



# Finance Act 2007

## 2007 CHAPTER 11

### PART 3

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

##### *Anti-avoidance*

#### **25 Managed service companies**

- (1) Schedule 3 contains provision about managed service companies.
- (2) That Schedule is deemed to have come into force on 6th April 2007.

#### **26 Restrictions on trade loss relief for partners**

Schedule 4 contains provision restricting reliefs for losses made by individuals carrying on trades in partnership.

#### **27 Extension of restrictions on allowable capital losses**

- (1) TCGA 1992 is amended as follows.
- (2) In section 8 (company's total profits to include chargeable gains)—
  - (a) in subsection (2), for the words from “does not include—” to the end substitute “ does not include a loss accruing to a company in such circumstances that if a gain accrued the company would be exempt from corporation tax in respect of it. ”, and
  - (b) omit subsections (2A) to (2C).
- (3) After section 16 insert—

*Status: Point in time view as at 01/04/2009.*

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**“16A Restrictions on allowable losses**

- (1) For the purposes of this Act, “allowable loss” does not include a loss accruing to a person if—
  - (a) it accrues to the person directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and
  - (b) the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage.
- (2) For the purposes of subsection (1)—
  - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
  - “tax advantage” means—
    - (a) relief or increased relief from tax,
    - (b) repayment or increased repayment of tax,
    - (c) the avoidance or reduction of a charge to tax or an assessment to tax, or
    - (d) the avoidance of a possible assessment to tax,
  - and for the purposes of this definition “tax” means capital gains tax, corporation tax or income tax.
- (3) For the purposes of subsection (1) it does not matter—
  - (a) whether the loss accrues at a time when there are no chargeable gains from which it could otherwise have been deducted, or
  - (b) whether the tax advantage is secured for the person to whom the loss accrues or for any other person.”
- (4) In section 288(1) (interpretation), in the definition of “allowable loss”, after “16” insert “, 16A ”.
- (5) In section 834(1) of ICTA (interpretation of the Corporation Tax Acts), in the definition of “allowable loss”, for the words from “or a loss” to the end substitute “ or a loss accruing to a company in the circumstances mentioned in section 16A of the 1992 Act ”.
- (6) The amendments made by this section have effect in relation to losses accruing on disposals made on or after 6th December 2006.

**F128 Restriction on expenses of management**

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<b>Textual Amendments</b>	
<b>F1</b>	S. 28 repealed (with effect in accordance with s. 1329(1) of the amending Act) by <a href="#">Corporation Tax Act 2009 (c. 4)</a> , s. 1329(1), <a href="#">Sch. 3 Pt. 1</a> (with <a href="#">Sch. 2 Pts. 1, 2</a> )

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## 29 Life policies etc: effect of rebated or reinvested commission

<sup>F2</sup>(1) .....

(2) In section 552 of that Act (information: duty of insurers), after subsection (12) insert—

“(13) For the purposes of this section, no account is to be taken of the effect of section 548A above or section 541A of ITTOIA 2005.”

(3) In ITTOIA 2005, after section 541 insert—

*“Rebated or reinvested commission*

### 541A Effect of rebated or reinvested commission in certain cases

(1) This section applies if—

- (a) a chargeable event within section 484(1)(a)(i) to (iii), (c) or (e) occurs in respect of a policy or contract,
- (b) commission in respect of the policy or contract has at any time been rebated or reinvested, and
- (c) condition A or B is met.

(2) For the purposes of performing the calculation in section 494 (total allowable deductions) for the chargeable event, the total amount of premiums under the policy or contract paid in the period mentioned in section 494(1) or (2)(b) is to be reduced by the total amount of commission attributable to those premiums that has been rebated or reinvested.

(3) Condition A is that the total amount of premiums under the policy or contract paid in a relevant period exceeds £100,000.

(4) Condition B is that—

- (a) at a time when the policy or contract was the taxable person's, the taxable person's policies and contracts exceeded the relevant threshold as respects a relevant period, and
- (b) premiums under the policy or contract were paid in that relevant period.

(5) In subsection (4)(a) “taxable person” means the person whose policy or contract the policy or contract is, immediately before the chargeable event.

(6) For the purposes of subsection (4)(a) a person's policies and contracts “exceed the relevant threshold” as respects a relevant period if the total amount of premiums under them paid in that relevant period exceeds the sum specified in subsection (3).

(7) In this section “relevant period” means—

- (a) the period beginning with the beginning of the tax year in which the chargeable event occurs and ending with the chargeable event, or
- (b) any of the 3 preceding tax years.

(8) The Treasury may by order—

- (a) substitute another sum for the sum for the time being specified in subsection (3);

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- (b) amend the definition of “relevant period”.

**541B Section 541A: further definitions**

- (1) This section supplements section 541A.
  - (2) “Commission”, in relation to a policy or contract, includes any passing of value to or for the benefit of an intermediary, or a person connected with an intermediary, that can reasonably be taken to represent a reward in respect of the policy or contract.
  - (3) Commission in respect of a policy or contract is “reinvested” if, as a result of a waiver of an entitlement to it, there is an increase in the total value of a relevant person's policies and contracts.
  - (4) The amount of commission reinvested is the amount of the increase.
  - (5) Commission in respect of a policy or contract is “rebated” if—
    - (a) value passes (directly or indirectly) from an intermediary, or a person connected with an intermediary, to or for the benefit of a relevant person (and the passing of value does not amount to the reinvestment of the commission), and
    - (b) the passing of value can reasonably be taken to be in respect of the commission.
  - (6) The amount of commission rebated is the amount of value passed.
  - (7) A policy or contract is a person's policy or contract if a gain arising in connection with it would be—
    - (a) a gain for which the person, or (if the person is an individual) the person's spouse or civil partner, would be liable to tax under this Chapter, or
    - (b) treated by virtue of section 547(1) of ICTA as forming part of the person's income.
  - (8) Any necessary apportionment is to be made (on a just and reasonable basis) as regards—
    - (a) commission which is attributable to two or more premiums, and
    - (b) any part of such commission that has been rebated or reinvested.
  - (9) Commission which is in respect of one or more policies or contracts (but is not attributable to particular premiums) is to be attributed to such premiums as is just and reasonable.
  - (10) In subsections (3) and (5), “relevant person” means—
    - (a) any of the policyholders (including any of the persons who hold the contract),
    - (b) a person who beneficially owns the rights under the policy or contract,
    - (c) if those rights are held on trust, any of the trustees, or
    - (d) a person connected with a person within any of paragraphs (a) to (c).”
- (4) The amendments made by this section have effect in relation to a policy or contract if—
- (a) it is made on or after 21st March 2007, or

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- (b) on or after that date, any of its terms are varied, or a right under it is exercised, so as to increase the benefits under it.

#### Textual Amendments

- F2** S. 29(1) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(p)**

### 30 Avoidance involving financial arrangements

Schedule 5 contains provision in relation to tax avoidance involving financial arrangements.

### 31 Companies carrying on business of leasing plant or machinery

Schedule 6 contains provision in relation to companies carrying on a business of leasing plant or machinery.

### 32 Restrictions on companies buying losses or gains: tax avoidance schemes

- (1) TCGA 1992 is amended as follows.
- (2) In section 184A(2) (losses accruing on disposals of pre-change assets not deductible from gains unless gains accrue on disposals of pre-change assets), omit “unless the gains accrue to the company on a disposal of a pre-change asset”.
- (3) In section 184B(2) (losses not deductible from gains accruing on disposals of pre-change assets unless losses accrue on disposals of pre-change assets), omit “unless the loss accrues to the company on a disposal of a pre-change asset”.
- (4) Section 70 of FA 2006 (which inserted sections 184A to 184F of TCGA 1992) is amended as follows.
- (5) In subsection (9) (special provision for qualifying changes of ownership and disposals before 5th December 2005)—
  - (a) for “The following subsection applies” substitute “ Subsections (10) to (12) apply ”,
  - (b) in paragraph (a), omit “or 184B”,
  - (c) in paragraph (c), for “at all subsequent times,” substitute “ immediately afterwards, ”,
  - (d) after that paragraph insert—
    - “(ca) no qualifying change of ownership occurs at any time in relation to the principal company of that group for the purposes of section 184A of TCGA 1992 directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage falling within subsection (1)(d) of that section, and”,
  - (e) omit paragraph (d) (together with the “and” following it), and
  - (f) in paragraph (e), omit “, or a qualifying gain for the purposes of section 184B of that Act,”.

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(6) For subsections (10) and (11) substitute—

“(10) Subsection (2) of that section has effect in relation to that qualifying loss subject to the following modifications.

(11) That subsection has effect as if there were inserted at the end of it “ unless the gains accrue to the company on a disposal of a pre-change asset ”.

(12) That subsection (modified as mentioned above) has effect as if the reference to a pre-change asset included an asset held before the relevant time by any company—

(a) which, immediately before that time, was a member of the same group of companies as the relevant company, and

(b) which, throughout the period beginning with that time and ending immediately after the making of the disposal referred to in that subsection, has remained under the control of the company which was the principal company of that group at the relevant time.

(13) Expressions which are used in subsections (9) to (12) have the same meaning as in sections 184A and 184C of TCGA 1992.”

(7) The amendment made by subsection (2) has effect in relation to gains accruing on disposals made on or after 21st March 2007.

(8) The amendment made by subsection (3) has effect in relation to losses accruing on disposals made on or after that date.

(9) The amendments made by subsections (5) and (6) have effect in relation to disposals made on or after that date; but the amendment made by subsection (5)(d) has no effect in relation to disposals made before 9th May 2007.

### **33 Lloyd's corporate members: restriction of group relief**

(1) In FA 1994, after section 227 insert—

#### **“227A Restriction of group relief**

(1) Losses of the last active underwriting year of a corporate member are not eligible for surrender by the corporate member as group relief to another company unless the group-relief continuity condition is satisfied.

(2) In this section “last active underwriting year”, in relation to a corporate member, means—

(a) if the corporate member writes insurance business in only one underwriting year, that underwriting year, and

(b) otherwise, the last underwriting year in which the corporate member writes insurance business.

(3) Where in an underwriting year—

(a) the corporate member writes an amount of insurance business which is insignificant when compared with that written by it in the preceding underwriting year, or

(b) the only insurance business written by the corporate member consists of the acceptance of reinsurance to close premiums,

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the underwriting year is not to be regarded for the purposes of subsection (2) (b) above as an underwriting year in which the corporate member writes insurance business.

- (4) In subsection (3)(b) above “reinsurance to close premium” means a premium or other consideration under a contract in pursuance of which, in accordance with the rules or practice of Lloyd's, one underwriting member agrees with another to meet liabilities arising from the latter's underwriting business in an underwriting year so that the accounts of the business for that year may be closed.
- (5) The group-relief continuity condition is satisfied if the corporate member (as the surrendering company) and the other company (as the claimant company) meet the conditions in section 402(2) or (3) of the Taxes Act 1988 throughout the period—
- (a) beginning with the last day of the last active underwriting year of the corporate member, and
  - (b) ending with the first day of the first underwriting year in which losses of the last active underwriting year are declared.”

- (2) The amendment made by subsection (1) has effect in relation to any case where the corporate member (as the surrendering company) and the other company (as the claimant company) first meet the conditions in section 402(2) or (3) of ICTA on or after 21st March 2007.

### **34 Employee benefit contributions**

- F<sup>3</sup>(1) .....
- F<sup>3</sup>(2) .....
- F<sup>3</sup>(3) .....
- F<sup>3</sup>(4) .....
- F<sup>3</sup>(5) .....
- F<sup>3</sup>(6) .....

- (7) Part 2 of ITTOIA 2005 (trading income) is amended as follows.

- (8) In section 38 (restriction of deductions for employee benefit contributions), for subsection (1) substitute—

“(1) This section applies if, in calculating for income tax purposes the profits of a trade of a person (“the employer”) for a period, a deduction would otherwise be allowable for the period in respect of employee benefit contributions made or to be made (but see subsection (4)).”

- (9) In section 39 (making of “employee benefit contributions), for subsection (1) substitute—

“(1) For the purposes of section 38, an “employee benefit contribution” is made if, as a result of any act or omission—

- (a) property is held, or may be used, under an employee benefit scheme,
- or

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- (b) there is an increase in the total value of property that is so held or may be so used (or a reduction in any liabilities under an employee benefit scheme).”
- (10) In section 41 (timing and amount of certain benefits), for “the third party” (in both places) substitute “ a scheme manager ”.
- (11) In section 42 (provision or payment out of employee benefit contributions)—
  - (a) in subsection (1), for “the third party”, in the first place, substitute “ a scheme manager ” and, in the second place, substitute “ the scheme manager ”,
  - (b) in subsection (3), for “the third party”, in the first place, substitute “ a scheme manager ” and, in the second place, substitute “ the scheme manager ”, and
  - (c) in subsection (5), for “third party” substitute “ scheme manager ”.
- (12) In section 44(1) (interpretation), for the definition of “the third party” substitute—
 

““scheme manager” means a person who administers an employee benefit scheme (acting in that capacity).”
- (13) The amendments made by this section have effect in relation to employee benefit contributions made on or after 21st March 2007.

#### Textual Amendments

- F3** S. 34(1)-(6) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### 35 Schemes etc designed to increase double taxation relief

- (1) Section 804ZA of ICTA (schemes and arrangements designed to increase relief) is amended as follows.
- (2) In subsection (8)(c), omit “resident in a territory outside the United Kingdom”.
- (3) After subsection (11) insert—
 

“(11A) In this section “foreign tax” includes any tax which for the purpose of allowing credit under any arrangements against corporation tax is treated by section 801 as if it were tax payable under the law of any territory outside the United Kingdom.”
- (4) The amendments made by this section have effect in relation to a credit for foreign tax which relates to—
  - (a) a payment of foreign tax on or after 6th December 2006, or
  - (b) income received on or after that date in respect of which foreign tax has been deducted at source,
 but see also subsections (6) and (7).
- (5) In subsection (4)—
  - (a) references to foreign tax are to be construed in accordance with section 804ZA(11A) of ICTA (as inserted by subsection (3) above), and
  - (b) the reference to tax deducted at source is to tax deducted (or treated as deducted) from income or treated as paid in respect of income.



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- (6) The DTR anti-avoidance provisions have effect in relation to any action (or failure to act) that occurs under any scheme or arrangement on or after 6th December 2006 (as well as in relation to the cases mentioned in section 87(3) of FA 2005 or subsection (4) above).
- (7) “The DTR anti-avoidance provisions” means section 804ZA of ICTA (as amended by this section), sections 804ZB and 80ZC of that Act and Schedule 28AB to that Act.

### *Capital allowances*

#### **F<sup>4</sup>36 Industrial and agricultural buildings allowances**

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##### **Textual Amendments**

- F4** S. 36 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 27 para. 28**

#### **F<sup>5</sup>37 Temporary increase in first-year capital allowances for small enterprises**

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##### **Textual Amendments**

- F5** S. 37 omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), **s. 75(4)(c)**

### *Insurance and friendly societies*

#### **38 Insurance companies: gross roll-up business etc**

- (1) Part 1 of Schedule 7 contains provisions relating to gross roll-up business, capital redemption business and miscellaneous minor matters relating to insurance companies.
- (2) The amendments made by that Part of that Schedule have effect—
  - (a) for the purposes of corporation tax, for periods of account of insurance companies beginning on or after 1st January 2007, and
  - (b) for the purposes of income tax, for the tax year 2007-08 and subsequent tax years.
- (3) Subsection (2) is subject to the transitional provisions in Part 2 of that Schedule.

#### **39 Insurance companies: basis of taxation etc**

- (1) Part 1 of Schedule 8 contains provision about the basis of taxation of insurance companies and related matters.
- (2) The amendments made by that Part of that Schedule have effect for periods of account of insurance companies beginning on or after 1st January 2007.

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(3) Subsection (2) is subject to the transitional provisions in Part 2 of that Schedule.

**40 Insurance companies: transfers etc**

Schedule 9 contains provision about transfers by insurance companies and related matters.

**41 Insurance companies: miscellaneous**

Schedule 10 contains miscellaneous provisions relating to insurance companies.

**42 Technical provisions made by general insurers**

Schedule 11 contains provision in relation to technical provisions made by general insurers.

**43 Lloyd's: cessation of business by corporate members**

(1) In FA 1994, after section 227A (inserted by section 33) insert—

**“227B Transfer of underwriting business without change of ownership**

(1) This section applies where, in accordance with the rules or practice of Lloyd's, a corporate member (“the successor”) has taken up the syndicate capacity of another corporate member (“the predecessor”).

(2) Section 343 of the Taxes Act 1988 (company reconstructions without a change of ownership) applies as if—

- (a) the trade mentioned in that section were the underwriting business of the predecessor,
- (b) the predecessor ceases to carry it on, and the successor begins to carry it on, at the end of the first underwriting year in which profits or losses of the predecessor's last active underwriting year are declared, and
- (c) subsections (8) to (10) and (12) were omitted.

(3) For the purposes of subsection (1) above the successor has taken up the predecessor's syndicate capacity if it has taken up the rights to participate in syndicates which were (or otherwise would be) offered to the predecessor.

(4) In subsection (2)(b) above “last active underwriting year” has the same meaning as in section 227A above (see subsections (2) to (4) of that section).”

(2) The amendment made by subsection (1) has effect in any case where the first underwriting year in which profits or losses of the predecessor's final underwriting year are declared is 2007 or a later underwriting year.

**44 Transfers of business by friendly societies to insurance companies etc**

Schedule 12 contains provisions about transfers of business by friendly societies to insurance companies etc.

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## 45 Tax exempt business of friendly societies

(1) Section 462 of ICTA (conditions for tax exempt business) is amended as follows.

(2) For subsection (1) substitute—

“(1) Subject to subsections (2) to (4) below, section 460 does not afford any exemption from corporation tax in relation to so much of the profits arising to a friendly society or insurance company from any business as is attributable to a policy which—

- (a) is not a qualifying policy (by virtue of sub-paragraph (2) of paragraph 6 of Schedule 15) and is not an excluded policy, and
- (b) would not be a qualifying policy (by virtue of that sub-paragraph) if all excluded policies were left out of account.

(1A) For the purposes of subsection (1) above a policy is an excluded policy if—

- (a) it is a policy held otherwise than with the friendly society or insurance company, or
- (b) the person who has the contract effecting the policy acquired the rights under it on an assignment (or, in Scotland, assignation) otherwise than for money or money's worth.”

(3) In subsection (2), for “under section 460(1) for profits arising from any part of a life or endowment” substitute “in relation to profits arising from any part of a ”.

<sup>F6</sup>(4) .....

<sup>F7</sup>(5) .....

(6) The amendments made by this section are deemed to have come into force on 1st January 2007.

### Textual Amendments

**F6** S. 45(4) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)

**F7** S. 45(5) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)

## 46 Purchased life annuities: self-assessment

(1) In section 437(1C) of ICTA (general annuity business), omit paragraphs (c)(i) and (d)(i).

(2) In section 656 of that Act (purchased life annuities other than retirement annuities), omit subsections (5) and (6).

(3) In section 658 of that Act (supplementary), omit subsections (1) and (4) to (6).

(4) In section 828(4) of that Act (parliamentary procedure for orders and regulations), omit “658(3)”.

(5) In section 717 of ITTOIA 2005 (exemption for part of purchased life annuity payment), omit subsection (3).

(6) Omit section 723 of that Act (officer of Revenue and Customs to determine certain questions).

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- (7) In section 724 of that Act (regulations)—
- (a) in subsection (1)(a), for “723” substitute “ 722 ”, and
  - (b) omit subsection (2).
- (8) In section 873(3) of that Act (parliamentary procedure for orders and regulations), omit paragraph (b).
- (9) The amendments made by subsections (1) to (3) and (5) to (7) come into force on such day as the Treasury may by order appoint; and different days may be appointed for different purposes.

**Commencement Information**

- II** S. 46(1)-(3)(5)-(7) in force at 6.4.2008 for the purposes of the amendments made by those sub-sections by S.I. 2008/561, **art. 2**

*Repos*

**47 Sale and repurchase of securities**

- (1) Schedule 13 contains provision for corporation tax purposes about the sale and repurchase of securities.
- (2) Schedule 14 contains minor and consequential amendments in relation to the sale and repurchase of securities.
- (3) The Treasury may by order make such other amendments (including repeals and revocations) of enactments or instruments as may appear appropriate in consequence of, or otherwise in connection with, those Schedules.
- (4) Schedule 13, and the amendments made by Schedule 14, have effect in accordance with provision made by the Treasury by order.
- (5) Any order under this section—
  - (a) may make different provision for different purposes, and
  - (b) may contain transitional provision and savings.

*CFCs*

**48 Controlled foreign companies**

Schedule 15 contains provision in relation to controlled foreign companies.

*R&D*

**<sup>FS</sup>49 Vaccine research relief: amount of deduction for SMEs**

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**Textual Amendments**

- F8** S. 49 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**<sup>F9</sup>50 Research and development tax relief: definition of SME etc**

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**Textual Amendments**

- F9** S. 50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Venture capital schemes etc*

**51 Venture capital schemes etc**

Schedule 16 contains provision about venture capital schemes (and provision consequential on such provision).

*REITs*

**52 Real Estate Investment Trusts**

- (1) Schedule 17 contains provisions about Real Estate Investment Trusts.
- (2) The amendments made by that Schedule have effect in respect of—
  - (a) an accounting period, of a company to which Part 4 of FA 2006 (REITs) applies, which begins on or after 1st January 2007,
  - (b) an accounting period, of the principal company of a group to which that Part applies, which begins on or after 1st January 2007, and
  - (c) a distribution to which section 121 of FA 2006 applies and which is received on or after 1st January 2007.

*Alternative finance*

**53 Alternative finance investment bond**

- (1) In FA 2005, after section 48 insert—

**“48A Alternative finance arrangements: alternative finance investment bond: introduction**

- (1) Subject to section 52, arrangements fall within this section if—
  - (a) the arrangements provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),

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- (b) the arrangements identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
  - (c) the arrangements specify a period at the end of which they cease to have effect (“the bond term”),
  - (d) the bond-issuer undertakes under the arrangements—
    - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,
    - (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
    - (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),
  - (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
  - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
  - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who thereby becomes the bond-holder),
  - (h) the arrangements are a listed security on a recognised stock exchange (within the meaning of section 1005 of ITA 2007), and
  - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer (or would be if the bond-issuer applied those standards).
- (2) For the purposes of subsection (1)—
- (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
  - (b) bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
  - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but need not) be described as, or accompanied by a document described as, a declaration of trust,
  - (d) a reference to the management of assets includes a reference to disposal,
  - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
  - (f) the amount of the additional payments may be—
    - (i) fixed at the beginning of the bond term,
    - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
    - (iii) determined in some other way,
  - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of

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- the additional payments is a reference to the maximum amount of the additional payments,
- (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, and
  - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.
- (3) An order under section 1005 of ITA 2007 (recognised stock exchanges: designation) may designate a stock exchange for the purposes of that section in its application for the purposes of this section only.

#### **48B Alternative finance arrangements: alternative finance investment bond: effects**

- (1) Additional payments under arrangements falling within section 48A are alternative finance return for the purpose of this Chapter (subject to the provisions in section 51A about the treatment of discount).
- (2) For the purposes of an enactment about any tax (and irrespective of the position for other purposes)—
  - (a) a bond-holder shall not be treated as having a legal or beneficial interest in the bond assets,
  - (b) the bond-issuer shall not be treated as a trustee of the bond assets,
  - (c) profits and gains accruing to the bond-issuer in connection with the bond assets are profits and gains of the bond-issuer and not of the bond-holder (and do not arise to the bond-issuer in a fiduciary or representative capacity),
  - (d) payments made by the bond-issuer by way of redemption payment or additional payment are not made in a fiduciary or representative capacity, and
  - (e) a bond-holder shall not be entitled to relief for capital expenditure in connection with bond assets.
- (3) Arrangements falling within section 48A are securities for the purposes of an enactment about any tax (including Chapters 1 to 5 of Part 7 of ITEPA 2003); for which purpose—
  - (a) a reference to redemption shall be taken as a reference to making the redemption payment,
  - (b) a reference to interest shall be taken as a reference to alternative finance return, and
  - (c) for the purposes of section 84 the bond issuer shall be treated as being party as debtor to a capital market arrangement.
- (4) Arrangements falling within section 48A are a corporate bond, issued on the date on which the arrangements are entered into, for the purposes of section 117 of TCGA 1992 (qualifying corporate bonds) if—
  - (a) the capital is expressed in sterling,
  - (b) the arrangements do not include provision for the redemption payment to be in a currency other than sterling,

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- (c) entitlement to the redemption payment is not capable of conversion (directly or indirectly) into an entitlement to the issue of securities apart from other arrangements falling within section 48A, and
  - (d) the additional payments are not determined wholly or partly by reference to the value of the bond assets;
- and section 117(2) shall have effect for the purposes of this subsection as for the purposes of section 117(1).
- (5) Arrangements falling within section 48A shall not be treated—
    - (a) as a unit trust scheme for the purposes of TCGA 1992,
    - (b) as a unit trust scheme for the purposes of section 469 of ICTA or section 1007 of ITA 2007 (distributions),
    - (c) as an offshore fund for the purposes of Chapter 5 of Part 17 of ICTA (offshore funds), or
    - (d) as a relevant holding for the purposes of paragraph 4 of Schedule 10 to FA 1996 (loan relationships: collective investment schemes).
  - (6) A bond-issuer is not a securitisation company for the purposes of section 83 (unless it is one by virtue of arrangements which do not fall within section 48A).
  - (7) For the purposes of section 417 of ICTA (close companies)—
    - (a) a bond-holder is a loan creditor in respect of the bond-issuer;
    - (b) arrangements falling within section 48A shall be disregarded in the application of section 417(1)(d).
  - (8) For the purposes of Schedule 18 to ICTA (group relief)—
    - (a) a bond-holder is a loan creditor in respect of the bond-issuer;
    - (b) paragraph 1(5)(b) shall be disregarded in determining whether a person is an equity holder by virtue of arrangements falling within section 48A.”
  - (2) Chapter 5 of Part 2 of FA 2005 (alternative finance arrangements) is amended as follows.
  - (3) In section 46 (introduction)—
    - (a) in subsection (1), after “47A,” insert “ 48A, ”, and
    - (b) in subsection (2), after paragraph (d) (before “or” at the end) insert—
      - “(da) a bond-issuer within the meaning of section 48A below, but only in relation to any bond assets which are rights under arrangements falling within section 47 or 47A.”.
  - (4) In section 50(1) (treatment of alternative finance arrangements: companies), for “or 47A” substitute “, 47A or 48A ”.
  - (5) After section 51 insert—

#### **“51A Discount**

- (1) This section applies where part of the additional payments in respect of arrangements falling within section 48A equates in substance to discount (“the discount element”).



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- (2) The discount element shall not be treated as alternative finance return for the purposes of income tax.
- (3) The discount element shall be treated—
  - (a) in accordance with section 381 of ITTOIA 2005, or
  - (b) where the arrangements falling within section 48A are deeply discounted securities for the purpose of Chapter 8 of Part 4 of ITTOIA 2005, in accordance with that Chapter.”
- (6) In section 52 (provision not at arm's length)—
  - (a) in subsection (1), after “47A,” insert “ 48A, ”,
  - (b) in subsection (3), after “47A,” insert “ 48A, ” and
  - (c) in subsection (4), for “or 47A” substitute “ , 47A or 48A ”.
- (7) In section 53 (sale and purchase of asset)—
  - (a) in subsection (1) (and in the heading), for “or 47A” substitute “ , 47A or 48A ”, and
  - (b) in subsection (3), after “47A” insert “ or 48A ”.
- (8) In section 54 (return not to be treated as distribution)—
  - (a) the existing provision becomes subsection (1),
  - (b) after that subsection insert—
    - “(2) Neither additional payments nor any part of the redemption payment under arrangements falling within section 48A are to be treated by virtue of section 209(2)(e)(iii) of ICTA as being a distribution for the purposes of the Corporation Tax Acts.”, and
  - (c) the heading accordingly becomes “ **Return not to be treated as distribution** ”.
- (9) In Schedule 2 (supplementary provision), in paragraph 1(b) (definition of “relevant arrangements”), after “section” insert “ 48A, ”.
- (10) In section 117 of TCGA 1992 (qualifying corporate bonds), after subsection (6C) insert—
  - “(6D) Section 48B(4) of the Finance Act 2005 (alternative finance arrangements) provides for certain arrangements falling within section 48A to be a corporate bond for the purposes of this section.”
- (11) In section 127(1)(ca) of FA 1995 (persons not treated as UK representatives), for “subsection (5) of section 47” substitute “ Chapter 5 of Part 2 ”.
- (12) In section 148(5A) of FA 2003 (meaning of “permanent establishment”), for “subsection (5) of section 47” substitute “ Chapter 5 of Part 2 ”.
- (13) Section 56 of FA 2005 (commencement and transitional) shall have effect in relation to the commencement of this section—
  - (a) as if references to Chapter 5 of Part 2 of that Act were references to this section,
  - (b) as if references to 6th April 2005 were references to—
    - (i) 1st April 2007 in relation to corporation tax, and
    - (ii) 6th April 2007 in relation to income tax and capital gains tax, and

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(c) as if references to section 49 were references to sections 48A and 48B.

(14) But—

- (a) for the purposes of income tax and capital gains tax in relation to the disposal after 6th April 2007 of arrangements to which new section 48A applies (whenever entered into) that section and new section 48B shall be treated as always having had effect, and
- (b) an order made after the passing of this Act under section 1005 of ITA 2007 (recognised stock exchanges: designation) and by virtue of new section 48A(3) may be expressed—
  - (i) to have effect as from 1st April 2007 for the purposes of arrangements entered into on or after that date, and
  - (ii) for the purposes mentioned in paragraph (a), as always having had effect.

#### **54 Profit share agency**

In section 49A(3) of FA 2005 (profit share agency: principal not treated as entitled to agent's share of profits), insert at the end “ (and the agent is treated as entitled to the profits specified in subsection (1)(c) and (d)) ”.

#### *Trusts*

#### **55 Trust income**

- (1) In section 686A(2)(a) of ICTA (receipts to be treated as income subject to special rate of tax: payment by company), after “made” insert “ by way of qualifying distribution ”.
- (2) In Type 1(b) in section 482 of ITA 2007 (types of amount to be charged at special rates for trustees), after “made” insert “ by way of qualifying distribution ”.
- (3) The amendments made by this section have effect in respect of payments made to the trustees of a settlement on or after 6th April 2006.

#### **56 Trust gains on contracts for life insurance**

(1) Section 498 of ITA 2007 (trustees' tax pool) is amended as follows.

(2) In subsection (1)—

- (a) in Type 1, for “2 or 3” substitute “ 2, 3 or 3A ”, and
- (b) after Type 3 insert—

*“Type 3A* The amount of tax at the nominal rate on any amount in respect of which—

- (a) the trustees are liable to income tax under section 467 of ITTOIA 2005 (gains from contracts for life insurance etc),
- (b) the trustees are liable to income tax at the trust rate by virtue of section 482 above, and
- (c) tax at the savings rate is treated as having been paid by virtue of section 530 of ITTOIA 2005 (life insurance).”

(3) After subsection (2) insert—

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“(2A) In relation to Type 3A, the reference to the nominal rate is a reference to a rate equal to the difference between the trust rate and the savings rate.”

- (4) The amendments made by this section have effect in relation to gains arising to the trustees of a settlement on or after 6th April 2007.

#### *Other corporation tax measures*

### **57 Offshore funds**

- (1) In section 396 of ICTA (corporation tax: setting off of Case VI losses), in subsection (2) (losses to which subsection (1) does not apply), insert at the end “ or on a disposal to which Chapter 5 of Part 17 applies. ”
- (2) In section 756A of ICTA (definition of “offshore fund”), for subsection (3) substitute—
- “(3) In this section “collective investment scheme” means any arrangements which are a collective investment scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000 (see section 235 of that Act and orders made under subsection (5) of that section) or would be if the words “, within a period appearing to him to be reasonable,” were omitted from section 236(3)(a) of that Act.
- (4) But the reference to offshore funds in section 760(3)(a) does not include any arrangements which are not a collective investment scheme for the purposes of that Part of that Act.”
- (3) In section 842 of ICTA (investment trusts), after subsection (3) insert—
- “(3A) References in this section to income do not include income treated as arising under section 761(1)(a).”
- (4) In Schedule 27 to ICTA (distributing funds), in sub-paragraph (1)(c) of paragraph 6 (investments of offshore fund in other offshore funds which could, apart from that paragraph, be certified as distributing funds not to count towards limit in section 760(3)(a)), omit “without regard to the provisions of this paragraph.”
- (5) In section 152 of ITA 2007 (losses from miscellaneous transactions), in subsection (8), insert at the end “ except that income on which income tax is charged under section 761(1)(b)(i) of ICTA is not “section 1016 income” for the purposes of subsection (2)(a) ”.
- (6) The amendment made by subsection (1) has effect in relation to disposals on or after 1st April 2007.
- (7) The amendment made by subsection (3) has effect in relation to accounting periods beginning on or after the day on which this Act is passed.
- (8) The amendment made by subsection (4) has effect in relation to account periods (within the meaning of Chapter 5 of Part 17 of ICTA) beginning on or after 1st January 2007.
- (9) The amendment made by subsection (5) has effect in relation to transactions on or after 6th April 2007.

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## 58 Election out of special film rules for film production companies

<sup>F10</sup>(1) .....

(2) In paragraph 10 of Schedule 18 to FA 1998 (other claims and elections to be included in company tax return), insert at the end—

“(5) An election under section 32(7) of the Finance Act 2006 (election not to be a film production company) can only be made by being included in a company tax return (see section 32(8)(a) of that Act).”

### Textual Amendments

**F10** S. 58(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

## 59 Securitisation companies

(1) Section 83 of FA 2005 (continued application of old UK GAAP to securitisation companies during transitional period) is amended as follows.

(2) In subsection (1)(b) (old UK GAAP to apply to periods of account ending before 1st January 2008), insert at the beginning “(subject to subsection (7A)(a))”.

(3) After subsection (7) insert—

“(7A) The Treasury may by regulations—

- (a) make provision for subsection (1) to apply in relation to periods of account ending on or after 1st January 2008 but before a date specified by the regulations, and
- (b) make provision modifying any provision of, or made under, the Corporation Tax Acts in relation to the first period of account of securitisation companies in the case of which subsection (1) does not apply (whether by virtue of that subsection itself or regulations under paragraph (a)).

(7B) Regulations under subsection (7A)(a) may, in particular—

- (a) specify a date only in relation to specified descriptions of company,
- (b) specify different dates in relation to different descriptions of company, and
- (c) include provision for a company to elect that the regulations are to apply to it or provision for a company to elect that they are not to apply to it.”

(4) Section 84 of FA 2005 (power to make provision as to application of Corporation Tax Acts in relation to securitisation companies) is amended as follows.

(5) In subsection (3)(d), for “to that effect is made,” substitute “that they are to apply is made or that the regulations do not apply to a company if an election that they are not to apply is made,”.

(6) For subsection (5) substitute—

“(5) The regulations—

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- (a) may make incidental, supplementary, consequential or transitional provision or savings (including provision amending any provision of, or made under, the Taxes Acts (within the meaning of section 118(1) of TMA 1970)), and
- (b) may include provision having effect (in the case of provision relating to corporation tax) from the beginning of periods of account current when the regulations are made or (in the case of provision relating to income tax or capital gains tax) in relation to times before the regulations are made.”

*Other income tax measures*

**60 Gift aid: limits**

- (1) In section 418 of ITA 2007 (donations to charity by individuals: limits)—
  - (a) in subsection (2)(c), for “2.5%” substitute “ 5% ”, and
  - (b) in subsection (3), for “£250” substitute “ £500 ”.
- (2) In section 339 of ICTA (donations to charity)—
  - (a) in subsection (3B)(b), for “£250” substitute “ £500 ”, and
  - (b) in subsection (3DA)(c), for “2.5 per cent” substitute “ 5 per cent ”.
- (3) The amendment made by subsection (1) has effect in relation to gifts made on or after 6th April 2007.
- (4) The amendment made by subsection (2) has effect in relation to gifts made in an accounting period ending on or after 6th April 2007.

**61 Enterprise management incentives: excluded activities**

- (1) In Part 3 of Schedule 5 to ITEPA 2003 (enterprise management incentives: qualifying companies), in paragraph 19 (excluded activities: receipt of royalties or licence fees)—
  - (a) in sub-paragraph (4), for paragraphs (a) and (b) substitute—
    - “(a) by the relevant company, or
    - (b) by a company which was a qualifying subsidiary of the relevant company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”, and
  - (b) after sub-paragraph (7) insert—
    - “(8) If—
      - (a) the relevant company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the relevant company were subscriber shares, and
      - (b) the consideration for the old shares consisted wholly of the issue of shares in the relevant company,references in sub-paragraph (4) to the relevant company include the old company.”

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- (2) The amendments made by subsection (1) have effect in relation to options granted on or after 6th April 2007.
- (3) They also have effect in relation to a qualifying option within subsection (4), for the purpose of determining at any time on or after that date whether an activity is an excluded activity.
- (4) An option is within this subsection if it was granted before 6th April 2007 and, immediately before that date—
  - (a) it had not been exercised, and
  - (b) no disqualifying event had occurred in relation to it.
- (5) Subsection (6) applies in respect of an option within subsection (4) if—
  - (a) immediately before 6th April 2007—
    - (i) the right to exploit an intangible asset (“the asset”) was vested in the relevant company or a subsidiary of it (in either case, alone or jointly with others), and
    - (ii) the asset was a relevant intangible asset,
  - (b) at any time on or after that date, an activity carried on by the relevant company or a subsidiary of it would be an excluded activity by reason only of the receipt of royalties or licence fees attributable to the exploitation of the asset, and
  - (c) the activity would not be an excluded activity if the amendments made by subsection (1) had not been made.
- (6) The activity is to be treated, in relation to the option, as not being an excluded activity at that time.

## **62 Benefits code: whether employment is “lower-paid employment”**

- (1) In section 219 of ITEPA 2003 (exclusion of lower-paid employments from parts of benefits code: extra amounts to be added in connection with a car), omit subsections (5) and (6).
- (2) The repeal made by subsection (1) has effect for the tax year 2007-08 and subsequent tax years.

## **63 Armed forces redundancy schemes**

- (1) In section 411 of ITEPA 2003 (exception for payments and benefits for forces), the existing provision becomes subsection (1) and after that subsection insert—
 

“(2) This Chapter does not apply to a payment or other benefit provided under a scheme established by an order under section 1(1) of the Armed Forces (Pensions and Compensation) Act 2004.”
- (2) The amendments made by subsection (1) have effect for the tax year 2006-07 and subsequent tax years.

## **64 Armed forces: the Operational Allowance**

- (1) In ITEPA 2003, after section 297 insert—

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### **“297A Armed forces: the Operational Allowance**

- (1) No liability to income tax arises in respect of payments to members of the armed forces of the Crown of the Operational Allowance.
  - (2) The Operational Allowance is an allowance designated as such by the Secretary of State.”
- (2) The amendment made by subsection (1) has effect in relation to payments whenever made.

### **65 Service charge income**

- (1) Section 480 of ITA 2007 (meaning of “accumulated or discretionary income”) is amended as follows.
- (2) In subsection (3)(c) (income from service charges held on trust by relevant housing body), for the words after “charges” substitute “ which are paid in respect of dwellings in the United Kingdom and are held on trust. ”
- (3) For subsections (5) and (6) substitute—
  - “(5) In subsection (3)(c) “service charges” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (but as if that section also applied in relation to dwellings in Scotland and Northern Ireland).”
- (4) The amendments made by this section have effect for the tax year 2007-08 and subsequent tax years.

### **66 Charge on benefits received by former owner of property: late elections**

- (1) In paragraph 23 of Schedule 15 to FA 2004 (charge to income tax on benefits received by former owner of property), for sub-paragraphs (3) and (4) substitute—
  - “(3) The election must be made on or before—
    - (a) the relevant filing date, or
    - (b) such later date as an officer of Revenue and Customs may, in a particular case, allow.”
- (2) The amendment made by subsection (1) is deemed to have come into force on 21st March 2007.

### **67 Unpaid remuneration and employee benefit contributions**

- (1) Section 31 of ITTOIA 2005 (relationship between rules prohibiting and allowing deductions: trading income) is amended as follows.
- (2) In subsection (1) (priority of relevant permissive rules over relevant prohibitive rules), in paragraph (b) (sections to which that priority rule is subject), for “sections 48 (car or motor cycle hire) and” substitute “ section 36 (unpaid remuneration), section 38 (employee benefit contributions), section 48 (car or motor cycle hire) and section ”.
- (3) In subsection (3) (meaning of “relevant prohibitive rule”), after “sections” insert “ 36, 38, ”.

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- (4) Section 274 of ITTOIA 2005 (provision corresponding to section 31 of that Act in case of property income) is amended as follows.
- (5) In subsection (1)(b), for “sections 48 (car or motor cycle hire) and” substitute “ section 36 (unpaid remuneration), section 38 (employee benefit contributions), section 48 (car or motor cycle hire) and section ”.
- (6) In subsection (3), after “sections” insert “ 36, 38, ”.
- (7) The amendments made by this section have effect for the tax year 2007-08 and subsequent tax years.



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