



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

#### CHAPTER I

##### RETIREMENT BENEFIT SCHEMES

###### *Approval of schemes*

#### **590 Conditions for approval of retirement benefit schemes.**

- (1) <sup>M1</sup>Subject to section 591, the Board shall not approve any retirement benefits scheme for the purposes of this Chapter unless the scheme satisfies all of the conditions set out in subsection (2) below.
- (2) <sup>M2</sup>The conditions are—
  - (a) that the scheme is bona fide established for the sole purpose of providing relevant benefits in respect of service as an employee, being benefits payable to, or to the widow, [<sup>F1</sup>widower], children or dependants or personal representatives of, the employee;
  - (b) that the scheme is recognised by the employer and employees to whom it relates, and that every employee who is, or has a right to be, a member of the scheme has been given written particulars of all essential features of the scheme which concern him;
  - (c) that there is a person resident in the United Kingdom who will be responsible for the discharge of all duties imposed on the administrator of the scheme under this Chapter;
  - (d) that the employer is a contributor to the scheme;
  - (e) that the scheme is established in connection with some trade or undertaking carried on in the United Kingdom by a person resident in the United Kingdom;

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- (f) that in no circumstances, whether during the subsistence of the scheme or later, can any amount be paid by way of repayment of an employee’s contributions under the scheme.
- (3)<sup>M3</sup> Subject to subsection (1) above, the Board shall approve a retirement benefits scheme for the purposes of this Chapter if the scheme satisfies all the conditions of this subsection, that is to say—
- (a) that any benefit for an employee is a pension on retirement at a specified age not earlier than 60 [<sup>F2</sup>and not later than 75], which does not exceed one-sixtieth of the employee’s final remuneration for each year of service up to a maximum of 40;
  - (b) that any benefit for any widow [<sup>F3</sup>or widower] of an employee is a pension payable on his death after retirement such that the amount payable to the widow [<sup>F3</sup>or widower] by way of pension does not exceed two-thirds of any pension or pensions payable to the employee;
  - (c) that no other benefits are payable under the scheme;
  - (d) that no pension is capable in whole or in part of surrender, commutation or assignment, except in so far as the scheme allows an employee on retirement to obtain, by commutation of his pension, a lump sum or sums not exceeding in all three-eighths of his final remuneration (*disregarding any excess of that remuneration over the permitted maximum*) <sup>F4</sup> for each year of service up to a maximum of 40.
  - [<sup>F5</sup>(e) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of pension in respect of service in any one of them may not, when aggregated with any amount payable by way of pension in respect of service in the other or others, exceed the relevant amount;
  - (f) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of commuted pension in respect of service in any one of them may not, when aggregated with any amount payable by way of commuted pension in respect of service in the other or others, exceed the relevant amount;
  - (g) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of pension under the scheme may not, when aggregated with any amount payable by way of pension under the other scheme or schemes, exceed the relevant amount;
  - (h) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of commuted pension may not, when aggregated with any amount payable by way of commuted pension under the other scheme or schemes, exceed the relevant amount.]
- (4) The conditions set out in subsections (2) and (3) above are in this Chapter referred to as “the prescribed conditions”.
- [<sup>F6</sup>(4A) In subsection (3)(c) above “benefits” does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security.]

<sup>F7</sup>(5) .....

<sup>F7</sup>(6) .....

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- [<sup>F8</sup>(7) Subsections (8) to (10) below apply where the Board are considering whether a retirement benefits scheme satisfies or continues to satisfy the prescribed conditions.
- (8) For the purpose of determining whether the scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions, that scheme shall be considered in conjunction with—
- (a) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) approved for the purposes of this Chapter,
  - (b) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) at the same time before the Board in order for them to decide whether to give approval for the purposes of this Chapter,
  - (c) any section 608 scheme or schemes relating to employees of that class or description, and
  - (d) any relevant statutory scheme or schemes relating to employees of that class or description.
- (9) If those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of the scheme mentioned in subsection (7) above (as well as the other or others).
- (10) If those conditions are not satisfied in the case of both or all of those schemes taken together, they shall not be taken to be satisfied in the case of the scheme mentioned in subsection (7) above.
- (11) The reference in subsection (8)(c) above to a section 608 scheme is a reference to a fund to which section 608 applies.]

#### Textual Amendments

- F1** 1988(F) s.35 and Sch.3 para.18 on and after 6 April 1990.
- F2** Words in s. 590(3)(a) substituted by Finance Act 1991 (c. 31, SIF 63:1), 34(2)(4)
- F3** 1988(F) s.35 and Sch.3 para.18 on and after 6 April 1990.
- F4** S. 590(3)(e)-(h) substituted for words in s. 590(3) by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 3(3), 18(2) in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: “ In paragraph (d) above “ the permitted maximum” means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury.”; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by The Retirement Benefits Schemes (Increase in Permitted Maximum in Transitional Cases) Order 2005 (S.I. 2005/723), art. 2
- F5** S. 590(3)(e)-(h) substituted for words in s. 590(3) by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 3(3), 18(2) in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: "In paragraph (d) above "the permitted maximum" means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury."; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by The Retirement Benefits Schemes (Increase in Permitted Maximum in Transitional Cases) Order 2005 (S.I. 2005/723), art. 2
- F6** S. 590(4A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 34(3)(4)
- F7** S. 590(5)(6) repealed (*retrospectively*) by Finance Act 1991 (c. 31, SIF 63:1), ss. 36(2)(3), 123, Sch. 19, Pt. V, Note 8
- F8** 1989 s.75 and Sch.6 paras.3(4) and 18(3)—to have effect where a determination is made on or after 27 July 1989. Previously

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“(7) For the purpose of determining whether a retirement benefits scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions—(a) that scheme shall be considered in conjunction with any other retirement benefits scheme or schemes relating to employees of that class or description, and (b) if those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of each of them, but otherwise those conditions shall be taken to be satisfied in the case of none of them.”

#### **Marginal Citations**

- M1** Source-1970(F) s.19(1); 1971 s.21(2)  
**M2** Source-1970(F) s.19(2)  
**M3** Source-1970(F) s.19(2A), (2B); 1971 s.21(3); 1987 (No.2) Sch.3 1

#### **[<sup>F9</sup>590A Section 590: supplementary provisions.**

- (1) For the purposes of section 590(3)(e) and (f) two or more employments are relevant associated employments if they are employments in the case of which—
  - (a) there is a period during which the employee has held both or all of them,
  - (b) the period counts under the scheme in the case of both or all of them as a period in respect of which benefits are payable, and
  - (c) the period is one during which both or all of the employers in question are associated.
- (2) For the purposes of section 590(3)(g) and (h) the scheme is connected with another scheme in relation to an employee if—
  - (a) there is a period during which he has been the employee of two persons who are associated employers,
  - (b) the period counts under both schemes as a period in respect of which benefits are payable, and
  - (c) the period counts under one scheme by virtue of service with one employer and under the other scheme by virtue of service with the other employer.
- (3) For the purposes of subsections (1) and (2) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In subsection (3) above the reference to control, in relation to a body corporate, shall be construed—
  - (a) where the body corporate is a close company, in accordance with section 416, and
  - (b) where it is not, in accordance with section 840.]

#### **Textual Amendments**

- F9** Ss. 590A-590C inserted by [Finance Act 1989 \(c. 26\), s. 75, Sch. 6 paras. 4, 18\(4\)](#)

#### **590B Section 590: further supplementary provisions.**

- (1) For the purposes of section 590(3)(e) the relevant amount, in relation to an employee, shall be found by applying the following formula—

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$$\frac{AyC}{60}$$

- (2) For the purposes of section 590(3)(f) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yAyC}{80}$$

- (3) For the purposes of section 590(3)(g) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{ByC}{60}$$

- (4) For the purposes of section 590(3)(h) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yByC}{80}$$

- (5) For the purposes of this section A is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of the scheme at the time the benefits in respect of service in the employment become payable.
- (6) But where the same year (or part of a year) counts for the purposes of the scheme by virtue of more than one of the relevant associated employments it shall be counted only once in calculating the aggregate number of years service for the purposes of subsection (5) above.
- (7) For the purposes of this section B is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of any of the following—
- (a) the scheme, and
  - (b) the other scheme or schemes with which the scheme is connected in relation to him,
- at the time the benefits become payable.
- (8) But where the same year (or part of a year) counts for the purposes of more than one scheme it shall be counted only once in calculating the aggregate number of years service for the purpose of subsection (7) above.
- (9) For the purposes of this section C is the permitted maximum in relation to the year of assessment in which the benefits in question become payable, that is, the figure found for that year by virtue of subsections (10) and (11) below.
- (10) For the years 1988-89 and 1989-90 the figure is £60,000.

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- (11) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F10</sup>to (5A)].

#### Textual Amendments

- F10** Words in s. 590B(11) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

### 590C Earnings cap.

- (1) In arriving at an employee's final remuneration for the purposes of section 590(3)(a) or (d), any excess of what would be his final remuneration (apart from this section) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (2) In subsection (1) above "the permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the years 1988-89 and 1989-90 the figure is £60,000.
- (4) For any subsequent year of assessment the figure is also £60,000, subject to [<sup>F11</sup>subsections (5) and (5A)] below.
- (5) If the retail prices index for the month of [<sup>F12</sup>September] preceding a year of assessment falling within subsection (4) above is higher than it was for the previous [<sup>F12</sup>September], the figure for that year shall be an amount arrived at by—
- (a) increasing the figure for the previous year of assessment by the same percentage as the percentage increase in the retail prices index, and
  - (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.
- [<sup>F13</sup>(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment.]
- (6) The Treasury shall in the year of assessment 1989-90, and in each subsequent year of assessment, make an order specifying the figure which is by virtue of this section the figure for the following year of assessment.

#### Textual Amendments

- F11** Words in s. 590C(4) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)
- F12** Word in s. 590C(5) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(4)(8)
- F13** S. 590C(5A) inserted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)

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

- C2** S. 590C amended (1990-91) by S.I. 1990/679, art. 2  
 S. 590C amended (1991-92) by S.I. 1991/734, art. 2

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- S. 590C amended (1992-93) by S.I. 1992/624, **art. 2**
- S. 590C amended (1993-94) by 1993 c. 34, **s.106** (in place of S.I. 1993/757, **art. 2**)
- S. 590C amended (1994-95) by S.I. 1993/2950, **art. 2**
- S. 590C amended (1995-96) by S.I. 1994/3009, **art. 2**
- S. 590C amended (1996-97) by S.I. 1995/3034, **art. 2**
- S. 590C amended (1997-98) by S.I. 1996/2951, **art. 2**
- S. 590C amended (1998-99) by S.I. 1998/758, **art. 2**
- S. 590C amended (1999-2000) by S.I. 1999/592, **art. 2**
- S. 590C amended (2000-01) by S.I. 2000/807, **art. 2**
- S. 590C amended (2001-02) by S.I. 2001/637, **art. 2**
- S. 590C amended (2002-03) by S.I. 2002/700, **art. 2**
- S. 590C amended (2003-04) by S.I. 2003/843, **art. 2**
- S. 590C amended (2004-05) by S.I. 2004/773, **art. 2**
- S. 590C amended (2005-06) by S.I. 2005/720, **art. 2**
- C3** S. 590C(1) applied (31.3.1995) by Judicial Pensions and Retirement Act 1993 (c. 8), **ss. 3(3)(a)(b)**, 31(2); S.I. 1995/631, **art. 2**

## 591 Discretionary approval.

- (1)<sup>M4</sup>The Board may, if they think fit having regard to the facts of a particular case, and subject to such conditions, if any, as they think proper to attach to the approval, approve a retirement benefits scheme for the purposes of this Chapter notwithstanding that it does not satisfy one or more of the prescribed conditions; but this subsection has effect subject to subsection (5) below.
  - (2)<sup>M5</sup>The Board may in particular approve by virtue of this section a scheme—
    - (a) which exceeds the limits imposed by the prescribed conditions as respects benefits for less than 40 years; or
    - (b) which provides pensions for the widows of employees on death in service, or for the children or dependants of employees; or
    - (c) which provides on death in service a lump sum of up to four times the employee's final remuneration (exclusive of any refunds of contributions); or
    - (d) which allows benefits to be payable on retirement within ten years of the specified age, or on earlier incapacity; or
    - (e) which provides for the return in certain contingencies of employees' contributions; or
    - (f) which relates to a trade or undertaking carried on only partly in the United Kingdom and by a person not resident in the United Kingdom; or
    - (g) which provides in certain contingencies for securing relevant benefits [<sup>F14</sup>falling within subsection (2A) below] (but no other benefits) by means of an annuity contract <sup>F15</sup>. . . made with an insurance company of the employee's choice; or
    - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor.
- [<sup>F16</sup>(2A) Relevant benefits fall within this subsection if they correspond with benefits that could be provided by an approved scheme, and for this purpose—
- (a) a hypothetical scheme (rather than any particular scheme) is to be taken, and
  - (b) benefits provided by a scheme directly (rather than by means of an annuity contract) are to be taken.]

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- [<sup>F17</sup>(3) In subsection (2)(g) above “insurance company” has the meaning given by section 659B.]
- (4) <sup>M6</sup>In applying this section to a scheme which was in existence on 6th April 1980, the Board shall exercise their discretion, in such cases as appear to them to be appropriate, so as to preserve—
- (a) benefits earned or rights arising out of service before 6th April 1980; and
  - (b) any rights to death-in-service benefits conferred by rules of the scheme in force on 26th February 1970.
- (5) <sup>M7</sup>The Board shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made [<sup>F18</sup>by the Board] for the purposes of this section.
- (6) Regulations made [<sup>F18</sup>by the Board] for the purposes of this section may restrict the Board’s discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered or any other circumstances whatever.

#### Textual Amendments

- F14** Words in s. 591(2)(g) inserted (with application in accordance with s. 107(4) of the amending Act) by Finance Act 1994 (c. 9), s. 107(2)(a)
- F15** Words in s. 591(2)(g) repealed (with application in accordance with s. 107(4) of the repealing Act) by Finance Act 1994 (c. 9), s. 107(2)(b), Sch. 26 Pt. 5(12), Note 2
- F16** S. 591A(2A) inserted (with application in accordance with s. 107(4) of the amending Act) by Finance Act 1994 (c. 9), s. 107(3)
- F17** S. 591(3) substituted (with application in accordance with s. 60(1) of the amending Act) by Finance Act 1995 (c. 4), s. 59(2)
- F18** 1988(F) s.146 and Sch.13 para.6 (*deemed always to have had effect*). And see S.I. 1987 No.412 (in Part III Vol.5) regn.2— “*The Pension Scheme Surpluses (Valuation) Regulations 1989*”.

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

- C4** S. 591 restricted (5.8.1991) by S.I. 1991/1614, reg. 3

#### Marginal Citations

- M4** Source-1970(F) s.20(1); 1987 (No.2) Sch.3 3(2)
- M5** Source-1970(F) s.20(2); 1971 s.21(4); 1981 s.32; 1987 (No.2) Sch.3 3(3), (4)
- M6** Source-1970(F) s.20(3); 1987 Sch.15 3
- M7** Source-1970(F) s.20(4), (5); 1987 (No.2) Sch.3 3(5)

#### [591A <sup>F19</sup>Effect on approved schemes of regulations under section 591.

- (1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 (“section 591 regulations”) which contain provisions restricting the Board’s discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme (“relevant provisions”).
- (2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—



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- (a) contains a provision of a prohibited description, or
  - (b) does not contain a provision of a required description,
- unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.
- (3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.
- (4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.
- (5) In this section—
- (a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;
  - (b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591.]

#### Textual Amendments

**F19** S. 591A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), **s.35**

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

**C5** S. 591A(2) disapplied (30.7.1999) by [The Retirement Benefits Schemes \(Restriction on Discretion to Approve\) \(Additional Voluntary Contributions\) \(Amendment\) Regulations 1999 \(S.I. 1999/1964\)](#), **regs. 1, 6**

### [591B <sup>F20</sup>Cessation of approval: general provisions.

- (1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.
- (2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—
- (a) the alteration has been approved by the Board, or
  - (b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class.]

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#### Textual Amendments

**F20** S. 591B inserted (retrospectively) by [Finance Act 1991 \(c. 31\)](#), s. 36(1)(3)

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

**C6** S. 591B modified (6.4.1996 for specified purposes and 6.4.1997 otherwise) by [Pensions Act 1995 \(c. 26\)](#), ss. 68(5), s. 180(1); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. 5](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)

### [<sup>F21</sup>591C Cessation of approval: tax on certain schemes.

- (1) Where an approval of a scheme to which this section applies ceases to have effect, tax shall be charged in accordance with this section.
- (2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value of the assets which immediately before the date of the cessation of the approval of the scheme are held for the purposes of the scheme (taking that value as it stands immediately before that date).
- (3) Subject to section 591D(4), the person liable for the tax shall be the administrator of the scheme in his capacity as such.
- (4) This section applies to a retirement benefits scheme in respect of which either of the conditions set out below is satisfied.
- (5) The first condition is satisfied in respect of a scheme if, immediately before the date of the cessation of the approval of the scheme, the number of individuals who are members of the scheme is less than twelve.
- (6) The second condition is satisfied in respect of a scheme if at any time within the period of one year ending with the date of the cessation of the approval of the scheme, a person who is or has been a controlling director of a company which has contributed to the scheme is a member of the scheme.
- (7) For the purposes of subsection (6) above a person is a controlling director of a company if he is a director of it and within section 417(5)(b) in relation to it.]

#### Textual Amendments

**F21** Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 61(1)

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

**C7** S. 591C applied by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), s. 239A (as inserted (with effect in accordance with s. 61(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 61(2))

### [<sup>F21</sup>591D Section 591C: supplementary.

- (1) For the purposes of section 591C(2) the value of an asset is, subject to subsection (2) below, its market value, construing “market value” in accordance with section 272 of the 1992 Act.
- (2) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (3) below,

*Status: Point in time view as at 01/05/1995.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Approval of schemes is up to date with all changes known to be in force on or before 14 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.

- (3) The persons are—
- (a) any employer who has at any time contributed to the scheme;
  - (b) any company connected with such an employer;
  - (c) any member of the scheme;
  - (d) any person connected with any member of the scheme.
- (4) Where the administrator of the scheme is constituted by persons who include a person who is an approved independent trustee in relation to a scheme, that person shall not be liable for tax chargeable by virtue of section 591C.
- (5) A person is an approved independent trustee in relation to a scheme only if he is—
- (a) approved by the Board to act as a trustee of the scheme; and
  - (b) not connected with—
    - (i) a member of the scheme;
    - (ii) any other trustee of the scheme; or
    - (iii) an employer who has contributed to the scheme.
- (6) For the purposes of section 596A(9) income and gains accruing to a scheme shall not be regarded as brought into charge to tax merely because tax is charged in relation to the scheme in accordance with section 591C.
- (7) The reference in section 591C(1) to an approval of a scheme ceasing to have effect is a reference to—
- (a) the scheme ceasing to be an approved scheme by virtue of section 591A(2);
  - (b) the approval of the scheme being withdrawn under section 591B(1); or
  - (c) the approval of the scheme no longer applying by virtue of section 591B(2);
- and any reference in section 591C to the date of the cessation of the approval of the scheme shall be construed accordingly.
- (8) For the purposes of section 591C and this section a person is a member of a scheme at a particular time if at that time a benefit—
- (a) is being provided under the scheme, or
  - (b) may be so provided,
- in respect of any past or present employment of his.
- (9) Section 839 shall apply for the purposes of this section.]

#### Textual Amendments

**F21** Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by Finance Act 1995 (c. 4), s. 61(1)

**Status:**

Point in time view as at 01/05/1995.

**Changes to legislation:**

Income and Corporation Taxes Act 1988, Cross Heading: Approval of schemes is up to date with all changes known to be in force on or before 14 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.