

Status: Point in time view as at 31/01/2013.

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SCHEDULES

SCHEDULE 3

Section 35.

MARRIED COUPLES: MINOR AND CONSEQUENTIAL PROVISIONS

PART I

AMENDMENTS OF THE TAXES ACT 1988

Introductory

1 The Taxes Act 1988 shall have effect subject to the following amendments.

Commencement of trade etc.

F12

Textual Amendments

F1 Sch. 3 para. 2 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 3](#) (with [Sch. 2](#))

Discontinuance of trade etc.

F23

Textual Amendments

F2 Sch. 3 para. 3 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 3](#) (with [Sch. 2](#))

Underpayments

F34

Textual Amendments

F3 Sch. 3 para. 4 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723](#), [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

Additional relief in respect of children

F45

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Textual Amendments
F4 Sch. 3 para. 5 repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by 1999 c. 16, s. 139, Sch. 20 Pt. III(4), note

F5 6

Textual Amendments
F5 Sch. 3 para. 6 repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by 1999 c. 16, s. 139, Sch. 20 Pt. III(4), note

Widow’s bereavement allowance

- 7 (1) The section set out in sub-paragraph (2) below shall have effect in substitution for section 262 (widow’s bereavement allowance) in relation to deaths occurring during the year 1989-90, and the section set out in sub-paragraph (3) below shall have effect in substitution for that section in relation to deaths occurring during the year 1990-91 or any subsequent year of assessment.
- (2) The section first referred to in sub-paragraph (1) above is—

Widow’s bereavement allowance.

“262 Where a man dies in the year 1989-90 and for that year he is entitled to the higher (married person’s) relief under section 257(1), or would be so entitled but for an election under section 261 or 287, his widow shall be entitled—

- (a) for that year of assessment, to a deduction from her total income of an amount equal to the amount referred to in section 259(2), and
- (b) (unless she marries again before the beginning of it) for the year 1990-91, to a deduction from her total income of an amount equal to the amount specified in section 257A(1) for that year.”

F6(3)

Textual Amendments
F6 Sch. 3 para. 7(3) repealed (27.7.1999 with effect for the year 2001-02 and subsequent years of assessment) by 1999 c. 16, s. 139, Sch. 20 Pt. III(5), note 2

Blind person’s allowance

F7 8

Textual Amendments
F7 Sch. 3 para. 8 omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 1 para. 6(b)

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Life assurance premiums

- 9 For the year 1990-91 and subsequent years of assessment section 266 (life assurance premiums) shall have effect with the substitution—
- (a) in subsection (9), of the word “spouse” for the words “wife (but not the husband)”, and
 - (b) in subsection (11)(a), of the words “spouse, widow, widower or children or other dependants of any such employee or person,” for the word “wife” onwards.

Payments securing annuities

F810

Textual Amendments

F8 Sch. 3 para. 10 omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 1 para. 6(b)

Married couples living together

F911

Textual Amendments

F9 Sch. 3 para. 11 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

Business expansion scheme

- 12 (1) For the year 1990-91 and subsequent years of assessment section 304 (business expansion scheme: husband and wife) shall have effect—
- (a) with the omission of subsections (1) to (4), and
 - (b) with the substitution of the following subsections for subsections (5) and (6)

“(5) Subsection (1) of section 299 shall not apply to a disposal made by a married man to his wife or a married woman to her husband at a time when they are living together; but where shares issued to one of them have been transferred to the other by a transaction inter vivos that subsection shall apply on the disposal of the shares by the transferee to a third person and any assessment for withdrawing relief in respect of the shares shall be made on the transferee.

(6) If any relief given for the year 1989-90 or any earlier year of assessment in respect of shares for which a married man or married woman has subscribed and which were issued while they were living together falls to be withdrawn in the year 1990-91 or any subsequent year of assessment by virtue of a disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the

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amount of the relief regardless of any allocation of that relief under section 280 or of any allocation of the reduction under section 284 for the year of assessment for which the relief was given.”

- (2) Sub-paragraph (3) below applies where—
 - (a) an amount is subscribed for shares in the year 1990-91 by one of a married couple who are living together,
 - (b) the couple were married and living together throughout the year 1989-90, and
 - (c) the subscriber claims that relief in respect of the amount be given partly by way of deduction from total income for the year 1989-90 in accordance with section 289(6).

- (3) Where this sub-paragraph applies—
 - (a) the deduction shall be made from the husband’s total income (references in Chapter II of Part VII to the relief to which an individual is entitled in respect of any shares being construed accordingly), and
 - (b) the limits in sections 289(7) and 290 shall apply jointly to the husband and wife for the year 1989-90 as respects the amount subscribed.

Qualifying maintenance payments

F10¹³

Textual Amendments
F10 Sch. 3 para. 13 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

Home loans

F11¹⁴

Textual Amendments
F11 Sch. 3 para. 14 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7) note 4 of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. III(7)

Loans for shares in employee-controlled company

F12¹⁵

Textual Amendments
F12 Sch. 3 para. 15 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

Close company loans

F13¹⁶

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Textual Amendments

F13 Sch. 3 para. 17 repealed (1.4.2010) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

Trade unions and employers' associations

F13¹⁷

Textual Amendments

F13 Sch. 3 para. 17 repealed (1.4.2010) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

Retirement benefit schemes

F14¹⁸

Textual Amendments

F14 Sch. 3 para. 18 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

Partnership retirement annuities

19 For the year 1990-91 and subsequent years of assessment section 628(1) (partnership retirement annuities) shall have effect with the substitution of the words “a widow, widower or dependant of the former partner” for the words “ his widow or a dependant of his ”.

F15²⁰

Textual Amendments

F15 Sch. 3 para. 20 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(8), note

Earned income

F16²¹

Textual Amendments

F16 Sch. 3 para. 21 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 13 (with Sch. 9 paras. 1-9, 22)

Total income

F17²²

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Textual Amendments

F17 Sch. 3 para. 22 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

PART II

OTHER PROVISIONS

Capital allowances

F18²³

Textual Amendments

F18 Sch. 3 para. 23 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4), [Sch. 2](#) (with ss. 82 and 164(5))

F19²⁴

Textual Amendments

F19 Sch. 3 para. 24 repealed by [Capital Allowances Act 1990 \(c.1, SIF 63:1\)](#), s. 164(4), [Sch. 2](#) (with ss. 82 and 164(5))

The transition

25 The operation of section 279(1) of the Taxes Act 1988 for a year of assessment earlier than the year 1990-91 in the case of a married woman shall not affect the question whether there is any income of hers chargeable to income tax for the year 1990-91 or any subsequent year of assessment or, if there is, what is to be taken to be its amount for income tax purposes.

Returns

26 Where a man is required under section 8 of the ^{M1}Taxes Management Act 1970 to deliver a return which is—
(a) so far as relates to certain sources of income, a return of income chargeable to income tax for the year 1990-91, and
(b) so far as relates to the remaining sources of income, a return of income chargeable to income tax for the year 1989-90,
the same particulars shall be included in the return as would have been required had section 279 of the Taxes Act 1988 not been repealed by this Act.

Marginal Citations

M1 1970 c. 9.

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- 27 Where a man delivers a return such as is mentioned in paragraph 26 above, the reference in sections 93(2) and 95(2) of the Taxes Management Act 1970 (penalties) to tax charged on or payable by him shall include a reference to tax charged on or payable by his wife in respect of any income of hers.
- 28 Where a woman is liable to a penalty under section 93(1) or 95(1) of the Taxes Management Act 1970, section 93(2) or 95(2) shall apply as if the reference to tax charged on or payable by her included a reference to any tax which is charged on or payable by her husband by virtue of section 279 of the Taxes Act 1988.

Time limits for assessments

F20 29

Textual Amendments

F20 Sch. 3 para. 29 repealed (with respect to notices given, or warrants issued on or after 27.07.1989) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. VIII**.

Transfers of allowances

- 30 For the year 1990-91 and subsequent years of assessment the Taxes Management Act 1970 shall have effect with the insertion of the following section after section 37—

“37A Effect of assessment where allowances transferred.

Where an assessment is made on any person for the purpose of making good a loss of tax wholly or partly attributable to fraud, wilful default or neglect, the fact that the person’s total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of any deduction made from the total income of the person’s spouse by virtue of section 257B, 257D or 265 of the principal Act; and where any such deduction has been made in such a case, the total amount which the first-mentioned person is entitled to deduct from total income for the year in question shall be correspondingly reduced.”

Class 4 social security contributions

F21 31

Textual Amendments

F21 Sch. 3 para. 31 repealed in part (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), **Sch. 1** and wholly repealed (1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 3, 7(2), **Sch. 1** (subject as mentioned in Local Government Finance Act 1992 (c. 14), s. 118(5)(7) (with S. 118(1)(2)(4)).

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Annual payments

32 Section 36 of this Act shall have effect in relation to a payment which is due from a husband to his wife or from a wife to her husband at a time after 5th April 1990 when they are living together, notwithstanding that the payment is made in pursuance of an obligation which is an existing obligation for the purposes of subsection (3) of that section.

Maintenance payments

F2233

Textual Amendments

F22 Sch. 3 para. 33 repealed (3.5.1994 with effect as mentioned in s. 77(7) of the repealing Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(1)**, note

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