



Finance Act 2012

2012 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

INCOME TAX: GENERAL

Anti-avoidance

9 Post-cessation trade or property relief: tax-generated payments or events

- (1) Part 4 of ITA 2007 (loss relief) is amended as follows.
- (2) In section 96(7) (post-cessation trade relief), after paragraph (b) insert—
 - “(ba) section 98A (denial of relief for tax-generated payments or events),”.
- (3) After section 98 insert—

“98A Denial of relief for tax-generated payments or events

- (1) Post-cessation trade relief is not available to a person in respect of a payment or an event which is made or occurs directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (and, accordingly, no section 261D claim may be made in respect of the payment or event).
- (2) For this purpose “relevant tax avoidance arrangements” means arrangements—
 - (a) to which the person is a party, and
 - (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability as a result of the availability of

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post-cessation trade relief (whether by making a claim for that relief or a section 261D claim).

(3) In this section—

- (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
- (b) “section 261D claim” means a claim under section 261D of TCGA 1992.”

(4) In section 125(6) (post-cessation property relief), after paragraph (b) insert—

“(ba) section 98A (denial of relief for tax-generated payments or events),”.

(5) The amendments made by subsections (2) and (3) have effect in relation to—

- (a) payments which are made on or after 12 January 2012 except where they are made pursuant to an unconditional obligation in a contract made before that date, or
- (b) events which occur on or after that date.

(6) The amendment made by subsection (4) has effect in relation to—

- (a) payments which are made on or after 13 March 2012 except where they are made pursuant to an unconditional obligation in a contract made before that date, or
- (b) events which occur on or after that date.

(7) In subsections (5)(a) and (6)(a) “an unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

(8) For the purposes of subsections (5)(b) and (6)(b) section 98 of ITA 2007 applies for determining when an event occurs.

10 Property loss relief against general income: tax-generated agricultural expenses

(1) Chapter 4 of Part 4 of ITA 2007 (losses from property businesses) is amended as follows.

(2) In section 117(3) (overview of Chapter), for “section 127A” substitute “sections 127A and 127B”.

(3) In section 120(7) (deduction of property losses from general income), at the end insert “and section 127B (no relief for tax-generated agricultural expenses)”.

(4) After section 127A insert—

“127B No relief for tax-generated agricultural expenses

(1) This section applies if—

- (a) in a tax year a person makes a loss in a UK property business or overseas property business (whether carried on alone or in partnership),
- (b) the business has a relevant agricultural connection for the purposes of section 120 (see section 123(3) to (7)), and

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- (c) any allowable agricultural expenses deducted in calculating the loss arise directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (2) No property loss relief against general income may be given to the person for so much of the applicable amount of the loss as is attributable to expenses falling within subsection (1)(c).
- (3) For the purposes of subsection (2), the applicable amount of the loss is to be treated as attributable to expenses falling within subsection (1)(c) before anything else.
- (4) In subsection (1) “relevant tax avoidance arrangements” means arrangements—
 - (a) to which the person is a party, and
 - (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability by means of property loss relief against general income.
- (5) In subsection (4) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (6) In this section “the applicable amount of the loss” has the meaning given by section 122 and “allowable agricultural expenses” has the meaning given by section 123.”
- (5) The amendments made by this section have effect in relation to expenses arising directly or indirectly in consequence of, or otherwise in connection with—
 - (a) arrangements which are entered into on or after 13 March 2012, or
 - (b) any transaction forming part of arrangements which is entered into on or after that date.
- (6) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.
- (7) “An unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

11 Gains from contracts for life insurance etc

- (1) In Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc), after section 473 insert—

“473A Connected policies or contracts treated as single policy or contract

- (1) Policies or contracts which are connected with each other are treated as a single policy or contract for the purposes of this Chapter.
- (2) A policy or contract is “connected” with another policy or contract if—
 - (a) they meet the condition in subsection (3) in relation to each other, and
 - (b) the terms on which either of them is issued are significantly more or less favourable than would reasonably be expected if the other

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were ignored or any policy or contract meeting the condition in that subsection in relation to either of them were ignored.

- (3) A policy or contract meets the condition in this subsection in relation to another policy or contract if—
- (a) they are at any time simultaneously in force, and
 - (b) either of them is issued with reference to the other or with a view to enabling the other to be issued on particular terms or facilitating its being issued on those terms.
- (4) If—
- (a) there is a policy or contract (“A”) with which two or more other policies or contracts are connected as a result of subsection (2), but
 - (b) the other policies or contracts are not connected with each other as a result of that subsection,
- A and the other policies or contracts are (as a result of this subsection) to be regarded as “connected” with each other.”
- (2) In section 491(2) of that Act (calculating gains from contracts for life insurance etc: general rules), in the definition of “PG”, at the end insert “ but only in so far as those gains have been, or fall to be, taken into account in calculating the total income of a person as a result of this Chapter or Chapter 2 of Part 13 of ITA 2007 ”.
- (3) In section 552 of ICTA (information: duty of insurers), for subsection (13) substitute—
- “(13) For the purposes of this section—
- (a) section 491(2) of ITTOIA 2005 is taken to have effect as if, in the definition of “PG”, the words from “but” to the end were omitted, and
 - (b) no account is to be taken of the effect of section 541A of that Act.”
- (4) The amendments made by this section have effect in relation to—
- (a) any policy issued in respect of an insurance made on or after 21 March 2012, or
 - (b) any contract made on or after that date.
- (5) The amendments made by this section also have effect in the case of any insurance or contract made before 21 March 2012 if on or after that date—
- (a) the policy or contract is varied with the result that there is an increase in the benefits secured,
 - (b) there is an assignment of rights, or a share of the rights, conferred by the policy or contract (whether or not for money's worth), or
 - (c) some or all of the rights conferred by the policy or contract become held as security for a debt.
- (6) For the purposes of subsection (5)(a)—
- (a) an exercise of rights conferred by a policy or contract is to count as a variation of the policy or contract, and
 - (b) the reference to an increase in the benefits secured by a policy or contract includes an increase in the benefits secured by another policy or contract with which the policy or contract is connected (within the meaning given by section 473A of ITTOIA 2005, as inserted by subsection (1)).

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12 Settlements: income originating from settlors other than individuals

- (1) ITTOIA 2005 is amended as follows.
- (2) In section 627 (income where settlor retains an interest: exceptions), at the end insert—
 - “(4) The rule in section 624(1) does not apply in relation to income which—
 - (a) arises under a settlement, and
 - (b) originates from any settlor who was not an individual.”
- (3) In section 645 (property or income originating from settlor), in subsection (2), for “section 644” substitute “ sections 627 and 644 ”.
- (4) The amendments made by this section have effect in relation to income arising on or after 21 March 2012.

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