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Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART V

PROVISIONS RELATING TO THE SCHEDULE E CHARGE

CHAPTER I

SUPPLEMENTARY CHARGING PROVISIONS OF GENERAL APPLICATION

Miscellaneous provisions

131 Chargeable emoluments.

- ^{M1}(1) Tax under Case I, II or III of Schedule E shall, except as provided to the contrary by any provision of the Tax Acts, be chargeable on the full amount of the emoluments falling under that Case, subject to such deductions only as may be authorised by the Tax Acts, and the expression “emoluments” shall include all salaries, fees, wages, perquisites and profits whatsoever.
- (2) Tax under Case III of Schedule E shall be chargeable whether or not tax is chargeable in respect of the same office or employment under Case I or II of that Schedule, but shall not be chargeable on any emoluments falling under Case I or II *for the same or another chargeable period*^{F1}.

Textual Amendments

F1 *Words omitted by 1989 ss.42 and 187 and Sch.17 Part IV for 1989-90 and subsequent years of assessment.*

Marginal Citations

M1 Source—1970 s.183

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132 Place of performance, and meaning of emoluments received in the U.K.

- (1) ^{M2}Where a person ordinarily performs the whole or part of the duties of his office or employment in the United Kingdom, then, for the purposes of Cases I and II of Schedule E, his emoluments for any period of absence from the office or employment shall be treated as emoluments for duties performed in the United Kingdom, except in so far as it is shown that, but for that absence, they would have been emoluments for duties performed outside the United Kingdom.
- (2) Where an office or employment is in substance one the duties of which fall in the chargeable period to be performed outside the United Kingdom, then, for the purposes of Cases I and II of Schedule E, there shall be treated as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.
- (3) ^{M3}Subsection (2) above shall not be construed as affecting any question under section 193(1) or paragraph 3 of Schedule 12 as to where any duties are performed or whether a person is absent from the United Kingdom.
- (4) ^{M4}For the purposes of Cases I and II of Schedule E, but subject to section 194(7) and paragraph 5 of Schedule 12, the following duties shall be treated as performed in the United Kingdom, namely—
 - (a) the duties of any office or employment under the Crown which is of a public nature and the emoluments of which are payable out of the public revenue of the United Kingdom or of Northern Ireland; and
 - (b) any duties which a person performs on a vessel engaged on a voyage not extending to a port outside the United Kingdom, or which a person resident in the United Kingdom performs on a vessel or aircraft engaged on a voyage or journey beginning or ending in the United Kingdom or on a part beginning or ending in the United Kingdom of any other voyage or journey.
- (5) ^{M5}For the purposes of Case III of Schedule E, emoluments shall be treated as received in the United Kingdom if they are paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and subsections (6) to (9) of section 65 shall apply for the purposes of this subsection as they apply for the purposes of subsection (5) of that section.

Modifications etc. (not altering text)

C1 See S.I. 1989 No.2387, regns.3 and 4 (in Part III vol.5) private medical insurance.

Marginal Citations

M2 Source—1970 s.184(1), (2)
M3 Source—1970 Sch.7 9
M4 Source—1970 s.184(3); 1977 s.31(3); 1986 s.34(7)
M5 Source—1970 s.184(4)

133 Voluntary pensions.

- ^{M6}(1) Where—
- (a) a person has ceased to hold any office or employment, and

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- (b) a pension or annual payment is paid to him, or to his widow or child, or to any relative or dependant of his, by the person under whom he held the office or by whom he was employed, or by the successors of that person, and
- (c) that pension or annual payment is paid otherwise than by or on behalf of a person outside the United Kingdom,

then, notwithstanding that the pension or payment is paid voluntarily or is capable of being discontinued, it shall be deemed to be income for the purposes of assessment to tax, and shall be assessed and charged under Schedule E.

- (2) For the avoidance of doubt, it is hereby declared that the expressions “annuity” and “pension” in Schedule E include respectively an annuity and a pension which is paid voluntarily or is capable of being discontinued.

Modifications etc. (not altering text)

C2 See 1989 s.41—*tax charged on amount accruing (1989-90 and subsequent years of assessment).*

Marginal Citations

M6 Source—1970 s.182

134 Workers supplied by agencies.

^{M7}(1) Subject to the provisions of this section, where—

- (a) an individual (“the worker”) renders or is under an obligation to render personal services to another person (“the client”) and is subject to, or to the right of, supervision, direction or control as to the manner in which he renders those services; and
- (b) the worker is supplied to the client by or through a third person (“the agency”) and renders or is under an obligation to render those services under the terms of a contract between the worker and the agency (“the relevant contract”); and
- (c) remuneration receivable under or in consequence of that contract would not, apart from this section, be chargeable to income tax under Schedule E,

then, for all the purposes of the Income Tax Acts, the services which the worker renders or is under an obligation to render to the client under that contract shall be treated as if they were the duties of an office or employment held by the worker, and all remuneration receivable under or in consequence of that contract shall be treated as emoluments of that office or employment and shall be assessable to income tax under Schedule E accordingly.

- (2) Subsection (1)(b) above includes cases in which the third person is an unincorporated body of which the worker is a member.
- (3) Subsection (1) above shall apply whether or not the worker renders or is under an obligation to render the services in question as a partner in a firm or a member of an unincorporated body; and where, in any case in which that subsection applies, the worker is a partner in a firm or a member of such a body, remuneration receivable under or in consequence of the relevant contract shall be treated for all the purposes of the Income Tax Acts as income of the worker and not as income of the firm or body.
- (4) For the purposes of this section, any remuneration which the client pays or provides by reason of the worker being a person who renders or is under an obligation to render

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the services in question shall be treated as receivable in consequence of the relevant contract.

- (5) Subsection (1) above shall not apply—
- (a) if the services in question are services as an actor, singer, musician or other entertainer or as a fashion, photographic or artist's model; or
 - (b) if the services in question are rendered wholly in the worker's own home or at other premises which are neither under the control or management of the client nor premises at which the worker is required, by reason of the nature of the services, to render them; or
 - (c) if in rendering the services the worker is or would be a subcontractor within the meaning of section 560.
- (6) Where an individual enters into arrangements with another person with a view to the rendering of personal services by the individual, being arrangements such that, if and when he renders any such services as a result of the arrangements, those services will be treated under subsection (1) above as if they were the duties of an office or employment held by him, then for all purposes of the Income Tax Acts any remuneration receivable under or in consequence of the arrangements shall be treated as emoluments of an office or employment held by the individual and shall be assessable to income tax under Schedule E accordingly.
- (7) In this section "remuneration", in relation to an individual, does not include anything in respect of which he would not have been chargeable to tax under Schedule E if it had been receivable in connection with an office or employment held by him but, subject to that, includes every form of payment and all perquisites, benefits and profits whatsoever.

Marginal Citations

M7 Source—1975 (No.2) s.38(1)-(6), (8)

Shareholdings, loans etc.

135 Gains by directors and employees from share options.

- (1) ^{M8}Subject to section 185, where a person realises a gain by the exercise, or by the assignment or release, of a right to acquire shares in a body corporate obtained by that person as a director or employee of that or any other body corporate, he shall be chargeable to tax under Schedule E on an amount equal to the amount of his gain, as computed in accordance with this section.
- (2) ^{M9}Without prejudice to section 185, where tax may by virtue of this section become chargeable in respect of any gain which may be realised by the exercise of a right which is not capable of being exercised more than seven years after it is obtained, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.
- (3) ^{M10}Subject to section 136(4)—
 - (a) the gain realised by the exercise of any such right at any time shall be taken to be the difference between the amount that a person might reasonably expect to obtain from a sale in the open market at that time of the shares acquired

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and the amount or value of the consideration given whether for them or for the grant of the right; and

- (b) the gain realised by the assignment or release of any such right shall be taken to be the difference between the amount or value of the consideration for the assignment or release and the amount or value of the consideration given for the grant of the right;

(a just apportionment being made of any entire consideration given for the grant of the right to acquire those shares and other shares or otherwise for the grant of the right to acquire those shares and for something besides).

- (4) For the purposes of subsection (3) above, neither the consideration given for the grant of the right nor any such entire consideration as is mentioned in that subsection shall be taken to include the performance of any duties in or in connection with the office or employment by reason of which the right was granted, and no part of the amount or value of the consideration given for the grant shall be deducted more than once under that subsection.

- (5)^{M11} Where such a right as is mentioned in subsection (1) above is obtained as mentioned therein and is capable of being exercised later than seven years after it is obtained, and the receipt of the right is chargeable to tax under any other provision of the Tax Acts, then—

- (a) the tax so charged shall be deducted from any tax which is chargeable under subsection (1) above by reference to the gain realised by the exercise, assignment or release of that right; and

- (b) for the purpose of any such charge to tax in relation to the receipt of the right, the value of the right shall be taken to be not less than the market value at the time the right is obtained—

- (i) of the shares which may be acquired by the exercise of the right, or
- (ii) of shares for which shares so acquired may be exchanged,

reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the shares may be so acquired.

- (6)^{M12} subject to subsection (7) below, a person shall, in the case of a right granted by reason of his office or employment, be chargeable to tax under this section in respect of a gain realised by another person—

- (a) if the right was granted to that other person, or
- (b) if the other person acquired the right otherwise than by or under an assignment made by way of a bargain at arm's length, or if the two are connected persons at the time when the gain is realised,

but in a case within paragraph (b) above the gain realised shall be treated as reduced by the amount of any gain realised by a previous holder on an assignment of the right.

- (7) A person shall not be chargeable to tax by virtue of subsection (6)(b) above in respect of any gain realised by another person if the first-mentioned person was divested of the right by operation of law on his bankruptcy or otherwise, but the other person shall be chargeable to tax in respect of the gain under Case VI of Schedule D.

- (8)^{M13} In any case where—

- (a) a person has obtained any such right to acquire shares as is mentioned in subsection (1) above (“the first right”); and

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- (b) as to any of the shares to which the first right relates, he omits or undertakes to omit to exercise the right or grants or undertakes to grant to another a right to acquire the shares or any interest in them; and
- (c) in consideration for or otherwise in connection with that omission, grant or undertaking, he receives any benefit in money or money's worth;

he shall be treated for the purposes of this section and section 136 as realising a gain by the assignment or release of the first right, so far as it relates to the shares in question, for a consideration equal to the amount or value of the benefit referred to in paragraph (c) above.

- (9) Where subsection (8) above has had effect on any occasion, nothing in that subsection affects the application of this section in relation to a gain realised on a subsequent occasion, except that on that subsequent occasion so much of the consideration given for the grant of the first right as was deducted on the first occasion shall not be deducted again.

Modifications etc. (not altering text)

- C3** S. 135 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.120**, 289 (with **ss. 60, 101(1), 171, 201(3)**).

Marginal Citations

- M8** Source—1970 s.186(1); 1984 s.38
M9 Source—1970 s.186(2); 1972 s.77(1); 1984 s.38
M10 Source—1970 s.186(3)
M11 Source—1972 s.77(1)-(3)
M12 Source—1970 s.186(4), (5)
M13 Source—1970 s.186(5A), (5B); 1986 s.26(1)

136 Provisions supplementary to section 135.

- (1) ^{M14}If a right to acquire shares in a body corporate is assigned or released in whole or in part for a consideration which consists of or comprises another right to acquire shares in that or any other body corporate, that other right shall not be treated as consideration for the assignment or release, but section 135 and this section shall apply in relation to it as they apply in relation to the right assigned or released and as if the consideration for its acquisition—
 - (a) did not include the value of the right assigned or released, but
 - (b) did include the amount or value of the consideration given for the grant of the right assigned or released so far as that has not been offset by any valuable consideration for the assignment or release other than the consideration consisting of the other right.
- (2) ^{M15}If—
 - (a) as a result of two or more transactions a person ceases to hold a right to acquire shares in a body corporate and he or a connected person comes to hold another right to acquire shares in that or any other body corporate (whether or not acquired from the person to whom the other right was assigned), and
 - (b) any of those transactions was effected under arrangements to which two or more persons holding rights in respect of which tax may be chargeable under this section were parties,

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those transactions shall be treated for the purposes of subsection (1) above as a single transaction whereby the one right is assigned for a consideration which consists of or comprises the other right.

(3) Subsection (2) above applies in relation to two or more transactions whether they involve an assignment preceding, coinciding with or subsequent to an acquisition.

(4) In the case of a right to acquire shares granted before 3rd May 1966—

- (a) the amount of the gain realised at any time by the exercise, or by the assignment or release, of the right shall not exceed the difference between the market value of those shares at that time and their market value on 3rd May 1966 (and no gain shall be treated as so realised unless the later value exceeds the earlier value); and
- (b) subsection (2) of section 135 shall not affect tax chargeable under Case I of Schedule E in respect of the receipt of the right, but the amount, if any, on which tax is so chargeable shall be taken into account under subsection (3)(a) and (b) of that section in relation to the gain realised by the exercise or by the assignment or release, of the right as if that amount formed part (in addition to any other amount) of the consideration for the grant of the right.

(5) For the purposes of this section and section 135—

- (a) references to the release of a right include references to agreeing to the restriction of the exercise of the right;
- (b) “director” means—
 - (i) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or similar body;
 - (ii) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person;
 - (iii) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate;
 and includes any person who is to be or has been a director;
- (c) ^{M16} “employee”, in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee; and
- (d) ^{M17} in so far as the context permits, “shares” includes stock;

and this section and section 135 shall apply in relation to any securities issued by a body corporate as they apply to shares in that body corporate.

(6) ^{M18} Where in any year of assessment a body corporate grants a right in respect of which tax may become chargeable under section 135, or allots or transfers any shares in pursuance of such a right, or receives notice of the assignment of such a right or provides any benefit in money or money’s worth—

- (a) for the assignment or for the release in whole or in part of such a right; or
- (b) for or in connection with an omission or undertaking to omit to exercise such a right; or
- (c) for or in connection with the grant or undertaking to grant a right to acquire shares or an interest in shares to which such a right relates;

it shall deliver particulars thereof in writing to the inspector not later than 30 days after the end of that year.

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Marginal Citations

- M14** Source—1970 s.186(6)
- M15** Source—1970 s.186(7)
- M16** Source—1970 ss.186(10)(c), 224(1)
- M17** Source—1970 s.186(10)(d)
- M18** Source—1970 s.186(11); 1986 s.26(2)

137 Payment of tax under section 135 by instalments.

^{M19}(1) In any case where—

- (a) for any year of assessment a person is chargeable to tax under Schedule E, by virtue of section 135, on an amount equal to a gain realised by the exercise of a right to acquire shares which was obtained before 6th April 1984; and
 - (b) the shares acquired in the exercise of that right were acquired for a consideration which, subject to subsection (2) below, was not less than the market value (determined as for the purposes of the [F²1992] Act) of shares of the same class at the time the right was granted or, if the right was granted before 6th April 1982, 90 per cent. of that market value; and
 - (c) following an assessment for the year in which that right was exercised (“the relevant year”) an amount of tax chargeable by virtue of section 135 in respect of the amount referred to in paragraph (a) above and exceeding £250 is payable to the collector pursuant to regulations under section 203; and
 - (d) the person concerned makes an election in accordance with subsection (3) below, he shall be entitled to pay tax by instalments in accordance with subsection (4) below.
- (2) Shares which are acquired for a consideration less than that required by paragraph (b) of subsection (1) above by reason only of a diminution in the market value of shares of that class (determined as for the purposes of the [F²1992] Act) which is attributable solely to the share capital of the company issuing the shares being varied after the right to acquire the shares was granted, shall for the purposes of that paragraph be regarded as having been acquired for a consideration not less than that required by that paragraph.
- (3) An election under this section shall be made by notice to the inspector before the expiry of the period of 60 days beginning immediately after the end of the relevant year.
- (4) Where an election has been made under this section the tax referred to in subsection (1) (c) above shall, subject to subsection (5) and (6) below, be paid in five equal instalments as follows—
- (a) the first shall be due and payable at the expiry of the period of 14 days beginning on the date on which application for the tax is made pursuant to regulations under section 203;
 - (b) the fifth shall be due and payable on the last day of the fifth year following the end of the relevant year; and
 - (c) the second, third and fourth instalments shall be due on such dates as will secure, so far as may be, that the interval between any two consecutive dates is the same.
- (5) In any case where the date which, apart from this subsection, would be the due date for the fifth instalment of tax under subsection (4) above is earlier than the due date

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referred to in paragraph (a) of that subsection, all five instalments shall be due on the later date.

- (6) Tax which, by virtue of an election under this section, is not yet due and payable in accordance with subsection (4) above may nevertheless be paid at any time and shall become due and payable forthwith if the person who made the election becomes bankrupt under the law of any part of the United Kingdom.
- (7) Subject to any other provision of the Income Tax Acts requiring income of any description to be treated as the highest part of a person's income, for the purposes of paragraph (c) of subsection (1) above in determining what tax is chargeable on a person by virtue of section 135 in respect of the amount referred to in paragraph (a) of that subsection, that amount shall be treated as the highest part of his income for the relevant year.

Textual Amendments

- F2** Words in s. 137(1)(b)(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 14(9)** (with ss. 60, 101(1), 171, 201(3)).

Marginal Citations

- M19** Source—1982 s.40; 1984 s.39(7), (8)

138 Share acquisitions by directors and employees.

- (1) *Subject to section 185 and the following provisions of this section, where a person has acquired or acquires shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a director or employee of that or any other body corporate, and not in pursuance of an offer to the public—*
- (a) ^{M20}*if the market value of the shares at the end of the period mentioned in subsection (9) below exceeds their market value at the time of the acquisition, he shall be chargeable to tax under Schedule E for the year of assessment in which that period ends on an amount equal, except as provided by subsection (8) below, to the excess (or, if his interest is less than the full beneficial ownership, such part of that amount as corresponds to his interest);*
- (b) ^{M21}*if he receives, by virtue of his ownership of or interest in the shares, any benefit not received by the majority of persons who—*
- (i) *hold shares forming part of the ordinary share capital of the same body corporate; and*
- (ii) *have acquired the shares otherwise than as mentioned above;*
- and the benefit is not otherwise chargeable to income tax, he shall be chargeable to tax under Schedule E for the year of assessment in which he receives the benefit on an amount equal to the value of the benefit; and any amount chargeable under this subsection shall be treated as earned income, whether or not it would otherwise fall to be so treated.*
- (2) *Subsection (1) above does not apply if the acquisition—*
- (a) ^{M22}*was made in pursuance of arrangements under which employees of a body corporate receive as part of their emoluments shares or interests in shares in that body or in a body controlling it to an extent determined in advance by reference to the profits of either body; and*

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- (b) ^{M23} *where the arrangements were made or modified after 22nd March 1973, was of shares or an interest in shares which satisfy the conditions set out in subsection (4)(a) below and the arrangements satisfy the condition set out in subsection (4)(b) below.*
- (3) *Subsection (1)(a) above does not apply if—*
- (a) ^{M24} *the acquisition was an acquisition of shares in a body and either of the following conditions was satisfied immediately after the acquisition, namely—*
- (i) *that the shares were not subject to such restrictions as are specified in subsection (6) below, and were not exchangeable for shares subject to such restrictions, and the majority of the available shares of the same class was acquired otherwise than as mentioned in subsection (1) above; or*
- (ii) *that the shares were not subject to such restrictions as are specified in paragraph (a) or (b) of subsection (6) below and were not exchangeable for shares subject to such restrictions, and the majority of the available shares of the same class was acquired by persons who were or had been employees or directors of, or of a body controlled by, that body and who were together able as holders of the shares to control that body; or*
- (b) ^{M25} *the acquisition was an acquisition after 5th April 1984 of an interest in shares which consists of units in an authorised unit trust and—*
- (i) *prior to the acquisition the unit trust was approved by the Board for the purposes of this section and, at the time of the acquisition, continues to be so approved, and*
- (ii) *the condition set out in subsection (7) below is fulfilled with respect to the body corporate (in that subsection referred to as “the relevant company”) directorship of or employment by which gave rise to the right or opportunity by virtue of which the acquisition was made; or*
- (c) ^{M26} *the acquisition took place before 6th April 1981.*
- (4) *The conditions referred to in subsection (2)(b) above are as follows—*
- (a) ^{M27} *that the shares—*
- (i) *are not subject to such restrictions as will or may result in the person acquiring the shares or an interest in the shares obtaining a benefit through an increase, subsequent to the acquisition, of the value or the value to him of the shares or interest; and*
- (ii) *cannot (whether by one transaction or a series of transactions) be exchanged for or converted into shares which are subject to such restrictions; and*
- (iii) *are either shares of a class quoted on a recognised stock exchange or are shares in a company which is not under the control of another company;*
- (b) ^{M28} *that the arrangements allow every full-time employee of the company concerned who—*
- (i) *has been a full-time employee of that company for a continuous period of not less than five years, and*
- (ii) *is chargeable to tax in respect of his employment under Case I of Schedule E, and*
- (iii) *is not less than 25 years old,*

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to acquire shares or interests in shares of the same class on similar terms.

- (5) ^{M29}For the purposes of subsection (3)(a)above—
- (a) *shares in a body are available shares if they are not held by or for the benefit of an associated company of that body; and*
 - (b) *shares are exchangeable for other shares if (whether by one transaction or a series of transactions) they can be exchanged for or converted into the other shares.*
- (6) ^{M30}The restrictions referred to in subsection (3)(a)above are—
- (a) *restrictions not attaching to all shares of the same class; or*
 - (b) *restrictions ceasing or liable to cease at some time after the acquisition; or*
 - (c) *restrictions depending on the shares being or ceasing to be held by directors or employees of any body corporate (other than such restrictions imposed by a company's articles of association as require shares to be disposed of on ceasing to be so held).*
- (7) ^{M31}The condition referred to in subsection (3)(b)above is fulfilled with respect to the relevant company if, for no continuous period of one month or more, throughout which any director or employee of the relevant company either—
- (a) *has, by virtue of his office or employment, any such right or opportunity as is referred to in subsection (1)above to acquire units in the unit trust, or*
 - (b) *retains any beneficial interest in any units in the unit trust which he acquired in pursuance of such a right or opportunity,*
- do investments in the relevant company and in any other company in relation to which the relevant company is an associated company make up more than 10per cent. by value of the investments subject to the trusts of the unit trust.*
- (8) ^{M32}The amount on which or on part of which the person making the acquisition is chargeable to tax under subsection (1)(a)above (“the chargeable amount”)shall, in the following cases, be reduced as follows, that is to say—
- (a) *where, in accordance with the terms on which the acquisition of the shares was made, the consideration for the acquisition is subsequently increased, the chargeable amount shall be reduced by an amount equal to the increase; and*
 - (b) *where, in accordance with those terms, the shares are subsequently disposed of for a consideration which is less than their market value at the time of the disposal, the chargeable amount shall be reduced so as to be equal to the excess of that consideration over the market value of the shares at the time of the acquisition;*
- and similarly where the interest acquired is less than the full beneficial ownership, and such assessments, alterations of assessments or repayments of tax shall be made as may be necessary to give effect to the reduction.*
- (9) The period referred to in subsection (1)(a)above is a period ending at the earliest of the following times—
- (a) *the expiration of seven years from the acquisition of the shares or interest in the shares;*
 - (b) *the time when the person making the acquisition ceases to have any beneficial interest in the shares;*
 - (c) *in relation only to a person who acquires shares, the time when by reason of their ceasing to be subject to such restrictions as are specified in subsection*

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(6)above either of the conditions in subsection (3)(a)above would be satisfied in relation to the shares if they had been acquired at that time;
 and for the purposes of subsection (1)(a)and paragraph (b)above a person whose beneficial interest in shares is reduced shall be treated as ceasing to have an interest in such part of the shares as is proportionate to the reduction.

(10) ^{M33}Subsection (11)below applies where—

- (a) a person has acquired shares or an interest in shares as mentioned in subsection (1)above (and the shares which he acquires or in which he acquires an interest are in sub-paragraphs (b)and (c)and subsection (11)below referred to as “the original shares”);and
- (b) the circumstances of his acquisition of the original shares are such that the application of subsection (1)(a)above is not excluded; and
- (c) after 18th March 1986by virtue of his holding of the original shares or the interest in them he acquires (whether or not for consideration)additional shares or an interest in additional shares (and the shares which he so acquires or in which he so acquires an interest are in subsection (11)below referred to as “the additional shares”).

(11) Where this subsection applies—

- (a) the additional shares or, as the case may be, the interest in them shall be treated as having been acquired as mentioned in subsection (1)above and in circumstances falling within subsection (10)(b)above and, for the purposes of subsection (9)(a)above, as having been acquired at the same time as the original shares or the interest in them;
- (b) for the purposes of subsections (1)(a)and (8)above, the additional shares and the original shares shall be treated as one holding of shares and the market value of the shares comprised in that holding at any time shall be determined accordingly (the market value of the original shares at the time of acquisition being attributed proportionately to all the shares in the holding); and
- (c) for the purposes of those subsections, any consideration given for the acquisition of the additional shares or the interest in them shall be taken to be an increase falling within subsection (8)(a)above in the consideration for the original shares or the interest in them.

(12) ^{M34}Subsection (1)(b)above does not apply where the benefit is received by virtue of a person’s ownership of or of an interest in shares which were acquired before 6th April 1972 ^{F3}.

Textual Amendments

F3 Ss. 138, 139 repealed by Finance Act 1988 (c. 39) ss. 88, 148, Sch.14 Part VI in respect of shares issued on or after 26 October 1987, subject to transitional arrangements.

Modifications etc. (not altering text)

C4 S. 138 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.120, 289 (with ss. 60, 101(1), 171, 201(3)).

Marginal Citations

M20 Source—1972 s.79(1), (4)

M21 Source—1972 c.79(1), (7)

M22 Source—1972 s.79(2)(b), (3)(b), (8)

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- M23** Source—1973 Sch.8 1
- M24** Source—1972 s.79(2)(c); 1973 Sch.8 4(1)(a)
- M25** Source—1972 s.79(2)(bb); 1984 s.40(1)
- M26** Source—1972 s.79(6)
- M27** Source—1973 Sch.8 1(b), 3; 1974 s.20(2)
- M28** Source—1973 Sch.8 2
- M29** Source—1972 s.79(2)(c); 1973 Sch.8 4(1)(a)
- M30** Source—1972 s.79(2A); 1973 Sch.8 4(1)(b)
- M31** Source—1972 s.79(2B); 1984 s.40(2)
- M32** Source—1972 s.79(5), (6); 1973 Sch.8 4(1)(c); 1986 s.26(4)
- M33** Source—1972 s.79(5A), (5B); 1986 s.26(3), (6)
- M34** Source—1972 s.79(3)(a); 1974 s.20(1)(b)

F⁴139 Provisions supplementary to section 138.

- (1) ^{M35}Where—
- (a) *a director or employee of a body corporate acquires shares in pursuance of an opportunity to acquire shares of that class offered to directors and employees of the body in their capacity as such (“the discount offer”); and*
 - (b) *the discount offer is made in conjunction with an offer to the public (“the main offer”) under which shares of the same class may be acquired on the same terms, except that a discount in price is offered to directors and employees; and*
 - (c) *the director or employee is chargeable to tax under Schedule E on an amount equal to the discount in the price of the shares acquired by him; and*
 - (d) *at least 75 per cent. of the aggregate number of shares of the class in question which are acquired in pursuance of the discount offer and the main offer taken together are shares acquired in pursuance of the main offer;*
- he shall be treated for the purposes of section 138(1) as acquiring the shares in pursuance of an offer to the public.*
- (2) *Where a director or employee acquires an interest in shares, subsection (1) above shall apply as if the references in that subsection to the acquisition of shares were references to the acquisition of an interest in shares.*
- (3) ^{M36}*For the purposes of section 138 and this section, where a person acquires any shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other body corporate, the shares or interest shall be deemed to be acquired by the director or employee, and section 32A(4) of the 1979 Act shall apply with the necessary modifications; and where that person receives a benefit as mentioned in section 138(1) (b) the benefit shall be deemed to be received by the director or employee.*
- (4) *For the purposes of section 138, a person who disposes of shares or an interest in shares otherwise than by a bargain at arm’s length with a person who is not connected with him shall be deemed not to cease to have a beneficial interest in the shares.*
- (5) ^{M37}*Where in any year of assessment a person acquires shares or an interest in shares as mentioned in section 138(1) (disregarding subsections (1) and (2) above), the body from which the shares are or the interest is acquired shall deliver to the inspector within 30 days of the end of that year particulars in writing of the shares and the acquisition.*

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- (6) ^{M38} *The Board may by notice require the managers or trustees of any unit trust scheme which is an authorised unit trust approved by the Board for the purposes of section 138 to furnish to the Board within such time as they may direct (but not being less than 30 days) such information as the Board think necessary for the purposes of enabling them to determine—*
- (a) *whether the condition in subsection (7) of that section is being or has at any time been fulfilled; and*
 - (b) *the liability to tax of any unit holder whose rights were acquired as mentioned in subsection (1) of that section.*

- (7) ^{M39} *Subject to subsection (9) below, in determining for the purposes of section 138 (including any valuation made for those purposes) whether shares which, or interests in which, have been acquired or are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or any interest in them or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantages to him or a person connected with him, except where the restriction is imposed as a condition of a loan which is not a related loan as defined by subsection (8) below.*

This subsection does not apply where the person acquired the shares before 19th October 1972.

- (8) *A loan made to any person is a related loan for the purposes of subsection (7) above if—*
- (a) *it is made, arranged, guaranteed or in any way facilitated by—*
 - (i) *the body corporate of which he is a director or employee, or*
 - (ii) *an associated company of that body, or*
 - (iii) *if that body or an associated company of it is a close company, any person having a material interest in the close company; or*
 - (b) *it is made to a person connected with another person and would have been such a loan if it had been made to that other person;*

but a loan made by the body corporate, associated company or person mentioned in paragraph (a) above is not a related loan if that body, company or person carries on a business of making personal loans and the loan is made in the ordinary course of that business.

- (9) *For the purposes of section 138(3)(a), shares acquired by any person shall not, by virtue of subsection (7) above, be regarded as subject to any restriction by reason only of any contract, agreement, arrangement or condition providing for the disposal of the shares, when that person ceases to hold the office or employment by virtue of which he acquired the shares, to a person nominated in accordance with the contract, agreement, arrangement or condition if he is required to dispose of them at a price not exceeding their market value.*

- (10) ^{M40} *Any reference in subsection (7) above to a contract, agreement, arrangement or condition does not include a reference to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Rules set out in the Model Code for Securities Transactions by Directors of Listed Companies issued by the Stock Exchange in November 1984.*

- (11) *In section 138 and this section—* ^{M41}
“associated company” has the meaning given by section 416;

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“control” has the meaning given by section 840;
“director” includes a person who is to be a director;
“employee” includes a person who is to be an employee;
“full-time”, in relation to an employee, means required to devote substantially the whole of his time to service as an employee;
“shares” includes stock and securities and references to an interest in any shares include references to the proceeds of sale of part of the shares; and
“units”, in relation to an authorised unit trust, means an entitlement to a share in the investments subject to that trust.

- (12) *For the purposes of section 138 and this section, section 168(11) shall apply for determining whether a person has a material interest in a company, but with the omission of the words following “417(3)”.*
- (13) ^{M42}*If, on a person ceasing to have a beneficial interest in any shares, he acquires, after 18th March 1986, other shares or an interest in other shares and the circumstances are such that, for the purposes of sections 78 to 81 of the 1979 Act (reorganisations etc.) the shares in which he ceases to have a beneficial interest constitute original shares and the other shares constitute a new holding—*
- (a) *section 78 of that Act (which equates the original shares with the new holding) shall apply for the purposes of this section and section 138;*
 - (b) *if any such consideration is given for the new holding as is mentioned in section 79(1) of that Act, it shall be treated for the purposes of this section and section 138 as an increase falling within section 138(8)(a) in the consideration for the shares; and*
 - (c) *if any such consideration is received for the disposal of the original shares as is mentioned in section 79(2) of the 1979 Act—*
 - (i) *the consideration shall be apportioned among the shares comprised in the new holding, and*
 - (ii) *the amount which, apart from this paragraph, would at any subsequent time be the market value of any of those shares shall be taken to be increased by the amount of the consideration apportioned to them;*
- and in paragraphs (a) to (c) above “the original shares” shall be construed in accordance with sections 78 to 81 of the 1979 Act.*
- (14) ^{M43}*In any case where section 138(1) applies and the acquisition was an acquisition of units in an authorised unit trust—*
- (a) *any reference in section 138(1)(a), (8) or (9) or subsection (4) above or section ^{F5}120(4) of the 1992 Act] to shares shall be construed as references to units; and*
 - (b) *any reference in those provisions to an interest in shares shall be omitted .*

Textual Amendments

- F4** Ss. 138, 139 repealed by Finance Act 1988 (c. 39), ss. 88, 148, Sch. 14 Part VI in respect of shares issued on or after 26 October 1987, subject to transitional arrangements.
- F5** Words in s. 139(14) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 14(10) (with ss. 60, 101(1), 171, 201(3)).

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Modifications etc. (not altering text)

- C5** Ss. 138-140 continued for specified purposes (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 418\(4\)](#) (and as that affecting section 418 is substituted (with effect in accordance with [Sch. 22 para 2\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 2\(1\)](#))

Marginal Citations

- M35** Source—1972 s.79(1A), (1B); 1984 s.41(1)
M36 Source—1972 s.79(10), (11)
M37 Source—1972 Sch.12 3; 1984 s.41(2)
M38 Source—1972 Sch.12 3A; 1984 s.40(4)
M39 Source—1973 Sch.8 5-7; 1982 s.41
M40 Source—1982 s.41; 1986 s.23(4)
M41 Source—1973 Sch.8 35; 1972 Sch.12 6, 8
M42 Source—1972 s.79(6A); 1986 s.26(5)
M43 Source—1972 s.79(4A); 1984 s.40(3)

140 Further interpretation of sections 135 to 139.

^{M44}(1) For the purposes of section 135, 136, 138 or 139, a right to acquire shares is obtained by a person as a director or employee (within the meaning of the section in question) of a body corporate—

- (a) if it is granted to him by reason of his office or employment as such a director or employee who is chargeable to tax in respect of that office or employment under Case I of Schedule E; or
- (b) if the right is assigned to him and was granted by reason of any such office or employment of his to some other person;

and paragraph (a) above shall apply to a right granted by reason of a person's office or employment after he has ceased to hold it if it would apply to a right so granted in the last chargeable period in which he did hold it.

(2) ^{M45}For those purposes any question whether a person is connected with another shall be determined in accordance with section 839.

(3) ^{M46}For those purposes—

“market value” has the same meaning as, for the purposes of the [^{F6}1992] Act, it has by virtue of section [^{F6}272] of that Act; and
 “securities” has the meaning given by section 254(1).

Textual Amendments

- F6** Words in [s. 140\(3\)](#) substituted (6.3.1992 with effect as mentioned in [s. 289\(1\)\(2\)](#) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 14\(11\)](#) (with [ss. 60, 101\(1\), 171, 201\(3\)](#)).

Marginal Citations

- M44** Source—1970 s.186(9); 1972 Sch.12 7
M45 Source—1970 s.186(10)(b); 1972 Sch.12 9
M46 Source—1972 s.77(3), 79(12), Sch.12 6; 1970 s.186(10)

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VALID FROM 31/07/1998

[^{F7}140A Conditional acquisition of shares.

- (1) This section applies where—
 - (a) a beneficial interest in any shares in a company (“the employee's interest”) is acquired by any person (“the employee”) as a director or employee of that or another company; and
 - (b) the employee acquires that interest on terms that make his interest in the shares only conditional.
- (2) If the terms on which the employee acquires the employee’s interest are such that his interest in the shares in question will or might continue to be only conditional until a time more than five years after his acquisition of the interest, tax shall be chargeable under Schedule E in respect of that interest on the basis that it is emoluments of the office or employment concerned.
- (3) In any other case, there shall (subject to the following provisions of this section) be no tax chargeable on the employee under Schedule E in respect of his acquisition of the interest except any tax which is so chargeable by virtue only of section 135 or 162.
- (4) If, in a case falling within subsection (2) or (3) above—
 - (a) the shares cease, without the employee ceasing to have a beneficial interest in them, to be shares in which the employee’s interest is only conditional, or
 - (b) the employee, not having become chargeable by virtue of this subsection in relation to the shares, sells or otherwise disposes of the employee’s interest or any other beneficial interest in them,
 he shall, for the year of assessment in which they so cease, or in which the sale or other disposal takes place, be chargeable to tax under Schedule E on the amount specified in subsection (5) below.
- (5) That amount is the amount (if any) by which the sum of the deductible amounts is exceeded by the market value of the employee’s interest immediately after that interest ceases to be only conditional or, as the case may be, at the time of the sale or other disposal.
- (6) For the purposes of subsection (5) above the market value of the employee’s interest at any time is the amount that might reasonably be expected to be obtained from a sale of that interest in the open market at that time.
- (7) For those purposes the deductible amounts are—
 - (a) the amount or value of the consideration given for the employee’s interest;
 - (b) any amounts on which the employee has become chargeable to tax under Schedule E in respect of his acquisition of the employee’s interest;
 - (c) any amounts on which the employee has, by reference to an event occurring not later than the time of the event by virtue of which a charge arises under this section, become chargeable to tax in respect of the shares under section 78 or 79 of the ^{M47}Finance Act 1988 (unapproved employee share schemes).
- (8) Where the employee dies holding the employee’s interest this section shall have effect—

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- (a) as if he had disposed of that interest immediately before his death; and
- (b) as if the market value of the interest at the time of that disposal were to be determined for the purposes of subsection (5) above on the basis-
 - (i) that it is known that the disposal is being made immediately before the employee's death; and
 - (ii) that any restriction on disposal subject to which the employee holds the shares is to be disregarded in so far as it is a restriction terminating on his death.
- (9) Any reference in this section or section 140B or 140C to shares in a company includes a reference to securities issued by a company; and the references in subsection (7) (c) above to an event include references to the expiry of a period.]

Textual Amendments

F7 Ss. 140A-140C inserted (with application in accordance with s. 50(4) of the amending Act) by Finance Act 1998 (c. 36), s. 50(1)

Marginal Citations

M47 1988 c. 39.

VALID FROM 31/07/1998

[^{F7}140B Consideration for shares conditionally acquired.

- (1) This section applies in relation to any shares for determining the amount or value of the consideration referred to in section 140A(7)(a).
- (2) Subject to the following provisions of this section, that consideration is any given by—
 - (a) the employee; or
 - (b) in a case where section 140H(1)(b) applies and the shares were acquired by another person, that other person,
 in respect of the acquisition of an interest in the shares.
- (3) The amount or value of the consideration given by any person for an interest in the shares shall include—
 - (a) the amount or value of any consideration given for a right to acquire those shares; and
 - (b) the amount or value of any consideration given for anything by virtue of which the employee's interest in the shares ceases to be only conditional.
- (4) Where any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things shall be determined on a just and reasonable apportionment.
- (5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything shall not include the performance of any duties of or in connection with the office or employment by reference to which the interest in the shares in question has been acquired by a person as a director or employee of a company.

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- (6) No amount shall be counted more than once in the computation of the amount or value of any consideration.
- (7) Subsections (1) to (3) of section 136 shall apply for determining for the purposes of subsection (3)(a) above the amount or value of the consideration given for a right to acquire any shares as they apply for determining such an amount for the purposes of section 135.]

Textual Amendments

F7 Ss. 140A-140C inserted (with application in accordance with s. 50(4) of the amending Act) by Finance Act 1998 (c. 36), s. 50(1)

VALID FROM 31/07/1998

[^{F7}140C Cases where interest to be treated as only conditional.

- (1) For the purposes of sections 140A and 140B (but subject to the following provisions of this section) a beneficial interest in shares is only conditional for so long as the terms on which the person with that interest is entitled to it—
- provide that, if certain circumstances arise, or do not arise, there will be a transfer, reversion or forfeiture as a result of which that person will cease to be entitled to any beneficial interest in the shares; and
 - are not such that, on the transfer, reversion or forfeiture, that person will be entitled in respect of his interest to receive an amount equal to or more than the amount that might reasonably be expected (if there were no provision for transfer, reversion or forfeiture) to be obtained from a sale of that interest in the open market at that time.

[A person shall not for the purposes of sections 140A and 140B be taken, in relation to

^{F8}(1A) any shares in a company or any security, to have an interest which is only conditional by reason only that one or more of subsections (2) to (4) below applies in relation to him.]

- (2) [^{F9}This subsection applies in relation to a person if], in a case where there is no restriction on the meeting of calls by that person, the shares—
- are unpaid or partly paid; and
 - may be forfeited for non-payment of calls.
- (3) [^{F10}This subsection applies in relation to a person if] the articles of association of the company require him to offer the shares for sale [^{F11}or transfer them][^{F12}if he ceases to be an officer or employee of the company or of one or more group companies or of any group company.]

[This subsection applies in relation to a person if he may be required to offer the

^{F13}(3A) shares for sale or transfer them, if, as a result of misconduct, he ceases to be an officer or employee of the company or of one or more group companies or of any group company.]

- (4) [^{F14}This subsection applies in relation to a person if] the security may be redeemed on payment of any amount.

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(5) In subsection (1) above the references, in relation to the terms of a person's entitlement, to circumstances arising include references—

- (a) to the expiration of a period specified in or determined under those terms or the death of that person or any other person; and
- (b) to the exercise by any person of any power conferred on him by or under those terms.

[For the purposes of this section—

- ^{F15}(6) (a) a company is a “group company” in relation to another company if they are members of the same group, and
- (b) companies are taken to be members of the same group if, and only if, one is a 51 per cent. subsidiary of the other or both are 51 per cent. subsidiaries of a third company.]]

Textual Amendments

F7 Ss. 140A-140C inserted (with application in accordance with s. 50(4) of the amending Act) by Finance Act 1998 (c. 36), s. 50(1)

F8 S. 140C(1A) inserted (retrospectively) by Finance Act 1999 (c. 16), s. 43(2)(7)

F9 Words in s. 140C(2) substituted (retrospectively) by Finance Act 1999 (c. 16), s. 43(3)(7)

F10 Words in s. 140C(3) substituted (retrospectively) by Finance Act 1999 (c. 16), s. 43(3)(7)

F11 Words in s. 140C(3) inserted (retrospectively) by Finance Act 1999 (c. 16), s. 43(4)(a)(7)

F12 Words in s. 140C(3) substituted (retrospectively) by Finance Act 1999 (c. 16), s. 43(4)(b)(7)

F13 S. 140C(3A) inserted (retrospectively) by Finance Act 1999 (c. 16), s. 43(5)(7)

F14 Words in s. 140C(4) substituted (retrospectively) by Finance Act 1999 (c. 16), s. 43(3)(7)

F15 S. 140C(6) added (retrospectively) by Finance Act 1999 (c. 16), s. 43(6)(7)

VALID FROM 31/07/1998

^{F16}140D Convertible shares.

- (1) This section applies where a person (“the employee”) has acquired convertible shares in a company as a director or employee of that or another company.
- (2) For the purposes of this section shares are convertible wherever they—
 - (a) confer on the holder an immediate or conditional entitlement to convert them into shares of a different class; or
 - (b) are held on terms that authorise or require the grant of such an entitlement to the holder if certain circumstances arise, or do not arise.
- (3) The employee shall be chargeable to tax under Schedule E if, at a time when he has a beneficial interest in them, the shares are converted into shares of a different class in pursuance of any entitlement to convert them that has been conferred on the holder.
- (4) A charge by virtue of this section shall be a charge for the year of assessment in which the conversion occurs on the amount of the gain from the conversion.
- (5) The amount of the gain from the conversion is the amount (if any) by which the market value at the time of the conversion of the shares into which the convertible shares are converted exceeds the sum of the deductible amounts.

Status: Point in time view as at 03/05/1994. This version of this chapter contains provisions that are not valid for this point in time.

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- (6) The deductible amounts are—
- (a) the amount or value of any consideration given for the convertible shares;
 - (b) the amount or value of any consideration given for the conversion in question;
 - (c) any amounts on which the employee has become chargeable to tax under Schedule E in respect of his acquisition of those shares;
 - (d) any amounts on which the employee has, by reference to an event occurring not later than the time of the conversion, become chargeable to tax in respect of the shares under section 78 or 79 of the ^{M48}Finance Act 1988 (unapproved employee share schemes);
 - (e) if the convertible shares were acquired through a series of conversions each of which was a taxable conversion, the amount of the gain from each conversion, so far as not falling within paragraph (c) above.
- (7) In subsection (6) above the reference to a taxable conversion is a reference to any conversion which—
- (a) gave rise to a gain on which the employee was chargeable to tax by virtue of this section, or
 - (b) would have given rise to such a gain but for the fact that the market value of the shares at the time of the conversion did not exceed the sum of the deductible amounts.
- (8) Tax shall not be chargeable by virtue of this section if—
- (a) the conversion is a conversion of shares of one class only (“the original class”) into shares of one other class only (“the new class”);
 - (b) all shares of the original class are converted into shares of the new class; and
 - (c) one of the conditions in subsection (9) below is fulfilled.
- (9) The conditions referred to in subsection (8) above are—
- (a) that immediately before the conversion the majority of the company’s shares of the original class are held otherwise than by or for the benefit of—
 - (i) directors or employees of the company;
 - (ii) an associated company of the company; or
 - (iii) directors or employees of such an associated company;
and
 - (b) that immediately before the conversion the company is employee-controlled by virtue of holdings of shares of the original class.
- (10) Tax shall not be chargeable by virtue of this section where the interest which the employee acquires in the shares into which the convertible shares are converted is an interest which (within the meaning given for the purposes of section 140A by section 140C) is only conditional.]

Textual Amendments

F16 Ss. 140D-140F inserted (with application in accordance with s. 51(3) of the amending Act) by Finance Act 1998 (c. 36), s. 51(1)

Status: Point in time view as at 03/05/1994. This version of this chapter contains provisions that are not valid for this point in time.

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Marginal Citations

M48 1988 c. 39.

VALID FROM 31/07/1998

[^{F16}140E Consideration for convertible shares.

- (1) This section applies in relation to any shares for determining the amount or value of the consideration referred to in section 140D(6)(a) or (b).
- (2) Subject to the following provisions of this section, the consideration referred to in section 140D(6)(a) is any consideration given by—
 - (a) the employee; or
 - (b) in a case where section 140H(1)(b) applies and the shares were acquired by another person, that other person,
 in respect of the acquisition of the shares.
- (3) The amount or value of the consideration given by any person for any shares shall include the amount or value of any consideration given for a right to acquire those shares.
- (4) Where any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things shall be determined on a just and reasonable apportionment.
- (5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything shall not include the performance of any duties of or in connection with the office or employment by reference to which the shares in question have been acquired by a person as a director or employee of a company.
- (6) No amount shall be counted more than once in the computation of the amount or value of any consideration.
- (7) Subsections (1) to (3) of section 136 shall apply for determining for the purposes of subsection (3) above the amount or value of the consideration given for a right to acquire any shares as they apply for determining such an amount for the purposes of section 135.]

Textual Amendments

F16 Ss. 140D-140F inserted (with application in accordance with s. 51(3) of the amending Act) by Finance Act 1998 (c. 36), s. 51(1)

VALID FROM 31/07/1998

[^{F16}140F Supplemental provision with respect to convertible shares.

- (1) Where—
 - (a) a person has an interest in any convertible shares at the time of his death,

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- (b) those shares are converted into shares of a different class either on his death or within the following twelve months, and
 - (c) the conversion takes place wholly or partly as a consequence of his death, section 140D shall have effect as if the conversion had taken place immediately before his death and had been in pursuance of an entitlement to convert conferred on the deceased.
- (2) In section 140D(2) the references, in relation to the terms of a person's entitlement, to circumstances arising include references—
- (a) to the expiration of a period specified in or determined under those terms or the death of that person or any other person; and
 - (b) to the exercise by any person of any power conferred on him by or under those terms.
- (3) For the purposes of section 140D, the market value of any shares at any time is the amount that might reasonably be expected to be obtained from a sale of the shares in the open market at that time.
- (4) In this section and section 140D “associated company” has the same meaning as it has for the purposes of Part XI by virtue of section 416.
- (5) For the purposes of section 140D a company is employee-controlled by virtue of holdings of shares of a class if—
- (a) the majority of the company's shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company; and
 - (b) those directors and employees are together able as holders of the shares to control the company.
- (6) The provisions of sections 140D and 140E and this section apply in relation to an interest in shares as they apply in relation to shares.
- (7) Section 840 (control) applies for the purposes of this section.]

Textual Amendments

F16 Ss. 140D-140F inserted (with application in accordance with s. 51(3) of the amending Act) by Finance Act 1998 (c. 36), s. 51(1)

VALID FROM 31/07/1998

^{F17} 140G Information for the purposes of sections 140A to 140F.

- (1) Where—
- (a) any person provides any individual with an interest in shares which is only conditional, and
 - (b) the circumstances are such that—
 - (i) the acquisition of that interest by that individual,
 - (ii) its subsequently ceasing to be only conditional,

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(iii) its subsequent disposal, or

(iv) the death of the individual,

gives rise or may give rise to a charge under section 140A on that individual, each of the relevant persons shall deliver to an officer of the Board particulars in writing of the interest and its provision.

(2) Where—

- (a) a person has an interest in any shares which is only conditional,
- (b) those shares cease to be shares in which that person's interest is only conditional or are disposed of or that person dies, and
- (c) that event gives rise to a charge under section 140A(4),

each of the relevant persons shall deliver to an officer of the Board particulars in writing of the shares and the event.

(3) Where—

- (a) any person has provided any individual with any convertible shares in a company,
- (b) those shares are subsequently converted into shares of a different class, and
- (c) the circumstances are such that the conversion gives rise or may give rise to a charge under section 140D on that individual,

each of the relevant persons shall deliver to an officer of the Board particulars in writing of the shares and their conversion.

(4) For the purposes of this section the relevant persons are—

- (a) the person who is providing, or who provided, the shares in question; and
- (b) the person under or with whom the office or employment is or was held by reference to which the charge may arise or has arisen.

(5) Particulars required to be delivered under this section must be delivered no later than thirty days after the end of the year of assessment in which the interest is provided, the event occurs or the conversion takes place.

(6) Expressions used in this section and in section 140A or 140D above have the same meanings in this section as in section 140A or, as the case may be, section 140D.]

Textual Amendments

F17 S. 140G inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 52\(1\)](#)

VALID FROM 31/07/1998

^{F18}**140H Construction of sections 140A to 140G.**

(1) For the purposes of sections 140A to 140G and this section, a person acquires any shares or securities as a director or employee of a company if—

- (a) he acquires them in pursuance of a right conferred on him, or an opportunity offered to him, by reason of his office or employment as a director or employee of the company; or

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- (b) the shares or securities are, or a right or opportunity in pursuance of which he acquires them is, assigned to him after being acquired by, conferred on or, as the case may be, offered to some other person by reason of the assignee's office or employment as a director or employee of the company.
- (2) Subject to subsection (3) below, the references in subsection (1) above to a right or opportunity conferred or offered by reason of a person's office or employment shall be taken to include—
- (a) a reference to one so conferred or offered after he has ceased to hold it; and
- (b) a reference to one that arises from the fact that any shares which a person acquires as a director or employee (or is treated as so acquiring by virtue of this paragraph) are convertible for the purposes of section 140D.
- (3) For the purposes of this section—
- (a) the references in subsections (1) and (2) above to a person's office or employment are references only to an office or employment in respect of which he is chargeable to tax under Case I of Schedule E; but
- (b) subsection (2)(a) above shall not apply where a right or opportunity conferred or offered in the last chargeable period in which the office or employment was held by the person in question would not have fallen to be taken into account for the purposes of subsection (1)(a) above.
- (4) Without prejudice to subsection (2)(b) above where—
- (a) a person has acquired an interest in any shares or securities which is only conditional or has acquired any convertible shares,
- (b) he acquired that interest or those shares as a director or employee of a company, or is treated by virtue of this subsection as having done so, and
- (c) as a result of any two or more transactions—
- (i) he ceases to be entitled to that interest or those shares, and
- (ii) he or a connected person becomes entitled to any interest in any shares or securities which is only conditional or to any convertible shares,
- he shall be treated for the purposes of sections 140A to 140G as if the interest or shares to which he becomes entitled were also acquired by him as a director or employee of the company in question.
- (5) Sections 140C and 140D(2) have effect for the purposes of subsection (4) above as they have effect for the purposes of sections 140A and 140B and section 140D respectively.
- (6) References in sections 140A to 140G or this section to the terms on which a person is entitled to an interest in shares or securities include references to any terms imposed by any contract or arrangement or in any other way.
- (7) References in this section to shares or to securities include references to an interest in shares or, as the case may be, securities.
- (8) Subsection (5) of section 136 applies for the purposes of sections 140A to 140G and this section as it applies for the purposes of that section but as if—
- (a) references to a body corporate were references to a company;
- (b) at the end of paragraph (d) there were inserted "or any other interest of a member of a company"; and
- (c) the words after paragraph (d) were omitted.

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(9) Section 839 applies for the purposes of this section.]

Textual Amendments

F18 S. 140H inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 53](#)

Vouchers etc.

141 Non-cash vouchers.

(1) ^{M49}Subject to the following provisions of this section and section 157(3), where a non-cash voucher provided for an employee by reason of his employment is received by the employee, then, for the purposes of the Income Tax Acts—

(a) he shall be treated as having received in the relevant year of assessment an emolument from his employment of an amount equal to [^{F19} the expense incurred (“the chargeable expense”)—

(i) by the person at whose cost the voucher and the money, goods or services for which it is capable of being exchanged are provided,

(ii) in or in connection with that provision;]

and

(b) any money, goods or services obtained by the employee or any other person in exchange for the voucher shall be disregarded;

^{F20}

(2) In subsection (1)(a) above “the relevant year of assessment” means—

(a) in relation to a cheque voucher, the year of assessment in which the voucher is handed over in exchange for money, goods or services (a voucher which is posted being treated as handed over at the time of posting); and

(b) in relation to any other non-cash voucher, the year of assessment in which the chargeable expense is incurred or, if later, the year of assessment in which the voucher is received by the employee.

(3) ^{M50}There shall be deductible under section 198, 201 or 332(3) from the amount taxable under subsection (1) above such amounts, if any, as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.

(4) ^{M51}The chargeable expense shall be treated as reduced by any part of that expense made good to the person incurring it by the employee.

(5) ^{M52}Where a non-cash voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsections (1) and (2) above shall have effect as if the employee had received the voucher at the time when it was so appropriated.

(6) [^{M53}Subsection (1)] above shall not apply in relation to a transport voucher provided for an employee of a passenger transport undertaking under arrangements in operation on 25th March 1982 and intended to enable that employee or a relation of his to obtain passenger transport services provided by—

(a) his employer;

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- (b) a subsidiary of his employer;
- (c) a body corporate of which his employer is a subsidiary; or
- (d) another passenger transport undertaking.

[^{F21}(6A) Subsection (1) above shall not apply in relation to a non-cash voucher to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.]

[^{F22}(6B) Subsection (1) above shall not apply in relation to any non-cash voucher to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

- (a) [^{F23}the person at whose cost the voucher and the entertainment are provided] is neither his employer nor a person connected with his employer;
- (b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and
- (c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection.]

(7) ^{M54}In this section—

“cheque voucher” means a cheque provided for an employee and intended for use by him wholly or mainly for payment for particular goods or services or for goods or services of one or more particular classes; and, in relation to a cheque voucher, references to a voucher being exchanged for goods or services shall be construed accordingly;

“passenger transport undertaking” means an undertaking whose business consists wholly or mainly in the carriage of passengers and includes a subsidiary of such an undertaking;

“subsidiary” means a wholly owned subsidiary within the meaning of section [^{F24}736] of the ^{M55}Companies Act 1985;

“transport voucher” means any ticket, pass or other document or token intended to enable a person to obtain passenger transport services (whether or not in exchange for it) and, in relation to a transport voucher, references to a voucher being exchanged for services shall be construed as references to it being exchanged for, or otherwise being used to procure, services; and

“non-cash voucher” does not include a cash voucher within the meaning of section 143 but, subject to that, means any voucher, stamp or similar document or token capable of being exchanged (whether singly or together with other such vouchers, stamps, documents or tokens and whether immediately or only after a time) for money, goods or services (or for any combination of two or more of those things) and includes a transport voucher and a cheque voucher.

Textual Amendments

F19 Words in s. 141(1)(a) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(2\)\(a\)](#)

F20 Words in s. 141(1) repealed (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(2\)\(b\)](#), [Sch. 26 Pt. 5\(6\)](#)

F21 1988(F) s.46(1) for 1988-89 and subsequent years. Previously “subsections (1) and 2” in subs. (6).

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- F22** 1988(F) s.47(1) for 1988-89 and subsequent years. For 1987-88 see 1988(F) s.47.
F23 Words in s. 141(6B)(a) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(3\)](#)
F24 [Companies Act 1989 \(c.40\)](#) s.144(4) and Sch.18 para.46 on and after 1 November 1990 by virtue of S.I. 1990 No.1392 (c.41) (art.2(d)) (not reproduced). Previously “736(5)(b)”.

Modifications etc. (not altering text)

- C6** See S.I. 1973 No.334, regn.31(d) (in Part III Vol.5)—returns by employers.
C7 [S. 141\(6\)](#) modified (with effect in accordance with Sch. 24 para. 27(14) of the modifying Act) by [Finance Act 1994 \(c. 9\), Sch. 24 para. 27\(3\)\(4\)](#)
C8 See 1990 s.56 and Sch.10 para.23—convertible securities.

Marginal Citations

- M49** Source—1975 (No.2) s.36(1); 1982 s.44(2)
M50 Source—1975 (No.2) s.36(2); 1982 s.44(3)
M51 Source—1975 (No.2) s.36(2A); 1981 s.70(2)
M52 Source—1975(2) s.36(3)
M53 Source—1975 (No.2) s.36(3A); 1982 s.44(4)
M54 Source—1975 (No.2) s.36(4); 1982 s.44(5)
M55 1985 c. 6.

142 Credit-tokens.

- (1) ^{M56} Subject to the provisions of this section and section 157(3), where a credit-token is provided for an employee by reason of his employment, then, for the purposes of the Income Tax Acts—
- (a) on each occasion on which the employee uses the credit-token to obtain money, goods or services he shall be treated as having received an emolument from his employment of an amount equal to [^{F25} the expense incurred—
 - (i) by the person at whose cost the money, goods or services are provided,
 - (ii) in or in connection with that provision;]
 and
 - (b) any money, goods or services obtained by the employee by use of the credit-token shall be disregarded.
- (2) ^{M57} There shall be deductible under section 198, 201 or 332(3) from the amount taxable under subsection (1) above such amounts, if any, as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.
- (3) ^{M58} The expense incurred by the person [^{F26} mentioned in subsection (1)(a)(i) above] shall be treated as reduced by any part of that expense made good to that person by the employee.

[^{F27}(3A) Subsection (1) above shall not apply in relation to a credit-token to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.]

[^{F28}(3B) Subsection (1) above shall not apply in relation to any credit-token to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

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- (a) the person [^{F29}mentioned in subsection (1)(a)(i) above] is neither his employer nor a person connected with his employer;
- (b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and
- (c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his employment or in anticipation of particular services which are to be so performed by him;
- and section 839 shall apply for determining whether persons are connected for the purposes of this subsection.]
- (4) ^{M59}In this section “credit-token” means a card, token, document or other thing given to a person by another person who undertakes—
- (a) that on the production of it (whether or not some other action is also required) he will supply money, goods and services (or any of them) on credit; or
- (b) that where, on the production of it to a third party (whether or not some other action is also required) the third party supplies money, goods and services (or any of them), he will pay the third party for them (whether or not taking any discount or commission);
- but does not include a non-cash voucher or a cash voucher.
- (5) ^{M60}For the purposes of subsection (4) above, the use of an object to operate a machine provided by the person giving the object, or by a third party, shall be treated as production of the object to that person or, as the case may be, third party.

Textual Amendments

- F25** Words in s. 142(1)(a) substituted (3.5.1994) by Finance Act 1994 (c. 9), s. 89(5)
- F26** Words in s. 142(3) substituted (3.5.1994) by Finance Act 1994 (c. 9), s. 89(6)
- F27** 1988(F) s.46(2) for 1988-89 and subsequent years.
- F28** 1988(F) s.48(1) for 1988-89 and subsequent years. For 1987-88 see 1988(F) s.48.
- F29** Words in s. 142(3B)(a) substituted (3.5.1994) by Finance Act 1994 (c. 9), s. 89(7)

Modifications etc. (not altering text)

- C9** See S.I. 1973 No.334, regn.31 (da) (in Part III Vol.5)—returns by employers.

Marginal Citations

- M56** Source—1975 (No.2) s.36A(1)(b), (c); 1981 s.71(1); 1982 s.45(2)
- M57** Source—1975 (No.2) s.36A(2); 1981 s.71(1)
- M58** Source—1975 (No.2) s.36A(3); 1981 s.71(1); 1982 s.45(2)
- M59** Source—1975 (No.2) s.36A(4), (4B); 1981 s.71(1); 1982 s.45(3)
- M60** Source—1975 (No.2) s.36A(4A); 1981 s.71(1); 1982 s.45(3)

143 Cash vouchers taxable under P.A.Y.E.

- (1) ^{M61}Where a cash voucher provided for an employee by reason of his employment is received by the employee, then, subject to subsection (5) below, for the purposes of the Income Tax Acts [^{F30}—
- (a) he shall be treated as having received], at the time when he receives the voucher, an emolument of his employment equal to the sum of money for which the voucher is capable of being exchanged as mentioned in subsection (3) below; and

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- (b) any money obtained by the employee or any other person in exchange for the voucher shall be disregarded.
- (2) Where a cash voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsections (1) and (5) of this section shall have effect as if the employee had received the voucher at the time when it was so appropriated.
- (3) In this section “cash voucher” (subject to subsection (4) below) means any voucher, stamp or similar document capable of being exchanged (whether singly or together with such other vouchers, stamps or documents, and whether immediately or only after a time) for a sum of money greater than, equal to or not substantially less than the expense incurred [^{F31}by the person at whose cost the voucher is provided] (whether or not it is also capable of being exchanged for goods or services), except that it does not include—
- (a) any document intended to enable a person to obtain payment of the sum mentioned in the document, being a sum which if paid to him directly would not have been chargeable to income tax under Schedule E; or
- (b) a savings certificate the accumulated interest payable in respect of which is exempt from tax (or would be so exempt if certain conditions were satisfied).
- (4) Where—
- (a) a voucher, stamp or similar document is capable of being exchanged (as mentioned above) for a sum of money substantially less than the expense incurred [^{F32}by the person at whose cost the voucher, stamp or similar document is provided], and
- (b) the difference or part of the difference represents the cost to that person of providing benefits in connection with sickness, personal injury or death,
- then, in determining whether the voucher, stamp or document is a cash voucher within the meaning of this section, [^{F33}the expense incurred by the person mentioned in paragraph (a) above shall be treated as reduced by the difference or part of the difference mentioned in paragraph (b) above.]
- (5) ^{M62}Subsection (1) above shall not apply to a cash voucher received by an employee if, at the time when the voucher is received, the scheme under which it was issued is a scheme approved by the Board for the purposes of this subsection; and the Board shall not approve a scheme for those purposes unless satisfied that it is practicable for income tax in respect of all payments made in exchange for vouchers issued under the scheme to be deducted in accordance with regulations under section 203.

Textual Amendments

- F30** Words in s. 143(1) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(9\)](#)
- F31** Words in s. 143(3) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(10\)](#)
- F32** Words in s. 143(4)(a) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(11\)\(a\)](#)
- F33** Words in s. 143(4) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(11\)\(b\)](#)

Marginal Citations

- M61** Source—1975 (No.2) s.37(1)-(4)
- M62** Source—1975 (No.2) s.37(5); 1976 s.71(2)

Status: Point in time view as at 03/05/1994. This version of this chapter contains provisions that are not valid for this point in time.

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144 Supplementary provisions.

- (1) ^{M63}If a person furnishes to the inspector a statement of the cases and circumstances in which non-cash vouchers [^{F34}, credit-tokens or cash vouchers] are provided for any employees (whether his own or those of anyone else) and the inspector is satisfied that no additional tax is payable under section [^{F35}141, 142 or 143] by reference to the vouchers or tokens mentioned in the statement, the inspector shall notify the person accordingly and nothing in those sections shall apply to the provision of those vouchers or tokens or their use.
- (2) The inspector may, if in his opinion there is reason to do so, by notice served on the person to whom the notification under subsection (1) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the notification under subsection (1) above had never been given or, as the case may be, it had ceased to have effect on the specified date.
- (3) ^{M64}For the purposes of sections [^{F36}141, 142 and 143] where a person incurs expense in or in connection with the provision [^{F37}of] vouchers or credit-tokens for two or more employees as members of a group or class, the expense incurred in respect of any one of them shall be taken to be such part of that expense as is just and reasonable.
- (4) ^{M65}For the purposes of sections 141, 142 and 143 and this section—
 - (a) a non-cash voucher, cash voucher or credit-token provided for an employee by his employer shall be deemed to be provided for him by reason of his employment; and
 - (b) any reference to a non-cash voucher, cash voucher or credit-token being provided for or received by an employee includes a reference to it being provided for or received by a relation of his.
- (5) ^{M66}In sections 141, 142, 143 and this section—
 - “cash voucher” has the meaning given by section 143(3);
 - “credit-token” has the meaning given by section 142(4);
 - “employee” means the holder of any office or employment the emoluments in respect of which fall to be assessed under Schedule E; and related expressions shall be construed accordingly;
 - “non-cash voucher” has the meaning given by section 141(7); and
 - “relation”, with respect to an employee, means his spouse, parent or child, the spouse of his child and any dependant of that employee.

Textual Amendments

- F34** Words in s. 144(1) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(13\)\(a\)](#)
- F35** Words in s. 144(1) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(13\)\(b\)](#)
- F36** Words in s. 144(3) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(14\)\(a\)](#)
- F37** Word in s. 144(3) substituted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 89\(14\)\(b\)](#)

Marginal Citations

- M63** Source—1975 (No.2) ss.36A(6), (7), 36(5A); 1981 s.71(1); 1982 s.44(6)
- M64** Source—1975 (No.2) ss.36(5)(b), 36(A)(5)
- M65** Source—1975 (No.2) ss.36(5)(c), (d), 36A(5), 37(6); 1981 s.70(5)(b)

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M66 Source—1975 (No.2) ss.37(3), (6), 36(4), 36A(4B); 1982 ss.44(5), 45(3)

[^{F38}144A Payments etc. received free of tax.

(1) In any case where—

- (a) an employer is treated, by virtue of any of sections 203B to 203I, as having made a payment of income of an employee which is assessable to income tax under Schedule E,
- (b) the employer is required, by virtue of section 203J(3), to account for an amount of income tax (“the due amount”) in respect of that payment, and
- (c) the employee does not, before the end of the period of thirty days from the date on which the employer is treated as making that payment, make good the due amount to the employer,

the due amount shall be treated as income of the employee which arises on the date mentioned in paragraph (c) above and is assessable to income tax under Schedule E.

(2) In this section any reference to an employer includes a reference to a person who is treated as making a payment by virtue of section 203C(2).]

Textual Amendments

F38 S. 144A inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), s. 132

Living accommodation

145 Living accommodation provided for employee.

^{M67}(1) Subject to the provisions of this section, where living accommodation is provided for a person in any period by reason of his employment, and is not otherwise made the subject of any charge to him by way of income tax, he is to be treated for the purposes of Schedule E as being in receipt of emoluments of an amount equal to the value to him of the accommodation for the period, less so much as is properly attributable to that provision of any sum made good by him to those at whose cost the accommodation is provided.

(2) The value of the accommodation to the employee in any period is the rent which would have been payable for the period if the premises had been let to him at an annual rent equal to their annual value as ascertained under section 837; but for a period in which those at whose cost the accommodation is provided pay rent at an annual rate greater than the annual value as so ascertained, the value of the accommodation to the employee is an amount equal to the rent payable by them for the period.

(3) From any amount to be treated as emoluments under subsection (1) above there are deductible under section 198 or 332(3) such amounts (if any) as would have been so deductible if the accommodation had been paid for by the employee out of his emoluments.

(4) Subject to subsection (5) below, subsection (1) above does not apply to accommodation provided for the employee in any of the following cases—

- (a) where it is necessary for the proper performance of the employee’s duties that he should reside in the accommodation;

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- (b) where the accommodation is provided for the better performance of the duties of his employment, and his is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees;
- (c) where there is a special threat to his security, special security arrangements are in force and he resides in the accommodation as part of those arrangements;
- and in any such case there is no charge to tax under Schedule E (either by virtue of this section or under section 131 or otherwise) in respect of a liability for rates on the premises being discharged for or on behalf of the employee or the employee being reimbursed for the discharge of that liability.
- (5) If the accommodation is provided by a company and the employee is a director of the company or of an associated company, then, except in a case where paragraph (c) of subsection (4) above applies, no exemption is given by virtue of that subsection unless, for each employment of his which is employment as director of the company or an associated company, the following conditions are fulfilled, that is—
- (a) he has no material interest in the company, and
- (b) either his employment is as a full-time working director or the company is non-profit-making (meaning that neither does it carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property) or is established for charitable purposes only.
- (6) If by reason of a person's employment accommodation is provided for others being members of his family or household, he is to be treated under subsections (1) to (3) above as if it were accommodation provided for him.
- (7) For the purposes of this section, living accommodation provided for an employee, or for members of his family or household, by his employer is deemed to be provided by reason of his employment unless—
- (a) the employer is an individual, and it can be shown that he makes the provision in the normal course of his domestic, family or personal relationships; or
- (b) the accommodation is provided by a local authority for an employee of theirs, and it can be shown that the terms on which it is provided are no more favourable than those on which similar accommodation is provided by the authority for persons who are not their employees but are otherwise similarly circumstanced.
- (8) For the purposes of this section—
- (a) a company is associated with another if one has control of the other or both are under the control of the same person; and
- (b) the expressions “employment”, “family or household”, “director”, “full-time working director”, “material interest” and (in relation to a body corporate) “control” shall be construed in accordance with subsections (2), (4) and (8) to (12) of section 168 as if this section were included in Chapter II of this Part.

Modifications etc. (not altering text)

C10 See S.I. 1973 No.334, regn.31 (db) (in Part III Vol.5)—returns by employers.

C11 S. 145 modified (retrospectively) by Finance Act 2008 (c. 9), s. 45(3)

Marginal Citations

M67 Source—1977 s.33(1)-(8)

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146 Additional charge in respect of certain living accommodation.

^{M68}(1) This section applies where—

- (a) living accommodation is provided for a person in any period, by reason of his employment;
 - (b) by virtue of section 145 he is treated for the purposes of Schedule E as being in receipt of emoluments of an amount calculated by reference to the value to him of that accommodation, or would be so treated if there were disregarded any sum made good by him to those at whose cost the accommodation is provided; and
 - (c) the cost of providing the accommodation exceeds £75,000.
- (2) Where this section applies, the employee shall be treated for the purposes of Schedule E as being in receipt of emoluments (in addition to those which he is treated as receiving by virtue of section 145) of an amount equal to the additional value to him of the accommodation for the period, less so much of any rent paid by the employee, in respect of the accommodation, to the person providing it as exceeds the value to the employee of the accommodation for the period (as determined under section 145).
- (3) The additional value of the accommodation to the employee in any period is the rent which would have been payable for that period if the premises had been let to him at an annual rent equal to the appropriate percentage of the amount by which the cost of providing the accommodation exceeds £75,000.
- (4) For the purposes of this section, the cost of providing any living accommodation shall be taken to be the aggregate of—
- (a) the amount of any expenditure incurred in acquiring the estate or interest in the property held by a relevant person; and
 - (b) the amount of any expenditure incurred by a relevant person before the year of assessment in question on improvements to the property.
- (5) The aggregate amount mentioned in subsection (4) above shall be reduced by the amount of any payment made by the employee to a relevant person, so far as that amount represents a reimbursement of any such expenditure as is mentioned in paragraph (a) or (b) of that subsection or represents consideration for the grant to the employee of a tenancy of the property.
- (6) Subject to subsection (8) below, where throughout the period of six years ending with the date when the employee first occupied the property, any estate or interest in the property was held by a relevant person (whether or not it was the same estate, interest or person throughout), the additional value shall be calculated as if in subsection (4) above—
- (a) the amount referred to in paragraph (a) were the market value of that property as at that date; and
 - (b) the amount referred to in paragraph (b) did not include expenditure on improvements made before that date.
- (7) In this section, “relevant person” means any of the following—
- (a) the person providing the accommodation;
 - (b) where the person providing the accommodation is not the employee’s employer, that employer;
 - (c) any person, other than the employee, who is connected with a person falling within paragraph (a) or (b) above.

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- (8) Subsection (6) above does not apply where the employee first occupied the property before 31st March 1983.
- (9) Any amount which is deductible, by virtue of section 145(3), from an amount to be treated as emoluments under that section may, to the extent to which it exceeds the amount of those emoluments, be deductible from the amount to be treated as emoluments under this section.
- (10) For the purposes of this section, living accommodation shall be treated as provided for a person by reason of his employment if it is so treated for the purposes of section 145; and “employment” has the same meaning in this section as in that.
- (11) In this section—
- “the appropriate percentage” means the rate [^{F39}] applicable for the purposes of section 160] as at the beginning of the year of assessment in question;
- “property”, in relation to any living accommodation, means the property consisting of that accommodation;
- “market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market with vacant possession, no reduction being made, in estimating the market value, on account of any option in respect of the property held by the employee, or a person connected with him, or by any of the persons mentioned in subsection (7) above; and
- “tenancy” includes a sub-tenancy;
- and section 839 shall apply for the purposes of this section.

Textual Amendments

F39 1989 s.179(5) and S.I. 1989 No.1298 (in Part III Vol.5) in relation to years of assessment beginning after 18 August 1989. Previously “prescribed by the Treasury under section 160(5)”. And see S.I. 1989 No.1297 for regulations made, and interest rate set, under 1989 s.178.

Modifications etc. (not altering text)

C12 See S.I. 1973 No.334, regn.31 (db) (in Part III Vol.5)—returns by employers.

Marginal Citations

M68 Source—1977 s.33A; 1983 s.21(1)

VALID FROM 29/04/1996

[^{F40}] 146A Priority of rules applying to living accommodation.

- (1) This section applies where, within the meaning of section 145, living accommodation is provided in any period for any person by reason of his employment.
- (2) The question whether the employee is to be treated under section 145 or 146 as in receipt of emoluments in respect of the provision of the accommodation shall be determined before any other question whether there is an amount falling to be treated in respect of the provision of that accommodation as emoluments.

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- (3) Tax under Schedule E in respect of the provision of the accommodation shall be chargeable on the employee otherwise than in pursuance of sections 145 and 146 to the extent only that the amount on which it is chargeable by virtue of those sections is exceeded by the amount on which it would be chargeable apart from those sections.]

Textual Amendments

- F40** S. 146A inserted (with application in accordance with s. 106(3) of the amending Act) by Finance Act 1996 (c. 8), s. 106(2)

147 Occupation of Chevening House.

^{M69}Section 145 shall not apply in relation to the occupation of Chevening House or any other premises held on the trusts of the trust instrument set out in the Schedule to the ^{M70}Chevening Estate Act 1959 by a person nominated in accordance with those trusts.

Marginal Citations

- M69** Source—1973 s.43; 1977 Sch.8 4
M70 1959 c. 49.

Payments on retirement, sick pay etc.

148 Payments on retirement or removal from office or employment.

- ^{M71}(1) Subject to the provisions of this section and section 188, tax shall be charged under Schedule E in respect of any payment to which this section applies which is made to the holder or past holder of any office or employment, or to his executors or administrators, whether made by the person under whom he holds or held the office or employment or by any other person.
- (2) This section applies to any payment (not otherwise chargeable to tax) which is made, whether in pursuance of any legal obligation or not, either directly or indirectly in consideration or in consequence of, or otherwise in connection with, the termination of the holding of the office or employment or any change in its functions or emoluments, including any payment in commutation of annual or periodical payments (whether chargeable to tax or not) which would otherwise have been so made.
- (3) For the purposes of this section and section 188, any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it is given.
- (4) Any payment which is chargeable to tax by virtue of this section shall be treated as income received on the following date, that is to say—
- (a) in the case of a payment in commutation of annual or other periodical payments, the date on which the commutation is effected; and
 - (b) in the case of any other payment, the date of the termination or change in respect of which the payment is made;

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and shall be treated as emoluments of the holder or past holder of the office or employment assessable to tax under Schedule E; and any such payment shall be treated for all the purposes of the Income Tax Acts as earned income.

- (5) In the case of the death of any person who, if he had not died, would have been chargeable to tax in respect of any such payment, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (6) This section shall not apply to any payment made in pursuance of an obligation incurred before 6th April 1960.
- (7) Where any payment chargeable to tax under this section is made to any person in any year of assessment, it shall be the duty of the person by whom it is made to deliver particulars thereof in writing to the inspector not later than 30 days after the end of that year.

Modifications etc. (not altering text)

- C13** S. 148 restricted (with application in accordance with s. 92(11) of the restricting Act) by [Finance Act 1995 \(c. 4\), s. 92\(10\)](#)
- C14** See 1970(M) s.35(2)(b)—*time limit for assessment to run from year of actual receipt.*

Marginal Citations

- M71** Source—1970 s.187

149 Sick pay.

- ^{M72}(1) Where a person holding an employment is absent from work for any period by reason of sickness or disability, any sums which—
- are paid to, or to the order or for the benefit of, that person (or a member of his family or household) in respect of any such absence from work; and
 - are, by reason of his employment, paid as a result of any arrangements entered into by his employer,
- shall be chargeable to income tax under Schedule E as emoluments of the employment *for that period*^{F41} if, apart from this section, they would not be so chargeable *for that or any other period*^{F41}.
- (2) Where the funds for making payments under any arrangements are attributable partly to contributions made by the employer and partly to contributions made by the persons employed by him, subsection (1) above shall apply only to such part of the sums paid as a result of the arrangements as it is just and reasonable to regard as attributable to the employer's contributions.
- (3) In this section “employment” means an office or employment the emoluments of which fall to be assessed under Schedule E and related expressions shall be construed accordingly; and the reference to a person's family or household is to his spouse, his sons and daughters and their spouses, his parents and his dependants.

Textual Amendments

- F41** Words repealed by 1989 ss.42(3), 187 and Sch.17 Part IV for 1989-90 and subsequent years.

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Marginal Citations

M72 Source—1981 s.30(1), (2), (4)

150 Job release scheme allowances, maternity pay and statutory sick pay.

The following payments shall be charged to income tax under Schedule E by virtue of this section if they would not otherwise be, that is to say—

- (a) ^{M73}allowances paid under a scheme of the kind described in the ^{M74}Job Release Act 1977, being a scheme which provides for the payment of allowances for periods beginning earlier than one year before the date on which the recipient attains pensionable age, as defined in that Act;
- (b) maternity pay (whether paid during the subsistence of a contract of employment or not) within the meaning of section 33 of the ^{M75}Employment Protection (Consolidation) Act 1978 or, in ^{M76}Northern Ireland, Article 15 of the Industrial Relations (No.2) (Northern Ireland) Order 1976;
- (c) payments of statutory sick pay within the meaning of section 1 of the ^{M77}Social Security and Housing Benefits Act 1982 or, in Northern Ireland, Article 3 of the ^{M78}Social Security (Northern Ireland) Order 1982; and
- ^{F42}(d) payments of statutory maternity pay under Part V of the ^{M79}Social Security Act 1986 or, in Northern Ireland, under Part VI of the ^{M80}Social Security (Northern Ireland) Order 1986].

Textual Amendments

F42 [Social Security Act 1986 \(c.50\) s.86](#) and Sch.10 para.71.

Marginal Citations

M73 Source—1970 s.219A; 1982 s.31(1)

M74 1977 c. 8.

M75 1978 c. 44.

M76 S.I. 1976/2147 (N.I. 28).

M77 1982 c. 24.

M78 S.I. 1982/1084 (N.I. 16).

M79 1986 c. 50.

M80 S.I. 1986/1888 (N.I. 18).

151 Income support etc.

^{M81}(1) Subject to the following provisions of this section, payments to any person of income support under the Social Security Act 1986 in respect of any period shall be charged to income tax under Schedule E if during that period—

- (a) his right to income support is subject to the condition specified in section 20(3)(d)(i) of that Act (availability for employment); or
- (b) he is one of a married or unmarried couple and section 23 of that Act (trade disputes) applies to him but not to the other person;

(2) ^{M82}In this section “married couple” and “unmarried couple” have the same meaning as in Part II of the Social Security Act 1986.

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- (3) ^{M83} Where the amount of income support paid to any person in respect of any week or part of a week exceeds the taxable maximum for that period as defined below, the excess shall not be taxable.
- (4) Where payments of unemployment benefit and payments of income support are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the taxable maximum for that period within the meaning of subsection (3) above.
- (5) ^{M84} For the purposes of subsections (3) and (4) above, the taxable maximum in respect of a week shall be determined in accordance with subsections (6) to (8) below and the taxable maximum in respect of part of a week shall be equal to one-sixth of the taxable maximum in respect of a week multiplied by the number of days in the part.
- (6) Where the income support is paid to one of a married or unmarried couple in a case not falling within subsection (1)(b) above, the taxable maximum in respect of a week shall be equal to the aggregate of—
- the weekly rate specified for the week in question in relation to unemployment benefit in paragraph 1 of Part I of Schedule 4 to the ^{M85} Social Security Act 1975; and
 - the increase for an adult dependant specified for that week in paragraph 1(a) of Part IV of that Schedule.
- (7) Where the income support is paid to one of a married or unmarried couple in a case falling within subsection (1)(b) above, the taxable maximum in respect of a week shall—
- if the applicable amount (within the meaning of Part II of the Social Security Act 1986) consists only of an amount in respect of them, be equal to one half of that amount; and
 - if the applicable amount includes other amounts, be equal to one half of the portion of it which is included in respect of them.
- (8) Where the income support is paid to a person who is not one of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the weekly rate referred to in subsection (6)(a) above.
- (9) In its application to Northern Ireland this section shall have effect as if—
- for the references to the Social Security Act 1986, to Part II of that Act and to sections 20(3)(d)(i) and 23 of that Act there were substituted respectively references to the Social Security (Northern Ireland) Order 1986, Part III of that Order and Articles 21(3)(d)(i) and 24 of that Order; and
 - for the references to paragraph 1 of Part I of Schedule 4 to the Social Security Act 1975 and paragraph 1(a) of Part IV of that Schedule there were substituted respectively references to paragraph 1 of Part I of Schedule 4 to the Social Security (Northern Ireland) Act 1975 and paragraph 1(a) of Part IV of that Schedule.

Modifications etc. (not altering text)

C15 See 1989 s.41—tax charged on amount accruing (1989-90 and subsequent years of assessment).

Marginal Citations

M81 Source—1987 s.29(2)

Status: Point in time view as at 03/05/1994. This version of this chapter contains provisions that are not valid for this point in time.

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M82 Source—1987 s.29(2), Sch.3 1(2)

M83 Source—1987 s.29(3), (4)

M84 Source—1987 Sch.3 1(1), 2-4

M85 1975 c. 14.

VALID FROM 02/09/1996

[^{F43}151A] Jobseeker's allowance.

- (1) Subject to the following provisions of this section, payments to any person of a jobseeker's allowance in respect of any period shall be charged to income tax under Schedule E.
- (2) Where the amount of a jobseeker's allowance paid to any person in respect of any week or part of a week exceeds the taxable maximum for that period as defined below, the excess shall not be taxable.
- (3) For the purposes of subsection (2) above, the taxable maximum in respect of a week shall be determined in accordance with subsections (4) to (8) below and the taxable maximum in respect of part of a week shall be equal to one-seventh of the taxable maximum in respect of a week multiplied by the number of days in the part.
- (4) Where an income-based jobseeker's allowance is paid to one of a married or unmarried couple, in a case which does not fall within subsection (8) below, the taxable maximum in respect of a week shall be equal to the portion of the applicable amount which is included in respect of them for that week.
- (5) Where a contribution-based jobseeker's allowance is paid to a person ("the claimant") who is a member of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the portion of the applicable amount which would be included in respect of them if an income-based jobseeker's allowance was payable to the claimant for that week.
- (6) Where an income-based jobseeker's allowance is paid to a person who is not a member of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the age-related amount which would be applicable to him if a contribution-based jobseeker's allowance was payable to him for that week.
- (7) Where a contribution-based jobseeker's allowance is paid to a person who is not a member of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the age-related amount which is applicable to him for that week.
- (8) Where an income-based jobseeker's allowance is paid to a person ("the claimant") who is a member of a married or unmarried couple, the other member of which is prevented by section 14 of the Jobseekers Act 1995 (trade disputes) or any corresponding enactment in Northern Ireland from being entitled to a jobseeker's allowance, the taxable maximum in respect of a week shall be equal to half the portion of the applicable amount which is included in respect of them for that week.
- (9) In this section—

"age-related amount" and "applicable amount" mean the amounts determined as such in accordance with regulations made under section 4 of the Jobseekers Act 1995 or, for Northern Ireland, regulations made under any corresponding enactment in Northern Ireland; and

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“contribution-based jobseeker’s allowance”, “income-based jobseeker’s allowance”, “married couple” and “unmarried couple” have the same meanings as in the Jobseekers Act 1995 or, for Northern Ireland, the same meanings as in any corresponding enactment in Northern Ireland.]

Textual Amendments

F43 S. 151A inserted (2.9.1996) by Jobseekers Act 1995 (c. 18), s. 41(2)(4), Sch. 2 para. 12; S.I. 1996/2208, art. 2(a)

152 Notification of amount taxable under section 151.

^{M86}(1) A benefit officer may by notice notify a person who is taxable in respect of any unemployment benefit or income support of the amount on which he is taxable and any such notification shall state the date on which it is issued and shall inform the person to whom it is given that he may object to the notification by notice given within 60 days after the date of issue of the notification.

(2) Where—

(a) no objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below); or

(b) an objection is made but is withdrawn by the objector by notice,

that amount shall not be questioned in any appeal against any assessment in respect of income including that amount.

(3) Where—

(a) an objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below), and

(b) the benefit officer and the objector come to an agreement that the amount notified should be varied in a particular manner, and

(c) the officer confirms the agreement to vary in writing,

then, subject to subsection (4) below, that amount as so varied shall not be questioned in any appeal against any assessment in respect of income including that amount.

(4) Subsection (3) above shall not apply if, within 60 days from the date when the agreement was come to, the objector gives notice to the benefit officer that he wishes to repudiate or resile from the agreement.

(5) An objection to a notification may be made later than 60 days after the date of the issue of the notification if, on an application for the purpose—

(a) a benefit officer is satisfied that there was a reasonable excuse for not objecting within that time, and

(b) the objection was made thereafter without unreasonable delay, and

(c) the officer gives consent in writing;

and if the officer is not so satisfied he shall refer the application for determination—

(i) by the General Commissioners for the division in which the objector ordinarily resides or,

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- (ii) in a case where an appeal has been made against an assessment in respect of income including the amount in question, the General Commissioners or the Special Commissioners having jurisdiction in that appeal.
- (6) Where a benefit officer has notified an amount to a person under subsection (1) above, he may by another notice notify the person of an alteration in the amount previously notified and, if he does so, the original notification shall be cancelled and this section shall apply to such a subsequent notification as it applies to the original notification.
- (7) In this section “benefit officer” means the appropriate officer, in Great Britain, of the Department of Employment or of the Department of Health and Social Security, as the case may be, or, in Northern Ireland, of the Department of Health and Social Services.

Marginal Citations

M86 Source—1981 s.28; 1987 Sch.3 6

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