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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART IX

#### ANNUAL PAYMENTS AND INTEREST

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

#### **353 General provision.**

[<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 [<sup>F2</sup>sections 359] 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 [<sup>F2</sup>sections 359] to 365.]

[<sup>F3</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 <sup>F4</sup> . . . 365, <sup>F5</sup> . . .

(b) <sup>F5</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 <sup>F4</sup> . . . 365, <sup>F6</sup> . . .

(b) <sup>F6</sup> . . . . .

that relief shall consist (subject to [<sup>F7</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>F8</sup> . . . . .

(1D) <sup>F8</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>F9</sup> . . . —

(a) the proportions of the total amount borrowed which were applied for different purposes; <sup>F10</sup> . . .

(b) <sup>F10</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.

[<sup>F11</sup>(1G) In subsection (1F) above “the applicable percentage” means [<sup>F12</sup>23 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>F13</sup> . . . . .

(5) <sup>F13</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)

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- F2** Words in s. 353(1) substituted (with effect in accordance with Sch. 4 para. 18(5) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 4 para. 1(2)**
- F3** 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)**
- F4** Words in s. 353(1A)(1B) repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), **Sch. 4 para. 1(3), Sch. 20 Pt. 3(7)**
- F5** 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
- F6** 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
- F7** 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)**
- F8** 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
- F9** Words in s. 353(1E) 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
- F10** 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
- F11** S. 353(1G) substituted (with effect in accordance with Sch. 4 para. 18(5) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 4 para. 1(4)**
- F12** Words in s. 353(1G) substituted (with effect in accordance with s. 83(4) of the amending Act) by Finance Act 2000 (c. 17), **s. 83(2)**
- F13** 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**
- C3** S. 353 restricted (27.7.1999) by Finance Act 1999 (c. 16), **s. 38(1)**

**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.**

**F14** .....

**Textual Amendments**

- F14** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, **Sch. 20 Pt. 3(7)**

**355 Matters excluded from section 354.**

**F15** .....

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**Textual Amendments**

**F15** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 2](#), [Sch. 20 Pt. 3\(7\)](#)

**356 Job-related accommodation.**

**F16** .....

**Textual Amendments**

**F16** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 2](#), [Sch. 20 Pt. 3\(7\)](#)

**[<sup>F17</sup>356ALimit on relief for home loans: residence basis.**

**F18** .....]

**Textual Amendments**

**F17** Ss. 356A-356D inserted (1.8.1988) by [Finance Act 1988 \(c. 39\)](#), [s.42\(1\)\(4\)](#)  
**F18** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 2](#), [Sch. 20 Pt. 3\(7\)](#)

**[<sup>F19</sup>356BResidence basis: married couples.**

**F20** .....]

**Textual Amendments**

**F19** Ss. 356A-356D inserted (1.8.1988) by [Finance Act 1988 \(c. 39\)](#), [s. 42\(1\)\(4\)](#); and s. 356B substituted (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), [Sch. 3 para. 14](#)  
**F20** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 2](#), [Sch. 20 Pt. 3\(7\)](#)

**[<sup>F21</sup>356CPayments to which sections 356A and 356B apply.**

**F22** .....]

**Textual Amendments**

**F21** Ss. 356A-356D inserted (1.8.1988) by [Finance Act 1988 \(c. 39\)](#), [s.42\(1\)\(4\)](#)  
**F22** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 2](#), [Sch. 20 Pt. 3\(7\)](#)

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[<sup>F23</sup>**356D**Provisions supplementary to sections 356A to 356C.

<sup>F24</sup> .....

**Textual Amendments**

- F23** Ss. 356A-356D inserted (1.8.1988) by Finance Act 1988 (c. 39), s.42(1)(4)  
**F24** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, Sch. 20 Pt. 3(7)

**357 Limit on amount of loan eligible for relief by virtue of section 354.**

<sup>F25</sup> .....

**Textual Amendments**

- F25** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, Sch. 20 Pt. 3(7)

[<sup>F26</sup>**357A**Substitution of security.

<sup>F27</sup> .....

**Textual Amendments**

- F26** Ss. 357A-357C inserted (27.7.1993) by Finance Act 1993 (c. 34), s. 56  
**F27** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, Sch. 20 Pt. 3(7)

[<sup>F28</sup>**357B**Treatment of loans following security substitution.

<sup>F29</sup> .....

**Textual Amendments**

- F28** Ss. 357A-357C inserted (27.7.1993) by Finance Act 1993 (c. 34), s. 56  
**F29** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, Sch. 20 Pt. 3(7)

[<sup>F30</sup>**357C**Substitution of security: supplemental.

<sup>F31</sup> .....

**Textual Amendments**

- F30** Ss. 357A-357C inserted (27.7.1993) by Finance Act 1993 (c. 34), s. 56  
**F31** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, Sch. 20 Pt. 3(7)

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### 358 Relief where borrower deceased.

F32

#### Textual Amendments

**F32** Ss. 354-358 repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 2, **Sch. 20 Pt. 3(7)**

### 359 Loan to buy machinery or plant.

- (1) <sup>M3</sup>Where an individual is a member of a partnership which, under [<sup>F33</sup>section 264 of the Capital Allowances Act], is entitled to a capital allowance or liable to a balancing charge for [<sup>F34</sup>any period of account in respect of plant or machinery] belonging to the individual, any interest paid by him in [<sup>F35</sup>that period of account] on a loan to defray money applied as capital expenditure on the provision of [<sup>F36</sup>that plant or machinery] is eligible for relief under section 353, except interest falling due and payable more than three years after the end of [<sup>F37</sup>the period of account] in which the debt was incurred.
- (2) <sup>M4</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 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>M5</sup>Where the holder of an office or employment—
  - (a) is under [<sup>F38</sup>Part 2 of the Capital Allowances 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 [<sup>F39</sup>plant or machinery] 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 [<sup>F40</sup>plant or machinery];
 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>M6</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

**F33** Words in s. 359(1) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(1)(a)** (with Sch. 3)

**F34** Words in s. 359(1) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(1)(b)** (with Sch. 3)

**F35** Words in s. 359(1) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(1)(c)** (with Sch. 3)

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- F36** Words in s. 359(1) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(1)(d)** (with Sch. 3)
- F37** Words in s. 359(1) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(1)(e)** (with Sch. 3)
- F38** Words in s. 359(3)(a) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(2)(a)** (with Sch. 3)
- F39** Words in s. 359(3)(a) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(2)(a)** (with Sch. 3)
- F40** Words in s. 359(3)(b) substituted (with effect in accordance with s. 579(1) of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 27(2)(b)** (with Sch. 3)

#### Marginal Citations

- M3** Source-1972 Sch.9 10; 1974 Sch.1 1
- M4** Source-1972 Sch.9 11; 1974 Sch.1 1
- M5** Source-1972 Sch.9 12; 1974 Sch. 1 1
- M6** Source-1972 Sch.9 13; 1974 Sch.1 1

### 360 Loan to buy interest in close company.

(1) <sup>M7</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>F41</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>M8</sup>The conditions first referred to in subsection (1) above are—

- (a) that, when the interest is paid, the company continues to [<sup>F41</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>M9</sup>The conditions secondly referred to in subsection (1) above are—

- (a) that, when the interest is paid, the company continues to [<sup>F42</sup>comply with section 13A(2)] and the individual holds any part of the ordinary share capital of the company; and

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- (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>F43</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>F44</sup>or makes a claim in respect of them under Schedule 5B to the 1992 Act].]

[<sup>F45</sup>(4) Subject to section 360A, in this section expressions to which a meaning is assigned by Part XI have that meaning.]

#### **Textual Amendments**

- F41** 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).
- F42** 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)”.
- F43** 1989 s.47.
- F44** Words in s. 360(3A) inserted (with effect in accordance with s. 79(2) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 79\(1\)](#)
- F45** 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 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)**

- C4** See 1988(F) Sch.6 para.3(3)—disallowance of interest relief in respect of occupation of commercial woodlands.



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#### **Marginal Citations**

- M7** Source-1974 Sch.1 9(1); 1982 s.49(2)  
**M8** Source-1974 Sch.1 10(1); 1980 s.28(1)(b), (c); 1982 s.49(3)  
**M9** Source-1974 Sch.1 10(2); 1982 s.49(3)

#### **[<sup>F46</sup>360A Meaning of “material interest” in section 360.**

- (1) For the purposes of section 360(2)(a) an individual shall be treated as having a material interest [<sup>F47</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 participants.]
- (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>F48</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.
- (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,

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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>F49</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

**F46** S. 360A inserted by Finance Act 1989 (c. 26), s. 48(2)

**F47** 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:

“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.”

**F48** 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

**F49** 1989 s.107 and Sch.12 para.13(3) in relation to accounting periods beginning after 31 March 1989.

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

**C5** 27 July 1989.

**C6** 27 July 1989.

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

(1) <sup>M10</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>M11</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>M12</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>M13</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—
  - (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

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- (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>M14</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>M15</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.

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

- C7** See 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands.*
- C8** 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.
- C9** 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**

- M10** Source-1974 Sch.1 10A(1); 1981 s.25(3)
- M11** Source-1974 Sch.1 10B; 1981 s.25(3), (6)
- M12** Source-1974 Sch.1 10C; 1983 s.24(1)
- M13** Source-1974 Sch.1 10D(1)-(3); 1983 s.24(1); 1984 s.24(2), (3)
- M14** Source-1974 Sch.1 10D(3A); 1983 s.24(1); 1984 s.24(4)

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**M15** Source-1974 Sch.1 10D(4); 1983 s.24(1)

### **362 Loan to buy into partnership.**

- (1) <sup>M16</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—
- (a) in purchasing a share in a partnership; or
  - (b) 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
  - (c) 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>M17</sup>The conditions referred to in subsection (1) above are—
- (a) 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 [<sup>F50</sup> otherwise than—
    - (i) as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907, or
    - (ii) as a member of an investment LLP;] and
  - (b) 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).

#### **Textual Amendments**

**F50** Words in s. 362(2)(a) substituted (retrospective to 6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 9

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

**C10** See 1988(F) Sch.6 para.3(3)—*disallowance of interest relief in respect of occupation of commercial woodlands.*

#### **Marginal Citations**

**M16** Source-1974 Sch.1 11(1)

**M17** Source-1974 Sch.1 12; 1981 s.25(2)

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

- (1) <sup>M18</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.

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- (2) <sup>M19</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—
- (a) 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
  - (b) 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
  - (c) 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>M20</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>M21</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—
- (a) references to the application of the proceeds of the loan were references to the application of the proceeds of the original loan; and
  - (b) 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>M22</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>M23</sup>Industrial Common Ownership Act 1976; and
- “subsidiary” has the same meaning as for the purposes of section 2 of that Act.

#### Marginal Citations

- M18** Source-1974 Sch.1 13; 1981 s.25(4); 1983 s.24(2)(a)  
**M19** Source-1974 Sch.1 14(1); 1981 s.25(4); 1983 s.24(2)(a)  
**M20** Source-1974 Sch.1 14(2)  
**M21** Source-1974 Sch.1 15; 1981 s.25(4); 1983 s.24(2)(b)  
**M22** Source-1974 Sch.1 10A(2); 1981 s.25(3)  
**M23** 1976 c.78.

### 364 Loan to pay inheritance tax.

- (1) <sup>M24</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

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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>M25</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>M26</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

**M24** Source-1974 Sch.1 17(1); 1975 Sch.12 19(2); 1986 s.100

**M25** Source-1974 Sch.1 18

**M26** Source-1974 Sch.1 20, 21; 1975 Sch.12 19(3), (4); 1986 s.100

### 365 Loan to buy life annuity.

<sup>M27</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—

- [<sup>F51</sup>(aa) that the loan was made before 9th March 1999;]
- (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 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

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- (d) that, if the loan was made after 26th March 1974, the person to whom it was made or each of the annuitants [<sup>F52</sup>used the land on which it was secured as his only or main residence immediately before 9th March 1999] .

[<sup>F53</sup>(1AA) Where—

- (a) a loan made on or after 9th March 1999 was made in pursuance of an offer made by the lender before that date, and
- (b) the offer was either in writing or evidenced by a note or memorandum made by the lender before that date,

the loan shall be deemed for the purposes of subsection (1)(aa) above to have been made before that date.]

[<sup>F54</sup>(1AB) Subject to subsection (1AC) below, the conditions in paragraphs (aa) and (a) of subsection (1) above shall be treated as satisfied in relation to a loan (“the new loan”) if—

- (a) the new loan was made on or after the day on which the Finance Act 1999 was passed;
- (b) the new loan was made as part of a scheme (“the scheme”) under which the whole or any part of the proceeds of the loan was used to defray money applied in paying off another loan (“the old loan”); and
- (c) the conditions in subsection (1) above were, or were treated by virtue of this subsection as, satisfied with respect to the old loan.

(1AC) If only part of the proceeds of the new loan was used to defray money applied in paying off the old loan, subsection (1AB) above applies only if, under the scheme, not less than nine-tenths of the remaining part of the proceeds of the new loan was 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 survivor of two or more persons who include him.

(1AD) In subsection (1AC) above “the remaining part” means the part of the proceeds of the new loan that was not used to defray money applied in paying off the old loan.]

[<sup>F55</sup>[<sup>F56</sup>(1A) The condition in subsection (1)(d) above shall be treated as satisfied in relation to a loan if—

- (a) the person to whom the loan was made, or any of the annuitants, ceased to use the land as his only or main residence at a time falling within the period of twelve months ending with 8th March 1999, and
- (b) the intention at that time of the person to whom the loan was made, or each of the annuitants owning an estate or interest in the land, was to take steps, before the end of the period of twelve months after the day on which the land ceased to be so used, with a view to the disposal 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 [<sup>F57</sup>the sum of £30,000]; 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



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which it is payable does not exceed such amount as bears to [<sup>F58</sup>that sum] the same proportion as the interest payable by him bears to the interest payable by both or all of them.

#### Textual Amendments

- F51** S. 365(1)(aa) inserted (with effect in accordance with s. 39(3) of the amending Act) by Finance Act 1999 (c. 16), s. 39(1)
- F52** Words in s. 365(1)(d) inserted (with effect in accordance with s. 40(5) of the amending Act) by Finance Act 1999 (c. 16), s. 40(2)
- F53** S. 365(1AA) inserted (with effect in accordance with s. 39(3) of the amending Act) by Finance Act 1999 (c. 16), s. 39(2)
- F54** S. 365(1AB)-(1AD) inserted (with effect in accordance with s. 40(5) of the amending Act) by Finance Act 1999 (c. 16), s. 40(3)
- F55** 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)
- F56** S. 365(1A) substituted (with effect in accordance with s. 40(5) of the amending Act) by Finance Act 1999 (c. 16), s. 40(4)
- F57** Words in s. 365(3) substituted (with effect in accordance with s. 83(4) of the amending Act) by Finance Act 2000 (c. 17), s. 83(1)(a)
- F58** Words in s. 365(3) substituted (with effect in accordance with s. 83(4) of the amending Act) by Finance Act 2000 (c. 17), s. 83(1)(b)

#### Marginal Citations

- M27** Source-1974 Sch.1 24; 1984 s.22(3)

### 366 Information.

- (1) <sup>M28</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—
- the date when the debt was incurred;
  - the amount of the debt when incurred;
  - 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
  - the name and address of the debtor.
- (2) <sup>M29</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

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### Marginal Citations

**M28** Source-1972 Sch.10 7; 1974 Sch.1 25(1)

**M29** Source-1972 Sch.10 8, 9

## 367 Provisions supplementary to sections 354 to 366.

- (1) <sup>F60</sup> .....
- (2) <sup>M30</sup> Sections <sup>F61</sup> . . . 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>M31</sup> For the purposes of [<sup>F62</sup>sections 359] 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>M32</sup> Where part only of a debt fulfils the conditions required under [<sup>F62</sup>sections 359] 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>M33</sup> In [<sup>F63</sup>section] 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** S. 367(1) repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), Sch. 4 para. 3(2), **Sch. 20 Pt. 3(7)**
- F61** Words in s. 367(2) repealed (with effect in accordance with Sch. 4 para. 18(5), Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by [Finance Act 1999 \(c. 16\)](#), Sch. 4 para. 3(2), **Sch. 20 Pt. 3(7)**
- F62** Words in s. 367(3)(4) substituted (with effect in accordance with Sch. 4 para. 18(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 4 para. 3(3)**
- F63** Words in s. 367(5) substituted (with effect in accordance with Sch. 4 para. 18(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 4 para. 3(4)**

### Modifications etc. (not altering text)

- C11** 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

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### Marginal Citations

- M30** Source-1972 Sch.9 2; 1974 Sch.1 23  
**M31** Source-1972 Sch.9 14; 1974 Sch.1 23  
**M32** Source-1972 Sch.9 15; 1974 Sch.1 1, 23  
**M33** Source-1972 Sch.9 5(1A); 1984 s.22(1)(c)

VALID FROM 01/04/2010

### [<sup>F64</sup>367A Alternative finance arrangements

- (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

- F64** 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.

- <sup>M34</sup>(1) Interest in respect of which relief is given under section 353 shall not be allowable as a deduction [<sup>F65</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 [<sup>F66</sup>profits] or losses for the purposes of [<sup>F67</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—

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- (a) that interest shall not be taken into account in the computation of [<sup>F66</sup>profits] or losses for the purposes of [<sup>F67</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.
- (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.

#### Textual Amendments

- F65** 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**
- F66** Words in s. 368(3)(4)(a) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), **Sch. 7 para. 1**
- F67** 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**

#### Marginal Citations

- M34** Source-1972 Sch.10 1-6

**Status:**

Point in time view as at 01/01/2005. This version of this cross heading contains provisions that are not valid for this point in time.

**Changes to legislation:**

Income and Corporation Taxes Act 1988, Cross Heading: Relief for payments of interest (excluding MIRAS) is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.