



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER V

COMPUTATIONAL PROVISIONS

Deductions

[84 ^{F1}**Gifts to educational establishments.**

- (1) This section applies where a person carrying on a trade, profession or vocation (“the donor”) makes a gift for the purposes of a designated educational establishment of—
- (a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or
 - (b) an article used by the donor in the course of his trade, profession or vocation—
 - (i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and
 - (ii) in respect of which he has claimed an allowance under that Part of that Act.
- (2) For the purposes of this section, an article “qualifies as machinery or plant in the hands of an educational establishment” if, and only if, it is an article such that—
- (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
 - (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and

Status: Point in time view as at 29/04/1996. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Section 84 is up to date with all changes known to be in force on or before 15 July 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)

- (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.

- (3) Where this section applies—

- (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and
- (b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;

but this subsection shall not apply unless, within [^{F2}the period specified in subsection (3A) below], the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

[The period mentioned in subsection (3) above is—

- ^{F3}(3A) (a) in the case of a claim with respect to income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in whose basis period the gift is made;
- (b) in the case of a claim with respect to corporation tax, the period of two years beginning at the end of the accounting period in which the gift is made.

- (3B) In paragraph (a) of subsection (3A) above “basis period” means—

- (a) in relation to a year of assessment for which a basis period is given by sections 60 to 63, that basis period,
- (b) in relation to a year of assessment for which no basis period is given by those sections, the year of assessment.]

- (4) In any case where—

- (a) relief is given under subsection (3) above in respect of the gift of an article, and
- (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,

the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

- (5) In this section “designated educational establishment” means any educational establishment designated, or of a category designated,—

- (a) as respects Great Britain, in regulations made by the Secretary of State; or
- (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;

and any such regulations may make different provision for different areas.

- (6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—

- (a) in the case of an establishment in Great Britain, to the Secretary of State, or

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- (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
- (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.]

Textual Amendments

- F1** S. 84 substituted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), **s. 68(1)(2)**
- F2** Words in s. 84(3) substituted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 2(2)**
- F3** S. 84(3A)(3B) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 2(3)**

Modifications etc. (not altering text)

- C1** S. 84: functions transferred (1.7.1999 immediately after the coming into force of [Scotland Act 1998 \(c. 46\)](#), **s. 53**) by [The National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#), arts. 1(2), 2, **Sch. 1**

Status:

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Changes to legislation:

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