



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART I

#### THE CHARGE TO TAX

##### *Corporation tax*

#### **6 The charge to corporation tax and exclusion of income tax and capital gains tax.**

- (1) <sup>M1</sup> Corporation tax shall be charged on profits of companies, and the Corporation Tax Acts shall apply, for any financial year for which Parliament so determines, and where an Act charges corporation tax for any financial year the Corporation Tax Acts apply, without any express provision, for that year accordingly.
- (2) The provisions of the Income Tax Acts relating to the charge of income tax shall not apply to income of a company (not arising to it in a fiduciary or representative capacity) if—
  - (a) the company is resident in the United Kingdom, or
  - (b) the income is, in the case of a company not so resident, within the chargeable profits of the company as defined for the purposes of corporation tax by section 11(2).
- (3) A company shall not be chargeable to capital gains tax in respect of gains accruing to it so that it is chargeable in respect of them to corporation tax or would be so chargeable but for an exemption from corporation tax.
- (4) In this section, sections 7 to 12, 114, 115 (but subject to subsection (7)), <sup>F1</sup> . . . <sup>F2</sup> . . . and 248, Part VIII, Chapter IV of Part X and Part XI, except in so far as the context otherwise requires—
  - (a) “profits” means income and chargeable gains; and
  - (b) “trade” includes “vocation”, and also includes an office or employment or the occupation of woodlands in any context in which the expression is applied to that in the Income Tax Acts.

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(5) Part VIII contains general provisions relating to the taxation of profits of companies.

**Textual Amendments**

- F1** Words in s. 6(4) repealed (with effect in accordance with Sch. 8 Pt. 2(4) Note of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 52, **Sch. 8**
- F2** Words in s. 6(4) repealed (with application in accordance with Sch. 33 Pt. 2(10) Note of the amending Act) by Finance Act 2001 (c. 9), s. 110, **Sch. 33**

**Modifications etc. (not altering text)**

- C1** S. 6 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 1(2)**, 289 (with ss. 60, 101(1), 171, 201(3)).
- C2** Table K Vol.1.*See—Trustee Savings Bank Act 1985 (c.58) s.5and Sch.2 para.6(2).*1990(C) s.92—*balancing charge on a person liable to corporation tax in respect of dwelling houses let on assured tenancies to be made under Sch.A.*
- C3** *See 1988(F) s.148and Sch.14 Part Vfor repeals which will take place from 6April 1993.*

**Marginal Citations**

- M1** Source—1970 s.238

**7 Treatment of certain payments and repayment of income tax.**

- (1) <sup>M2</sup> No payment made by a company resident in the United Kingdom shall be treated for any purpose of the Income Tax Acts as paid out of profits or gains brought into charge to income tax; nor shall any right or obligation under the Income Tax Acts to deduct income tax from any payment be affected by the fact that the recipient is a company not chargeable to income tax in respect of the payment.
- (2) Subject to the provisions of the Corporation Tax Acts, where a company resident in the United Kingdom receives any payment on which it bears income tax by deduction, the income tax thereon shall be set off against any corporation tax assessable on the company <sup>F3</sup>. . . for the accounting period in which that payment falls to be taken into account for corporation tax (or would fall to be taken into account but for any exemption from corporation tax); and accordingly in respect of that payment the company, unless wholly exempt from corporation tax, shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.
- (3) <sup>M3</sup> Subsection (2) above does not apply to a payment of relevant loan interest to which section 369 applies.
- (4) <sup>M4</sup> References in this section to payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person.
- (5) <sup>F4</sup> .....
- (6) <sup>F4</sup> .....
- (7) <sup>F4</sup> .....

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**Textual Amendments**

- F3** Words in s. 7(2) repealed (with effect as mentioned in Sch. 27 Pt. 3(28) Note of the amending Act) by Finance Act 1998 (c. 36), s. 165, **Sch. 27 Pt. 3(28)**
- F4** S. 7(5)-(7) repealed (with effect as mentioned in Sch. 27 Pt. 3(28) Note of the amending Act) by Finance Act 1998 (c. 36), s. 165, **Sch. 27 Pt. 3(28)**

**Modifications etc. (not altering text)**

- C4** See—1970(M) s.94—*set off to be disregarded in computing penalty for failure to deliver a return.* 1990 ss.98 and 132 and Sch. 19 Part V for changes in relation to income tax falling to be set off against corporation tax for accounting periods ending after the appointed day (see 1988 s.10).
- C5** S. 7(2) applied (with modifications) (with effect in accordance with s. 105(1) of the applying Act) by Finance Act 1996 (c. 8), s. 91(2) (with Schs. 10, 11, 15)

**Marginal Citations**

- M2** Source—1970 s.240(4), (5)
- M3** Source—1982 s.26(7)
- M4** Source—1970 s.240(7)

**8 General scheme of corporation tax.**

- (1) Subject to any exceptions provided for by the Corporation Tax Acts, a company shall be chargeable to corporation tax on all its profits wherever arising.
- (2) <sup>M5</sup> A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust, or arising under any partnership, in any case in which it would be so chargeable if the profits accrued to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.
- (3) Corporation tax for any financial year shall be charged on profits arising in that year; but assessments to corporation tax shall be made on a company by reference to accounting periods, and the amount chargeable (after making all proper deductions) of the profits arising in an accounting period shall, where necessary, be apportioned between the financial years in which the accounting period falls.

In relation to accounting periods ending after such day, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of this subsection, this subsection shall have effect with the substitution for “assessments to corporation tax shall be made on a company” of “corporation tax shall be computed and chargeable (and any assessments shall accordingly be made)”.

- <sup>F5</sup>(4) .....
- <sup>F5</sup>(5) .....
- <sup>F5</sup>(6) .....

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#### Textual Amendments

**F5** S. 8(4)-(6) repealed (27.7.1993 with application in relation to resolutions passed after the day on which 1993 c. 34 is passed) by 1993 c. 34, ss. 205(7), 206(1), 213, **Sch. 23 Pt.VI**

#### Modifications etc. (not altering text)

**C6** S. 8(3): the day appointed for the purposes of s. 8(3) is 30.9.1993 by S.I. 1992/3066, **art. 2(2)(b)**.

#### Marginal Citations

**M5** Source—1970 s.243 (1)-(3), (5)-(7); 1974 s.36; 1987(No. 2) s.90(1)(a)

### [<sup>F6</sup>8A Resolutions to reduce corporation tax.

<sup>F7</sup> .....

#### Textual Amendments

**F6** S. 8A inserted (27.7.1993) by 1993 c. 34, s. 206(2)

**F7** S. 8A repealed (29.4.1996) by Finance Act 1996 (c. 8), ss. 138, 205, Sch. 24 para. 10, **Sch. 41**

## 9 Computation of income: application of income tax principles.

- (1) <sup>M6</sup> Except as otherwise provided by the Tax Acts, the amount of any income shall for purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person's income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.
- (2) For the purposes of this section "income tax law" means, in relation to any accounting period, the law applying, for the year of assessment in which the period ends, to the charge on individuals of income tax, except that it does not include such of the enactments of the Income Tax Acts as make special provision for individuals in relation to matters referred to in subsection (1) above.
- (3) Accordingly, for purposes of corporation tax, income shall be computed, and the assessment shall be made, under the like Schedules and Cases as apply for purposes of income tax, and in accordance with the provisions applicable to those Schedules and Cases, but (subject to the provisions of the Corporation Tax Acts) the amounts so computed for the several sources of income, if more than one, together with any amount to be included in respect of chargeable gains, shall be aggregated to arrive at the total profits.
- (4) Without prejudice to the generality of subsection (1) above, any provision of the Income Tax Acts which confers an exemption from income tax, or which provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall, except as otherwise provided, have the like effect for purposes of corporation tax.
- (5) Where, by virtue of this section or otherwise, any enactment applies both to income tax and to corporation tax—

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- (a) it shall not be affected in its operation by the fact that they are distinct taxes but, so far as is consistent with the Corporation Tax Acts, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and
  - (b) for that purpose references in any such enactment to a relief from or charge to income tax, or to a specified provision of the Income Tax Acts shall, in the absence of or subject to any express adaptation, be construed as being or including a reference to any corresponding relief from or charge to corporation tax, or to any corresponding provision of the Corporation Tax Acts.
- (6) The provisions of the Income Tax Acts applied by this section do not include sections 1 to 5, 60 to 69, Part VII or sections 348 to 350 of this Act; and nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).

**Marginal Citations**

**M6** Source—1970 s.250

**10 Time for payment of tax.**

**F8** .....

**Textual Amendments**

**F8** S. 10 repealed (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 258, [Sch. 26 Part 5\(23\)](#), Note 4; S.I. 1998/3173, [art. 2](#)

**11 Companies not resident in United Kingdom.**

- (1)<sup>M7</sup> A company not resident in the United Kingdom shall not be within the charge to corporation tax unless it carries on a trade in the United Kingdom through a branch or agency but, if it does so, it shall, subject to any exceptions provided for by the Corporation Tax Acts, be chargeable to corporation tax on all its chargeable profits wherever arising.
- (2) For purposes of corporation tax the chargeable profits of a company not resident in the United Kingdom but carrying on a trade there through a branch or agency shall be—
  - (a) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and
  - [<sup>F9</sup>(b) such chargeable gains as are, by virtue of section 10(3) of the 1992 Act, to be, or be included in, the company’s chargeable profits,]
- (3)<sup>F10</sup> . . . Where a company not resident in the United Kingdom receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to

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be taken into account in computing, the company's income chargeable to corporation tax, the income tax thereon shall be set off against any corporation tax assessable on that income <sup>F11</sup> . . . for the accounting period in which the payment falls to be taken into account for corporation tax; and accordingly in respect of that payment the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.

- (4) <sup>M8</sup>Subsection (3) above does not apply to a payment of relevant loan interest to which section 369 applies.

#### Textual Amendments

- F9** S. 11(2)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(2)** (with ss. 60, 101(1), 171, 201(3)).
- F10** Words in s. 11(3) repealed (27.7.1993 with effect in accordance with s. 103 of the amending Act) by 1993 c. 34, ss. 103, 213, **Sch. 23 Pt. III**
- F11** Words in s. 11(3) repealed (with effect as mentioned in Sch. 27 Pt. 3(28) Note of the amending Act) by Finance Act 1998 (c. 36), s. 165, **Sch. 27 Pt. 3(28)**

#### Modifications etc. (not altering text)

- C7** S. 11(2)(a) excluded (3.5.1994) by Finance Act 1994 (c. 9), **s. 219(4)** (with s. 220)  
S. 11(2)(a) excluded (with effect in accordance with s. 22(7) of the 1997 amending Act) by 1994 c. 9, s. 219(4A) (as inserted by Finance (No. 2) Act 1997 (c. 58), **s. 22(4)**)
- C8** See—1970(M) s.94(2)—*set off to be disregarded in computing penalty for failure to make a return.* 1990 ss.98 and 132 and Sch.19 Part V for changes in relation to income tax falling to be set off against corporation tax for accounting periods ending after the appointed day (see 1988 s.10).
- C9** S. 11(3) applied (with modifications) (with effect in accordance with s. 105(1) of the applying Act) by Finance Act 1996 (c. 8), **s. 91(2)** (with Schs. 10, 11, 15)

#### Marginal Citations

- M7** SOURCE-1970 s.246; 1979(C) Sch. 7  
**M8** SOURCE-1982 s. 26(7)

VALID FROM 10/07/2003

#### <sup>F12</sup>11A Determination of profits attributable to permanent establishment

- (1) This section provides for determining for the purposes of corporation tax the amount of the profits attributable to a permanent establishment in the United Kingdom of a company that is not resident in the United Kingdom (“the non-resident company”).
- (2) There shall be attributed to the permanent establishment the profits it would have made if it were a distinct and separate enterprise, engaged in the same or similar activities under the same or similar conditions, dealing wholly independently with the non-resident company.
- (3) In applying subsection (2)—
  - (a) it shall be assumed that the permanent establishment has the same credit rating as the non-resident company, and

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(b) it shall also be assumed that the permanent establishment has such equity and loan capital as it could reasonably be expected to have in the circumstances specified in that subsection.

No deduction may be made in respect of costs in excess of those that would have been incurred on those assumptions.

(4) There shall be allowed as deductions any allowable expenses incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the United Kingdom or elsewhere.

“Allowable expenses” means expenses of a kind in respect of which a deduction would be allowed for corporation tax purposes if incurred by a company resident in the United Kingdom.

(5) The Board may by regulations make provision as to the application of subsection (2) in relation to insurance companies.

The regulations may, in particular, make provision in place of subsection (3)(b) as to the basis on which, in the case of insurance companies, capital is to be attributed to a permanent establishment in the United Kingdom. In this subsection “insurance company” has the meaning given by section 431(2).

(6) Schedule A1 to this Act contains provisions supplementing the provisions of this section.]

#### Textual Amendments

**F12** S. 11AA inserted (with effect in accordance with s. 149(6) of the amending Act) by Finance Act 2003 (c. 14), s. 149(2)

## 12 Basis of, and periods for, assessment.

- (1)<sup>M9</sup> Except as otherwise provided by the Corporation Tax Acts, corporation tax shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in the period (whether or not received in or transmitted to the United Kingdom) without any other deduction than is authorised by those Acts.
- (2) An accounting period of a company shall begin for purposes of corporation tax whenever—
- (a) the company, not then being within the charge to corporation tax, comes within it, whether by the company becoming resident in the United Kingdom or acquiring a source of income, or otherwise; or
  - (b) an accounting period of the company ends without the company then ceasing to be within the charge to corporation tax.
- (3) An accounting period of a company shall end for purposes of corporation tax on the first occurrence of any of the following—
- (a) the expiration of 12 months from the beginning of the accounting period;
  - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period;
  - (c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all the trades carried on by it, within the charge to corporation tax;



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- (d) the company beginning or ceasing to be resident in the United Kingdom;
  - (e) the company ceasing to be within the charge to corporation tax.
- (4) For the purposes of this section a company resident in the United Kingdom, if not otherwise within the charge to corporation tax, shall be treated as coming within the charge to corporation tax at the time when it commences to carry on business.
- (5) [<sup>F13</sup>Subject to subsection (5A) below] If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (3)(b) above shall apply with reference to the accounting date of such one of the trades [<sup>F14</sup>as the company may determine].
- [<sup>F15</sup>(5A) If the Board is of the opinion, on reasonable grounds, that a date determined by a company for the purposes of subsection (5) above is inappropriate, they may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to them to be appropriate shall be used instead.]
- (6) If a chargeable gain or allowable loss accrues to a company at a time not otherwise within an accounting period of the company, an accounting period of the company shall then begin for the purposes of corporation tax, and the gain or loss shall accrue in that accounting period.
- (7) Notwithstanding anything in subsections (1) to (6) above, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter, subject to section 342(6), an accounting period shall not end otherwise than by the expiration of 12 months from its beginning or by the completion of the winding up.
- For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or on the doing of any other act for a like purpose in the case of a winding up otherwise than under the <sup>M10</sup>Insolvency Act 1986.
- [<sup>F16</sup>(7A) Notwithstanding anything in subsections (1) to (7) above, where there is a transfer of the whole or part of the long term business of an insurance company to another company in accordance with a scheme sanctioned by a court under [<sup>F17</sup>Part I of Schedule 2C to the Insurance Companies Act 1982], an accounting period of the company from which the business is transferred shall end with the day of the transfer.]
- (8) Where it appears to the inspector that the beginning or end of any accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding 12 months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either—
- (a) the inspector on further facts coming to his knowledge sees fit to revise it; or
  - (b) on an appeal against the assessment in respect of some other matter the company shows the true accounting periods;
- and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.



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### Textual Amendments

- F13** Words in s. 12(5) inserted (with effect as mentioned in [Sch. 24 para. 11\(4\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 79, [Sch. 24 para. 11\(2\)\(a\)](#)
- F14** Words in s. 12(5) substituted (with effect as mentioned in [Sch. 4 para. 11\(4\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 79, [Sch. 24 para. 11\(2\)\(b\)](#)
- F15** [S. 12\(5A\)](#) inserted (with effect as mentioned in [Sch. 4 para. 11\(4\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 79, [Sch. 24 para. 11\(3\)](#)
- F16** [S. 12\(7A\)](#) inserted by [Finance Act 1990 \(c. 29\)](#), s.48, [Sch.9 para.3](#) (in relation to transfers of business on or after 1.11.1990)
- F17** Words in [s. 12\(7A\)](#) substituted (1.5.95) by [Finance Act 1995 \(c. 4\)](#), s. 53, [Sch. 9 para. 1\(1\)\(2\)\(a\)](#)

### Modifications etc. (not altering text)

- C10** [S. 12\(1\)-\(7\)](#) excluded (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (SI 1997/1154), {reg. 25(2)}
- C11** [S. 12\(7A\)](#) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995 \(S.I. 1995/171\)](#), [reg. 4\(2\)\(b\)](#)
- C12** [S. 12\(7A\)](#) modified (19.3.1997) by S.I. 1995/171, reg. 4A (as inserted by [The Friendly Societies \(Taxation of Transfers of Business\) \(Amendment\) Regulations 1997 \(S.I. 1997/472\)](#), [reg. 4](#))
- C13** [S. 12\(7A\)](#) modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), [reg. 4](#) (as amended by S.I. 2001/3629, [art. 154](#)); and that modifying reg. 4 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, [reg. 5](#)

### Marginal Citations

- M9** SOURCE-1970 s. 247; 1972 s. 107(1)
- M10** 1986 c. 45.

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