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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART IX U.K.

#### ANNUAL PAYMENTS AND INTEREST

##### *Relief for payments of interest (excluding MIRAS)*

#### 353 General provision. U.K.

[<sup>F1</sup>(1) Where a person pays interest in any year of assessment, that person, if he makes a claim to the relief, shall for that year of assessment be entitled (subject to sections 354 to 368) to relief in accordance with this section in respect of so much (if any) of the amount of that interest as is eligible for relief under this section by virtue of sections 354 to 365.]

[<sup>F2</sup>(1A) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

(a) is eligible for that relief by virtue of section 354 or 365,<sup>F3</sup> . . .

(b) <sup>F3</sup> . . . . .

that relief shall consist in an income tax reduction for that year calculated by reference to that amount.

(1B) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

(a) is eligible for that relief otherwise than by virtue of section 354 or 365,<sup>F4</sup> . . .

(b) <sup>F4</sup> . . . . .

that relief shall consist (subject to [<sup>F5</sup>section 237(5)(b)]) in a deduction or set-off of that amount from or against that person's income for that year.

(1C) <sup>F6</sup> . . . . .

(1D) <sup>F6</sup> . . . . .

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(1E) Where any person is entitled for any year of assessment to relief under this section in respect of any amount of interest as is eligible for that relief partly as mentioned in subsection (1A) above and partly as mentioned in subsection (1B) above, that amount of interest shall be apportioned between the cases to which each of those subsections applies without regard to what parts of the total amount borrowed remain outstanding but according to <sup>F7</sup> . . . —

- (a) the proportions of the total amount borrowed which were applied for different purposes; <sup>F7</sup> . . .
- (b) <sup>F7</sup> .....

and subsection (1A) or (1B) above shall apply accordingly in relation to the interest apportioned to the case to which that subsection applies.

(1F) Where any person is entitled under this section for any year of assessment to an income tax reduction calculated by reference to an amount of interest, the amount of that person’s liability for that year to income tax on his total income shall be the amount to which he would have been liable apart from this section less whichever is the smaller of—

- (a) the amount equal to the applicable percentage of that amount of interest; and
- (b) the amount which reduces his liability to nil.

(1G) In subsection (1F) above “the applicable percentage”—

- (a) in relation to so much of any interest as is eligible for relief under this section by virtue of section 354, means 20 per cent.; and
- (b) in relation to so much of any interest as is eligible for relief under this section by virtue of section 365, means the percentage which is the basic rate for the year of assessment in question;

but, in relation to any payment of interest which (whenever falling due) is made in the year 1995-96 or any subsequent year of assessment, paragraph (a) above shall have effect with the substitution of “15 per cent.” for “20 per cent.”

(1H) In determining for the purposes of subsection (1F) above the amount of income tax to which a person would be liable apart from any income tax reduction under this section, no account shall be taken of—

- (a) any income tax reduction under Chapter I of Part VII or section 347B;
- (b) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1); or
- (c) any tax at the basic rate on so much of that person’s income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]

(2) <sup>M1</sup>This section does not apply to a payment of relevant loan interest to which section 369 applies.

(3) <sup>M2</sup>Relief under this section shall not be given in respect of—

- (a) interest on a debt incurred by overdrawing an account or by debiting the account of any person as the holder of a credit card or under similar arrangements; or
- (b) where interest is paid at a rate in excess of a reasonable commercial rate, so much of the interest as represents the excess.

(4) <sup>F8</sup> .....

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(5) <sup>F8</sup> .....

#### Textual Amendments

- F1 S. 353(1) substituted (with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), s. 81(1)
- F2 S. 353(1A)-(1H) inserted (with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), s. 81(2)
- F3 S. 353(1A)(b) and preceding word repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note
- F4 S. 353(1B)(b) and preceding word repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note
- F5 Words in s. 353(1B) substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(a)
- F6 S. 353(1C)(1D) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note
- F7 S. 353(1E)(b) and preceding word repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note
- F8 S. 353(4)(5) repealed (with effect in accordance with s. 81(6) of the repealing Act) by Finance Act 1994 (c. 9), Sch. 9 para. 3, Sch. 26 Pt. 5(2), Note

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

- C1 See—1988 s.117—*limited partners*. 1988 s.280—*transfer of reliefs between spouses*. 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands*.
- C2 S. 353 restricted (1.5.1995) by Finance Act 1995 (c. 4), s. 123, Sch. 22 para. 2

#### Marginal Citations

- M1 Source-1986 s.26(1)
- M2 Source-1972 s.75(1A), (2); 1974 s.19(1)(b)

### 354 Loans to buy land etc. **U.K.**

- (1) <sup>M3</sup>Subject to sections 355 to 358 and subsections (2) [<sup>F9</sup>to (4)] below, interest is eligible for relief under section 353 if it is paid by a person for the time being owning an estate or interest in land, or the property in a caravan or house-boat, in the United Kingdom or the Republic of Ireland on a loan to defray money applied—
- (a) in purchasing that estate, interest or property, or another estate, interest or property absorbed into, or given up to obtain, that estate, interest or property; or
  - (b) in improving or developing the land, or buildings on the land; or
  - (c) in paying off another loan, if interest on that other loan would have been eligible for relief under section 353 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest) or would have been so eligible apart from section 353(2).
- (2) In this section and section 355—
- (a) <sup>M4</sup>references to money applied in improving or developing land or buildings include references to payments in respect of maintenance or repairs incurred by reason of dilapidation attributable to a period before the estate or interest was acquired, but otherwise do not include references to payments in respect of maintenance or repairs, <sup>F10</sup>. . . ; and

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- (b) <sup>M5</sup> references to money applied in improving or developing land include references to expenditure incurred or defrayed directly or indirectly in respect of street works, other than works of maintenance or repair, for any highway or road, or in Scotland any right of way, adjoining or serving the land.

<sup>F11</sup>(3) .....

(4) <sup>F12</sup> .....

<sup>F13</sup>(5) .....

<sup>F13</sup>(6) .....

- (7) <sup>M6</sup> Where interest is payable by the tenant occupier of any property to the landlord in pursuance of arrangements whereby money advanced at interest by the landlord is applied by the tenant in purchasing the landlord’s estate or interest, or in the case of a caravan or house-boat the property in the caravan or house-boat, but that estate or interest or property is not to pass to the tenant until some time after the interest begins to be payable, this section and section 355(5) shall have effect in relation to the tenant as if he were the owner of the landlord’s estate, interest or property.

**Textual Amendments**

- F9** Words in s. 354(1) substituted (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, s. 57(4)(a)(5)
- F10** Words in s. 354(2)(a) repealed (with effect in accordance with s. 39(4)(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2)
- F11** S. 354(3) repealed (1991-92 and subsequent years) by Finance Act 1991 (c. 31, SIF 63:1), ss. 28, 123, Sch. 19 Pt. V, Note 6
- F12** S. 354(4) repealed (with effect in accordance with s. 42(3)-(5), Sch. 29 Pt. 8(2) Note of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2)
- F13** S. 354(5)(6) repealed (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, ss. 57(5), 213, Sch. 23 Pt. III

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

- C3** S. 354 restricted (27.7.1999) by Finance Act 1999 (c. 16), s. 38(1)

**Marginal Citations**

- M3** Source-1972 Sch.9 1, 5, 5A; 1974 Sch.1 1-3; 1983 s.17(5)
- M4** Source-1972 Sch.9 3
- M5** Source-1972 Sch.9 4
- M6** Source-1972 Sch.9 7

**355 Matters excluded from section 354. U.K.**

- (1) <sup>M7</sup> Subject to the following provisions of this section and sections 356 to 358, section 354 shall not apply unless the land, caravan or house-boat in question—

- (a) is at the time the interest is paid used as the only or main residence of the person by whom it is paid (“the borrower”) <sup>F14</sup> or of a dependent relative or former or separated spouse of his.] . . .

- (b) <sup>F15</sup> .....

<sup>F15</sup> .....

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[<sup>F16</sup>(1A) Where, in the case of any loan—

- (a) the condition specified in [<sup>F17</sup>subsection (1) above] would not (apart from this subsection) be fulfilled with respect to any land, caravan or house-boat by reason of its having ceased at any time to be used by a particular person as his only or main residence; and
- (b) the borrower’s intention at that time was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of that land, caravan or house-boat,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to that land, caravan or house-boat (as well as with respect to any other land, caravan or house-boat with respect to which it is in fact fulfilled) from that time until the end of that period or (if sooner) the abandonment by the borrower of his intention to dispose of the land, caravan or house-boat in question.

(1B) Where—

- (a) subsection (1A) above has effect in the case of any loan (“the first loan”) so that the condition specified in [<sup>F17</sup>subsection (1) above] is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and
- (b) there is another loan raised by the borrower to defray money to be applied as mentioned in section 354(1) with a view to the use of any other land, caravan or house-boat as the borrower’s only or main residence,

interest on the other loan shall be treated as eligible for relief to the same extent (if any) as if no interest were payable on the first loan.]

- (2) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1) [<sup>F18</sup>or (1A)] above shall have effect as if for the references to 12 months there were substituted references to such longer period as meets the circumstances of that case.

[<sup>F19</sup>(2A) Section 354 shall not apply by virtue of [<sup>F17</sup>subsection (1) above] where the interest is paid on a home improvement loan unless the loan was made before 6th April 1988.

(2B) In subsection (2A) above “home improvement loan” means—

- (a) a loan to defray money applied in improving or developing land or buildings on land, otherwise than by the erection of a new building (which is not part of an existing residence) on land which immediately before the improvement or development began had no building on it, or
- (b) a loan replacing (whether directly or indirectly) a loan within paragraph (a) above.

(2C) Where it is proved by written evidence that a loan made on or after 6th April 1988 was made in pursuance of an offer made by the lender before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, the loan shall be deemed for the purposes of subsection (2A) above to have been made before that date].

- (3) *The land, caravan or house-boat does not fall within subsection (1)(a) above by reason of its being used as the only or main residence of a dependent relative of the borrower unless it is provided rent-free and without any other consideration*<sup>F20</sup>.

(4) <sup>F21</sup>.....

(5) <sup>M8</sup>Subsection (1)(a) of section 354 shall not apply—

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- (a) where the seller and purchaser are husband and wife and either sells to the other, or
- (b) where the purchaser, or the wife or husband of the purchaser, has since 15th April 1969 disposed of an estate or interest in the land, or the property in the caravan or house-boat, in question, and it appears that the main purpose of the disposal and purchase was to obtain relief in respect of interest on the loan, or
- (c) where the purchasers are the trustees of a settlement, and the seller is the settlor, or the wife or husband of the settlor, and it appears that the main purpose of the purchase is to obtain relief in respect of interest on the loan, or
- (d) where the purchaser is directly or indirectly purchasing from a person who is connected with him, and the price substantially exceeds the value of what is acquired;

and subsection (1)(b) of that section shall not apply where the person spending the money is connected with the person who directly or indirectly receives the money, and the money substantially exceeds the value of the work done.

For the purposes of this subsection—

- (i) references to a husband and wife are references to a husband and his wife living with him; and
- (ii) one person is connected with another if he is so connected within the terms of section 839.

#### Textual Amendments

- F14** *Words which cease to have effect in relation to payments of interest made on or after 6 April 1988—see 1988(F) s.44(1)(2).*
- F15** *S. 355(1)(b), the preceding word and the words following it repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by virtue of Finance Act 1995 (c. 4), s. 42(1), Sch. 29 Pt. 8(2), Note*
- F16** *s. 355(1A)(1B) inserted (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, s. 57(1)(5)(6)*
- F17** *Words in s. 355 substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(b)*
- F18** *Words in s. 355(2) inserted (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, s. 57(2)(5)*
- F19** *1988(F) s.43 in relation to payments on or after 6 April 1988.*
- F20** *Repealed by 1988(F) ss.44 and 148 and Sch. 14 Part IV.*
- F21** *S. 355(4) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note*

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

- C4** *S. 355(1A) modified (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, s. 57(5)(6)*
- C5** *See reference to home improvement loans in 1988(F) s.43(3).*

#### Marginal Citations

- M7** *Source-1974 Sch.1 4(1)-(3)*
- M8** *Source-1972 Sch.9 8*

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### 356 Job-related accommodation. **U.K.**

(1) [F22Section [F23355(1)]] shall not prevent relief being given under section 353 in a case where the land, caravan or house-boat in question—

- (a) is, at the time the interest is paid, used by the borrower as a residence or, if it is paid less than 12 months after the date on which the loan is made, is so used by him within 12 months after that date; or
- (b) is intended at that time to be used in due course as his only or main residence; and at that time he resides in living accommodation which is for him job-related.

[F24(1A) Subsection (1) above shall not apply where the interest is paid on a home improvement loan (as defined in section 355(2B)) unless the loan was made before 6th April 1988; and section 355(2C) shall have effect for the purposes of this subsection as for those of section 355(2A).]

(2) A borrower for whom there are two or more properties falling within subsection (1) above may not by virtue of this section claim relief for any period under section 353 in respect of more than one of them.

(3) Subject to subsections (4) and (5) below, living accommodation is job-related for a person if—

- (a) it is provided for him by reason of his employment, or for his spouse by reason of her employment, in any of the following cases—
  - (i) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that accommodation;
  - (ii) where the accommodation is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees;
  - (iii) where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the accommodation as part of those arrangements; or
- (b) M9under a contract entered into at arm's length and requiring him or his spouse to carry on a particular trade, profession or vocation, he or his spouse is bound—
  - (i) to carry on that trade, profession or vocation on premises or other land provided by another person (whether under a tenancy or otherwise); and
  - (ii) to live either on those premises or on other premises provided by that other person.

(4) M10If the living accommodation is provided by a company and the employee is a director of that or an associated company, subsection (3)(a)(i) or (ii) above shall not apply unless—

- (a) the company of which the employee is a director is one in which he or she has no material interest; and
- (b) either—
  - (i) the employment is as a full-time working director, or
  - (ii) the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
  - (iii) the company is established for charitable purposes only.



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- (5) <sup>M11</sup> Subsection (3)(b) above does not apply if the living accommodation concerned is in whole or in part provided by—
- (a) a company in which the borrower or his spouse has a material interest; or
  - (b) any person or persons together with whom the borrower or his spouse carries on a trade or business in partnership.
- (6) <sup>M12</sup> For the purposes of this section—
- (a) a company is an associated company of another if one of them has control of the other or both are under the control of the same person; and
  - (b) “employment”, “director”, “full-time working director”, “material interest” and “control”, in relation to a body corporate, have the same meanings as they have for the purposes of Chapter II of Part V.

#### Textual Amendments

- F22** Words in s. 356(1) substituted (with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 9 para 5**
- F23** Words in s. 356(1) substituted (with effect in accordance with s. 42(3)–(5) of the amending Act) by Finance Act 1995 (c. 4), **s. 42(2)(c)**
- F24** 1988(F) s.43 in relation to payments on or after 6 April 1988.

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

- C6** S. 356(3)(b)(5) applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 222(9), 289** (with **ss. 60, 101(1), 171, 201(3)**).

#### Marginal Citations

- M9** Source-1974 Sch.1 4A(3A); 1984 s.25
- M10** Source-1974 Sch.1 4A(4), (5); 1977 s.36(1)
- M11** Source-1974 Sch.1 4A(3B); 1984 s.25
- M12** Source-1974 Sch.1 4A(6)

### [<sup>F25</sup> **356A** Limit on relief for home loans: residence basis. **U.K.**

- (1) Where all the qualifying interest payable for any period in relation to a residence is payable by one person, it shall be eligible for relief only to the extent that the amount on which it is payable does not exceed the qualifying maximum during the period.
- (2) Where qualifying interest is payable for any period in relation to a residence by more than one person, the interest paid by each of them shall be eligible for relief only to the extent that the amount on which it is payable by him does not exceed the sharer’s limit for the period in his case.
- (3) Subject to the following provisions of this section and section 356B, in this section and section 356B “the sharer’s limit”, in relation to a person by whom qualifying interest is payable for a period in relation to a residence, means the amount arrived at by dividing the amount of the qualifying maximum during the period by the number of persons by whom qualifying interest is <sup>F26</sup> . . . payable for the period in relation to the residence.
- (4) Subsection (5) below applies where—
  - (a) in the case of any person by whom qualifying interest is payable for any period in relation to a residence the sharer’s limit for the period exceeds the amount on which the interest is payable by him, and



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- (b) the amount which (apart from that subsection) would be the sharer's limit for the period in the case of any other person by whom qualifying interest is payable for the period in relation to the residence falls short of the amount on which qualifying interest is so payable by him.
- (5) Where this subsection applies—
- (a) the sharer's limit for the period in the case of the person mentioned in subsection 4(a) above shall be reduced by the amount of the excess, and
  - (b) the sharer's limit for the period in the case of any person such as is mentioned in subsection (4)(b) above shall be increased in accordance with subsections (6) to (8) below.
- (6) Where there is only one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in his case shall be increased by the amount of the excess.
- (7) Where there is more than one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in the case of each of them shall be increased by such part of the excess as bears to the whole of it the same proportion as any shortfall in his case bears to the aggregate of any shortfalls in the case of each of them.
- (8) In subsection (7) above "shortfall" means the amount by which what would be the sharer's limit in the case of a person (apart from subsection (5) above) falls short of the amount on which qualifying interest is payable by him.]

#### Textual Amendments

**F25** Ss. 356A-356D inserted (1.8.1988) by [Finance Act 1988 \(c. 39\)](#), [s.42\(1\)\(4\)](#)

**F26** Words in [s. 356A\(3\)](#) repealed (with effect in accordance with [s. 42\(3\)-\(5\)](#) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(2\)](#), Note

#### [<sup>F27</sup> **356B Residence basis: married couples.** **U.K.**

- (1) A husband and wife who are not separated may jointly elect—
- (a) that qualifying interest payable or paid by one of them for a year of assessment (or a period within a year), or such part of that interest as may be specified in the election, shall be treated for the purposes of sections 353 to 356A and 369 to 379 as payable or paid by the other, and
  - (b) that the sharer's limit under section 356A for the year (or period) in the case of one of them shall be reduced by such amount as may be specified in the election and the sharer's limit under that section for the year (or period) in the case of the other shall be correspondingly increased.
- (2) An election under subsection (1) above—
- (a) shall be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow,
  - (b) shall, subject to subsection (4) below, have effect not only for the year of assessment for which it is made but also for subsequent years of assessment, and
  - (c) shall be in such form, and be made in such manner, as the Board may prescribe.

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- (3) Where a husband and wife have made an election under subsection (1) above for any year of assessment either of them may give, for any subsequent year, a notice to withdraw that election; and, if he or she does so, the election shall not have effect (in relation to either of them) for the year for which the notice is given or any subsequent year.
- (4) A notice of withdrawal under subsection (3) above—
- (a) shall be in such form, and be given in such manner, as the Board may prescribe,
  - (b) shall not be given after the end of the period of twelve months beginning with the end of the year of assessment for which it is given or such longer period as the Board may in any particular case allow, and
  - (c) shall not prejudice the making of a fresh election for any subsequent year.
- (5) Where—
- (a) a husband and wife are not separated,
  - (b) the husband pays interest in relation to a residence used or to be used as his only or main residence, and
  - (c) the wife pays interest in relation to some other residence used or to be used as her only or main residence,

the residence which was purchased first shall be treated for the purposes of sections [F<sup>28</sup>355(1)] and 356 as used or to be used as the only or main residence of both of them and the other residence shall be treated as used or to be used as the only or main residence of neither.]

### Textual Amendments

**F27** 1988(F) s.35 and Sch.3 para.14 for 1990-91 and subsequent years. *Previously*  
 “356B.—(1) Subject to subsections (2) and (4) below, qualifying interest payable or paid by a married woman who is not separated from her husband shall be treated for the purposes of sections 353 to 356A and 369 to 379 as payable or paid by her husband (and not by her). (2) Where—(a) qualifying interest is payable, or treated by subsection (1) above as payable, for a period in relation to a residence by a married man who is not separated from his wife, and (b) qualifying interest is also payable for the period in relation to the residence by one or more persons other than the man and his wife, then for the purposes of section 356A(2) and (3) qualifying interest shall be treated as payable by the wife for the period in relation to the residence (whether or not it actually is). (3) The application of subsection (2) above in the case of a husband and wife shall not give rise to a separate sharer's limit for the period in question in the case of the wife; but the limit arrived at under subsection (3) of section 356A for the period in the case of the husband shall be increased by the amount which (apart from this subsection) would be the limit arrived at under that subsection in the case of the wife. (4) Where an application under section 283 or an election under section 287 is in force in relation to a husband and wife for a year of assessment, subsections (1) to (3) above shall not apply in relation to them for the year but they may jointly elect—(a) that qualifying interest payable or paid by one of them for the year (or a period within the year), or such part of that interest as may be specified in the election, shall be treated for the purposes of sections 353 to 356A and 369 to 379 (and section 287(7)) as payable or paid by the other, and (b) that the sharer's limit under section 356A for the year (or period) in the case of one of them shall be reduced by such amount as may be specified in the election and the sharer's limit under that section for the year (or period) in the case of the other shall be correspondingly increased. (5) An election under subsection (4) above—(a) shall be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow, (b) shall, subject to subsection (6) below, have effect if made

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for the year 1988-89 not only for that year but also for the year 1989-90, and (c) shall be in such form, and be made in such manner, as the Board may prescribe. (6) Where a husband and wife have made an election under subsection (4) above for the year 1988-89 they may give, for the year 1989-90, a notice to withdraw that election; and, if they do so, the election shall not have effect for the year 1989-90. (7) A notice of withdrawal under subsection (6) above—(a) shall be in such form, and be given in such manner, as the Board may prescribe, (b) shall not be given after 5th April 1991 or such later date as the Board may in any particular case allow, and (c) shall not prejudice the making of a fresh election for 1989-90. (8) Where—(a) a husband and wife are not separated, (b) the husband pays interest in relation to a residence used or to be used as his only or main residence, and (c) his wife pays interest in relation to some other residence used or to be used as her only or main residence, the residence which was purchased first shall be treated for the purposes of sections 355(1)(a) and 356 as used or to be used as the only or main residence of both of them and the other residence shall be treated as used or to be used as the only or main residence of neither (and subsequently modified by [S.I. 1992/511, reg. 9, Sch.2.](#))”

**F28** Words in [s. 356B\(5\)](#) substituted (with effect in accordance with [s. 42\(3\)-\(5\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\) s. 42\(2\)\(c\)](#)

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

- C7** [S. 356B\(2\)\(4\)](#) applied (with modifications) (23.3.1993 ) by [S.I. 1993/415, reg. 9, Sch.2](#)
- C8** [S. 356B\(2\)\(4\)](#) modified (5.4.1994 with effect in accordance with [reg. 1\(1\)\(2\)](#) of the modifying Regulations) by [The Lloyd's Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\), reg. 9, Sch. 2](#)
- C9** [S. 365B\(2\)\(4\)](#) modified (9.3.1995 with effect in accordance with [regs. 14\(2\), 15\(2\)](#) of the modifying Regulations) by [The Lloyd's Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\) 14\(1\), 15\(1\), Sch.](#)

#### [<sup>F29</sup>356C] Payments to which sections 356A and 356B apply. **U.K.**

- (1) Subject to subsection (2) below, sections 356A and 356B shall have effect with respect to payments of qualifying interest made on or after 1st August 1988.
- (2) Subject to subsection (5) below, those sections shall not have effect with respect to a payment of qualifying interest made by a person in relation to a residence if—
  - (a) the payment is made under a loan made before 1st August 1988,
  - (b) qualifying interest was payable in relation to the residence for 1st August 1988 by someone other than the person making the payment or his spouse,
  - (c) qualifying interest has been payable in relation to the residence by the person making the payment or his spouse throughout the time beginning with 1st August 1988 and ending with the date of the payment, and
  - (d) someone other than the person making the payment or his spouse owns an estate or interest or property in the residence at each point during that time and at each such point at least one such person is a person by whom qualifying interest is payable in relation to the residence at some point during that time.
- (3) For the purposes of subsection (2) above a loan made on or after 1st August 1988 shall be treated as made before that date if it is proved by written evidence—
  - (a) that the loan was made in pursuance of an offer made before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, and
  - (b) that the loan was used to defray money applied in pursuance of a binding contract entered into before that date;

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and where a payment is made under such a loan the references in subsection (2) above to 1st August 1988 shall be treated as references to the first day for which qualifying interest is payable in relation to the residence under the loan (or where there is more than one such loan the latest such day).

- (4) Subject to subsection (5) below, where by virtue of subsection (2) above sections 356A and 356B do not have effect with respect to payments of qualifying interest made by a person for any period in relation to a residence under one loan those sections shall not have effect with respect to payments of qualifying interest for that period in relation to the residence made by that person or his spouse under any other loan.
- (5) Where all the persons by whom qualifying interest is payable in relation to a residence have made a joint election for the purpose, sections 356A and 356B shall have effect with respect to all payments of qualifying interest made by any person in relation to the residence notwithstanding that they would otherwise be payments with respect to which those sections would not have effect.
- (6) An election under subsection (5) above—
  - (a) shall have effect for the period in which it is made and subsequent periods,
  - (b) shall be irrevocable, and
  - (c) shall be in such form, and be made in such manner, as the Board may prescribe.
- (7) Sections 356A and 356B shall not have effect with respect to payments of qualifying interest if the interest is qualifying interest only by reason of its being paid in relation to a residence used or to be used as the only or main residence of a dependent relative or former or separated spouse of the person by whom the payment is made.
- (8) In this section references to a spouse do not include references to a separated spouse.]

#### Textual Amendments

**F29** Ss. 356A-356D inserted (1.8.1988) by Finance Act 1988 (c. 39), s.42(1)(4)

### 356D Provisions supplementary to sections 356A to 356C. **U.K.**

- (1) In sections 356A to 356C and this section “qualifying interest” means interest which (apart from those sections or section 357) is <sup>F30F31</sup> . . . eligible for relief under section 353 by virtue of section 354].
- (2) In sections 356A to 356C and this section “residence” means a building, or part of a building, occupied or intended to be occupied as a separate residence, or a caravan or house-boat; but a building, or part of a building, which is designed for permanent use as a single residence shall be treated as a single residence notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate residences.
- (3) In sections 356A to 356C and this section “period”, with respect to qualifying interest payable by a person in relation to a residence, means a period commencing with—
  - (a) any day which is the first day for which qualifying interest is payable in relation to the residence by that or any other person (whether or not qualifying interest was payable by any person in relation to the residence for any earlier day),

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- (b) any day immediately following a day which is the last day for which qualifying interest is payable in relation to the residence by any other person (whether or not qualifying interest is payable by any person in relation to the residence for any later day), or
  - (c) the first day of a year of assessment,
- and ending with either the day immediately preceding the next day such as is mentioned in paragraph (a), (b) or (c) above or (if sooner) the day which is the last day for which qualifying interest is payable in relation to the residence by that person.
- (4) In section 356A references to the qualifying maximum during a period are references to the qualifying maximum for the year of assessment in which the period falls.
  - (5) Where because of section 356A the full amount of qualifying interest paid by a person for a period is not eligible for relief, the part of that interest that is eligible for relief shall be such as bears to the whole of it the same proportion as the part of the amount on which qualifying interest is payable by him for the period that does not exceed the limit under that section in his case bears to the whole of that amount.
  - (6) Where a person pays qualifying interest on more than one loan, the limit under section 356A in his case shall have effect <sup>F32</sup>so that, in determining what (if any) part of the amount on which qualifying interest is payable is the part exceeding the limit, interest on a later loan shall be eligible for relief only to the extent that the whole amount of the limit has not been used in relation to any earlier loan or loans.]
  - (7) For the purposes of subsection (6) above, where interest is paid on more than one loan made simultaneously to one person it shall be treated as paid on one loan.
  - (8) Subject to section 356B, where a loan is made jointly to more than one person by whom qualifying interest is payable in relation to a residence under the loan, the amount on which qualifying interest is payable in relation to the residence under the loan by each of the persons shall be treated for the purposes of section 356A as being such amount as is produced by dividing the whole of the amount on which qualifying interest is payable in relation to the residence under the loan by the number of persons by whom qualifying interest is so payable.
  - <sup>F33</sup>(9) .....
  - (10) In determining whether the amount on which interest is payable exceeds any limit under section 356A, no account shall be taken of so much (if any) of that amount as consists of interest which has been added to capital and which does not exceed £1,000.

#### Textual Amendments

- F30** Words in s. 356D(1) substituted (with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 9 para. 7(1)**
- F31** Words in s. 356D(1) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(2)**, Note
- F32** Words in s. 356D(6) substituted (retrospectively) by Finance Act 1994 (c. 9), **Sch. 17 para. 3**
- F33** S. 356D(9) repealed (27.7.1993 in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by 1993 c. 34, ss. 57, 213, **Sch. 23 Pt.III**

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### 357 Limit on amount of loan eligible for relief by virtue of section 354. U.K.

- (1) <sup>F34M13</sup> Subject to subsection (1A) below, where section 356A does not have effect with respect to a payment of interest because of section 356C(2) or (7) and the payment is of interest] on a loan (“the limited loan”) which (apart from this subsection) is <sup>F35F36</sup> . . . eligible for relief under section 353 by virtue of section 354] <sup>F34</sup> the payment of interest] shall be so eligible for relief only to the extent that the amount on which it is payable does not exceed the following limit, that is to say, the qualifying maximum for the year of assessment reduced by the amount on which interest is payable by the borrower under any earlier loans so eligible for relief, so that—
- (a) if the amount on which interest is payable under the limited loan exceeds the limit, so much only of that interest is eligible for relief as bears to the whole of that interest the same proportion as that part of that amount which does not exceed the limit bears to the whole of that amount; and
  - (b) if the amount on which interest is payable under any earlier loans is equal to or exceeds the qualifying maximum for the year of assessment, none of the interest on the limited loan is eligible for relief.

<sup>F37</sup>(1A) Where section 356A does not have effect with respect to a payment of interest made by a person in relation to land, or a caravan or house-boat, used or to be used as his only or main residence because of section 356C(2), subsection (1) above shall have effect with respect to the payment of interest as if the reference to the qualifying maximum for the year of assessment were a reference to the amount specified in subsection (1B) below.

(1B) The amount referred to in subsection (1A) above is the lesser of £30,000 and the amount on which interest was payable by the person in relation to the land, caravan or house-boat immediately before 1st August 1988.

(1C) Where subsection (2) of section 356C applies in the case of a person by virtue of subsection (3) of that section, for the purposes of subsection (1B) above the amount on which interest is payable by him under the loan referred to in section 356C(3) for the first day for which interest is so payable shall be treated as the amount on which interest is payable by him under the loan immediately before 1st August 1988.]

- (2) <sup>M14</sup> Where a loan on which interest is payable by the borrower was made jointly to the borrower and another person, not being the borrower’s husband or wife, then, if—
- (a) the land, caravan or house-boat concerned is used as the main or only residence of that other person, *or of a dependent relative or former or separated spouse of his* <sup>F38</sup>, and
    - (i) that other person owns an estate or interest in the land or the property in the caravan or house-boat, and
    - (ii) that other person pays part of the interest payable on the loan; or
  - (b) that other person falls within sub-paragraphs (i) and (ii) of paragraph (a) above and is by virtue of section 356 entitled to claim relief under section 353 in respect of that part of the interest,

the amount on which interest is payable under the loan shall be treated for the purposes of this section as being such part only of that amount as bears to the whole thereof the same proportion as the amount of interest paid by the borrower bears to the whole of the interest paid on the loan.

- (3) <sup>M15</sup> For the purposes of this section—
- (a) any interest payable on a loan made to the borrower’s husband or wife shall be treated as payable on a loan made to the borrower; and



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- (b) where interest is payable on more than one loan made or treated as made to the borrower and the loans were made simultaneously it shall be treated as payable on one loan.

<sup>F39</sup>(4) .....

- (5) <sup>M16</sup>References in this section to the borrower's husband or wife do not include references to a separated husband or wife.

- (6) <sup>M17</sup>In determining whether the amount on which interest is payable under a loan exceeds the limit in subsection (1) above, no account shall be taken of so much (if any) of that amount as consists of interest which has been added to capital and does not exceed £1000.

#### Textual Amendments

**F34** 1988(F) s.42(2)(a), (4) *on and after 1 August 1988. Previously*  
“Interest”  
*in first place.*

**F35** Words in s. 357(1) substituted (with effect in accordance with s. 81(6) of the amending Act) by  
[Finance Act 1994 \(c. 9\)](#), **Sch. 9 para. 7(1)**

**F36** Words in s. 357(1) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by  
[Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(2)**, Note

**F37** 1988(F) s.42(2)(b), (4) *on and after 1 August 1988.*

**F38** *Words which cease to have effect in relation to payments of interest made on or after 6 April 1988—see*  
1988(F) s.44(1), (2).

**F39** [S. 357\(4\)](#) repealed (27.7.1993 with effect in relation to payments of interest made on or after 16 March  
1993 (whenever falling due)) by [1993 c. 34](#), [ss. 57\(4\)\(b\)\(5\)](#), 213, **Sch. 23 Pt. III**

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

**C10** *See s.338—companies.*

#### Marginal Citations

**M13** Source-1974 Sch.1 5(1), (2)(a); 1977 Sch.8 8(2); 1984 s.22(1)(a), (b)

**M14** Source-1974 Sch.1 5(3); 1977 Sch.8 8(3)

**M15** Source-1974 Sch.1 5(4)

**M16** Source-1974 Sch.1 5(5)

**M17** Source-1974 Sch.1 5(6); 1982 s.25(2)

#### <sup>F40</sup>**357A** Substitution of security. **U.K.**

- (1) Subject to subsection (9) below, this section applies where—
- (a) on or after 16th March 1993 a person purchases an estate or interest in land or the property in a caravan or house-boat (the new estate, interest or property), and
- (b) a security substitution arrangement takes effect on or after that date in connection with the purchase.
- (2) Subsection (3) below applies where—
- (a) the arrangement mentioned in subsection (1) above relates to one existing loan only, and



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- (b) no other security substitution arrangement takes effect at the same time in connection with the purchase of the new estate, interest or property.
- (3) As regards interest paid on the loan after the time the new estate, interest or property became security for the loan, the loan shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—
- (a) it had been made at that time, and
  - (b) so much of it as was then outstanding and did not exceed the relevant amount had been used at that time to defray money applied in purchasing the new estate, interest or property.
- (4) Subsection (5) below applies where either—
- (a) the arrangement mentioned in subsection (1) above relates to two or more existing loans, or
  - (b) two or more security substitution arrangements take effect at the same time in connection with the purchase of the new estate, interest or property.
- (5) As regards interest paid on the loans after the time the new estate, interest or property became security for the loans, the loans shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—
- (a) they had been made at that time, and
  - (b) they had been used at that time to defray money applied in purchasing the new estate, interest or property;
- but in any case where at that time the aggregate of the amounts of the loans outstanding exceeded the relevant amount, the loans shall be treated as mentioned in paragraph (b) above only to the extent that the aggregate did not exceed the relevant amount.
- (6) For the purposes of this section the relevant amount is—
- (a) where there is no loan falling within subsection (7) below, an amount equal to the purchase price of the new estate, interest or property;
  - (b) where there is one loan falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the amount of that loan;
  - (c) where there are two or more loans falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the total of the amounts of those loans.
- (7) A loan falls within this subsection if—
- (a) it is at the relevant time, or was before the relevant time, actually used to any extent to defray money applied in purchasing the new estate, interest or property, or
  - (b) by virtue of an earlier security substitution arrangement, it is treated to any extent as if before the relevant time it had been used to defray money so applied;
- but a loan does not fall within this subsection unless interest on the loan is eligible for relief under section 353 [<sup>F41</sup>by virtue of section 354] .
- (8) For the purposes of subsection (7) above the relevant time is the time when under the arrangement mentioned in subsection (1) above the new estate, interest or property becomes security for the existing loan or loans.
- (9) This section does not apply in relation to a security substitution arrangement if, as regards the new estate, interest or property—

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- (a) there is at least one loan falling within subsection (7) above, and
  - (b) the amount of that loan or (if there is more than one) the total of the amounts of those loans is the same as the purchase price of the new estate, interest or property.
- (10) For the purposes of subsections (6) and (9) above the amount of a loan is its amount when made, except that where—
- (a) a loan falls within subsection (7) above by virtue of the fact that it is or was partly used to defray money applied in purchasing the new estate, interest or property, or
  - (b) a loan falls within that subsection by virtue of the fact that it is treated as if it had been partly so used,
- the amount of the loan shall be taken for the purposes of subsections (6) and (9) above to be the amount of the part so used or (as the case may be) treated as so used.]

#### Textual Amendments

**F40** Ss. 357A-357C inserted (27.7.1993) by Finance Act 1993 (c. 34), s. 56

**F41** Words in s. 357A(7) substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(d)

### **357B** <sup>F42</sup>Treatment of loans following security substitution. **U.K.**

- (1) This section applies where—
- (a) by virtue of section 357A a loan is treated to any extent as having been used at a particular time to defray money applied in purchasing the new estate, interest or property,
  - (b) after that time a loan (a new loan) is actually used to any extent to defray money applied in purchasing the new estate, interest or property, and
  - (c) interest on the new loan is (or would be apart from this section) eligible for relief under section 353 [<sup>F43</sup>by virtue of section 354].
- (2) Subject to subsection (4) below, as regards interest paid on the new loan after the time it is used as mentioned in subsection (1)(b) above (the material time), such part of the loan as was actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the amount of that part does not exceed the applicable amount.
- (3) Subsection (4) below applies in a case where—
- (a) two or more new loans are simultaneously used to any extent as mentioned in subsection (1)(b) above, and
  - (b) interest on each of them is or would be eligible for relief as mentioned in subsection (1)(c) above.
- (4) As regards interest paid on the new loans after the material time, such parts of the loans as were actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the aggregate of the amounts of those parts does not exceed the applicable amount.
- (5) For the purposes of this section the applicable amount is the difference between—

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- (a) the purchase price of the new estate, interest or property, and
  - (b) the amount of any relevant loan or, if there is more than one, the total amounts of the relevant loans.
- (6) For the purposes of subsection (5) above a relevant loan is a loan which—
- (a) before the material time was actually used to any extent to defray money applied in purchasing the new estate, interest or property, or
  - (b) by virtue of section 357A, is treated to any extent as if before the material time it had been used to defray money so applied;
- but a loan is not a relevant loan unless interest on it is eligible for relief under section 353 [<sup>F43</sup>by virtue of section 354].
- (7) For the purposes of subsection (5) above the amount of a relevant loan is its amount when made, except that where—
- (a) a loan is a relevant loan by virtue of the fact that it was partly used to defray money applied in purchasing the new estate, interest or property, or
  - (b) a loan is a relevant loan by virtue of the fact that it is treated as if it had been partly so used,
- the amount of the loan shall be taken for the purposes of that subsection to be the amount of the part so used or (as the case may be) treated as so used.

#### Textual Amendments

**F42** SS. 357A-357C inserted (27.7.1993) by 1993 c. 34, s. 56

**F43** Words in s. 357B(1)(c)(6) substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(d)

#### 357C <sup>F44</sup>Substitution of security: supplemental. **U.K.**

- (1) An arrangement is a security substitution arrangement for the purposes of section 357A if—
- (a) under the arrangement the new estate, interest or property becomes security for an existing loan or existing loans,
  - (b) under the arrangement an estate or interest in land, or the property in a caravan or house-boat, ceases to be security for the loan or loans,
  - (c) the estate, interest or property mentioned in paragraph (b) above was not absorbed into, or given up to obtain, the new estate, interest or property,
  - (d) the loan or (as the case may be) at least one of the loans is a qualifying loan, and
  - (e) the circumstances are such that, had the loan or loans been used to defray money applied in purchasing the new estate, interest or property, interest on the loan or (as the case may be) on each of the loans would have been eligible for relief under section 353 [<sup>F45</sup>by virtue of section 354] .
- (2) For the purposes of subsection (1) above a loan is a qualifying loan if, immediately before the arrangement took effect, interest on the loan was eligible for relief under section 353 [<sup>F46</sup>by virtue of section 354] .
- (3) In a case where—
- (a) paragraphs (a) to (d) of subsection (1) above apply in relation to an arrangement,

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- (b) the arrangement relates to two or more loans, and
  - (c) one or more of the loans is not a qualifying loan for the purposes of subsection (1) above,
- any loan which is not a qualifying loan shall be ignored in applying subsection (1) (e) above.
- (4) Where a security substitution arrangement relates to two or more loans and one or more of them is not a qualifying loan for the purposes of subsection (1) above, any loan which is not a qualifying loan—
- (a) shall be left out of account in determining for the purposes of section 357A the number of existing loans to which the arrangement relates;
  - (b) shall not be treated as mentioned in section 357A(3) or (5);
  - (c) shall be left out of account in calculating for the purposes of section 357A(5) the aggregate of the amounts of the loans outstanding at the time the new estate, interest or property became security for them.
- (5) Subsection (6) below applies where—
- (a) the purchase mentioned in subsection (1) of section 357A is made jointly by the person mentioned in that subsection (the relevant person) and another person or other persons, and
  - (b) any of the money applied in the purchase is attributable to the relevant person and not to the other person or, as the case may be, attributable to the relevant person and not to all the other persons.
- (6) In relation to the relevant person—
- (a) the references in sections 357A and 357B to the new estate, interest or property shall be treated as references to his share of the new estate, interest or property, and
  - (b) the references in sections 357A and 357B to the purchase price of the new estate, interest or property shall be treated as references to so much of the money applied in purchasing the estate, interest or property as is attributable to him.
- (7) In determining for the purposes of this section and sections 357A and 357B whether interest is, was or would have been eligible for relief under section 353, section 353(2) shall be disregarded.

#### Textual Amendments

**F44** Ss. 357A-357C inserted (27.7.1993) by 1993 c. 34, s.56

**F45** Words in s. 357C(1)(e) substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(e)(i)

**F46** Words in s. 357C(2) substituted (with effect in accordance with s. 42(3)-(5) of the amending Act) by Finance Act 1995 (c. 4), s. 42(2)(e)(ii)

### 358 Relief where borrower deceased. **U.K.**

<sup>M18</sup>(1) Where any interest paid by persons as the personal representatives of a deceased person or as the trustees of a settlement made by his will would, on the assumptions required by this section, be eligible for relief under section 353 by virtue of section 354 above and, in a case where subsection (3) below applies, one of the conditions in

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subsection (4) below is satisfied, that interest shall be so eligible notwithstanding sections 354 to 357.

- (2) For the purposes of subsection (1) above it shall be assumed that the deceased would have survived and been the borrower.
- (3) If, at his death,—
- (a) the land, caravan or house-boat concerned was used as his only or main residence, or
  - (b) it was used by him as a residence or was intended to be used in due course as his only or main residence and, in either case, he resided in job-related living accommodation;
- that shall be assumed for the purposes of subsection (1) above to have continued to be the case.
- (4) The conditions referred to in subsection (1) above are—
- (a) that, at the time the interest is paid, the land, caravan or house-boat concerned is used as the only or main residence of the deceased's widow or widower <sup>[<sup>F47</sup> or of any dependent relative of the deceased]</sup>;
  - (b) that, at that time, it is used by the deceased's widow or widower as a residence or is intended to be used in due course as his or her only or main residence and, in either case, he or she resides in job-related living accommodation.

(4A) <sup>F48</sup> .....

- (5) In this section “personal representatives” has the meaning given by section 701; and subsections (3) to (6) of section 356 apply in relation to this section as they apply in relation to that.

#### Textual Amendments

**F47** Words which cease to have effect in relation to certain payments of interest made on or after 6 April 1988—see 1988(F) s.44(4).

**F48** S. 358(4A) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note

#### Marginal Citations

**M18** Source-1974 Sch.1 8; 1977 Sch.8 10

### 359 Loan to buy machinery or plant. **U.K.**

- (1) <sup>M19</sup> Where an individual is a member of a partnership which, under section 44 of the 1968 Act, is entitled to a capital allowance or liable to a balancing charge for any year of assessment in respect of machinery or plant belonging to the individual, any interest paid by him in the basis period (as defined in section 72 of that Act) for that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant is eligible for relief under section 353, except interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.
- (2) <sup>M20</sup> Where the machinery or plant is in use partly for the purposes of the trade, profession or vocation carried on by the partnership and partly for other purposes, such part only of the interest is eligible for relief under section 353 as is just and reasonable

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to attribute to the purposes of the trade, profession or vocation, having regard to all the relevant circumstances and, in particular, to the extent of the use for those other purposes.

- (3) <sup>M21</sup>Where the holder of an office or employment—
- (a) is under [<sup>F49</sup>Part II of the 1990 Act] entitled to a capital allowance or liable to a balancing charge, (or would be so entitled or liable but for some contribution made by the employer), for any year of assessment in respect of machinery or plant belonging to him and in use for the purposes of the office or employment; and
  - (b) pays interest in that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant;
- the interest so paid is eligible for relief under section 353 unless it is interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.
- (4) <sup>M22</sup>Where the machinery or plant is in use partly for the purposes of the office or employment and partly for other purposes, such part only of the interest is eligible for relief under section 353 as it is just and reasonable to attribute to the purposes of the office or employment, having regard to all the relevant circumstances and, in particular, to the extent of the use for those other purposes.

#### Textual Amendments

**F49** 1990(C) s.164 and Sch.1 para.8(12). *Previously*  
“Chapter II of Part I of the 1968 Act or Chapter I of Part III of the Finance Act 1971”.

#### Marginal Citations

**M19** Source-1972 Sch.9 10; 1974 Sch.1 1  
**M20** Source-1972 Sch.9 11; 1974 Sch.1 1  
**M21** Source-1972 Sch.9 12; 1974 Sch.1 1  
**M22** Source-1972 Sch.9 13; 1974 Sch.1 1

### 360 Loan to buy interest in close company. **U.K.**

- (1) <sup>M23</sup>Subject to the following provisions of this section and sections 361 to 364, interest is eligible for relief under section 353 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring any part of the ordinary share capital of a close company [<sup>F50</sup>complying with section 13A(2)]; or
  - (b) in lending money to such a close company which is used wholly and exclusively for the purposes of the business of the company or of any associated company of it which is a close company satisfying any of those conditions; or
  - (c) in paying off another loan interest on which would have been eligible for relief under section 353 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and either the conditions stated in subsection (2) below or those stated in subsection (3) below are satisfied.
- (2) <sup>M24</sup>The conditions first referred to in subsection (1) above are—

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- (a) that, when the interest is paid, the company continues to <sup>F50</sup>comply with section 13A(2)] and the individual has a material interest in the company; and
- (b) that he shows that in the period from the application of the proceeds of the loan to the payment of the interest he has not recovered any capital from the company, apart from any amount taken into account under section 363(1); and
- (c) that, if the company exists wholly or mainly for the purpose of holding investments or other property, no property held by the company is used as a residence by the individual;

but the condition in paragraph (c) above shall not apply in a case where the individual has worked for the greater part of his time in the actual management or conduct of the business of the company, or of an associated company of the company.

- (3) <sup>M25</sup>The conditions secondly referred to in subsection (1) above are—
  - (a) that, when the interest is paid, the company continues to <sup>F51</sup>comply with section 13A(2)] and the individual holds any part of the ordinary share capital of the company; and
  - (b) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time in the actual management or conduct of the company or of an associated company of the company; and
  - (c) that he shows in the period from the application of the proceeds of the loan to the payment of the interest he has not recovered any capital from the company, apart from any amount taken into account under section 363(1).

<sup>F52</sup>(3A) Interest shall not be eligible for relief under section 353 by virtue of paragraph (a) of subsection (1) above in respect of shares acquired on or after 14th March 1989 if at any time the person by whom they are acquired, or that person’s husband or wife, makes a claim for relief in respect of them under Chapter III of Part VII.]

<sup>F53</sup>(4) Subject to section 360A, in this section expressions to which a meaning is assigned by Part XI have that meaning.]

#### Textual Amendments

**F50** 1989 s.107 and Sch.12 para.12—in relation to interest paid on or after 27 July 1989. 1988 s.424(4) continues to have effect for purposes of s.360 in relation to interest paid before 27 July 1989. Previously

“satisfying any of the conditions of section 424(4)”  
in subs.1(a) and

“satisfy any of the conditions of section 424(4)”  
in subs.2(a).

**F51** 1989 s.107 and Sch.12 para.12—in relation to interest paid on or after 27 July 1989. 1988 s.424(4) continues to have effect for purposes of s.360 in relation to interest paid before 27 July 1989. Previously

“satisfy any of the conditions of section 424(4)”.

**F52** 1989 s.47.

**F53** 1989 s.48(1). Previously

“(4) In this section expressions to which a meaning is assigned by Part XI have that meaning, but—  
(a) in relation to any loan made after 5th April 1987, paragraph 39 of Schedule 9 shall have effect for determining whether the interest on the loan is eligible for relief under section 353 by virtue of this section; and (b) in relation to any loan made before 14th November 1986, section 417 shall have effect subject to the following modifications—(i) in subsection (3)(c) for the words following “deceased



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person” there shall be substituted the words “subject to subsection (3A) below, any other person interested therein”; and (ii) after subsection (3) there shall be added— “(3A) Subsection (3)(c) above shall not apply so as to make an individual an associate as being entitled or eligible to benefit under a trust—(a) if the trust relates exclusively to an exempt approved scheme as defined in section 592; or (b) if the trust is exclusively for the benefit of the employees, or the employees and directors, of the company or their dependants (and not wholly or mainly for the benefit of directors or their relatives), and the individual in question is not (and could not as a result of the operation of the trust become), either on his own or with his relatives, the beneficial owner of more than 5 per cent. of the ordinary share capital of the company; and in applying paragraph (b) above any charitable trusts which may arise on the failure or determination of other trusts shall be disregarded.””.

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

**C11** See 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands.*

#### **Marginal Citations**

**M23** Source-1974 Sch.1 9(1); 1982 s.49(2)

**M24** Source-1974 Sch.1 10(1); 1980 s.28(1)(b), (c); 1982 s.49(3)

**M25** Source-1974 Sch.1 10(2); 1982 s.49(3)

### **[<sup>F54</sup>360A Meaning of “material interest” in section 360. U.K.]**

- (1) For the purposes of section 360(2)(a) an individual shall be treated as having a material interest [<sup>F55</sup> in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
  - (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company, or
  - (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.]
- (2) Subject to the following provisions of this section, in subsection (1) above “associate”, in relation to an individual, means—
  - (a) any relative or partner of the individual;
  - (b) the trustee or trustees of a settlement in relation to which the individual is, or any relative of his (living or dead) is or was, a settlor (“settlement” and “settlor” having the same meaning as in [<sup>F56</sup>Chapter IA of Part XV (see section 660G(1) and (2))]); and
  - (c) where the individual is interested in any shares or obligations of the company which are subject to any trust, or are part of the estate of a deceased person, the trustee or trustees of the settlement concerned or, as the case may be, the personal representative of the deceased.
- (3) In relation to any loan made after 5th April 1987, there shall be disregarded for the purposes of subsection (2)(c) above—
  - (a) the interest of the trustees of an approved profit sharing scheme (within the meaning of section 187) in any shares which are held by them in accordance with the scheme and have not yet been appropriated to an individual; and
  - (b) any rights exercisable by those trustees by virtue of that interest.

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- (4) In relation to any loan made on or after the day on which the Finance Act 1989 was passed, where the individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless subsection (6) below applies in relation to him.
- (5) In subsection (4) above “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8, except that in its application for this purpose paragraph 7(5)(b) shall have effect as if it referred to the day on which the Finance Act 1989 was passed instead of to 14th March 1989.
- (6) This subsection applies in relation to an individual if at any time on or after the day on which the Finance Act 1989 was passed—
- (a) the individual, either on his own or with any one or more of his associates, or
  - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 per cent. of the ordinary share capital of the company.
- (7) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 shall apply for the purposes of subsection (6) above in relation to an individual as they apply for the purposes of that paragraph in relation to an employee.
- (8) In relation to any loan made before 14th November 1986, where the individual is interested in any shares or obligations of the company which are subject to any trust, or are part of the estate of a deceased person, subsection (2)(c) above shall have effect as if for the reference to the trustee or trustees of the settlement concerned or, as the case may be, the personal representative of the deceased there were substituted a reference to any person (other than the individual) interested in the settlement or estate, but subject to subsection (9) below.
- (9) Subsection (8) above shall not apply so as to make an individual an associate as being entitled or eligible to benefit under a trust—
- (a) if the trust relates exclusively to an exempt approved scheme as defined in section 592; or
  - (b) if the trust is exclusively for the benefit of the employees, or the employees and directors, of the company or their dependants (and not wholly or mainly for the benefit of directors or their relatives), and the individual in question is not (and could not as a result of the operation of the trust become), either on his own or with his relatives, the beneficial owner of more than 5 per cent. of the ordinary share capital of the company;
- and in applying paragraph (b) above any charitable trusts which may arise on the failure or determination of other trusts shall be disregarded.
- (10) In this section [<sup>F57</sup>“participator” has the meaning given by section 417(1) and]“relative” means husband or wife, parent or remoter forebear, child or remoter issue or brother or sister.]

#### Textual Amendments

**F54** S. 360A inserted by Finance Act 1989 (c. 26), s. 48(2)

**F55** 1989 s.107 and Sch.12 para.13(2) in relation to accounting periods beginning after 31 March 1989. For accounting periods beginning on or before 31 March 1989, the following wording applies:

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“in a company—(a) if he, either on his own or with one or more of his associates, or if any associate of his with or without other such associates, is the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 per cent. of the ordinary share capital of the company, or (b) if, on an amount equal to the whole distributable income of the company falling to be apportioned under Part XI for the purpose of computing total income, more than 5 per cent. of that amount could be apportioned to him together with his associates (if any), or to any associate of his, or any such associates taken together.”

**F56** Words in s. 360A(2)(b) substituted (with effect and application in accordance with s. 74 of the amending Act) by Finance Act 1995 (c. 4), Sch. 17 para. 5

**F57** 1989 s.107 and Sch.12 para.13(3) in relation to accounting periods beginning after 31 March 1989.

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

**C12** 27 July 1989.

**C13** 27 July 1989.

**361 Loan to buy interest in co-operative or employee-controlled company. U.K.**

- (1) <sup>M26</sup> Subject to the following provisions of this section and sections 363 and 364, interest is eligible for relief under section 353 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring a share or shares in a body which is a co-operative as defined by section 363(5); or
  - (b) in lending money to any such body which is used wholly and exclusively for the purposes of the business of that body or of a subsidiary of that body; or
  - (c) in paying off another loan interest on which would have been eligible for relief under section 353 had the loan not been paid off (on the assumption, if it was free of interest, that it carried interest);
- and the conditions in subsection (2) below are satisfied.
- (2) <sup>M27</sup> The conditions referred to in subsection (1) above are—
- (a) that the loan was made after 10th March 1981;
  - (b) that, when the interest is paid, the body continues to be a co-operative; and
  - (c) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time as an employee of the body or of a subsidiary of the body; and
  - (d) that he shows that in that period he has not recovered any capital from the body apart from any taken into account under section 363(1).
- (3) <sup>M28</sup> Subject to sections 362 to 365, interest is eligible for relief under section 353 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring any part of the ordinary share capital of an employee-controlled company; or
  - (b) in paying off another loan, interest on which would have been eligible for relief under section 353 had the loan not been paid off (on the assumption, if it was free of interest, that it carried interest);
- and the conditions stated in subsection (4) below are satisfied.
- (4) <sup>M29</sup> The conditions referred to in subsection (3) above are that—
- (a) the company is, throughout the period beginning with the date on which the shares are acquired and ending with the date on which the interest is paid—

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- (i) an unquoted company resident in the United Kingdom and not resident elsewhere; and
  - (ii) a trading company or the holding company of a trading group;
  - (b) the shares are acquired before, or not later than 12 months after, the date on which the company first becomes an employee-controlled company;
  - (c) during the year of assessment in which the interest is paid the company either—
    - (i) first becomes an employee-controlled company; or
    - (ii) is such a company throughout a period of at least nine months;
  - (d) the individual or his spouse is a full-time employee of the company throughout the period beginning with the date on which the proceeds of the loan are applied and ending with the date on which the interest is paid or, if at that date he has ceased to be such an employee, ending with whichever is the later of—
    - (i) the date on which he ceased to be such an employee;
    - (ii) the date 12 months before the payment of the interest; and
  - (e) the individual shows that in the period from the application of the proceeds of the loan to the payment of the interest he has not recovered any capital from the company, apart from any amount taken into account under section 363(1).
- (5) For the purposes of this section a company is employee-controlled at any time when more than 50 per cent.—
- (a) of the issued ordinary share capital of the company, and
  - (b) of the voting power in the company,
- is beneficially owned by persons who, or whose spouses, are full-time employees of the company.
- (6) Where an individual owns beneficially, or he and his spouse together own beneficially, more than 10 per cent. of the issued ordinary share capital of, or voting power in, a company, the excess shall be treated for the purposes of subsection (5) above as being owned by an individual who is neither a full-time employee of the company nor the spouse of such an employee.
- (7) <sup>M30</sup>Where an individual and his spouse are both full-time employees of the company, subsection (6) above shall apply in relation to them with the omission of the words “or he and his spouse together own beneficially”.
- (8) <sup>M31</sup>In this section—
- “full-time employee”, in relation to a company, means a person who works for the greater part of his time as an employee or director of the company or of a 51 per cent. subsidiary of the company;
  - “holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 75 per cent. subsidiaries;
  - “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;
  - “trading group” means a group the business of whose members taken together consists wholly or mainly of the carrying on of a trade or trades, and for this purpose “group” means a company which has one or more 75 per cent. subsidiaries together with those subsidiaries; and
  - “unquoted company” means a company none of whose shares are listed in the Official List of the Stock Exchange.

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

- C14** See 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands.*
- C15** See 1988(F) s.35 and Sch.3 para.15 for changes applicable in respect of payments of interest made on or after 6 April 1990.
- C16** See 1988(F) s.35 and Sch.3 para.15 for changes applicable in respect of payments of interest made on or after 6 April 1990.

**Marginal Citations**

- M26** Source-1974 Sch.1 10A(1); 1981 s.25(3)
- M27** Source-1974 Sch.1 10B; 1981 s.25(3), (6)
- M28** Source-1974 Sch.1 10C; 1983 s.24(1)
- M29** Source-1974 Sch.1 10D(1)-(3); 1983 s.24(1); 1984 s.24(2), (3)
- M30** Source-1974 Sch.1 10D(3A); 1983 s.24(1); 1984 s.24(4)
- M31** Source-1974 Sch.1 10D(4); 1983 s.24(1)

**362 Loan to buy into partnership. U.K.**

- (1)<sup>M32</sup> Subject to sections 363 to 365, interest is eligible for relief under section 353 if it is interest on a loan to an individual to defray money applied—
- in purchasing a share in a partnership; or
  - in contributing money to a partnership by way of capital or premium, or in advancing money to a partnership, where the money contributed or advanced is used wholly for the purposes of the trade, profession or vocation carried on by the partnership; or
  - in paying off another loan interest on which would have been eligible for relief under that section had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and the conditions stated in subsection (2) below are satisfied.
- (2)<sup>M33</sup> The conditions referred to in subsection (1) above are—
- that, throughout the period from the application of the proceeds of the loan until the interest was paid, the individual has been a member of the partnership otherwise than as a limited partner; and
  - that he shows that in that period he has not recovered any capital from the partnership, apart from any amount taken into account under section 363(1).

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

- C17** See 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands.*

**Marginal Citations**

- M32** Source-1974 Sch.1 11(1)
- M33** Source-1974 Sch.1 12; 1981 s.25(2)

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### 363 Provisions supplementary to sections 360 to 362. **U.K.**

- (1) <sup>M34</sup>If at any time after the application of the proceeds of the loan the individual has recovered any amount of capital from the close company, co-operative, employee-controlled company or partnership without using that amount in repayment of the loan, he shall be treated for the purposes of sections 353, 360, 361 and 362 as if he had at that time repaid that amount out of the loan, so that out of the interest otherwise eligible for relief (or, where section 367(4) applies, out of the proportion so eligible) and payable for any period after that time there shall be deducted an amount equal to interest on the amount of capital so recovered.
- (2) <sup>M35</sup>The individual shall be treated as having recovered an amount of capital from the close company, co-operative, employee-controlled company or partnership if—
- he receives consideration of that amount or value for the sale, exchange or assignment of any part of the ordinary share capital of the company or of his share or shares in the co-operative or of his interest in the partnership, or of any consideration of that amount or value by way of repayment of any part of that ordinary share capital or of his share or shares in the co-operative; or
  - the close company, co-operative, employee-controlled company or partnership repays that amount of a loan or advance from him or the partnership returns that amount of capital to him; or
  - he receives consideration of that amount or value for assigning any debt due to him from the close company, co-operative, employee-controlled company or partnership;
- and where a sale or assignment is not a bargain made at arm's length, the sale or assignment shall be deemed to be for a consideration of an amount equal to the market value of what is disposed of.
- (3) <sup>M36</sup>In the application of this section to Scotland for the word “assignment” wherever it occurs there shall be substituted the word “assignment”.
- (4) <sup>M37</sup>Section 360, or, as the case may be, 361(2) or (4) or 362(2) and subsections (1) to (3) above, shall apply to a loan within section 360(1)(c), 361(1)(c) or (3)(b) or 362(1)(c) as if it, and any loan it replaces, were one loan, and so that—
- references to the application of the proceeds of the loan were references to the application of the proceeds of the original loan; and
  - any restriction under subsection (1) above which applies to any loan which has been replaced shall apply to the loan which replaces it.
- (5) <sup>M38</sup>In this section and sections 361 and 362—
- “co-operative” means a common ownership enterprise or a co-operative enterprise as defined in section 2 of the <sup>M39</sup>Industrial Common Ownership Act 1976; and
- “subsidiary” has the same meaning as for the purposes of section 2 of that Act.

#### Marginal Citations

- M34** Source-1974 Sch.1 13; 1981 s.25(4); 1983 s.24(2)(a)  
**M35** Source-1974 Sch.1 14(1); 1981 s.25(4); 1983 s.24(2)(a)  
**M36** Source-1974 Sch.1 14(2)  
**M37** Source-1974 Sch.1 15; 1981 s.25(4); 1983 s.24(2)(b)  
**M38** Source-1974 Sch.1 10A(2); 1981 s.25(3)



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M39 1976 c.78.

### 364 Loan to pay inheritance tax. U.K.

- (1)<sup>M40</sup> Interest is eligible for relief under section 353 if it is interest on a loan to the personal representatives of a deceased person, the proceeds of which are applied—
- (a) in paying, before the grant of representation or confirmation, capital transfer tax or inheritance tax payable on the delivery of the personal representatives' account and attributable to the value of personal property to which the deceased was beneficially entitled immediately before his death and which vests in the personal representatives or would vest in them if the property were situated in the United Kingdom; or
  - (b) in paying off another loan interest on which would have been eligible for that relief by virtue of this section if the loan had not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and the interest is paid in respect of a period ending within one year from the making of the loan within paragraph (a) above.
- (2)<sup>M41</sup> If or to the extent that any relief in respect of interest eligible for it under subsection (1) above cannot be given against income of the year in which the interest is paid because of an insufficiency of income in that year, it may instead be given against income of the preceding year of assessment, and so on; and if or to the extent that it cannot be so given it may instead be given against income of the year following that in which the interest is paid, and so on.
- (3)<sup>M42</sup> Sufficient evidence of the amount of capital transfer tax or inheritance tax paid as mentioned in subsection (1)(a) above and of any statements relevant to its computation may be given by the production of a document purporting to be a certificate from the Board.
- (4) For the purposes of subsections (1) to (3) above—
- (a) references to capital transfer tax or inheritance tax include any interest payable on that tax; and
  - (b) references to interest in respect of a period ending within a given time apply whether or not interest continues to run after that time.

#### Marginal Citations

M40 Source-1974 Sch.1 17(1); 1975 Sch.12 19(2); 1986 s.100

M41 Source-1974 Sch.1 18

M42 Source-1974 Sch.1 20, 21; 1975 Sch.12 19(3), (4); 1986 s.100

### 365 Loan to buy life annuity. U.K.

- <sup>M43</sup>(1) Subject to the following provisions of this section, interest is eligible for relief under section 353 if it is interest on a loan in respect of which the following conditions are satisfied—
- (a) that the loan was made as part of a scheme under which not less than nine-tenths of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the



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survivor of two or more persons (“the annuitants”) who include the person to whom the loan was made;

- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65 years;
- (c) that the loan was secured on land in the United Kingdom or the Republic of Ireland and the person to whom it was made or one of the annuitants owns an estate or interest in that land; and
- (d) that, if the loan was made after 26th March 1974, the person to whom it was made or each of the annuitants uses the land on which it was secured as his only or main residence at the time the interest is paid.

[<sup>F58</sup>(1A) Where, in the case of any loan—

- (a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and
- (b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case.]

- (2) Interest is not eligible for relief by virtue of this section unless it is payable by the person to whom the loan was made or by one of the annuitants.
- (3) If the loan was made after 26th March 1974 interest on it is eligible for relief by virtue of this section only to the extent that the amount on which it is payable does not exceed the qualifying maximum for the year of assessment; and if the interest is payable by two or more persons the interest payable by each of them is so eligible only to the extent that the amount on which it is payable does not exceed such amount as bears to the qualifying maximum for the year of assessment the same proportion as the interest payable by him bears to the interest payable by both or all of them.

#### Textual Amendments

**F58** S. 365(1A)(1B) inserted (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by [Finance Act 1993 \(c. 34\), s. 57\(3\)\(5\)\(6\)](#)

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

**C18** S. 365(1A) modified (27.7.1993 with effect in relation to payments of interest made on or after 16 March 1993 (whenever falling due)) by [1993 c. 34, s. 57\(5\)\(6\)](#)

#### Marginal Citations

**M43** Source-1974 Sch.1 24; 1984 s.22(3)

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### 366 Information. **U.K.**

- (1) <sup>M44</sup>A person who claims relief under section 353 in respect of any payment of interest shall furnish to the inspector a statement in writing by the person to whom the payment is made, showing—
- (a) the date when the debt was incurred;
  - (b) the amount of the debt when incurred;
  - (c) the interest paid in the year of assessment for which the claim is made (or, in the case of relief by virtue of section <sup>F59</sup> . . . 364(2), the year of assessment for which the claim would be made but for an insufficiency of income); and
  - (d) the name and address of the debtor.
- (2) <sup>M45</sup>Where any such interest as is mentioned in section 353 is paid, the person to whom it is paid shall, if the person who pays it so requests in writing, furnish him with such statement as regards that interest as is mentioned in subsection (1) above; and the duty imposed by this subsection shall be enforceable at the suit or instance of the person making the request.
- (3) Subsections (1) and (2) above do not apply to interest paid to a building society, or to a local authority.

#### Textual Amendments

**F59** Words in s. 366(1)(c) repealed (with effect in accordance with s. 42(3)-(5) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(2), Note

#### Marginal Citations

**M44** Source-1972 Sch.10 7; 1974 Sch.1 25(1)  
**M45** Source-1972 Sch.10 8, 9

### 367 Provisions supplementary to sections 354 to 366. **U.K.**

- (1) In sections 354 to 366 as they apply throughout the United Kingdom and in relation to the Republic of Ireland—
- “caravan” has the meaning given by section 29(1) of the <sup>M46</sup>Caravan Sites and Control of Development Act 1960;
- <sup>M47</sup> “dependent relative” means, in relation to any person, a relative of his, or of his spouse, who is incapacitated by old age or infirmity from maintaining himself, or the mother of that person, or of his spouse, if the mother is widowed or living apart from her husband, or, in consequence of dissolution or annulment of marriage, a single woman;
- “house-boat” means a boat or similar structure designed or adapted for use as a place of permanent habitation;
- <sup>F60</sup> . . .
- “separated” means separated under an order of a court of competent jurisdiction or by deed of separation or in such circumstances that the separation is likely to be permanent; and
- “street works” means any works for the sewerage, levelling, paving, metalling, flagging, channelling and making good of a road, and includes the provision of proper means for lighting a road.

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- (2) <sup>M48</sup> Sections 354(1) and 360 to 364 do not apply to a loan unless it is made—
- (a) in connection with the application of money, and
  - (b) on the occasion of, or within what is in the circumstances a reasonable time from, the application of the money;
- and those sections do not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in those sections.
- (3) <sup>M49</sup> For the purposes of sections 354 to 364, the giving of credit for any money due from the purchaser under any sale shall be treated as the making of a loan to defray money applied by him in making the purchase.
- (4) <sup>M50</sup> Where part only of a debt fulfils the conditions required under sections 354 to 364 for interest on the debt to be eligible for relief under section 353, such proportion of the interest shall be treated as eligible for relief under that section as is equal to the portion of the debt fulfilling those conditions at the time of the application of the money in question.
- (5) <sup>M51</sup> In sections [<sup>F61</sup>356A to 357] and 365(3) references to the qualifying maximum for the year of assessment are references to such sum as Parliament may determine for the purpose for that year.

#### Textual Amendments

- F60** In s. 367(1): definition of "large caravan" repealed by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 123, [Sch. 19, Pt. V](#), Note 6 (for year 1991-92 and subsequent years of assessment)
- F61** Words in s. 367(5) substituted by [Finance Act 1988 \(c. 39\)](#), s. 42(3)(b).

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

- C19** *The definition in s.29(1) reads as follows:*  
““caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or(b) any tent.”
- C20** S. 367(5): £30,000 specified (1988-89) by [Finance Act 1988 \(c. 39\)](#), s. 41  
S. 367(5): £30,000 specified (1989-90) by [Finance Act 1989 \(c. 26\)](#), s. 46  
S. 367(5): £30,000 specified (1990-91) by [Finance Act 1990 \(c. 29\)](#), s. 71  
S. 367(5): £30,000 specified (1991-92) by [Finance Act 1991 \(c. 31\)](#), s. 26  
S. 367(5): £30,000 specified (1992-93) by [Finance Act 1992 \(c. 20\)](#), s. 10(4) (with s. 10(5))  
S. 367(5): £30,000 specified (1993-94) by [Finance Act 1993 \(c. 34\)](#), s. 55  
S. 367(5): £30,000 specified (1994-95, 1995-96) by [Finance Act 1994 \(c. 9\)](#), s. 80  
S. 367(5): £30,000 specified (1996-97) by [Finance Act 1996 \(c. 8\)](#), s. 76  
S. 367(5): £30,000 specified (1997-98) by [Finance Act 1997 \(c. 16\)](#), s. 57  
S. 367(5): £30,000 specified (1998-99) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), s. 16  
S. 367(5): £30,000 specified (1999-2000) by [Finance Act 1999 \(c. 16\)](#), s. 37

#### Marginal Citations

- M46** 1960 c. 62.  
**M47** Source-1972 Sch.9 5A, 9; 1974 Sch.1 3, 4(4)  
**M48** Source-1972 Sch.9 2; 1974 Sch.1 23  
**M49** Source-1972 Sch.9 14; 1974 Sch.1 23  
**M50** Source-1972 Sch.9 15; 1974 Sch.1 1, 23  
**M51** Source-1972 Sch.9 5(1A); 1984 s.22(1)(c)

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VALID FROM 01/04/2010

### **[<sup>F62</sup>367A Alternative finance arrangements U.K.]**

- (1) Sections 353 and 365 have effect as if—
  - (a) purchase and resale arrangements involved the making of a loan, and
  - (b) alternative finance return were interest.
- (2) Section 366 has effect accordingly.
- (3) In this section—
  - “alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007, and
  - “purchase and resale arrangements” means arrangements to which section 564C of ITA 2007 applies.]

#### **Textual Amendments**

**F62** S. 367A inserted (1.4.2010 with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), [Sch. 2 para. 47](#) (with Sch. 9)

### **368 Exclusion of double relief etc. U.K.**

- <sup>M52</sup>(1) Interest in respect of which relief is given under section 353 shall not be allowable as a deduction [<sup>F63</sup>for any purpose of the Income Tax Acts except so far as it is so allowable in accordance with subsection (1B) of that section.]
- (2) Relief shall not be given under section 353 against income chargeable to corporation tax, and shall not be given against any other income of a company, except where both of the following conditions are satisfied, that is to say—
  - (a) that the company is not resident in the United Kingdom; and
  - (b) that the interest cannot be taken into account in computing corporation tax chargeable on the company.
- (3) Where interest on any debt or liability is taken into account in the computation of profits or gains or losses for the purposes of [<sup>F64</sup>Schedule A or] Case I or II of Schedule D no relief shall be given under section 353—
  - (a) in respect of the payment of that interest; or
  - (b) in respect of interest on the same debt or liability which is paid in any year of assessment for which that computation is relevant.
- (4) Where relief is given under section 353 in respect of the interest paid in any year of assessment on any debt or liability—
  - (a) that interest shall not be taken into account in the computation of profits or gains or losses for the purposes of [<sup>F64</sup>Schedule A or] Case I or II of Schedule D for any year of assessment; and
  - (b) interest on that debt or liability shall not be taken into account in that computation for any year of assessment for which the interest so paid could have been taken into account but for the relief.

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- (5) For the purposes of subsections (3) and (4) above, all interest capable of being taken into account in such a computation as is mentioned in those subsections which is payable by any person on money advanced to him on current account, whether advanced on one or more accounts or by the same or separate banks or other persons, shall be treated as interest payable on the same debt.
- (6) References in subsections (3) and (4) above to relief given or an amount taken into account are references to relief given or an amount taken into account on a claim or in an assessment which has been finally determined.

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**Textual Amendments**

- F63** Words in s. 368(1) substituted (with effect in accordance with s. 81(6) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 9 para. 9](#)
- F64** Words in s. 368(3)(4) inserted (with effect in accordance with s. 39(3)-(5) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 6 para 17](#)
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**Marginal Citations**

- M52** Source-1972 Sch.10 1-6

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