



Finance Act 1981

1981 CHAPTER 35

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES

60 Husband and wife

(1) In the case of any amount subscribed by a married woman for shares issued to her at a time—

- (a) when she is living with her husband ; and
- (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,

the deduction under section 52(2) above shall, subject to subsection (2) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.

(2) For the purposes of sections 38(2) and 39 of the Taxes Act (option for separate assessment) the relief shall be treated as a relief under Chapter II of Part I of that Act; and where—

- (a) an application under section 38(1) of the Taxes Act; or
- (b) an election under section 23 of the Finance Act 1971 (separate taxation of wife's earnings),

is in force for a year of assessment for which a deduction falls to be made under section 52(2) above in respect of an amount subscribed by the wife, section 39(1)(c) of the Taxes Act and paragraph 4 of Schedule 4 to the said Act of 1971 (allocation of reliefs between husband and wife) shall have effect as if references to relief under section 20 of the Taxes Act and to a payment made by the wife included references to relief under this Chapter and to a payment made by her as a subscription for shares.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) For the purposes of subsection (7) of section 36 of the Finance Act 1976 (allocation of surplus deduction to other spouse in year of non-aggregation) the relief shall be treated as a deduction under a provision to which that subsection applies but, in the case of the wife, only as respects amounts subscribed by her for shares issued in the part of the year of assessment mentioned in that subsection.
- (4) The limits in section 53(1) and (2) above shall apply jointly to a husband and wife as respects amounts subscribed for shares issued at a time—
- (a) when they are married and living together; and
 - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;
- but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.
- (5) Where any such application or election as is mentioned in subsection (2) above is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 53(2) above requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and the wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.
- (6) Subsection (1) of section 57 above shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—
- (a) that subsection shall apply on the disposal of the shares by the transferee to a third person ; and
 - (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.
- (7) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under section 39(1) or (2) of the Taxes Act and of any allocation of the relief under section 36(7) of the Finance Act 1976.