1) Where it appears to the Board of Inland Revenue that there has been a change in the control of a company—
- (a) registered for gross payment, or
 - (b) applying to be so registered,
- the Board may make a direction under section 64(5).
- (2) The Board may make regulations requiring the furnishing of information with respect to changes in the control of a company—
- (a) registered for gross payment, or
 - (b) applying to be so registered.
- [^{F42}(3) In this section references to a change in the control of a company are references to such a change determined in accordance with section 995 of the Income Tax Act 2007.]

Textual Amendments

F42 S. 65(3) substituted (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. 460](#) (with [Sch. 2](#))

Commencement Information

I2 S. 65(3) has effect as specified by [The Finance Act 2004, Section 77\(1\) and \(7\)](#), ([Appointed Day Order 2006 \(S.I. 2006/3240\)](#)), [art. 2](#)

66 Cancellation of registration for gross payment

- (1) The Board of Inland Revenue may at any time make a determination cancelling a person's registration for gross payment if it appears to them that—
- (a) if an application to register the person for gross payment were to be made at that time, the Board would refuse so to register him,
 - (b) he has made an incorrect return or provided incorrect information (whether as a contractor or as a sub-contractor) under any provision of this Chapter or of regulations made under it, or
 - (c) he has failed to comply (whether as a contractor or as a sub-contractor) with any such provision.
- (2) Where the Board make a determination under subsection (1), the person's registration for gross payment is cancelled with effect from the end of a prescribed period after the making of the determination (but see section 67(5)).
- (3) The Board of Inland Revenue may at any time make a determination cancelling a person's registration for gross payment if they have reasonable grounds to suspect that the person—
- (a) became registered for gross payment on the basis of information which was false,
 - (b) has fraudulently made an incorrect return or provided incorrect information (whether as a contractor or as a sub-contractor) under any provision of this Chapter or of regulations made under it, or
 - (c) has knowingly failed to comply (whether as a contractor or as a sub-contractor) with any such provision.

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- (4) Where the Board make a determination under subsection (3), the person’s registration for gross payment is cancelled with immediate effect.
- (5) On making a determination under this section cancelling a person’s registration for gross payment, the Board must without delay give the person notice stating the reasons for the cancellation.
- (6) Where a person’s registration for gross payment is cancelled by virtue of a determination under subsection (1), the person must be registered for payment under deduction.
- (7) Where a person’s registration for gross payment is cancelled by virtue of a determination under subsection (3), the person may, if the Board thinks fit, be registered for payment under deduction.
- (8) A person whose registration for gross payment is cancelled under this section may not, within the period of one year after the cancellation takes effect (see subsections (2) and (4) and section 67(5)), apply for registration for gross payment.
- (9) In this section “a prescribed period” means a period prescribed by regulations made by the Board.

67 Registration for gross payment: appeals

- (1) A person aggrieved by—
 - (a) the refusal of an application for registration for gross payment, or
 - (b) the cancellation of his registration for gross payment,may by notice appeal ^{F43}....
- (2) The notice must be given to the Board of Inland Revenue within 30 days after the refusal or cancellation.
- (3) The notice must state the person’s reasons for believing that—
 - (a) the application should not have been refused, or
 - (b) his registration for gross payment should not have been cancelled.
- (4) The jurisdiction of the [^{F44}tribunal] on such an appeal [^{F45}that is notified to the tribunal] shall include jurisdiction to review any relevant decision taken by the Board of Inland Revenue in the exercise of their functions under section 63, 64, 65 or 66.
- (5) Where a person appeals against the cancellation of his registration for gross payment by virtue of a determination under section 66(1), the cancellation of his registration does not take effect until whichever is the latest of the following—
 - (a) the abandonment of the appeal,
 - (b) the determination of the appeal by the [^{F46}tribunal], or
 - (c) the determination of the appeal by the [^{F47}Upper Tribunal or a court].
- ^{F48}(6)

Textual Amendments

F43 Words in s. 67(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(2)**

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- F44** Word in s. 67(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(3)(a)**
- F45** Words in s. 67(4) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(3)(b)**
- F46** Word in s. 67(5)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(4)(a)**
- F47** Words in s. 67(5)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(4)(b)**
- F48** S. 67(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(5)**

68 Registration for payment under deduction: cancellation and appeals

The Board of Inland Revenue may make regulations providing for—

- (a) the cancellation, in such circumstances as may be prescribed by the regulations, of a person's registration for payment under deduction;
- (b) appeals against a refusal to register a person for payment under deduction or the cancellation of such registration.

Verification, returns ^{F49}, security] etc and penalties

Textual Amendments

- F49** Word in [s. 69 cross-heading](#) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), **s. 82(1)(a)**

69 Verification etc of registration status of sub-contractors

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under contracts relating to construction operations, except in prescribed circumstances, to verify with the Board whether a person to whom they are proposing to make—
 - (a) a contract payment, or
 - (b) a payment which would be a contract payment but for section 60(4),
 is registered for gross payment or for payment under deduction.
- (2) The provision that may be made by regulations under subsection (1) includes provision—
 - (a) for preventing a person from verifying unless such conditions as may be prescribed have been satisfied;
 - (b) as to the period for which the verification remains valid.
- (3) The Board of Inland Revenue may make regulations requiring the Board to notify persons of a prescribed description who make payments under contracts relating to construction operations that—
 - (a) a person registered for gross payment has become registered for payment under deduction or has ceased to be registered under section 63, or
 - (b) a person registered for payment under deduction has become registered for gross payment or has ceased to be registered under section 63.

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- (4) The provision that may be made by regulations under subsection (1) or (3) includes provision for a person to be entitled to assume, except in prescribed circumstances, that—
- (a) a person verified or notified as being registered for gross payment, or
 - (b) a person verified or notified as being registered for payment under deduction, has not subsequently ceased to be so registered.
- (5) In this section “prescribed” means prescribed by regulations under this section.

70 Periodic returns by contractors etc

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under construction contracts—
- (a) to make to the Board, at such times and in respect of such periods as may be prescribed, returns relating to such payments;
 - (b) to keep such records as may be prescribed relating to such payments;
 - (c) to provide such information as may be prescribed, at such times as may be prescribed, to persons to whom such payments are made or to such of those persons as are of a prescribed description.
- (2) The provision that may be made by regulations under subsection (1)(a) includes provision requiring, except in such circumstances as may be prescribed,—
- (a) the person making a return to declare in the return that none of the contracts to which the return relates is a contract of employment;
 - (b) the person making a return to declare in the return that, in the case of each person to whom a payment to which the return relates is made, he has complied with the requirements of any regulations made under section 69(1) (verification of registration status);
 - (c) returns to contain such other information and to be in such form as may be prescribed;
 - (d) a return to be made where no payments have been made in the period to which the return relates.
- (3) The Board of Inland Revenue may make regulations with respect to—
- (a) the production, copying and removal of, and the making of extracts from, any records kept by virtue of any such requirement as is referred to in subsection (1)(b), and
 - (b) rights of access to, or copies of, any such records which are removed.
- (4) Regulations under this section may make provision—
- (a) for or in connection with enabling a person who makes payments under construction contracts to appoint another person (a “scheme representative”) to act on his behalf in connection with any requirements imposed on him by regulations under this section, and
 - (b) as to the rights, obligations or liabilities of scheme representatives.
- (5) In this section “prescribed” means prescribed by regulations under this section.

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

[^{F50}70A Security for payments to HMRC

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.
- (2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
- (3) Regulations under this section must provide for a right of appeal against—
 - (a) decisions to require security to be given;
 - (b) decisions as to the amount, terms or duration of any security required.
- (4) A person commits an offence if—
 - (a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and
 - (b) the failure continues for such period as is prescribed.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (6) In this section—

“prescribed” means prescribed in regulations under this section;

“security” includes further security.]

Textual Amendments

F50 S. 70A inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), s. 82(1)(b)

71 Collection and recovery of sums to be deducted

- (1) The Board of Inland Revenue must make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under section 61.
- (2) The regulations may include any matters with respect to which PAYE regulations may be made.
- (3) Interest required to be paid by the regulations—
 - (a) is to be paid without any deduction of income tax, ^{F51}...
 - ^{F51}(b)

Textual Amendments

F51 S. 71(3)(b) and preceding word repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 570, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

[^{F52}72 Penalties

- (1) This section applies in a case within subsection (2), (3) or (4).
- (2) A case is within this subsection if a person (“A”)—
 - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
 - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,for the purpose of becoming registered for gross payment or for payment under deduction.
- (3) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so—
 - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
 - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (4) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so—
 - (a) encourages B to make a statement, or furnish a document, which A knows to be false in a material particular, or
 - (b) encourages B to make a statement or furnish a document—
 - (i) which is false in a material particular, and
 - (ii) where A is reckless as to whether the statement or document is false in a material particular,for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (5) In a case where this section applies, A is liable to a penalty not exceeding £3,000.]

Textual Amendments

F52 S. 72 substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 7](#)

Supplementary

73 Regulations under this Chapter: supplementary

- (1) The Board of Inland Revenue may by regulations make such other provision for giving effect to this Chapter as they consider necessary or expedient.
- (2) The provision that may be made by regulations under subsection (1) includes provision for or in connection with modifying the application of this Chapter in circumstances where—
 - (a) a person acts as the agent of a contractor or sub-contractor;

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- (b) a person's right to payments under a construction contract is assigned or otherwise transferred to another person.
- (3) Regulations under this Chapter may make different provision for different cases.
- (4) Any power under this Chapter to make regulations authorising or requiring a document (whether or not of a particular description), or any records or information, to be given or requested by or to be sent or produced to the Board of Inland Revenue includes power—
 - (a) to authorise the Board to nominate a person who is not an officer of the Board to be the person who on behalf of the Board—
 - (i) gives or requests the document, records or information; or
 - (ii) is the recipient of the document, records or information; and
 - (b) to require the document, records or information, in cases prescribed by or determined under the regulations, to be sent or produced to the address (determined in accordance with the regulations) of the person nominated by the Board to receive it on their behalf.

[^{F53}73A Designated international organisations: exemption from section 59

- (1) The Treasury may by order designate for the purposes of this section any international organisation of which the United Kingdom is a member.
- (2) Section 59 does not apply to an organisation which is so designated.]

Textual Amendments

F53 S. 73A inserted (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. 461](#) (with [Sch. 2](#))

74 Meaning of “construction operations”

- (1) In this Chapter “construction operations” means operations of a description specified in subsection (2), not being operations of a description specified in subsection (3); and references to construction operations—
 - (a) except where the context otherwise requires, include references to the work of individuals participating in the carrying out of such operations; and
 - (b) do not include references to operations carried out or to be carried out otherwise than in the United Kingdom (or the territorial sea of the United Kingdom).
- (2) The following operations are, subject to subsection (3), construction operations for the purposes of this Chapter—
 - (a) construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
 - (b) construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including (in particular) walls, roadworks, power-lines, electronic communications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains,

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- wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- (c) installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
 - (d) internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
 - (e) painting or decorating the internal or external surfaces of any building or structure;
 - (f) operations which form an integral part of, or are preparatory to, or are for rendering complete, such operations as are previously described in this subsection, including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.
- (3) The following operations are not construction operations for the purposes of this Chapter—
- (a) drilling for, or extraction of, oil or natural gas;
 - (b) extraction (whether by underground or surface working) of minerals and tunnelling or boring, or construction of underground works, for this purpose;
 - (c) manufacture of building or engineering components or equipment, materials, plant or machinery, or delivery of any of these things to site;
 - (d) manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery of any of these things to site;
 - (e) the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape;
 - (f) the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
 - (g) signwriting and erecting, installing and repairing signboards and advertisements;
 - (h) the installation of seating, blinds and shutters;
 - (i) the installation of security systems, including burglar alarms, closed circuit television and public address systems.
- (4) The Treasury may by order made by statutory instrument amend either or both of subsections (2) and (3) by—
- (a) adding,
 - (b) varying, or
 - (c) removing,
- any description of operations.
- (5) No statutory instrument containing an order under subsection (4) shall be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

75 Meaning of “the Inland Revenue” etc and delegation of Board’s functions

- (1) In this Chapter “the Inland Revenue” means any officer of the Board of Inland Revenue.

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- (2) In this Chapter “the Board of Inland Revenue” means the Commissioners of Inland Revenue (as to which, see in particular the Inland Revenue Regulation Act 1890 (c. 21)).
- (3) The Board of Inland Revenue may make regulations providing for any of the following to be done on behalf of the Board—
 - (a) the registration of persons under section 63;
 - (b) the giving of directions under section 64(5); and
 - (c) the cancellation under section 66 of a person’s registration for gross payment.

76 Consequential amendments

Schedule 12 to this Act (which makes consequential amendments) has effect.

77 Commencement and transitional provision

- (1) This Chapter has effect in relation to payments made on or after the appointed day under contracts relating to construction operations.
- (2) Where a certificate issued to a person under section 561 of the Taxes Act 1988 is in force immediately before the appointed day, the person is to be treated as if, on the appointed day, the Board of Inland Revenue had registered him for gross payment.
- (3) Where a registration card issued to a person in accordance with regulations made under section 566(2A) of the Taxes Act 1988 is in force immediately before the appointed day, the person is to be treated as if, on the appointed day, the Board of Inland Revenue had registered him for payment under deduction.
- (4) Subsection (5) applies in relation to the first payment (“the relevant payment”) made after the appointed day by a person (“C”) to a sub-contractor (“SC”) under a contract relating to construction operations if—
 - (a) before the appointed day, C had made one or more payments to SC under the contract or another such contract,
 - (b) the last of those payments (“the last payment”) was made in the year of assessment in which the relevant payment was made or in either of the two years of assessment before that,
 - (c) at the time of the last payment—
 - (i) a certificate issued to SC under section 561 of the Taxes Act 1988 was in force, or
 - (ii) a registration card issued to SC in accordance with regulations made under section 566(2A) of that Act was in force, and
 - (d) on making the relevant payment, C has no reason to believe that SC—
 - (i) did not become registered for gross payment or (as the case may be) for payment under deduction by virtue of subsection (2) or (3), and
 - (ii) is not still so registered.
- (5) Where this subsection applies, regulations under section 69(1) shall not require C, before making the relevant payment, to verify whether SC is registered for gross payment or for payment under deduction.
- (6) Where subsection (5) applies, C shall be entitled to assume, on making any further payments to SC under a contract relating to construction operations, that SC has not

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subsequently ceased to be so registered, unless notified to the contrary in accordance with regulations made under section 69(3).

- (7) In this section “the appointed day” means such day as the Treasury may by order appoint.
- (8) The Treasury may by order make such further supplemental and transitional provision and savings as they think fit in connection with the coming into effect of this Chapter.

CHAPTER 4

PERSONAL TAXATION

Taxable benefits

78 Childcare and childcare vouchers

- (1) Schedule 13 to this Act contains amendments of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) relating to childcare and childcare vouchers.
- (2) The amendments have effect for the year 2005-06 and subsequent years of assessment.

^{F54}79 Exemption for loaned computer equipment

.....

Textual Amendments

F54 S. 79 repealed (with effect in accordance with Sch. 26 Pt. 3(7) Note of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(7\)](#)

80 Vans

- (1) Schedule 14 to this Act contains amendments of the Income Tax (Earnings and Pensions) Act 2003 relating to vans.
- (2) The amendments have effect for the year 2005-06 and subsequent years of assessment.

81 Emergency vehicles

- (1) In the Income Tax (Earnings and Pensions) Act 2003, after section 248 insert—

“248A Emergency vehicles

- (1) This section applies where—
 - (a) an emergency vehicle is made available to a person employed in an emergency service for the person’s private use,
 - (b) the terms on which it is made available prohibit its private use otherwise than when the person is on call or engaged in on-call commuting, and

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- (c) the person does not make private use of it otherwise than in such circumstances.
- (2) No liability to income tax arises by virtue of Chapter 6 or 10 of Part 3 (taxable benefits: cars, vans etc. and residual liability to charge) in respect of the benefit.
- (3) “Emergency vehicle” means a vehicle which is used to respond to emergencies and which either—
 - (a) has fixed to it a lamp designed to emit a flashing light for use in emergencies, or
 - (b) would have such a lamp fixed to it but for the fact that (if it did) a special threat to the personal physical security of those using it would arise by reason of it being apparent that they were employed in an emergency service.
- (4) The following are “employed in an emergency service”—
 - (a) constables and other persons employed for police purposes,
 - (b) persons employed for the purposes of a fire, or fire and rescue, service, and
 - (c) persons employed in the provision of ambulance or paramedic services.
- (5) The Treasury may by order amend subsection (4).
- (6) “Private use”, in relation to a person, means any use other than for the person’s business travel; and “business travel” has the same meaning as in Chapter 6 of Part 3 (see section 171(1)).
- (7) A person to whom an emergency vehicle is made available is on call when liable, as part of normal duties, to be called on to use the emergency vehicle to respond to emergencies.
- (8) A person to whom an emergency vehicle is made available is engaged in on-call commuting when the person—
 - (a) is using it for ordinary commuting or for travel between two places that is for practical purposes substantially ordinary commuting, and
 - (b) is required to do so in order that it is available for use by the person, as part of normal duties, for responding to emergencies.”.
- (2) In section 236(2)(c) of that Act (mileage allowance and passenger payments: meaning of “company vehicle”), after “vans)” insert “ and section 248A (emergency vehicles) ”.
- (3) This section has effect for the year 2004-05 and subsequent years of assessment.

82 European travel expenses of MPs and other representatives

- (1) The Income Tax (Earnings and Pensions) Act 2003 (c. 1) is amended as follows.
- (2) In section 294 (EU travel expenses of MPs and other representatives) in subsection (1) (exemption from income tax in respect of sums paid to Members of the House of Commons and other representatives in respect of EU travel expenses) for “EU” (in both places) substitute “ European ”.
- (3) In that section, for subsections (2) to (4) substitute—

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- “(2) “European travel expenses” means the cost of, and any additional expenses incurred in, travelling between the United Kingdom and a relevant European location.
- (3) “Relevant European location” means—
- (a) a European Union institution or agency, or
 - (b) the national parliament of—
 - (i) another member State,
 - (ii) a candidate or applicant country, or
 - (iii) a member State of the European Free Trade Association.
- (4) The Treasury may by order amend subsection (3) by—
- (a) adding a European location,
 - (b) removing a European location, or
 - (c) varying the description of a European location.”.

(4) In the heading of that section, “EU” accordingly becomes “European”.

(5) This section has effect in relation to sums paid in respect of costs or expenses incurred on or after 6th April 2004.

Gift aid

F5583 Giving through the self-assessment return

.....

Textual Amendments

F55 S. 83 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 427, **Sch. 3 Pt. 1** (with Sch. 2)

Gifts with a reservation

84 Charge to income tax by reference to enjoyment of property previously owned

- (1) Schedule 15 (which contains provisions imposing a charge to income tax by reference to benefits received in certain circumstances by a former owner of property) has effect.
- (2) That Schedule has effect for the year 2005-06 and subsequent years of assessment.

Employment-related securities and options

85 Relief where national insurance contributions met by employee

- (1) Schedule 16 to this Act provides—
- (a) for income tax relief in certain cases where national insurance contributions are met by an employee, and
 - (b) for consequential amendments.

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- (2) This section (and that Schedule) come into force in accordance with provision made by the Treasury by order made by statutory instrument.

Commencement Information

I3 S. 85 in force at 1.9.2004 by S.I. 2004/1945, art. 2

86 Shares in employee-controlled companies and unconnected companies

- (1) Each of the provisions of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: securities) specified in subsection (2) (exception from charges for certain company shares) is amended in accordance with subsections (3) to (5).
- (2) The provisions are—
- (a) section 429 (restricted securities),
 - (b) section 443 (convertible securities),
 - (c) section 446R (securities acquired for less than market value), and
 - (d) section 449 (post-acquisition benefits from securities).
- (3) In subsection (1) of each of those sections, after paragraph (b) (but before the word “and” where that word features at the end) insert—
- “(ba) subsection (1A) is satisfied.”
- ^{F56}(4)
- (5) In subsection (4) of sections 429, 443 and 446R, and in subsection (3) of section 449, for the words after “are not” substitute “ employment-related securities. ”; and accordingly omit sections 429(5), 443(5), 446R(5) and 449(4).
- (6) In Chapter 3A of that Part of that Act (securities with artificially depressed market value), after section 446I insert—

“446IA Disapplication of exceptions from charges

- (1) Section 429 (exception from charge under section 426 for certain company shares) does not prevent section 426 (restricted securities: chargeable events) applying in relation to an event if section 446E or 446I(1)(a) would have effect in relation to the event.
- (2) Section 443 (exception from charge under section 438 for certain company shares) does not prevent section 438 (convertible securities: chargeable events) applying in relation to an event if section 446G, 446H or 446I(1)(b) would have effect in relation to the event.
- (3) Section 446R (exception from charge under Chapter 3C for certain company shares) does not prevent that Chapter (securities acquired for less than market value) applying in relation to employment-related securities if section 446B would have effect in relation to them.
- (4) Section 449 (exception from charge under Chapter 4 for certain company shares) does not prevent that Chapter (benefits from securities) applying in

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relation to a benefit if section 446I(1)(e) would have effect in relation to the benefit.”.

- (7) In Chapter 3B of that Part of that Act (securities with artificially enhanced market value), after section 446N insert—

“446NA Disapplication of exceptions from charges

- (1) None of the provisions specified in subsection (2) (exceptions from charges for certain company shares) apply in relation to employment-related securities if the market value of the employment-related securities at the time of the acquisition has been increased by at least 10% by non-commercial increases within the period of 7 years ending with the acquisition.
- (2) The provisions are—
- (a) section 429 (restricted securities),
 - (b) section 443 (convertible securities),
 - (c) section 446R (securities acquired for less than market value), and
 - (d) section 449 (post-acquisition benefits from securities).
- (3) If section 446L (market value on valuation date increased by more than 10% by non-commercial increases during relevant period) applies in relation to employment-related securities, section 429 does not subsequently apply in relation to the employment-related securities.”.

- (8) This section applies on and after 7th May 2004.

Textual Amendments

- F56** S. 86(4) repealed (with effect in accordance with Sch. 11 Pt. 2(1) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 11 Pt. 2\(1\)](#)

87 Restricted securities with artificially depressed value

- (1) Section 446E of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employee securities with artificially depressed market value: charge on restricted securities) is amended as follows.
- (2) In subsection (1), after “on restricted securities),” insert—
- “(aa) immediately before the employment-related securities are disposed of (in circumstances which do not constitute such an event) or are cancelled without being disposed of,”.
- (3) For subsections (3) to (6) substitute—
- “(3) “The relevant period” is the period beginning—
- (a) if section 425(2) (no charge on acquisition of certain restricted securities or restricted interests in securities) applied in relation to the employment-related securities, 7 years before the acquisition, and
 - (b) in any other case, 7 years before the relevant date,
- and ending with the relevant date.
- (4) “The relevant date” is—

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- (a) in a case within subsection (1)(a), the date on which the chargeable event concerned occurs,
 - (b) in a case within subsection (1)(aa), the date on which the disposal or cancellation concerned occurs, and
 - (c) in a case within subsection (1)(b), the 5th April concerned.
- (5) Where this section applies in a case within subsection (1)(aa) or (b), a chargeable event within section 427(3)(a) (lifting of restrictions) is to be treated as occurring in relation to the employment-related securities on the relevant date.
- (6) In every case where this section applies, subsection (1) of section 428 (amount of charge on restricted securities) applies as if the reference in subsection (2) of that section to what would be the market value of the employment-related securities immediately after the chargeable event but for any restrictions were to what would be their market value at the appropriate time but for the matters to be disregarded.
- (7) “The appropriate time” is—
- (a) in a case within subsection (1)(a) or (b), the time immediately after the chargeable event concerned, and
 - (b) in a case within subsection (1)(aa), the time immediately before the chargeable event concerned.
- (8) “The matters to be disregarded” are—
- (a) any restrictions,
 - (b) the things done as mentioned in subsection (2), and
 - (c) if the employment-related securities are about to be disposed of or cancelled, that fact.
- (9) Where this section applies in a case within subsection (1)(aa), section 428(1) applies with the omission of the reference to OP.
- (10) Where this section applies in a case within subsection (1)(a) and the chargeable event concerned is within section 427(3)(c) (disposal for consideration), section 428 applies with the omission of subsection (9) (case where consideration is less than actual market value).”
- (4) This section applies on and after 7th May 2004.
- (5) But if the employment-related securities were acquired before that date, section 446E of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) does not apply by virtue of the amendment made by subsection (2) of this section unless their market value would be artificially low immediately before the disposal or cancellation if the date on which the relevant period began were the later of—
- (a) that on which it did begin, and
 - (b) 7th May 2004.

88 Shares under approved plans and schemes

- (1) The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.
- (2) Omit section 421G (exclusion from Chapters 2 to 4 of Part 7 of shares awarded or acquired under approved plan or scheme).

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(3) In Chapter 2 of Part 7 (restricted securities), after section 431 insert—

“431A Shares under approved plan or scheme

- (1) Where employment-related securities are restricted securities or a restricted interest in securities, the employer and the employee are to be treated as making an election under section 431(1) in relation to the employment-related securities if they are shares, or an interest in shares, to which this subsection applies.
- (2) Subsection (1) applies to—
 - (a) shares awarded or acquired under an approved share incentive plan (within the meaning of Chapter 6 of this Part) in circumstances in which (in accordance with section 490) no liability to income tax arises,
 - (b) shares acquired by the exercise of a share option granted under an approved SAYE option scheme (within the meaning of Chapter 7 of this Part) in circumstances in which (in accordance with section 519) no liability to income tax arises,
 - (c) shares acquired by the exercise of a share option granted under an approved CSOP scheme (within the meaning of Chapter 8 of this Part) in circumstances in which (in accordance with section 524) no liability to income tax arises, and
 - (d) shares acquired by the exercise of a qualifying option within the meaning of section 527(4) (enterprise management incentives) in circumstances in which (in accordance with section 530) no liability to income tax arises.”.
- (4) In section 489 (operation of tax advantages in connection with approved share incentive plans), after subsection (3) insert—

“(4) And those sections do not apply if the main purpose (or one of the main purposes) of the arrangements under which the shares in question are awarded or acquired is the avoidance of tax or national insurance contributions.”.
- (5) In sections 505 and 506 (charge on shares ceasing to be subject to approved share incentive plan), after subsection (4) insert—

“(4A) Any tax due under subsection (2) or (3) is reduced by the amount or aggregate amount of any tax paid by virtue of Chapter 3B of this Part in relation to the shares.”.
- (6) In section 519(1) (approved SAYE option schemes: no charge in respect of exercise of option) insert at the end “and
 - (c) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.”.
- (7) In section 524(1) (approved CSOP schemes: no charge in respect of exercise of option) insert at the end “and
 - (c) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.”.

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- (8) Section 701 (PAYE: meaning of “asset”) is amended as follows.
- (9) In subsection (2)(c)—
- (a) in sub-paragraph (ia), for the words after “employee” substitute “ under a scheme approved under Schedule 4 (approved CSOP schemes) in circumstances in which Condition A or B as set out in section 524(2) or (2A) is met; ”,
 - (b) omit sub-paragraph (ii), and
 - (c) in sub-paragraph (iii), after “1996” insert “ where the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the right was obtained or is exercised ”.
- (10) After subsection (3) insert—
- “(3A) Paragraph (c) of subsection (2) does not apply to shares after their acquisition as mentioned in that paragraph.”.
- (11) This section has effect on and after 18th June 2004 and (so far as it does not relate to the award or acquisition of shares) applies in relation to shares awarded or acquired before that date as well as in relation to those awarded or acquired on or after that date.
- (12) Where section 431A(1) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (as inserted by subsection (3)) has effect (by virtue of subsection (11)) in relation to shares acquired before 18th June 2004, it applies in relation to them so as to treat an election under section 431(1) of that Act as made in relation to them on that date.
- (13) For the purposes of the application of Chapter 3B of Part 7 of that Act (securities with artificially enhanced market value) by reason of subsections (2) and (11) in relation to shares acquired before 18th June 2004, section 446O of that Act (meaning of “relevant period”) has effect as if they were acquired on that date.

89 Shares acquired on public offer

- (1) Section 421F of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (exclusion from Chapters 2 to 4 of Part 7 of shares acquired under terms of offer to the public) is amended as follows.
- (2) In subsection (1), for “Chapters 2 to 4” substitute “ Chapters 2, 3 and 3C ”.
- (3) After that subsection insert—
- “(1A) But subsection (1) does not disapply those Chapters if the main purpose (or one of the main purposes)—
- (a) of the arrangements under which the right or opportunity under which the shares were acquired, or
 - (b) for which the shares are held,
- is the avoidance of tax or national insurance contributions.”.
- (4) This section has effect on and after 18th June 2004 and applies in relation to shares acquired before that date as well as in relation to those acquired on or after that date.
- (5) For the purposes of the application of Chapter 3B of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (securities with artificially enhanced market value) by reason of subsections (2) and (4) in relation to shares acquired before that date, section 446O

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of that Act (meaning of “relevant period”) has effect as if they were acquired on that date.

90 Associated persons etc.

- (1) Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: securities) is amended as follows.
- (2) In section 421C(2) (meaning of “relevant linked person” for purposes of Chapters 1 to 4), for “are connected or, although not connected, are” substitute “are or have been connected or (without being or having been connected) are or have been ”.
- (3) In section 472(2) (meaning of “relevant linked person” for purposes of Chapter 5), for “are connected or, although not connected, are” substitute “are or have been connected or (without being or having been connected) are or have been ”.
- (4) In section 477(3)(c) (chargeable events in relation to employment-related securities options), for the words after “benefit” substitute “ in connection with the employment-related securities option (other than one within paragraph (a) or (b)). ”
- (5) This section has effect on and after 18th June 2004 and applies in relation to securities, interests and options that were employment-related securities or employment-related securities options on that date (as well as those acquired on or after that date).

Miscellaneous

^{F57}91 Income of spouses: jointly held property

.....

Textual Amendments

- F57** S. 91 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

92 Minor amendments of or connected with ITEPA 2003

Schedule 17 to this Act contains minor amendments of or connected with the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

CHAPTER 5

ENTERPRISE INCENTIVES

93 Enterprise investment scheme

Schedule 18 (which makes amendments to the enterprise investment scheme) has effect.

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*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

94 Venture capital trusts

^{F58}(1)

^{F58}(2)

(3) Schedule 19 (which makes amendments relating to venture capital trusts) has effect.

Textual Amendments

F58 S. 94(1)(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

95 Corporate venturing scheme

Schedule 20 (which makes amendments relating to the corporate venturing scheme) has effect.

96 Enterprise management incentives: subsidiaries

(1) Schedule 5 to the Income Tax (Earnings and Pensions) Act 2003 (enterprise management incentives) is amended as follows.

(2) In paragraph 8 (qualifying companies: introduction) after “having only qualifying subsidiaries (see paragraphs 10 and 11),” insert— “property managing subsidiaries (see paragraphs 11A and 11B),”.

(3) In paragraph 10 (the qualifying subsidiaries requirement) for sub-paragraph (2) substitute—

“(2) In this paragraph “subsidiary” means any company which the company controls, either on its own or together with any person connected with it.

(3) For the purpose of sub-paragraph (2), the question whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA (“control” in the context of close companies).”

(4) In paragraph 11 (meaning of “qualifying subsidiary”)—

(a) in sub-paragraph (2), omit paragraphs (a) to (c),

(b) before paragraph (d) of that sub-paragraph insert—

“(ca) that the subsidiary is a 51% subsidiary of the holding company;”,

(c) in paragraph (d) of that sub-paragraph, after “company” insert “or another of its subsidiaries”.

(d) in paragraph (e) of that sub-paragraph, for “the conditions in paragraphs (a) to” substitute “either of the conditions in paragraphs (ca) and”.

(e) omit sub-paragraph (3),

(f) after sub-paragraph (7) insert—

“(8) Sub-paragraph (9) applies at a time when the subsidiary or another company is in administration or receivership.

(9) The subsidiary is not to be regarded, by reason only of anything done as a consequence of the company concerned being in administration

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or receivership, as having ceased to be a company in relation to which the conditions in sub-paragraph (2) are met if—

- (a) the entry into administration or receivership, and
- (b) everything done as a consequence of the company concerned being in administration or receivership,

is for commercial reasons and is not part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.

- (10) Section 312(2A) of ICTA (meaning of being in administration or receivership) applies for the purposes of sub-paragraphs (8) and (9) as it applies for the purposes of Chapter 3 of Part 7 of ICTA (enterprise investment scheme).”.

(5) After paragraph 11 insert—

11A “The property managing subsidiaries requirement

- (1) A company is not a qualifying company if it has a property managing subsidiary which is not a qualifying 90% subsidiary of the company (see paragraph 11B).
- (2) “Property managing subsidiary” means a qualifying subsidiary of a company whose business consists wholly or mainly in the holding or managing of land or any property deriving its value from land.
- (3) In sub-paragraph (2) “land” and “property deriving its value from land” have the same meaning as in section 776 of ICTA.

11B Meaning of “qualifying 90% subsidiary”

- (1) A company (“the subsidiary”) is a qualifying 90% subsidiary of a company (“the holding company”) if the following conditions are met.
- (2) The conditions are—
 - (a) that the holding company possesses not less than 90% of the issued share capital of, and not less than 90% of the voting power in, the subsidiary;
 - (b) that the holding company would—
 - (i) in the event of a winding up of the subsidiary, or
 - (ii) in any other circumstances,be beneficially entitled to not less than 90% of the assets of the subsidiary which would then be available for distribution to the shareholders of the subsidiary;
 - (c) that the holding company is beneficially entitled to not less than 90% of any profits of the subsidiary which are available for distribution to the shareholders of the subsidiary;
 - (d) that no person other than the holding company has control of the subsidiary; and
 - (e) that no arrangements are in existence by virtue of which any of the conditions in paragraphs (a) to (d) would cease to be met.

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(3) Sub-paragraphs (4) to (10) of paragraph 11 (but not sub-paragraph (6)(b)) apply in relation to the conditions in sub-paragraph (2) above as they apply in relation to the conditions in sub-paragraph (2) of that paragraph.”.

(6) The amendments made by this section have effect in relation to any right to acquire shares granted on or after 17th March 2004.

CHAPTER 6

EXEMPTION FROM INCOME TAX FOR CERTAIN INTEREST AND ROYALTY PAYMENTS

Introductory

F⁵⁹97 **Introductory**

.....

Textual Amendments

F59 S. 97 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 631, [Sch. 3](#) (with [Sch. 2](#))

Exemption from income tax

F⁶⁰98 **Exemption from income tax for certain interest and royalty payments**

.....

Textual Amendments

F60 S. 98 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 632, [Sch. 3](#) (with [Sch. 2](#))

F⁶¹99 **Permanent establishments and “25% associates”**

.....

Textual Amendments

F61 S. 99 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 633, [Sch. 3](#) (with [Sch. 2](#))

Exemption notices

F⁶²100 **Interest payments: exemption notices**

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Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Textual Amendments

F62 S. 100 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 634, Sch. 3 \(with Sch. 2\)](#)

Payment without deduction

^{F63}101 Payment of royalties without deduction at source

.....

Textual Amendments

F63 S. 101 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. 463, Sch. 3 Pt. 1 \(with Sch. 2\)](#)

^{F64}102 Claim for tax deducted at source from exempt interest or royalty payments

.....

Textual Amendments

F64 S. 102 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. 463, Sch. 3 Pt. 1 \(with Sch. 2\)](#)

Special relationships and anti-avoidance

^{F65}103 Special relationships

.....

Textual Amendments

F65 S. 103 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 637, Sch. 3 \(with Sch. 2\)](#)

^{F66}104 Anti-avoidance

.....

Textual Amendments

F66 S. 104 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 638, Sch. 3 \(with Sch. 2\)](#)

Status: Point in time view as at 06/04/2021.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

Supplementary

105 Consequential amendments

- (1) Section 98 of the Taxes Management Act 1970 (c. 9) (special returns etc) is amended as follows.
- (2) In subsection (4A)(b), after “(4D)” insert “, (4DA)”.
- (3) After subsection (4D) insert—

“(4DA) A payment is within this subsection if—

 - (a) it is a payment to which section 349(1) of the principal Act (requirement to deduct tax) applies,
 - (b) a company, purporting to rely on section 101 of the Finance Act 2004 (payment of royalties without deduction at source), makes the payment without deduction of tax under section 349(1) of the principal Act, and
 - (c) at the time the payment is made section 98 of the Finance Act 2004 does not apply to the payment and the company—
 - (i) does not believe that that section does so apply, or
 - (ii) if it does so believe, cannot reasonably do so.”
- (4) In section 18 of the Taxes Act 1988 (Schedule D) after subsection (5) insert—

“(6) This section is subject to Chapter 6 of Part 3 of the Finance Act 2004 (exemption from income tax for certain interest and royalty payments).”
- (5) In section 349 of the Taxes Act 1988 (certain payments to be made subject to deduction of income tax) after subsection (6) insert—

“(7) This section is subject to Chapter 6 of Part 3 of the Finance Act 2004 (exemption from income tax for certain interest and royalty payments).”

^{F67}106 Transitional provision

.....

Textual Amendments

F67 S. 106 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 639, [Sch. 3](#) (with [Sch. 2](#))

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

CHAPTER 7

SAVINGS INCOME: DOUBLE TAXATION ARISING FROM WITHHOLDING TAX

Introductory

F68 107 Introductory

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Textual Amendments

F68 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(a\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

Credit etc for special withholding tax

F68 108 Income tax credit etc for special withholding tax

.....

Textual Amendments

F68 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(a\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

F68 109 Capital gains tax credit etc for special withholding tax

.....

Textual Amendments

F68 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(a\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

F68 110 Credit under Part 18 of Taxes Act 1988 to be allowed first

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Textual Amendments

F68 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(a\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

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*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

Computation of income etc

F68 111 Computation of income etc subject to special withholding tax only

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Textual Amendments

F68 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

112 Computation of income etc subject to foreign tax and special withholding tax

- (1) Section 795 of the Taxes Act 1988 (double taxation relief: computation of income subject to foreign tax) is amended as follows.
- (2) In subsection (1) (remittance basis: grossing up) after “increased by” insert “ — (a) ” and at the end insert—
 - “, and
 - (b) the amount of any special withholding tax levied in respect of the income.”.
- (3) In subsection (2)(a) (other cases: no deduction for foreign tax) after “foreign tax” insert “ or special withholding tax ”.
- (4) After subsection (4) insert—
 - “(5) In this section—
 - (a) “special withholding tax” has the same meaning as in Chapter 7 of Part 3 of the Finance Act 2004 (see section 107(3) of that Act); and
 - (b) references to special withholding tax are to special withholding tax in respect of which a claim has been made under that Chapter.”.
- (5) Section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12) (which applies Chapters 1 and 2 of Part 18 of the Taxes Act 1988 in relation to capital gains tax) is amended as follows.
- (6) After subsection (1) insert—
 - “(1A) Subsection (1B) below applies where—
 - (a) a chargeable gain accrues to a person on a disposal by him of assets in circumstances where the consideration for the disposal consists of or includes an amount of savings income, and
 - (b) special withholding tax is levied in respect of the whole or any part of the consideration for the disposal.
 - (1B) In section 795 of the Taxes Act, as applied by this section, for the reference in subsection (1)(b) to the amount of any special withholding tax levied in respect of the income, there shall be substituted a reference to an amount equal to—

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$$SWT \times \frac{GUK}{G - SWT}$$

where—

SWT is the amount of special withholding tax levied in respect of the whole or the part of the consideration for the disposal,

GUK is the amount of the chargeable gain received in the United Kingdom, and

G is the amount of the chargeable gain accruing to the person on the disposal.

(1C) In subsections (1A) and (1B) above “savings income” and “special withholding tax” have the same meaning as in Chapter 7 of Part 3 of the Finance Act 2004 (see section 107 of that Act); and references to special withholding tax are to special withholding tax in respect of which a claim has been made under that Chapter.”

Certificates to avoid levy of special withholding tax

F69 113 Issue of certificate

.....

Textual Amendments

F69 S. 113 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(b\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

F70 114 Refusal to issue certificate and appeal against refusal

.....

Textual Amendments

F70 S. 114 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(b\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

SupplementaryM

115 Supplementary

(1) In section 792 of the Taxes Act 1988 (double taxation relief: interpretation of the credit code) in subsection (1), in the definition of “foreign tax”, at the end insert “ (other than special withholding tax within the meaning of Chapter 7 of Part 3 of the Finance Act 2004) ”.

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- (2) In section 811 of the Taxes Act 1988 (deduction for foreign tax where no credit allowable) in subsection (2), at the end insert “ and to section 111 of the Finance Act 2004 (computation of income subject to special withholding tax) ”.
- (3) In section 278 of the Taxation of Chargeable Gains Act 1992 (c. 12) (allowance for foreign tax) in subsection (1), after “section 277” insert “ and to section 111 of the Finance Act 2004 (computation of chargeable gains subject to special withholding tax) ”.

^{F71}(4)

Textual Amendments

F71 S. 115(4) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(c), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

CHAPTER 8

CHARGEABLE GAINS

116 Restriction of gifts relief etc

Schedule 21 (which makes provision for relief under section 165 or 260 of the Taxation of Chargeable Gains Act 1992 (c. 12) not to be available on certain transfers to settlor-interested settlements etc or on transfers of shares etc to companies, and makes minor amendments in sections 79 and 281 of that Act) has effect.

117 Private residence relief

Schedule 22 (which makes provision about private residence relief) has effect.

118 Authorised unit trusts: treatment of umbrella schemes

- (1) The Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In section 99(2) (application of Act to unit trust schemes: definitions)—
- (a) in the opening words, after “Subject to subsection (3)” insert “ and section 99A ”; and
 - (b) for paragraph (b) substitute—
 - “(aa) “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme;
 - (b) “authorised unit trust” means, as respects an accounting period, a unit trust scheme in the case of which an order under section 243 of the Financial Services and Markets Act 2000 is in force during the whole or part of that period.”
- (3) After that section insert—

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

“99A Authorised unit trusts: treatment of umbrella schemes

- (1) In this section an “umbrella scheme” means an authorised unit trust—
- (a) which provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them, and
 - (b) under which the participants are entitled to exchange rights in one pool for rights in another,
- and any reference to a part of an umbrella scheme is a reference to such of the arrangements as relate to a separate pool.
- (2) For the purposes of this Act (except subsection (1))—
- (a) each of the parts of an umbrella scheme shall be regarded as an authorised unit trust, and
 - (b) the scheme as a whole shall not be regarded as an authorised unit trust or as any other form of collective investment scheme.
- (3) In this Act, in relation to a part of an umbrella scheme, any reference to a unit holder is to a person for the time being having rights in the separate pool to which the part of the umbrella scheme relates.
- (4) Nothing in subsections (2) or (3) shall prevent—
- (a) gains accruing to an umbrella scheme being regarded as gains accruing to an authorised unit trust for the purposes of section 100(1) (exemption for authorised unit trusts etc);
 - (b) a transfer of business to an umbrella scheme being regarded as a transfer to an authorised unit trust for the purposes of section 139(4) (exclusion of transfers to authorised unit trusts etc);
 - (c) a disposal by a unit holder of units in an umbrella scheme being regarded as a disposal by him of units in an authorised unit trust for the purposes of section 271(1)(j) (exemption for disposal of units in an authorised unit trust which is also an approved personal pension scheme etc).”.
- (4) In section 288 (interpretation)—
- (a) in subsection (1), in the definition of “collective investment scheme”, at the end insert “ (subject to section 99A) ”;
 - (b) in the table in subsection (8) (index of general definitions)—
 - (i) in the first column after “Unit trust scheme” insert “ and “unit holder” ”;
 - (ii) in the second column for “s 99” substitute “ ss 99 and 99A ”.
- (5) The amendments made by this section have effect in relation to years of assessment and accounting periods beginning on or after 1st April 2004.

Status: Point in time view as at 06/04/2021.

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

CHAPTER 9

AVOIDANCE INVOLVING LOSS RELIEF OR PARTNERSHIP

Individuals benefited by film relief

^{F72}119 Individuals benefited by film relief

.....

Textual Amendments

F72 Ss. 119-123 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. 464](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F72}120 “Disposal of a right of the individual to profits arising from the trade”

.....

Textual Amendments

F72 Ss. 119-123 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. 464](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F72}121 “The losses claimed” and “the individual’s capital contribution to the trade”

.....

Textual Amendments

F72 Ss. 119-123 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. 464](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F72}122 Computing the chargeable amount

.....

Textual Amendments

F72 Ss. 119-123 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. 464](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F72}122A Partners: meaning of “capital contribution to the trade”

.....

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Textual Amendments

F72 Ss. 119-123 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. 464, **Sch. 3 Pt. 1** (with Sch. 2)

^{F72}123 “Film-related losses” and “non-taxable consideration”

.....

Textual Amendments

F72 Ss. 119-123 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. 464, **Sch. 3 Pt. 1** (with Sch. 2)

Individuals in partnership: restriction of relief

^{F73}124 Restriction of relief: non-active partners

.....

Textual Amendments

F73 S. 124 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

^{F74}125 Partnerships exploiting films

.....

Textual Amendments

F74 S. 125 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

Individuals in partnership: exit charge

^{F75}126 Losses derived from exploiting licence: introductory

.....

Textual Amendments

F75 Ss. 126-130 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. 465, **Sch. 3 Pt. 1** (with Sch. 2)

Status: Point in time view as at 06/04/2021.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

^{F75}**127 Charge to income tax**

.....

Textual Amendments

F75 Ss. 126-130 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. 465, **Sch. 3 Pt. 1** (with Sch. 2)

^{F75}**128 Definitions for purposes of section 127**

.....

Textual Amendments

F75 Ss. 126-130 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. 465, **Sch. 3 Pt. 1** (with Sch. 2)

^{F75}**129 Disposals to which section 126 applies**

.....

Textual Amendments

F75 Ss. 126-130 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. 465, **Sch. 3 Pt. 1** (with Sch. 2)

^{F75}**130 “A significant amount of time”**

.....

Textual Amendments

F75 Ss. 126-130 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. 465, **Sch. 3 Pt. 1** (with Sch. 2)

Companies in partnership

^{F76}**131 Companies in partnership**

.....

Textual Amendments

F76 Ss. 131-133 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 to the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 24 paras. 8(b), 12**

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

^{F76}132 Companies in partnership: supplementary

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Textual Amendments

- F76** Ss. 131-133 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 to the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(b\)](#), 12

^{F76}133 Relationship with chargeable gains

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Textual Amendments

- F76** Ss. 131-133 omitted (retrospective and with effect in accordance with Sch. 24 paras. 12, 13-16 to the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 24 paras. 8\(b\)](#), 12

CHAPTER 10

AVOIDANCE: MISCELLANEOUS

134 Finance leasebacks

- (1) After section 228 of the Capital Allowances Act 2001 (c. 2) (sale and leaseback: election) insert—

“Finance leaseback: parties' income and profits

228A Application of sections 228B to 228E

- (1) Sections 228B to 228E apply where—
- (a) plant or machinery is the subject of a sale and finance leaseback for the purposes of section 221, and
 - (b) section 222 (restriction of disposal value) applies.
- (2) Sections 228B to 228D also apply, with the modifications set out in section 228F, where plant or machinery is the subject of a lease and finance leaseback (as defined in section 228F).

228B Lessee's income or profits: deductions

- (1) For the purpose of income tax or corporation tax, in calculating the lessee's income or profits for a period of account the amount deducted in respect of amounts payable under the leaseback may not exceed the permitted maximum.
- (2) The permitted maximum is the total of—
- (a) finance charges shown in the accounts, and

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (b) depreciation, taking the value of the plant or machinery at the beginning of the leaseback to be the restricted disposal value.
- (3) In relation to a period of account during which the leaseback terminates, the permitted maximum shall also include an amount calculated in accordance with subsection (4).
- (4) The calculation is—

$$\text{Current Book Value} \times \frac{\text{Original Consideration}}{\text{Original Book Value}}$$

where—

“Current Book Value” means the net book value of the leased plant or machinery immediately before the termination,

“Original Consideration” means the consideration payable to S for entering into the relevant transaction, and

“Original Book Value” means the net book value of the leased plant or machinery at the beginning of the leaseback.

228C Lessee’s income or profits: termination of leaseback

- (1) Subsection (2) applies where the leaseback terminates.
- (2) For the purpose of the calculation of income tax or corporation tax, the income or profits of the lessee from the relevant qualifying activity for the period in which the termination occurs shall be increased by an amount calculated in accordance with subsection (3).
- (3) The calculation is—

$$\text{Net Consideration} \times \frac{\text{Current Book Value}}{\text{Original Book Value}}$$

where—

“Net Consideration” means—

- (a) the consideration payable to S for entering into the relevant transaction, minus
- (b) the restricted disposal value,

“Current Book Value” means the net book value of the leased plant or machinery immediately before the termination, and

“Original Book Value” means the net book value of the leased plant or machinery at the beginning of the leaseback.

- (4) In this section “relevant qualifying activity” means the qualifying activity for the purposes of which the leased plant or machinery was used immediately before the termination.

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (5) Section 228B has no effect on the treatment for the purposes of income tax or corporation tax of amounts received by way of refund on the termination of a leaseback of amounts payable under it.
- (6) In subsection (5), “amounts received by way of refund” includes any amount that would be so received in respect of the lessee’s interest under the leaseback if any amounts due to the lessor under the leaseback were disregarded.

228D Lessor’s income or profits

- (1) This section applies in relation to the calculation of the lessor’s income or profits for a period of account for the purpose of income tax or corporation tax.
- (2) Where—
 - (a) an amount receivable in respect of the lessor’s interest under the leaseback falls to be taken into account in that calculation, and
 - (b) that amount is reduced by an amount due to the lessee under the leaseback,that reduction shall be disregarded when taking the amount receivable into account.
- (3) The amounts receivable in respect of the lessor’s interest under the leaseback that fall to be taken into account in that calculation may be disregarded to the extent that they exceed the permitted threshold (whether or not subsection (2) applies).
- (4) The permitted threshold is the total of—
 - (a) gross earnings, and
 - (b) the allowable proportion of the capital repayment.
- (5) In subsection (4)(a) “gross earnings” means the amount shown in the lessor’s accounts in respect of the lessor’s gross earnings under the leaseback.
- (6) In subsection (4)(b) “allowable proportion of the capital repayment” means the amount obtained by this calculation—

$$\text{Restricted Disposal Value} \times \frac{\text{Investment Reduction}}{\text{Net Investment}}$$

where—

“Investment Reduction For Period” means the amount shown in the lessor’s accounts in respect of the reduction in net investment in the leaseback, and

“Net Investment” means the amount shown in the lessor’s accounts as the lessor’s net investment in the leaseback at the beginning of its term.

- (7) This section does not apply to a leaseback if the lessee is a lessee by way of an assignment made before 17 March 2004.

Status: Point in time view as at 06/04/2021.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

228E Lessor's income or profits: termination of leaseback

- (1) Subsection (2) applies where—
 - (a) the leaseback terminates,
 - (b) the lessor disposes of the plant or machinery, and
 - (c) the amount of the disposal value required to be brought into account because of that disposal is limited by section 62.
- (2) For the purpose of income tax or corporation tax, in calculating the lessor's income or profits for the period in which the termination occurs the amount deducted in respect of any amount refunded to the lessee may not exceed the amount to which the disposal value is limited by section 62.

228F Lease and finance leaseback

- (1) Sections 228B, 228C and 228D apply, with the following modifications, where plant or machinery is the subject of a lease and finance leaseback.
- (2) In determining the permitted maximum for the purposes of section 228B, depreciation shall be disregarded.
- (3) In the calculation under section 228C(3), the amount of the consideration referred to in subsection (6)(b) of this section shall be substituted for the Net Consideration.
- (4) In determining the permitted threshold for the purposes of section 228D, the allowable proportion of the capital repayment shall be disregarded.
- (5) Plant or machinery is the subject of a lease and finance leaseback if—
 - (a) a person (“S”) leases the plant or machinery to another (“B”),
 - (b) after the date of that transaction, the use of the plant or machinery falls within sub-paragraph (i), (ii) or (iii) of section 221(1)(b), and
 - (c) it is directly as a consequence of having been leased under a finance lease that the plant or machinery is available to be so used after that date.
- (6) For the purposes of subsection (5), S leases the plant or machinery to B only if—
 - (a) S grants B rights over the plant or machinery,
 - (b) consideration is given for that grant, and
 - (c) S is not required to bring all of that consideration into account under this Part.
- (7) Plant or machinery is not the subject of a lease and finance leaseback for the purposes of this section in any case where the condition in subsection (6)(c) is met only because of an election under section 199 made before 18 May 2004.
- (8) In the application of sections 228B to 228D in relation to a lease and finance leaseback—
 - (a) references to the lessee are references to the person referred to as S in this section, and

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (b) references to the lessor are references to the person referred to as B in this section or, where appropriate, to an assignee of that person.

228G Leaseback not accounted for as finance lease in accounts of lessee

- (1) Sections 228B and 228C are subject to this section in their application in relation to a leaseback that is not accounted for as a finance lease in the accounts of the lessee.
- (2) Subsection (3) applies where the leaseback is accounted for as a finance lease in the accounts of a person connected with the lessee; and in that subsection “relevant calculation” means the calculation of—
 - (a) the permitted maximum for the purposes of section 228B, or
 - (b) the amount by which the income or profits of the lessee are to be increased in accordance with section 228C.
- (3) Where an amount that falls to be used for the purposes of a relevant calculation—
 - (a) cannot be ascertained by reference to the lessee’s accounts because the leaseback is not accounted for as a finance lease in those accounts, but
 - (b) can be ascertained by reference to the connected person’s accounts for one or more periods,that amount as ascertained by reference to the connected person’s accounts shall be used for the purposes of the relevant calculation.
- (4) Subsections (5) and (6) apply in a case where the leaseback is not accounted for as a finance lease in the accounts of a person connected with the lessee.
- (5) Sections 228B and 228C do not apply in relation to the leaseback.
- (6) If the term of the leaseback begins on or after 18 May 2004 then, for the purposes of income tax or corporation tax, the income or profits of the lessee from the relevant qualifying activity for the period of account during which the term of the leaseback begins shall be increased by—
 - (a) the net consideration for the purposes of section 228C(3) (in the case of a sale and finance leaseback), or
 - (b) the consideration referred to in section 228F(6)(b) (in the case of a lease and finance leaseback).
- (7) For the purposes of this section the leaseback is accounted for as a finance lease in a person’s accounts if—
 - (a) the leaseback falls, under generally accepted accounting practice, to be treated in that person’s accounts as a finance lease or loan, or
 - (b) in a case where the leaseback is comprised in other arrangements, those arrangements fall, under generally accepted accounting practice, to be so treated.

228H Sections 228A to 228G: supplementary

- (1) In sections 228A to 228G—
 - “lessee” does not include a person who is lessee by way of an assignment;

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

the “net book value” of leased plant or machinery means the book value of the plant or machinery having regard to any relevant entry in the lessee’s accounts, but—

- (a) also having regard to depreciation up to the time in question, and
 - (b) disregarding any revaluation gains or losses and any impairments;
- “restricted disposal value” means the disposal value under section 222;

“termination” in relation to a leaseback includes (except in section 228E)—

- (a) the assignment of the lessee’s interest,
- (b) the making of any arrangements (apart from an assignment of the lessee’s interest) under which a person other than the lessee becomes liable to make some or all payments under the leaseback, and
- (c) a variation as a result of which the leaseback ceases to be a finance lease.

- (2) In a case where accounts drawn up are not correct accounts, or no accounts are drawn up—
 - (a) the provisions of sections 228A to 228G apply as if correct accounts had been drawn up, and
 - (b) amounts referred to in any of those sections as shown in accounts are those that would have been shown in correct accounts.
- (3) In a case where accounts are drawn up in reliance upon amounts derived from an earlier period of account for which correct accounts were not drawn up, or no accounts were drawn up, amounts referred to in sections 228A to 228G as shown in the accounts for the later period are those that would have been shown if correct accounts had been drawn up for the earlier period.
- (4) In subsections (2) and (3) “correct accounts” means accounts drawn up in accordance with generally accepted accounting practice.

228J Plant or machinery subject to further operating lease

- (1) This section applies where—
 - (a) plant or machinery is the subject of—
 - (i) a sale and finance leaseback, or
 - (ii) a lease and finance leaseback, and
 - (b) some or all of the plant or machinery becomes, while the subject of the leaseback, also the subject of a lease in relation to which the following conditions are met—
 - (i) the term of the lease begins on or after 18 May 2004;
 - (ii) S, or a person connected with S, is the lessee under the lease;
 - (iii) the lease is not accounted for as a finance lease in the accounts of the lessee.
- (2) For the purpose of income tax or corporation tax, in calculating the lessee’s income or profits for a period of account the amount deducted in respect of amounts payable under the operating lease shall not exceed the relevant amount.

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (3) Subsections (4) and (5) apply in relation to the calculation of the lessor's income or profits for a period of account for the purpose of income tax or corporation tax.
- (4) Where—
- (a) an amount receivable in respect of the lessor's interest under the operating lease falls to be taken into account in that calculation, and
 - (b) that amount is reduced by an amount due to the lessee under the operating lease,
- that reduction shall be disregarded when taking the amount receivable into account.
- (5) The amounts receivable in respect of the lessor's interest under the operating lease that fall to be taken into account in that calculation may be disregarded to the extent that they exceed the relevant amount (whether or not subsection (4) applies).
- (6) Where only some of the plant or machinery is the subject of the operating lease, subsections (2) to (5) shall apply subject to such apportionments as may be just and reasonable.
- (7) For the purposes of this section a lease is accounted for as a finance lease in a person's accounts if—
- (a) the lease falls, under generally accepted accounting practice, to be treated in that person's accounts as a finance lease or loan, or
 - (b) in a case where the lease is comprised in other arrangements, those arrangements fall, under generally accepted accounting practice, to be so treated.
- (8) In this section—
- “lease and finance leaseback” has the meaning given in section 228F;
 - “lessee” means the lessee under the operating lease;
 - “lessor” means the lessor under the operating lease;
 - “operating lease” means the lease referred to in subsection (1)(b);
 - “relevant amount” means an amount equal to the permitted maximum under section 228B as it applies in relation to the leaseback.”.
- (2) In sections 228A to 228J of the Capital Allowances Act 2001 (c. 2) (as inserted by subsection (1) above), a reference to a provision of that Act includes a reference to an equivalent provision of the Capital Allowances Act 1990 (c. 1) (with any necessary modification).
- (3) This section applies to income tax and corporation tax chargeable in relation to periods that end on or after 17 March 2004.
- (4) Schedule 23 contains transitional provision.

^{F77}135 Rent factoring of leases of plant or machinery

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Status: Point in time view as at 06/04/2021.

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

Textual Amendments

- F77** S. 135 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(3)(d)**

136 Manufactured dividends

Schedule 24 to this Act (which makes provision in relation to cases where payments are or have been made, or treated as made, which are representative of dividends on shares of companies resident in the United Kingdom) has effect.

137 Manufactured payments under arrangements having an unallowable purpose

- F78**(1)
- F79**(2)
- F80**(3)
- F80**(4)
- F80**(5)
- F80**(6)
- F80**(7)

Textual Amendments

- F78** S. 137(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)
- F79** S. 137(2) 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)
- F80** S. 137(3)-(7) 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)

^{F81}138 Gilt strips

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Textual Amendments

- F81** S. 138 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

^{F82}139 Gifts of shares, securities and real property to charities etc

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Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Textual Amendments

F82 S. 139 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)

^{F83} **140 Life policies etc.: restriction of corresponding deficiency relief**

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Textual Amendments

F83 S. 140 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with Sch. 2)

CHAPTER 11

MISCELLANEOUS

Reliefs for business

^{F84} **141 Relief for research and development: software and consumable items**

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Textual Amendments

F84 S. 141 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)

^{F85} **142 Temporary increase in amount of first-year allowances for small enterprises**

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Textual Amendments

F85 S. 142 omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 75(4)(a)

^{F86} **143 Deduction for expenditure by landlords on energy-saving items**

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Textual Amendments

F86 S. 143 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with Sch. 2)

Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

144 Lloyd’s names: conversion to limited liability underwriting

Schedule 25 to this Act (which makes provision for certain reliefs to be available where a member of Lloyd’s converts to limited liability underwriting) has effect.

Offshore matters

145 Offshore funds

- (1) The provisions of the Taxes Act 1988 relating to offshore funds are amended in accordance with Schedule 26 to this Act.
- (2) Except as otherwise provided—
 - (a) the amendments have effect for account periods (within the meaning of Chapter 5 of Part 17 of that Act) ending on or after the day on which this Act is passed, and
 - (b) regulations made under a power conferred by virtue of any of the amendments may be made so as to have effect in relation to any such account period.

146 Meaning of “offshore installation”

Schedule 27 to this Act (which makes amendments relating to the meaning of “offshore installation”) has effect.

Health

147 Immediate needs annuities

- F87 (1)
- F87 (2)
- F88 (3)
- F89 (4)
- F90 (5)
- F90 (6)

Textual Amendments

- F87** S. 147(1)(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)
- F88** S. 147(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))
- F89** S. 147(4) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)
- F90** S. 147(5)(6) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

^{F91}**148 Corporation tax: health service bodies**

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Status: Point in time view as at 06/04/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

Textual Amendments

F91 S. 148 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)

Status:

Point in time view as at 06/04/2021.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Part 3.