



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 6

#### EXEMPT INCOME

#### CHAPTER 1

#### INTRODUCTION

### 690 Overview of Part 6

- (1) This Part provides for certain exemptions from charges to income tax under this Act.
- (2) The exemptions are dealt with in—
  - (a) Chapter 2 (national savings income),
  - (b) Chapter 3 (income from individual investment plans),
  - (c) Chapter 4 (SAYE interest),
  - (d) Chapter 5 (venture capital trust dividends),
  - (e) Chapter 6 (income from FOTRA securities),
  - (f) Chapter 7 (purchased life annuity payments),
  - (g) Chapter 8 (other annual payments), and
  - (h) Chapter 9 (other income).
- (3) Chapter 10 explains that, in general, the effect of the exemptions is that the exempt amounts are ignored for other income tax purposes.
- (4) Other exemptions, such as exemptions relating to particular categories of persons, may also be relevant to the charges to income tax under this Act.
- (5) And the exemptions dealt with in this Part may themselves be relevant to charges to income tax outside this Act.

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## CHAPTER 2

### NATIONAL SAVINGS INCOME

#### 691 National Savings Bank ordinary account interest

- (1) No liability to income tax arises for an individual in respect of interest on deposits in ordinary accounts with the National Savings Bank if the interest for the tax year does not exceed £70.
- (2) If the interest for the tax year exceeds £70, the individual is only liable to income tax on the excess.

#### 692 Income from savings certificates

- (1) No liability to income tax arises in respect of income from authorised savings certificates.
- (2) A savings certificate is authorised so far as its acquisition was not prohibited by regulations made by the Treasury limiting a person's holding.
- (3) In this section “savings certificates” means—
  - (a) savings certificates issued under—
    - (i) section 12 of the National Loans Act 1968 (c. 13) (power of Treasury to borrow),
    - (ii) section 7 of the National Debt Act 1958 (c. 6) (power of Treasury to issue national savings certificates), or
    - (iii) section 59 of FA 1920 (power to borrow on national savings certificates),
  - (b) war savings certificates, as defined in section 9(3) of the National Debt Act 1972 (c. 65), or
  - (c) savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to section 12 of the National Loans Act 1968.
- (4) But subsection (3)(c) does not include Ulster Savings Certificates (for which there are special rules in section 693).

#### 693 Income from Ulster Savings Certificates

- (1) No liability to income tax arises in respect of income from authorised Ulster Savings Certificates if condition A, B or C is met.
- (2) Condition A is that —
  - (a) the holder purchased them, and
  - (b) at the time of the purchase the holder was resident and ordinarily resident in Northern Ireland.
- (3) Condition B is that the holder is so resident and ordinarily resident when they are repaid.
- (4) Condition C is that—
  - (a) they are repaid after the holder's death, and

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- (b) at the time of the purchase the holder was so resident and ordinarily resident.
- (5) An Ulster Savings Certificate is authorised so far as its acquisition was not prohibited by regulations made by the Department of Finance and Personnel limiting a person's holding.
- (6) The exemption under this section requires a claim.
- (7) In this Act “Ulster Savings Certificates” means savings certificates issued or treated as issued under section 15 of the Exchequer and Financial Provisions Act (Northern Ireland) 1950 (c. 3 (N.I.)).

### CHAPTER 3

#### INCOME FROM INDIVIDUAL INVESTMENT PLANS

##### **694 Income from individual investment plans**

- (1) The Treasury may by regulations provide that income of an individual from investments under a plan—
  - (a) is exempt from income tax, or
  - (b) is exempt from income tax to such extent as is specified in the regulations.
- (2) In this Chapter such regulations are referred to as “investment plan regulations”.
- (3) Investment plan regulations may, in particular, specify—
  - (a) the description of individuals who may invest, and
  - (b) maximum investment limits.
- (4) They may provide for investment by an individual under more than one plan in the same tax year.
- (5) They must set out conditions subject to which plans are to operate.
- (6) The following provisions of this Chapter contain more particular provisions about the scope of investment plan regulations.

##### **695 Investment plans**

- (1) Investment plan regulations may specify the kind of investments which may be made under a plan or which may be made by particular descriptions of individuals under a plan.
- (2) They may—
  - (a) provide for a plan in the form of an account, and
  - (b) authorise the ways in which the subscriptions to an account are to be invested.
- (3) They may—
  - (a) provide that plans are to be such as are approved by the [<sup>F1</sup>the Commissioners for Her Majesty's Revenue and Customs], and
  - (b) specify the circumstances in which approval may be granted and withdrawn.
- (4) They may—

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- (a) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations,
- (b) provide for the [<sup>F2</sup>Commissioners] to register a plan as being of a particular kind, and
- (c) make different provision about different kinds of plan.

#### Textual Amendments

- F1** Words in s. 695(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F2** Word in s. 695(4) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(3\)\(b\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

### 696 Plan managers

- (1) Investment plan regulations may provide that investments are to be held by persons on behalf of investors.
- (2) In this Chapter those persons, including the managers of any such account as is specified in section 695(2), are referred to as “plan managers”, and references to “plan managers” in any other enactment are to be read accordingly.
- (3) Investment plan regulations may—
  - (a) provide that plan managers are to be such as are approved by [<sup>F3</sup>the Commissioners for Her Majesty’s Revenue and Customs] , and
  - (b) specify the circumstances in which approval may be granted and withdrawn.

#### Textual Amendments

- F3** Words in s. 696(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

### 697 Special requirements for certain foreign managers

- (1) Investment plan regulations may provide that a foreign institution may only be a plan manager if one of the requirements set out in section 698(2), (3) and (4) about the discharge of such of the institution's duties as are specified in the regulations is met.
- (2) In this section “foreign institution” means—
  - (a) an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to FISMA 2000 which is an authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule,
  - (b) a firm which is an authorised person for those purposes as a result of qualifying for authorisation under paragraph 2 of Schedule 4 to that Act, or
  - (c) an insurance company which is non-UK resident.
- (3) Different duties may be specified under subsection (1) for different institutions or different descriptions of institution.
- (4) In this section—

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“insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance, and

“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).

## 698 Requirements for discharge of foreign institution's duties

- (1) The requirements about the discharge of an institution's duties which are referred to in section 697(1) (one of which may be imposed in the case of certain foreign managers) are requirements A, B and C.
- (2) Requirement A is that—
  - (a) a person is currently appointed by the institution to be responsible for securing the discharge of the duties,
  - (b) that person either—
    - (i) is an individual who is a UK resident, or
    - (ii) is not an individual and has a business establishment in the United Kingdom, and
  - (c) the institution has notified [<sup>F4</sup>the Commissioners for Her Majesty's Revenue and Customs] of that person's identity and appointment.
- (3) Requirement B is that there are other current arrangements with the [<sup>F5</sup>Commissioners] for a person other than the institution to secure the discharge of the duties.
- (4) Requirement C is that there are other current arrangements with the [<sup>F5</sup>Commissioners] designed to secure the discharge of the duties.
- (5) Investment plan regulations may provide—
  - (a) that requirement A or B is only met if the person concerned is of a description specified in the regulations as respects that requirement,
  - (b) that appointments made for the purposes of requirement A or arrangements made for the purposes of requirement B are treated as terminated in circumstances specified in the regulations as respects that requirement.
- (6) Investment plan regulations may provide that a person currently appointed as mentioned in subsection (2) or as to whom there is a current arrangement within subsection (3)—
  - (a) may act on the institution's behalf for any of the purposes of the provisions relating to the duties,
  - (b) is to secure the institution's compliance with, and discharge of, the duties, where appropriate by acting on its behalf,
  - (c) is personally liable for the institution's failure to comply with or discharge any of the duties, as if they were imposed on the person and the institution jointly and severally.

### Textual Amendments

- F4** Words in s. 698(2) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

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**F5** Word in s. 698(3)(4) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(3)(c)**; S.I. 2005/1126, **art. 2(2)(h)**

## 699 Non-entitlement to exemption

- (1) Investment plan regulations may—
  - (a) provide that in circumstances specified in the regulations an investor ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it,
  - (b) adapt or modify the effect of any enactment relating to income tax for that purpose, and
  - (c) provide that in those circumstances the investor or the plan manager (depending on the terms of the regulations) is to account to [<sup>F6</sup>the Commissioners for Her Majesty's Revenue and Customs] for income tax from which exemption has already been given on the basis that the investor was entitled to the exemption.
- (2) They may provide that an investor or the plan manager (depending on the terms of the regulations) is to account to the [<sup>F7</sup>Commissioners]—
  - (a) for income tax from which the exemption has been given in circumstances where the investor was not entitled to it, or
  - (b) for an amount determined in accordance with the regulations to be the amount to be taken as representing that tax.
- (3) They may modify the effect of or adapt any enactment relating to income tax for the purposes of securing that investors or plan managers account for the tax and other amounts mentioned in subsections (1) and (2).
- (4) They may also modify the provisions of or adapt Chapter 9 of Part 4 of this Act (gains from contracts for life insurance etc.) or Chapter 2 of Part 13 of ICTA (life policies, life annuities and capital redemption policies) for cases where an investor—
  - (a) ceases to be entitled to the exemption given by regulations made under section 694(1) and is treated as not having been entitled to it, or
  - (b) has been given the exemption on the basis of an entitlement to it when there was no such entitlement.
- (5) They may provide for plan managers (as well as investors) to be liable to account for amounts becoming due from investors as a result of regulations made under subsection (4).
- (6) They may provide that, instead of having to account as mentioned in subsection (2) or (5), an investor or a plan manager is liable to a penalty of an amount specified in the regulations if—
  - (a) an exemption has been given to which there was no entitlement, and
  - (b) the circumstances are such as are specified in the regulations.
- (7) They may provide that liabilities are imposed in cases which—
  - (a) are not cases in which liabilities may be imposed under subsections (1) to (6) where relief has been given to which there was no entitlement, but
  - (b) are cases where—
    - (i) a contravention or failure to comply with investment plan regulations that is specified in the regulations, or

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(ii) the existence of such other circumstances as are so specified, would have the effect of excluding or limiting an entitlement to exemption, apart from the regulations under this subsection.

(8) Regulations under subsection (7)—

- (a) may only provide for the imposition of liabilities equivalent to those which may be imposed under subsections (1) to (6), and
- (b) must provide for those liabilities to replace the liabilities to tax which would otherwise arise.

#### Textual Amendments

- F6** Words in s. 699(1)(c) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(2)**; S.I. 2005/1126, **art. 2(2)(h)**
- F7** Word in s. 699(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(3)(d)**; S.I. 2005/1126, **art. 2(2)(h)**

## 700 Information

- (1) Investment plan regulations may impose a duty on any current or former investor or plan manager—
  - (a) to comply within the period specified by the regulations with any documents notice served by [<sup>F8</sup>the Commissioners for Her Majesty’s Revenue and Customs], or
  - (b) to comply within the period specified by the regulations with any information request made by the [<sup>F9</sup>Commissioners] .
- (2) In this section “documents notice” means a notice requiring a person to make available for the [<sup>F10</sup>Commissioners] inspection documents relating to a plan or investments held or formerly held under it.
- (3) The regulations must specify the kind of documents to which a documents notice may relate.
- (4) A documents notice must specify the period for compliance with it.
- (5) In this section “information request” means a request to give the [<sup>F11</sup>Commissioners] information about a plan or investments held or formerly held under it.
- (6) The regulations must specify—
  - (a) the kind of information to which an information request may relate, and
  - (b) the period from the making of the request for compliance with it.

#### Textual Amendments

- F8** Words in s. 700(1)(a) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(2)**; S.I. 2005/1126, **art. 2(2)(h)**
- F9** Word in s. 700(1)(b) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(3)(e)**; S.I. 2005/1126, **art. 2(2)(h)**
- F10** Word in s. 700(2) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), **Sch. 4 para. 132(3)(e)**; S.I. 2005/1126, **art. 2(2)(h)**

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**F11** Word in s. 700(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005](#) (c. 11), ss. 50, 53(1), [Sch. 4 para. 132\(3\)\(e\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

## 701 General and supplementary powers

- (1) Investment plan regulations may make provision generally for the purpose of—
  - (a) the establishment and administration of plans, and
  - (b) the administration of income tax in relation to them.
- (2) They may adapt or modify the effect of any enactment relating to income tax for the purpose of securing that investors are entitled to exemption from income tax in respect of investments.
- (3) They may specify how exemption from tax is to be claimed by, and granted to, investors or plan managers on behalf of investors.
- [<sup>F12</sup>(4) They may include provision having effect in relation to times before they are made if the provision does not impose or increase any liability to tax.
- (5) They may make different provision for different cases or circumstances.]

### Textual Amendments

**F12** [S. 701\(4\)\(5\)](#) inserted (21.7.2008) by [Finance Act 2008](#) (c. 9), [s. 40](#)

## CHAPTER 4

### SAYE INTEREST

## 702 Interest under certified SAYE savings arrangements

- (1) No liability to income tax arises in respect of interest payable under a certified SAYE savings arrangement.
- (2) In this section “certified SAYE savings arrangement” has the meaning given in section 703(1).
- (3) Subsection (1) is subject to—
  - (a) section 707(1) (which requires the providers of certain arrangements to be authorised), and
  - (b) paragraph 7 of Schedule 12 to FA 1988 (application of exemption on change of status of building society).
- (4) In this Chapter “interest” includes any bonus.

## 703 Meaning of “certified SAYE savings arrangement”

- (1) In this Chapter “certified SAYE savings arrangement” means a linked savings arrangement which is certified under section 705.
- (2) In this Chapter “linked savings arrangement” means an arrangement—
  - (a) which is of a kind specified in section 704(1), and



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- (b) under which an individual who is eligible to participate in an approved SAYE option scheme enters into a contract to make periodical contributions for a specified period for the purpose of being able to participate in that scheme.

- (3) In subsection (2)—

“to participate” means to obtain and exercise rights under the scheme, and  
 “SAYE option scheme” has the meaning given by section 516(4) of ITEPA 2003, and such a scheme is “approved” if it is approved under Schedule 3 to ITEPA 2003.

## 704 Types of arrangements and providers

- (1) A linked savings arrangement may be—

- (a) a national savings arrangement, or  
 (b) an institutional arrangement.

- (2) In this Chapter “national savings arrangement” means an arrangement which—

- (a) provides for contributions to be paid to raise money under section 12 of the National Loans Act 1968 (c. 13) (power of Treasury to borrow),  
 (b) is governed by regulations made under section 11 of the National Debt Act 1972 (c. 65) (power of Treasury to make regulations as to raising of money under auspices of Director of Savings), and  
 (c) provides for the repayment of those contributions, together with interest, in accordance with those regulations.

- (3) In this Chapter “institutional arrangement” means—

- (a) a bank arrangement,  
 (b) a building society arrangement, or  
 (c) a European authorised institution arrangement.

- (4) In this Chapter—

- (a) “bank arrangement” means an arrangement which provides for contributions to be paid to a person within [F13section 991(2)(b) of ITA 2007](banks), and  
 (b) “provider”, in relation to such an arrangement, means that person.

- (5) In this Chapter—

- (a) “building society arrangement” means an arrangement which provides for contributions to be paid by way of investment in shares in a building society, and  
 (b) “provider”, in relation to such an arrangement, means that society.

- (6) In this Chapter—

“European authorised institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits,

“European authorised institution arrangement” means an arrangement which provides for contributions to be paid to such a firm, and

“provider”, in relation to such an arrangement, means that firm.

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### Textual Amendments

- F13** Words in s. 704(4)(a) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 571](#) (with transitional provisions and savings in [Sch. 2](#))

## 705 Certification of arrangements

- (1) A linked savings arrangement is certified under this section if it is certified by the [<sup>F14</sup>Commissioners] —
- (a) as a linked savings arrangement, and
  - (b) in the case of an institutional arrangement, as meeting such requirements as the Treasury may specify for the purposes of this Chapter.
- (2) The requirements which may be specified under subsection (1)(b) are such requirements as the [<sup>F15</sup>Commissioners] consider appropriate.
- (3) They may, in particular, relate to—
- (a) the descriptions of individuals who may enter into contracts under an arrangement,
  - (b) the contributions to be paid by them, and
  - (c) the sums to be paid or repaid to them.
- (4) Different requirements may be specified for—
- (a) bank arrangements,
  - (b) building society arrangements, and
  - (c) European authorised institution arrangements.
- [<sup>F16</sup>(5) In this Chapter “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.]

### Textual Amendments

- F14** Word in s. 705(1) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\)](#), s. 50(2), [Sch. 26 para. 2\(2\)](#)
- F15** Word in s. 705(2) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\)](#), s. 50(2), [Sch. 26 para. 2\(2\)](#)
- F16** S. 705(5) inserted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\)](#), s. 50(2), [Sch. 26 para. 2\(3\)](#)

## 706 Withdrawal and variation of certifications and connected requirements

- (1) The [<sup>F17</sup>Commissioners] may—
- (a) withdraw the requirements specified under section 705(1)(b) for any description of arrangements and any certification made by reference to those requirements, or
  - (b) vary those requirements and withdraw any certification made by reference to them.

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- (2) The withdrawal, or variation and withdrawal, is only effective if the [F18Commissioners] —
- (a) specify the date on which it is to take effect, and
  - (b) give notice of it <sup>F19</sup>... at least [F2015 days] before that date to the provider authorised under section 707 to enter into contracts under the arrangement concerned.
- (3) The withdrawal, or variation and withdrawal, does not affect
- [F21(a) the operation of the arrangement concerned before that date,
  - (b) contracts made under that arrangement before that date, or
  - (c) where the notice so provides, contracts which are of a description specified in the notice and are made under that arrangement after that date.]

#### Textual Amendments

- F17** Word in s. 706(1) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 3](#)
- F18** Word in s. 706(2) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 3](#)
- F19** Words in s. 706(2)(b) omitted (retrospective to 29.4.2009) by virtue of [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 6\(a\)](#)
- F20** Words in s. 706(2)(b) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 7](#)
- F21** S. 706(3)(a)(b)(c) substituted for words (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 8](#)

### 707 Authorisation of providers

- (1) In the case of an institutional arrangement, section 702(1) (exemption of interest payable under certified SAYE savings arrangements) only applies if, at the time the contract under the arrangement is made, the provider is authorised by the [F22Commissioners] to enter into contracts under it.
- (2) If the authorisation is conditional, the conditions must be met at that time.
- (3) Authorisation may be given for arrangements generally or a particular arrangement.
- (4) More than one authorisation may be given to the same provider.

#### Textual Amendments

- F22** Word in [s. 707\(1\)](#) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\)](#), [Sch. 26 para. 4](#)

### 708 Withdrawal and variation of authorisations

- (1) The [F23Commissioners] may withdraw the authorisation of a provider or vary it by imposing, varying or removing conditions.
- (2) The withdrawal or variation is only effective if the [F24Commissioners] —
- (a) specify the date on which it is to take effect, and

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- (b) except in the case of a variation removing all conditions, give notice of it<sup>F25</sup> ... to the provider at least 28 days before that date.
- (3) The withdrawal or variation does not affect contracts made before that date.
- (4) The fact that a provider has had its authorisation withdrawn or varied does not affect the later exercise by the [<sup>F26</sup>Commissioners of their] powers under section 707 or this section as respects the provider.

#### Textual Amendments

- F23** Word in s. 708(1) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\), Sch. 26 para. 5\(2\)](#)
- F24** Word in s. 708(2) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\), Sch. 26 para. 5\(2\)](#)
- F25** Words in s. 708(2)(b) omitted (retrospective to 29.4.2009) by virtue of [Finance Act 2009 \(c. 10\), s. 50\(2\), Sch. 26 para. 6\(b\)](#)
- F26** Words in s. 708(4) substituted (retrospective to 29.4.2009) by [Finance Act 2009 \(c. 10\), s. 50\(2\), Sch. 26 para. 5\(3\)](#)

## CHAPTER 5

### VENTURE CAPITAL TRUST DIVIDENDS

#### 709 Venture capital trust dividends

- (1) No liability to income tax arises in respect of a venture capital trust dividend if—
- conditions A and B are met, and
  - where the dividend is paid in respect of shares acquired after 8th March 1999, condition C is met.
- (2) In subsection (1) a “venture capital trust dividend” means a dividend paid in respect of ordinary shares in a company which—
- is a venture capital trust—
    - at the end of the accounting period in which the profits or gains in respect of which it is paid arose or accrued, and
    - when the dividend is paid, and
  - was such a trust when the person to whom it is paid acquired the shares.
- (3) Condition A is that the person beneficially entitled to the dividend—
- is an individual of at least 18 years, and
  - is beneficially entitled to it as the holder of the shares or as the person for whom, or for whose benefit, they are held by a nominee.
- (4) Condition B is that—
- in the tax year in which the shares were acquired the market value of all the shares acquired by the individual or any nominee of the individual in companies which were venture capital trusts at the time of acquisition did not exceed £200,000, or
  - in that year that market value exceeded £200,000, but the shares are treated under section 710 as having been acquired within that limit.

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- (5) For the purposes of subsection (4), the market value of a share is determined as at the time of its acquisition.
- (6) Condition C is that the shares were acquired for genuine commercial reasons and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, was the avoidance of tax.
- (7) Shares that were not so acquired are ignored for the purposes of subsection (4) and section 710 (whether or not they were acquired after 8th March 1999).
- (8) In this section and in sections 710 and 711—
  - “market value” has the same meaning as in TCGA 1992 (see sections 272 and 273),
  - “nominee”, in relation to an individual, includes the trustees of a bare trust of which the individual is the only beneficiary, and
  - “ordinary shares” means shares forming part of the company's ordinary share capital.

#### **710 Treatment of shares where annual acquisition limit exceeded**

- (1) This section sets out the rules for determining which shares whose market value is relevant for the limit in section 709(4) are treated as shares acquired within that limit (“exempt shares”) where that limit is exceeded in a tax year.
- (2) Shares are treated as exempt shares so far as their acquisition does not cause the limit to be exceeded at the time they are acquired.
- (3) Subsection (2) is subject to subsection (4).
- (4) If shares of different descriptions acquired on the same day cause the limit to be exceeded on that day, shares of each description are treated as exempt shares so far as their market value does not exceed the appropriate proportion of the available value.
- (5) In subsection (4)—
  - “the appropriate proportion”, in relation to shares of a particular description, means the proportion which their market value bears to the market value of all the shares acquired on that day, and
  - “available value” means the maximum value of shares which could be acquired on that day without exceeding the limit.

#### **711 Identification of shares after disposals**

- (1) In determining whether a disposal relates to shares in a company which were acquired when it was a venture capital trust or others, it is assumed that the others are disposed of first.
- (2) In determining whether a disposal of shares in a company which were acquired when it was a venture capital trust relates to shares which meet the condition in section 709(4) (annual acquisition limit) or others (“excess shares”), assumptions A and B are to be made.
- (3) Assumption A is that shares acquired on an earlier day are disposed of before those acquired on a later day.

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- (4) Assumption B is that where the shares were acquired on the same day, excess shares are disposed of first.
- (5) For the purposes of this section, acquisitions and disposals by an individual's nominee are treated as made by the individual, and acquisitions and disposals between them are ignored.

## **712 Identification of shares after reorganisations etc.**

- (1) This section applies if shares (“the new shares”) are treated under Chapter 2 of Part 4 of TCGA 1992 (reorganisations etc.) as the same assets as other shares (“the old shares”).
- (2) If all the old shares met—
  - (a) the condition in section 709(4) (annual acquisition limit), and
  - (b) if it applied to the old shares, the condition in section 709(6) (acquisition for genuine commercial reasons),
 the new shares are treated as doing so.
- (3) If only some of the old shares met those conditions, the corresponding proportion of the new shares are treated as meeting them and the remainder are treated as not doing so.
- (4) In the tax year in which the new shares are acquired the value of the new shares is ignored in determining whether other shares acquired in the same tax year meet the condition in section 709(4).

## **CHAPTER 6**

### INCOME FROM FOTRA SECURITIES

## **713 Introduction: securities free of tax to residents abroad (“FOTRA securities”)**

- (1) This Chapter provides for exemptions from income tax in respect of FOTRA securities.
- (2) In this Chapter “FOTRA security” means—
  - (a) a security issued with a condition about exemption from taxation authorised by section 22 of F(No.2)A 1931,
  - (b) a gilt-edged security which was issued before 6th April 1998 and without any such condition (other than 3½% War Loan 1952 Or After), or
  - (c) 3½% War Loan 1952 Or After.
- (3) In this Chapter “the exemption condition” has the meaning given by subsections (4) to (6), according to the kind of FOTRA security involved.
- (4) In relation to a security within subsection (2)(a), it means the condition authorised by section 22 of F(No.2)A 1931.
- (5) In relation to a security within subsection (2)(b), it means a condition with which 7.25% Treasury Stock 2007 was first issued, being a condition treated by section 161(1) of FA 1998 (non-FOTRA securities)—

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- (a) as a condition with which the security within subsection (2)(b) was issued, and
  - (b) as a condition authorised in relation to its issue by section 22 of F(No.2)A 1931.
- (6) In relation to 3½% War Loan 1952 Or After, it means a condition of its issue authorised by section 47 of F(No.2)A 1915.

#### **714 Exemption of profits from FOTRA securities**

- (1) No liability to income tax arises in respect of profits from a FOTRA security if conditions A and B are met.
- (2) Subsection (1) is subject to subsection (5).
- (3) Condition A is that the profits are stated in the exemption condition to be exempt from income tax.
- (4) Condition B is that any requirements for obtaining the exemption imposed by the security's conditions of issue are met.
- (5) Whatever the exemption condition provides, amounts charged under the provisions specified in subsection (6) are not exempted by subsection (1).
- (6) The provisions are—
  - Chapter 5 of Part 5 (settlements: amounts treated as income of settlor) so far as it applies to income within section 619(1)(a) or (b), and
  - [<sup>F27</sup>Chapter 2 of Part 13 of ITA 2007](anti-avoidance provisions: transfer of assets abroad).
- (7) This section does not affect the need to claim repayment of tax within the time limit applicable for a claim.

#### **Textual Amendments**

**F27** Words in s. 714(6) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 572](#) (with transitional provisions and savings in [Sch. 2](#))

#### **715 Interest from FOTRA securities held on trust**

- (1) This section applies if—
  - (a) a FOTRA security is held on trust, and
  - (b) apart from this section, interest payable on the security would not be exempt from income tax under section 714 because of the security not being in the beneficial ownership of a person not ordinarily UK resident.
- (2) For the purposes of determining whether the interest is exempt under section 714 it is to be assumed that the security is in the beneficial ownership of a person not ordinarily UK resident if none of the beneficiaries of the trust is ordinarily UK resident at the time when the interest arises.
- (3) In subsection (2) “beneficiaries of the trust” includes any person known to the trustees as a person—

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- (a) who is, or will or may become, entitled under the terms of the trust to receive income under the trust, or
  - (b) to whom or for whose benefit such income may be paid or applied.
- (4) In subsection (3) “income under the trust” includes any property held on the terms of the trust and falling to be treated as capital so far as it is or represents amounts received by the trustees as income.

#### **716 Restriction on deductions etc. relating to FOTRA securities**

- (1) A person who meets conditions A and B may not bring into account for income tax purposes—
- (a) any amount relating to changes in the value of a FOTRA security, or
  - (b) expenses related to holding it or to any transaction concerning it.
- (2) Condition A is that the person is the beneficial owner of the security.
- (3) Condition B is that the person is a person who would be exempt from tax on the security under this Chapter.

### **CHAPTER 7**

#### **PURCHASED LIFE ANNUITY PAYMENTS**

##### *Partial exemption for purchased life annuity payments*

#### **717 Exemption for part of purchased life annuity payments**

- (1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annuity payment made under a purchased life annuity as is within this subsection in accordance with section 719 (extent of exemption).
- (2) Subsection (1) is subject to section 718.
- <sup>F28</sup>(3) .....
- (4) In this Chapter “purchased life annuity” has the same meaning as in Chapter 7 of Part 4 (see section 423).

#### **Textual Amendments**

**F28** S. 717(3) repealed (6.4.2008) by Finance Act 2007 (c. 11), s. 46(5)(9), Sch. 27 Pt. 2(13); S.I. 2008/561, art. 2

#### **718 Excluded annuities**

- (1) The exemption in section 717(1) does not apply to payments made under the annuities specified in subsection (2).
- (2) The annuities are—



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- (a) an annuity the whole or part of the consideration for which consisted of sums satisfying the conditions for relief under section 266 of ICTA (life assurance premiums),
  - (b) an annuity purchased following a direction in a will, and
  - (c) an annuity purchased to provide for an annuity payable as a result of a will or settlement out of income of property disposed of by the will or settlement.
- (3) For the purposes of subsection (2)(c), it does not matter whether or not capital could also be used to pay the annuity.

### **719 Extent of exemption under section 717**

- (1) This section sets out the rules for determining the extent to which an annuity payment is within the exemption in section 717(1).
- (2) The rules depend on—
- (a) whether or not the amount of the annuity payments under the annuity depends solely on the duration of a human life or lives (see subsections (3) to (5)), and
  - (b) whether or not the annuity's term depends solely on the duration of a human life or lives (see subsections (6) to (8)).
- (3) If the amount of the annuity payments depends solely on the duration of a human life or lives, the same proportion of each payment (“the exempt proportion”) is exempt.
- (4) But if the amount of the annuity payments also depends on another contingency, each payment is exempt so far as it does not exceed a fixed sum (“the exempt sum”).
- (5) If an annuity payment within subsection (4) is less than the exempt sum, the shortfall is added to the exempt sum for the next payment (and so on).
- (6) The ways to determine the exempt proportion and the exempt sum differ according to whether or not the annuity's term depends solely on the duration of a human life or lives.
- (7) If the annuity's term depends solely on the duration of a human life or lives—
- (a) the exempt proportion is determined as set out in section 720, and
  - (b) the exempt sum is determined as set out in section 721.
- (8) If the annuity's term also depends on another contingency—
- (a) the exempt proportion is the proportion which is just and reasonable, having regard to the contingencies affecting the annuity and to section 720, and
  - (b) the exempt sum is the amount which is just and reasonable, having regard to the contingencies affecting the annuity and to section 721.

### **720 Exempt proportion: term dependent solely on duration of life**

- (1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt proportion is —

$$AP \times \frac{PP}{AV}$$

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where—

AP is the annuity payment,

PP is the purchase price of the annuity, and

AV is the actuarial value of the annuity payments.

- (2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.
- (3) The actuarial value of the annuity payments is their value at the date when the first of the payments starts to accrue.
- (4) That value is determined—
  - (a) by reference to tables of mortality prescribed under section 724,
  - (b) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date, and
  - (c) without discounting any payment for the time to elapse before it is payable.
- (5) But if it is not possible to determine that actuarial value by reference to the tables mentioned in subsection (4)(a), it is such amount as may be certified by the Government Actuary or the Deputy Government Actuary.

## **721 Exempt sum: term dependent solely on duration of life**

- (1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt sum is —

$$PP \times \frac{1}{TY} \times \frac{PM}{12}$$

where—

PP is the purchase price of the annuity,

TY is the expected term of the annuity in years (and any odd fraction of a year), and

PM is the period in months (and any odd fraction of a month) in respect of which the annuity payment is made.

- (2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.
- (3) The expected term of the annuity is the period from the date when the first annuity payment starts to accrue to the date when it is expected that the last payment will become payable.
- (4) The expected term of the annuity is determined—
  - (a) as at the date when the first annuity payment starts to accrue,
  - (b) by reference to tables of mortality prescribed under section 724, and
  - (c) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date.

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- (5) But if it is not possible to determine that term by reference to the tables mentioned in subsection (4)(b), it is such period as may be certified by the Government Actuary or the Deputy Government Actuary.

## 722 Consideration for the grant of annuities

- (1) This section applies if the amount or value given for an annuity is to be determined for the purposes of sections 720(2) or 721(2) and either—
- (a) consideration is not given solely for the annuity, or
  - (b) it appears that the amount or value of the consideration nominally given for it affected, or was affected by, the consideration given for something else.
- (2) For the purposes of subsection (1), consideration given for a right to a return of premiums or of other consideration for an annuity is treated as given solely for the annuity.
- (3) If subsection (1)(a) applies, the consideration is to be apportioned in such way as is just and reasonable.
- (4) If subsection (1)(b) applies, the total amount or value of the considerations given is to be apportioned in such way as is just and reasonable.

## F29 723 Determinations

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### Textual Amendments

**F29** S. 723 repealed (6.4.2008) by [Finance Act 2007 \(c. 11\), s. 46\(6\)\(9\)](#); S.I. 2008/561, art. 2

## 724 Regulations

- (1) [<sup>F30</sup>the Commissioners for Her Majesty’s Revenue and Customs] may by regulations—
- (a) prescribe the procedure to be used in giving effect to sections 717 to [<sup>F31</sup>722] and this section where no provision is made in those provisions,
  - (b) apply any provision of the Income Tax Acts, with or without modifications, for the purposes of those provisions or the regulations,
  - (c) prescribe tables of mortality for the purposes of sections 720(4) and 721(4).

<sup>F32</sup>(2) .....

(3) <sup>F33</sup> .....

### Textual Amendments

**F30** Words in s. 724(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

**F31** Word in s. 724(1)(a) substituted (6.4.2008) by [Finance Act 2007 \(c. 11\), s. 46\(7\)\(a\)\(9\)](#); S.I. 2008/561, art. 2

**F32** S. 724(2) repealed (6.4.2008) by [Finance Act 2007 \(c. 11\), s. 46\(7\)\(b\)\(9\), Sch. 27 Pt. 2\(13\)](#); S.I. 2008/561, art. 2

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**F33** S. 724(3) repealed (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, 1034, Sch. 1 para. 573, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

### *Immediate needs annuities*

#### **725 Annual payments under immediate needs annuities**

- (1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annual payment made under an immediate needs annuity as is made—
  - (a) for the benefit of the person protected under that annuity, and
  - (b) to a care provider or a local authority in respect of the provision of care for that person.
- (2) In this section “immediate needs annuity” means a contract for a purchased life annuity—
  - (a) the purpose or one of the purposes of which is to protect a person against the consequences of the person being unable, at the time the contract is made, to live independently without assistance because of a condition to which subsection (3) applies, and
  - (b) under which benefits are payable in respect of the provision of care for the person protected.
- (3) This subsection applies to—
  - (a) mental or physical impairment, or
  - (b) injury, sickness or other infirmity,
 which is expected to be permanent.
- (4) In this section and section 726 “care” means accommodation, goods or services which it is necessary or desirable to provide to a person because of a condition to which subsection (3) applies.
- (5) In this section—
 

“care provider” has the meaning given in section 726, and

“purchased life annuity” has the same meaning as in Chapter 7 of Part 4 (see section 423).
- (6) The Treasury may by order amend—
  - (a) subsection (2), and
  - (b) subsection (3), so far as it applies for the purposes of subsection (2).

#### **726 Meaning of “care provider”**

- (1) In section 725 “care provider” means a person who—
  - (a) carries on a trade, profession or vocation which consists of or includes the provision of care, and
  - (b) meets the care registration requirement.
- (2) A person meets the care registration requirement in relation to care provided in England and Wales if the person is registered under Part 2 of the Care Standards Act 2000 (c. 14) in respect of the provision of care.

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- (3) A person meets the care registration requirement in relation to care provided in Scotland if the person provides care as, or as part of, a service which is registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8).
- (4) A person meets the care registration requirement in relation to care provided in Northern Ireland if the person is registered in respect of the provision of care under—
  - (a) Part 2 or 3 of the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)), or
  - (b) Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).
- (5) A person meets the care registration requirement in relation to care provided in a territory outside the United Kingdom if the person meets requirements under the law of that territory relating to the provision of care that are comparable to those mentioned in subsections (2) to (4).
- (6) The Treasury may by order amend this section.

## CHAPTER 8

### OTHER ANNUAL PAYMENTS

#### *Certain annual payments by individuals*

#### **727 Certain annual payments by individuals**

- (1) No liability to income tax arises under Part 5 in respect of an annual payment if it—
  - (a) is made by an individual, and
  - (b) arises in the United Kingdom.
- (2) Subsection (1) is subject to—
  - section 728 (commercial payments), and
  - section 729 (payments for non-taxable consideration).
- (3) Subsection (1) also applies to a payment made by an individual's personal representatives if—
  - (a) the individual would have been liable to make it, and
  - (b) that subsection would have applied if the individual had made it.
- (4) For the purposes of subsection (1) and section 728, “individual” includes a Scottish partnership if at least one partner is an individual.

#### **728 Commercial payments**

A payment by an individual is not exempt from income tax under section 727(1) if it is made for commercial reasons in connection with the individual's trade, profession or vocation.

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## 729 Payments for non-taxable consideration

- (1) A payment that meets condition A is only exempt from income tax under section 727(1) if condition B or C is met.
- (2) Condition A is that—
  - (a) the payment is made under a liability incurred at any time for consideration in money or money's worth, and
  - (b) some or all of the consideration is not required to be brought into account in calculating the payer's income for income tax purposes.
- (3) Condition B is that the payment is income within section 627(1) (payments on [F34dissolution] or separation) in the recipient's hands.
- (4) Condition C is that the payment is made to an individual under a liability incurred at any time in consideration of the individual surrendering, assigning or releasing an interest in settled property to or in favour of a person with a subsequent interest.
- (5) In the application of subsection (4) to Scotland, the reference to settled property is to be read as a reference to property held in trust.

### Textual Amendments

**F34** Word in s. 729(3) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **196**

## 730 Foreign maintenance payments

- (1) No liability to income tax arises under Part 5 in respect of an annual payment if—
  - (a) it is a maintenance payment,
  - (b) it arises outside the United Kingdom, and
  - (c) had it arisen in the United Kingdom it would be exempt from income tax under section 727 (certain annual payments by individuals).
- (2) In subsection (1) “maintenance payment” means a periodical payment which meets conditions A and B.
- (3) Condition A is that the payment is made under a court order or a written or oral agreement.
- (4) Condition B is that the payment is made by a person—
  - (a) as one of the parties to a marriage [F35or civil partnership] to, or for the benefit of, and for the maintenance of, the other party,
  - (b) to any person under 21 for that person's own benefit, maintenance or education, or
  - (c) to any person for the benefit, maintenance or education of a person under 21.
- (5) In subsection (4) “marriage” includes a marriage that has been dissolved or annulled [F36, and “civil partnership” includes a civil partnership that has been dissolved or annulled] .
- (6) Subsection (1) also applies to a payment made by an individual's personal representatives if—
  - (a) the individual would have been liable to make it, and

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- (b) that subsection would have applied if the individual had made it.

#### Textual Amendments

**F35** Words in s. 730(4)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **197(2)**

**F36** Words in s. 730(5) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **197(3)**

### *Periodical payments of personal injury damages etc.*

#### **731 Periodical payments of personal injury damages**

- (1) No liability to income tax arises for the persons specified in section 733 in respect of periodical payments to which subsection (2) applies or annuity payments to which subsection (3) applies.
- (2) This subsection applies to periodical payments made pursuant to—
  - (a) an order of the court, so far as it is made in reliance on section 2 of the Damages Act 1996 (c. 48) (periodical payments) (including an order as varied),
  - (b) an order of a court outside the United Kingdom which is similar to an order made in reliance on that section (including an order as varied),
  - (c) an agreement, so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied),
  - (d) an agreement, so far as it relates to making payments on account of damages that may be awarded in such a claim or action (including an agreement as varied), or
  - (e) a Motor Insurers' Bureau undertaking in relation to a claim or action in respect of personal injury (including an undertaking as varied).
- (3) This subsection applies to annuity payments made under an annuity purchased or provided—
  - (a) by the person by whom payments to which subsection (2) applies would otherwise fall to be made, and
  - (b) in accordance with such an order, agreement or undertaking as is mentioned in subsection (2) or a varying order, agreement or undertaking.
- (4) In this section “damages in respect of personal injury” includes damages in respect of a person's death from personal injury.
- (5) In this section “personal injury” includes disease and impairment of physical or mental condition.
- (6) In this section “a Motor Insurers' Bureau undertaking” means an undertaking given by —
  - (a) the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929 (c. 23)), or
  - (b) an Article 75 insurer under the Bureau's Articles of Association.

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### **732 Compensation awards**

- (1) No liability to income tax arises for the persons specified in section 733 in respect of annuity payments if they are made under an annuity purchased or provided under an award of compensation made under the Criminal Injuries Compensation Scheme.
- (2) The Treasury may by order provide for sections 731, 733 and 734 to apply, with such modifications as they consider necessary, to periodical payments by way of compensation for personal injury for which provision is made under a scheme or arrangement other than the Criminal Injuries Compensation Scheme.
- (3) In this section—
  - “the Criminal Injuries Compensation Scheme” means—
    - (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995 (c. 53),
    - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, or
    - (c) the scheme established under the Criminal Injuries (Northern Ireland) Order 2002 (S.I. 2002/796) (N.I.1), and
  - “personal injury” includes disease and impairment of physical or mental condition.

### **733 Persons entitled to exemptions for personal injury payments etc.**

The persons entitled to the exemptions given by sections 731(1) and 732(1) for payments are—

- (a) the person entitled to the damages under the order, agreement, undertaking or to the compensation under the award in question (“A”),
- (b) a person who receives the payment in question on behalf of A, and
- (c) a trustee who receives the payment in question on trust for the benefit of A under a trust under which A is, while alive, the only person who may benefit.

### **734 Payments from trusts for injured persons**

- (1) No liability to income tax arises for the persons specified in subsection (2) in respect of sums paid under a lifetime trust—
  - (a) to the person (“A”) who is entitled to—
    - (i) a payment under an order, agreement or undertaking within section 731(2) or an annuity purchased or provided as mentioned in section 731(3), or
    - (ii) compensation under an award within section 732(1), or
  - (b) for the benefit of A.
- (2) The persons are—
  - (a) A, and
  - (b) if subsection (1)(b) applies, a person who receives the sum on behalf of A.
- (3) For the purposes of subsection (1), sums are paid under a lifetime trust if they are paid—
  - (a) by the trustees of a trust under which A is, while alive, the only person who may benefit, and



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- (b) out of payments within section 731(2) or (3) or 732(1) which are received by them on trust for A.

#### *Health and employment insurance payments*

### **735 Health and employment insurance payments**

- (1) No liability to income tax arises under this Act in respect of an annual payment under an insurance policy if—
  - (a) the payment is a benefit provided under so much of the policy as insures against a health or employment risk (see section 736),
  - (b) no part of any premiums under the policy has been deductible in calculating the income of the insured for income tax purposes, and
  - (c) the conditions in sections 737 and 738 and, so far as applicable, those in sections 739 and 740 are met in relation to the policy.
- (2) Subsection (1)(b) is subject to section 743.
- (3) For the meaning of “the insured”, see sections 742 and 743(2).

### **736 Health and employment risks and benefits**

- (1) For the purposes of sections 735 and 737 to 743, a policy insures against a health risk if it insures against the insured becoming, or becoming in any specified way, subject—
  - (a) to any physical or mental illness, disability, infirmity or defect, or
  - (b) to any deterioration in a condition resulting from any such illness, disability, infirmity or defect.
- (2) For the purposes of sections 735 and 737 to 743, a policy insures against an employment risk if it insures against circumstances arising as a result of which the insured ceases—
  - (a) to be employed or hold office, or
  - (b) to carry on any trade, profession or vocation.
- (3) For the purposes of section 735, this section and sections 737 to 743, references to insurance against a risk include insurance providing for benefits payable otherwise than by way of indemnity if the circumstances insured against occur.

### **737 Period for which payments may be made**

- (1) The condition in this section is that the only annual payments provided for by the policy which relate to the health or employment risk it insures against (“the insured risk”) are payments in respect of one or more of the following periods.
- (2) They are—
  - (a) a period throughout which an illness, disability, infirmity or defect insured against by the part of the policy relating to the insured risk continues,
  - (b) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured is unemployed, does not hold an office or is not carrying on a trade, profession or vocation,

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- (c) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured's income is less than it would otherwise have been, and
  - (d) where a period within paragraph (a), (b) or (c) ends with the death of the insured, a period immediately following that period.
- (3) For the purposes of subsection (2)(a), an illness, disability, infirmity or defect is treated as continuing during a period of convalescence or rehabilitation related to it.
- (4) For the purposes of subsection (2)(c), income from the policy is ignored.

### **738 Risk of significant loss**

- (1) The condition in this section is that throughout the period that the policy has contained provisions relating to the health or employment risk those provisions have been such that any policy of insurance which only contained those provisions would involve the possibility that the insurer would make a significant loss on the premiums.
- (2) In determining whether a policy would involve that possibility, any return on the investment of the premiums is to be taken into account.
- (3) For this purpose reinsurance is ignored.

### **739 Conditions to be met by policies also providing other benefits**

- (1) The conditions in this section only apply if the policy provides for the payment of benefits which do not all relate to the health or employment risk.
- (2) The conditions are that so far as the policy's terms relate to the health or employment risk—
  - (a) they do not differ significantly from what they would have been if the only benefits had been those relating to that risk, and
  - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person because of other benefits being payable to or in respect of the person is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

### **740 Conditions to be met where policies are linked**

- (1) The conditions in this section only apply if—
  - (a) the insured is or has been the insured under one or more other policies (“connected policies”), and
  - (b) each of the connected policies has been in force either—
    - (i) at a time when the policy in question was in force, or
    - (ii) at the time immediately before it was entered into.
- (2) The conditions are that so far as the terms of the policy relate to the health or employment risk—

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- (a) they do not differ significantly from what they would have been if no connected policies had been entered into, and
  - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person under the policy because of benefits being payable to or in respect of the person under any of the connected policies is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

#### **741 Aggregation of policies where employment ends for health reasons**

- (1) This section applies if—
- (a) payments are made to or in respect of a person who has left employment because of the occurrence of something insured against by an employment policy as a health risk,
  - (b) the payments are made under another policy (“the replacement policy”) which was entered into under, or in accordance with, provisions contained in the employment policy,
  - (c) the employment policy has ceased to apply to the person, and
  - (d) the rights in accordance with which the payments are made under the replacement policy superseded rights under the employment policy with effect from the time when that policy ceased to apply to the person.
- (2) The employment policy and the replacement policy are to be treated as a single policy for the purposes of sections 735 to 738, this section and section 743.
- (3) In this section—
- “employment” includes an office, and “employees” and “employer” are to be read accordingly, and
  - “employment policy” means a policy entered into wholly or partly for the benefit of the employees of an employer against a health risk.

#### **742 Meaning of “the insured”**

In sections 735 to 737 “the insured” includes—

- (a) the insured's spouse [<sup>F37</sup>or civil partner] ,
- (b) any child under 21 of the insured or the insured's spouse [<sup>F37</sup>or civil partner] , and
- (c) any person on whom any liabilities arising from an actual or proposed transaction identified in the policy will fall jointly with the insured or the insured's spouse.

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#### **Textual Amendments**

- F37** Words in s. 742 inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **198**

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*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

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### **743 Policies for the benefit of others who contribute to premiums**

- (1) This section applies if—
- (a) a policy of insurance is taken out by one person (“A”) wholly or partly for the benefit of another (“B”),
  - (b) B makes payments or contributions in respect of the premiums, and
  - (c) annual payments under the policy are wholly or partly attributable, on a just and reasonable basis, to the payments or contributions made by B.
- (2) So far as those benefits are so attributable, B is to be treated as the insured in relation to that policy for the purposes of sections 735 to 742.
- (3) So far as those benefits are so attributable, payments or contributions not made by B are ignored for the purposes of section 735(1)(b) (no part of the premiums to have been deductible in calculating the insured's income).

#### *Payments to adopters*

### **744 Payments to adopters: England and Wales**

No liability to income tax arises in respect of the following payments—

- (a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (c. 36) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,
- (b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt),
- (c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted or intend to adopt children),
- (d) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (c. 38) (see section 2(6) and (7) of that Act), and
- (e) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

### **745 Payments to adopters: Scotland**

No liability to income tax arises in respect of the following payments—

- (a) any payment [<sup>F38</sup>which is an excepted payment by virtue of paragraph (a) or (c) of subsection (2) of section 73 of the Adoption and Children (Scotland) Act 2007 (asp 4),] which is made to a person who has adopted or intends to adopt a child,
- (b) payments [<sup>F39</sup>which are excepted payments by virtue of paragraph (b) of that subsection,]
- <sup>F40</sup>(c) .....
- (d) payments of allowances in accordance with an adoption allowances scheme under [<sup>F41</sup>section 71] of that Act.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

### Textual Amendments

- F38** Words in s. 745(a) substituted (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), **Sch. 2 para. 13(a)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)  
Words in s. 745(a) substituted (E.W.N.I) (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), **Sch. 2 para. 6(a)**
- F39** Words in s. 745(b) substituted (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), **Sch. 2 para. 13(b)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)  
Words in s. 745(b) substituted (E.W.N.I) (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), **Sch. 2 para. 6(b)**
- F40** S. 745(c) repealed (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), **Sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F41** Words in s. 745(d) substituted (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), **Sch. 2 para. 13(c)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)  
Words in s. 745(d) substituted (E.W.N.I) (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), **Sch. 2 para. 6(c)**

## 746 Payments to adopters: Northern Ireland

No liability to income tax arises in respect of the following payments—

- (a) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,
- (b) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted or intends to adopt a child, and
- (c) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted or intend to adopt children).

## 747 Power to amend sections 744 to 746

The Treasury may by order amend section 744, 745 or 746 for the purposes of—

- (a) adding a description of payment, or
- (b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.

*Payments by persons liable to pool betting duty*

## 748 Payments by persons liable to pool betting duty

- (1) No liability to income tax arises in respect of a payment which meets condition A and either condition B or C.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

- (2) Condition A is that the payment is made, in consequence of a reduction in pool betting duty, by a person liable to that duty.
- (3) Condition B is that the payment is in order to meet (directly or indirectly) capital expenditure incurred in improving the safety or comfort of spectators at a ground to be used for the playing of association football.
- (4) Condition C is that the payment is to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.

## CHAPTER 9

### OTHER INCOME

#### *Interest only income*

#### **749 Interest paid under repayment supplements**

No liability to income tax arises in respect of interest paid under—

- (a) section 824 of ICTA (repayment supplements: individuals and others), or
- (b) section 283 of TCGA 1992 (repayment supplements).

#### **[<sup>F42</sup>749A Interest on tax overpaid**

No liability to income tax arises in respect of interest paid under section 826 of ICTA (interest on tax overpaid).]

#### **Textual Amendments**

**F42** S. 749A inserted (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. 635](#) (with [Sch. 2 Pts. 1, 2](#))

#### **750 Interest from tax reserve certificates**

No liability to income tax arises in respect of interest from tax reserve certificates issued by the Treasury.

#### **751 Interest on damages for personal injury**

- (1) No liability to income tax arises in respect of interest on damages for personal injury or death if—
  - (a) it is included in a sum awarded by a court,
  - (b) it does not relate to the period between the making and satisfaction of the award, and
  - (c) in the case of an award by a court in a country outside the United Kingdom, it is exempt from any charge to tax in that place.
- (2) No liability to income tax arises in respect of interest if—

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*Status: Point in time view as at 01/10/2009.*

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- (a) it is included in a payment in satisfaction of a cause of action (including a payment into court), and
  - (b) it would fall within subsection (1) if it were included in a sum awarded by a court in respect of a cause of action.
- (3) In subsection (1)—
- “damages” in Scotland includes solatium, and
  - “personal injury” includes disease and impairment of physical or mental condition.

## 752 Interest under employees' share schemes

- (1) This section applies if—
- (a) a scheme is set up to comply with section <sup>[F43]</sup>682(2)(b) of the Companies Act 2006 (c. 46) (financial assistance for the purposes of an employees' share scheme), and
  - (b) under the scheme the trustees receive interest from a participant in the scheme.
- (2) So far as the scheme requires the trustees to pay to the company an equivalent amount as interest, no liability to income tax arises under Chapter 2 of Part 4 for the trustees in respect of the interest they receive.

### Textual Amendments

**F43** Words in s. 752(1)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **12**

## 753 Interest on repayment of student loan

- (1) No liability to income tax arises in respect of interest if—
- (a) it is paid to a person to whom a student loan has been made, and
  - (b) it relates to an amount repaid to the person after being recovered from the person in respect of the loan.
- (2) In this section “student loan” means a loan made under—
- section 22 of the Teaching and Higher Education Act 1998 (c. 30),
  - section 73(f) of the Education (Scotland) Act 1980 (c. 44), or
  - Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)).

## 754 Redemption of funding bonds

- (1) The redemption of funding bonds is not treated as the payment of interest on a debt for income tax purposes if their issue was treated under section 380 of this Act or <sup>[F44]</sup>section 413 of CTA 2009] as the payment of interest on the debt.
- (2) In this section “funding bonds” includes any bonds, stocks, shares, securities or certificates of indebtedness.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

### Textual Amendments

- F44** Words in s. 754(1) substituted (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. 636** (with Sch. 2 Pts. 1, 2)

## 755 Interest on foreign currency securities etc. owned by non-UK residents

- (1) This section applies to interest on—
- such foreign currency securities issued by a local authority or a statutory corporation as the Treasury direct, and
  - such foreign currency loans made to a statutory corporation as the Treasury direct.
- (2) No liability to income tax arises in respect of interest to which this section applies if—
- in the case of interest on a security, its beneficial owner is a non-UK resident, and
  - in the case of interest on a loan, the person for the time being entitled to repayment or eventual repayment is a non-UK resident.
- (3) But interest is not exempt under subsection (2) because a person is a non-UK resident if it is treated as another person's income under—
- Chapter 5 of Part 5 (settlements: amounts treated as income of settlor), or  
<sup>[F45]</sup>Chapter 2 of Part 13 of ITA 2007] (anti-avoidance provisions: transfer of assets abroad).
- (4) In this section—
- “company” means a company, as defined in section <sup>[F46]</sup>1(1) of the Companies Act <sup>[F47]</sup>2006 (c. 46)<sup>[F48]</sup>....,
- “foreign currency”, in relation to loans and securities, has the meaning given by section 756, and
- “statutory corporation” means—
- a corporation incorporated by an Act (other than a company), or
  - any other corporation on which functions connected with carrying on an undertaking are conferred by an Act or by an order made under or confirmed by an Act.

### Textual Amendments

- F45** Words in s. 755(3) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 574** (with transitional provisions and savings in Sch. 2)
- F46** Word in s. 755(4) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **3(6)**
- F47** Words in s. 755(4) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **3(6)**
- F48** Words in s. 755(4) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **3(6)**



*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

## **756 Which securities and loans are foreign currency ones for section 755**

- (1) For the purposes of section 755, a security or loan is a foreign currency one if under its terms the currency to be used for repayment is not sterling.
- (2) Subsection (1) is subject to the following qualifications.
- (3) A security issued before 6th April 1982 is a foreign currency one if under its terms the currency to be used for repayment is not that of a country specified in Schedule 1 to the Exchange Control Act 1947 (c. 14) at the time of the issue of the security.
- (4) A loan made before that date is a foreign currency one if under its terms the currency to be used for repayment is not that of a country specified in that Schedule at the time the loan was made.
- (5) If in the case of a security there is an option as to the currency to be used for repayment, the security is only to be treated as a foreign currency one if the option is exercisable only by its holder.
- (6) If in the case of a loan there is an option as to the currency to be used for repayment, the loan is only to be treated as a foreign currency one if the option is exercisable only by the person for the time being entitled to repayment or eventual repayment.

### **[<sup>F49</sup>756A Interest on certain deposits of victims of National-Socialist persecution**

- (1) No liability to income tax arises in respect of interest which is paid—
  - (a) to or in respect of a victim of National-Socialist persecution,
  - (b) under a qualifying compensation scheme, and
  - (c) for a qualifying purpose in respect of a qualifying deposit of the victim.
- (2) A scheme is a qualifying compensation scheme if—
  - (a) it is constituted (whether under the law of any part of the United Kingdom or elsewhere) by an instrument in writing, and
  - (b) the purpose of the scheme, or one of its purposes, is to make payments of interest to or in respect of victims of National-Socialist persecution for qualifying purposes in respect of qualifying deposits.
- (3) Interest is paid for a qualifying purpose in respect of a deposit if—
  - (a) it is paid for meeting a liability in respect of interest on the deposit, or
  - (b) it is paid for compensating for the effects of inflation on the deposit.
- (4) In relation to a victim of National-Socialist persecution, a deposit is a qualifying deposit if it was made—
  - (a) by, or on behalf of, the victim, and
  - (b) on or before 5th June 1945.
- (5) In this section “deposit” has the [<sup>F50</sup>same meaning as in Chapter 19 of Part 15 of ITA 2007 (see section 983 of that Act)]

#### **Textual Amendments**

- F49** S. 756A inserted (with effect as mentioned in s. 64(7) of the amending Act) by [Finance Act 2006](#) (c. 25), s. 64(2) (with s. 64(9)-(12))

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

**F50** Words in s. 756A(5) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 575](#) (with transitional provisions and savings in Sch. 2)

### *Interest and royalty payments*

#### **757 Interest and royalty payments: introduction**

- (1) Sections 758 to 767 make provision for an exemption from income tax in respect of certain interest and royalty payments.
- (2) They give effect to Council Directive [2003/49/EC](#) of 3rd June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different member States [<sup>F51</sup>, as amended by Council Directives [2004/66/EC](#) and [<sup>F52</sup>, [2004/76/EC](#) and [2006/98/EC](#) <sup>F53</sup>] (“the Directive”).
- (3) Specifically—
  - (a) section 758 sets out the conditions to be met for the exemption to apply,
  - (b) sections 759 to 761 explain certain terms used in those conditions,
  - (c) section 762 confers powers on the [<sup>F54</sup>Commissioners] to make regulations about exemption notices,
  - (d) sections 763 and 764 make provision for limiting the exemption in the case of certain special relationships,
  - (e) section 765 contains anti-avoidance provisions,
  - (f) section 766 contains interpretation provisions, and
  - (g) section 767 confers power on the Treasury to amend references in sections 757 to 766 to the Directive.

[<sup>F55</sup>(4) See section 914 of ITA 2007 for provision enabling a company to make a royalty payment gross if it reasonably believes that the payment is exempt from income tax as a result of section 758 of this Act.]

#### **Textual Amendments**

- F51** Words in s. [757\(2\)](#) inserted (8.11.2005) by The Exemption From Income Tax For Certain Interest and Royalty Payments (Amendment to Section 97(1) of the Finance Act 2004 and Section 757(2) of the Income Tax (Trading and Other Income) Act 2005) Order 2005 ([S.I. 2005/2899](#)), {art. 3}
- F52** Words in s. [757\(2\)](#) substituted (1.1.2007 with effect as mentioned in art. 1(2)) by The Exemption from Income Tax for Certain Interest and Royalty Payments (Amendment of Section 757(2) of the Income Tax (Trading and Other Income) Act 2005) Order 2006 ([S.I. 2006/3288](#)), {art. 2}
- F53** Council [Directive 2006/98/EC](#); OJ No. L363, 20.12.2006, p. 129.
- F54** Word in s. [757\(3\)](#) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), [Sch. 4 para. 132\(3\)\(f\)](#); [S.I. 2005/1126](#), [art. 2\(2\)\(h\)](#)
- F55** [S. 757\(4\)](#) inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 576](#) (with transitional provisions and savings in Sch. 2)

#### **758 Exemption for certain interest and royalty payments**

- (1) No liability to income tax arises in respect of a payment of interest or a payment of a royalty if, at the time the payment is made, conditions A to D are met.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

- (2) Condition A is that the person making the payment is—
- (a) a UK company, but not such a company's permanent establishment in a territory other than the United Kingdom, or
  - (b) a UK permanent establishment of an EU company.

See section 759 as to when a permanent establishment is to be treated as the person making the payment.

- (3) Condition B is that the person beneficially entitled to the income in respect of which the payment is made is an EU company, but not such a company's UK permanent establishment or non-EU permanent establishment.

See section 760 as to when a permanent establishment is to be treated as the person beneficially entitled to the income in respect of which the payment is made.

- (4) Condition C is that the company in condition A and the company in condition B are 25% associates (see section 761).

- (5) Condition D is that, if the payment is a payment of interest, [<sup>F56</sup>the Commissioners for Her Majesty's Revenue and Customs][<sup>F57</sup>have] issued an exemption notice in accordance with regulations under section 762.

- (6) This section is subject to—
- sections 763 and 764 (special relationships), and  
section 765 (anti-avoidance).

#### Textual Amendments

**F56** Words in s. 758(5) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), Sch. 4 para. 132(2); S.I. 2005/1126, art. 2(2)(h)

**F57** Word in s. 758(5) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50, 53(1), Sch. 4 para. 133(6); S.I. 2005/1126, art. 2(2)(h)

### 759 The person making the payment

- (1) This section supplements condition A in section 758.
- (2) It applies in a case where a company is resident in one territory and has a permanent establishment in another territory.
- (3) The permanent establishment (and not the company) is to be treated as the person making the payment so far as (within the meaning of Article 1(3) of the Directive) the payment represents a tax-deductible expense for the permanent establishment in the territory in which it is situated.

### 760 The person beneficially entitled to the payment

- (1) This section supplements condition B in section 758.
- (2) It applies in a case where an EU company has a UK permanent establishment or a non-EU permanent establishment.

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*Status: Point in time view as at 01/10/2009.*

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- (3) The permanent establishment (and not the company) is to be treated as the person beneficially entitled to the income in respect of which the payment is made so far as subsections (4) and (5) apply to the payment.
- (4) This subsection applies to the payment if (within the meaning of Article 1(5) of the Directive) it arises in respect of a debt-claim, right or use of information which is effectively connected with the permanent establishment.
- (5) This subsection applies to the payment if (within the meaning of Article 1(5) of the Directive) it represents income in respect of which the permanent establishment is subject in the territory in which it is situated to United Kingdom corporation tax or a tax corresponding to that tax.

### **761 Meaning of “25% associates”**

For the purposes of condition C in section 758, two companies are 25% associates if—

- (a) one holds directly—
  - (i) 25% or more of the capital in the other, or
  - (ii) 25% or more of the voting rights in the other, or
- (b) a third company holds directly—
  - (i) 25% or more of the capital in each of them, or
  - (ii) 25% or more of the voting rights in each of them.

### **762 Interest payments: exemption notices**

- (1) [<sup>F58</sup>the Commissioners for Her Majesty’s Revenue and Customs] may make regulations about exemption notices under section 758(5).
- (2) The regulations may in particular make provision for or in connection with—
  - (a) enabling an exemption notice to be issued only on the request of a person of a prescribed description,
  - (b) requiring a person requesting the issue of an exemption notice to certify that conditions A to C in section 758 are met and that section 765 (anti-avoidance) does not apply,
  - (c) the information to be provided in the certificate,
  - (d) the person to whom an exemption notice is to be given,
  - (e) in a case where section 763 (special relationships) applies or may apply to a payment of interest, requiring an exemption notice to specify—
    - (i) the amount of the payment in relation to which the notice has effect, or
    - (ii) the method to be used for determining that amount,
  - (f) imposing a time limit for the issue of an exemption notice,
  - (g) imposing notification requirements,
  - (h) the cancellation of exemption notices by the [<sup>F59</sup>Commissioners] ,
  - (i) prescribing circumstances in which exemption notices are to become ineffective,
  - (j) the making of appeals (for example, against a refusal to grant, or the cancellation of, an exemption notice),
  - (k) authorising, in cases where—
    - (i) an exemption notice has been issued,

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(ii) tax has not been deducted from a payment of interest, and  
 (iii) any of the conditions in section 758 were not met in the case of the payment,  
 the recovery of that tax by assessment or by deduction from subsequent payments.

#### Textual Amendments

- F58** Words in s. 762(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(2\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)
- F59** Word in s. 762(2) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), ss. 50, 53\(1\), Sch. 4 para. 132\(3\)\(g\)](#); S.I. 2005/1126, [art. 2\(2\)\(h\)](#)

### 763 Special relationships

- (1) This section applies if—
- (a) apart from this section, section 758 would apply in relation to a payment of interest or of a royalty,
  - (b) at the time the payment is made there is a special relationship (within the meaning of Article 4(2) of the Directive)—
    - (i) between the company in condition A of section 758 and the company in condition B of that section, or
    - (ii) between one of those companies and another person, and
  - (c) owing to the special relationship, the amount of the payment exceeds the amount which would have been paid in the absence of the relationship (“the arm's length amount”).
- (2) Sections 757 to 767, apart from this section and section 764, have effect in relation to only so much of the payment as does not exceed the arm's length amount (which may be nil).
- (3) Nothing in this section or section 764 affects any relief which may be allowed under any arrangements having effect under section 788 of ICTA (double taxation relief by agreement with other territories).

### 764 Application of ICTA provisions about special relationships

- (1) The provisions in ICTA mentioned in subsections (2) and (3) apply in relation to section 763 as if that section were a special relationship provision within the meaning of those provisions.
- (2) In the case of a payment of interest, those provisions are subsections (2) to (4) of section 808A of ICTA (interest: special relationship).
- (3) In the case of a payment of a royalty, those provisions are subsections (2) to (7) and (9) of section 808B of ICTA (royalties: special relationship).
- (4) In those provisions as applied in relation to section 763, expressions also used in sections 757 to 767 have the same meaning as in those sections.

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## 765 Anti-avoidance

- (1) Section 758 does not apply in relation to a payment of interest if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of that section by means of that creation or assignment.
- (2) Section 758 does not apply in relation to a payment of a royalty if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the right in respect of which the royalty is paid to take advantage of that section by means of that creation or assignment.

## 766 Interest and royalty payments: interpretation

In sections 757 to 767—

“company” has the same meaning as the expression “company of a member State” has for the purposes of the Directive (see Article 3(a) of the Directive),

“debt-claim” has the same meaning as in the Directive,

“the Directive” has the meaning given by section 757(2),

“EU company” means a company resident in a member State other than the United Kingdom,

“interest” and “royalties” have the meaning given by Article 2 of the Directive,

“non-EU permanent establishment” means a permanent establishment in a territory other than a member State,

“UK company” means a company resident in the United Kingdom, and

“UK permanent establishment” means a permanent establishment in the United Kingdom.

## 767 Power to amend references to the Directive by order

- (1) The Treasury may by order make such provision amending any reference in sections 757 to 766 to, or to a provision of,—
  - (a) the Directive, or
  - (b) any instrument referred to in those sections by virtue of an order made under this section,
 as appears to them appropriate for the purpose of giving effect to any Council Directive adopted after 8th April 2004 amending or replacing the Directive.
- (2) This includes a power to make provision amending any such reference as it applies to [F60sections 914 to 916 of ITA 2007](payment of royalties without deduction of tax) as a result of [F61section 917(2) of that Act] .

### Textual Amendments

**F60** Words in s. 767(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 577\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))

**F61** Words in s. 767(2) substituted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 577\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))

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### *Income from commercial occupation of woodlands*

#### **768 Commercial occupation of woodlands**

- (1) No liability to income tax arises under Chapter 8 of Part 5 (income not otherwise charged) in respect of income arising from the commercial occupation of woodlands in the United Kingdom.
- (2) For this purpose the occupation of woodlands is commercial if the woodlands are managed—
  - (a) on a commercial basis, and
  - (b) with a view to the realisation of profits.

### *Housing grants*

#### **769 Housing grants**

- (1) No liability to income tax arises in respect of a payment if it is made—
  - (a) under an enactment relating to the giving of financial assistance for the provision, maintenance or improvement of housing accommodation or other residential accommodation, and
  - (b) by way of grant or other contribution towards expenses.
- (2) It does not matter whether—
  - (a) the payment is made to the person who incurs the expenses, or
  - (b) the expenses have been, or are to be, incurred.
- (3) Subsection (1) does not apply so far as the payment is made towards an expense which is deductible in calculating income for any income or corporation tax purpose.

### *Approved share incentive plan distributions*

#### **770 Amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment**

- (1) This section applies if—
  - (a) shares are awarded to a participant under an approved share incentive plan, and
  - (b) the condition in section 392(3) or (5) is met at the time the shares in question are so awarded (earnings within ITEPA 2003).

This is subject to subsection (4).

- (2) No liability to income tax arises for the participant in respect of—
  - (a) the amount applied by the trustees in acquiring dividend shares on behalf of the participant, or
  - (b) any amount retained under paragraph 68(2) of Schedule 2 to ITEPA 2003 (amount of cash dividend not reinvested).
- (3) Subsection (2) does not affect any liability arising as a result of—
  - (a) the retained amount later being paid out (see sections 393 and 406), or

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- (b) the dividend shares ceasing to be subject to the plan (see sections 394 and 407).
- (4) This section does not apply if the main purpose or one of the main purposes of the arrangements under which the shares are awarded or acquired is the avoidance of tax or national insurance contributions.
- (5) This section forms part of the SIP code (see section 488 of ITEPA 2003: approved share incentive plans).
- (6) Accordingly, expressions used in this section and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (7) In particular—
  - (a) for the meaning of “dividend shares” see paragraph 62(3)(b) of that Schedule,
  - (b) for the meaning of “participant” see paragraph 5(4) of that Schedule, and
  - (c) for the meaning of “the trustees” see paragraphs 2(2) and 71(1) of that Schedule.

#### *Foreign income of consular officers and employees*

### **771 Relevant foreign income of consular officers and employees**

- (1) No liability to income tax arises in respect of relevant foreign income of a consular officer or employee in the United Kingdom for a foreign state if—
  - (a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
  - (b) the officer or employee meets conditions A to C.
- (2) Condition A is that the officer or employee is not—
  - (a) a British citizen,
  - (b) a British overseas territories citizen,
  - (c) a British National (Overseas), or
  - (d) a British Overseas citizen.
- (3) Condition B is that the officer or employee is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as a consular officer or employee of the state in question.
- (4) Condition C is that the officer or employee—
  - (a) is a permanent employee of that state, or
  - (b) was not ordinarily UK resident immediately before becoming a consular officer or employee in the United Kingdom of that state.
- (5) In this section and section 772—
  - “consular officer or employee” includes any person employed for the purposes of the official business of a consular officer at—
    - (a) any consulate,
    - (b) any consular establishment, or
    - (c) any other premises used for those purposes, and



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“reciprocal arrangement” means a consular convention or other arrangement with a foreign state, making similar provision to that made by this section and sections 302, 646A and 681A of ITEPA 2003 in the case of Her Majesty's consular officers or employees in that state.

#### **772 Further provisions about Orders under section 771**

- (1) An Order in Council under section 771 may limit the operation of that section in relation to a state in any way appearing to Her Majesty appropriate having regard to the reciprocal arrangement with the state.
- (2) An Order under that section may be made so as to have effect from a date earlier than that on which it is made, but not earlier than the reciprocal arrangement in question comes into force.
- (3) An Order under that section may contain such transitional provisions as appear to Her Majesty appropriate.
- (4) A statutory instrument containing an Order under that section is subject to annulment in pursuance of a resolution of the House of Commons.

#### *Income of non-UK residents from certain securities*

#### **773 Income from Inter-American Development Bank securities**

- (1) No liability to income tax arises for a non-UK resident in respect of income from a security issued by the Inter-American Development Bank if the liability only arises because one or more of circumstances A to C apply.
- (2) Circumstance A is that the security is issued in the United Kingdom or in sterling.
- (3) Circumstance B is that the income is made payable or paid in the United Kingdom or in sterling.
- (4) Circumstance C is that the Bank maintains an office or other place of business in the United Kingdom.

#### **774 Income from securities issued by designated international organisations**

- (1) No liability to income tax arises for a non-UK resident in respect of income from a security issued by an organisation if—
  - (a) the organisation has been designated by the Treasury for the purposes of this section, and
  - (b) the liability only arises because one or more of circumstances A to C apply.
- (2) Circumstance A is that the security is issued in the United Kingdom or in sterling.
- (3) Circumstance B is that the income is made payable or paid in the United Kingdom or in sterling.
- (4) Circumstance C is that the organisation maintains an office or other place of business in the United Kingdom.
- (5) The Treasury may by order designate for the purposes of this section—

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- (a) any of the Communities,
  - (b) the European Investment Bank,
  - (c) any international organisation that meets conditions A and B.
- (6) Condition A is that one of its members is the United Kingdom or any of the Communities.
- (7) Condition B is that the agreement under which that member became a member provides for the same kind of exemption from tax for income from securities issued by the organisation as this section provides.

### *Other*

#### **775 Income towards reducing the national debt**

- (1) This section applies if property is held on trust in accordance with directions which are valid and effective under section 9 of the Superannuation and other Trust Funds (Validation) Act 1927 (c. 41) (validation of trust funds for the reduction of the national debt).
- (2) No liability to income tax arises in respect of any of the following—
- (a) income arising from the property,
  - (b) income arising from the accumulation of that income, and
  - (c) profits of any description otherwise accruing to the property and liable to be accumulated under the trust.

#### **776 Scholarship income**

- (1) No liability to income tax arises in respect of income from a scholarship held by an individual in full-time education at a university, college, school or other educational establishment.
- (2) This exemption is subject to section 215 of ITEPA 2003 (under which only the scholarship holder is entitled to the exemption if the scholarship is provided by reason of another person's employment).
- [<sup>F62</sup>(2A) No liability to income tax arises in respect of income from a payment made under section 23C(5A) of the Children Act 1989 (duty to make payments to former relevant children who pursue higher education).]
- (3) In this section “scholarship” includes a bursary, exhibition or other similar educational endowment.

#### **Textual Amendments**

**F62** S. 776(2A) inserted (E.W.) (18.3.2011 for W., 22.8.2009 for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 21\(4\), 44\(4\)](#); S.I. 2011/824, [art. 2\(a\)](#); S.I. 2009/2273, [art. 2\(1\)](#)

#### **777 VAT repayment supplements**

No liability to income tax arises in respect of a sum paid by way of supplement under section 79 of VATA 1994 (VAT repayment supplements).

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## 778 Incentives to use electronic communications

No liability to income tax arises in respect of anything received by way of incentive under any regulations made in accordance with Schedule 38 to FA 2000 (regulations for providing incentives for electronic communications).

## 779 Gains on commodity and financial futures

- (1) No liability to income tax arises as a result of Chapter 8 of Part 5 (income not otherwise charged) in respect of a gain arising to a person in the course of dealing in—
  - (a) commodity or financial futures,
  - (b) traded options, or
  - (c) financial options.
- (2) The reference in subsection (1) to a gain arising in the course of dealing in commodity or financial futures includes a gain regarded as so arising under section 143(3) of TCGA 1992 (gains arising from transactions otherwise than in the course of dealing on a recognised futures exchange, involving authorised persons).
- (3) In this section—
  - “commodity or financial futures” means commodity futures or financial futures that are for the time being dealt in on a recognised futures exchange,
  - “financial option” has the meaning given by section 144(8)(c) of TCGA 1992, and
  - “traded option” has the meaning given by section 144(8)(b) of that Act.

## 780 Disabled person's vehicle maintenance grant

- (1) No liability to income tax arises in respect of a disabled person's vehicle maintenance grant.
- (2) For this purpose a “disabled person's vehicle maintenance grant” means a grant to any person owning a vehicle that is made under—
  - (a) [<sup>F63</sup>paragraph 10 of Schedule 1 to the National Health Service Act 2006 or paragraph 10 of Schedule 1 to National Health Service (Wales) Act 2006]
  - (b) section 46(3) of the National Health Service (Scotland) Act 1978 (c. 29), or
  - (c) Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

### Textual Amendments

**F63** Words in s, 780(2)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 276](#) (with Sch. 3 Pt. 1)

## 781 Payments under New Deal 50plus

- (1) No liability to income tax arises in respect of a payment that is made—
  - (a) by way of training grant under the “New Deal 50plus” scheme, and
  - (b) to a person as a participant in that scheme.
- (2) For this purpose the “New Deal 50plus” scheme means —

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- (a) the scheme under section 2(2) of the Employment and Training Act 1973 (c. 50) known as “New Deal 50plus”, or
- (b) the corresponding scheme under section 1 of the Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)).

## **782 Payments under employment zone programme**

- (1) No liability to income tax arises in respect of a payment that is made to a person as a participant in an employment zone programme.
- (2) For this purpose an “employment zone programme” means an employment zone programme established for an area or areas designated under section 60 of the Welfare Reform and Pensions Act 1999 (c. 30).

### **[<sup>F64</sup>782A Domestic microgeneration**

- (1) No liability to income tax arises in respect of income arising to an individual from the sale of electricity generated by a microgeneration system if—
  - (a) the system is installed at or near domestic premises occupied by the individual, and
  - (b) the individual intends that the amount of electricity generated by it will not significantly exceed the amount of electricity consumed in those premises.
- (2) In subsection (1)—
  - “domestic premises” means premises used wholly or mainly as a separate private dwelling, and
  - “microgeneration system” has the same meaning as in section 4 of the Climate Change and Sustainable Energy Act 2006.]

#### **Textual Amendments**

**F64** S. 782A inserted (19.7.2007 with effect as stated in s. 20(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 20\(1\)](#)

### **[<sup>F65</sup>782B Renewables obligation certificates for domestic microgeneration**

- (1) No liability to income tax arises in respect of the receipt by an individual of a renewables obligation certificate if—
  - (a) the individual receives the certificate in connection with the generation of electricity by a microgeneration system,
  - (b) the system is installed at or near domestic premises occupied by the individual, and
  - (c) the individual intends that the amount of electricity generated by it will not significantly exceed the amount of electricity consumed in those premises.
- (2) In subsection (1)—
  - “domestic premises” and “microgeneration system” have the same meaning as in section 782A, and
  - “renewables obligation certificate” means a certificate issued under section 32B of the Electricity Act 1989 or Article 54 of the Energy (Northern Ireland) Order 2003.]

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)*

### Textual Amendments

**F65** S. 782B inserted (19.7.2007 with effect as stated in s. 21(3) of the amending Act) by Finance Act 2007 (c. 11), s. 21(1)

## CHAPTER 10

### GENERAL

#### 783 General disregard of exempt income for income tax purposes

(1) Amounts of income which are exempt from income tax as a result of this Part (whether because the type of income concerned is exempt from every charge to income tax or because it is exempt from every charge that is relevant to those particular amounts) are accordingly to be ignored for all other income tax purposes.

[<sup>F66</sup>(2) There are exceptions to this in the following cases.

(2A) Interest on deposits in ordinary accounts with the National Savings Bank which is exempt under this Part from every charge to income tax is not to be ignored for the purpose of providing information.

(2B) Interest paid to or in respect of victims of National-Socialist persecution which is so exempt is not to be ignored for the purposes of sections 17 and 18 of TMA 1970 (information provisions relating to interest).]

(3) [<sup>F67</sup>These express exceptions to subsection (1) are] without prejudice to the existence of any other implied or express exception to that subsection (whether in connection with the provision of information or otherwise).

### Textual Amendments

**F66** S. 783(2)-(2B) substituted (19.7.2006) for s. 783(2) by Finance Act 2006 (c. 25), s. 64(3)(a) (with s. 64(10)-(12))

**F67** Words in s. 783(3) substituted (19.7.2006) by Finance Act 2006 (c. 25), s. 64(3)(b) (with s. 64(10)-(12))

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6.