



Finance (No.2) Act 1987

1987 CHAPTER 51

PART I

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CAPITAL GAINS

Miscellaneous

78 Collective investment schemes.

Where arrangements within section 75 of the Financial Services Act 1986 provide for pooling of the kind mentioned in subsection (3)(a) of that section in relation to different parts of the property concerned, any question whether the arrangements constitute a single collective investment scheme shall be determined for the purposes of capital gains tax without regard to any entitlement of the participants to exchange rights in one part of the property for rights in another.

79 Building societies: groups of companies.

In section 272 of the Taxes Act (groups of companies: definitions) at the end of subsection (2) (references to a company) there shall be added “and

- (e) a building society within the meaning of the Building Societies Act 1986.”.

80 Roll-over relief not available for gains on oil licences.

- (1) A licence under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964 is not and, subject to subsection (2) below, shall be assumed never to have been an asset falling within any of the classes in section 118 of

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the Capital Gains Tax Act 1979 (classes of assets for the purposes of roll-over relief under section 115 of that Act)9.

- (2) Nothing in subsection (1) above affects the determination of any Commissioners or the judgment of any court made or given before 14th May 1987.
- (3) A reference in subsection (1) above to a provision of the Capital Gains Tax Act 1979 includes a reference to the corresponding enactment in Part III of the Finance Act 1965 which is re-enacted in that provision.

81 Commodity and financial futures and options.

- (1) In section 72 of the Finance Act 1985 (commodity and financial futures and traded options) in subsection (1) for the words “traded options” and “traded option” there shall be substituted respectively “qualifying options” and “qualifying option”.
- (2) In subsection (2) of that section, for paragraph (b) (definition of “traded option”) there shall be substituted—
 - “(b) “qualifying option” means a traded option or financial option as defined in section 137(9) of that Act.”
- (3) After that subsection there shall be inserted the following subsections—
 - “(2A) Notwithstanding the provisions of subsection (2)(a) above, where, otherwise than in the course of dealing on a recognised futures exchange, within the meaning of the principal Act,—
 - (a) an authorised person or listed institution enters into a commodity or financial futures contract with another person, or
 - (b) the outstanding obligations under a commodity or financial futures contract to which an authorised person or listed institution is a party are brought to an end by a further contract between the parties to the futures contract,
 then, except in so far as any gain or loss arising to any person from that transaction arises in the course of a trade, that gain or loss shall be regarded for the purposes of subsection (1) above as arising to him in the course of dealing in commodity or financial futures.
 - (2B) In subsection (2A) above—
 - “authorised person” has the same meaning as in the Financial Services Act 1986, and
 - “listed institution” has the same meaning as in section 43 of that Act.”
- (4) In subsection (4) of section 137 of the Capital Gains Tax Act 1979 (options and forfeited deposits) for paragraph (aa) there shall be substituted the following paragraph—
 - “(aa) a traded option or financial option, or”.
- (5) For subsection (9) of section 137 of the Capital Gains Tax Act 1979 (definitions) there shall be substituted the following subsections—
 - “(9) In subsection (4) above and sections 138 and 139 below—

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- (a) “quoted option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange;
 - (b) “traded option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange or a recognised futures exchange; and
 - (c) “financial option” means an option which is not a traded option, as defined in paragraph (b) above, but which, subject to subsection (10) below,—
 - (i) relates to currency, shares, securities or an interest rate and is granted (otherwise than as agent) by a member of a recognised stock exchange, by an authorised person within the meaning of the Financial Services Act 1986 or by a listed institution within the meaning of section 43 of that Act; or
 - (ii) relates to shares or securities which are dealt in on a recognised stock exchange and is granted by a member of such an exchange, acting as agent; or
 - (iii) relates to currency, shares, securities or an interest rate and is granted to such an authorised person or institution as is referred to in sub-paragraph (i) above and concurrently and in association with an option falling within that sub-paragraph which is granted by that authorised person or institution to the grantor of the first-mentioned option; or
 - (iv) relates to shares or securities which are dealt in on a recognised stock exchange and is granted to a member of such an exchange, including such a member acting as agent;and in this subsection “recognised stock exchange” has the meaning given by section 535 of the Taxes Act.
- (10) If the Treasury by order so provide, an option of a description specified in the order shall be taken to be within the definition of “financial option” in subsection (9)(c) above; and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (6) In subsection (1) of section 138 of the Capital Gains Tax Act 1979 (application of rules as to wasting assets) for paragraph (aa) there shall be substituted the following paragraph—
- “(aa) to a traded option or financial option, or”.
- (7) In subsection (4) of section 138 of the Capital Gains Tax Act 1979 (definitions for the purpose of that section) for paragraph (a) there shall be substituted the following paragraph—
- “(a) “financial option”, “quoted option” and “traded option” have the meaning given by section 137(9) above, and”.
- (8) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.