



# Finance Act 1988

## 1988 CHAPTER 39

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Business expansion scheme*

#### **50 Private rented housing.**

- (1) Where eligible shares in a company are issued for the purpose of raising money for qualifying activities—
  - (a) which are being carried on by the company or any of its subsidiaries; or
  - (b) which the company or any of its subsidiaries intends to carry on,Chapter III of Part VII of the Taxes Act 1988 (relief for investment in new corporate trades: the business expansion scheme) shall apply in relation to the company with the modifications set out in Part I of Schedule 4 to this Act.
- (2) In this section and Chapter III (as so modified) “qualifying activities”, in relation to a company by which eligible shares are issued or any subsidiary of such a company, means activities which—
  - (a) consist of or are connected with the provision and maintenance of dwelling-houses to which this section applies which the company or subsidiary lets, or intends to let, on qualifying tenancies; and
  - (b) are, during the period beginning with the date on which the shares are issued and ending four years after that date, conducted on a commercial basis and with a view to the realisation of profits.

*Status: Point in time view as at 06/03/1992.*

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- (3) This section applies to any dwelling-house which is not precluded from being a dwelling-house to which this section applies by Part II of Schedule 4 to this Act; and in this section and that Part of that Schedule—
- (a) references to a company or subsidiary do not include references to a company or subsidiary which is a registered housing association within the meaning of the <sup>M1</sup>Housing Associations Act 1985 or Part VII of the <sup>M2</sup>Housing (Northern Ireland) Order 1981;
  - (b) “qualifying tenancy” means any tenancy which is—
    - (i) for the purposes of the Housing Act 1988, an assured tenancy other than an assured shorthold tenancy;
    - (ii) for the purposes of the Housing (Scotland) Act 1988, an assured tenancy other than a short assured tenancy; or
    - (iii) in Northern Ireland, a tenancy which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland, and is not a tenancy which falls within subsection (4) below; and
  - (c) expressions which are also used in Chapter III have the same meanings as in that Chapter.
- (4) A tenancy falls within this subsection if—
- (a) it is a tenancy granted in consideration of a premium within the meaning of Schedule <sup>F1</sup>8 to the Taxation of Chargeable Gains Act 1992]; or
  - (b) any option to purchase in relation to the dwelling-house has been granted to the tenant or an associate of his;
- and in this subsection any reference to the tenant includes, in the case of a joint tenancy, a reference to either or any of the joint tenants.
- (5) Regulations under subsection (3) above shall be made by statutory rule for the purposes of the <sup>M3</sup>Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the <sup>M4</sup>Interpretation Act (Northern Ireland) 1954.
- (6) This section and Schedule 4 to this Act shall have effect in relation to shares issued after the passing of this Act and before the end of 1993.

#### Textual Amendments

- F1** Words in s. 50(4) 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(1), **Sch. 10 para. 16(2)** (with ss. 60, 101(1), 201(3))

#### Marginal Citations

- M1** 1985 c. 69.  
**M2** S.I. 1981/156 (N.I.3).  
**M3** S.I. 1979/1573 (N.I.12).  
**M4** 1954 c. 33 (N.I.).

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## 51 Restriction of relief.

(1) The Taxes Act 1988 shall have effect, and be deemed always to have had effect, with the following amendments, namely—

- (a) in section 289(12)(b), the substitution of the words “sections 290A, 293” for the words “ sections 293 ”; and
- (b) the insertion after section 290 of the following section—

### **“290A Restriction of relief where amounts raised exceed permitted maximum.**

(1) Where—

- (a) a company raises any amount through the issue of eligible shares after 15th March 1988; and
- (b) the aggregate of that amount and of all other amounts (if any) so raised within the period mentioned in subsection (2) below exceeds £500,000,

the relief shall not be given in respect of the excess.

(2) The period referred to in subsection (1) above is—

- (a) the period of 6 months ending with the date of the issue of the shares; or
- (b) the period beginning with the preceding 6th April and ending with the date of that issue,

whichever is the longer.

(3) In determining the aggregate mentioned in subsection (1) above, no account shall be taken of any amount—

- (a) which is subscribed by a person other than an individual who qualifies for relief; or
- (b) as respects which relief is precluded by section 290 or this section.

(4) Where—

- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
- (b) that other person, or at least one of those other persons, is a company,

the reference to £500,000 in subsection (1) above shall have effect as if it were a reference to—

$$\frac{\pounds 500,000}{1+A},$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which, during the relevant period, are members of any such partnership or parties to any such joint venture.

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- (5) Where this section precludes the giving of relief on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from this section, be eligible for relief.
- (6) Where—
- (a) in the case of a company falling within subsection (2)(a) of section 293, the qualifying trade or each of the qualifying trades is a trade to which subsection (7) below applies;
  - (b) in the case of a company falling within subsection (2)(b)(i) of that section, the subsidiary or each of the subsidiaries is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades which or each of which is a trade to which subsection (7) below applies; or
  - (c) in the case of a company falling within subsection (2)(b)(ii) of that section, the requirements mentioned in each of paragraphs (a) and (b) above are satisfied,
- subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £5 million.
- (7) This subsection applies to a trade if it consists, wholly or substantially wholly, of operating or letting ships, other than oil rigs or pleasure craft, and—
- (a) every ship operated or let by the company carrying on the trade is beneficially owned by the company;
  - (b) every ship beneficially owned by the company is registered in the United Kingdom;
  - (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
  - (d) the conditions mentioned in section 297(7) are satisfied in relation to every letting by the company.
- (8) Where—
- (a) any of the requirements mentioned in paragraphs (a) to (c) of subsection (7) above are not satisfied in relation to any ships; or
  - (b) any of the conditions referred to in paragraph (d) of that subsection are not satisfied in relation to any lettings,
- the trade shall not thereby be precluded from being a trade to which that subsection applies if the operation or letting of those ships, or, as the case may be, those lettings do not amount to a substantial part of the trade.
- (9) The Treasury may by order amend any of the foregoing provisions of this section by substituting a different amount for the amount for the time being specified there.
- (10) Where—

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- (a) the issue of the eligible shares is made in pursuance of a prospectus published, or an offer in writing made, before 15th March 1988;
  - (b) the shares are issued after that date and before 6th April 1988; and
  - (c) subsection (6) above does not apply,
- subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £1 million.

(11) In this section—

“let” means let on charter and “letting” shall be construed accordingly;

“oil rig” and “pleasure craft” have the same meanings as in section 297;

“prospectus” has the meaning given by section 744 of the Companies Act 1985 or Article 2(3) of the Companies (Northern Ireland) Order 1986.”

- (2) Schedule 5 to the <sup>M5</sup>Finance Act 1983 shall be deemed always to have had effect as if—
- (a) in paragraph 2(7), for the words “paragraphs 5” there had been substituted the words “ paragraphs 3A, 5 ”; and
  - (b) the provisions set out in subsection (1)(b) above had been inserted, with any necessary modifications, after paragraph 3 as paragraph 3A.

#### Marginal Citations

M5 1983 c. 28.

## 52 Valuation of interests in land.

- (1) In section 294 of the Taxes Act 1988 (companies with interests in land), after subsection (5) there shall be inserted—

“(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it.”

- (2) This section shall have effect in relation to valuations which fall to be made after the passing of this Act.

## 53 Approved investment funds.

- (1) For subsection (3) of section 311 of the Taxes Act 1988 there shall be substituted—

“(2A) Subsection (2B) below applies where an individual claims relief in respect of eligible shares in a company and—

- (a) the shares have been issued to the managers of an approved fund as nominee for the individual;
- (b) the fund has closed, that is to say, no further investments in the fund are to be accepted; and

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- (c) the amounts which the managers have, as nominee for the individual, subscribed for eligible shares issued within six months after the closing of the fund represent not less than 90 per cent. of his investment in the fund;
- and in this section “the managers of an approved fund” means the person or persons having the management of an investment fund approved for the purposes of this section by the Board.
- (2B) In any case where this subsection applies, subsections (5) to (7) of section 289 and subsections (1) to (3) and (6) of section 304 shall have effect as if—
  - (a) any reference to the year of assessment or other period in which the shares are issued were a reference to the year of assessment or other period in which the fund closes; and
  - (b) any reference to the time of the issue of the shares, or the time of the subscription for the shares, were a reference to the time of the closing of the fund.
- (3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the managers of an approved fund.”
- (2) This section shall have effect in relation to approved funds closing after 15th March 1988.

**Status:**

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