



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART VI

#### COMPANY DISTRIBUTIONS, TAX CREDITS ETC

#### CHAPTER IV

#### TAX CREDITS

#### **231 Tax credits for certain recipients of qualifying distributions.**

<sup>M1</sup>(1) Subject to sections 95(1)(b) [<sup>F1</sup>, 247 and [<sup>F2</sup>469(2A)]], [<sup>F3</sup>section 171(2B) of the Finance Act 1993 and section 219(4B) of the Finance Act 1994,] where [<sup>F4</sup>, in any year of assessment for which income tax is charged,] a company resident in the United Kingdom makes a qualifying distribution and the person receiving the distribution is another such company or a person resident in the United Kingdom, not being a company, the recipient of the distribution shall be entitled to a tax credit equal to such proportion of the amount or value of the distribution as corresponds to [<sup>F5</sup>the tax credit fraction in force when] the distribution is made.

[<sup>F6</sup>(1A) The tax credit fraction is one-ninth.]

[<sup>F7</sup>(2) [<sup>F8</sup>Subject to sections 231A and 241(5)], a company resident in the United Kingdom which is entitled to a tax credit in respect of a distribution may claim to have the amount of the credit paid to it if—

- (a) the company is wholly exempt from corporation tax or is only not exempt in respect of trading income; or
- (b) the distribution is one in relation to which express exemption is given (otherwise than by section 208), whether specifically or by virtue of a more general exemption from tax, under any provision of the Tax Acts.]

(3) [<sup>F9</sup>Subject to section 231A,] a person, not being a company resident in the United Kingdom, who is entitled to a tax credit in respect of a distribution may claim to have

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the credit set against the income tax chargeable on his income under section 3 or on his total income for the year of assessment in which the distribution is made <sup>F10</sup> . . . .

[<sup>F11</sup>(3AA) For any year of assessment, the aggregate amount of the tax credits in respect of which claims are made under subsection (3) above by any person must not exceed the aggregate amount of the tax credits in respect of such qualifying distributions (if any) as are brought into charge to tax in the case of that person.]

(3A) <sup>F12</sup> . . . . .

(3B) <sup>F12</sup> . . . . .

(3C) <sup>F12</sup> . . . . .

(3D) <sup>F12</sup> . . . . .

(4) Where a distribution mentioned in subsection (1) above is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the recipient, that person shall be treated for the purposes of this section as receiving the distribution (and accordingly the question whether he is entitled to a tax credit in respect of it shall be determined by reference to where he, and not the actual recipient, is resident); *and where any such distribution is income of a United Kingdom trust the trustees shall be entitled to a tax credit in respect of it if no other person falls to be treated for the purposes of this section as receiving the distribution* <sup>F13</sup> .

(5) *In subsection (4) above “United Kingdom trust” means a trust administered under the law of any part of the United Kingdom, not being a trust the general administration of which is ordinarily carried on outside the United Kingdom and the trustees, or a majority of the trustees, of which are resident or ordinarily resident outside the United Kingdom* <sup>F13</sup> .

#### Textual Amendments

- F1** 1990 s.42 and Sch.7 para.2 for accounting periods beginning on or after 1 January 1990 (See para.10).
- F2** Words in s. 231(1) substituted (with effect in accordance with Sch. 4 para 4(2) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para 4(1)**
- F3** Words in s. 231(1) inserted (with effect in accordance with s. 22(7) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 22(6)**
- F4** Words in s. 231(1) inserted (with effect in accordance with s. 30(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 30(2)(a)**
- F5** Words in s. 231(1) substituted (with effect in accordance with s. 30(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 30(2)(b)**
- F6** S. 231(1A) inserted (with effect in accordance with s. 30(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 30(3)**
- F7** S. 231(2) repealed (with effect in accordance with s. 30(11), Sch. 8 Pt. 2(9) Note 3 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 30(4), **Sch. 8 Pt. 2(9)** (with savings in 1998 c. 36, **s. 90(1)** and S.I. 1998/1871, **reg. 4(1)**)
- F8** Words in s. 231(2) substituted (with effect in accordance with s. 19(3) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 19(1)(a)**
- F9** Words in s. 231(3) inserted (with effect in accordance with s. 19(3) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 19(1)(b)**
- F10** Words in s. 231(3) repealed (with effect in accordance with s. 30(11), Sch. 8 Pt. 2(9) Note 3 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 30(5)(b), **Sch. 8 Pt. 2(9)**
- F11** S. 231(3AA) inserted (with effect in accordance with s. 30(11) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **s. 30(6)**

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**F12** S. 231(3A)-(3D) repealed (with effect in accordance with s. 30(11), Sch. 8 Pt. 2(9) Note 3 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 30(7), Sch. 8 Pt. 2(9)

**F13** Repealed by 1989 s.187 and Sch.17 Part IV but in accordance with 1989 ss.110 and 111.

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

**C1** See 1989 s.107 and Sch.12—close companies.

**C2** See—s.94—taxation of dealer's receipts on purchase by company of own shares.s.423 et seq—close company income.s.448—overseas life assurance companies.

**C3** S. 231(1) excluded by Finance Act 1993 (c. 34), s. 171(2B) (as inserted (with effect in accordance with s. 22(7) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 22(1))

**C4** S. 231(1) excluded by Finance Act 1993 (c. 34), s. 171(4B) (as inserted (with effect in accordance with s. 22(7) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 22(4))

**C5** See—s.812—certain non resident companies connected with unitary states.s.824—repayment supplement.

#### Marginal Citations

**M1** Source—1972 s.86; 1972 s.110(1)

### [<sup>F14</sup>231A] Restrictions on the use of tax credits by pension funds.

[<sup>F15</sup>(1) No claim shall be made under section 231(2) for payment of the amount of a tax credit if or to the extent that the qualifying distribution to which the credit relates is income of a pension fund.

(2) In the case of any pension fund, for any year of assessment the aggregate amount of the tax credits in respect of which claims are made under section 231(3) must not exceed the aggregate amount of the tax credits in respect of the qualifying distributions comprised in the income of the pension fund and brought into charge to tax.

(3) Accordingly, no payment shall be made under section 231(3) in respect of so much of the excess there mentioned as is referable to a tax credit in respect of a qualifying distribution if or to the extent that the qualifying distribution is income of a pension fund.

(4) In this section—

“income”, in relation to a pension fund, means income derived from investments or deposits held for the purposes of the pension fund;

“pension fund” means any scheme, fund or other arrangements established and maintained (whether in the United Kingdom or elsewhere) for the purpose of providing pensions, retirement annuities, allowances, lump sums, gratuities or other superannuation benefits (with or without subsidiary benefits);

“scheme” includes any deed, agreement or series of agreements.

(5) For convenience of identification only, the schemes, funds or other arrangements which are “pension funds” for the purposes of this section by virtue of the definition of that expression in subsection (4) above include, in particular, those whose income is, in whole or in part, exempt, or eligible for exemption, from tax under or by virtue of any of the following provisions—

- (a) section 512(2);
- (b) section 592(2);
- (c) section 608(2)(a);
- (d) section 613(4);

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- (e) section 614(2), (3), (4) or (5);
  - (f) section 620(6);
  - (g) section 643(2).
- (6) The preceding provisions of this section do not have effect in relation to—
- (a) claims made in respect of tax credits to which entitlement arises by virtue of section 232(3); or
  - (b) claims made by virtue of arrangements having effect under section 788.]]

#### Textual Amendments

- F14** S. 231A inserted (with effect in accordance with s. 19(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 19\(2\)](#)
- F15** S. 231A repealed (with effect in accordance with s. 30(11), Sch. 8 Pt. 2(9) Note 3 of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 30\(8\), Sch. 8 Pt. 2\(9\)](#)

VALID FROM 31/07/1998

#### [<sup>F16</sup>231A] **No tax credit for borrower under stock lending arrangement or interim holder under repurchase agreement.**

- (1) A person shall not be entitled to a tax credit under section 231 in respect of a qualifying distribution if—
- (a) he is the borrower under a stock lending arrangement or the interim holder under a repurchase agreement;
  - (b) the qualifying distribution is, or is a payment representative of, a distribution in respect of securities to which the arrangement or agreement relates; and
  - (c) a manufactured dividend representative of that distribution is paid by that person in respect of securities to which the arrangement or agreement relates.
- (2) In this section “stock lending arrangement” has the same meaning as in section 263B of the 1992 Act and, in relation to any such arrangement, any reference to the borrower, or the securities to which the arrangement relates, shall be construed accordingly.
- (3) For the purposes of this section the cases where there is a repurchase agreement are the following—
- (a) any case falling within subsection (1) of section 730A; and
  - (b) any case which would fall within that subsection if the sale price and the repurchase price were different;
- and, in any such case, any reference to the interim holder, or the securities to which the agreement relates, shall be construed accordingly.
- (4) For the purposes of this section “manufactured dividend” has the same meaning as in paragraph 2 of Schedule 23A (and any reference to a manufactured dividend being paid accordingly includes a reference to a payment falling by virtue of section 736B(2) or 737A(5) to be treated for the purposes of Schedule 23A as if it were made).]

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#### Textual Amendments

**F16** S. 231AA inserted (with effect in accordance with s. 102(9) of the amending Act) by Finance Act 1998 (c. 36), s. 102(1)

VALID FROM 31/07/1998

#### [<sup>F17</sup>231A] **No tax credit for original owner under repurchase agreement in respect of certain manufactured dividends.**

- (1) A person shall not be entitled to a tax credit under section 231 in respect of a qualifying distribution if—
- (a) he is the original owner under a repurchase agreement;
  - (b) the qualifying distribution is a manufactured dividend paid to that person by the interim holder under the repurchase agreement in respect of securities to which the agreement relates; and
  - (c) the repurchase agreement is not such that the actual dividend which the manufactured dividend represents is receivable otherwise than by the original owner.
- (2) For the purposes of this section the cases where there is a repurchase agreement are the following—
- (a) any case falling within subsection (1) of section 730A; and
  - (b) any case which would fall within that subsection if the sale price and the repurchase price were different;
- and, in any such case, any reference to the original owner, the interim holder, or the securities to which the agreement relates, shall be construed accordingly.
- (3) Subsection (4) of section 231AA applies for the purposes of this section as it applies for the purposes of that section.]

#### Textual Amendments

**F17** S. 231AB inserted (with effect in accordance with s. 102(10) of the amending Act) by Finance Act 1998 (c. 36), s. 102(2)

#### [<sup>F18</sup>231B] **Consequences of certain arrangements to pass on the value of a tax credit.**

- (1) This section applies in any case where—
- (a) a person (“A”) is entitled to a tax credit in respect of a qualifying distribution;
  - (b) arrangements subsist such that another person (“B”) obtains, whether directly or indirectly, a payment representing any of the value of the tax credit;
  - (c) the arrangements (whether or not made directly between A and B) were entered into for an unallowable purpose; and
  - (d) the condition in subsection (2) below is satisfied.

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- (2) The condition is that if B had been the person entitled to the tax credit and the qualifying distribution to which it relates, and had received the distribution when it was made, then—
  - (a) B would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
  - (b) if B is a company, B could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.
- (3) This section does not apply if and to the extent that any other provision of the Tax Acts has the effect of cancelling or reducing the tax advantage which would otherwise be obtained by virtue of the arrangements.
- (4) Where this section applies—
  - (a) no claim shall be made under section 231(2) for payment of the amount of the tax credit;
  - (b) no claim shall be made under section 231(3) [<sup>F19</sup>or 441A(7)] in respect of the tax credit;
  - (c) the income consisting of the distribution in respect of which A is entitled to the tax credit shall not be regarded for the purposes of section 241 as franked investment income; and
  - (d) no claim shall be made under section 35 of the Finance (No. 2) Act 1997 (transitional relief) for payment of an amount determined by reference to that distribution.
- (5) For the purposes of this section, the question whether any arrangements were entered into for an “unallowable purpose” shall be determined in accordance with subsections (6) and (7) below.
- (6) Arrangements are entered into for an unallowable purpose if the purposes for which at least one person is a party to the arrangements include a purpose which is not amongst the business or other commercial purposes of that person.
- (7) Where one of the purposes for which a person enters into any arrangements is the purpose of securing that that person or another obtains a tax advantage, that purpose shall be regarded as a business or other commercial purpose of the person only if it is neither the main purpose, nor one of the main purposes, for which the person enters into the arrangements.
- (8) Any reference in this section to a person obtaining a tax advantage includes a reference to a person obtaining a payment representing any of the value of a tax credit in circumstances where, had the person obtaining the payment been entitled to the tax credit and the qualifying distribution to which it relates, that person—
  - (a) would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
  - (b) if that person is a company, could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.
- (9) If an amount representing any of the value of a tax credit to which a person is entitled is applied at the direction of, or otherwise in favour of, some other person (whether by way of set off or otherwise), the case shall be treated for the purposes of this section

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as one where that other person obtains a payment representing any of the value of the tax credit.

(10) In determining for the purposes of subsections (2)(b) and (8)(b) b above whether a company could have used the income consisting of the distribution in question to frank a distribution of the company, the company shall be taken to use its actual franked investment income to frank distributions before using the income consisting of the distribution in question.

(11) References in this section to using franked investment income to frank a distribution of a company have the same meaning as in Chapter V of Part VI.

(12) In this section—

“arrangements” means arrangements of any kind, whether in writing or not (and includes a series of arrangements, whether or not between the same parties);

“business or other commercial purposes” includes the efficient management of investments;

“franked investment income” has the same meaning as in Chapter V of Part VI and references to income consisting of a distribution shall be construed accordingly;

“tax advantage” has the same meaning as in Chapter I of Part XVII.]

#### Textual Amendments

**F18** S. 231B inserted (with effect in accordance with s. 28(2) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 28(1)

**F19** Words in s. 231B(4)(b) repealed (with effect in accordance with Sch. 4 para. 26(2), Sch. 8 Pt. 2(10) Note of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para 26(1), Sch. 8 Pt. 2(10)

## 232 Tax credits for non-U.K. residents.

<sup>M2</sup>(1) An individual who, having made a claim in that behalf, is entitled to relief under Chapter I of Part VII by virtue of section 278(2) in respect of any year of assessment shall be entitled to a tax credit in respect of any qualifying distribution received by him in that year to the same extent as if he were resident in the United Kingdom.

(2) <sup>F20</sup> .....

(3) <sup>F20</sup> .....

#### Textual Amendments

**F20** S. 232(2)(3) repealed (with effect in accordance with Sch. 4 para. 5(2), Sch. 8 Pt. 2(9) Note 3 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 5(1), Sch. 8 Pt. 2(9)

#### Marginal Citations

**M2** Source—1972 s.98(1), (3), (4)

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### 233 Taxation of certain recipients of distributions and in respect of non-qualifying distributions.

<sup>M3</sup>(1) Where in any year of assessment the income of any person, not being a company resident in the United Kingdom, includes a distribution in respect of which that person is not entitled to a tax credit—

- [<sup>F21</sup>(a) that person shall be treated as having paid income tax at the [<sup>F22</sup>Schedule F ordinary rate] on the amount or value of the distribution;
- (b) no repayment shall be made of any income tax treated by virtue of paragraph (a) above as having been paid;]
- (c) the amount or value of the distribution shall be treated <sup>F23</sup> . . . for the purposes of sections 348 and 349(1) as not brought into charge to income tax.

[<sup>F24</sup>(1A) Where in any year of assessment the income of any person who is not a company includes a qualifying distribution in respect of which that person, not being resident in the United Kingdom, is not entitled to a tax credit—

- (a) the amount or value of the distribution so far as it is comprised in—
  - [<sup>F25</sup>(i) income on which that person falls to be treated as having paid income tax at the [<sup>F22</sup>Schedule F ordinary rate] by virtue of paragraph (a) of subsection (1) above, or]
  - [<sup>F26</sup>(ii) income to which section 686 applies,]
 shall be deemed for the purposes of [<sup>F27</sup>that subsection] or, as the case may be, that section to be the sum which if reduced by an amount equal to income tax on that sum at the [<sup>F22</sup>Schedule F ordinary rate] would be equal to the amount or value of the distribution actually made; and
- (b) that person shall be treated for the purposes of section 686 as having paid tax at the [<sup>F22</sup>Schedule F ordinary rate] on any amount which under paragraph (a) above is deemed to be the amount or value of the distribution for the purpose of that section;

but no repayment shall be made of any income tax treated by virtue of this subsection as having been paid.

(1B) Where in any year of assessment the income of any trustees which is chargeable to income tax in accordance with section 686 includes any non-qualifying distribution (within the meaning of subsection (2) below), the trustees' liability under any assessment made in respect of income tax at the [<sup>F28</sup>Schedule F trust rate] on the amount or value of the distribution, or on any part of the distribution, shall be reduced by a sum equal to income tax at the [<sup>F22</sup>Schedule F ordinary rate] on so much of the distribution as is assessed at the [<sup>F28</sup>Schedule F trust rate] .]

(2) Where a person has paid tax (“the tax paid”) in respect of excess liability on, or on any part of, a non-qualifying distribution, then if, apart from this subsection, he would be liable to pay an amount of tax in respect of excess liability on, or on any part of, a repayment of the share capital or of the principal of the security which constituted that non-qualifying distribution, he shall be so liable only to the extent (if any) to which that amount exceeds the amount of the tax paid.

In this subsection—

“excess liability” means the excess of liability to income tax over what it would be if all income tax [<sup>F29</sup>were charged—

- (a) in the case of income chargeable under Schedule F, at the Schedule F ordinary rate, and



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(b) in the case of any other income, at the lower rate,

to the exclusion of the higher rate, the Schedule F upper rate or, as the case may be, the Schedule F trust rate];

“non-qualifying distribution” means a distribution which is not a qualifying distribution.

#### Textual Amendments

- F21** S. 233(1)(a)(b) substituted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8) {s. 122(3)}
- F22** Words in s. 233(1)-(1B) substituted (with effect in accordance with Sch. 4 para. 6(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para 6(2)**
- F23** Words in s. 233(1)(c) repealed (with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, ss. 79, 213, Sch. 6 paras. 2(1)(b), 25(1), **Sch. 23 Pt.3**
- F24** S. 233(1A)(1B) inserted (with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 2(2), **25(1)**
- F25** S. 233(1A)(a)(i) substituted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8), **s. 122(4)(a)**
- F26** S. 233(1A)(a)(ii) substituted (with effect in accordance with Sch. 7 para. 12(4) of the amending Act) by Finance Act 1997 (c. 16), **Sch. 7 para. 12(3)**
- F27** Words in s. 233(1A)(a) substituted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8), **s. 122(4)(b)**
- F28** Words in s. 233(1B) substituted (with effect in accordance with Sch. 4 para. 6(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para. 6(4)**
- F29** S. 233(2): words in the definition of "excess liability" substituted (with effect in accordance with Sch. 4 para. 6(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para. 6(4)**

#### Marginal Citations

- M3** Source—1972 s.87(5), (6)

### 234 Information relating to distributions.

(1) <sup>M4</sup>Without prejudice to [<sup>F30</sup>section 234A]. . . , a company which makes a qualifying distribution shall, if the recipient so requests in writing, furnish to him a statement in writing showing the amount or value of the distribution and (whether or not the recipient is a person entitled to a tax credit in respect of the distribution) the amount of the tax credit to which a recipient who is such a person is entitled in respect of that distribution.

(2) The duty imposed by subsection (1) above shall be enforceable at the suit or instance of the person requesting the information.

<sup>F31</sup>(3) . . . . .

<sup>F31</sup>(4) . . . . .

(5) <sup>M5</sup>Where a company makes a distribution which is not a qualifying distribution it shall make a return to the inspector—

- (a) within 14 days from the end of the accounting period in which the distribution is made; or
- (b) if the distribution is made on a date not falling in an accounting period, within 14 days from that date.

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- (6) A return under subsection (5) above shall contain—
- (a) particulars of the transaction giving rise to the distribution; and
  - (b) the name and address of the person, or each of the persons, receiving the distribution, and the amount or value of the distribution received by him or by each of them.
- (7) Where it is not in the circumstances apparent whether a transaction gives rise to a distribution in respect of which a return is required to be made under subsection (5) above, the company shall—
- (a) within the time within which such a return would be required to be made if the transaction did give rise to such a distribution, make a return to the inspector containing particulars of the transaction in question; and
  - (b) if required by a notice served on the company by the inspector, furnish him within the time specified in the notice with such further information in relation to the transaction as he may reasonably require.
- (8) If it appears to the inspector that particulars of any transaction ought to have been and have not been included in a return under subsection (5) or (7) above, he may by a notice served on the company require the company to furnish him within the time specified in the notice with such information relating thereto as he may reasonably require.
- (9) Any power which the inspector may exercise under [<sup>F32</sup>paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989 for the purposes of the relevant provisions (as defined in paragraph 1 of that Schedule)] may be exercised by him for the purposes of subsections (5) to (8) above.

#### Textual Amendments

- F30** Words in s. 234(1) substituted (with application in relation to distributions begun after 16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 32(2)(a)(4).
- F31** S. 234(3)(4) repealed (with application in relation to distributions begun after 16.7.1992) by Finance (No. 2) Act 1992 (c. 48), ss. 32(2)(b)(4), 82, Sch. 18 Pt.VII.
- F32** 1989 s.107 and Sch.12 para.11. *Previously* “paragraph 17 of Schedule 19 for the purposes of that Schedule”.

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

- C6** S. 234 applied (16.8.1995) by The Venture Capital Trust Regulations 1995 (S.I. 1995/1979), reg. 21(2)

#### Marginal Citations

- M4** Source—1970 s.232(4); 1972 Sch.24 18
- M5** Source—1972 Sch.21

### [<sup>F33</sup>234A Information relating to distributions: further provisions.

- (1) This section applies where dividend or interest is distributed by a company which is—
- (a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or
  - (b) a company created by letters patent or by or in pursuance of an Act.

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- (2) If the company makes a payment of dividend or interest to any person, and subsection (3) below does not apply, within a reasonable period the company shall send an appropriate statement to that person.
- (3) If the company makes a payment of dividend or interest into a bank or building society account held by any person, within a reasonable period the company shall send an appropriate statement to either—
- (a) the bank or building society concerned, or
  - (b) the person holding the account.
- (4) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
  - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
  - (c) the nominee makes a payment of the sum or part to the other person and subsection (5) below does not apply,
- within a reasonable period the nominee shall send an appropriate statement to that person.
- (5) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
  - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
  - (c) the nominee makes a payment of the sum or part into a bank or building society account held by the other person,
- within a reasonable period the nominee shall send an appropriate statement to either the bank or building society concerned or the other person.
- (6) In the case of a payment of interest which is not a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the gross amount which, after deduction of the income tax appropriate to the interest, corresponds to the net amount actually paid,
  - (b) the rate and the amount of income tax appropriate to such gross amount,
  - (c) the net amount actually paid, and
  - (d) the date of the payment.
- (7) In the case of a payment of dividend or interest which is a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the amount of the dividend or interest paid,
  - (b) the date of the payment, and
  - (c) the amount of the tax credit to which a person is entitled in respect of the dividend or interest, or to which a person would be so entitled if he had a right to a tax credit in respect of the dividend or interest.
- (8) In this section “send” means send by post.

[ In this section “bank” has the meaning given by section 840A.]

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- (9) If a person fails to comply with subsection (2), (3), (4) or (5) above, the person shall incur a penalty of £60 in respect of each offence, except that the aggregate amount of any penalties imposed under this subsection on a person in respect of offences connected with any one distribution of dividends or interest shall not exceed £600.
- (10) The Board may by regulations provide that where a person is under a duty to comply with subsection (2), (3), (4) or (5) above, the person shall be taken to comply with the subsection if the person either—
- (a) acts in accordance with the subsection concerned, or
  - (b) acts in accordance with rules contained in the regulations;
- and subsection (9) above shall be construed accordingly.
- (11) Regulations under subsection (10) above may make different provision for different circumstances.]

#### Textual Amendments

- F33** S. 234A inserted (with application in relation to distributions begun after 16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 32\(1\)\(4\)](#).
- F34** S. 234A(8A) inserted (with application in accordance with [Sch. 37 para. 7](#) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 37 para. 2\(1\)\(2\)\(a\)](#)

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

- C7** S. 234A applied (with modifications) (1.4.2006 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\), regs. 1\(1\), 70](#) (as amended (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\), regs. 1, 2, 25](#))
- C8** S. 234A applied (1.9.2009 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Investment Trusts \(Dividends\) \(Optional Treatment as Interest Distributions\) Regulations 2009 \(S.I. 2009/2034\), regs. 1\(1\), 21](#)
- C9** S. 234A(4) excluded (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. 493\(3\)](#) (with s. 493(5), [Sch. 7](#))
- C10** S. 234A(4)-(11) applied (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 2 para. 80\(4\)](#) (with [Sch. 7](#))

## 235 Distributions of exempt funds etc.

- <sup>M6</sup>(1) Where a person entitled to a tax credit in respect of a distribution to which this section applies is, by reason of any exemption from tax, entitled to recover tax and his holding (together with any associated holding) of any one class of the shares, securities or rights by virtue of which he is entitled to the distribution amounts to not less than 10 per cent. thereof, subsection (3) below shall apply to the income represented by any part of the distribution which is not a part—
- (a) to which profits arising after the date of acquisition are attributable in accordance with section 236; or
  - (b) in relation to which the date of acquisition is earlier than 6th April 1965.
- (2) For the purposes of this section and section 236, the date of acquisition, in relation to any part of a distribution or profits attributable to it, is the date on which the shares, securities or rights by virtue of which a person is entitled to that part were acquired by him.

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- (3) Where this subsection applies to any income—
  - (a) the exemption from tax shall not extend to that income; and
  - (b) it shall be treated for the purposes of sections 348 and 349(1) as not brought into charge to income tax; and
  - (c) no amount of interest shall be deducted from or set off against it under section 353.
- (4) Where, by virtue of this section, an exemption from tax does not apply to any income represented by a distribution or part of a distribution, the person entitled to the income shall be liable to tax or, as the case may be, additional tax, on it at a rate equal to [<sup>F35</sup>the difference according to the rates in force at the time the distribution is made between the lower rate and the rate applicable to trusts] and shall be assessable to income tax or corporation tax accordingly.
- (5) This section applies to any qualifying distribution except any amount which is treated as such in accordance with section 209(3) or sections 210 and 211.

#### Textual Amendments

**F35** Words in s. 235(4) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras.3, 25(1)

#### Marginal Citations

**M6** Source—1973 s.22

### 236 Provisions supplementary to section 235.

- <sup>M7</sup>(1) Section 235 shall be construed in accordance with the following provisions of this section.
- (2) Two or more holdings are associated if they were acquired by persons acting in concert or under arrangements made by any person.
- (3) There shall be attributed—
  - (a) to the distributions made by a company at any time (whether before or after the passing of this Act) in respect of any class of shares, securities or rights such of its relevant profits arising after the date of acquisition and before that time as remain after allowing for earlier distributions made in respect of that or any other class of shares, securities or rights, and for distributions made at or to be made after that time in respect of other classes of shares, securities or rights; and
  - (b) to any part of a distribution made at any time to which a person is entitled by virtue of any part of his holding of any class of shares, securities or rights, such proportion of the profits attributable under paragraph (a) above to the distributions made at that time in respect of that class as corresponds to that part of his holding.
- (4) For the purposes of subsection (3) above profits arising in part of an accounting period shall be taken to be a proportionate part of the profits arising in the whole of the accounting period except where a different method of arriving at the profits arising in that part can be shown to be fair and reasonable.

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- (5) For the purposes of this section the relevant profits of a company are, subject to subsection (6) below, its profits computed on a commercial basis after allowing for any provision properly made for corporation tax; and the computation shall be made without regard to any capital gains or losses or to any such amount as is mentioned in section 235(5), and—
- (a) shall include franked investment income [<sup>F36</sup>and foreign income dividends] received from any company not related to the first-mentioned company; and
  - (b) shall exclude group income [<sup>F37</sup>, franked investment income and foreign income dividends] received from a company related to the first-mentioned company.
- (6) There shall be treated as included in the relevant profits of a company the appropriate portion of the relevant profits of any company related to it.
- (7) For the purposes of this section a company (“the owned company”) is related to another company (“the owning company”) if—
- (a) the owning company owns not less than 10 per cent. of any one class of shares in the owned company; or
  - (b) any company related to the owning company owns not less than 10 per cent. of any one class of shares in the owned company;
- and the appropriate proportion of the relevant profits of a related company is that proportion of those profits which the owning company would receive by virtue of the shares, securities or rights owned by it, if all the relevant profits of the owned company were distributed and, so far as received directly or indirectly by a company related to the owning company, were distributed by that related company, no account being taken of any profits arising at a time when the owned company was not related to the owning company.

[<sup>F38</sup>(8) In this section “foreign income dividends” shall be construed in accordance with Chapter VA of Part VI.]

#### Textual Amendments

- F36** Words in s. 236(5)(a) inserted (with effect in accordance with s. 70(3)(4) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 70\(1\)\(a\)](#)
- F37** Words in s. 236(5)(b) substituted (with effect in accordance with s. 70(3)(4) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 70\(1\)\(b\)](#)
- F38** S. 236(8) inserted (with effect in accordance with s. 70(3)(4) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 70\(2\)](#)

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

- C11** S. 236(5) amended (27.7.1993) by [1993 c. 34, s. 78\(6\)\(11\)](#)

#### Marginal Citations

- M7** Source—1973 Sch.10

## 237 Disallowance of reliefs in respect of bonus issues.

- <sup>M8</sup>(1) This section has effect where any person (“the recipient”) receives an amount treated as a distribution by virtue of section 209(3) or 210 or 211(1); and in this section—
- (a) any such distribution is referred to as a bonus issue; and

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- (b) “relevant tax credit” in relation to a bonus issue means the tax credit to which the recipient becomes entitled in respect of the bonus issue.
- (2) Subject to subsection (6) below, if the recipient is entitled by reason of—
- (a) any exemption from tax, or
  - (b) the setting-off of losses against profits or income,
- to recover tax in respect of any distribution received by him, no account shall be taken for the purposes of any such exemption or set-off of any bonus issue or relevant tax credit received by him.
- (3) Subject to subsection (6) below, where, by virtue of this section, no account is to be taken for the purposes of any exemption from tax of any bonus issue and the relevant tax credit, the person entitled to that issue and that credit shall be liable to tax or, as the case may be, additional tax, on them at a rate equal to [<sup>F39</sup>the difference according to the rates in force at the time the distribution is made between the lower rate and the rate applicable to trusts] and shall be assessable to income tax or corporation tax accordingly.
- (4) Subject to subsection (6) below, a bonus issue and the relevant tax credit shall be treated for the purposes of [<sup>F40</sup>section 241] as not being franked investment income.
- (5) Subject to subsection (6) below—
- (a) the relevant tax credit relating to a bonus issue shall not be available to set against any income tax which the recipient is entitled to deduct under section 348 or with which he is chargeable by virtue of section 349(1), and
  - (b) no interest may be deducted or set off [<sup>F41</sup>in accordance with section 353(1B)] from or against so much of a person’s income as consists of bonus issues and relevant tax credits.
- (6) Nothing in subsections (2) to (5) above shall affect the proportion (if any) of any bonus issue made in respect of any shares or securities which, if it were declared as a dividend, would represent a normal return to the recipient on the consideration provided by him for the relevant shares or securities, that is to say, those in respect of which the bonus issue was made and, if those securities are derived from shares or securities previously acquired by the recipient, the shares or securities which were previously acquired; nor shall anything in those subsections affect the like proportion of the relevant tax credit relating to that bonus issue.
- (7) For the purposes of subsection (6) above—
- (a) if the consideration provided by the recipient for any of the relevant shares or securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant shares or securities, the recipient shall be taken to have provided for those shares or securities consideration equal to their market value at the time he acquired them; and
  - (b) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount since the recipient first acquired any of the relevant shares or securities and to any dividends and other distributions made in respect of them during that time.

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#### **Textual Amendments**

- F39** Words in s. 237(3) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras.3, **25(1)**
- F40** Words in s. 237(4) substituted (with effect in accordance with s. 20(1)–(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. **20(6)(7)**
- F41** Words in s. 237(5)(b) substituted (with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 9 para. 2**
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#### **Marginal Citations**

- M8** Source—1973 s.23



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