



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART IV

#### PROVISIONS RELATING TO THE SCHEDULE D CHARGE

### CHAPTER V

#### COMPUTATIONAL PROVISIONS

##### *Deductions*

#### 74 **General rules as to deductions not allowable.**

<sup>M1</sup>Subject to the provisions of the Tax Acts, in computing the amount of the profits or gains to be charged under Case I or Case II of Schedule D, no sum shall be deducted in respect of—

- (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation;
- (b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of the trade, profession or vocation;
- (c) the rent of the whole or any part of any dwelling-house or domestic offices, except any such part as is used for the purposes of the trade, profession or vocation, and where any such part is so used, the sum so deducted shall not, unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for that dwelling-house or those offices;
- (d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade, profession or vocation, beyond the sum actually expended for those purposes;
- (e) any loss not connected with or arising out of the trade, profession or vocation;

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- (f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade, profession or vocation, but so that this paragraph shall not be treated as disallowing the deduction of any interest;
- (g) any capital employed in improvements of premises occupied for the purposes of the trade, profession or vocation;
- (h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;
- (j) any debts, except bad debts proved to be such, and doubtful debts to the extent that they are respectively estimated to be bad, and in the case of the bankruptcy or insolvency of a debtor the amount which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof;
- (k) any average loss beyond the actual amount of loss after adjustment;
- (l) any sum recoverable under an insurance or contract of indemnity;
- (m) any annuity or other annual payment (other than interest) payable out of the profits or gains;
- (n) any interest paid to a person not resident in the United Kingdom if and so far as it is interest at more than a reasonable commercial rate;
- (o) <sup>M2</sup>any relevant loan interest within the meaning of section 369, other than interest to which section 375(2) applies;
- (p) <sup>M3</sup>any royalty or other sum paid in respect of the user of a patent;
- (q) any rent, royalty or other payment which is by section 119 or 120 declared to be subject to deduction of tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

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

**C2** See 1989 ss.112-113—*expenditure on security on or after 6 April 1989.*

**C3** *Other deductions, where allowed:—1988(F) s.73(2)—sums in connection with restrictive undertakings paid on or after 6 June 1988.1990 s.126(1), (2), (3)—deduction for capital expenditure on improving safety etc. at football grounds as a result of reduction in pool betting duty under 1990 s.4.1990(C) s.136—expenditure on scientific research.S.I. 1987 No.530 (in Part III Vol.5) regn.8(2)—just and reasonable expenses incurred in relation to payments attributable to non resident entertainers or sportsmen.*

#### **Marginal Citations**

**M1** SOURCE-1970 s. 130(a)–(m); 1987 Sch. 15 para. 2(9)

**M2** SOURCE-1982 s. 26(8)

**M3** SOURCE-1970 s. 130(n), (o)

## **75 Expenses of management: investment companies.**

- (1) <sup>M4</sup>In computing for the purposes of corporation tax the total profits for any accounting period of an investment company resident in the United Kingdom there shall be deducted any sums disbursed as expenses of management (including commissions) for that period, except any such expenses as are deductible in computing profits apart from this section.
- (2) For the purposes of subsection (1) above there shall be deducted from the amount treated as expenses of management the amount of any income derived from sources not charged to tax, other than franked investment income, group income and any regional

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development grant. In this subsection “regional development grant” means a payment by way of grant under Part II of the <sup>M5</sup>Industrial Development Act 1982.

- (3) <sup>M6</sup>Where in any accounting period of an investment company the expenses of management deductible under subsection (1) above, together with any charges on income paid in the accounting period wholly and exclusively for purposes of the company’s business, exceed the amount of the profits from which they are deductible—
- (a) the excess shall be carried forward to the succeeding accounting period; and
  - (b) the amount so carried forward to the succeeding accounting period shall be treated for the purposes of this section, including any further application of this subsection, as if it had been disbursed as expenses of management for that accounting period.
- (4) For the purposes of this section there shall be added to a company’s expenses of management in any accounting period the amount of any allowances falling to be made to the company for that period by virtue of [<sup>F1</sup>section 28 of the 1990 Act (capital allowances for investment and insurance companies)] in so far as effect cannot be given to them under subsection (2) of that section.
- (5) <sup>M7</sup>Where an appeal against an assessment to corporation tax or against a decision on a claim under section 242 relates exclusively to the relief to be given under subsection (1) above, the appeal shall lie to the Special Commissioners, and if and so far as the question in dispute on any such appeal which does not lie to the Special Commissioners relates to that relief, that question shall, instead of being determined on the appeal, be referred to and determined by the Special Commissioners, and the Management Act shall apply as if that reference were an appeal.

#### Textual Amendments

- F1** 1990(C) s.164 and Sch.1 para.8(4). *Previously*  
“section 306 of the 1970 Act (capital allowances for machinery and plant)”.

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

- C4** *See the following sections of this Act:—s.77—incidental costs of obtaining loan finance.s.78—incidental costs in securing acceptance of bills of exchange by banks.s.79—contributions to approved local enterprise agencies on or after 1 April 1982 and before 1 April 1992.s.85—profit sharing schemes.s.86—expenditure incurred in relation to employees seconded to charities; and, from 26 November 1986 to 31 March 1997, educational establishments.s.88—sums paid to Export Credits Guarantee Dept. under investment insurance schemes.s.90—additional payments to redundant employees.s.242(2)—set-off of losses, etc., against franked investment income.s.403—group relief.s.468—application to authorised unit trusts.s.573—losses on unquoted shares in trading companies allowed before charges against income of investment companies.s.577—exclusion of certain entertaining expenses.s.579—inclusion of statutory redundancy payments.s.586—disallowance of deductions for war risk premiums.s.587—disallowance of certain payments in respect of war injuries to employees.s.588—relief for costs of training incurred on or after 6 April 1987.s.592—inclusion of employer’s contribution under exempt approved retirement benefits schemes.s.779—limitation on reliefs: land sold and leased back.s.780—land sold and leased back: relief in respect of rent under new lease.s.834—definitions of “profits” and “trade” in s.6(4) to apply for purposes of s.75.*
- C5** *See—1988(F) s.73(3)—sums in connection with restrictive undertakings paid on or after 6 June 1988.1989 s.44 for periods of account ending after 5 April 1989 involving emoluments.1989*

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s.67—employee share ownership trusts.1989 s.76—non-approved retirement benefit schemes.1989 ss.86-87—changes in respect of insurance companies.

#### **Marginal Citations**

**M4** SOURCE-1970 s. 304(1); 1984 s. 54(2)(b); 1987 s. 41

**M5** 1982 c. 52.

**M6** SOURCE-1970 s. 304(2), (3)

**M7** SOURCE-1970 s. 304(4)

VALID FROM 22/07/2004

#### **[<sup>F2</sup>75A Accounting period to which expenses of management are referable**

- (1) This section has effect for the purpose of determining the accounting period to which expenses of management are referable for the purposes of section 75(1).
- (2) Where—
  - (a) expenses of management are debited in accounts drawn up by a company for a period of account,
  - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, and
  - (c) the period of account coincides with an accounting period,
 the expenses of management are referable to that accounting period.
- (3) Where—
  - (a) expenses of management are debited in accounts drawn up by a company for a period of account, and
  - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, but
  - (c) the period of account does not coincide with an accounting period,
 subsection (4) below applies.
- (4) Where this subsection applies, the expenses of management—
  - (a) shall be apportioned between any accounting periods that fall within the period of account, and
  - (b) are referable to an accounting period to the extent that they are so apportioned to it.
- (5) An apportionment under subsection (4) above shall be in accordance with section 834(4) (time basis) unless it appears that that method would work unreasonably or unjustly, in which case such other method shall be used as appears just and reasonable.
- (6) Where—
  - (a) expenses of management are not referable to an accounting period by virtue of subsections (2) to (5) above, but
  - (b) accounts are drawn up by the company for a period of account, and
  - (c) if the expenses of management had been treated in those accounts in accordance with generally accepted accounting practice, they would fall to be debited in those accounts,

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the expenses of management are referable to the accounting period to which they would have been referable in accordance with subsections (2) to (5) above if they had been so debited in those accounts.

- (7) Where expenses of management are not referable to an accounting period by virtue of subsections (2) to (6) above, they are referable to the accounting period to which they would be referable in accordance with subsections (2) to (5) above on the assumptions in subsection (8) below.
- (8) Those assumptions are—
- (a) that for each accounting period that does not coincide with, or fall within, any period of account, there is a period of account that coincides with that accounting period, and
  - (b) that so much of the expenses of management as would fall to be debited in accordance with generally accepted accounting practice in accounts drawn up by the company for any such deemed period of account are so debited.
- (9) This section is without prejudice to any other provision of the Corporation Tax Acts which provides for amounts to be treated for the purposes of section 75 as expenses of management referable to an accounting period.
- (10) Any reference in this section to expenses of management being debited in accounts is a reference to those expenses being brought into account, in accordance with generally accepted accounting practice, as a debit—
- (a) in the company's profit and loss account, or
  - (b) in a statement of total recognised gains and losses or other statement of items brought into account in computing the company's profits and losses for accounting purposes.

For this purpose “debit” means an amount which for accounting purposes reduces a profit, or increases a loss, for a period of account.]

#### Textual Amendments

- F2** S. 75A inserted (with effect in accordance with ss. 42, 43 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 39](#)

VALID FROM 22/07/2004

#### **[<sup>F3</sup>75B** Amounts reversing expenses of management deducted: charge to tax

- (1) This section applies in any case where the following conditions are satisfied—
- (a) a credit is brought into account by a company in a period of account (the “reversal period”) which ends on or after the commencement date,
  - (b) the credit reverses (in whole or in part) a debit brought into account in a previous period of account of the company (whenever ending),
  - (c) the debit (in whole or in part) represents expenses of management deductible under section 75(1) for an accounting period of the company (“the period of deductibility”),

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- (d) the expenses of management were so deductible for that period otherwise than by virtue of section 75(9) (carry forward of unrelieved excess),
  - (e) the period of deductibility ends before, or at the same time as, the reversal period,
  - (f) the reversal period does not coincide with an accounting period beginning before the commencement date.
- (2) In any such case, subsection (4) or (5) below (as the case may be) shall apply in relation to the reversal amount.
- (3) In this section “the reversal amount” means so much of the credit as—
- (a) reverses so much of the debit as represents the expenses of management, and
  - (b) does not represent sums otherwise taken into account in determining for the purposes of corporation tax the profits and losses of the company for the relevant accounting period or any earlier accounting period.
- For this purpose the relevant accounting period is the latest accounting period of the company that falls wholly or partly within the reversal period.
- (4) If the reversal period coincides with an accounting period of the company beginning on or after the commencement date, the reversal amount shall be dealt with for that period in accordance with subsection (7) below.
- (5) If the reversal period does not coincide with an accounting period of the company—
- (a) the reversal amount shall be apportioned between any accounting periods that fall within the reversal period, and
  - (b) any amount so apportioned to an accounting period beginning on or after the commencement date shall be dealt with for that period in accordance with subsection (7) below.
- (6) An apportionment under subsection (5) above shall be in accordance with section 834(4) (time basis) unless it appears that that method would work unreasonably or unjustly, in which case such other method shall be used as appears just and reasonable.
- (7) Where an amount falls to be dealt with in accordance with this subsection for an accounting period—
- (a) it shall, so far as possible, be applied in reducing or further reducing (but not below nil) the company’s expenses of management deductible for that period otherwise than by virtue of section 75(9) (carry forward of unrelieved excess), and
  - (b) so much of the amount as cannot be so applied shall be regarded as income of the company chargeable under Case VI of Schedule D for that accounting period.
- (8) In subsection (1) above “brought into account”, in relation to a period of account of a company, means brought into account in accordance with generally accepted accounting practice in determining, for accounting purposes, profit and loss for that period of account.
- (9) If (apart from this subsection) an accounting period does not coincide with, or fall within, any period of account, it shall be assumed for the purposes of this section that there is a period of account of the company that coincides with that accounting period.

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- (10) It shall be assumed for the purposes of this section that, in determining for accounting purposes profit and loss for any period of account of any company, amounts fall to be brought into account in accordance with generally accepted accounting practice.
- (11) For the purposes of this section a credit reverses a debit in whole or in part in any case where the sum represented in whole or in part by the debit is paid and then in whole or in part repaid (as well as in a case where the sum represented by the debit is never paid).
- (12) In this section—
- “the commencement date” means 1st April 2004;
  - “credit” means an amount which for accounting purposes increases or creates a profit, or reduces a loss, for a period of account;
  - “debit” means an amount which for accounting purposes reduces a profit, or increases or creates a loss, for a period of account.]

#### Textual Amendments

**F3** S. 75B inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 45(1) (with s. 45(2)(3))

## 76 Expenses of management: insurance companies.

- (1) <sup>M8</sup>Subject to the provisions of this section and of section 432, section 75 shall apply for computing the profits of a company carrying on life assurance business, whether mutual or proprietary, (and not charged to corporation tax in respect of it under Case I of Schedule D), whether or not the company is resident in the United Kingdom, as that section applies in relation to an investment company except that—
- (a) there shall be deducted from the amount treated as the expenses of management for any accounting period the amount of any fines, fees or profits arising from reversions, and
  - (b) no deduction shall be made under section 75(2) [<sup>F4</sup>; and
  - (c) there shall be deducted from the amount treated as the expenses of management for any accounting period any repayment or refund (in whole or in part) of a sum disbursed by the company (for that or any earlier period) as acquisition expenses; and
- [ there shall also be deducted from the amount treated as the expenses of management for any accounting period any reinsurance commission earned in the period which is referable to [<sup>F6</sup>basic life assurance and general annuity business]; and]
- (d) the amount treated as expenses of management shall not include any amount in respect of expenses referable to <sup>F7</sup>. . . [<sup>F8</sup>, pension business or overseas life assurance business]; and
  - (e) the amount of profits from which expenses of management may be deducted for any accounting period shall not exceed the net income and gains of that accounting period referable to [<sup>F6</sup>basic life assurance and general annuity business];

and for this purpose “net income and gains” means income and gains after deducting any reliefs or exemptions which fall to be applied before taking account of this section.]

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- (2) <sup>M9</sup>Relief in respect of management expenses shall not be given to any such company, whether under section 242 or subsection (1) above, so far as it would, if given in addition to all other reliefs to which the company is entitled, reduce the corporation tax borne by the company on the income and gains of its life assurance business for any accounting period to less than would have been paid if the company had been charged to tax in respect of that business under Case I of Schedule D.

In this subsection the references to reliefs do not include references to any set-off under section 239.

- (3) <sup>M10</sup>For the purposes of subsection (2) above—
- (a) any tax credit to which the company is entitled in respect of a distribution received by it shall be treated as an equivalent amount of corporation tax borne or paid in respect of that distribution; and
  - (b) any payment in respect of that credit under section 242 shall be treated as reducing the tax so treated as borne or paid.
- (4) In applying subsection (2) above to an accounting period in which a company—
- (a) carries on any business in addition to life assurance business, or
  - (b) carries on both ordinary life assurance business and industrial life assurance business,

the tax that would have been paid if the company had been charged under Case I of Schedule D in respect of its life assurance business, or its life assurance business of either of those classes, shall be calculated as if any advance corporation tax set against the company's liability to corporation tax for that accounting period were apportioned to the corporation tax attributable to each business in proportion to the profits of that business charged to corporation tax for that accounting period.

- (5) <sup>M11</sup>Where relief has been withheld in respect of any accounting period by virtue of subsection (2) above, the excess to be carried forward by virtue of section 75(3) shall be increased accordingly.
- (6) <sup>M12</sup>The relief under this section available to an overseas life insurance company (within the meaning of section 431) in respect of its expenses of management shall be limited to expenses attributable to the life assurance business carried on by the company at or through its branch or agency in the United Kingdom.
- (7) <sup>M13</sup>For the purposes of this section any sums paid by a company under [<sup>F9</sup>(a)]a long term business levy imposed by virtue of the <sup>M14</sup>Policyholders Protection Act 1975 [<sup>F10</sup>or
- (b) a levy imposed in pursuance of a scheme established by rules under section 54 of the 1986 Act (compensation fund for unsatisfied claims),]
- shall be treated as part of its expenses of management.

[<sup>F11</sup>(7A) The Treasury may by regulations make provision for any sums paid by a company under a prescribed levy imposed under a prescribed investor protection scheme established under the rules of a prescribed recognised self-regulating organisation to be treated for the purposes of this section as part of the company's expenses of management; and, without prejudice to the generality of the foregoing, regulations under this subsection may, in particular—

- (a) provide for only a prescribed part of any sums so paid to be so treated;
- (b) provide for sums paid before, as well as after, the coming into force of the regulations to be so treated; and



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- (c) make different provision for different cases or in relation to different levies, schemes or organisations.]

[<sup>F12</sup>(8) In this section—

“the 1986 Act” means the Financial Services Act 1986;

“acquisition expenses” means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989;

“authorised person” has the same meaning as it has in the 1986 Act by virtue of section 207(1) of that Act;

“investment business” has the same meaning as it has in the 1986 Act by virtue of section 1(2) of that Act;

“investor” includes a person who is an investor for the purposes of the 1986 Act;

“investor protection scheme” means a scheme established under the rules of a recognised self-regulating organisation for purposes which consist of or include the compensating of investors in cases where persons, or persons of some class or description, who are or have been authorised persons, are, or are likely to be, unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their investment businesses;

“prescribed” means specified in regulations made by the Treasury under subsection (7A) above;

“recognised self-regulating organisation” has the same meaning as it has in the 1986 Act;

and other expressions have the same meaning as in Chapter I of Part XII.]

#### Textual Amendments

**F4** 1989 s.87(2) *with respect to accounting periods beginning on or after 1 January 1990 (see s.87(5) re straddling periods).*

**F5** 1990 s.44(3) *with respect to accounting periods beginning on or after 1 January 1990 (see 1989 s.87(5) re straddling periods).*

**F6** Words in s. 76(1)(ca)(e) substituted (1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 1(a), **18**

**F7** Words in s. 76(1)(d) repealed (1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 1(b), 18, **Sch. 19 Pt. V** Note 3

**F8** 1990 s.42 and Sch.7 para.1 *for accounting periods beginning on or after 1 January 1990 (see para.10). Previously*  
“or pension business”.

**F9** '(a)' in s. 76(7) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 47(1) (with effect as mentioned in s. 47(4))

**F10** Words in s. 76(7) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 47(1) (with effect as mentioned in s. 47(4))

**F11** S. 76(7A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 47(2)

**F12** S. 76(8) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 47(3)

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

**C6** See 1989 s. 44 - periods of assessment ending after 5 April 1989 involving endowments. 1989 ss. 85-88 - changes in respect of insurance companies.

**C7** See the following sections of this Act:  
—s.85—  
profit sharing schemes.

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- s.88—  
 sums paid to Exports Credits Guarantee Dept. under investment insurance scheme.
- s.90—  
 additional payments to redundant employees.
- s.242—  
 set-off of losses etc., against franked investment income.
- s.403—  
 management expenses of life assurance companies excluded from group relief.
- s.573(4)—  
 losses on unquoted shares in trading companies allowed before charges against income of investment companies.
- s.579—  
 deduction for statutory redundancy payments.
- s.586—  
 disallowance of deductions for war risk premiums.
- s.587—  
 disallowance of certain payments in respect of war injuries to employees.
- s.779—  
 limitation on reliefs: land sold and leased back.
- s.780—  
 land sold and leased back: relief in respect of rent under new lease.
- s.781—  
 assets leased to traders and others: cancellation of reliefs.
- s.834—  
 definitions of “profits” and “trade” in
- s.6(4)  
 to apply for purposes of
- s.76
- C8** See S.I. 1989 No.2417 (in Part III Vol.5) for modifications applicable to life or endowment business carried on by registered friendly societies.
- C9** S. 76(7) modified (31.7.1992 with effect as stated in reg. 1 of the amending instrument) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations (S.I. 1992/1655), {reg. 4}
- C10** S. 76(7) amendment to earlier affecting provision S.I. 1992/1655 reg. 4 (31.12.1993 with effect as stated in reg. 1(2)(3) of the amending instrument) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111) {reg. 5}

### Marginal Citations

- M8** SOURCE-1970 s. 305(1)
- M9** SOURCE-1970 s. 305(2); 1972 Sch. 18 para. 1(2)
- M10** SOURCE-1972 Sch. 18 para. 1(1), (3)
- M11** SOURCE-1970 s. 305(2)
- M12** SOURCE-1970 s. 317
- M13** SOURCE-1976 s. 47
- M14** 1975 c. 75.

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VALID FROM 01/12/2001

## **76A Levies and repayments under the Financial Services and Markets Act 2000.**

(1) In computing the amount of the profits to be charged under Case I of Schedule D arising from a trade carried on by an authorised person (other than an investment company)—

- (a) to the extent that it would not be deductible apart from this section, any sum expended by the authorised person in paying a levy may be deducted as an allowable expense;
- (b) any payment which is made to the authorised person as a result of a repayment provision is to be treated as a trading receipt.

[<sup>F13</sup>(2) “Levy” means—

- (a) a payment required under rules made under section 136(2) of the Financial Services and Markets Act 2000 (“the Act of 2000”);
- (b) a levy imposed under the Financial Services Compensation Scheme;
- (c) a payment required under rules made under section 234 of the Act of 2000;
- (d) a payment required under scheme rules in accordance with paragraph 15(1) of Schedule 17 to the Act of 2000;
- (e) a payment required in accordance with the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000 other than an award which is not an award of costs under cost rules.]

[<sup>F14</sup>(3) “Repayment provision” means—

- (a) any provision made by virtue of section 136(7) or 214(1)(e) of the Act of 2000;
- (b) any provision by scheme rules for fees to be refunded in specified circumstances.]

(4) “Authorised person” has the same meaning as in the Act of 2000.

[<sup>F15</sup>(5) “Scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to the Act of 2000.

(6) “Costs rules” means—

- (a) rules made under section 230 of the Act of 2000;
- (b) provision relating to costs contained in the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000.]

### **Textual Amendments**

**F13** S. 76A(2) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 16\(3\)](#)

**F14** S. 76A(3) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 16\(4\)](#)

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**F15** S. 76A(5)(6) added (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 16\(5\)](#)

VALID FROM 01/12/2001

**76B Levies and repayments under the Financial Services and Markets Act 2000: investment companies.**

- (1) For the purposes of section 75 any sums paid by an investment company—
  - (a) by way of a levy, or
  - (b) as a result of an award of costs under costs rules,
 shall be treated as part of its expenses of management.
- (2) If a payment is made to an investment company as a result of a repayment provision, the company shall be charged to tax under Case VI of Schedule D on the amount of that payment.
- (3) “Levy” has the meaning given in section <sup>F16</sup>76A(2).
- <sup>F17</sup>(4) “Costs rules” has the meaning given in section 76A(6).
- (5) “Repayment provision” has the meaning given in section 76A(3).

**Textual Amendments**

- F16** Words in s. 76B(3) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 16\(7\)](#)
- F17** S. 76B(4) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 16\(8\)](#)

**77 Incidental costs of obtaining loan finance.**

- (1) <sup>M15</sup>Subject to subsection (5) below, in computing the profits or gains to be charged under Case I or II of Schedule D there may be deducted the incidental costs of obtaining finance by means of a qualifying loan or the issue of qualifying loan stock or a qualifying security; and the incidental costs of obtaining finance by those means shall be treated for the purposes of section 75 as expenses of management.
- (2) Subject to subsections (3) and (4) below, in this section—
  - (a) <sup>M16</sup>“a qualifying loan” and “qualifying loan stock” mean a loan or loan stock the interest on which is deductible—
    - (i) in computing for tax purposes the profits or gains of the person by whom the incidental costs in question are incurred; or
    - (ii) under section 338 against his total profits; and
  - (b) <sup>M17</sup>“qualifying security” means any deep discount security, as defined by paragraph 1 of Schedule 4, in respect of which the income elements, as defined by paragraph 4 of that Schedule, are deductible under paragraph 5(1) of that

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Schedule in computing the total profits of the company by which the incidental costs in question are incurred.

- (3) <sup>M18</sup> Except as provided by subsection (4) below, a loan or loan stock which carries the right of conversion into or to the acquisition of—
- (a) shares, or
  - (b) other securities not being a qualifying loan or qualifying loan stock,
- is not a qualifying loan or qualifying loan stock if that right is exercisable before the expiry of the period of three years from the date when the loan was obtained or the stock issued.
- (4) <sup>M19</sup> A loan or loan stock—
- (a) which carries such a right as is referred to in subsection (3) above, and
  - (b) which by virtue of that subsection is not a qualifying loan or qualifying loan stock,
- shall nevertheless be regarded as a qualifying loan or qualifying loan stock, as the case may be, if the right is not, or is not wholly, exercised before the expiry of the period of three years from the date when the loan was obtained or the stock was issued.
- (5) For the purposes of the application of subsection (1) above in relation to a loan or loan stock which is a qualifying loan or qualifying loan stock by virtue of subsection (4) above—
- (a) if the right referred to in subsection (4)(a) above is exercised as to part of the loan or stock within the period referred to in that subsection, only that proportion of the incidental costs of obtaining finance which corresponds to the proportion of the stock in respect of which the right is not exercised within that period shall be taken into account; and
  - (b) in so far as any of the incidental costs of obtaining finance are incurred before the expiry of the period referred to in subsection (4) above they shall be treated as incurred immediately after that period expires.
- (6) <sup>M20</sup> In this section “the incidental costs of obtaining finance” means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.
- (7) This section shall not be construed as affording relief—
- (a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies; or
  - (b) for the cost of repaying a loan or loan stock or a qualifying security so far as attributable to its being repayable at a premium or to its having been obtained or issued at a discount.

#### Marginal Citations

- M15** SOURCE-1980 s. 38(1); 1984 s. 43(1), Sch. 9 para. 3(6)  
**M16** SOURCE-1980 s. 38(2); 1984 s. 43(1)  
**M17** SOURCE-1984 Sch. 9 para. 3(7)  
**M18** SOURCE-1980 S. 38(3); 1984 S. 43(1)  
**M19** SOURCE-1980 s. 38(3A), (3B); 1984 s. 43(2)  
**M20** SOURCE-1980 s. 38(4), (5); 1984 Sch. 9 para. 3(6)

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## 78 Discounted bills of exchange.

- (1)<sup>M21</sup>This section applies in any case where—
- (a) a bill of exchange drawn by a company is or was accepted by a bank and discounted by that or any other bank or by a discount house; and
  - (b) the bill becomes or became payable on or after 1st April 1983; and
  - (c) the discount suffered by the company is not (apart from this section) deductible in computing the company's profits or any description of those profits for purposes of corporation tax.
- (2) Subject to subsection (3) below, in computing, in a case where this section applies, the corporation tax chargeable for the accounting period of the company in which the bill of exchange is paid, an amount equal to the discount referred to in subsection (1)(c) above shall be allowed as a deduction against the total profits for the period as reduced by any relief other than group relief and, except for the purposes of an allowance under section 338(1), that amount shall be treated for the purposes of the Corporation Tax Acts as a charge on income.
- (3) Subsection (2) above shall not apply if the discount is not ultimately suffered by the company and shall not apply unless—
- (a) the company exists wholly or mainly for the purposes of carrying on a trade; or
  - (b) the bill is drawn to obtain funds which are wholly and exclusively expended for the purposes of a trade carried on by the company; or
  - (c) the company is an investment company.
- (4) Where an amount falls to be allowed as mentioned in subsection (2) above, there may be deducted, in computing the profits or gains of the company to be charged under Case I of Schedule D, the incidental costs incurred on or after 1st April 1983 in securing the acceptance of the bill by the bank; and those incidental costs shall be treated for the purposes of section 75 as expenses of management.
- (5) For the purposes of subsection (4) above “incidental costs” means fees, commission and any other expenditure wholly and exclusively incurred for the purpose of securing the acceptance of the bill.
- (6) In this section “bank” means a bank carrying on a bona fide banking business in the United Kingdom and “discount house” means a person bona fide carrying on the business of a discount house in the United Kingdom.

### Marginal Citations

M21 SOURCE-1984 s. 42

## 79 Contributions to local enterprise agencies.

- (1)<sup>M22</sup>Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to an approved local enterprise agency, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax if it would not otherwise be so deductible.

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- (2) Where any such contribution is made by an investment company any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the agency concerned or from any other person.
- (4) In this section “approved local enterprise agency” means a body approved by the Secretary of State for the purposes of this section; but he shall not so approve a body unless he is satisfied that—
  - (a) its sole objective is the promotion or encouragement of industrial and commercial activity or enterprise in a particular area in the United Kingdom with particular reference to encouraging the formation and development of small businesses; or
  - (b) one of its principal objectives is that set out in paragraph (a) above and it maintains or is about to maintain a fund separate from its other funds which is or is to be applied solely in pursuance of that objective;and where the Secretary of State approves a body by virtue of paragraph (b) above, the approval shall specify the fund concerned and, in relation to a body so approved, any reference in this section to a contribution is a reference to a contribution which is made wholly to or for the purposes of that fund.
- (5)<sup>M23</sup> A body may be approved under subsection (4) above whether or not it is a body corporate or a body of trustees or any other association or organisation and whether or not it is described as a local enterprise agency.
- (6) A body may not be approved under subsection (4) above unless it is precluded, by virtue of any enactment, contractual obligation, memorandum or otherwise, from making any direct or indirect payment or transfer to any of its members, or to any person charged with the control and direction of its affairs, of any of its income or profit by way of dividend, gift, division, bonus or otherwise howsoever by way of profit.
- (7) For the purposes of subsection (6) above, the payment—
  - (a) of reasonable remuneration for goods, labour or power supplied or for services rendered, or
  - (b) of reasonable interest for money lent, or
  - (c) of reasonable rent for any premises,does not constitute a payment or transfer which is required to be so precluded.
- (8)<sup>M24</sup> Any approval given by the Secretary of State may be made conditional upon compliance with such requirements as to accounts, provision of information and other matters as he considers appropriate; and if it appears to the Secretary of State that—
  - (a) an approved local enterprise agency is not complying with any such requirement, or
  - (b) one or other of the conditions for his approval contained in subsection (4) above or the precondition for his approval in subsection (6) above has ceased to be fulfilled with respect to an approved local enterprise agency,

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he shall by notice withdraw his approval from the body concerned with effect from such date as he may specify in the notice (which may be a date earlier than the date on which the notice is given).

(9) In any case where—

- (a) a contribution has been made to an approved local enterprise agency in respect of which relief has been given under subsection (1) above, and
- (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(10) Section 839 applies for the purposes of subsections (3) and (9) above.

(11) This section applies to contributions made on or after 1st April 1982 and before 1st April [<sup>F18</sup>1995].

#### Textual Amendments

**F18** 1990 s.75. *Previously*  
 “1992”.

#### Marginal Citations

**M22** SOURCE-1982 s. 48(1)–(4)  
**M23** SOURCE-1982 s. 48(5)  
**M24** SOURCE-1982 s. 48(6)–(9)

### [<sup>F19</sup>79A] **Contributions to training and enterprise councils and local enterprise companies.**

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a training and enterprise council or a local enterprise company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax if it would not otherwise be so deductible.
- (2) Where any such contribution is made by an investment company any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the council or company concerned or from any other person.
- (4) In any case where—
  - (a) relief has been given under subsection (1) above in respect of a contribution, and
  - (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,



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the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D, or if he is not chargeable to tax under either of those Cases for that period under Case VI of Schedule D, on an amount equal to the value of that benefit.

(5) In this section—

- (a) “training and enterprise council” means a body with which the Secretary of State has made an agreement (not being one which has terminated) under which it is agreed that the body shall carry out the functions of a training and enterprise council, and
- (b) “local enterprise company” means a company with which an agreement (not being one which has terminated) under which it is agreed that the company shall carry out the functions of a local enterprise company has been made by the Scottish Development Agency, the Highlands and Islands Development Board, Scottish Enterprise or Highlands and Islands Enterprise.

(6) Section 839 applies for the purposes of subsections (3) and (4) above.

(7) This section applies to contributions made on or after 1st April 1990 and before 1st April 1995.]

#### Textual Amendments

F19 1990 s.76.

VALID FROM 10/07/2003

#### 79B Contributions to urban regeneration companies

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a designated urban regeneration company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits of the trade, profession or vocation if it would not otherwise be so deductible.
- (2) Where any such contribution is made by an investment company, any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the urban regeneration company concerned or from any other person.
- (4) In any case where—
  - (a) relief has been given under subsection (1) above in respect of a contribution, and
  - (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

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the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

- (5) In this section “urban regeneration company” means any body of persons (whether corporate or unincorporate) which the Treasury by order designates as an urban regeneration company for the purposes of this section.
- (6) The Treasury may only make an order under subsection (5) above designating a body as an urban regeneration company for the purposes of this section if they consider that each of the criteria in subsection (7) below is satisfied in the case of the body.
- (7) The criteria are that—
  - (a) the sole or main function of the body is to co-ordinate the regeneration of a specific urban area in the United Kingdom;
  - (b) the body is expected to seek to perform that function by creating a plan for the development of that area and endeavouring to secure that the plan is carried into effect;
  - (c) in co-ordinating the regeneration of that area, the body is expected to work together with some or all of the public or local authorities which exercise functions in relation to the whole or part of that area.
- (8) An order under subsection (5) above may be framed so as to take effect on a date earlier than the making of the order, but not earlier than—
  - (a) 1st April 2003, in the case of the first order under that subsection, or
  - (b) three months before the date on which the order is made, in the case of any subsequent order.
- (9) Section 839 (connected persons) applies for the purposes of this section.
- (10) This section applies to contributions made on or after 1st April 2003.

## 80 Expenses connected with foreign trades etc.

- (1) <sup>M25</sup>This section applies in the case of a trade, profession or vocation carried on wholly outside the United Kingdom by an individual (“the taxpayer”) who does not satisfy the Board as mentioned in section 65(4); and it is immaterial in the case of a trade or profession whether the taxpayer carries it on solely or in partnership.
- (2) Expenses of the taxpayer—
  - (a) in travelling from any place in the United Kingdom to any place where the trade, profession or vocation is carried on;
  - (b) in travelling to any place in the United Kingdom from any place where the trade, profession or vocation is carried on; or
  - (c) on board and lodging for the taxpayer at any place where the trade, profession or vocation is carried on;
 shall, subject to subsections (3) and (4) below, be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation.
- (3) Subsection (2) above does not apply unless the taxpayer’s absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the

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functions of the trade, profession or vocation or of performing those functions and the functions of any other trade, profession or vocation (whether or not one in the case of which this section applies).

- (4) Where subsection (2) above applies and more than one trade, profession or vocation in the case of which this section applies is carried on at the place in question, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (5) Where the taxpayer is absent from the United Kingdom for a continuous period of 60 days or more wholly and exclusively for the purpose of performing the functions of one or more trades, professions or vocations in the case of which this section applies, expenses to which subsection (6) below applies shall be treated in accordance with subsection (7) or (8) below (as the case may be).
- (6) This subsection applies to the expenses of any journey by the taxpayer's spouse, or any child of his, between any place in the United Kingdom and the place of performance of any of those functions outside the United Kingdom, if the journey—
  - (a) is made in order to accompany him at the beginning of the period of absence or to visit him during that period; or
  - (b) is a return journey following a journey falling within paragraph (a) above;but this subsection does not apply to more than two outward and two return journeys by the same person in any year of assessment.
- (7) The expenses shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation concerned (if there is only one).
- (8) The expenses shall be apportioned on such basis as is reasonable between the trades, professions or vocations concerned (if there is more than one) and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (9) In subsection (6) above “child” includes a stepchild and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.
- (10) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

#### **Marginal Citations**

**M25** SOURCE-1986 s. 35

## **81 Travel between trades etc.**

- (1) <sup>M26</sup>Where a taxpayer (within the meaning of section 80) travels between a place where he carries on a trade, profession or vocation in the case of which section 80 applies and a place outside the United Kingdom where he carries on another trade, profession or vocation (whether or not one in the case of which that section applies) expenses of the taxpayer on such travel shall, subject to subsections (3) to (5) below, be treated for

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the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation mentioned in subsection (2) below.

- (2) The trade, profession or vocation is—
  - (a) the one carried on at the place of the taxpayer's destination; or
  - (b) if that trade, profession or vocation is not one in the case of which section 80 applies, the one carried on at the place of his departure.
- (3) This section does not apply unless the journey was made—
  - (a) after performing functions of the trade, profession or vocation carried on at the place of departure; and
  - (b) for the purpose of performing functions of the trade, profession or vocation carried on at the place of destination.
- (4) This section does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of both the trades, professions or vocations concerned or of performing those functions and the functions of any other trade, profession or vocation.
- (5) Where this section applies and more than one trade, profession or vocation in the case of which section 80 applies is carried on at the place of the taxpayer's destination or (in a case falling within subsection (2)(b) above) at the place of his departure, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (6) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

**Marginal Citations**

M26 SOURCE-1986 s. 36

**82 Interest paid to non-residents.**

- (1)<sup>M27</sup> In computing the profits or gains arising from a trade, profession or vocation, no sum shall be deducted in respect of any annual interest paid to a person not resident in the United Kingdom unless—
  - (a) the person making the payment has deducted income tax from the payment in accordance with section 349(2) and accounts for the tax so deducted, or
  - (b) the conditions set out in subsection (2) below are satisfied.
- (2) The conditions referred to in subsection (1)(b) above are as follows—
  - (a) that the trade, profession or vocation is carried on by a person residing in the United Kingdom, and
  - (b) that the liability to pay the interest was incurred exclusively for the purposes of the trade, profession or vocation, and
  - (c) that either—
    - (i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade, profession or vocation carried on outside the United Kingdom, or

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- (ii) the interest is payable in a currency other than sterling, and
  - (d) that, under the terms of the contract under which the interest is payable, the interest is to be paid, or may be required to be paid, outside the United Kingdom, and
  - (e) that the interest is in fact paid outside the United Kingdom.
- (3) Where the trade, profession or vocation is carried on by a partnership, subsection (1)(b) above shall not apply to any interest which is payable to any of the partners, or is payable in respect of the share of any partner in the partnership capital.
- (4) Subsection (1)(b) above shall not apply where—
- (a) the trade, profession or vocation is carried on by a body of persons over whom the person entitled to the interest has control; or
  - (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade, profession or vocation has control; or
  - (c) the person carrying on the trade, profession or vocation and the person entitled to the interest are both bodies of persons and some other person has control over both of them.
- In this subsection, the references to a body of persons include references to a partnership, and “control” has the meaning given by section 840.
- (5) If interest paid under deduction of tax in accordance with section 349(2) is deductible in computing the profits or gains of a trade, profession or vocation the amount so deductible shall be the gross amount.
- (6) This section does not apply for the purposes of corporation tax.

#### **Marginal Citations**

**M27** SOURCE-1970 s. 131(1)–(5), (7); 1982 s. 64(1)

VALID FROM 28/07/2000

#### **82A Expenditure on research and development.**

- (1) Notwithstanding anything in section 74, where a person carrying on a trade incurs expenditure not of a capital nature on research and development—
- (a) related to that trade, and
  - (b) directly undertaken by him or on his behalf,
- the expenditure incurred may be deducted as an expense in computing the profits of the trade for the purposes of tax.
- (2) For this purpose expenditure on research and development does not include expenditure incurred in the acquisition of rights in, or arising out of, research and development.
- Subject to that, it includes all expenditure incurred in carrying out, or providing facilities for carrying out, research and development.
- (3) The reference in subsection (1) above to research and development related to a trade includes—

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- (a) research and development which may lead to or facilitate an extension of that trade;
  - (b) research and development of a medical nature which has a special relation to the welfare of workers employed in that trade.
- (4) The same expenditure may not be taken into account under this section in relation to more than one trade.
- (5) In this section “research and development” has the meaning given by section 837A and includes oil and gas exploration and appraisal.

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

**C11** S. 82A modified (1.1.2005 with effect in accordance with art. 2 of the commencing S.I.) by [Finance Act 2004 \(c. 12\)](#), [s. 53\(2\)](#); S.I. 2004/3268, [art. 2](#)

VALID FROM 28/07/2000

**82B Payments to research associations, universities etc.**

- (1) Notwithstanding anything in section 74, where a person carrying on a trade—
- (a) pays any sum to a scientific research association that—
    - (i) has as its object the undertaking of scientific research related to the class of trade to which the trade he is carrying on belongs, and
    - (ii) is for the time being approved for the purposes of this section by the Secretary of State, or
  - (b) pays any sum to be used for such scientific research as is mentioned in paragraph (a) above to any such university, college research institute or other similar institution as is for the time being approved for the purposes of this section by the Secretary of State,
- the sum paid may be deducted as an expense in computing the profits of the trade for the purposes of tax.
- (2) In this section “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.
- (3) The reference in this section to scientific research related to a class of trade includes—
- (a) scientific research which may lead to or facilitate an extension of trades of that class;
  - (b) scientific research of a medical nature which has a special relation to the welfare of workers employed in trades of that class.
- (4) If a question arises under this section whether, or to what extent, any activities constitute or constituted scientific research, the Board shall refer the question for decision to the Secretary of State.

The decision of the Secretary of State is final.

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- (5) The same expenditure may not be taken into account under this section in relation to more than one trade.

### 83 Patent fees etc. and expenses.

<sup>M28</sup>Notwithstanding anything in section 74, in computing the profits or gains of a trade there may be deducted as expenses any fees paid or expenses incurred—

- (a) in obtaining for the purposes of the trade the grant of a patent, an extension of the term of a patent, the registration of a design or trade mark, [<sup>F20</sup>an extension of the period for which the right in a registered design subsists] or the renewal of registration of a trade mark, or
- (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

References in this section to a trade mark include references to a service mark within the meaning of the <sup>M29</sup>Trade Marks (Amendment) Act 1984.

#### Textual Amendments

**F20** Sch.7 para.36(2)Copyright, Designs and Patents Act 1988 (c.48)—in force on 1 August 1989.  
(Commencement order—S.I. 1989 No.816—not reproduced.)Previously  
“the extension of the period of copyright in a design”.

#### Marginal Citations

**M28** SOURCE-1970 s. 132  
**M29** 1984 c. 19.

VALID FROM 27/07/1999

### 83A Gifts in kind to charities etc.

- (1) This section applies where a person carrying on a trade, profession or vocation gives an article falling within subsection (2) below to—
  - (a) a charity within the meaning of section 506, or
  - (b) a body listed in section 507(1).
- (2) An article falls within this subsection if—
  - (a) it is an article manufactured, or of a class or description sold, by the donor in the course of his trade; or
  - (b) it is an article used by the donor in the course of his trade, profession or vocation which for the purposes of Part II of the 1990 Act constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation.
- (3) Subject to subsection (4) below, where this section applies in the case of the gift of an article—
  - (a) no amount shall be required, in consequence of the donor’s disposal of that article from trading stock, to be brought into account for the purposes of the Tax Acts as a trading receipt of the donor; and

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- (b) section 24(6) of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section.
- (4) In any case where—
  - (a) relief is given under subsection (3) above in respect of the gift of an article, and
  - (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,
 the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
- (5) Section 839 applies for the purposes of this section.

**[84] <sup>F21</sup>Gifts to educational establishments.**

- (1) This section applies where a person carrying on a trade, profession or vocation (“the donor”) makes a gift for the purposes of a designated educational establishment of—
  - (a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or
  - (b) an article used by the donor in the course of his trade, profession or vocation—
    - (i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and
    - (ii) in respect of which he has claimed an allowance under that Part of that Act.
- (2) For the purposes of this section, an article “qualifies as machinery or plant in the hands of an educational establishment” if, and only if, it is an article such that—
  - (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
  - (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and
  - (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,
 the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.
- (3) Where this section applies—
  - (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and
  - (b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;



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but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

- (4) In any case where—
- (a) relief is given under subsection (3) above in respect of the gift of an article, and
  - (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,
- the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
- (5) In this section “designated educational establishment” means any educational establishment designated, or of a category designated,—
- (a) as respects Great Britain, in regulations made by the Secretary of State; or
  - (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;
- and any such regulations may make different provision for different areas.
- (6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—
- (a) in the case of an establishment in Great Britain, to the Secretary of State, or
  - (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.]

#### Textual Amendments

**F21** S. 84 substituted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 68(1)(2)

#### [84A <sup>F22</sup>Costs of establishing share option or profit sharing schemes: relief.

- (1) Subsection (2) below applies where—
- (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or

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- (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.
- (2) In such a case the expenditure—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
  - (a) subsection (2) above applies, and
  - (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).
- (4) References in this section to approving are to approving under Schedule 9.
- (5) This section applies where the expenditure is incurred on or after 1st April 1991.]

#### Textual Amendments

**F22** S. 84A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 42

## 85 Payments to trustees of approved profit sharing schemes.

- (1) <sup>M30</sup>Any sum expended in making a payment to the trustees of an approved profit sharing scheme by a company which is in relation to that scheme the grantor or a participating company—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by that company; or
  - (b) if that company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management,

if, and only if, one of the conditions in subsection (2) below is fulfilled.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that before the expiry of the relevant period the sum in question is applied by the trustees in the acquisition of shares for appropriation to individuals who are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment; and
  - (b) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.
- (3) For the purposes of subsection (2)(a) above “the relevant period” means the period of nine months beginning on the day following the end of the period of account in which the sum in question is charged as an expense of the company incurring the expenditure or such longer period as the Board may allow by notice given to that company.

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- (4) For the purposes of this section, the trustees of an approved profit sharing scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.
- (5) In this section—
- “approved profit sharing scheme” means a profit sharing scheme approved under Schedule 9; and
  - “the grantor” and “participating company” have the meaning given by paragraph 1(3) and (4) of that Schedule.

#### Marginal Citations

M30 SOURCE-1978 s. 60

### **[85A <sup>F23</sup>Costs of establishing employee share ownership trusts: relief.**

- (1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.
- (2) In such a case the expenditure—
- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
- (a) subsection (2) above applies, and
  - (b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,
- for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).
- (4) In this section “qualifying employee share ownership trust” shall be construed in accordance with Schedule 5 to the Finance Act 1989.
- (5) For the purposes of this section the trust is established when the deed under which it is established is executed.
- (6) This section applies where the expenditure is incurred on or after 1st April 1991.]

#### Textual Amendments

F23 S. 85A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 43

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VALID FROM 06/04/2003

## 85B Approved share incentive plans

Schedule 4AA (which provides for deductions relating to approved share incentive plans) shall have effect.

## 86 Employees seconded to charities and educational establishments.

- (1) <sup>M31</sup>If a person (“the employer”) carrying on a trade, profession, vocation or business for the purposes of which he employs a person (“the employee”) makes available to a charity, on a basis which is expressed and intended to be of a temporary nature, the services of the employee then, notwithstanding anything in section 74 or 75, any expenditure incurred (or disbursed) by the employer which is attributable to the employment of that employee shall continue to be deductible in the manner and to the like extent as if, during the time that his services are so made available to the charity, they continued to be available for the purposes of the employer’s trade, business, profession or vocation.
- (2) In subsection (1) above—  
 “charity” has the same meaning as in section 506;  
 “deductible” means deductible as an expense in computing the profits or gains of the employer to be charged under Case I or II of Schedule D or, as the case may be, deductible as expenses of management for the purposes of section 75.
- (3) With respect to expenditure attributable to the employment of a person on or after 26th November 1986 <sup>F24</sup>. . . , this section shall have effect as if the references to a charity included references to any of the following bodies, that is to say—
- (a) in England and Wales, any local education authority and any educational institution maintained by such an authority;
  - (b) in Scotland, any education authority, any educational establishment maintained by such an authority, and any college of education or central institution within the meaning of the <sup>M32</sup>Education (Scotland) Act 1980;
  - (c) in Northern Ireland, any education and library board, college of education or controlled school within the meaning of the <sup>M33</sup>Education and Libraries (Northern Ireland) Order 1986 and any institution of further education which is under the management of an education and library board by virtue of Article 28 of that Order; and
  - (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education for Northern Ireland.

### Textual Amendments

**F24** Words in s. 86(3) repealed (retrospectively) by Finance Act 1999 (c. 16), s. 58(2)(5), Sch. 20 Pt. 3(14), Note

### Marginal Citations

**M31** SOURCE-1983 s. 28; 1984 s. 33; 1987 s. 34

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**M32** 1980 c. 44.

**M33** S.I. 1986/594 (N.I. 3).

VALID FROM 27/07/1993

**[<sup>F25</sup>86A Charitable donations: contributions to agent's expenses.**

- (1) This section applies where—
  - (a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and
  - (b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).
- (2) Any relevant expenditure incurred by the employer on or after 16th March 1993—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or
  - (b) if the employer is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme.]

**Textual Amendments**

**F25** S. 86A inserted (27.7.1993) by 1993 c. 34, s.69

**87 Taxable premiums etc.**

- (1) <sup>M34</sup>This section applies where in relation to any land used in connection with a trade, profession or vocation—
  - (a) tax has become chargeable under section 34 or 35 on any amount (disregarding any reduction in that amount under section 37(2) and (3)); or
  - (b) tax would have become so chargeable on that amount but for the operation of section 37(2) and (3) or but for any exemption from tax;and that amount is referred to below as “the amount chargeable”.
- (2) <sup>M35</sup>Subject to subsections (3) to (8) below, where—
  - (a) during any part of the relevant period the land in relation to which the amount chargeable arose is occupied by the person for the time being entitled to the lease as respects which it arose, and
  - (b) that occupation is for the purposes of a trade, profession or vocation carried on by him,

he shall be treated, in computing the profits or gains of the trade, profession or vocation chargeable to tax under Case I or II of Schedule D, as paying in respect of that land rent for the period (in addition to any actual rent), becoming due from day to day, of

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an amount which bears to the amount chargeable the same proportion as that part of the relevant period bears to the whole.

- (3) As respects any period during which a part only of the land in relation to which the amount chargeable arose is occupied as mentioned in subsection (2) above, that subsection shall apply as if the whole were so occupied, but the amount chargeable shall be treated as reduced by so much thereof as, on a just apportionment, is attributable to the remainder of the land.
- (4) <sup>M36</sup>Where a person, although not in occupation of the land or any part of the land, deals with his interest in the land or that part as property employed for the purposes of a trade, profession or vocation carried on by him, subsections (2) and (3) above shall apply as if the land or part were occupied by him for those purposes.
- (5) <sup>M37</sup>Where section 37(2) and (3) has effect in relation to a lease granted out of the interest referred to in subsection (4) above, subsections (5) and (6) of that section shall apply for modifying the operation of subsections (2) and (3) above as they apply for modifying the operation of subsection (4) of that section.
- (6) <sup>M38</sup>In computing profits or gains chargeable under Case I or II of Schedule D for any chargeable period, rent shall not by virtue of subsection (4) above be treated as paid by a person for any period in respect of land in so far as rent treated under section 37(4) as paid by him for that period in respect of the land has in any previous chargeable period been deducted, or falls in that chargeable period to be deducted under Part II.
- (7) <sup>M39</sup>Where, in respect of expenditure on the acquisition of his interest in the land in relation to which the amount chargeable arose, a person has become entitled to an allowance under [<sup>F26</sup>Part IV of the 1990 Act in respect of expenditure falling within section 105(1)(b) of that Act] (mineral depletion) for any chargeable period, then—
- (a) if the allowance is in respect of the whole of the expenditure, no deduction shall be allowed him under this section for that or any subsequent chargeable period; or
  - (b) if the allowance is in respect of part only of the expenditure (“the allowable part”), a deduction allowed him under this section for that or any subsequent chargeable period shall be the fraction—

$$\frac{A - B}{A}$$

of the amount which apart from this subsection would fall to be deducted, where—

A is the whole of the expenditure, and

B is the allowable part of the expenditure;

... <sup>F27</sup>

- (8) Where the amount chargeable arose under section 34(2) by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, this section shall apply as if the obligation had not included the carrying out of that work and the amount chargeable had been calculated accordingly.
- (9) <sup>M40</sup>In this section “the relevant period” means—

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- (a) where the amount chargeable arose under section 34, the period treated in computing that amount as the duration of the lease;
- (b) where the amount chargeable arose under section 35, the period treated in computing that amount as the duration of the lease remaining at the date of the assignment.

#### Textual Amendments

**F26** 1990(C) s.164 and Sch.1 para.8(5). *Previously*

“section 60 of the 1968 Act”.

**F27** *Words repealed by* 1990(C) s.164(4) and Sch.2. *See 1989 edition for these provisions.*

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

**C12** *See—*1976(D) Sch.6 para.4(4)—*no account to be taken of any deduction of realised development value. 1976(D) repealed by* 1985 ss.93, 98(6) and Sch.27 Part X *from* 19 March 1985. 1990(C) s.111—*reduction of qualifying expenditure for premium relief.*

**C13** S. 87 excluded (19.9.1994) by [Coal Industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 15\(2\)](#) (with s. 40(7)); S. I. 1994/2189, [art. 2](#), [Sch.](#)

#### Marginal Citations

**M34** SOURCE-1970 s. 134(1); 1978 s. 32

**M35** SOURCE-1970 s. 134(2), (3); 1978 s. 32

**M36** SOURCE-1970 s. 134(4)

**M37** SOURCE-1970 s. 134(4)(a)

**M38** SOURCE-1970 s. 134(4)(b)

**M39** SOURCE-1970 s. 134(5), (6); 1986 Sch. 13 para. 26

**M40** SOURCE-1970 s. 134(1)(i), (ii)

VALID FROM 06/04/2005

#### 87A Section 87(2) and (3) and reductions in receipts under ITTOIA 2005

- (1) This section applies if—
  - (a) a lease has been granted out of the interest referred to in section 87(4),
  - (b) in calculating the amount that falls to be treated as a receipt of a UK property business under Chapter 4 of Part 3 of ITTOIA 2005 in respect of the lease, there is a reduction under section 288 of that Act by reference to a taxed receipt, and
  - (c) the taxed receipt is the amount chargeable for the purposes of section 87.
- (2) Section 37A (section 37(4) and reductions in receipts under ITTOIA 2005) shall apply for modifying the operation of section 87(2) and (3) as it applies for modifying the operation of section 37(4).
- (3) In this section the following expressions have the same meaning as in Chapter 4 of Part 3 of ITTOIA 2005—
  - “reduction under section 288 by reference to a taxed receipt” (see section 290(6) of that Act), and
  - “taxed receipt” (see section 287(4) of that Act).

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## 88 Payments to Export Credit Guarantee Department.

<sup>M41</sup>Any sums paid by a person to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the <sup>M42</sup>Export Guarantees and Overseas Investment Act 1978, or with a view to entering into such an agreement, shall be included—

- (a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the profits or gains of any trade, profession or vocation carried on by that person; or
- (b) if that person is an investment company or a company in the case of which section 75 applies by virtue of section 76, in the sums to be deducted as expenses of management in computing the company's profits for the purposes of corporation tax;

whether or not they would fall to be so included apart from this section.

### Marginal Citations

**M41** SOURCE-1972 s. 124(1)

**M42** 1978 c. 18.

## [<sup>F28</sup>88A Debts of overseas governments etc.

(1) For any period of account of a company ending on or after 20th March 1990, section 88B shall have effect for the purpose of restricting the extent to which a debt to which subsection (2) below applies may be estimated to be bad for the purposes of section 74(j); and—

- (a) any deduction which may fall to be made in computing the company's profits or gains for the period, and
- (b) any addition which may fall to be so made (for example because the relevant percentage of the debt for the period is smaller than the amount estimated to be bad for an earlier period),

shall be determined accordingly.

(2) Subject to subsection (3) below, this subsection applies to any debt—

- (a) which is owed by an overseas State authority, or
- (b) payment of which is guaranteed by an overseas State authority, or
- (c) which is estimated to be bad for the purposes of section 74(j) wholly or mainly because due payment is or may be prevented, restricted or subjected to conditions—

(i) by virtue of any law of a State or other territory outside the United Kingdom or any act of an overseas State authority, or

(ii) under any agreement entered into in consequence or anticipation of such a law or act.

(3) Subsection (2) above does not apply to interest on a debt or to a debt which represents the consideration for the provision of goods or services.

(4) In this section “overseas State authority” means—

- (a) a State or other territory outside the United Kingdom,
- (b) the government of such a State or territory,
- (c) the central bank or other monetary authority of such a State or territory,



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- (d) a public or local authority in such a State or territory, or
  - (e) a body controlled by such a State, territory, government, bank or authority;
- and for this purpose “controlled” shall be construed in accordance with section 840.]

#### Textual Amendments

F28 1990 s.74.

### 88B Section 88A debts: restriction on deductions under section 74(j).

- (1) Where this section has effect in relation to a debt, no more than the relevant percentage of the debt shall be estimated to be bad for the purposes of section 74(j).
- (2) The relevant percentage of a debt for any period of account of the company is such percentage (which may be zero) as may be determined in accordance with regulations by reference to the position at the end of that period.
- (3) Subsection (2) above has effect subject to the following provisions of this section, and in those provisions—
  - (a) “the base period” means the last period of account of the company ending before 20th March 1990, and
  - (b) “the base percentage”, in relation to a debt, means such percentage (which may be zero) as may be determined in accordance with regulations by reference to the position at the end of the base period.
- (4) If for any period of account of the company which ends less than two years after the base period the percentage provided for in subsection (2) above in relation to a debt is greater than the base percentage, the base percentage shall be the relevant percentage for the first-mentioned period.
- (5) If for any later period of account of the company the percentage provided for in subsection (2) above in relation to a debt is greater than the base percentage increased by five percentage points for each complete year (except the first) that has elapsed between—
  - (a) the end of the base period, and
  - (b) the end of the later period in question,then the base percentage as so increased shall be the relevant percentage for the later period.
- (6) In relation to a company which had no periods of account ending before 20th March 1990, the relevant percentage in relation to a debt shall be the same as it would have been on the assumption that the company had had such periods of account (and that any notional periods of account before its first actual period of account had been of one year each).
- (7) In this section “regulations” means regulations made by the Treasury; but the Treasury shall not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.

### 88C Section 88A debts: restriction on other deductions.

- (1) Where—

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- (a) on or after 20th March 1990 a company incurs in respect of a debt a loss which would be allowed as a deduction in computing the amount of the company's profits or gains under Case I or Case II of Schedule D,
  - (b) section 88A(2) applies to the debt,
  - (c) either—
    - (i) a deduction is made in respect of the debt in accordance with section 74(j) for any period of account of the company before that in which the loss is incurred, or
    - (ii) the debt was acquired by the company on or after 20th March 1990 for a consideration greater than the price which it might reasonably have been expected to fetch on a sale in the open market at the time of acquisition, and
  - (d) the amount of the loss is greater than 5 per cent. of the debt,
- then, subject to subsection (3) below, only such part of the loss as equals 5 per cent. of the debt shall be allowed as a deduction for the period of account in which the loss is incurred; but further parts calculated in accordance with subsection (2) below may be allowed for subsequent periods until the loss is exhausted.
- (2) The part of the loss allowed as a deduction for any period of account after that in which the loss is incurred shall not exceed such amount as, together with any parts allowed under this section for earlier periods, is equal to 5 per cent. of the debt for each complete year that has elapsed between—
    - (a) the beginning of the period in which the loss was incurred, and
    - (b) the end of the period in question.
  - (3) Subsections (1) and (2) above shall not apply to a loss incurred on a disposal of the debt to an overseas State authority if the State or territory by reference to which it is an overseas State authority is the same as that by reference to which section 88A(2) applies to the debt.
  - (4) References in subsections (1) and (2) above to the incurring of a loss in respect of a debt include references to the making of a deduction, otherwise than in accordance with section 74(j), in respect of a reduction in the value of a debt; and for the purposes of those subsections such a deduction shall be treated as made immediately before the end of the period of account for which it is made.

VALID FROM 07/05/2005

### **88D Restriction of deductions in respect of certain debts**

- (1) This section applies to debts to which the following provisions do not apply—
  - (a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships, etc);
  - (b) Schedule 26 to the Finance Act 2002 (derivative contracts);
  - (c) Schedule 29 to that Act (intangible fixed assets).
- (2) In calculating the profits of a company's trade for the purposes of corporation tax, no deduction is allowed in respect of a debt owed to the company, except—
  - (a) by way of impairment loss, or
  - (b) to the extent that the debt is released wholly and exclusively for the purposes of that trade as part of a statutory insolvency arrangement.

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- (3) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.
- (4) In this section “trade” has the meaning given by section 6(4).

## 89 Debts proving irrecoverable after event treated as discontinuance.

<sup>M43</sup>Where section 113 or 337(1) applies to treat a trade, profession or vocation as discontinued by reason of any event, then, in computing for tax purposes the profits or gains of the trade, profession or vocation in any period after the event, there may be deducted a sum equal to any amount proved during that period to be irrecoverable in respect of any debts credited in computing for tax purposes the profits or gains for any period before the event (being debts the benefit of which was assigned to the persons carrying on the trade, profession or vocation after the event) in so far as the total amount proved to be irrecoverable in respect of those debts exceeds any deduction allowed in respect of them under section 74(j) in a computation for any period before the event.

### Marginal Citations

M43 SOURCE-1970 s. 135

## 90 Additional payments to redundant employees.

- (1) <sup>M44</sup>Where a payment is made by way of addition to a redundancy payment or to the corresponding amount of any other employer’s payment and the additional payment would be—
  - (a) allowable as a deduction in computing for the purposes of Schedule D the profits or gains or losses of a trade, profession or vocation; or
  - (b) eligible for relief under section 75 or 76 as expenses of management of a business,but for the permanent discontinuance of the trade, profession, vocation or business, the additional payment shall, subject to subsection (2) below, be so allowable or so eligible notwithstanding that discontinuance and, if made after the discontinuance, shall be treated as made on the last day on which the trade, profession, vocation or business was carried on.
- (2) Subsection (1) above applies to an additional payment only so far as it does not exceed three times the amount of the redundancy payment or of the corresponding amount of the other employer’s payment.
- (3) In this section references to the permanent discontinuance of a trade, profession, vocation or business include references to any occasion on which it is treated as permanently discontinued by virtue of section 113(1) or 337(1).
- (4) In this section references to a redundancy payment or to the corresponding amount of an employer’s payment shall be construed as in sections 579 and 580.

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### Marginal Citations

M44 SOURCE-1980 s. 41

## 91 Cemeteries.

- (1)<sup>M45</sup> In computing the profits or gains or losses for any period of a trade which consists of or includes the carrying on of a cemetery, there shall be allowed as a deduction—
- (a) any capital expenditure incurred by the person engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments, and
  - (b) the appropriate fraction of the residue at the end of that period of the relevant capital expenditure.
- (2)<sup>M46</sup> Subject to subsection (3) below, the relevant capital expenditure is capital expenditure incurred for the purposes of the trade in question by the person engaged in carrying it on, being—
- (a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full; and
  - (b) expenditure incurred in providing land taken up by any such building or structure, and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full.
- (3) Relevant capital expenditure—
- (a) does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) above applies in the case of the trade in question; and
  - (b) of other expenditure incurred before that time, includes only the fraction—

$$\frac{A}{A + B}$$

where—

A is the number of grave-spaces which at that time were or could have been made available in the cemetery for sale, and

B is the number already sold.

- (4)<sup>M47</sup> For the purposes of this section—
- (a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—
    - (i) any amount allowed in respect of that expenditure under subsection (1)(b) above in computing the profits or gains or losses of the trade for any previous period, and
    - (ii) if, after the beginning of the first period to which subsection (1) above applies in the case of a trade and before the end of the period mentioned at the beginning of this subsection, any asset representing that expenditure is sold or destroyed, the net proceeds of sale or, as

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- the case may be, any insurance money or other compensation of any description received by the person carrying on the trade in respect of the destruction and any money received by him for the remains of the asset; and
- (b) the appropriate fraction of the residue of any expenditure at the end of any period is—

$$\frac{A}{A + B}$$

where—

A is the number of grave-spaces in the cemetery sold in the period, and

B is the number of grave-spaces which at the end of the period are or could be made available in the cemetery for sale.

- (5) Where in any chargeable period there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to the persons carrying on the trade after the change shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed—
- (a) as if they had at all times been engaged in carrying on the trade;
- (b) as if everything done to or by any of their predecessors in carrying on the trade had been done to or by them; and
- (c) without regard to the price paid on any sale on the occasion of any such change.
- (6) No expenditure shall be taken into account under both paragraph (a) and paragraph (b) of subsection (1) above, whether for the same or different periods.
- (7) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and, in connection therewith, the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—
- (a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots, and
- (b) references to grave-spaces shall be taken as references to memorial garden plots, and
- (c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.
- (8) In this section—
- (a) references to the sale of land include references to the sale of a right of interment in land, and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment;
- (b) references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or a memorial garden; and

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- (c) the reference in subsection (4)(a)(ii) to subsection (1) above includes a reference to section 141 of the 1970 Act and section 22 of the <sup>M48</sup>Finance Act 1952 (which made similar provision to that made by this section).
- (9) [<sup>F29</sup>Section 153 of the 1990 Act] (which relates to expenditure which is reimbursed to a person carrying on a trade) shall apply for the purposes of this section as it applies for the purposes of [<sup>F29</sup>that Act].

#### Textual Amendments

**F29** 1990(C) Sch.1 para.8(6).*Previously*  
 “Section 84 of the 1968 Act”  
*and*  
 “Part I of that Act”  
*respectively.*

#### Marginal Citations

**M45** SOURCE-1970 s. 141(1)  
**M46** SOURCE-1970 s. 141(2)  
**M47** SOURCE-1970 s. 141(3)–(8)  
**M48** 1952 c. 33.

### [<sup>F30</sup>91A Waste disposal: restoration payments.

- (1) This section applies where on or after 6th April 1989 a person makes a site restoration payment in the course of carrying on a trade.
- (2) Subject to subsection (3) below, for the purposes of income tax or corporation tax the payment shall be allowed as a deduction in computing the profits or gains of the trade for the period of account in which the payment is made.
- (3) Subsection (2) above shall not apply to so much of the payment as—
- (a) represents expenditure which has been allowed as a deduction in computing the profits or gains of the trade for any period of account preceding the period of account in which the payment is made, or
  - (b) represents capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.
- (4) For the purposes of this section a site restoration payment is a payment made—
- (a) in connection with the restoration of a site or part of a site, and
  - (b) in order to comply with any condition of a relevant licence, or any condition imposed on the grant of planning permission to use the site for the carrying out of waste disposal activities, or any term of a relevant agreement.
- (5) For the purposes of this section waste disposal activities are the collection, treatment, conversion and final depositing of waste materials, or any of those activities.
- (6) For the purposes of this section a relevant licence is—
- (a) a disposal licence under Part I of the <sup>M49</sup>Control of Pollution Act 1974 or Part II of the <sup>M50</sup>Pollution Control and Local Government (Northern Ireland) Order 1978, or

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- (b) a waste management licence under Part II of the Environmental Protection Act 1990 or any corresponding provision for the time being in force in Northern Ireland.
- (7) For the purposes of this section a relevant agreement is an agreement made under section 52 of the <sup>M51</sup>Town and Country Planning Act 1971, section 50 of the <sup>M52</sup>Town and Country Planning (Scotland) Act 1972 or section 106 of the <sup>M53</sup>Town and Country Planning Act 1990 (all of which relate to agreements regulating the development or use of land) or under any provision corresponding to section 106 of the Town and Country Planning Act 1990 and for the time being in force in Northern Ireland.
- (8) For the purposes of this section a period of account is a period for which an account is made up.]

#### Textual Amendments

**F30** 1990 s.78.

#### Marginal Citations

**M49** 1974 c. 40.

**M50** S.I. 1978/1049 (N.I.19).

**M51** 1971 c. 78.

**M52** 1972 c. 52.

**M53** 1990 c. 8.

### 91B Waste disposal: preparation expenditure.

- (1) This section applies where a person—
- (a) incurs, in the course of carrying on a trade, site preparation expenditure in relation to a waste disposal site (the site in question),
  - (b) holds, at the time the person first deposits waste materials on the site in question, a relevant licence which is then in force,
  - (c) makes a claim for relief under this section in such form as the Board may direct, and
  - (d) submits such plans and other documents (if any) as the Board may require;
- and it is immaterial whether the expenditure is incurred before or after the coming into force of this section.
- (2) In computing the profits or gains of the trade for a period of account ending after 5th April 1989, the allowable amount shall be allowed as a deduction for the purposes of income tax or corporation tax.
- (3) In relation to a period of account (the period in question) the allowable amount shall be determined in accordance with the formula—

$$\left( A - B \right) \times \frac{C}{C + D}$$

- (4) A is the site preparation expenditure incurred by the person at any time before the beginning of, or during, the period in question—

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- (a) in relation to the site in question, and
- (b) in the course of carrying on the trade;

but this subsection is subject to subsections (5) and (9) below.

- (5) A does not include any expenditure—
  - (a) which has been allowed as a deduction in computing the profits or gains of the trade for any period of account preceding the period in question, or
  - (b) which constitutes capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.
- (6) B is an amount equal to any amount allowed as a deduction under this section, if allowed—
  - (a) in computing the profits or gains of the trade for any period of account preceding the period in question, and
  - (b) as regards expenditure incurred in relation to the site in question;
 and if different amounts have been so allowed as regards different periods, B is the aggregate of them.
- (7) C is the volume of waste materials deposited on the site in question during the period in question; but if the period is one beginning before 6th April 1989 C shall be reduced by the volume of any waste materials deposited on the site during the period but before that date.
- (8) D is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs at the end of the period in question.
- (9) Where any of the expenditure which would be included in A (apart from this subsection) was incurred before 6th April 1989, A shall be reduced by an amount determined in accordance with the formula—

$$E \times \frac{F}{F + G}$$

- (10) For the purposes of subsection (9) above—
  - (a) E is so much of the initial expenditure (that is, the expenditure which would be included in A apart from subsection (9) above) as was incurred before 6th April 1989,
  - (b) F is the volume of waste materials deposited on the site in question before 6th April 1989, and
  - (c) G is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs immediately before 6th April 1989.
- (11) For the purposes of this section—
  - (a) a waste disposal site is a site used (or to be used) for the disposal of waste materials by their deposit on the site,
  - (b) in relation to such a site, site preparation expenditure is expenditure on preparing the site for the deposit of waste materials (and may include expenditure on earthworks),
  - (c) in relation to such a site, “capacity” means capacity expressed in volume,
  - (d) “relevant licence” has the same meaning as in section 91A, and



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- (e) a period of account is a period for which an account is made up.

VALID FROM 28/07/2000

### **91BA Waste disposal: entitlement of successor to allowances.**

- (1) This section applies where—
- (a) site preparation expenditure has been incurred in relation to a waste disposal site,
  - (b) that expenditure was incurred by a person in the course of carrying on a trade, and
  - (c) on or after 21st March 2000—
    - (i) that person (“the predecessor”) ceases to carry on that trade, or ceases to carry it on so far as it relates to that site, and
    - (ii) another person (“the successor”) begins to carry on that trade, or to carry on in the course of a trade the activities formerly carried on by the predecessor in relation to that site.
- (2) If the conditions specified in the following provisions of this section are met, then, for the purposes of section 91B above—
- (a) the trade carried on by the successor shall be treated as the same trade as that carried on by the predecessor, and
  - (b) allowances shall be made to the successor (and not to the predecessor) as if everything done to or by the predecessor had been done to or by the successor.
- (3) The first condition is that the whole of the site in question is transferred to the successor.
- Provided the successor holds an estate or interest in the whole of the site, it need not be the same as that held by the predecessor.
- (4) The second condition is that the successor, at the time he first deposits waste material at the site, holds a relevant licence in respect of the site which is then in force.
- (5) Expressions used in this section have the same meaning as in section 91B.

VALID FROM 19/03/1997

### **91C Mineral exploration and access.**

Where—

- (a) a person carrying on a trade incurs expenditure on mineral exploration and access as defined in section 121(1) of the <sup>M54</sup>Capital Allowances Act 1990 in an area or group of sands in which the presence of mineral deposits in commercial quantities has already been established, and
- (b) if the presence in that area or group of sands of mineral deposits in commercial quantities had not already been established, that expenditure would not have been allowed to be deducted in computing the profits or gains of the trade for the purposes of tax,

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that expenditure shall not be so deducted.

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**Marginal Citations**

**M54** [1990 c. 1.](#)

**Status:**

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**Changes to legislation:**

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