



# Finance Act 1989

## 1989 CHAPTER 26

**U.K.**

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [27th July 1989]

<sup>xix2</sup>Most Gracious Sovereign, WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Editorial Information

**XI** The text of ss. 1-5, 8(2), 15-17, 28, 29, 187(1), 188, Sch. 17 Pt. I was taken from SIF Group 40:1 (Customs and Excise: Customs and Excise Duties), the text of ss. 18-27, 29, 186(2), 187(1), 188, Sch. 3, Sch. 17 Pt. III was taken from SIF Group 40:2 (Customs and Excise: Value added Tax and Car Tax), the text of ss. 30-90, 91(1)(3), 92(1)(2)(4)-(7), 93-95, 96(1)(2)(4), 97-121, 130, 138, 142-170, 178-180, 182, 186(1)(3), 187(1), 188, Schs. 4-13, Sch. 17 Pts IV-VI, VIII, X was taken from SIF Group 63:1 (Income, Corporation and Capital Gains Taxes: Income and Corporation Taxes), the text of ss. 91(2)(3), 92(3)-(7), 96(3), 107, 122-137, 139-141, 186(1)(3), 187, 188, Sch. 12 para. 6, Schs. 14, 15, Sch. 17 Pts. VII, XIV was taken from SIF Group 63:2 (Income, Corporation and Capital Gains Taxes: Capital Gains Tax), the text of ss. 138(6)-(12), 171, 172, 178, 179(1)(d)(e)(3)(4), 180(4)(7), 186(1)(3), 187(1), 188, Sch. 17 Pt. X was taken from SIF Group 65 (Inheritance Tax), the text of ss. 181, 187(1), 188, Sch. 16, Sch. 17 Pt. XI was taken from SIF Group 96 (Posts and Telecommunications), the text of ss. 185, 187, 188, Sch. 17 Pt. XIV was taken from SIF Group 98:5 (Property, England and Wales: Tithe), the text of ss. 183, 187, 188, Sch. 17 Pts. XII, XIV was taken from SIF Group 99:3 (Public Finance and Economic Controls: National Debt), the text of ss. 6, 7, 8(1), 9-14, 187(1), 188, Schs. 1, 2, Sch. 17 Pt. II was taken from SIF Group 107:2 (Road Traffic: Vehicle Excise Duty), the text of ss. 142(9)(10), 184, 187(1), 188, Sch. 17 Pt. XIII was taken from SIF Group 110 (Savings Banks) and the text of ss.

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173-178, 179(1)(f)(4), 180(5)(7), 186(1), 187(1), 188, Sch.17 Pt. IX was taken from SIF Group 114 (Stamp Duty). This Act is presented basically in the form in which it appears in the 1990 Edition of The Taxes Acts edited by the Inland Revenue and published by HMSO (any references in commentary to volumes 1, 2, etc are to volumes of that edition). The style of editing differs from that applicable to most Acts published in Statutes in Force.

- X2** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

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

- C1** General amendments etc. to Tax Acts (or Income Tax Acts or Corporation Tax Acts as the case may be) made by [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#), [s. 41A\(7\)](#) (as added by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 95\(1\)\(2\)](#)), [British Telecommunications Act 1981 \(c. 38, SIF 96\)](#), [s. 82\(2\)\(7\)](#); [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 72\(3\)](#); [Finance Act 1984 \(c. 43, SIF 63:1\)](#), ss. 82(6), 85(2), 89(1)(7), 96(1)(7), 98(7), Sch. 9 para. 3(2)(9), Sch. 16 paras. 6, **12** and [Finance Act 1985 \(c. 54, SIF 63:1\)](#), ss. 72(1), 74(5), [Sch. 23 para. 15\(4\)](#), S.I. 1987/530, regs. 11(2), 13(1), 14, [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [ss. 4, 6, 7, 9, 32, 34, 78, 134, 135, 141, 142, 185, 191, 193, 194, 195, 200, 203, 209, 212, 213, 219, 247, 253, 272, 287, 314, 315, 317, 318, 325, 326, 327, 345, 350, 351, 368, 375, 381, 397, 414, 432, 440, 442, 446, 458, 460, 461, 463, 463\(2\)\(3\)](#) (as added by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 50\(2\)](#)), 468, 474, 475, 486, 490, 491, 503, 511, 518, 524, 532, 544, 550, 556, 558, 569, 572, 582, 595, 601, 613, 617, 619, 621, 639, 656, 660, 663, 676, 689, 691, 694, 700, 701, 714, 716, 739, 743, 754, 763, 776, 780, 781, 782, 787, 789, 811, 828, 829, 832, 833, 834, 835, 837, 838, 839, 840, 841, 842, Sch. 2 para. 5, Sch. 4 para. 5, Sch. 13 para. 10, Sch. 16 para. 10, Sch. 21 para. 6, Sch. 26 para. 1, Sch. 27 para. 20, [Finance Act 1988 \(c. 39, SIF 63:1\)](#), ss. 66, 127(1)(6), [Sch. 12 para. 6](#), [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), [ss. 28\(1\), 68\(8\), 74, 82, 83\(5\), 148\(5\), 163\(4\), 164\(2\)](#), S.I. 1990/627 and [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 25\(10\)](#)
- C2** Act modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [regs. 19-26](#) (as amended by S.I. 2007/2146, [regs. 1, 14-18](#))
- C3** Act modified by 1988 c. 1, Sch. 19ABA paras. 12-25 (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/3430\)](#), arts. 1(1), [3\(3\)](#))

**PART I U.K.**

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

**CHAPTER I U.K.**

CUSTOMS AND EXCISE

*Hydrocarbon oil duties*

**1 Rates. U.K.**

(1) ..... <sup>F1</sup>

(2) In section 13A of that Act (rebate on unleaded petrol), for “£0.0202” there shall be substituted “£0.0272”.

*Status: Point in time view as at 27/12/2007.*

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(3) ..... F1

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 14th March 1989.

#### Textual Amendments

F1 S. 1(1)(3) repealed by Finance Act 1990 (c. 29, SIF 40:1), s. 132, Sch. 19 Pt. I Note

## 2 Reliefs. **U.K.**

(1) The following section shall be inserted after section 20A of the <sup>M1</sup>Hydrocarbon Oil Duties Act 1979—

### “20AA Power to allow reliefs.

- (1) The Commissioners may make regulations allowing reliefs as regards—
  - (a) any duty of excise which has been charged in respect of hydrocarbon oil, petrol substitute, spirits used for making power methylated spirits, or road fuel gas;
  - (b) any amount which has been paid to the Commissioners under section 12(2) above;
  - (c) any amount which would (apart from the regulations) be payable to the Commissioners under section 12(2) above.
- (2) The regulations may include such provision as the Commissioners think fit in connection with allowing reliefs, and in particular may—
  - (a) provide for relief to take the form of a repayment or remission;
  - (b) provide for relief to be allowed in cases or classes of case set out in the regulations;
  - (c) provide for relief to be allowed to the extent set out in the regulations;
  - (d) provide for relief to be allowed subject to conditions imposed by the regulations;
  - (e) provide for relief to be allowed subject to such conditions as the Commissioners may impose on the person claiming relief;
  - (f) provide for the taking of samples of hydrocarbon oil in order to ascertain whether relief should be allowed or has been properly allowed;
  - (g) make provision as to administration (which may include provision requiring the making of applications for relief);
  - (h) make different provision in relation to different cases or classes of case;
  - (i) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient.
- (3) The conditions which may be imposed as mentioned in subsection (2)(d) or (e) above may include conditions as to the physical security of premises, the provision (by bond or otherwise) of security for payment, or such other matters as the Commissioners think fit.

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- (4) Where a person contravenes or fails to comply with any regulation made under this section or any condition imposed by or under such a regulation—
- (a) he shall be liable on summary conviction to a penalty of three times the value of any goods in respect of which the contravention or failure occurred or a penalty of an amount represented by level 3 on the standard scale, whichever is the greater, and
  - (b) any goods in respect of which the contravention or failure occurred shall be liable to forfeiture.
- (5) A reference in this section to a duty of excise includes a reference to any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.
- (6) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.”
- (2) In consequence of subsection (1) above, in paragraph 6 of Schedule 5 to the <sup>M2</sup>Hydrocarbon Oil Duties Act 1979 after “section” there shall be inserted “20AA or”.

#### Marginal Citations

- M1** 1979c. 5.  
**M2** 1979 c. 5.

### *Alcoholic liquor duties*

#### **F23** Original gravity of beer. **U.K.**

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#### Textual Amendments

- F2** S. 3 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7, 123, **Sch. 19 Pt. II**; S.I. 1993/1152, art. 3, **Sch. 1** (with arts. 4-8)

#### **4** Blending made-wines etc. **U.K.**

- (1) Section 55 of the Alcoholic Liquor Duties Act 1979 (charge of excise duty on made-wine) shall be amended as follows.
- (2) In subsection (5) (which, where certain conditions are satisfied, lifts the requirement to hold a licence for premises where made-wine is produced), after paragraph (d) there shall be added “and
- (e) he does not blend or otherwise mix—
    - (i) two or more made-wines, or
    - (ii) one or more made-wines and one or more wines,

so as to produce made-wine the rate of duty applicable to which is higher than the rate applicable to at least one of the constituent liquors. ”

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(3) After subsection (5) there shall be inserted—

“(5A) For the purposes of subsection (5) above—

- (a) the rate of duty applicable to any made-wine is that which is or would be chargeable under subsection (1) above on its importation into the United Kingdom; and
- (b) the rate of duty applicable to any wine is that which is or would be chargeable under subsection (1) of section 54 above on its importation into the United Kingdom.”

(4) This section shall have effect in relation to the blending or other mixing of made-wines, or of made-wines and wines, on or after the day on which this Act is passed.

**5 Description as beer. U.K.**

Section 73 of the <sup>M3</sup>Alcoholic Liquor Duties Act 1979(which prohibits anyone from describing as beer any substance on which beer duty has not been paid) shall cease to have effect.

**Marginal Citations**

**M3** 1979 c. 4.

*Vehicles excise duty*

**6 Rates. U.K.**

- F<sup>3</sup>(1) .....
- F<sup>3</sup>(2) .....
- (3) ..... F<sup>4</sup>
- F<sup>3</sup>(5) .....
- F<sup>5</sup>(6) .....
- F<sup>3</sup>(7) .....

**Textual Amendments**

- F3** S. 6(1)(2)(5)(7) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))
- F4** S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3
- F5** S. 6(6) repealed (27.7.1993 with effect in relation to licences taken out after 16.3.1993) by 1993 c. 34, s. 213, **Sch. 23 Pt. I(6)**

F<sup>6</sup>7 ..... **U.K.**

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**Textual Amendments**

**F6** S. 7 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F7** 8 ..... **U.K.**

**Textual Amendments**

**F7** S. 8 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F8** 9 ..... **U.K.**

**Textual Amendments**

**F8** S. 9 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F9** 10 ..... **U.K.**

**Textual Amendments**

**F9** S. 10 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F10** 11 ..... **U.K.**

**Textual Amendments**

**F10** S. 11 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F11** 12 ..... **U.K.**

**Textual Amendments**

**F11** S. 12 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F12** 13 ..... **U.K.**

**Textual Amendments**

**F12** S. 13 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

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**14 Dishonoured cheques. U.K.**

- F13(1) .....
- F14(2) .....
- F13(3) .....
- F14(4) .....
- F13(5) .....
- F14(6) .....
- F13(7) .....

**Textual Amendments**

- F13 S. 14(1)(3)(5)(7) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))
- F14 S. 14(2)(4)(6) repealed (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), ss. 10, 123, **Sch. 19 Pt. IV**; S.I. 1991/2021, **art. 2**.

*General*

**F15 15 .....** **U.K.**

**Textual Amendments**

- F15 S. 15 repealed (1.1.1995) by 1994 c. 9, s. 258, **Sch. 26 Pt. III**, note (with s. 19(3)); S.I. 1994/2679, **art. 3**

**16 Time limits for proceedings. U.K.**

- (1) After section 146 of the Customs and Excise Management Act 1979 there shall be inserted—

**“146A Time limit for proceedings.**

- (1) Except as otherwise provided in the customs and excise Acts, and notwithstanding anything in any other enactment, the following provisions shall apply in relation to proceedings for an offence under those Acts.
- (2) Proceedings for an indictable offence shall not be commenced after the end of the period of 20 years beginning with the day on which the offence was committed.
- (3) Proceedings for a summary offence shall not be commenced after the end of the period of 3 years beginning with that day but, subject to that, may be commenced at any time within 6 months from the date on which sufficient evidence to warrant the proceedings came to the knowledge of the prosecuting authority.

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- (4) For the purposes of subsection (3) above, a certificate of the prosecuting authority as to the date on which such evidence as is there mentioned came to that authority's knowledge shall be conclusive evidence of that fact.
- (5) In the application of this section to Scotland—
- (a) in subsection (3), “proceedings for an indictable offence” means proceedings on indictment;
  - (b) in subsection (3), “proceedings for a summary offence” means summary proceedings.
- (6) In the application of this section to Northern Ireland—
- (a) “indictable offence” means an offence which, if committed by an adult, is punishable on conviction on indictment (whether only on conviction on indictment, or either on conviction on indictment or on summary conviction);
  - (b) “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.
- (7) In this section, “prosecuting authority” means the Commissioners and includes, in Scotland, the procurator fiscal.”
- (2) Section 147(1) of that Act shall cease to have effect.
- <sup>F16</sup>(3) . . . . .
- (4) This section shall have effect in relation to offences committed on or after the day on which this Act is passed.

**Textual Amendments**

**F16** S. 16(3) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), Sch. 5 Pt. I (with s. 57(4))

**17 Disbursements in Port of London. U.K.**

In section 17 of the <sup>M4</sup>Customs and Excise Management Act 1979 (general rule that customs and excise receipts, after deduction of disbursements, are to be paid into the Commissioners' General Account at the Bank of England) paragraph (a) of subsection (5) (special rule that disbursements in Port of London are to be paid out of that Account) shall cease to have effect.

**Marginal Citations**

**M4** 1979 c. 2.



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## CHAPTER II **U.K.**

### VALUE ADDED TAX

*Zero-rating etc.*

**F17** 18 ..... **U.K.**

#### Textual Amendments

**F17** S. 18 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), [Sch. 15](#)

**F18** 19 ..... **U.K.**

#### Textual Amendments

**F18** S. 19 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), [Sch. 15](#)

**F19** 20 ..... **U.K.**

#### Textual Amendments

**F19** S. 20 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), [Sch. 15](#)

**F20** 21 ..... **U.K.**

#### Textual Amendments

**F20** S. 21 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), [Sch. 15](#)

**F21** 22 ..... **U.K.**

#### Textual Amendments

**F21** S. 22 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), [Sch. 15](#)

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<sup>F22</sup>**23** ..... **U.K.**

**Textual Amendments**

**F22** S. 23 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

*Other provisions*

<sup>F23</sup>**24** ..... **U.K.**

**Textual Amendments**

**F23** S. 24 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

<sup>F24</sup>**25** ..... **U.K.**

**Textual Amendments**

**F24** S. 25 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

<sup>F25</sup>**26** ..... **U.K.**

**Textual Amendments**

**F25** S. 26 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

**CHAPTER III U.K.**

MISCELLANEOUS

<sup>F26</sup>**27** **Relief from car tax where vehicle leased to the handicapped.** **U.K.**

**Textual Amendments**

**F26** S. 27 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 9** Group 5

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## 28 Reliefs from duties and taxes for persons enjoying certain immunities and privileges. **U.K.**

- (1) After section 13 of the <sup>M5</sup> Customs and Excise Duties (General Reliefs) Act 1979 there shall be inserted the following sections—

### “13A Reliefs from duties and taxes for persons enjoying certain immunities and privileges.

- (1) The Commissioners may by order make provision for conferring in respect of any persons to whom this section applies reliefs, by way of remission or repayment, from payment by them or others of duties of customs or excise, value added tax or car tax.
- (2) An order under this section may make any relief for which it provides subject to such conditions binding the person in respect of whom the relief is conferred and, if different, the person liable apart from the relief for payment of the tax or duty (including conditions which are to be complied with after the time when, apart from the relief, the duty or tax would become payable) as may be imposed by or under the order.
- (3) An order under this section may include any of the provisions mentioned in subsection (4) below for cases where—
- (a) relief from payment of any duty of customs or excise, value added tax or car tax chargeable on any goods, or on the supply of any goods or services or the importation of any goods has been conferred (whether by virtue of an order under this section or otherwise) in respect of any person to whom this section applies, and
- (b) in the case of goods, provision for forfeiture of the goods.
- (4) The provisions referred to in subsection (3) above are—
- (a) provision for payment to the Commissioners of the tax or duty by—
- (i) the person liable, apart from the relief, for its payment, or
- (ii) any person bound by the condition, or
- (iii) any person who is or has been in possession of the goods or has received the benefit of the services,
- or for two or more of those persons to be jointly and severally liable for such payment, and
- (5) An order under this section—
- (a) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient, and
- (b) may make different provision for different cases.
- (6) In this section and section 13C of this Act—

“duty of customs” includes any agricultural levy within the meaning of section 6 of the European Communities Act 1972 chargeable on goods imported into the United Kingdom, and

“duty of excise” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.

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- (7) For the purposes of this section and section 13C of this Act, where in respect of any person to whom this section applies relief is conferred (whether by virtue of an order under this section or otherwise) in relation to the use of goods by any persons or for any purposes, the relief is to be treated as conferred subject to a condition binding on him that the goods will be used only by those persons or for those purposes.
- (8) Nothing in any order under this section shall be construed as authorising a person to import any thing in contravention of any prohibition or restriction for the time being in force with respect to it under or by virtue of any enactment.

### **13B Persons to whom section 13A applies.**

- (1) The persons to whom section 13A of this act applies are—
- (a) any person who, for the purposes of any provision of the Visiting Forces Act 1952 or the International Headquarters and Defence Organisations Act 1964 is—
    - (i) a member of a visiting force or of a civilian component of such a force or a dependant of such a member, or
    - (ii) a headquarters, a member of a headquarters or a dependant of such a member,
  - (b) any person enjoying any privileges or immunities under or by virtue of—
    - (i) the Diplomatic Privileges Act 1964,
    - (ii) the Commonwealth Secretariat Act 1966,
    - (iii) the Consular Relations Act 1968,
    - (iv) the International Organisations Act 1968, or
    - (v) the Overseas Development and Co-operation Act 1980,
  - (c) any person enjoying, under or by virtue of section 2 of the European Communities Act 1972, any privileges or immunities similar to those enjoyed under or by virtue of the enactments referred to in paragraph (b) above.
- (2) The Secretary of State may by order amend subsection (1) above to include any persons enjoying any privileges or immunities similar to those enjoyed under or by virtue of the enactments referred to in paragraph (b) of that subsection.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

### **13C Offence where relieved goods used, etc., in breach of condition.**

- (1) Subsection (2) below applies where—
- (a) any relief from payment of any duty of customs or excise, value added tax or car tax chargeable on, or on the supply or importation of, any goods has been conferred (whether by virtue of an order under section 13A of this Act or otherwise) in respect of any person to whom that section applies subject to any condition as to the persons by whom or the purposes for which the goods may be used, and

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- (b) if the tax or duty has subsequently become payable, it has not been paid.
- (2) If any person—
  - (a) acquires the goods for his own use, where he is not permitted by the condition to use them, or for use for a purpose that is not permitted by the condition or uses them for such a purpose, or
  - (b) acquires the goods for use, or causes or permits them to be used, by a person not permitted by the condition to use them or by a person for a purpose that is not permitted by the condition or disposes of them to a person not permitted by the condition to use them,with intent to evade payment of any tax or duty that has become payable or that, by reason of the disposal, acquisition or use, becomes or will become payable, he is guilty of an offence.
- (3) For the purposes of this section—
  - (a) in the case of a condition as to the persons by whom goods may be used, a person is not permitted by the condition to use them unless he is a person referred to in the condition as permitted to use them, and
  - (b) in relation to a condition as to the purposes for which goods may be used, a purpose is not permitted by the condition unless it is a purpose referred to in the condition as a permitted purpose,and in this section “dispose” includes “lend” and “let on hire”, and “acquire” shall be interpreted accordingly.
- (4) A person guilty of an offence under this section may be detained and shall be liable—
  - (a) on summary conviction, to a penalty of the statutory maximum or of three times the value of the goods (whichever is the greater), or to imprisonment for a term not exceeding six months, or to both, or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding seven years, or to both.”
- (2) Section 13C of the <sup>M6</sup> Customs and Excise Duties (General Reliefs) Act 1979 inserted by subsection (1) above shall have effect where relief is conferred on or after the day on which this Act is passed.
- (3) In section 17 of the Customs and Excise Duties (General Reliefs) Act 1979, in subsection (3), for “or 13” there shall be substituted “13 or 13A” and, in subsection (4), for “or 13(1)” there shall be substituted “13(1) or 13A”.

#### Marginal Citations

M5 1979 c. 3.

M6 1979 c. 3.

#### [<sup>F27</sup>29 Recovery of overpaid excise duty and car tax. U.K.]

- (1) This section applies to proceedings for restitution of an amount paid to the Commissioners of Customs and Excise by way of excise duty or car tax.

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- (2) Proceedings to which this section applies shall not be dismissed by reason only of the fact that the amount was paid by reason of a mistake of law.
- (3) In any proceedings to which this section applies it shall be a defence that repayment of an amount would unjustly enrich the claimant.
- (4) This section shall have effect in relation to proceedings commenced on or after the day on which this Act is passed.]

**Textual Amendments**

**F27** S. 29 ceases to have effect (1.12.1995 with effect as mentioned in s. 20(5) of the amending Act) by 1995 c. 4, s. 20(3); S.I. 1995/2892, art. 2

**PART II U.K.**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

**CHAPTER I U.K.**

GENERAL

*Income tax rates and allowances*

**F28<sup>30</sup> Charge and rates of income tax for 1989-90. U.K.**

.....

**Textual Amendments**

**F28** Ss. 30-32 repealed (6.4.2007) by *Income Tax Act 2007* (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F28<sup>31</sup> Age allowance. U.K.**

.....

**Textual Amendments**

**F28** Ss. 30-32 repealed (6.4.2007) by *Income Tax Act 2007* (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F28<sup>32</sup> Operative date for PAYE. U.K.**

.....

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### Textual Amendments

**F28** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## 33 Married couples. **U.K.**

- (1) Sections 257 to 257F and 265 of the <sup>M7</sup>Taxes Act 1988, as inserted for the year 1990-91 and subsequent years by the Finance Act 1988, shall be amended as follows.
- (2) In section 257(1) for “£2,605” there shall be substituted “£2,785”.
- (3) In section 257(2) for “£3,180” there shall be substituted “£3,400”.
- (4) In section 257(3)—
  - (a) for “80” there shall be substituted “75”, and
  - (b) for “£3,310” there shall be substituted “£3,540”.
- (5) In section 257(5)—
  - (a) for “£10,600” there shall be substituted “£11,400”, and
  - (b) for “two-thirds” there shall be substituted “one half”.
- [<sup>F29</sup>(6) In section 257A(1) for “£1,490” there shall be substituted “£1,590”.]
- (7) In section 257A(2) for “£1,855” there shall be substituted “£1,985”.
- (8) In section 257A(3)—
  - (a) for “80” there shall be substituted “75”, and
  - (b) for “£1,895” there shall be substituted “£2,025”.
- (9) In section 257A(5)—
  - (a) for “£10,600” there shall be substituted “£11,400”, and
  - (b) for “two-thirds” there shall be substituted “one half”.
- (10) In sections <sup>F30</sup> . . . [<sup>F31</sup>257D(8) and] 265(3) after paragraph (b) there shall be inserted “or  
(c) on account of any payments to which section 593(2) or 639(3) applies.”.
- [<sup>F32</sup>(11) In section 257E(1)(b) for “80” there shall be substituted “75”.
- <sup>F32</sup>(12) In section 257E(2)(a) for “£3,180” there shall be substituted “£3,400”.
- <sup>F32</sup>(13) In section 257E(2)(b) for “£3,310” there shall be substituted “£3,540”.]

### Textual Amendments

- F29** S. 33(6) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(3\)](#), note 2
- F30** Words in s. 33(10) repealed (16.7.1992) by virtue of [Finance \(No. 2\) Act 1992 \(c. 48\)](#), ss. 20, 82, [Sch. 5 para. 10](#), [Sch. 18 Pt. VII\(1\)](#)
- F31** Words in s. 33(10) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by virtue of 1999 c. 16, s. 139, [Sch. 20 Pt. III\(3\)](#), note 2
- F32** S. 33(11)-(13) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(3\)](#), note 2

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

**C4** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 257](#) for 1989–1990 and see [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [257–257F](#) for 1990–1991

**Marginal Citations**

**M7** [1988 c. 39](#).

*Corporation tax rates etc.*

**34 Charge and rate of corporation tax for financial year 1989. U.K.**

Corporation tax shall be charged for the financial year 1989 at the rate of 35 per cent.

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

**C5** For earlier years see [Table K, Vol. 1](#)

**35 Corporation tax: small companies. U.K.**

- (1) For the financial year 1989—
- (a) the small companies' rate shall be 25 per cent., and
  - (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.
- (2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—
- (a) for “£100,000” there shall be substituted “£150,000”, and
  - (b) for “£500,000” there shall be substituted “£750,000”.
- (3) Subsection (2) above shall have effect for the financial year 1989 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company's accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

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

**C6** For earlier years see [Table K, Vol. 1](#)

**C7** For earlier years see [Table L, Vol. 1](#)

*Receipts basis etc.*

**<sup>F33</sup>36 Schedule E: revised Cases. U.K.**

.....



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**Textual Amendments**

**F33** Ss. 36-42 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)

**F33 37 Schedule E: assessment on receipts basis. U.K.**

.....

**Textual Amendments**

**F33** Ss. 36-42 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)

**F33 38 Schedule E: unpaid emoluments. U.K.**

.....

**Textual Amendments**

**F33** Ss. 36-42 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)

**F33 39 Schedule E: unremitted emoluments. U.K.**

.....

**Textual Amendments**

**F33** Ss. 36-42 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)

**F33 40 Schedule E: emoluments already paid. U.K.**

.....

**Textual Amendments**

**F33** Ss. 36-42 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)

**F33 41 Schedule E: pensions etc. U.K.**

.....

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#### Textual Amendments

**F33** Ss. 36-42 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)

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

**C8** S. 41 extended (3.5.1994) by [1994 c. 9, s. 139\(3\)](#)

### <sup>F33</sup> 42 Schedule E: supplementary. **U.K.**

#### Textual Amendments

**F33** Ss. 36-42 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)

### <sup>F34</sup> 43 Schedule D: computation **U.K.**

- (1) In calculating [<sup>F35</sup>profits or gains to be charged under Schedule D] for a period of account, no deduction is allowed for an amount charged in the accounts in respect of employees' remuneration, unless the remuneration is paid before the end of the period of 9 months immediately following the end of the period of account.
- (2) For the purposes of subsection (1) above an amount charged in the accounts in respect of employees' remuneration includes an amount [<sup>F36</sup>for which provision is made in the accounts] with a view to its becoming employees' remuneration.
- (3) Subsection (1) above applies whether the amount is in respect of particular employments or in respect of employments generally.
- (4) If the remuneration is paid after the end of the period of 9 months mentioned in subsection (1) above, any deduction allowed in respect of it is allowed for the period of account in which it is paid and not for any other period of account.
- (5) If the profits <sup>F37</sup>... are calculated before the end of the period of 9 months mentioned in subsection (1) above—
  - (a) it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
  - (b) if the remuneration is subsequently paid before the end of that period, the calculation is adjusted if a claim to adjust it is made to an officer of the Board within 2 years beginning with the end of the period of account.
- (6) For the purposes of this section, remuneration is paid when it—
  - (a) is treated as received by an employee for the purposes of the Income Tax (Earnings and Pensions) Act 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
  - (b) would be so treated if it were not exempt income.
- (7) In this section—

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“employee” includes an office-holder and “employment” correspondingly includes an office, and

“remuneration” means an amount which is or is treated as earnings for the purposes of the Income Tax (Earnings and Pensions) Act 2003.]

#### Textual Amendments

- F34** S. 43 substituted (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. 6 para. 157](#) (with [Sch. 7](#))
- F35** Words in s. 43(1) substituted (with effect in accordance with Sch. 17 para. 4(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 17 para. 4\(1\)\(a\)](#)
- F36** Words in s. 43(2) substituted for s. 43(2)(a)(b) (with effect in accordance with Sch. 24 para. 11 of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 24 para. 10\(1\)](#)
- F37** Words in s. 43(5) omitted (with effect in accordance with Sch. 17 para. 4(2) of the amending Act) by virtue of [Finance Act 2004 \(c. 12\), Sch. 17 para. 4\(1\)\(b\)](#)

#### [<sup>F38</sup> 44 [<sup>F39</sup> Companies with investment business and insurance companies: computation] **U.K.**]

- [<sup>F40</sup>(1) For the purposes of corporation tax, in calculating for a period of account the profits of a company with investment business, an amount charged in the accounts in respect of employees' remuneration shall not be deductible under section 75 of the Taxes Act 1988 as expenses of management unless the remuneration is paid before the end of the period of 9 months immediately following the end of the period of account.]
- (2) For the purposes of subsection (1) above an amount charged in the accounts in respect of employees' remuneration includes an amount [<sup>F41</sup>for which provision is made in the accounts] with a view to its becoming employees' remuneration.
- (3) Subsection (1) above applies whether the amount is in respect of particular employments or in respect of employments generally.
- (4) If the remuneration is paid after the end of the period of 9 months mentioned in subsection (1) above, any deduction allowed in respect of it is allowed for the period of account in which it is paid and not for any other period of account.
- (5) If [<sup>F42</sup>the profits of the company] are calculated before the end of the period of 9 months mentioned in subsection (1) above—
- it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
  - if the remuneration is subsequently paid before the end of that period, the calculation is adjusted if a claim to adjust it is made to an officer of the Board by or on behalf of the company within 2 years beginning with the end of the period of account.
- (6) For the purposes of this section, remuneration is paid when it—
- is treated as received by an employee for the purposes of the Income Tax (Earnings and Pensions) Act 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
  - would be so treated if it were not exempt income.

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[<sup>F43</sup>(7) This section shall apply in calculating the profits of a company in relation to which section 76 of the Taxes Act 1988 applies (companies carrying on life assurance business) as it applies in calculating the profits of a company with investment business; and in any such case—

- (a) any reference in this section to an amount being deductible under section 75 of the Taxes Act 1988 as expenses of management shall be taken as a reference to an amount being brought into account under section 76 of that Act as expenses payable and references to a deduction shall be construed accordingly;
- (b) subsection (4) above shall have effect subject to section 86 below, and
- (c) in construing section 86 below the remuneration shall be treated as expenses payable for that period which fall to be included at Step 1 in section 76(7) of the Taxes Act 1988.]

(8) In this section—

[<sup>F44</sup>“company with investment business” has the same meaning as in Part 4 of the Taxes Act 1988 (see section 130 of that Act),]

“employee” includes an office-holder and “employment” correspondingly includes an office,

<sup>F45</sup> .....

“remuneration” means an amount which is or is treated as earnings for the purposes of Parts 2 to 7 of the Income Tax (Earnings and Pensions) Act 2003.]

**Textual Amendments**

- F38** S. 44 substituted (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. 6 para. 158](#) (with Sch. 7)
- F39** S. 44 heading substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(6\)](#)
- F40** S. 44(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(2\)](#)
- F41** Words in s. 44(2) substituted for s. 44(2)(a)(b) (with effect in accordance with Sch. 24 para. 11 of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 24 para. 10\(1\)](#)
- F42** Words in s. 44(5) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(3\)](#)
- F43** S. 44(7) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(4\)](#)
- F44** Words in s. 44(8) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(5\)\(a\)](#)
- F45** Words in s. 44(8) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 42\(5\)\(b\)](#)

<sup>F46</sup>**45 PAYE: meaning of payment. U.K.**

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**Textual Amendments**

**F46** S. 45 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)

*Interest*

**46 Relief for interest. U.K.**

For the year 1989-90 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

<sup>F47</sup> **47 Close company loans: business expansion scheme. U.K.**

.....

**Textual Amendments**

**F47** S. 47 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

<sup>F48</sup> **48 Close company loans: material interest. U.K.**

.....

**Textual Amendments**

**F48** S. 48 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Benefits in kind*

**49 Car benefits. U.K.**

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

“PART I **U.K.**

TABLES OF FLAT RATE CASH EQUIVALENTS

table A

CARS WITH AN ORIGINAL MARKET VALUE UP  
TO £19,250 AND HAVING A CYLINDER CAPACITY

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Cylinder capacity of car in cubic centimetres	Age of car at end of relevant year of assessment
--	--

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	<b>Under 4 years</b>	<b>4 years or more</b>
1400 or less	£1,400	£950
More than 1400 but not more than 2000	£1,850	£1,250
More than 2000	£2,950	£1,950

table B

**CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY**

<b>Original market value of car</b>	<b>Age of car at end of relevant year of assessment</b>	
	<b>Under 4 years</b>	<b>4 years or more</b>
Less than £6,000	£1,400	£950
£6,000 or more but less than £8,500	£1,850	£1,250
£8,500 or more but not more than £19,250	£2,950	£1,950

table B

**CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250**

<b>Original market value of car</b>	<b>Age of car at end of relevant year of assessment</b>	
	<b>Under 4 years</b>	<b>4 years or more</b>
More than £19,250 but not more than £29,000	£3,850	£2,600
More than £29,000	£6,150	£4,100 <sup>2</sup>

(2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

<sup>F49</sup>**50 Security assets and services. U.K.**

.....

**Textual Amendments**

**F49** Ss. 50-52 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](#))

<sup>F49</sup>**51 Assets used partly for security. U.K.**

.....

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**Textual Amendments**

**F49** Ss. 50-52 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)

**<sup>F49</sup>52 Security: supplementary. U.K.**

**Textual Amendments**

**F49** Ss. 50-52 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)

**53 Employees earning £8,500 or more and directors. U.K.**

**<sup>F50</sup>(1)** .....

**<sup>F50</sup>(2)** .....

**<sup>F50</sup>(a)** .....

**<sup>F50</sup>(b)** .....

**<sup>F50</sup>(c)** .....

**<sup>F50</sup>(d)** .....

**<sup>F50</sup>(e)** .....

(f) the words “ employment to which Chapter II of Part V applies ”shall be substituted for the words from “director’s” to “section167)” in [<sup>F51</sup>section 418(3)(a)] of that Act;

**<sup>F50</sup>(g)** .....

**Textual Amendments**

**F50** S. 53 repealed (except s. 53(2)(f) so far as relating to s. 418(3) of ICTA) (6.4.2003) (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)

**F51** Words in s. 53(2)(f) substituted (6.4.2003) (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. 6 para. 159** (with Sch. 7)

*Medical insurance*

**[<sup>F52</sup>54 Relief. U.K.**

(1) This section applies where—

- (a) on or after 6th April 1990 an individual makes a payment in respect of a premium under a contract of private medical insurance (whenever issued),
- (b) the contract meets the requirement in subsection (2) below as to the person or persons insured,
- (c) at the time the payment is made the contract is an eligible contract,

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- (d) the individual making the payment does not make it out of resources provided by another person for the purpose of enabling it to be made, and
  - (e) the individual making the payment is not entitled to claim any relief or deduction in respect of it under any other provision of the Tax Acts.
- (2) The requirement mentioned in subsection (1)(b) above is that the contract insures—
- (a) an individual who at the time the payment is made is aged 60 or over and resident in the United Kingdom,
  - (b) individuals each of whom at that time is aged 60 or over and resident in the United Kingdom, or
  - (c) two individuals who are married to each other at that time, at least one of whom is aged 60 or over at that time, and each of whom is resident in the United Kingdom at that time.
- [ In a case where—
- <sup>F53</sup>(2A) (a) a payment is made in respect of a premium under a contract at a time when the contract meets the requirement in subsection (2) above by virtue of paragraph (c) of that subsection, and
- (b) a payment is made under the same contract at a time after one of the individuals has died and when the contract does not (apart from this subsection) meet the requirement in subsection (2) above by virtue only of the fact that the surviving spouse is not aged 60 or over at the time,
- for the purposes of subsection (2) above in its application to the contract the surviving spouse shall be deemed to be aged 60 or over at the time mentioned in paragraph (b) above.]
- (3) If the payment is made by an individual who at the time it is made is resident in the United Kingdom (whether or not he is the individual or one of the individuals insured by the contract) [<sup>F54</sup>the individual shall be entitled to relief under this subsection in respect of the payment; and (except where subsections (4) to (6) below apply) relief under this subsection shall be given—
- (a) in accordance with subsections (3A) to (3C) below, and
  - (b) only on a claim made for the purpose.]
- [ Where an individual is entitled to relief under subsection (3) above in respect of one
- <sup>F55</sup>(3A) or more payments made in a given year of assessment, the amount of his liability for that year of assessment to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—
- (a) the amount found under subsection (3B) below, and
  - (b) the amount which reduces his liability to nil.
- (3B) The amount referred to in subsection (3A)(a) above is an amount found by—
- (a) taking the amount of the payment referred to in subsection (3A) above or (as the case may be) the aggregate amount of the payments there referred to, and
  - (b) finding an amount equal to tax on the amount taken under paragraph (a) above at the basic rate for the year of assessment concerned.
- (3C) In determining for the purposes of subsection (3A) above the amount of incomers on would be liable apart from this section, no account shall be taken of—
- (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
  - (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;



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- (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
  - (d) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]
- (4) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (3) above shall be given in accordance with subsections (5) and (6) below.
- (5) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.
- (6) The person to whom the payment is made—
- (a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
  - (b) may, on making a claim [<sup>F56</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
- (7) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
- (a) an individual who has made a payment in respect of a premium under a contract of private medical insurance shall cease to be and be treated as not having been entitled to relief under subsection (3) above; and
  - (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
- (8) Regulations under subsection (7) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
- (9) In this section—
- (a) references to a premium, in relation to a contract of insurance, are to any amount payable under the contract to the insurer, and
  - (b) references to an individual who is resident in the United Kingdom at anytime include references to an individual who is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.]

#### Textual Amendments

- F52** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F53** S. 54(2A) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 4(2)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 4(1)**
- F54** Words and paras. (a)(b) substituted for words in s. 54(3) (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(2)(4)**
- F55** S. 54(3A)-(3C) inserted (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(3)(4)**
- F56** Words in s. 54(6)(b) inserted (29.4.1996) by 1996 c. 8, s. 129(2)

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

- C9** S. 54 restricted (31.7.1997 with effect for the year 1997-1998 and subsequent years of assessment) by 1997 c. 58, s. 17(1)-(5) (with s. 3(3))
- C10** For regulations see S.I. 1989/2387 and S.I. 1989/2389 (in Part III Vol. 5 under “Private medical insurance”)

**[<sup>F57</sup>55 Eligible contracts. U.K.]**

(1) This section has effect to determine whether a contract is at a particular time (the relevant time) an eligible contract for the purposes of section 54 above.

(2) A contract is an eligible contract at the relevant time if—

(a) it was entered into by an insurer who at the time it was entered into was a qualifying insurer and was approved by the Board for the purposes of this section,

(b) the period of insurance under the contract does not exceed one year (commencing with the date it was entered into),

[<sup>F58</sup>(ba) at the relevant time the contract satisfies the conditions set out in subsection (2A) below,

(bb) the contract is not one in the case of which subsection (2D) below applies,]

(c) the contract is not connected with any other contract at the relevant time and has not been connected with any other contract at any time since it was entered into, [<sup>F59</sup>and]

(d) no benefit has been provided by virtue of the contract other than an approved benefit, [<sup>F60</sup>and]

(e) the contract meets one or more of the three conditions set out below.]

[ The conditions referred to in subsection (2)(ba) above are that—

<sup>F61</sup>(2A) (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,

(b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,

(c) the premium under the contract is reasonable, and

(d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.

(2B) In a case where—

(a) at the relevant time the contract confers a material right, or more than one such right, but

(b) the total cost to the insurer of providing benefits in pursuance of the material right or (as the case may be) in pursuance of all the material rights would not exceed the prescribed sum,

the contract shall not thereby be regarded as failing to satisfy at the relevant time the condition set out in subsection (2A)(b) above.

(2C) For the purposes of subsection (2B) above a material right is a right which—

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- (a) is not a right such as is mentioned in subsection (2A)(a) above or such as is for the time being specified in regulations made under subsection (2A)(b) above, and
  - (b) is not a right to a cash benefit.
- (2D) This subsection applies in the case of a contract (the main contract) if—
- (a) at least one other contract is entered into which is a contract (a collateral contract) under which a benefit is provided in consideration of the insured's entering into the main contract, and
  - (b) the cost to the insurer of fulfilling his obligations under the collateral contract (or, if there is more than one collateral contract, of fulfilling his obligations under all of them) exceeds the prescribed sum.]
- [ The first condition is that the contract is certified by the Board under section 56 below
- <sup>F62</sup>(3) at the relevant time.
- <sup>F62</sup>(4) The second condition is that, at the time the contract was entered into, it conformed with a standard form certified by the Board as a standard form of eligible contract.
- <sup>F62</sup>(5) The third condition is that, at the time the contract was entered into, it conformed with a form varying from a standard form so certified in no other respect than by making additions—
- (a) which were (at the time the contract was entered into) certified by the Board as compatible with an eligible contract when made to that standard form, and
  - (b) which (at that time) satisfied any conditions subject to which the additions were so certified.
- <sup>F62</sup>(6) Where a contract is varied, and the relevant time falls after the time the variation takes effect, subsections (1) to (5) above shall have effect as if “entered into” read “varied” in each place where it occurs in subsections (4) and (5) above.]
- (7) For the purposes of this section a contract is connected with another contract at any time if—
- (a) they are simultaneously in force at that time,
  - (b) either of them was entered into with reference to the other, or with a view to enabling the other to be entered into on particular terms, or with a view to facilitating the other being entered into on particular terms, and
  - (c) the terms on which either of them was entered into would have been significantly less favourable to the insured if the other had not been entered into.
- (8) For the purposes of this section each of the following is a qualifying insurer—
- (a) an insurer lawfully carrying on in the United Kingdom business of any of the classes specified in Part I of Schedule 2 to the <sup>M8</sup>Insurance Companies Act 1982;
  - (b) an insurer not carrying on business in the United Kingdom but carrying on business in another member State and being either a national of a member State or a company or partnership formed under the law of any part of the United Kingdom or another member State and having its registered office, central administration or principal place of business in a member State.
- (9) For the purposes of this section a benefit is an approved benefit if it is provided in pursuance of a right of a description

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- [<sup>F63</sup>(a) mentioned in subsection (2A)(a) above, or  
 (b) for the time being specified in regulations made under subsection (2A)(b) above.]

[<sup>F64</sup>(10) For the purposes of this section a benefit is also an approved benefit if it is not a cash benefit and—

- (a) it is a single benefit provided otherwise than as mentioned in subsection (9) above and the cost to the insurer of providing it does not exceed the prescribed sum, or  
 (b) it is one of a number of benefits provided otherwise than as mentioned in subsection (9) above and the total cost to the insurer of providing the benefits does not exceed the prescribed sum.

(11) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.

(12) For the purposes of this section the prescribed sum is £30.

(13) The Treasury may by order substitute for the sum for the time being specified in subsection (12) above such sum as may be specified in the order; and any such substitution shall have effect in relation to cases where the relevant time falls on or after such date as is specified in the order.]]

#### Textual Amendments

- F57** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F58** S. 55(2)(ba)(bb) inserted (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(2)**
- F59** Word in s. 55(2)(c) inserted (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(3)(a)**
- F60** S. 55(2)(e) and the word “and” immediately preceding it repealed (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(3)(b), Sch. 26 Pt. V(3)**, Note 2
- F61** S. 55(2A)-(2D) inserted (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(4)**
- F62** S. 55(3)-(6) repealed (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(5), Sch. 26 Pt. V(3)**, Note 2
- F63** Paras. (a)(b) substituted for words in s. 55(9) (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(6)**
- F64** S. 55(10)-(13) inserted (3.5.1994 with effect as mentioned in Sch. 10 para. 5(8) of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(7)**

#### Marginal Citations

- M8** 1982 c.50.

#### [<sup>F65</sup>56 Certification of contracts. **U.K.**

- (1) The Board shall certify a contract under this section if it satisfies the conditions set out in subsection (3) below; and the certification shall be expressed to take effect from the time the conditions are satisfied, and shall take effect accordingly.

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- (2) The Board shall revoke a certification of a contract under this section if it comes to their notice that the contract has ceased to satisfy the conditions set out in subsection (3) below; and the revocation shall be expressed to take effect from the time the conditions ceased to be satisfied, and shall take effect accordingly.
- (3) The conditions referred to above are that—
  - (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,
  - (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
  - (c) the premium under the contract is in the Board’s opinion reasonable, and
  - (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (4) The certification of a contract by the Board under this section shall cease to have effect if the contract is varied; but this is without prejudice to the application of the preceding provisions of this section to the contract as varied.
- (5) Where the Board refuse to certify a contract under this section, or they revoke a certification, an appeal may be made to the Special Commissioners by—
  - (a) the insurer, or
  - (b) any person who (if the policy were certified) would be entitled to relief under section 54 above.
- (6) Where a contract is certified under this section, or a certification is revoked or otherwise ceases to have effect, any adjustments resulting from the certification or from its revocation or ceasing to have effect shall be made.
- (7) Subsection (6) above applies where a certification or revocation takes place on appeal as it applies in the case of any other certification or revocation.
- (8) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.]

#### Textual Amendments

**F65** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

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

**C11** For regulations see **S.I. 1989/2389** (in Part III Vol. 5 under “Private medical insurance”)

#### [<sup>F66</sup>57 **Medical insurance: supplementary.** **U.K.**

- (1) The Board may by regulations—
  - (a) provide that a claim under section 54(3) or (6)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;

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- [<sup>F67</sup>(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;]
- (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 54 above, for the giving by insurers in such circumstances as may be prescribed of certificates of payment in such form as may be prescribed to such persons as may be prescribed;
- (c) provide that a person who provides (or has at any time provided) insurance under contracts of private medical insurance shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board’s inspection documents (of a prescribed kind) relating to such contracts;
- (d) provide that persons of such a description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about contracts of private medical insurance;
- (e) make provision with respect to the approval of insurers for the purposes of section 55 above and the withdrawal of approval for the purposes of that section;
- (f) make provision for and with respect to appeals against decisions of the Board with respect to the giving or withdrawal of approval of insurers for the purposes of section 55 above;
- (g) make provision with respect to the certification by the Board of standard forms of eligible contract and variations from standard forms of eligible contract certified by them;
- (h) make provision for and with respect to appeals against decisions of the Board with respect to the certification of standard forms of eligible contractor variations from standard forms of eligible contract certified by them;
- (i) provide that certification, or the revocation of a certification, under section 56 above shall be carried out in such form and manner as may be prescribed;
- (j) make provision with respect to appeals against decisions of the Board with respect to certification or the revocation of certification under section 56 above;
- (k) make provision generally as to administration in connection with sections 54 to 56 above.
- (2) The words “ Regulations under section 57 of the Finance Act 1989 ” shall be added at the end of each column in the Table in section 98 of the <sup>M9</sup>Taxes Management Act 1970 (penalties for failure to furnish information etc.)
- (3) The following provisions of the Taxes Management Act 1970, namely—
- [<sup>F68</sup>(a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;]
- (b) section 30 (tax repaid in error etc.) [<sup>F69</sup>apart from subsection (1B)],
- (c) [<sup>F70</sup>section 86] (interest), and
- (d) section 95 (incorrect return or accounts),
- [<sup>F71</sup>shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 54(6)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that

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amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]

[ In the application of section 86 of the Taxes Management Act 1970 by virtue of <sup>F72</sup>(3A) subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

- (a) in a case where the person falling within section 54(6) above has made any interim claim, within the meaning of regulations made under subsection (1) and section 54(4) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and
- (b) in any other case, is the later of the following dates, that is to say—
  - (i) 1st January in the year of assessment for which the assessment is made; or
  - (ii) the date of the making of the payment by the Board which gives rise to the assessment.]

(4) In sections <sup>F73</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988 after paragraph (c) there shall be inserted

- (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies”.

(5) In subsection (1) above—

“eligible contract” has the meaning given by section 55 above, and  
“prescribed” means prescribed by or, in relation to form, under the regulations.]

#### Textual Amendments

- F66** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F67** S. 57(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. **129(3)**
- F68** S. 57(3)(a) substituted (29.4.1996 with effect as mentioned in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(a)**
- F69** Words in s. 57(3)(b) inserted (29.4.1996 with effect as mentioned in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(b)**
- F70** Words in s. 57(3)(c) substituted (29.4.1996 with effect as mentioned in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(c)**
- F71** Words in s. 57(3) substituted (29.4.1996 with effect as mentioned in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(d)**
- F72** S. 57(3A) inserted (29.4.1996 with effect as mentioned in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(3)**
- F73** Words in s. 57(4) repealed (16.7.1992) by virtue of Finance (No. 2) Act 1992 (c. 48), ss. 20, 82, Sch. 5 para. 10, **Sch. 18 Pt. VII(1)**

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

- C12** See S.I. 1989/2387

#### Marginal Citations

- M9** 1970 c. 9.

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### Charities

#### 58 Payroll deduction scheme. **U.K.**

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £240 the deductions attracting relief) for “£240” there shall be substituted “£480”.
- (2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

#### <sup>F74</sup>59 ..... **U.K.**

##### Textual Amendments

**F74** S. 59 repealed (28.7.2000 with effect as mentioned in s. 41(9) of the amending Act) by 2000 c. 17, ss. 41(7), 156, **Sch. 40 Pt. II(1)**, note 3

#### 60 British Museum and Natural History Museum. **U.K.**

- (1) In subsection (1) of section 507 of the Taxes Act 1988 (which gives tax exemption to the National Heritage Memorial Fund and the Historic Buildings and Monuments Commission) after paragraph (b) there shall be inserted—
  - “(c) the Trustees of the British Museum;
  - (d) the Trustees of the British Museum (Natural History);” and subsection (2) of that section (which gives partial tax exemption to those Trustees) shall cease to have effect.
- (2) In section 339(9) of that Act, for the words from “the Trustees”(where those words first occur) to “History) and” there shall be substituted the words “each of the bodies mentioned in section 507, and in subsections (1) to (5) above includes”.

<sup>F75</sup>(3) .....

- (4) Subsection (1) above shall apply in relation to accounting periods ending on or after 14th March 1989, and [<sup>F76</sup>subsection (2)] above shall apply to payments due on or after that day.

##### Textual Amendments

**F75** S. 60(3) repealed (1.5.1995 with effect as mentioned in s. 74(2), **Sch. 29 Pt. VIII(8)** of the amending Act) by 1995 c. 4, ss. 74(1), 162, **Sch. 17 Pt. III para. 25**, **Sch. 29 Pt. VIII(8)**

**F76** Words in s. 60(4) substituted (1.5.1995 with effect as mentioned in s. 74(2) of the amending Act) by 1995 c. 4, s. 74, **Sch. 17 Pt. III para. 25**

### *Profit-related pay, share schemes etc.*

#### [<sup>F77</sup>61 Profit-related pay. **U.K.**

Schedule 4 to this Act (which amends the provisions of the Taxes Act 1988 relating to profit-related pay) shall have effect.]



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**Textual Amendments**

**F77** S. 61 repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(3), notes 1, 2 of the amending Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**

**F78 62 Savings-related share option schemes. U.K.**

**Textual Amendments**

**F78** S. 62 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)

**F79 63 Profit sharing schemes. U.K.**

**Textual Amendments**

**F79** S. 63 repealed (*having effect for the year 1991-92 and subsequent years of assessment*) by **Finance Act 1991** (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt. V** Note 6.

**F80 64 Share option and profit sharing schemes: shares of consortium member. U.K.**

**Textual Amendments**

**F80** S. 64 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)

**65 Employee share schemes: material interest. U.K.**

In Schedule 9 to the Taxes Act 1988 the following paragraph shall be inserted after paragraph 39—

**Shares subject to an employee benefit trust**

- “40 (1) Where an individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (3) below applies in relation to him.
- (2) In this paragraph “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8.
- (3) This sub-paragraph applies in relation to an individual if at any time on or after 14th March 1989—

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- (a) the individual, either on his own or with any one or more of his associates, or
  - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25 per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company.
- (4) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 shall apply for the purposes of this paragraph in relation to an individual as they apply for the purposes of that paragraph in relation to an employee.”

**F81 66 Priority share allocations for employees etc. U.K.**

.....

**Textual Amendments**

**F81** S. 66 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)

*Employee share ownership trusts*

**67 Tax relief. U.K.**

- (1) This section applies where—
- (a) a company expends a sum in making a payment by way of contribution to the trustees of a trust which is a qualifying employee share ownership trust at the time the sum is expended,
  - (b) at that time, the company or a company which it then controls has employees who are eligible to benefit under the terms of the trust deed,
  - (c) at that time the company is resident in the United Kingdom,
  - (d) before the expiry of the expenditure period the sum is expended by the trustees for one or more of the qualifying purposes, and
  - (e) before the end of the claim period a claim for relief under this section is made.
- (2) In such a case the sum—
- (a) shall be deducted in computing for the purposes of Schedule D the [<sup>F82</sup>profits] of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 of the Taxes Act 1988 applies by virtue of section 76 of that Act, shall be treated as expenses of management.
- (3) For the purposes of subsection (1)(b) above, the question whether one company is controlled by another shall be construed in accordance with section 840 of the Taxes Act 1988.
- (4) For the purposes of subsection (1)(d) above each of the following is a qualifying purpose—
- (a) the acquisition of shares in the company which established the trust;

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- (b) the repayment of sums borrowed;
  - (c) the payment of interest on sums borrowed;
  - (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
  - (e) the meeting of expenses.
- (5) For the purposes of subsection (1)(d) above the expenditure period is the period of nine months beginning with the day following the end of the period of account in which the sum is charged as an expense of the company, or such longer period as the Board may allow by notice given to the company.
- (6) For the purposes of subsection (1)(e) above the claim period is the period of two years beginning with the day following the end of the period of account in which the sum is charged as an expense of the company.
- (7) For the purposes of this section the trustees of an employee share ownership trust shall be taken to expend sums paid to them in the order in which the sums are received by them (irrespective of the number of companies making payments).

**Textual Amendments**

**F82** Words in s. 67(2)(a) substituted (31.7.1998) by [1998 c. 36, s. 46\(3\)](#), [Sch. 7 para. 3](#)

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

**C13** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**C14** S. 67 excluded (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 142\(1\)](#)

**68 Principal charges to tax. U.K.**

- (1) This section applies where a chargeable event (within the meaning of section 69 below) occurs in relation to the trustees of an employee share ownership trust.
- (2) In such a case—
- (a) the trustees shall be treated as receiving, when the event occurs, [<sup>F83</sup>income of an amount that] is equal to the chargeable amount (within the meaning of section 70 below),
  - [<sup>F84</sup>(b) that income shall be chargeable to income tax for the year of assessment in which the event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [<sup>F85</sup>, and]
  - (bb) the trustees are liable for any tax so chargeable, [<sup>F86</sup>...
  - [<sup>F87</sup>(c) .....
- (3) If the whole or any part of the tax assessed on the trustees is not paid before the expiry of the period of six months beginning with the day on which the assessment becomes final and conclusive, a notice of liability to tax under this subsection may be served on a qualifying company and the tax or the part unpaid (as the case may be) shall be payable by the company on service of the notice.
- (4) Where a notice of liability is served under subsection (3) above—

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- (a) any interest which is due on the tax or the part (as the case may be) and has not been paid by the trustees, and
  - (b) any interest accruing due on the tax or the part (as the case may be) after the date of service,
- shall be payable by the company.
- (5) Where a notice of liability is served under subsection (3) above and any amount payable by the company (whether on account of tax or interest) is not paid by the company before the expiry of the period of three months beginning with the date of service, the amount unpaid may be recovered from the trustees (without prejudice to the right to recover it instead from the company).
- (6) For the purposes of this section each of the following is a qualifying company—
- (a) the company which established the employee share ownership trust;
  - (b) any company falling within subsection (7) below.
- (7) A company falls within this subsection if, before it is sought to serve a notice of liability on it under subsection (3) above—
- (a) it has paid a sum to the trustees, and
  - (b) the sum has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.

#### Textual Amendments

- F83** Words in s. 68(2)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(a\)](#) (with Sch. 2)
- F84** S. 68(2)(b)(ba)(bb) substituted for s. 68(2)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(b\)](#) (with Sch. 2)
- F85** Word in s. 68(2)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(a\)\(7\)](#)
- F86** Words in s. 68(2)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(b\)\(7\), Sch. 26 Pt. 3\(15\)](#)
- F87** S. 68(2)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(2\)\(a\)\(5\), Sch. 26 Pt. 3\(15\)](#)

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

- C15** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

## 69 Chargeable events. U.K.

- (1) For the purposes of section 68 above each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
- (a) the transfer of securities by the trustees, if the transfer is not a qualifying transfer;
  - (b) the transfer of securities by the trustees to persons who are at the time of the transfer beneficiaries under the terms of the trust deed, if the terms on which the transfer is made are not qualifying terms;
  - (c) the retention of securities by the trustees at the expiry of the [<sup>F88</sup>qualifying period] beginning with the date on which they acquired them;

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- (d) the expenditure of a sum by the trustees for a purpose other than a qualifying purpose.
- [<sup>F89</sup>(e) where—
- (i) the trustees make a qualifying transfer within subsection (3AA) below for a consideration, and
  - (ii) they do not, during the period specified in subsection (5A) below, expend a sum of not less than the amount of that consideration for one or more qualifying purposes,
- the expiry of that period.]
- (2) For the purposes of subsection (1)(a) above a transfer is a qualifying transfer if it is made to a person who at the time of the transfer is a beneficiary under the terms of the trust deed.
- (3) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is made to the trustees of a scheme which at the time of the transfer is a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988, and
  - (b) it is made for a consideration which is not less than the price the securities might reasonably be expected to fetch on a sale in the open market.
- [<sup>F90</sup>(3AA) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is a transfer of relevant shares made to the trustees of the plan trust of [<sup>F91</sup>a share incentive] plan,
  - (b) the plan is approved under [<sup>F92</sup>Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003] when the transfer is made, and
  - (c) the consideration (if any) for which the transfer is made does not exceed the market value of the shares.
- (3AB) For the purpose of determining whether a transfer by the trustees is a qualifying transfer within subsection (3AA) above, where on or after 21st March 2000—
- (a) the trustees transfer or dispose of part of a holding of shares (whether by way of a qualifying transfer or otherwise), and
  - (b) the holding includes any relevant shares,
- the relevant shares shall be treated as transferred or disposed of before any other shares included in that holding.
- For this purpose “ holding ” means any number of shares of the same class held by the trustees, growing or diminishing as shares of that class are acquired or disposed of.
- (3AC) For the purposes of subsections (3AA) and (3AB) above—
- “ market value ” has the same meaning as [<sup>F93</sup>it has for the purposes of the SIP code (see paragraph 92 of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003)]; and
  - “ relevant shares ” means—
- (i) shares that are held by the trustees of the employee share ownership trust at midnight on 20th March 2000, and
  - (ii) shares purchased by those trustees with original funds after that time.
- (3AD) For the purposes of subsection (3AC) above—
- (a) “ original funds ” means any money held by the trustees of the employee share ownership trust in a bank or building society account at midnight on 20th March 2000, and

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- (b) any payment made by the trustees after that time (whether to acquire shares or otherwise) shall be treated as made out of original funds (and not out of money received after that time) until those funds are exhausted.]

<sup>F94</sup>[(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992.]

(4) For the purposes of subsection (1)(b) above a transfer of securities is made on qualifying terms if—

- (a) all the securities transferred at the same time [<sup>F95</sup>other than those transferred on a transfer such as is mentioned in subsection (4ZA) below] are transferred on similar terms,
- (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed [<sup>F96</sup>by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act] when the transfer is made, and
- (c) securities are transferred to all such [<sup>F97</sup>persons] who have accepted.

<sup>F98</sup>(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—

- (a) it is made to a person exercising a right to acquire shares, and
- (b) that right was obtained in accordance with the provisions of [<sup>F99</sup>an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of the Income Tax (Earnings and Pensions) Act 2003)]—
  - (i) which was established by, or by a company controlled by, the company which established the trust, and
  - (ii) which is approved under [<sup>F100</sup>Schedule 3 to that Act], and
- (c) that right is being exercised in accordance with the provisions of that scheme, and
- (d) the consideration for the transfer is payable to the trustees.]

<sup>F101</sup>(4A) For the purposes of subsection (1)(c) above the qualifying period is—

- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
- (b) twenty years, in the case of other trusts;

and for this purpose a trust is established when the deed under which it is established is executed.]

(5) For the purposes of subsection (1)(d) [<sup>F102</sup>or (e)] above each of the following is a qualifying purpose—

- (a) the acquisition of shares in the company which established the trust;
- (b) the repayment of sums borrowed;
- (c) the payment of interest on sums borrowed;
- (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
- (e) the meeting of expenses.

<sup>F103</sup>(5A) The period referred to in paragraph (e) of subsection (1) above is the period—

- (a) beginning with the qualifying transfer mentioned in that paragraph, and
- (b) ending nine months after the end of the period of account in which that qualifying transfer took place.

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For this purpose the period of account means the period of account of the company that established the employee share ownership trust.]

- (6) For the purposes of subsection (4) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.
- (7) In ascertaining for the purposes of this section whether particular securities are retained, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later.
- (8) For the purposes of this section trustees—
  - (a) acquire securities when they become entitled to them (subject to the exceptions in subsection (9) below);
  - (b) transfer securities to another person when that other becomes entitled to them;
  - (c) retain securities if they remain entitled to them.
- (9) The exceptions are these—
  - (a) if securities are issued to trustees in exchange in circumstances mentioned in section <sup>F104</sup>135(1) of the Taxation of Chargeable Gains Act 1992], they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged;
  - (b) if trustees become entitled to securities as a result of a reorganisation, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation” and “original shares” in accordance with section <sup>F104</sup>126] of that Act).
- (10) If trustees agree to take a transfer of securities, for the purposes of this section they shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (11) If trustees agree to transfer securities to another person, for the purposes of this section the other person shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (12) For the purposes of this section the following are securities—
  - (a) shares;
  - (b) debentures.

#### Textual Amendments

- F88** Words in s. 69(1)(c) substituted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 6(2)**
- F89** S. 69(1)(e) inserted (28.7.2000) by 2000 c. 17, s. 55(2)
- F90** S. 69(3AA)-(3AD) inserted (28.7.2000) by 2000 c. 17, s. 55(3)
- F91** Words in s. 69(3AA)(a) substituted (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. 6 para. 160(2)(a)** (with Sch. 7)
- F92** Words in s. 69(3AA)(b) substituted (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. 6 para. 160(2)(b)** (with Sch. 7)
- F93** Words in s. 69(3AC) substituted (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. 6 para. 160(3)** (with Sch. 7)

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- F94** S. 69(3A) inserted (16.7.1992, the amending provision applying in relation to exchanges made on or after 1.1.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 36\(1\)\(2\)](#)
- F95** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in [s. 120\(12\)](#) of the amending Act) by [1996 c. 8, s. 120\(3\)\(a\)](#)
- F96** Words in s. 69(4)(b) inserted (29.4.1996 with effect as mentioned in [s. 120\(12\)](#) of the amending Act) by [1996 c. 8, s. 120\(3\)\(b\)](#)
- F97** Word in s. 69(4)(c) substituted (29.4.1996 with effect as mentioned in [s. 120\(12\)](#) of the amending Act) by [1996 c. 8, s. 120\(3\)\(c\)](#)
- F98** S. 69(4ZA) inserted (29.4.1996 with effect as mentioned in [s. 120\(12\)](#) of the amending Act) by [1996 c. 8, s. 120\(4\)](#)
- F99** Words in s. 69(4ZA)(b) substituted (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. 6 para. 160\(4\)\(a\)](#) (with [Sch. 7](#))
- F100** Words in s. 69(4ZA)(b)(ii) substituted (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. 6 para. 160\(4\)\(b\)](#) (with [Sch. 7](#))
- F101** S. 69(4A) inserted (3.5.1994) by [1994 c. 9, s. 102, Sch. 13 para. 6\(3\)](#)
- F102** Words in s. 69(5) inserted (28.7.2000) by [2000 c. 17, s. 55\(4\)](#)
- F103** S. 69(5A) inserted (28.7.2000) by [2000 c. 17, s. 55\(5\)](#)
- F104** Words in s. 69(9) substituted (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 19\(1\)](#) (with [s. 60, 101\(1\), 171, 201\(3\)](#))

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

- C16** *See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of assets to employee share ownership trusts*
- C17** S. 69 modified (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 142\(2\)](#)
- C18** *Definition employed for purposes of Finance Act 1990 (c. 29) s. 36—roll-over relief where replacement asset owned*

## 70 Chargeable amounts. **U.K.**

- (1) This section has effect to determine the chargeable amount for the purposes of section 68 above.
- (2) If the chargeable event falls within section 69(1)(a), (b) or (c) above the following rules shall apply—
  - (a) if the event constitutes a disposal of the securities by the trustees for the purposes of the <sup>[F105]</sup>Taxation of Chargeable Gains Act 1992], the chargeable amount is an amount equal to the sums allowable under section <sup>[F105]</sup>38(1)(a) and (b) of that Act;
  - (b) if the event does not constitute such a disposal, the chargeable amount is an amount equal to the sums which would be so allowable had the trustees made a disposal of the securities for the purposes of that Act at the time the chargeable event occurs.
- (3) If the chargeable event falls within section 69(1)(d) above the chargeable amount is an amount equal to the sum concerned.
- <sup>[F106]</sup>(4) If the chargeable event falls within section 69(1)(e) above the chargeable amount is an amount equal to—
  - (a) the amount of the consideration received for the qualifying transfer mentioned in section 69(1)(e) above, less



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- (b) the amount of any expenditure by the trustees for a qualifying purpose during the period mentioned in section 69(5A) above.]

**Textual Amendments**

**F105** Words in s. 70(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 19\(2\)](#) (with ss. 60, 101(1), 201(3))

**F106** S. 70(4) inserted (28.7.2000) by [2000 c. 17, s. 55\(6\)](#)

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

**C19** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**71 Further charges to tax: borrowing. U.K.**

- (1) This section applies where—
  - (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees of an employee share ownership trust,
  - (b) at the time the event occurs anything is outstanding in respect of the principal of an amount or amounts borrowed at any time by the trustees, and
  - (c) the chargeable event is one as regards which section 72(2)(b) below applies.
- (2) In the following provisions of this section—
  - (a) “the initial chargeable event” means the event referred to in subsection (1)(a) above, and
  - (b) “the total outstanding amount” means the total amount outstanding, at the time the initial chargeable event occurs, in respect of the principal of an amount or amounts borrowed at any time by the trustees.
- (3) If any of the total outstanding amount is repaid after the initial chargeable event occurs, a further chargeable event shall occur in relation to the trustees at the end of the year of assessment in which the repayment is made.
- (4) In such a case—
  - (a) the trustees shall be treated as receiving, when the further event occurs, [<sup>F107</sup>income of an amount that] is equal to the chargeable amount,
  - [<sup>F108</sup>(b) that income shall be chargeable to income tax for the year of assessment at the end of which the further event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [<sup>F109</sup>, and]
  - (bb) the trustees are liable for any tax so chargeable, ]<sup>F110</sup>...
  - <sup>F111</sup>(c) .....
- (5) Subject to subsection (6) below, for the purposes of subsection (4) above the chargeable amount is an amount equal to the aggregate of the total outstanding amount repaid in the year of assessment.
- (6) In a case where section 72(2)(b) below had effect in the case of the initial chargeable event, for the purposes of subsection (4) above the chargeable amount is an amount equal to the smaller of—

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- (a) the aggregate of the total outstanding amount repaid in the year of assessment, and
  - (b) an amount found by applying the formula A-B-C.
- (7) For the purposes of subsection (6) above—
- (a) A is the amount which would be the chargeable amount for the initial chargeable event apart from section 72(2) below,
  - (b) B is the chargeable amount for the initial chargeable event, and
  - (c) C is the amount (if any) found under subsection (8) below.
- (8) If, before the further chargeable event occurs, one or more prior chargeable events have occurred in relation to the trustees by virtue of the prior repayment of any of the total outstanding amount found for the time the initial chargeable event occurs, the amount found under this subsection is an amount equal to the chargeable amount for the prior chargeable event or to the aggregate of the chargeable amounts for the prior chargeable events (as the case may be).
- (9) In a case where—
- (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees in circumstances mentioned in subsection (1) above,
  - (b) a sum falls to be included in the total outstanding amount found for the time the event occurs,
  - (c) another chargeable event (within the meaning of that section) occurs in relation to the trustees in circumstances mentioned in subsection (1) above, and
  - (d) the same sum or a part of it would (apart from this subsection) fall to be included in the total outstanding amount found for the time the event occurs,
- the sum or part (as the case may be) shall not be included in the total outstanding amount found for the time the other chargeable event occurs.
- (10) In ascertaining for the purposes of this section whether a repayment is in respect of a particular amount, amounts borrowed earlier shall be taken to be repaid before amounts borrowed later.
- (11) Subsections (3) to (7) of section 68 above shall apply where tax is assessed by virtue of this section as they apply where tax is assessed by virtue of that section.

#### Textual Amendments

- F107** Words in s. 71(4)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 408\(a\)](#) (with [Sch. 2](#))
- F108** S. 71(4)(b)(ba)(bb) substituted for s. 71(4)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 408\(b\)](#) (with [Sch. 2](#))
- F109** Word in s. 71(4)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 13 para. 28\(4\)\(a\)\(7\)](#)
- F110** Word in s. 71(4)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 13 para. 28\(4\)\(b\)\(7\)](#), [Sch. 26 Pt. 3\(15\)](#)
- F111** S. 71(4)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 13 para. 28\(2\)\(b\)\(5\)](#), [Sch. 26 Pt. 3\(15\)](#)

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

**C20** See Finance Act 1990 (c. 29) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

**72 Limit on chargeable amount. U.K.**

- (1) For the purposes of this section each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
  - (a) an event which is a chargeable event by virtue of section 69 above;
  - (b) an event which is a chargeable event by virtue of section 71 above.
- (2) If a chargeable event (the event in question) occurs in relation to the trustees of an employee share ownership trust, the following rules shall apply—
  - (a) the amount which would (apart from this subsection) be the chargeable amount for the event in question shall be aggregated, for the purposes of paragraph (b) below, with the chargeable amounts for other chargeable events (if any) occurring in relation to the trustees before the event in question,
  - (b) if the amount which would (apart from this subsection) be the chargeable amount for the event in question (or the aggregate found under paragraph (a) above, if there is one) exceeds the deductible amount, the chargeable amount for the event in question shall be the amount it would be apart from this subsection less an amount equal to the excess, and
  - (c) section 70(2) and (3) and section 71(5) above shall have effect subject to paragraph (b) above.
- (3) For the purposes of subsection (2) above the deductible amount (as regards the event in question) is an amount equal to the total of the sums falling within subsection (4) below.
- (4) A sum falls within this subsection if it has been received by the trustees before the occurrence of the event in question and—
  - (a) it has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, before the occurrence of that event, or
  - (b) it would fall to be so deducted or treated if a claim for relief under section 67 above had been made immediately before the occurrence of that event.

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

**C21** See Finance Act 1990 (c. 29) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

**73 Information. U.K.**

- (1) An inspector may by notice in writing require a return to be made by the trustees of an employee share ownership trust if they have at any time received a sum which has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.
- (2) Where he requires such a return to be made the inspector shall specify the information to be contained in it.

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- (3) The information which may be specified is information the inspector needs for the purposes of sections 68 to 72 above, and may include information about—
- (a) sums received (including sums borrowed) by the trustees;
  - (b) expenditure incurred by them;
  - (c) assets acquired by them;
  - (d) transfers of assets made by them.
- (4) The information which may be required under subsection (3)(a) above may include the persons from whom the sums were received.
- (5) The information which may be required under subsection (3)(b) above may include the purpose of the expenditure and the persons receiving any sums.
- (6) The information which may be specified under subsection (3)(c) above may include the persons from whom the assets were acquired and the consideration furnished by the trustees.
- (7) The information which may be included under subsection (3)(d) above may include the persons to whom assets were transferred and the consideration furnished by them.
- (8) In a case where a sum has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, the inspector shall send to the trustees to whom the payment was made a certificate stating—
- (a) that a sum has been so deducted or so treated, and
  - (b) what sum has been so deducted or so treated.
- (9) In the Table in section 98 of the <sup>M10</sup>Taxes Management Act 1970 (penalties for failure to comply with notices etc.) at the end of the first column there shall be inserted— “ Section 73 of the Finance Act 1989 ”.

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

**C22** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

**Marginal Citations**

**M10** [1970 c. 9](#).

**74 Interpretation. U.K.**

Schedule 5 to this Act shall have effect to determine whether, for the purposes of sections 67 to 73 above, a trust is at a particular time—

- (a) an employee share ownership trust;
- (b) a qualifying employee share ownership trust.

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

**C23** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

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*Pensions etc.*

**F11275 Retirement benefits schemes. U.K.**

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**Textual Amendments**

F112 Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F11276 Non-approved retirement benefits schemes. U.K.**

.....

**Textual Amendments**

F112 Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F11277 Personal pension schemes. U.K.**

.....

**Textual Amendments**

F112 Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

*Unit trusts etc.*

**78, 79. .... F113 U.K.**

**Textual Amendments**

F113 Ss. 78, 79 repealed by Finance Act 1990 (c. 29, SIF 58), s.132, Sch. 19 Pt. IV Note

**F11480 ..... U.K.**

**Textual Amendments**

F114 S. 80 repealed (31.7.1998) by 1998 c. 36, s. 165, Sch. 27 Pt. III(23)

**81 Offshore funds operating equalisation arrangements. U.K.**

(1) In section 758 of the Taxes Act 1988 (offshore funds operating equalisation arrangements) in subsection (6) (reference to section 78 of the<sup>M11</sup> Capital Gains Tax

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Act 1979 not to include reference to it as applied by section 82) for the words “but not” there shall be substituted the words “and a reference to section 78”.

- (2) This section shall apply where a conversion of securities occurs on or after 14th March 1989; and “conversion of securities” here has the same meaning as in section 82 of the Capital Gains Tax Act 1979.

#### Marginal Citations

**M11** 1979 c. 14.

### *Life assurance*

#### [<sup>F115</sup>82] Calculation of profits: bonuses etc **U.K.**

- (1) This section and sections 82A [<sup>F116</sup>to [<sup>F117</sup>82F]] below have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) Any amounts which are allocated to policy holders or annuitants in respect of a period of account are allowed as a deduction in calculating the profits for the period of account.
- (3) For the purposes of subsection (2) above, an amount is allocated to policy holders or annuitants if (but only if)—
- (a) bonus payments are made to them,
  - (b) reversionary bonuses are declared in their favour, or
  - (c) a reduction is made in the premiums payable by them.
- (4) Where an amount is allocated to policy holders or annuitants for the purposes of subsection (2) above, the amount of the allocation is—
- (a) in the case of bonus payments, the amount of the payments,
  - (b) in the case of declared reversionary bonuses, the amount of the liabilities assumed by the company in consequence of the declaration, and
  - (c) in the case of a reduction in premiums, the amount of the liabilities assumed by the company in consequence of the reduction.

#### Textual Amendments

- F115** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(1\)](#)
- F116** Words in s. 82(1) substituted (with effect in accordance with Sch. 7 para. 5(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 5\(1\)](#)
- F117** Word in s. 82(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **11**

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

- C24** S. 82 modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(SI 1997/473\)](#), reg. 32 (as substituted (8.4.2004) by [S.I. 2004/822](#), regs. 1, 27)

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**C25** S. 82(1)(b) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), 26

## **82A Calculation of profits: policy holders' tax** **U.K.**

- (1) Tax expended on behalf of policy holders or annuitants is allowed as a deduction in calculating the profits to the extent (but only to the extent) that regulations made by the Treasury so provide.
- (2) The regulations may include provision for tax so expended to be so allowed even if it is not brought into account.
- (3) The regulations—
  - (a) may make different provision for different cases, and
  - (b) may include provision having effect in relation to periods of account during which they are made.

### **Textual Amendments**

**F115** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(1\)](#)

## **82B Unappropriated surplus on valuation** **U.K.**

- (1) This section applies in relation to a period of account of the insurance company (“the period of account in question”) where—
  - (a) at the end of the period of account in question the company has an unappropriated surplus on valuation as shown in the return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers) (an “unappropriated surplus”), and
  - (b) the company has not made an election in accordance with <sup>[F118]</sup>Rule 9.10(c) of the Prudential Sourcebook (Insurers) covering the period of account in question.
- (2) Where the company did not have an unappropriated surplus at the end of the period of account immediately preceding the period of account in question, so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness is allowed as a deduction in calculating the profits for the period of account in question.
- (3) Where the company did have an unappropriated surplus at the end of that immediately preceding period of account—
  - (a) if so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet that duty, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
  - (b) if so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of the period of

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account in question as is required to meet that duty, the excess is to be taken into account as a receipt of the period of account in question.

- (4) In arriving for the purposes of this section at the amount of the unappropriated surplus which is or was required to meet the duty of fairness there is to be deducted the aggregate of amounts which—
- (a) for periods of account ending before 14th March 1989 (and the first notional period of account, within the meaning of section 82 above as originally enacted) have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policy holders or annuitants, and
  - (b) have not before that date either been allocated to or expended on behalf of policy holders or annuitants or been treated as profits of an accounting period on ceasing to be so reserved.
- (5) References in this section to the company's duty of fairness are to the company's duty to treat its policy holders and annuitants fairly with regard to terminal bonuses.]

#### Textual Amendments

**F115** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 1(1)**

**F118** Words in s. 82B(1)(b) substituted (with effect in accordance with Sch. 9 para. 10(3) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 9 para. 10(2)**

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

**C26** S. 82B applied (with modifications) (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 1(6)**

**C27** S. 82B modified by SI 1997/473 reg. 32A (as inserted (8.4.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), regs. 1, **28** (as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2005\)](#), regs. 1(1), 7)

**C28** S. 82B modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), **27**

### <sup>F119</sup> **82C Relevant financial reinsurance contracts** **U.K.**

.....

#### Textual Amendments

**F119** S. 82C repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), Sch. 9 para. 9, **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2

### <sup>F120</sup> **82D. Treatment of profits: life assurance — adjustment consequent on change in Insurance Prudential Sourcebook** **U.K.**

- (1) This section applies in the case of—
- (a) a company which is a non-profit company, or
  - (b) the non-profit fund of a company which is not a non-profit company,



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if an amount [<sup>F121</sup>(“the relevant amount”)] is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for [<sup>F122</sup>a] period of account which ends on or after 31st December 2006 [<sup>F123</sup>but before 1st January 2009 (a “relevant period of account”)] .

[<sup>F124</sup>(2) In computing profits for the purposes of the Taxes Act 1988 in accordance with the provisions applicable to Case I of Schedule D—

- (a) X shall be added to the closing liabilities of the company for the relevant period of account; and
- (b) XA shall be brought into account as a trading receipt of the company for each subsequent period of account until the total sum of the amounts so brought into account is equal to X (and if that total sum would otherwise exceed X, the excess shall be ignored).

(2A) In applying subsection (2)(b) above no account shall be taken of a period of account which is deemed to exist by virtue of section [<sup>F125</sup>444AA(4)] of the Taxes Act 1988.

(2B) X is—

- (a) where the relevant period of account ends before 1st April 2007, the whole of the relevant amount;
- (b) where the relevant period of account ends on or after 1st April 2007 but before 1st January 2008, two-thirds of the relevant amount;
- (c) where the relevant period of account ends on or after 1st January 2008, one-third of the relevant amount.

(2C) XA is the amount found by the applying the following formula—

$(Y/12) \times Z$

$Y/12 \times Z$

Here—

Y is the number of months in the period of account in question (part of a month being counted as a month); and

Z is—

- (a) where X is the whole of the relevant amount, one-third of X;
- (b) where X is two thirds of the relevant amount, one-half of X;
- (c) where X is one third of the relevant amount, the whole of X.]

[<sup>F126</sup>(3) .....

[<sup>F127</sup>(4) In a case falling within subsection (1)(b) above, the relevant amount shall be reduced (but not below nil) by so much (if any) of the amount shown in paragraph 4(12) of Appendix 9.4 to the periodical return as is reflected in column 1 of line 51 of the Form 14 for that period of account relating to the non-profit fund in question.]

[<sup>F128</sup>(5) .....

[ This section is subject to sections 82E and 82F below.]]

[<sup>F129</sup>(6)

#### Textual Amendments

**F120** S. 82D inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment No. 2\) Order 2006 \(S.I. 2006/3387\)](#), arts. 1(1), **5**

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- F121** Words in s. 82D(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(a)**
- F122** Word in s. 82D(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(b)**
- F123** Words in s. 82D(1) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(c)**
- F124** Ss. 82D(2)-(2C) substituted for s. 82D(2) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(3)**
- F125** Word in s. 82D(2A) substituted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 3(3)(b)**
- F126** S. 82D(3) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(4)**
- F127** S. 82D(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(5)**
- F128** S. 82D(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 8(2)(b)**, **Sch. 27 Pt. 2(10)**
- F129** S. 82D(6) added (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(6)**

**[<sup>F130</sup>82E. Section 82D: treatment of transferors under insurance business transfer schemes U.K.**

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) Where the last period of account of the transferor ending before the transfer ends otherwise than immediately before the transfer, there is to be deemed for the purposes of this section and section 82D above to be—
  - (a) a period of account of the transferor beginning immediately after the last period of account ending before the transfer and ending immediately before the transfer;
  - (b) a period of account of the transferor beginning immediately after the transfer.
- (3) In applying section 82D above and this section, where subsection (2) above applies, no account shall be taken of a period of account of the transferor which includes the time of the transfer.
- (4) Where the transfer is of the whole, or substantially the whole, of the long-term business of the transferor, the transferor may make an election under this subsection.
- (5) An election under subsection (4) above—
  - (a) is irrevocable; and
  - (b) is to be made by notice to an officer of Revenue and Customs no later than the end of the period of 28 days beginning with the day following that on which the transfer takes place.

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- (6) Where the transferor makes an election under subsection (4) above then in computing profits for the purposes of the Taxes Act 1988 in accordance with the provisions applicable to Case I of Schedule D—
- (a) the aggregate of all the amounts that would have been brought into account under section 82D(2)(b) above for periods of account of the transferor subsequent to the transfer if the transfer had not taken place shall be brought into account as a trading receipt of the transferor for the period of account ending immediately before the transfer; and
  - (b) section 82D(2)(b) above shall have no effect in relation to subsequent periods of account of the transferor.
- (7) Where the transferor does not make an election under subsection (4) above then for any period of account of the transferor ending on or after the transfer—
- (a) in the case of a transfer of the whole of the long-term business, no amount shall be brought into account under section 82D(2)(b) above;
  - (b) in the case of a transfer of part of the long-term business, the amount to be so brought into account shall be reduced by the appropriate amount mentioned in section 82F(4) below.

#### Textual Amendments

**F130** Ss. 82E, 82F inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **13**

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

**C29** [S. 82E](#) applied (with modifications) by 1988 c. 1, s. 432YA(6) (as added) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **3(5)**

### **82F. Section 82D: treatment of transferees under insurance business transfer schemes** **U.K.**

- (1) This section applies where—
- (a) an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”); and
  - (b) the transferor does not make an election under section 82E(4) above.
- (2) For the purposes of this section and section 82D above, where the first period of account of the transferee ending after the transfer began before the transfer, it shall be treated as beginning immediately after the transfer.
- (3) Section 82D above shall apply as if—
- (a) the reference in subsection (2)(b) of that section to subsequent periods of account included a reference to periods of account of the transferee ending on or after the transfer; and
  - (b) the reference in that subsection to the company included a reference to the transferee.
- (4) The amount to be brought into account as a trading receipt of a transferee (or, if there is more than one transferee, all the transferees) for a period of account by virtue of this section shall not exceed the appropriate amount.

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- (5) Where there is more than one transferee, the amount to be brought into account as a trading receipt of each transferee for a period of account by virtue of this section shall be the relevant fraction of the appropriate amount.
- (6) The appropriate amount is the amount which bears to XA for the period of account in question “the relevant proportion”.
- Here—
- XA has the meaning given by section 82D(2C) above; and
- “the relevant proportion”, in relation to a transferee, is the proportion that the liabilities of the transferor to policy holders and annuitants transferred to the transferee bear to such liabilities of the transferor immediately before the transfer.
- (7) The relevant fraction, in relation to a transferee, is the fraction of which—
- (a) the numerator is the liabilities of the transferor to policy holders and annuitants transferred to the transferee; and
  - (b) the denominator is the liabilities of the transferor to policy holders and annuitants transferred to all the transferees.]

#### Textual Amendments

**F130** Ss. 82E, 82F inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **13**

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

**C30** S. 82F applied (with modifications) by 1988 c. 1, s. 432YA(6) (as added (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **3(5)**)

### [<sup>F131</sup> 83 Receipts to be [<sup>F132</sup> taken] into account. **U.K.**

- (1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.

- [<sup>F133</sup>(2) There shall be taken into account as receipts of a period of account amounts (so far as referable to that business) brought into account for the period of account as—
- (a) investment income receivable before deduction of tax,
  - (b) an increase in the value of non-linked assets,
  - (c) an increase in the value of linked assets, <sup>F134</sup>...
  - (d) other income; [<sup>F135</sup>or
  - (e) business transfers-in.]

and if amounts (so far as so referable) are brought into account for a period of account as a decrease in the value of non-linked assets or a decrease in the value of linked assets they shall be taken into account as an expense of the period of account.

- [<sup>F136</sup>(2ZA) Amounts brought into account as mentioned in subsection (2) above are not to be taken into account in any other way; and this subsection applies in spite of—

- (a) section 80(5) of the Finance Act 1996 (taxation of loan relationships),

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- (b) paragraph 1(2) of Schedule 26 to the Finance Act 2002 (taxation of profits from derivative contracts), and
- (c) paragraph 1(3) of Schedule 29 to that Act (gains and losses in respect of intangible fixed assets).]

(2A) But subsection (2) above does not require to be taken into account as receipts of a period of account so much of the amounts brought into account as mentioned in [F137 paragraphs (a) to (e)] of that subsection for the period of account as—

[F138(a) comprises notional income for the period of account (see subsections (2AA) and (2AB)),

(aa) represents an inter-fund transfer (see subsections (2AC) and (2AD)),]

[F139(ab) comprises a business transfer-in that is not brought into account in a revenue account prepared for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers) in respect of the whole of the company's long-term business,]

F140(b) .....

(c) consists of interest paid under section 826 of the Taxes Act 1988 (interest on tax overpaid) in respect of a repayment or payment relating to an accounting period of the company ending before 1st July 1999;

but, subject to that, the whole of the amounts so brought into account for a period of account shall be taken into account as receipts of the period of account.

[F141(2AA) For the purposes of subsection (2A)(a) above, an amount brought into account as mentioned in paragraphs (a) to (d) of subsection (2) above for a period of account is to be regarded as notional income for the period of account if—

- (a) it represents income which has not been received, and is not receivable, from another person, and
- (b) a corresponding notional expense of the same amount is brought into account in the period of account;

and where particular income falls to be regarded as notional income under this subsection, the notional expense by virtue of which that income falls to be so regarded may not be taken into account for determining whether any other income is to be so regarded.

(2AB) In subsection (2AA) above “notional expense” means an expense which has not been paid, and is not payable, to another person and which—

- (a) is not deductible in computing the profits of the company in respect of its life assurance business in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, but
- (b) had it represented an amount paid or payable to another person, would have been so deductible.

(2AC) For the purposes of subsection (2A)(aa) above, where—

- (a) one or more inter-fund transfers (“transfers-in”) are made into a fund and one or more inter-fund transfers (“transfers-out”) are made out of the fund, and
- (b) the amount brought into account for the period of account as other income in respect of the transfers-in represents the amount by which—
  - (i) the amount or aggregate amount of the transfers-in, exceeds
  - (ii) the amount or aggregate amount of the transfers-out,

only the amount of that excess shall be taken to represent the transfers-in.

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(2AD) In this section “inter-fund transfer” means a transfer between two funds which in the company’s periodical return is shown in, or included in amounts shown in, line 14 or 33 of the Forms 58 for the funds.]

(2B) If any assets of the company’s long-term insurance fund are transferred by the company so that they cease to be assets of that fund, [<sup>F142</sup>the fair value of the assets at the time of the transfer, reduced by any amount brought into account in respect of them (for the period of account in which the transfer takes place or any earlier period of account) as part of total expenditure or [<sup>F143</sup>by being netted off against incomings in lines 11 to 15 of a revenue account] ,] shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the value of the assets of that fund [<sup>F144</sup>except to the extent that any of the exclusions in subsections (2C) to (2E) below apply.]

<sup>F145</sup> .....

(2C) Assets transferred to discharge liabilities in respect of deposits received from reinsurers or arising out of insurance operations, debenture loans or amounts borrowed from credit institutions are included in subsection (2B) above only if the deposits, loans or amounts borrowed—

- (a) were brought into account for any period of account, but
- (b) were not taken into account as receipts of the period of account under subsection (2) above.

(2D) Assets are excluded from subsection (2B) above if they are transferred for at least their fair value and the consideration for their transfer, when received, forms part of the company’s long-term insurance fund.

[<sup>F146</sup>(2DA) If—

- (a) assets of the company’s long-term insurance fund are transferred by the company to another person (“the transferee”),
- (b) the transferee assumes, as a result of the transfer, a liability representing a debenture loan which, immediately before the transfer, was a liability of that fund, and
- (c) the liability does not, as a result of the transfer, become a liability of any long-term insurance fund of the transferee,

so much of the fair value of the assets as does not exceed the fair value of the liability is excluded from subsection (2B) above.]

[<sup>F147</sup>(2E) Assets transferred by an insurance business transfer scheme are excluded from subsection (2B) above.]]

<sup>F148</sup>(3) .....

<sup>F148</sup>(4) .....

<sup>F148</sup>(5) .....

<sup>F148</sup>(6) .....

<sup>F149</sup>(6A) .....

<sup>F148</sup>(6B) .....

<sup>F148</sup>(6C) .....

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F148(7) .....

F150(8) In this section—

F151 .....

F151 .....

[<sup>F152</sup>“fair value”<sup>F153</sup>—

(a) <sup>F154</sup> .....

(b) in relation to liabilities, means the amount which would be paid to an independent person assuming them;]]

F151 .....

This subsection does not apply where, or to the extent that, the amount concerned—

(a) would fall to be taken into account as a receipt apart from this section,

(b) is otherwise taken into account under subsection (2) above, or

(c) is specifically exempted from tax.]

#### Textual Amendments

**F131** Ss. 83, 83A substituted for s. 83 (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. I para. 16(1)** (with Sch. 8 paras. 55(2), 57(1))

**F132** Word in s. 83 heading substituted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(10)**

**F133** S. 83(2)-(2E) substituted for s. 83(2) (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(2)**

**F134** Word in s. 83(2)(c) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(a)**

**F135** S. 83(2)(e) and preceding word added (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(b)**

**F136** S. 83(2ZA) inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 4(2)**

**F137** Words in s. 83(2A) substituted (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(3)**

**F138** S. 83(2A)(a)(aa) substituted for s. 83(2A)(a) (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 12(2)**

**F139** S. 83(2A)(ab) inserted (with effect in accordance with Sch. 10 para. 17(5) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 4(3)**

**F140** S. 83(2A)(b) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 6(2), Sch. 27 Pt. 2(9); S.I. 2008/379, art. 2**

**F141** S. 83(2AA)-(2AD) inserted (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 12(3)**

**F142** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(5) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 10(2)**

**F143** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 10(3)(a); S.I. 2008/379, art. 2**

**F144** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 10(3)(b); S.I. 2008/379, art. 2**

**F145** Words in s. 83(2B) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 10(4), Sch. 27 Pt. 2(9); S.I. 2008/379, art. 2**

**F146** S. 83(2DA) inserted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by **Finance Act 2006 (c. 25), Sch. 11 para. 6(3)**

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- F147** S. 83(2E) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 10(5)**; S.I. 2008/379, art. 2
- F148** S. 83(3)-(7) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 11(2)(a), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F149** S. 83(6A) repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**
- F150** S. 83(3)-(8) substituted for s. 83(3) (29.4.1996 with effect as mentioned in Sch. 31 para. 10(2) of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 4**
- F151** Words in s. 83(8) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 11(2)(a), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F152** Words in s. 83(8) inserted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 2(8)**
- F153** Words in s. 83(8) substituted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 6(4)**
- F154** Words in s. 83(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 10(3)(d), **Sch. 27 Pt. 2(10)**

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

- C31** S. 83 applied (1.5.1995) by 1988 c. 1, s. 439B(3)(a) (as inserted (1.5.1995) by 1995 c. 4, s. 51, Sch. 8 Pt. I para. 27(1) (with Sch. 8 paras. 55(2), 57(1)))  
 S. 83 modified (*retrospective* to 1.1.1995) by S.I. 1997/473, **regs. 1(2), 33, 34**
- C32** S. 83 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **reg. 33** (as amended (8.4.2004) by S.I. 2004/822, **regs. 1, 29**)
- C33** S. 83 amendment to earlier affecting provision SI 1997/473 (8.4.2004) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2004 (S.I. 2004/822), **regs. 1, 30**
- C34** S. 83 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 28**
- C35** S. 83(6) amendment to earlier affecting provision SI 1997/473 (8.4.2004) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2004 (S.I. 2004/822), **regs. 1, 30**

**[<sup>F155</sup>83XS] Structural assets U.K.**

- (1) Section 83(2) does not require to be taken into account as receipts or expenses of a period of account income from, or an increase or a decrease in the value of, structural assets held by an insurance company in a non-profit fund.
- (2) For the purposes of subsection (1) above—
  - (a) an increase in the value of structural assets includes any amount by which their fair value when they cease to be structural assets, or come to be held otherwise than in any of the company's non-profit funds, exceeds their admissible value at the end of the preceding period of account, and
  - (b) a decrease in the value of structural assets includes any amount by which the admissible value of the assets at the end of the period of account in which they become structural assets, or come to be held in any of the company's non-profit funds, is less than their historic cost.
- (3) In this section “structural assets” means—
  - (a) shares, debts and loans the value of which is required to be entered in lines 21 to 24 of Form 13 in the periodical return (UK insurance dependants and other insurance dependants), and



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- (b) assets of such other descriptions as are specified by regulations made by the Treasury.
- (4) Where a structural asset held by an insurance company in a non-profit fund ceases to be a structural asset or comes to be held otherwise than in any of the company's non-profit funds and, immediately before it came to be a structural asset held in any of the company's non-profit funds it (or any part of it) was an asset of the company's long-term insurance fund, the relevant value difference is to be taken into account under section 83(2)—
- (a) as a receipt (if it is a positive amount), or
- (b) as an expense (if it is a negative amount),
- of the relevant period of account.
- (5) For the purposes of subsection (4) above “the relevant value difference”, in relation to an asset, is—
- HC - AV
- HCAV
- where—
- HC is its historic cost, and
- AV is its admissible value at the relevant time.
- (6) In subsection (4) above “the relevant period of account” means—
- (a) in a case within paragraph (a) of that subsection, the period of account in which the asset ceases to be a structural asset or comes to be held otherwise than in any of the company's non-profit funds, and
- (b) in a case within paragraph (b) of that subsection, the period of account in which the asset first comes to be held otherwise than by the company or (where the company is a member of a group) otherwise than by a company which is a member of the group;
- and section 170 of the Taxation of Chargeable Gains Act 1992 (meaning of “group” etc) has effect for the interpretation of this subsection.
- (7) In subsection (5) above “the relevant time” means—
- (a) in a case where assets become structural assets held in any of the company's non-profit funds by virtue of the commencement of this section, the end of the last period of account of the company beginning before 1st January 2007, and
- (b) otherwise, the time when the assets become structural assets held in any of the company's non-profit funds.
- (8) In this section “historic cost”, in relation to an asset which is or has been held in any of the company's non-profit funds, means—
- (a) where the asset came to be held in any of the company's non-profit funds on acquisition from another person, the consideration given by the company for the acquisition of the asset, and
- (b) otherwise, its fair value when it came to be held in any of the company's non-profit funds.
- (9) In this section “admissible value”, in relation to an asset and a time, means the value of the asset as shown in column 1 of Form 13 of the periodical return for the period ending

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- with that time (or as would be so shown if there were a periodical return covering a period ending with that time).
- (10) Regulations made by the Treasury may make provision for computing for the purposes of the Taxation of Chargeable Gains Act 1992 any gain or loss arising on a disposal by an insurance company of a structural asset held in a non-profit fund in any case where the condition in subsection (11) is met.
- (11) The condition in this subsection is met if, in any period of account of the company in which the asset was held by it—
- (a) income arising from the asset was (or, had there been any, would have been) referable to any category of long-term business the profits of which fell for that period of account to be computed in accordance with the provisions applicable to Case I of Schedule D, or
  - (b) the company was charged to tax on the profits of its life assurance business under Case I of Schedule D.
- (12) Structural assets held by an insurance company in a non-profit fund are to be treated as being within paragraph (f) of subsection (4) of section 440 of the Taxes Act 1988; but no disposal or re-acquisition is to be deemed to occur by virtue of an asset ceasing to be within any other paragraph of that subsection and coming within that paragraph on becoming such a structural asset.
- (13) Structural assets held by an insurance company in a non-profit fund are to be treated as being “remaining” securities within section 440A(2)(e) of the Taxes Act 1988.
- (14) Section 432A of the Taxes Act 1988 does not have effect in relation to income arising from, or gains and losses accruing on the disposal of, structural assets held by an insurance company in a non-profit fund.
- (15) Regulations under subsection (3) or (10) above may be made so as to have effect in relation to periods of account current when they are made (as well as periods of account beginning later).]

#### Textual Amendments

**F155** S. 83XA inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 2](#)

#### [<sup>F156</sup>83YA] **Changes in value of assets brought into account: non-profit companies** **U.K.**

- (1) This section applies if, in the case of any non-profit company,—
- (a) the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for any period of account (“the current period of account”), exceeds
  - (b) the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds (if any) for that period.
- (2) A comparison shall be made between—
- (a) the appropriate line 51 amount of the company for the current period of account (“the current line 51 amount”), and

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- (b) the aggregate amount of the appropriate line 51 amount of the company for the previous period of account (if any) and the amount of any transfer-in amount of the company for that period.
- (3) If the current line 51 amount is greater than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as an increase in the value of non-linked assets.
- (4) If the current line 51 amount is less than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as a decrease in the value of non-linked assets.
- (5) The amount brought into account by virtue of this section shall be deemed for the purposes of section 83(2) to be brought into account—
  - (a) in the revenue account mentioned in section 83A(2)(a), or
  - (b) if section 83A(4) is applicable, in the separate revenue account treated as prepared by virtue of that provision.
- (6) Any amount brought into account by virtue of this section is in addition to any amount brought into account for the purposes of section 83(2) for the current period of account as an increase or decrease in the value of non-linked assets apart from this section.
- (7) For the purposes of this section a company has a transfer-in amount for any period of account (“the previous period of account”) if <sup>F157</sup> a transfer takes place in the following period of account; and the amount of the transfer-in amount for the previous period of account is any amount by which—
  - (a) the fair value of such of the assets of the long-term insurance fund of the company immediately after the transfer as were assets of the transferor's long-term insurance fund immediately before the transfer, exceeds
  - (b) the amount of any business transfer-in brought into account in accordance with section 83(2)(e) in relation to the transfer.]
- <sup>F158</sup>(8) .....
- (9) But if a company considers that, in relation to a period of account, it is no longer such a company, it may elect to be treated for the purposes of this section and section 83YB as if, in relation to that period of account and every subsequent period of account, it were a non-profit company.
- (10) Any such election—
  - (a) is irrevocable, and
  - (b) must be made by notice to an officer of the Board on or before the end of the period of 6 months beginning with the day on which that period of account ends.
- (11) For the purposes of this section and section 83YB—
  - “amount”, in relation to line 51 of Form 14 of the company's periodical return, includes a nil amount;
  - <sup>F159</sup> .....

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#### Textual Amendments

- F156** Ss. 83YA, S. 83YB inserted (with effect in accordance with Sch. 11 para. 7(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 11 para. 7(1)**
- F157** Words in s. 83YA(7) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 7(2)**
- F158** S. 83YA(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 8(2)(c)**, **Sch. 27 Pt. 2(10)**
- F159** Words in s. 83YA(11) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 8(2)(c)**, **Sch. 27 Pt. 2(10)**

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

- C36** S. 83YA modified (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 11 para. 7(3)-(6)**

### 83YB Meaning of “appropriate line 51 amount” for purposes of s.83YA **U.K.**

- (1) For the purposes of section 83YA, the appropriate line 51 amount of a non-profit company for any period of account is determined as follows.

#### *Step 1*

Find the company's basic line 51 amount for the period of account.

#### *Step 2*

Reduce that amount (but not below nil) by the amount of any unrecognised capital amount of the company for the period of account.

But this step applies only if the period of account for which the appropriate line 51 amount of the company is being determined is the current period of account for the purposes of section 83YA.

#### *Step 3*

Increase the resulting amount by the amount of any relevant loan repayment made by the company in the period of account.

- (2) For the purposes of step 1, the company's basic line 51 amount for any period of account is—
- (a) in the case where no with-profits funds form part of its long-term business for that period, the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for that period, and
  - (b) in any other case, so much of that amount as exceeds the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds for that period.
- (3) For the purposes of step 2, the company has an unrecognised capital amount for any period of account if—
- (a) any assets (“the added assets”) become assets of its long-term insurance fund but do not become assets of any of its with-profits funds,
  - (b) the consideration for the acquisition of the added assets does not comprise any assets which, immediately before the acquisition, were assets of its long-term insurance fund,

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- (c) no amount is shown in respect of the added assets in any of lines 17 to 41 of Form 14 of its periodical return in respect of the whole of its long-term business for the period of account, and
  - (d) no amount is brought into account for the period of account in consequence of the acquisition of the added assets.
- (4) For the purposes of step 2, the amount of the unrecognised capital amount for the period of account is the amount equal to the fair value of the added assets.
- <sup>F160</sup>(5) .....
- (6) For the purposes of step 3, a relevant loan repayment is made by the company in any period of account if—
- (a) a repayment in respect of a loan is made by the company in the period of account, and
  - (b) the loan is one in relation to which the company has, for the purposes of step 2, an unrecognised capital amount for that or any other period of account.]

**Textual Amendments**

**F156** Ss. 83YA, S. 83YB inserted (with effect in accordance with Sch. 11 para. 7(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(1\)](#)

**F160** S. 83YB(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 10\(3\)\(e\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

**C37** S. 83YB modified (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(3\)-\(6\)](#)

**[<sup>F161</sup>83ZA Contingent loans U.K.]**

- (1) For the purposes of this section a contingent loan is made to an insurance company if—
- (a) a deposit is received by the company from a reinsurer or arises out of insurance operations of the company,
  - (b) a debenture loan is made to the company, or
  - (c) an amount is borrowed by the company from a credit institution,
- and the deposit, debenture loan or amount borrowed is taken into account as a receipt of the company under section 83(2) above.
- (2) For the purposes of this section the time when a contingent loan is made to an insurance company is the time when the assets constituting the deposit, debenture loan or amount borrowed are received by the company.
- (3) For the purposes of this section an insurance company has unrepaid contingent loan liabilities at any time if—
- (a) one or more contingent loans have been made to the company at or before that time, and
  - (b) amounts will or may at some later time become repayable by the company in respect of the contingent loan or contingent loans.
- (4) Where, at [<sup>F162</sup>any time during a] period of account of an insurance company (“the period of account in question”), the company has unrepaid contingent loan liabilities—

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- (a) subsection (5) below applies if the company did not have unrepaid contingent loan liabilities at the end of the period of account immediately preceding the period of account in question, and
  - (b) subsection (6) below applies if it did.
- (5) Where this subsection applies, the appropriate amount for the period of account in question is allowed as a deduction in calculating the profits of the company for the period of account in question.
- (6) Where this subsection applies—
- (a) if the appropriate amount for the period of account in question exceeds the appropriate amount for the immediately preceding period of account, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
  - (b) if the appropriate amount for the immediately preceding period of account exceeds the appropriate amount for the period of account in question, the excess is to be taken into account as a receipt of the period of account in question.
- (7) For the purposes of subsections (5) and (6) above the appropriate amount for a period of account is the amount of the unrepaid contingent loan liabilities at the end of the period of account reduced (but not below nil) by <sup>F163</sup>...—
- (a) any relevant net transfers to shareholders, <sup>F164</sup>...
  - <sup>F164</sup>(b) .....
- (8) In subsection (7)(a) above “relevant net transfers to shareholders” means the aggregate of the positive amounts brought into account as transfers to non-technical account for—
- (a) the period of account,
  - (b) the period of account in which the relevant contingent loan was made to the company, and
  - (c) any period of account falling between the periods of account mentioned in paragraphs (a) and (b) above,
- as reduced in accordance with subsection (9) below.
- (9) The reduction to be made from the positive amount brought into account as a transfer to non-technical account for any of the periods of account mentioned in subsection (8) above is so much of the positive amount as does not exceed 12% of the amount allocated to policy holders as bonuses in relation to the period of account.
- <sup>F165</sup>(10) .....
- (11) In [<sup>F166</sup>subsection (8)] above “the relevant contingent loan” means—
- (a) if amounts will or may at some later time become repayable by the company in respect of only one contingent loan, that contingent loan, and
  - (b) if amounts will or may at some later time become repayable by the company in respect of more than one contingent loan, whichever of those contingent loans was made to the company first.
- <sup>F167</sup>(12) .....
- (13) Where in a period of account of an insurance company—
- (a) an amount becomes repayable under a contingent loan made to the company, and

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- (b) the amount repayable is brought into account as other expenses for the period of account,  
so much of the amount repayable as does not exceed the amount specified in subsection (14) below is allowed as a deduction in calculating the profits of the company for the period of account.
- (14) The amount referred to in subsection (13) above is the amount arrived at by deducting from the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan the aggregate of any amounts which—
- (a) have become repayable in respect of the contingent loan in any earlier period of account, and
- (b) have been allowed as a deduction in calculating the profits of the company for any such period.
- (15) The references in subsections (8)<sup>F168</sup> ... and (13) above to an amount being brought into account—
- (a) in a case where the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan or loans in question is an amount brought into account in an account concerned wholly with non-participating business, are to its being brought into account in that account or in any other account concerned wholly with non-participating business, and
- (b) in a case where the amount so taken into account is an amount brought into account in an account concerned wholly or partly with participating business, are to its being brought into account in that account or in any other account concerned wholly or partly with participating business.
- (16) Where—
- (a) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly with non-participating business is brought into account as other income in an account concerned wholly or partly with participating business, or
- (b) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly or partly with participating business is brought into account as other income in an account concerned wholly with non-participating business,
- subsection (8) above has effect as if it were a positive amount brought into account as transfers to non-technical account for that period of account in the account in which it is brought into account as other expenditure.
- (17) For the purposes of subsections (15) and (16) above—
- (a) an account is concerned wholly with non-participating business if it relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus, and
- (b) an account is concerned wholly or partly with participating business if it relates wholly or partly to other policies or contracts.]

#### Textual Amendments

**F161** S. 83ZA inserted (with effect in accordance with Sch. 33 para. 3(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 3\(1\)](#)

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- F162** Words in s. 83ZA(4) substituted (retrospective to 19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 1](#)
- F163** Words in s. 83ZA(7) repealed (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(2\)\(a\)](#), [Sch. 26 Pt. 3\(14\)](#)
- F164** S. 83ZA(7)(b) and preceding word repealed (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(2\)\(b\)](#), [Sch. 26 Pt. 3\(14\)](#)
- F165** S. 83ZA(10) repealed (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(3\)](#), [Sch. 26 Pt. 3\(14\)](#)
- F166** Words in s. 83ZA(11) substituted (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(4\)](#), [Sch. 26 Pt. 3\(14\)](#)
- F167** S. 83ZA(12) repealed (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(5\)](#), [Sch. 26 Pt. 3\(14\)](#)
- F168** Words in s. 83ZA(15) repealed (with effect in accordance with Sch. 11 para. 8(7) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 8\(6\)](#), [Sch. 26 Pt. 3\(14\)](#)

**[<sup>F169</sup> 83A** **Meaning of “brought into account”. U.K.**

- (1) <sup>F170</sup> ... “brought into account” means brought into account in an account which is recognised for the purposes of [<sup>F171</sup>sections 82A to 83ZA].
- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of [<sup>F172</sup>those sections] are—
- (a) a revenue account prepared for the purposes of [<sup>F173</sup>Chapter 9 of the Prudential Sourcebook (Insurers)] in respect of the whole of the company’s [<sup>F174</sup>long-term] business;
  - (b) any separate revenue account required to be prepared [<sup>F175</sup>under that Chapter] in respect of a [<sup>F176</sup>with-profits fund <sup>F177</sup>...].

<sup>F178</sup> ...

- (3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.

[ Where, in the case of any with-profits fund in respect of which there is prepared such <sup>F179</sup>(3A) a separate account (“the sub-fund”),—

- (a) the sub-fund forms part of another with-profits fund (“the wider fund”) in respect of which such a separate account is also prepared,
- (b) in the case of a company whose life assurance business is mutual business, the sub-fund and each other with-profits fund which forms part of the wider fund are 100:0 funds, and
- (c) the wider fund—
  - (i) does not form part of another with-profits fund in respect of which such a separate account is also prepared, or
  - (ii) forms part of another with-profits fund in respect of which such a separate account is also prepared and that separate account is treated by this subsection as not being a recognised account for the purposes of those sections,

the account in respect of the wider fund shall not be a recognised account for the purposes of those sections.



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- (3B) Where, in the case of such a separate account prepared in respect of a with-profits fund,—
- (a) the account is not prevented from being a recognised account for the purposes of those sections by virtue of subsection (3A) above, but
  - (b) if paragraph (b) of that subsection were to be omitted, the account would be prevented from being such a recognised account by virtue of that subsection, no such separate account prepared in respect of a with-profits fund forming part of that fund shall be such a recognised account.
- (3C) In subsection (3A) above “100:0 fund” means a fund in the case of which—
- (a) the policy holders of the fund are entitled to participate in all the profits of the fund, and
  - (b) no other persons are entitled to participate in any of the profits of the fund.
- (3D) Subsection (3E) below applies where there is prepared such a separate account (“the with-profits account”) in respect of a with-profits fund—
- (a) of which no other with-profits fund forms part, but
  - (b) of which a non-profit fund <sup>F180</sup>... forms part.
- (3E) Where this subsection applies—
- (a) the with-profits account shall not be a recognised account for the purposes of those sections, but
  - (b) there shall be treated as having been required and prepared a further separate revenue account covering so much of the items brought into account in the with-profits account as remains after excluding the items brought into account in that account in respect of the non-profit fund.]
- [<sup>F181</sup>(4) If—
- (a) a company prepares a revenue account in respect of the whole of its long-term business (“the main account”),
  - (b) it prepares one or more such separate accounts as are mentioned in subsection (2)(b) above, and
  - (c) the total of the items brought into account in the separate accounts—
    - (i) excluding any such accounts which by virtue of subsection (3A), (3B) or (3E)(a) above are not recognised accounts for the purposes of those sections, but
    - (ii) including any such accounts which by virtue of subsection (3E)(b) above are treated as having been required and prepared,is not equal to the total amount brought into account in the main account, there shall be treated as having been required and prepared a further separate revenue account covering the balance.]

<sup>F182</sup>(5) .....

<sup>F183</sup>(6) .....]

#### Textual Amendments

**F169** SS. 83, 83A substituted for s. 83 (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. I para. 16(1)** (with Sch. 8 paras. 55(2), 57(1))

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- F170** Words in s. 83A(1) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 13\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F171** Words in s. 83A(1) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 13\(b\)](#)
- F172** Words in s. 83A(2) substituted (29.4.1996 with effect as mentioned in [Sch. 31 para. 10\(2\)](#) of the amending Act) by [1996 c. 8, s. 163](#), [Sch. 31 para. 6\(2\)](#)
- F173** Words in s. 83A(2)(a) substituted (1.12.2001 with effect as mentioned in [art. 57\(2\)](#) of the amending Act) by [S.I. 2001/3629](#), [art. 57\(1\)\(a\)](#)
- F174** Words in s. 83A(2)(a) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 60\(2\)\(a\)](#)
- F175** Words in s. 83A(2)(b) substituted (1.12.2001 with effect as mentioned in [art. 57\(2\)](#) of the amending Act) by [S.I. 2001/3629](#), [art. 57\(1\)\(b\)](#)
- F176** Words in s. 83A(2)(b) substituted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 13\(2\)\(a\)](#)
- F177** Words in s. 83A(2)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F178** Words in s. 83A(2) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F179** Ss. 83A(3A)-(3E) inserted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 13\(3\)](#)
- F180** Words in s. 83A(3D)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F181** S. 83A(4) substituted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 13\(4\)](#)
- F182** S. 83A(5) repealed (1.1.1996) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(26\)](#), note
- F183** S. 83A(6) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C38** S. 83A modified (retrospective to 1.1.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), [regs. 1\(2\)](#), 36, 37 (as amended (30.1.2003) by [S.I. 2003/23](#), [regs. 1, 8](#); (8.4.2004) by [S.I. 2004/822](#), [regs. 1, 32](#); [S.I. 2005/2005](#), [regs. 1\(1\)](#), 8)
- C39** S. 83A amendment to earlier affecting provision [SI 1997/473 \(8.4.2004\)](#) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), [regs. 1, 32](#)
- C40** S. 83A modified (*retrospective* to 1.1.1995) by [S.I. 1997/473](#), [regs. 1\(2\)](#), 36, 37 (as amended (8.6.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), [regs. 1, 31](#), as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2005\)](#), [regs. 1\(1\)](#), 8)
- C41** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), 29
- C42** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), 30 (as amended by [S.I. 2007/2134](#), [regs. 1\(1\)](#), 24)
- C43** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Group Relief for Overseas Losses \(Modification of the Corporation Tax Acts for Non-resident Insurance Companies\) Regulations 2006 \(S.I. 2006/3218\)](#), [regs. 1\(1\)](#), 10

#### <sup>F184</sup>**83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988** **U.K.**

- (1) This section applies to a company where any revenue account that is recognised for a period of account (the “new period of account”) relates to funds or business which is

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different from the funds or business to which a revenue account that was recognised for the preceding period of account relates.

(2) Any subsection (2) excess (within the meaning of section 432F(2) of the Taxes Act 1988) which would have been available under section 432F(3) or (4) of that Act to reduce a subsection (3) figure (within the meaning of section 432F(1) of that Act) of the company in the new period of account shall be attributed between the revenue accounts that are recognised for that period of account in such manner as is appropriate.

(3) In this section “recognised” means recognised, by virtue of section 83A, for the purposes of sections 82A to [F18583ZA] .]

**Textual Amendments**

**F184** S. 83B inserted (with effect in accordance with Sch. 9 para. 14(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 14\(1\)](#)

**F185** Word in s. 83B(3) substituted (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(3\)](#)

**F186** **83AA** Amounts added to long term insurance fund of a company in excess of that company’s loss. **U.K.**

.....

**Textual Amendments**

**F186** S. 83AA repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(b\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**F187** **83AB** Treatment of surplus where there is a subsequent transfer of business from the company etc. **U.K.**

.....

**Textual Amendments**

**F187** S. 83AB repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(c\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**84** **Interpretation of sections 85 to 89 and further provisions about insurance companies.** **U.K.**

**F188** (1) .....

**F189** (2) .....

**F190** (3) .....

(4) Chapter I of Part XII of the Taxes Act 1988 (insurance companies) shall have effect subject to the amendments in Schedule 8 to this Act, being—

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- (a) amendments relating to franked investment income, loss relief and group relief; and
- (b) amendments consequential on or supplemental to sections 82 and 83 above and sections 85 to 89 below.

<sup>F191</sup>(5) .....

<sup>F192</sup>(6) .....

**Textual Amendments**

**F188** S. 84(1) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

**F189** S. 84(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)

**F190** S. 84(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)

**F191** S. 84(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)

**F192** S. 84(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)

**85 Charge of certain receipts of basic life assurance business. U.K.**

- (1) Subject to subsection (2) below, where [<sup>F193</sup>an insurance company is charged to tax under the I minus E basis in respect of its life assurance business], there shall be chargeable under Case VI of that Schedule any receipts referable to the company's [<sup>F194</sup>basic life assurance and general annuity business]—
- (a) which, if [<sup>F195</sup>the profits of the life assurance business] were charged under Case I of Schedule D, would be taken into account in computing those profits; and
  - (b) which would not be within the charge to tax (except under Case I of Schedule D) apart from this section;

and for the purposes of paragraph (a) above, the provisions of section 83 above as to the manner in which any item is to be taken into account shall be disregarded.

- (2) The receipts referred to in subsection (1) above do not include—
- (a) any premium; <sup>F196</sup> ...
  - (b) any sum received by virtue of a claim under an insurance contract(including a re-insurance contract); or
  - <sup>F197</sup>(c) .....
  - <sup>F197</sup>(ca) .....
  - <sup>F197</sup>(d) .....
  - (e) any sum which is not within the charge to tax (except under Case I of Schedule D) because of an exemption from tax<sup>F198</sup>; or
  - (f) any payment received under the Financial Services Compensation Scheme to enable the company to meet its obligations to policy holders.]

<sup>F199</sup>(2A) Receipts falling within subsection (1) above are to be taken into account for the purposes of corporation tax when they are brought into account.

<sup>F200</sup> .....

(2B) Expenses fall to be deducted from receipts falling within subsection (1) above in accordance with the provisions of the Corporation Tax Acts applicable to Case VI of Schedule D.

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- (2C) For the purposes of subsection (1) above, a receipt is referable to basic life assurance and general annuity business if—
- (a) in the case of a repayment or refund of acquisition expenses, the acquisition expenses fell within section 86 below,
  - [<sup>F201</sup>(aa) in the case of a repayment or refund of expenses other than acquisition expenses, the expenses—
    - (i) were attributable to basic life assurance and general annuity business for the purposes of Step 1 in subsection (7) of the new section 76 (see subsection (8) of that section), or
    - (ii) fell to be deducted by virtue of subsection (1) of the old section 76; and for this purpose, “the new section 76” and “the old section 76” have the same meaning as in section 44 of the Finance Act 2004 (see subsection (8) of that section),]
  - (b) in the case of a reinsurance commission, the policy or contract reinsured under the arrangement in respect of which the commission is paid constitutes basic life assurance and general annuity business, and
  - (c) in any other case, it is income which, if it were income from an asset, would by virtue of section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) be referable to basic life assurance and general annuity business.]
- (3) This section has effect with respect to the receipts of accounting periods beginning on or after 1st January 1990 <sup>F202</sup>....

#### Textual Amendments

- F193** Words in s. 85(1) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 13\(a\)](#) (with [Sch. 8 Pt. 2](#))
- F194** Words in s. 85(1) substituted (for accounting periods beginning on or after 01.01.1992) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, [Sch. 7 paras. 12, 18](#).
- F195** Words in s. 85(1) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 13\(b\)](#) (with [Sch. 8 Pt. 2](#))
- F196** Word in s. 85(2)(a) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F197** S. 85(2)(c)-(d) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 7\(2\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F198** S. 85(2)(f) and preceding word inserted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 15\(2\)](#)
- F199** S. 85(2A)-(2C) inserted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 7\(3\)](#)
- F200** Words in s. 85(2A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(3\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F201** S. 85(2C)(aa) inserted (with effect in accordance with Sch. 9 para. 15(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 15\(3\)](#)
- F202** Words in s. 85(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(b\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C44** S. 85(1) modified (retrospective to 1.1.1995) by [S.I. 1997/473](#), [regs. 1\(2\)](#), 38

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**C45** S. 85(1)(2C) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), **31**

**[<sup>F203</sup>85A Excess adjusted Case I profits U.K.]**

- (1) Where for any accounting period an insurance company is charged to tax under the I minus E basis in respect of its life assurance business, the company shall be chargeable on any excess adjusted Case I profits under Case VI of that Schedule.
- (2) “Excess adjusted Case I profits” means any amount by which—
  - (a) the adjusted Case I profits (see subsection (3)), exceeds
  - (b) the relevant amount (see subsection (5)).
- (3) “The adjusted Case I profits” means the amount that would be the profits of the company's life assurance business for the accounting period if—
  - (a) computed in accordance with the provisions applicable to Case I of Schedule D, and
  - (b) adjusted in respect of losses (see subsection (4)).
- (4) The adjustment in respect of losses is a deduction of the amount which, disregarding section 434A(2)(a) of the Taxes Act 1988, would fall to be set off under section 393 of that Act against the company's income for the accounting period if the company had always been charged to tax under Case I of Schedule D.
- (5) The relevant amount (which may be a negative amount) is found by—
  - (a) taking the relevant income (see subsection (6)), and
  - (b) deducting from it the relevant aggregate (see subsection (8)).
- (6) “The relevant income” means—
  - (a) any income (including distributions received from companies resident in the United Kingdom) referable (in accordance with section 432A of the Taxes Act 1988) to the company's basic life assurance and general annuity business for the accounting period,
  - (b) any chargeable gains referable (in accordance with section 432A of that Act) to the company's basic life assurance and general annuity business for the accounting period (see subsection (7)), and
  - (c) any profits of the company chargeable for the accounting period under Case VI of Schedule D under section 436A of that Act.
- (7) “Chargeable gains referable (in accordance with section 432A of the Taxes Act 1988) to the company's basic life assurance and general annuity business” has the same meaning as in subsection (3A)(a) of section 88 below (see subsection (3B) of that section).
- (8) “The relevant aggregate” means the sum of—
  - (a) the expenses deduction (see Step 8 in section 76(7) of the Taxes Act 1988) in the case of the company for the accounting period,
  - (b) any non-trading deficit on the company's loan relationships which is produced for the accounting period in relation to the company's basic life assurance and general annuity business by a separate computation under paragraph 2(1) of Schedule 11 to the Finance Act 1996, and

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- (c) any amount which in pursuance of a claim under paragraph 4(3) of that Schedule is carried back to the accounting period and (in accordance with paragraph 4(5) of that Schedule) applied in reducing profits of the company for the accounting period.
- (9) The Treasury may by regulations provide—
  - (a) that, in circumstances prescribed by the regulations, the charge imposed by this section for an accounting period may be reduced or eliminated, and
  - (b) that the amount by which the charge is reduced, or (where the charge is eliminated) the amount of the charge, is instead imposed for a subsequent accounting period (or part of the amount is instead imposed for more than one subsequent accounting period).
- (10) Regulations under subsection (9) may include provision having effect in relation to times before they are made.]

**Textual Amendments**

**F203** S. 85A inserted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007](#) (c. 11), [Sch. 8 para. 14](#) (with [Sch. 8 Pt. 2](#))

**86 Spreading of relief for acquisition expenses. U.K.**

[<sup>F204</sup>(1) For the purposes of this section, the acquisition expenses for any period of an insurance company carrying on life assurance business are such of the following as for that period fall to be included at Step 1 in section 76(7) of the Taxes Act 1988 (expenses of insurance companies)—

- (a) commissions (however described), other than commissions for persons who collect premiums from house to house,
- (b) any other expenses payable solely for the purpose of the acquisition of business,
- (c) so much of any other expenses payable partly for the purpose of the acquisition of business and partly for other purposes as are properly attributable to the acquisition of business,

reduced by the appropriate portion of the adjusted loss deduction (if any) for the purposes of Step 5 for the period.

The appropriate portion of the adjusted loss deduction is the amount which bears to the whole of that deduction the proportion which UAE bears to S1, where—

UAE is the amount of the acquisition expenses, before making the reduction required by this subsection; and

S1 is the sum of the amounts described in paragraphs (a) and (b) in Step 4.]

(2) The exclusion from paragraph (a) of subsection (1) above of commissions [<sup>F205</sup>for persons who collect premiums from house to house] shall not prevent such commissions constituting [<sup>F206</sup>expenses payable] for the purposes of paragraph(b) or paragraph (c) of that subsection.

<sup>F207</sup>(3) .....

<sup>F208</sup>(3A) .....

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(4) In subsection (1) above “the acquisition of business” includes

- <sup>F209</sup>[( a )] the securing on or after 14th March 1989 of the payment of increased or additional premiums in respect of a policy of insurance issued in respect of an insurance already made (whether before, on or after that date) [<sup>F210</sup>and
- (b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date)].

<sup>F211</sup>(5) .....

<sup>F212</sup>(5A) .....

[<sup>F213</sup>(6) Only a portion of the acquisition expenses for any accounting period (in this section referred to as “the base period”) is to be relieved under section 76 of the Taxes Act 1988 for that period.

That portion is one-seventh of the adjusted amount of the acquisition expenses for the period.

For the purposes of this section the adjusted amount of the acquisition expenses for the period is so much of those expenses as remains after—

- (a) including the whole of those expenses at Step 1,  
 (b) making any reduction in those expenses which is required at Step 2, and  
 (c) deducting any amount of reinsurance commission or any repayment or refund (in whole or in part) that falls for the period to be charged to tax under section 85 above,

Effect is given to this subsection at Step 6 (which requires the deduction of six-sevenths of the adjusted amount of the acquisition expenses for the period).]

<sup>F214</sup>(7) .....

[<sup>F215</sup>(8) This subsection applies in any case where, in accordance with subsection (6) above, only a fraction of the adjusted amount of the acquisition expenses for the base period is to be relieved under section 76 of the Taxes Act 1988 for that period.

In any such case—

- (a) a further fraction of the adjusted amount of those expenses is to be relieved under that section for each succeeding accounting period after the base period, until the whole of the adjusted amount has been relieved,  
 (b) the fraction is one-seventh, except that for any accounting period of less than a year the fraction is to be proportionately reduced, and  
 (c) the relief is given by including that fraction of the adjusted amount at paragraph (b) of Step 8,

but this is subject to subsection (9) below.

(9) For any accounting period for which—

- (a) the fraction of the adjusted amount of the acquisition expenses for the base period which would otherwise fall to be relieved in accordance with subsection (8) above, exceeds  
 (b) the balance of that adjusted amount which has not been so relieved for earlier accounting periods,



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only that balance shall be so relieved.]

[<sup>F216</sup>(9A) In this section “expenses payable” has the same meaning as in Step 1.

(9B) Any reference in this section to a numbered Step is a reference to the Step so numbered in section 76(7) of the Taxes Act 1988.]

(10) This section has effect for accounting periods beginning on or after 1st January 1990  
<sup>F217</sup>  
.....

#### Textual Amendments

- F204** S. 86(1) substituted for s. 86(1)-(1B) (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(2\)](#)
- F205** Words in s. 86(2) substituted (29.4.1996 with effect in relation to accounting periods beginning on or after 1.1.1996) by [1996 c. 8, s. 167\(3\)\(b\)\(10\)](#)
- F206** Words in s. 86(2) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(3\)](#)
- F207** S. 86(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F208** S. 86(3A) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F209** S. 86(4)"(a)" inserted (*for accounting periods beginning on or after 01.01.1992*) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, [Sch. 7 paras. 13\(3\)](#), [18](#).
- F210** S. 86(4)(b) and word preceding it inserted (*for accounting periods beginning on or after 01.01.1992*) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, [Sch. 7 paras. 13\(3\)](#), [18](#).
- F211** S. 86(5) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(4\)\(a\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F212** S. 86(5A) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(4\)\(b\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F213** S. 86(6) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(5\)](#)
- F214** S. 86(7) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(6\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F215** S. 86(8)(9) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(7\)](#)
- F216** S. 86(9A)(9B) inserted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(8\)](#)
- F217** Words in s. 86(10) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C46** S. 86 modified (*retrospective to 1.1.1995*) by [S.I. 1997/473](#), [regs. 1\(2\)](#), [39](#)

<sup>F218</sup>**87 Management expenses. U.K.**

#### Textual Amendments

- F218** S. 87 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)

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## 88 Corporation tax: policy holders' <sup>F219</sup>share] of profits. **U.K.**

- (1) Subject to subsection (2) <sup>F220</sup>... below, in the case of a company carrying on life assurance business, the rate of corporation tax chargeable for any financial year on
- <sup>F221</sup>(a) the policy holders' share of the relevant profits for any accounting period, or
- (b) where the business is mutual business, the whole of those profits,
- shall] be deemed to be the rate at which income tax at the <sup>F222</sup>savings rate] is charged for the year of assessment which begins on 6th April in the financial year concerned.
- <sup>F223</sup>(2) .....
- <sup>F224</sup>(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company's life assurance business reduced by the aggregate amount of—
- <sup>F225</sup>(aa) [ amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in that period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996,]<sup>F226</sup>and
- (a) the <sup>F227</sup>expenses] deduction given by Step 8 in <sup>F228</sup>section 76(7)] of the Taxes Act 1988.]
- <sup>F229</sup>(3A) In subsection (3) above “income and gains of the company's life assurance business” means the aggregate of—
- (a) income and chargeable gains referable <sup>F230</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business, <sup>F231</sup>... <sup>F232</sup>and]
- <sup>F233</sup>(aa) .....
- <sup>F233</sup>(ab) .....
- <sup>F233</sup>(ac) .....
- <sup>F234</sup>(b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business) ]
- (3B) In subsection (3A)(a) above (and section 89(1B) below) “chargeable gains referable <sup>F235</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business”, in relation to an accounting period, means the chargeable gains so far as <sup>F236</sup>so referable] accruing to the company in the accounting period after deducting—
- (a) any allowable losses so referable accruing to the company in the accounting period, and
- (b) so far as they have not been allowed as a deduction from chargeable gains in any previous accounting period, any allowable losses so referable previously accruing to the company.]
- (4) In determining for the purposes of section 13 of the Taxes Act 1988 (small companies' relief) the profits and basic profits (within the meaning of that section) of an accounting period of a company carrying on life assurance business, the policy holders' <sup>F237</sup>share] of the company's relevant profits for that period<sup>F238</sup>, or where the business is mutual business the whole of those profits,] shall be left out of account.
- (5) This section has effect with respect to the profits of a company for accounting periods beginning on or after 1st January 1990 (including the 1990 component period); and, for this purpose, the profits of the 1990 component period shall be taken to be that portion of the profits of the straddling period which the length of the 1990 component period bears to the length of the straddling period.

*Status: Point in time view as at 27/12/2007.*

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### Textual Amendments

- F219** Word in s. 88 heading substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 15(3)**
- F220** Words in s. 88(1) repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(2\)\(a\)](#), **Sch. 43 Pt. 3(12)**
- F221** Words in s. 88(1) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), **s. 45(1)(10)**
- F222** Words in s. 88(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 279** (with [Sch. 2](#))
- F223** S. 88(2) repealed (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 15\(2\)](#), **Sch. 27 Pt. 2(8)** (with [Sch. 8 Pt. 2](#))
- F224** S. 88(3) substituted (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. I para. 21(2)** (with [Sch. 8 paras. 55\(2\), 57\(1\)](#))
- F225** S. 88(3)(aa) inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 56** (with savings in [Ch. II, ss. 80-105 of Pt. IV](#))
- F226** Words in s. 88(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), **Sch. para. 45(2)**
- F227** Word in s. 88(3)(a) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 8 para. 15(3)** (with [Sch. 8 Pt. 2](#))
- F228** Words in s. 88(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), arts. 1(1), **9(b)**
- F229** S. 88(3A)(3B) inserted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 6(1)**
- F230** Words in s. 88(3A)(a) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 7 para. 9(2)(a)**
- F231** Word in s. 88(3A)(a) repealed (with effect in accordance with Sch. 11 Pt. 2(10) Note 4 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 11 Pt. 2(10)**
- F232** Word in s. 88(3A)(a) inserted (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), arts. 1, **8(2)(a)**
- F233** S. 88(3A)(aa)-(ac) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), arts. 1, **8(2)(b)**
- F234** S. 88(3A)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 58** (with [Sch. 7 Pt. 2](#))
- F235** Words in s. 88(3B) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 7 para. 9(2)(b)**
- F236** Words in s. 88(3B) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 7 para. 9(2)**
- F237** Word in s. 88(4) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), **s. 45(2)(10)**
- F238** Words in s. 88(4) inserted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), **s. 45(2)(10)**

### Modifications etc. (not altering text)

- C47** S. 88(3A)(a)(3B) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), **regs. 1(1), 32** (as amended by [S.I. 2007/2134](#), **regs. 1(1), 25**)
- C48** S. 88(3A)(a) modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/437\)](#), **reg. 39A** (as inserted (8.4.2004) by [S.I. 2004/822](#), **regs. 1, 33**)

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**<sup>F239</sup>88A Lower corporation tax rate on certain insurance company profits. U.K.**

**Textual Amendments**

**F239** S. 88A repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(3\)](#), [Sch. 43 Pt. 3\(12\)](#)

**<sup>F240</sup>89 Policy holders' share of profits. U.K.**

- (1) The references in [<sup>F241</sup>section 88] above to the policy holders' share of the relevant profits for an accounting period of a company carrying on life assurance business <sup>F242</sup>... are references to —
- [<sup>F243</sup>(a) in a case where there are no Case I profits of the company for the period in respect of its life assurance business, the amount of the relevant profits, and
  - (b) in any other case, the amount arrived at in accordance with subsection (1A) below.]

[ An amount is arrived at in accordance with this subsection by—

- <sup>F244</sup>(1A)[<sup>F245</sup>(a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and]
- (b) deducting any remaining Case I profits of the company for the period in respect of its life assurance business from any BLAGAB profits of the company for the period.

- (1B) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and chargeable gains referable [<sup>F246</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business reduced by the aggregate amount of—

- [<sup>F247</sup>(a) amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in that period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996, and
- (b) the [<sup>F248</sup>expenses] deduction given by Step 8 in section 76(7) of the Taxes Act 1988.]]

- (2) For the purposes of [<sup>F249</sup>subsections (1) and (1A)] above, the Case I profits for a period shall be reduced by—

- <sup>F250</sup>(a) .....
- (b) the shareholders' share of any <sup>F251</sup>... [<sup>F252</sup>distributions received from companies resident in the United Kingdom in the period which are][<sup>F253</sup>referable [<sup>F254</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business][<sup>F255</sup>, and
- (c) the shareholders' share of any foreign income dividends arising to the company in the period [<sup>F256</sup>which are referable to the company's basic life assurance and general annuity business].]

[ For the purposes of subsection (2) above—

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- <sup>F257</sup>(2A) (a) “foreign income dividends” shall be construed in accordance with Chapter VA of Part VI;
- (b) the shareholders’ share of any foreign income dividends is so much of the income they represent as is the shareholders’ share.]
- (3) For the purposes of those section “ the shareholders’ share ” in relation to any income is so much of the income as is represented by the fraction

AB

where—

A is an amount equal to the Case I profits of the company for the period in question in respect of its life assurance business, and

B is an amount equal to the excess of the company’s relevant non-premium income and relevant gains over its relevant expenses and relevant interest for the period.

- (4) Where there is no such excess as is mentioned in subsection (3) above, or where the Case I profits are greater than any excess, the whole of the income shall be the shareholders’ share; and (subject to that) where there are no Case I profits, none of the income shall be the shareholders’ share.
- (5) In subsection (3) above the references to the relevant non-premium income, relevant gains, relevant expenses and relevant interest of a company for an accounting period are references respectively to the following items as brought into account for the period, so far as referable to the company’s life assurance business,—
- (a) the company’s investment income from the assets of its long-term [<sup>F258</sup>insurance] fund together with its other income, apart from premiums;
  - (b) any increase in the value (whether realised or not) of those assets;
  - (c) expenses payable by the company;
  - (d) interest payable by the company;
- and if for any period there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of the period.
- (6) <sup>F259</sup>... where the company’s period of account does not coincide with the accounting period, any reference to an amount brought into account for the accounting period is a reference to the corresponding amount brought into account for the period of account in which the accounting period is comprised, proportionately reduced to reflect the length of the accounting period as compared with the length of the period of account.

[ In this section—

<sup>F260</sup>(7)

“Case I profits” means profits computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D [<sup>F261</sup>; but for the purposes of subsections (1), (1A) and (2) they are to be adjusted in respect of losses in accordance with section 85A(4).]

<sup>F262</sup>..... ]

[ In a case where—

<sup>F263</sup>(7A)

- (a) the company becomes an insurance special purpose vehicle, and
- (b) regulations made under section 84 of the Finance Act 2005 do not apply to it,

*Status: Point in time view as at 27/12/2007.*

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subsection (7B) applies in the first period of account in which the company is an insurance special purpose vehicle (“the first period”).

(7B) Where this subsection applies, in computing a company’s Case I profits there shall be brought into account as a trading receipt of the company the amount, if any, by which the amount shown in line 51 of Form 14 of the periodical return for the period preceding the first period exceeds—

- (a) the fund for future appropriations shown in the company’s IAD accounts, or
  - (b) the unallocated divisible surplus shown in the company’s IAS accounts,
- as the case may be, for that preceding period.

(7C) In subsection (7B)—

“IAD accounts” means accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts of insurance undertakings (No.91/674/EEC);

“IAS accounts” means accounts prepared in accordance with international accounting standards.]

F264(8) . . . . . ]

#### Textual Amendments

- F240** S. 89 substituted retrospectively by [Finance Act 1990 \(c. 29\)](#) {s. 45(3)}
- F241** Words in s. 89(1) substituted (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(4\)\(a\)](#)
- F242** Words in s. 89(1) repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(4\)\(b\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F243** S. 89(1)(a)(b) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(3\)](#)
- F244** S. 89(1A)(1B) inserted (with effect in accordance with Sch. 33 para. 6(11)(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(4\)](#)
- F245** S. 89(1A)(a) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 59](#) (with Sch. 7 Pt. 2)
- F246** Words in s. 89(1B) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(c\)](#)
- F247** Words in s. 89(1B) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), [Sch. para. 46\(2\)](#)
- F248** Word in s. 89(1B)(b) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 16\(2\)](#) (with Sch. 8 Pt. 2)
- F249** Words in s. 89(2) substituted (with effect in accordance with Sch. 33 para. 13(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(5\)](#)
- F250** S. 89(2)(a) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 23, 52, Sch. 3 para. 14\(2\)\(a\)\(4\)](#), [Sch. 8 Pt. II\(6\)](#), note
- F251** Words in s. 89(2)(b) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 23, 52, Sch. 3 para. 14\(2\)\(b\)\(i\)\(4\)](#), [Sch. 8 Pt. II\(6\)](#), note
- F252** Words in s. 89(2)(b) substituted (with effect in accordance with Sch. 33 para. 12(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 12\(4\)](#)
- F253** Words in s. 89(2)(b) substituted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, s. 23, Sch. 3 para. 14\(2\)\(b\)\(ii\)\(4\)](#)
- F254** Words in s. 89(2)(b) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(d\)](#)

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- F255** S. 89(2)(c) and word immediately preceding it repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, ss. 36, 52, Sch. 6 para. 19(2)(4), **Sch. 8 Pt. II(11)**, note
- F256** Words in s. 89(2)(c) substituted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, s. 23, **Sch. 3 para. 14(2)(c)(4)**
- F257** S. 89(2A) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, ss. 36, 52, Sch. 6 para. 19(3)(4), **Sch. 8 Pt. II(11)**, note
- F258** Word in s. 89(5)(a) substituted (1.12.2001) by S.I. 2001/3629, **art. 60(3)**
- F259** Words in s. 89(6) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 14(3)(b), **Sch. 27 Pt. 2(10)**
- F260** S. 89(7) substituted (1.12.2001) by S.I. 2001/3629, **art. 58(3)**
- F261** Words in s. 89(7) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 16(3)** (with Sch. 8 Pt. 2)
- F262** Words in s. 89(7) repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**
- F263** S. 89(7A)-(7C) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/3430), arts. 1(1), **2(2)**
- F264** S. 89(8) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, ss. 23, 52, Sch. 3 para. 14(3)(4), **Sch. 8 Pt. 2(6)** Note

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

- C49** S. 89 amended (27.7.1993 with application as mentioned in s. 78(11) of the amending Act) by 1993 c. 34, s. **78(6)(11)**
- C50** S. 89(1B) applied (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(11)**
- C51** S. 89(1B) modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/437), **reg. 40A(1)** (as inserted (8.4.2004) by S.I. 2004/822, **regs. 1, 35**)

**F265 89A Modification of sections 82 to 83A, 88 and 89 in relation to overseas life insurance companies. U.K.**

.....

**Textual Amendments**

- F265** S. 89A repealed (with effect in accordance with reg. 1 of the amending S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 1, **Sch. Pt. 1**

**90 Life policies etc. held by companies. U.K.**

Schedule 9 to this Act (which imposes tax on certain benefits relating to life policies, life annuities and capital redemption policies held by companies, and makes related provision) shall have effect.

**F266 90A Interpretation U.K.**

.....

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#### Textual Amendments

**F266** S. 90A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(3\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

### *Underwriters*

#### 91 Premiums trust funds: stock lending. **U.K.**

(1) In section 725 of the Taxes Act 1988 (Lloyd’s underwriters) the following subsections shall be inserted after subsection (9)—

“(10) Subsection (11) below applies where the following state of affairs exists at the beginning of 1st January of any year or the end of 31st December of any year—

- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2),
- (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
- (c) securities have not been transferred in return, and
- (d) section 129(3) applies to the transfer made by the trustees.

(11) The securities transferred by the trustees shall be treated for the purposes of subsections (1) to (6) above as if they formed part of the premiums trust fund at the beginning of 1st January concerned or the end of 31st December concerned (as the case may be).”

<sup>F267</sup>(2) .....

(3) This section applies where the transfer by the trustees of a premiums trust fund is made after the date specified as mentioned in section 129(6) of the Taxes Act 1988.

#### Textual Amendments

**F267** s. 91(2) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

#### 92 Regulations about underwriters etc. **U.K.**

(1) In section 451(1A) of the Taxes Act 1988 (regulations about underwriters)for the words from “with respect to” to the end there shall be substituted the words “with respect to any year or years of assessment; and the year (or any of the years) may be the one in which the regulations are made or any year falling before or after that year.”

(2) The following subsection shall be inserted after section 451(1A) of that Act—

“(1B) But the regulations may not make provision with respect to any year of assessment which precedes the next but one preceding the year of assessment in which the regulations are made.”



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- F268(3) .....
- F269(4) .....
- F269(5) .....
- F269(6) .....
- F269(7) .....

**Textual Amendments**

- F268** S. 92(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), [Sch. 11](#) paras. 22, 26(2), 27)
- F269** S. 92(4)-(7) repealed (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, s. 213, [Sch. 23 Pt. III\(12\)](#) Note 5

*Securities*

- F270<sup>93</sup> ..... **U.K.**

**Textual Amendments**

- F270** S. 93 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(3\)](#), note

- F271<sup>94</sup> ..... **U.K.**

**Textual Amendments**

- F271** S. 94 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(3\)](#), note

- F272<sup>95</sup> ..... **U.K.**

**Textual Amendments**

- F272** S. 95 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(3\)](#), note

- 96** **Securities: miscellaneous.** **U.K.**

- (1) In section 452(8) of the Taxes Act 1988 (special reserve funds) for the words from “In paragraph (a) above” to the end there shall be substituted—

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“In paragraph (a) above “income” includes—

- (a) annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3),
- (b) amounts treated as income chargeable to tax by virtue of paragraph 4 of Schedule 4, and
- (c) amounts treated as income chargeable to tax by virtue of paragraph 5 of Schedule 11 to the Finance Act 1989.”

<sup>F273</sup>(2) .....

<sup>F274</sup>(3) .....

- (4) The new paragraphs (b) and (c) inserted by subsection (1) above, <sup>F275</sup>... shall apply—
- (a) in the case of a deep discount security, where there is a disposal (within the meaning of Schedule 4 to the Taxes Act 1988) on or after 14th March 1989;
  - (b) in the case of a deep gain security, where there is a transfer within the meaning of Schedule 11 to this Act, or a redemption, on or after 14th March 1989.

#### Textual Amendments

**F273** S. 96(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F274** S. 96(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

**F275** Words in s. 96(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

#### *Groups of companies*

#### [<sup>F276</sup>97 **Set-off of ACT where companies remain in the same group.** **U.K.**

- (1) In section 240 of the Taxes Act 1988 (set-off of company’s ACT against subsidiary’s liability to corporation tax) at the end of subsection (5)(set-off not to be made against subsidiary’s liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company) there shall be added the words “unless throughout that period or part both companies were subsidiaries of a third company”.
- (2) This section shall have effect in relation to accounting periods ending on or after 14th March 1989.]

#### Textual Amendments

**F276** S. 97 repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by [1998 c. 36](#), s. 165, **Sch. 27 Pt. III(2)**, note

#### [<sup>F277</sup>98 **Restriction on set-off of ACT.** **U.K.**

- (1) After section 245 of the Taxes Act 1988 there shall be inserted—

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**“ Restriction on application of section 240 in certain circumstances.**

- (1) This section applies if—
  - (a) there is a change in the ownership of a company (“the relevant company”);
  - (b) by virtue of section 240 the relevant company is treated as having paid an amount of advance corporation tax in respect of a distribution made by it at any time before the change; and
  - (c) within the period of six years beginning three years before the change, there is a major change in the nature or conduct of a trade or business of the company which is for the purposes of section 240 the surrendering company in relation to that amount.
- (2) No advance corporation tax which the relevant company is treated by virtue of section 240 as having paid in respect of a distribution made by it in an accounting period beginning before the change of ownership shall be treated under section 239(4) as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (3) Subsections (4) and (5) of section 245 shall apply also for the purposes of this section and as if the reference in subsection (4) of section 245 to the period of three years mentioned in subsection (1)(a) of that section were a reference to the period mentioned in subsection (1)(c) above.
- (4) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.

**Restriction on set-off where asset transferred after change in ownership of company.**

- (1) Subsection (4) below applies if—
  - (a) there is a change in the ownership of a company (“the relevant company”);
  - (b) any advance corporation tax paid by the relevant company in respect of distributions made by it in an accounting period beginning before the change is treated under section 239(4) as paid by it in respect of distributions made by it in an accounting period ending after the change;
  - (c) after the change the relevant company acquires an asset from another company in such circumstances that section 273(1) of the Taxes Act 1970 applies to the acquisition; and
  - (d) a chargeable gain accrues to the relevant company on the disposal of the asset within the period of three years beginning with the change of ownership.
- (2) Subsection (1)(b) above shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

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- (3) For the purposes of subsection (1)(d) above an asset acquired by the relevant company as mentioned in subsection (1)(c) above shall be treated as the same as an asset owned at a later time by that company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.
- (4) In relation to the accounting period in which the chargeable gain accrues to the relevant company (“the relevant period”), section 239 shall have effect as if the limit imposed by subsection (2) of that section on the amount of advance corporation tax to be set against the relevant company’s liability to corporation tax were reduced by whichever is the lesser of—
  - (a) the amount of advance corporation tax that would have been payable (apart from section 241) in respect of a distribution made at the end of the relevant period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the chargeable gain, and
  - (b) the amount of surplus advance corporation tax in relation to the accounting period which by virtue of subsection (2) above is treated for the purposes of subsection (1)(b) above as ending with the change of ownership.
- (5) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.”

(2) This section shall have effect where the change in the ownership of the relevant company occurs on or after 14th March 1989.]

**Textual Amendments**  
**F277** S. 98 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2), note

**F278** 99 ..... **U.K.**

**Textual Amendments**  
**F278** S. 99 repealed (11.5.2001 with application as mentioned in Sch. 33 Pt. 2(10) of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(10), note

**100 Change in ownership of company. U.K.**

- (1) Section 769 of the Taxes Act 1988 (which contains rules for determining whether for the purposes of sections 245 and 768 of that Act there is a change in the ownership of a company) shall be amended in accordance with this section.
- (2) For subsection (6) there shall be substituted—

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- “(6) If there is a change in the ownership of a company, including a change occurring by virtue of the application of this subsection but not a change which is to be disregarded under subsection (5) above, then—
- (a) in a case falling within subsection (1)(a) above, the person mentioned in subsection (1)(a) shall be taken for the purposes of this section to acquire at the time of the change any relevant assets owned by the company;
  - (b) in a case falling within subsection (1)(b) above but not within subsection(1)(a) above, each of the persons mentioned in subsection (1)(b) shall be taken for the purposes of this section to acquire at the time of the change the appropriate proportion of any relevant assets owned by the company; and
  - (c) in any other case, each of the persons mentioned in paragraph (c) of subsection (1) above (other than any whose holding is disregarded under that paragraph) shall be taken for the purposes of this section to acquire at the time of the change the appropriate proportion of any relevant assets owned by the company.
- (6A) In subsection (6) above—
- “the appropriate proportion”, in relation to one of two or more persons mentioned in subsection (1)(b) or (c) above, means a proportion corresponding to the proportion which the percentage of the ordinary share capital acquired by him bears to the percentage of that capital acquired by all those persons taken together; and
- “relevant assets”, in relation to a company, means—
- (a) any ordinary share capital of another company, and
  - (b) any property or rights which under subsection (3) above may be taken into account instead of ordinary share capital of another company.
- (6B) Notwithstanding that at any time a company (“the subsidiary company”) is a 75 per cent. subsidiary of another company (“the parent company”) it shall not be treated at that time as such a subsidiary for the purposes of this section unless, additionally, at that time—
- (a) the parent company would be beneficially entitled to not less than 75 percent. of any profits available for distribution to equity holders of the subsidiary company; and
  - (b) the parent company would be beneficially entitled to not less than 75 percent. of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.
- (6C) Schedule 18 shall apply for the purposes of subsection (6B) above as it applies for the purposes of section 413(7).”
- (3) Subsection (7)(b) and (c) shall cease to have effect.
- (4) This section shall have effect where the change of ownership of a company would be treated as occurring on or after 14th March 1989.

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**101 Treatment of convertible shares or securities for purposes relating to group relief etc. U.K.**

- (1) Paragraph 1 of Schedule 18 to the Taxes Act 1988 (which contains definitions relating to group relief) shall be amended in accordance with this section.
- (2) For sub-paragraph (3)(b) there shall be substituted—
- “(b) do not carry any right either to conversion into shares or securities of any other description except—
- (i) shares to which sub-paragraph (5A) below applies,
- (ii) securities to which sub-paragraph (5B) below applies, or
- (iii) shares or securities in the company’s quoted parent company, or to the acquisition of any additional shares or securities;”.
- (3) For sub-paragraph (5)(a) there shall be substituted—
- “(a) which does not carry any right either to conversion into shares or securities of any other description except—
- (i) shares to which sub-paragraph (5A) below applies,
- (ii) securities to which sub-paragraph (5B) below applies, or
- (iii) shares or securities in the company’s quoted parent company, or to the acquisition of any additional shares or securities;”.
- (4) After sub-paragraph (5) there shall be inserted—
- “(5A) This sub-paragraph applies to any shares which—
- (a) satisfy the requirements of sub-paragraph (3)(a), (c) and (d) above, and
- (b) do not carry any rights either to conversion into shares or securities of any other description, except shares or securities in the company’s quoted parent company, or to the acquisition of any additional shares or securities.
- (5B) This sub-paragraph applies to any securities representing a loan of or including new consideration and—
- (a) which satisfies the requirements of sub-paragraph (5)(b) and (c) above, and
- (b) which does not carry any such rights as are mentioned in sub-paragraph (5A)(b) above.
- (5C) For the purposes of sub-paragraphs (3) and (5) to (5B) above a company (“the parent company”) is another company’s “quoted parent company” if and only if—
- (a) the other company is a 75 per cent. subsidiary of the parent company,
- (b) the parent company is not a 75 per cent. subsidiary of any company, and
- (c) the parent company’s ordinary shares (or, if its ordinary share capital is divided into two or more classes, its ordinary shares of each class) are quoted on a recognised stock exchange or dealt in on the Unlisted Securities Market;
- and in this sub-paragraph “ordinary shares” means shares forming part of ordinary share capital.

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- (5D) In the application of sub-paragraphs (3) and (5) to (5B) above indetermining for the purposes of sub-paragraph (5C)(a) above who are the equityholders of the other company (and, accordingly, whether section 413(7) prevents the other company from being treated as a 75 per cent. subsidiary of the parent company for the purposes of sub-paragraph (5C)(a)), it shall be assumed that the parent company is for the purposes of sub-paragraphs (3) and (5) to (5B) above the other company's quoted parent company."
- (5) In sub-paragraph (6) for the words "to (5)" there shall be substituted the words "to (5D)".
- (6) This section, so far as relating to Schedule 18 of the Taxes Act 1988 in its application (by virtue of section 138 below) for the purposes of subsections (1D) and (1E) of section 272 of the Taxes Act 1970, shall be deemed to have come into force on 14th March 1989.

## 102 Surrender of company tax refund etc. within group. **U.K.**

- (1) Subsection (2) below applies where—
- there falls to be made to a company ("the surrendering company") which is a member of a group throughout the appropriate period a tax refund relating to an accounting period of the company ("the relevant accounting period"), and
  - another company ("the recipient company") which is a member of the same group throughout the appropriate period also has the relevant accounting period as an accounting period.
- (2) Where this subsection applies the two companies may, at any time before the refund is made to the surrendering company, jointly give notice to the inspector in such form as the Board may require that subsection (4) below is to have effect in relation to the refund or to any part of the refund specified in the notice.
- (3) In subsection (1) above—
- "appropriate period" means the period beginning with the relevant accounting period and ending on the day on which the notice under subsection (2) above is given, and
- "tax refund relating to an accounting period" means, in relation to a company—
- a repayment of corporation tax paid by the company for the period,
  - a repayment of income tax in respect of a payment received by the company in the period, or
  - a payment of the whole or part of the tax credit comprised in any franked investment income received by the company in the period.
- (4) Subject to subsection (6) below, where this subsection has effect in relation to any refund or part of a refund—
- the recipient company shall be treated for all purposes of the Tax Acts as having paid on the relevant date an amount of corporation tax for the relevant accounting period equal to the amount of the refund or part, and
  - there shall be treated for all those purposes as having been made to the surrendering company on the relevant date a repayment of corporation tax or income tax or a payment of tax credit (as the case may be) equal to the amount of the refund or part;

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and where the refund is a repayment of corporation tax, any interest relating to it which has been paid by the surrendering company shall be treated as having been paid by the recipient company.

[<sup>F279</sup>(4A) Where subsection (4) above has effect in relation to any amount and there is, by virtue of any of subsections (7) to [<sup>F280</sup>(7CA)] of section 826 of the Taxes Act 1988, a period for which the whole or any part of that amount would not, had the refund been made to the surrendering company, have carried interest under that section, that period shall be treated as excluded—

- (a) from any period for which any refund made by virtue of subsection (4) above to the recipient company in respect of some or all of that amount or, as the case may be, that part of it is to carry interest under that section; and
- (b) from any period for which a sum representing some or all of that amount or part would (apart from this subsection) be treated by virtue of subsection (4) above as not carrying interest under section 87A of the <sup>M12</sup>Taxes Management Act 1970;

and in determining for the purposes of this subsection which part of any amount is applied in discharging a liability of the recipient company to pay any corporation tax and which part is represented by a refund to the recipient company, it shall be assumed that the part in relation to which there is a period which would not have carried interest under section 826 of the Taxes Act 1988 is applied in preference to any other part of that amount in or towards discharging the liability.]

- (5) In subsection (4) above “relevant date”, in relation to a refund, means—
  - (a) in so far as it consists of a repayment of corporation tax paid by the surrendering company after the date on which it became due and payable under [<sup>F281</sup>section 59D or 59E of the Taxes Management Act 1970], the day on which it was paid by that company, and
  - (b) otherwise, the date on which corporation tax for the relevant accounting period became due and payable.
- (6) For the purpose of ascertaining the amount of any penalty to which the recipient company is liable under [<sup>F282</sup>paragraph 18 of the Taxes Management Act 1970], the corporation tax which the company is treated as having paid by subsection (4)(a) above shall be treated as paid on the day on which the notice under subsection (2) above is given (and not on the relevant date).
- (7) A payment for a transferred tax refund—
  - (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
  - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution <sup>F283</sup> ... ;

and in this subsection “a payment for a transferred tax refund” means a payment made by the receiving company to the surrendering company in pursuance of an agreement between them as respects the giving of a notice under this section, being a payment not exceeding the amount of the refund in question.

- (8) For the purposes of this section two companies are members of the same group if and only if they would be for the purposes of Chapter IV of Part X of the Taxes Act 1988.
- (9) This section shall not apply unless the relevant accounting period ends after such day, not being earlier than 31st March 1992, as the Treasury may by order made by statutory instrument appoint.



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#### Textual Amendments

- F279** S. 102(4A) inserted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para. 11**
- F280** Words in s. 102(4A) substituted (1.5.1995) by 1995 c. 4, s. 130, **Sch. 24 Pt. II para. 12(3)**
- F281** Words in s. 102(5)(a) substituted (27.7.1999) with effect in relation to accounting periods ending on or after 1.7.1999 by 1999 c. 16, s. 89(2)(3)
- F282** Words in s. 102(6) substituted (27.7.1999) with effect in relation to accounting periods ending on or after 1.7.1999 by 1999 c. 16, s. 93(1)(2), **Sch. 11 para. 3**
- F283** Words in s. 102(7)(b) repealed (with effect in accordance with Sch. 11 Pt. 2(7) Note of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 11 Pt. 2(7)**

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

- C52** S. 102 applied (with modifications) (7.1.1999) by **The Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175), reg. 9(1)** (as amended (with effect in accordance with reg. 1(3) of the amending S.I.) by **S.I. 2005/889, regs. 1(1), 8**)

#### Marginal Citations

- M12** 1970 c. 9.

### *Close companies*

#### **103** **Repeal of apportionment provisions.** **U.K.**

- (1) Except as provided by subsection (2) below, Chapter III of Part XI of the Taxes Act 1988 (apportionment of undistributed income etc. of close companies) shall not have effect in relation to accounting periods beginning after 31st March 1989.
- (2) Section 427(4) of the Taxes Act 1988 (which gives relief to an individual where income apportioned to him in an earlier accounting period of a close company is included in a distribution received by him in a later accounting period), and section 427(5) of, and Part I of Schedule 19 to, that Act so far as they relate to section 427(4), shall continue to have effect in any case where the subsequent distribution referred to in section 427(4) is made before 1st April 1992.

#### **104** **Meaning of “close company”.** **U.K.**

- (1) In section 414 of the Taxes Act 1988 for subsection (2) (further case in which a company is a close company for the purposes of the Tax Acts) there shall be substituted—
- “(2) Subject to section 415 and subsection (5) below, a company resident in the United Kingdom (but not falling within subsection (1)(b) above) is also a close company if five or fewer participators, or participators who are directors, together possess or are entitled to acquire—
- (a) such rights as would, in the event of the winding-up of the company (“the relevant company”) on the basis set out in subsection (2A) below, entitle them to receive the greater part of the assets of the relevant company which would then be available for distribution among the participators, or

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- (b) such rights as would in that event so entitle them if any rights which any of them or any other person has as a loan creditor (in relation to the relevant company or any other company) were disregarded.
- (2A) In the notional winding-up of the relevant company, the part of the assets available for distribution among the participators which any person is entitled to receive is the aggregate of—
- (a) any part of those assets which he would be entitled to receive in the event of the winding-up of the company, and
- (b) any part of those assets which he would be entitled to receive if—
- (i) any other company which is a participator in the relevant company and is entitled to receive any assets in the notional winding-up were also wound upon the basis set out in this subsection, and
- (ii) the part of the assets of the relevant company to which the other company is entitled were distributed among the participators in the other company in proportion to their respective entitlement to the assets of the other company available for distribution among the participators.
- (2B) In the application of subsection (2A) above to the notional winding-up of the other company and to any further notional winding-up required by paragraph (b) of that subsection (or by any further application of that paragraph), references to “the relevant company” shall have effect as references to the company concerned.
- (2C) In ascertaining under subsection (2) above whether five or fewer participators, or participators who are directors, together possess or are entitled to acquire rights such as are mentioned in paragraph (a) or (b) of that subsection—
- (a) a person shall be treated as a participator in or director of the relevant company if he is a participator in or director of any other company which would be entitled to receive assets in the notional winding-up of the relevant company on the basis set out in subsection (2A) above, and
- (b) except in the application of subsection (2A) above, no account shall be taken of a participator which is a company unless the company possesses or is entitled to acquire the rights in a fiduciary or representative capacity.
- (2D) Subsections (4) to (6) of section 416 apply for the purposes of subsections (2) and (2A) above as they apply for the purposes of subsection (2) of that section.”
- (2) Subsection (3) of that section shall cease to have effect.
- (3) In subsection (5)(b) of that section for the words from “paragraph (c)” to “that paragraph” there shall be substituted the words “paragraph (a) of subsection (2) above or paragraph (c) of section 416(2) and it would not be a close company if the references in those paragraphs”.
- (4) This section shall be deemed to have come into force on 1st April 1989.

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## 105 Small companies' rate not available to certain close companies. **U.K.**

- (1) In section 13 of the Taxes Act 1988 (small companies' relief) in subsection (1) for the words "a company resident in the United Kingdom" there shall be substituted the words "a company which—
- (a) is resident in the United Kingdom, and
  - (b) is not a close investment-holding company (as defined in section 13A) at the end of that period."

- (2) After that section there shall be inserted the following section—

### "13A Close investment-holding companies.

- (1) A close company is for the purposes of section 13(1) a "close investment-holding company" unless it complies with subsection (2) below.
- (2) A company ("the relevant company") complies with this subsection in any accounting period if throughout that period it exists wholly or mainly for any one or more of the following purposes—
- (a) the purpose of carrying on a trade or trades on a commercial basis,
  - (b) the purpose of making investments in land or estates or interests in land in cases where the land is, or is intended to be, let to persons other than—
    - (i) any person connected with the relevant company, or
    - (ii) any person who is the wife or husband of an individual connected with the relevant company, or is a relative, or the wife or husband of a relative, of such an individual or of the husband or wife of such an individual,
  - (c) the purpose of holding shares in and securities of, or making loans to, one or more companies each of which is a qualifying company or a company which—
    - (i) is under the control of the relevant company or of a company which has control of the relevant company, and
    - (ii) itself exists wholly or mainly for the purpose of holding shares in or securities of, or making loans to, one or more qualifying companies,
  - (d) the purpose of co-ordinating the administration of two or more qualifying companies,
  - (e) the purpose of a trade or trades carried on on a commercial basis by one or more qualifying companies or by a company which has control of the relevant company, and
  - (f) the purpose of the making, by one or more qualifying companies or by a company which has control of the relevant company, of investments as mentioned in paragraph (b) above.
- (3) For the purposes of subsection (2) above, a company is a "qualifying company", in relation to the relevant company, if it—
- (a) is under the control of the relevant company or of a company which has control of the relevant company, and
  - (b) exists wholly or mainly for either or both of the purposes mentioned in subsection (2)(a) or (b) above.

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- (4) Where a company is wound up, it shall not be treated as failing to comply with subsection (2) above in the accounting period that (by virtue of subsection (7) of section 12) begins with the time which is for the purposes of that subsection the commencement of the winding up, if it complied with subsection (2) above in the accounting period that ends with that time.
- (5) In this section—  
     “control” shall be construed in accordance with section 416, and  
     “relative” has the meaning given by section 839(8).
- (6) Section 839 shall apply for the purposes of this section.”
- (3) This section shall have effect in relation to accounting periods beginning after 31st March 1989.

**[<sup>F284</sup>106 Restriction on payment of tax credits. U.K.]**

- (1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) in subsection (3) after the words “made and” there shall be inserted the words “subject to subsections (3A) to (3D) below” and after that subsection there shall be inserted—
- “(3A) Subject to subsection (3B) below, where it appears to the inspector that, in any accounting period of a company at the end of which it is a close investment-holding company—
- (a) arrangements relating to the distribution of the profits of the company exist or have existed the main purpose of which or one of the main purposes of which is to enable payments, or payments of a greater amount, to be made to any one or more individuals under subsection (3) above in respect of such an excess as is mentioned in that subsection, and
- (b) by virtue of those arrangements, any eligible person—
- (i) receives a qualifying distribution consisting of a payment made by the company on the redemption, repayment or purchase of its own shares, or
- (ii) receives any other qualifying distribution in respect of shares in or securities of the company, where the amount or value of the distribution is greater than might in all the circumstances have been expected but for the arrangements,
- the entitlement of the eligible person to have paid to him under subsection (3) above all or part of a tax credit in respect of any distribution made by the company in the period shall be restricted to such extent as appears to the inspector to be just and reasonable.
- (3B) Subsection (3A) above does not apply in relation to a tax credit in respect of a dividend paid by a company in any accounting period in respect of its ordinary share capital if—
- (a) throughout the period, the company’s ordinary share capital consisted of only one class of shares, and
- (b) no person waived his entitlement to any dividend which would have become payable by the company in the period or failed to receive any

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dividend which had become due and payable to him by the company in the period.

(3C) In subsection (3A) above—

“arrangements” means arrangements of any kind whether in writing or not,

“close investment-holding company” has the meaning given by section 13A, and

“eligible person”, in relation to a qualifying distribution, means an individual resident in the United Kingdom who would (apart from subsection (3A) above) be entitled to have paid to him under subsection (3) above all or part of a tax credit in respect of the distribution.

(3D) In determining under subsection (3) above whether a person is entitled to have any excess of tax credit paid to him in a case where subsection (3A) above applies, tax credits shall be set against income tax in the order that results in the greatest payment in respect of the excess.”

(2) This section shall have effect in relation to distributions made by companies in accounting periods beginning after 31st March 1989.]

**Textual Amendments**

**F284** S. 106 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, Sch. 8 Pt. II(9), note 3

**107 Close companies: consequential amendments. U.K.**

Schedule 12 to this Act (in which Part I contains administrative provisions relating to close companies and Part II makes amendments connected with section 103 above) shall have effect.

*Settlements etc.*

**F285 108 ..... U.K.**

**Textual Amendments**

**F285** S. 108 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

**109 Settlements where settlor retains interest in settled property. U.K.**

- F286 (1) .....
- F286 (2) .....
- F286 (3) .....
- F287 (4) .....

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**Textual Amendments**

- F286** S. 109(1)-(3) 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
- F287** S. 109(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**F288 110 Residence of trustees. U.K.**

.....

**Textual Amendments**

- F288** S. 110 repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 13 para. 28\(2\)\(c\)\(5\)](#), [Sch. 26 Pt. 3\(15\)](#)

**111 Residence of personal representatives. U.K.**

**F289** (1) .....

**F289** (2) .....

**F289** (3) .....

(4) In section 824(9) of the Taxes Act 1988 (repayment supplements), for the words from “or, in” to “section 701” there shall be substituted the words “or personal representatives (within the meaning of section 111 of the Finance Act 1989)”.

(5) <sup>F290</sup>... this section shall apply for the year 1989-90 and subsequent years of assessment.

**F291** (6) .....

**F291** (7) .....

**F291** (8) .....

**Textual Amendments**

- F289** S. 111(1)-(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 280\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F290** Words in s. 111(5) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 280\(b\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F291** S. 111(6)-(8) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 280\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Miscellaneous*

**F292 112 Security: trades etc. U.K.**

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**Textual Amendments**

**F292** S. 112 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 410, [Sch. 3](#) (with Sch. 2)

**F293** **113 Security: trades etc. (supplementary).** **U.K.**

**Textual Amendments**

**F293** S. 113 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 410, [Sch. 3](#) (with Sch. 2)

**114 Relief for pre-trading expenditure.** **U.K.**

- (1) In section 401(1) of the Taxes Act 1988 (which gives relief for expenditure incurred by a person within three years before he begins to carry on a trade, profession or vocation), for the word “three” there shall be substituted the word “five”.
- (2) This section shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after the end of March 1989.

**115 Double taxation: tax credits.** **U.K.**

- (1) Where any arrangements having effect by virtue of section 788 of the Taxes Act 1988 provide —
  - (a) for persons who are resident outside the United Kingdom and who received distributions from companies resident in the United Kingdom to be entitled to tax credits, and
  - (b) for the amount paid to such a person by way of tax credit to be determined by reference to the amount to which an individual resident in the United Kingdom would have been entitled, subject to a deduction calculated by reference to the aggregate of the amount or value of the distribution and the amount of the tax credit paid,the arrangements shall be construed as providing for that deduction to be calculated by reference to the gross amount or value of the distribution and tax credit, without any allowance for the deduction itself.
- (2) This section shall have effect in relation to payments made before the passing of this Act as well as those made after that time, except that it shall not affect —
  - (a) the judgment of any court given before 25th October 1988, or
  - (b) the law to be applied in proceedings on appeal to the Court of Appeal or the House of Lords where the judgment of the High Court or the Court of Session which is in issue was given before that date.

**F294** **116** ..... **U.K.**

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**Textual Amendments**

**F294** S. 116 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**, note

**CHAPTER II U.K.**

CAPITAL ALLOWANCES

**117–** ..... **F295 U.K.**  
**120**

**Textual Amendments**

**F295** Ss. 117–120 repealed by Capital Allowance Act 1990 (c.1, SIF 63:1), s. 164(4)(5), **Sch. 2**

**F296** **121** ..... **U.K.**

**Textual Amendments**

**F296** S. 121 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

**CHAPTER III U.K.**

CAPITAL GAINS

*Exemptions*

**F297** **122** ..... **U.K.**

**Textual Amendments**

**F297** S. 122 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**123** **Increase of chattel exemption. U.K.**

(1) In the following enactments, namely—

- F298**(a) .....
- (b) section 12(2)(b) of the <sup>M13</sup>Taxes Management Act 1970 (information about assets acquired), and
- (c) section 25(7) of that Act (information about assets disposed of),



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for “£3,000”, in each place where it occurs, there shall be substituted “£6,000”.

(2) This section applies to disposals on or after 6th April 1989 and accordingly, in relation to subsection (1)(b) above, to assets acquired on or after that date.

**Textual Amendments**

**F298** S. 123(1)(a) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**Marginal Citations**

**M13** 1970 c. 9.

*Gifts*

**F299** **124** ..... **U.K.**

**Textual Amendments**

**F299** S. 124 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F300** **125** ..... **U.K.**

**Textual Amendments**

**F300** S. 125 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Non-residents etc.*

**F301** **126** ..... **U.K.**

**Textual Amendments**

**F301** S. 126 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F302** **127** ..... **U.K.**

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**Textual Amendments**

**F302** S. 127 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F303** **128** ..... **U.K.**

**Textual Amendments**

**F303** S. 128 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F304** **129** ..... **U.K.**

**Textual Amendments**

**F304** S. 129 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F305** **130** ..... **U.K.**

**Textual Amendments**

**F305** S. 130 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F306** **131** ..... **U.K.**

**Textual Amendments**

**F306** S. 131 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F307** **132** ..... **U.K.**

**Textual Amendments**

**F307** S. 132 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

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F308 **133** ..... **U.K.**

**Textual Amendments**

**F308** S. 133 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

F309 **134** ..... **U.K.**

**Textual Amendments**

**F309** S. 134 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Value shifting and groups of companies*

F310 **135** ..... **U.K.**

**Textual Amendments**

**F310** S. 135 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

F311 **136** ..... **U.K.**

**Textual Amendments**

**F311** S. 136 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

F312 **137** ..... **U.K.**

**Textual Amendments**

**F312** S. 137 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

F313 **138** ..... **U.K.**

*Status: Point in time view as at 27/12/2007.*

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**Textual Amendments**

**F313** S. 138 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Miscellaneous*

**F314** **139** ..... **U.K.**

**Textual Amendments**

**F314** S. 139 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F315** **140** ..... **U.K.**

**Textual Amendments**

**F315** S. 140 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F316** **141** ..... **U.K.**

**Textual Amendments**

**F316** S. 141 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**CHAPTER IV** **U.K.**

MANAGEMENT

*Information*

**142** **Power to call for documents and information.** **U.K.**

- (1) Section 20 of the <sup>M14</sup> Taxes Management Act 1970 (power to call for documents of taxpayer and others) shall be amended in accordance with subsections (2) to (8) below.
- (2) In subsection (1), for the words “a person” onwards there shall be substituted the words “a person—
  - (a) to deliver to him such documents as are in the person’s possession or power and as (in the inspector’s reasonable opinion) contain, or may contain, information relevant to—

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- (i) any tax liability to which the person is or may be subject, or
    - (ii) the amount of any such liability, or
  - (b) to furnish to him such particulars as the inspector may reasonably require as being relevant to, or to the amount of, any such liability.”
- (3) In subsection (2), for the words “a person” onwards there shall be substituted the words “a person
  - (a) to deliver to a named officer of the Board such documents as are in the person’s possession or power and as (in the Board’s reasonable opinion) contain, or may contain, information relevant to—
    - (i) any tax liability to which the person is or may be subject, or
    - (ii) the amount of any such liability, or
  - (b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.”
- (4) In subsection (3)—
  - (a) for the words “of the persons who in relation to the taxpayer are subject to this subsection” there shall be substituted the words “other person”, and
  - (b) at the end there shall be added the words “; and the persons who may be required to deliver or make available a document under this subsection include the Director of Savings.”
- (5) Subsections (4) and (5) shall be omitted.
- (6) In subsection (6)—
  - (a) for the words “under subsections (3) and (4)” there shall be substituted the words “for the purposes of this section”, and
  - (b) the words “and in relation” onwards shall be omitted.
- (7) For subsection (8) there shall be substituted—
  - “(8) Subject to subsection (8A) below, a notice under subsection (3) above shall name the taxpayer with whose liability the inspector (or, where section 20B(3) below applies, the Board is concerned.”
- (8) After subsection (8B) there shall be inserted—
  - “(8C) In this section references to documents do not include—
    - (a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
    - (b) journalistic material (as defined in section 13 of that Act),and references to particulars do not include particulars contained in such personal records or journalistic material.
  - (8D) Subject to subsection (8C) above, references in this section to documents and particulars are to those specified or described in the notice in question; and—
    - (a) the notice shall require documents to be delivered (or delivered or made available), or particulars to be furnished, within such time (which, except in the case of a notice under subsection (2) above, shall not be less than thirty days after the date of the notice) as may be specified in the notice; and

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- (b) the person to whom they are delivered, made available or furnished maytake copies of them or of extracts from them.”
- (9) In section 12(3) of the <sup>M15</sup> National Savings Bank Act1971, for the words “20(4)(b)” onwards there shall be substituted thewords “20(3) of that Act (requirement to deliver or make available documentsrelating to liability of a taxpayer).”
- (10) This section shall apply with respect to notices given on or after the dayon which this Act is passed.

**Marginal Citations**

**M14** 1970 c. 9.

**M15** 1971 c. 29.

**143 Power to call for papers of tax accountant. U.K.**

- (1) In section 20A of the <sup>M16</sup> Taxes Management Act 1970 (powerto call for papers of tax accountant) for the lasr sentence of subsection (1)there shall be substituted—
- “(1A) The reference to documents in subsection (1) above does not include—
- (a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
- (b) journalistic material (as defined in section 13 of that Act).
- (1B) Subject to subsection (1A) above, the reference to documents in subsection(1) above is to those specified or described in the notice in question;and—
- (a) the notice shall require documents to be delivered within such time (whichshall not be less than thirty days after the date of the notice) as may bespecified in the notice; and
- (b) the inspector may take copies of them or of extracts from them.”
- (2) This section shall apply with respect to notices given on or after the dayon which this Act is passed.

**Marginal Citations**

**M16** 1970 c. 9.

**144 Restrictions on powers under TMA ss.20 and 20A. U.K.**

- (1) Section 20B of the <sup>M17</sup> Taxes Management Act 1970(restrictions on powers under sections 20 and 20A) shall be amended asfollows.
- (2) In subsection (1), after the word “question” there shall be insertedthe words “, or to furnish the particulars in question”.
- (3) After that subsection there shall be inserted—
- “(1A) Subject to subsection (1B) below, where a notice is given to any personunder section 20(3) the inspector shall give a copy of the notice to thetaxpayer to whom it relates.

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- (1B) If, on an application by the inspector, a General or Special Commissioner so directs, a copy of a notice under section 20(3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the inspector has reasonable grounds for suspecting the taxpayer of fraud.”
- (4) In subsection (2), after the words “deliver documents”, in the first place where they occur, there shall be inserted the words “or furnish particulars”.
- (5) In subsection (5), for the words from “if” to “or company” there shall be substituted the words “does not oblige a person”.
- (6) In subsection (7), the words from “to a person” to “daughter” shall be omitted.
- (7) For subsection (9) there shall be substituted—
- “(9) Subject to subsections (11) and (12) below, a notice under section 20(3) or (8A)—
- (a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment, and
- (b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.
- (10) In subsections (9) above “relevant communications” means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
- (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in subsection (9) above and this subsection “tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- (11) Subject to subsection (13) below, subsection (9) above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the inspector or the Board.
- (12) Subject to subsection (13) below, in the case of a notice under section 20(8A) subsection (9) above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.
- (13) Subsection (9) above is not disapplied by subsection (11) or (12) above in the case of any document if—
- (a) the information within subsection (11) or (12) is contained in some other document, and
- (b) either—
- (i) that other document, or a copy of it, has been delivered to the inspector or the Board, or

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(ii) that other document has been inspected by an officer of the Board.

(14) Where subsection (9) above is disapplied by subsection (11) or (12) above in the case of a document, the person to whom the notice is given either shall deliver the document to the inspector or make it available for inspection by an officer of the Board or shall—

- (a) deliver to the inspector (or, where subsection (3) above applies, the Board) a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within subsection (11) or (12), and
- (b) if so required by the inspector (or, as the case may be, the Board), make available for inspection by a named officer of the Board such parts of the document as contain that information;

and failure to comply with any requirement under paragraph (b) above shall constitute a failure to comply with the notice.”

(8) This section shall apply with respect to notices given on or after the day on which this Act is passed.

#### Marginal Citations

M17 1970c. 9.

#### 145 Falsification etc. of documents. **U.K.**

(1) After section 20B of the <sup>M18</sup>Taxes Management Act 1970 there shall be inserted—

##### “20BB Falsification etc. of documents.

- (1) Subject to subsections (2) to (4) below, a person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which—
  - (a) he has been required by a notice under section 20 or 20A above, or
  - (b) he has been given an opportunity in accordance with section 20B(1) above,
 to deliver, or to deliver or make available for inspection.
- (2) A person does not commit an offence under subsection (1) above if he acts—
  - (a) with the written permission of a General or Special Commissioner, the inspector or an officer of the Board,
  - (b) after the document has been delivered or, in a case within section 20(3) or (8A) above, inspected, or
  - (c) after a copy has been delivered in accordance with section 20B(4) or (14) above and the original has been inspected.
- (3) A person does not commit an offence under subsection (1)(a) above if he acts after the end of the period of two years beginning with the date on which the notice is given, unless before the end of that period the inspector or an officer



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of the Board has notified the person in writing that the notice hasnot been complied with to his satisfaction.

(4) A person does not commit an offence under subsection (1) (b) above if heacts—

- (a) after the end of the period of six months beginning with the date on whichan opportunity to deliver the document was given, or
- (b) after an application for consent to a notice being given in relation tothe document has been refused.

(5) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding twoyears or to a fine or to both.”

(2) This section shall apply to any falsification, concealment, destructionor disposal of a document occurring on or after the day on which this Act ispassed.

**Marginal Citations**

M18 1970 c. 9.

**F317 146 Entry with warrant to obtain documents. U.K.**

**Textual Amendments**

F317 S. 146 repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)

**F318 147 Procedure where documents etc. are removed. U.K.**

**Textual Amendments**

F318 S. 147 repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)

**148 Interpretation. U.K.**

(1) Section 20D of the <sup>M19</sup>Taxes Management Act 1970 shall be amended as follows.

(2) In subsection (2), for the words “of returns or accounts to be made or delivered by the other” there shall be substituted the words “or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used”.

(3) For subsection (3) there shall be substituted—

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- “(3) Without prejudice to section 127 of the Finance Act 1988, in sections 20 to 20CC above “document” has, subject to sections 20(8C) and 20A(1A), the same meaning as it has—
- (a) in relation to England and Wales, in Part I of the Civil Evidence Act 1968,
  - (b) in relation to Scotland, in Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and
  - (c) in relation to Northern Ireland, in Part I of the Civil Evidence Act (Northern Ireland) 1971.”

F319 (4) .....

**Textual Amendments**

**F319** S. 148(4) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 7, **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)

**Marginal Citations**

**M19** 1970 c. 9.

*Assessments, claims etc.*

**149 Assessments founded on fraudulent or negligent conduct. U.K.**

- (1) The following section shall be substituted for section 36 of the Taxes Management Act 1970—

**“36 Fraudulent or negligent conduct.**

- (1) An assessment on any person (in this section referred to as “the person in default”) for the purpose of making good to the Crown a loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time not later than twenty years after the end of the chargeable period to which the assessment relates.
- (2) Where the person in default is an individual who carried on a trade or profession in partnership with another individual, or with other persons at least one of whom is an individual, at any time in the year for which the assessment is made, an assessment in respect of the profits or gains of the trade or profession for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or, as the case may be, on any of his partners who is an individual.
- (3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts.”

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- (2) Sections 37 to 39 (special provisions as to “neglect”) and section 41 (leave required for certain assessments) of the Taxes Management Act 1970 shall cease to have effect.
- (3) The words “section 36” shall be substituted—
  - (a) for the words “sections 36, 37 and 39” in section 30(6) of the <sup>M20</sup>Taxes Management Act 1970 (tax repaid in error etc.),
  - (b) for the words “sections 37 to 39” in section 118(3) of that Act (effect under law of Scotland of assessment in partnership name),
  - <sup>F320</sup>(c) for the words “sections 36 and 39” in paragraph 10(1) of Schedule 13 to the Taxes Act 1988 (assessments to advance corporation tax),] and
  - <sup>F321</sup>(d) .....
- (4) The words “fraudulent or negligent conduct” shall be substituted—
  - (a) for the words “fraud, wilful default or neglect” in—
    - (i) section 37A of the Taxes Management Act 1970 (married couples),
    - (ii) section 40(2) of that Act (assessment on personal representatives), and
    - (iii) paragraph 9 of Schedule 16A to the <sup>M21</sup>Finance Act 1973 and of Schedule 19A to the Taxes Act 1988 (Lloyd’s), and
  - <sup>F322</sup>(b) .....
- (5) In section 105 of the Taxes Management Act 1970 (admissibility of evidence), for the words “fraud or default” and the words “fraud or wilful default” there shall be substituted the words “fraudulent conduct”.
- (6) In paragraph 9 of Schedule 16A to the Finance Act 1973 and of Schedule 19A to the Taxes Act 1988, for “37, 40 and 41” there shall be substituted “and 40”.
- (7) Nothing in this section shall affect the making of assessments—
  - (a) for years of assessment before the year 1983-84, or
  - (b) for accounting periods which ended before 1st April 1983.

**Textual Amendments**

**F320** S. 149(3)(c) repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by 1998 c. 36, s. 165, [Sch. 27 Pt. III\(2\)](#), note

**F321** S. 149(3)(d) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F322** S. 149(4)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

**Marginal Citations**

**M20** 1970 c.9.

**M21** 1973 c. 51.

**150 Further assessments: claims etc. U.K.**

- (1) The following sections shall be inserted after section 43 of the Taxes Management Act 1970—

**“43A Further assessments: claims etc.**

- (1) This section applies where—

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- (a) by virtue of section 29(3) of this Act an assessment is made on any person for a chargeable period, and
  - (b) the assessment is not made for the purpose of making good to the Crown any loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf.
- (2) Without prejudice to section 43(2) above but subject to section 43B below, where this section applies—
- (a) any relevant claim, election, application or notice which could have been made or given within the time allowed by the Taxes Acts may be made or given at any time within one year from the end of the chargeable period in which the assessment is made, and
  - (b) any relevant claim, election, application or notice previously made or given may at any such time be revoked or varied—
    - (i) in the same manner as it was made or given, and
    - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, in the case of any such person who has died, by or with the consent of his personal representatives),
 except where by virtue of any enactment it is irrevocable.
- (3) For the purposes of this section and section 43B below, a claim, election, application or notice is relevant in relation to an assessment for a chargeable period if—
- (a) it relates to that chargeable period or is made or given by reference to an event occurring in that chargeable period, and
  - (b) it or, as the case may be, its revocation or variation has or could have the effect of reducing any of the liabilities mentioned in subsection (4) below.
- (4) The liabilities referred to in subsection (3) above are—
- (a) the increased liability to tax resulting from the assessment,
  - (b) any other liability to tax of the person concerned for—
    - (i) the chargeable period to which the assessment relates, or
    - (ii) any chargeable period which follows that chargeable period and ends not later than one year after the end of the chargeable period in which the assessment is made.
- (5) Where a claim, election, application or notice is made, given, revoked or varied by virtue of subsection (2) above, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period.
- (6) The provisions of this Act relating to appeals against decisions on claims shall apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of subsection (2) above.

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### **43B Limits on application of section 43A.**

- (1) If the effect of the exercise by any person of a power conferred by section 43A(2) above—
    - (a) to make or give a claim, election, application or notice, or
    - (b) to revoke or vary a claim, election, application or notice previously made or given,would be to alter the liability to tax of another person, that power may not be exercised except with the consent in writing of that other person or, where he has died, his personal representatives.
  - (2) Where—
    - (a) a power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and
    - (b) the exercise of the power increases the liability to tax of another person,that section shall not apply by reason of any assessment made because of that increased liability.
  - (3) In any case where—
    - (a) one or more relevant claims, elections, applications or notices are made, given, revoked or varied by virtue of the application of section 43A above in the case of an assessment, and
    - (b) the total of the reductions in liability to tax which, apart from this subsection, would result from the action mentioned in paragraph (a) above would exceed the additional liability to tax resulting from the assessment,the excess shall not be available to reduce any liability to tax.
  - (4) Where subsection (3) above has the effect of limiting either the reduction in a person's liability to tax for more than one period or the reduction in the liability to tax of more than one person, the limited amount shall be apportioned between the periods or persons concerned—
    - (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the person or persons concerned, or
    - (b) where the person concerned gives (or the persons concerned jointly give) notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the person or persons concerned.
  - (5) For the purposes of paragraph (b) of subsection (4) above the relevant period is the period of 30 days beginning with the day on which notice under paragraph (a) of that subsection is given to the person concerned or, where more than one person is concerned, the latest date on which such notice is given to any of them.”
- (2) This section shall apply in relation to any assessment notice of which is issued on or after the day on which this Act is passed.

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## 151 Assessment of trustees etc. **U.K.**

- (1) Income tax chargeable in respect of income arising to the trustees of a settlement, or to the personal representatives of a deceased person, may be assessed and charged on and in the name of any one or more of the relevant trustees or, as the case may be, the relevant personal representatives.
- [<sup>F323</sup>(2) In this section “the relevant trustees”—
- (a) in relation to any income, <sup>F324</sup>... means [<sup>F325</sup>the trustees of the settlement in the year of assessment in which the income arises] and any subsequent trustees of the settlement; <sup>F326</sup>...
- <sup>F326</sup>(b) .....  
and “the relevant personal representatives” has a corresponding meaning.]
- <sup>F327</sup>(3) .....
- (4) This section shall be deemed always to have had effect.

### Textual Amendments

- F323** S. 151(2) substituted (31.7.1998 with effect as mentioned in Sch. 14 para. 7(3)(4)(5) of the amending Act) by 1998 c. 36, s. 86, **Sch. 14 para. 6**
- F324** Words in s. 151(2)(a) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 281(2), **Sch. 3 Pt. 1** (with Sch. 2)
- F325** Words in s. 151(2)(a) substituted (retrospective to 6.4.2006) by Finance Act 2006 (c. 25), **Sch. 13 para. 29(1)(2)**
- F326** S. 151(2)(b) and preceding word repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 281(3), **Sch. 3 Pt. 1** (with Sch. 2)
- F327** S. 151(3) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 281(4), **Sch. 3 Pt. 1** (with Sch. 2)

*Distress and poinding etc.*

## 152 Distress for non-payment of tax. **U.K.**

- (1) Section 61 of the <sup>M22</sup>Taxes Management Act 1970 (distress) shall be amended as follows.
- (2) In subsection (1), for the words “the collector shall” onwards there shall be substituted the words “the collector may distrain upon the goods and chattels of the person charged (in this section referred to as “the person in default”).”
- (3) In subsection (2), for the words from “a collector” to “Commissioners” there shall be substituted the words “a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to”.
- (4) In subsection (4), for the words “neglecting or refusing to pay” there shall be substituted the words “in default”.
- (5) In subsection (5)—
- (a) for the word “aforesaid” there shall be substituted the words “in default”,
- (b) the words “within the said five days” shall be omitted,

*Status: Point in time view as at 27/12/2007.*

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- (c) for the words from “two or more inhabitants of the parish” to “sufficient persons” there shall be substituted the words “one or more independent persons appointed by the collector”, and
  - (d) the words from “The costs” to “the collector, and” shall be omitted.
- (6) The following subsection shall be added after that subsection—
- “(6) The Treasury may by regulations make provision with respect to—
- (a) the fees chargeable on or in connection with the levying of distress, and
  - (b) the costs and charges recoverable where distress has been levied; and any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (7) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

#### Marginal Citations

M22 1970 c. 9.

### 153 Priority in cases of distraint by others. U.K.

- (1) Section 62 of the <sup>M23</sup>Taxes Management Act 1970 (priority of claim for tax) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any goods or chattels belonging to any person (in this section referred to as “the person in default”) are”,
  - (b) for the word “unless” there shall be substituted the words “the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector”, and
  - (c) for the words “arrears of tax” onwards there shall be substituted the words “such sums as have fallen due at or before the date of seizure.”
- (3) The following subsection shall be inserted after that subsection—
- “(1A) The sums referred to in subsection (1) above are—
- (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under section 203 of the principal Act (pay as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
  - (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry).”
- (4) In subsection (2)—

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- (a) for the words from the beginning to “the collector shall” there shall be substituted the words “If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may”,
- (b) for the words “shall proceed” there shall be substituted the words “may proceed”, and
- (c) for the words “the tax charged and claimed” there shall be substituted the words “those sums”.

**Marginal Citations**

M23 1970 c. 9.

**154 Recovery of tax from debtor in Scotland. U.K.**

- (1) Section 63 of the <sup>M24</sup>Taxes Management Act 1970 (recovery of tax in Scotland) shall be amended as follows.
- (2) In subsection (3), for the words “which relates to” onwards there shall be substituted the words “insofar as it relates to sums due in respect of—
  - (a) deductions of income tax which any person specified in the application was liable to make under section 203 of the principal Act (pay as you earn); or
  - (b) deductions required to be made under section 559 of the principal Act (sub-contractors in the construction industry) by any person specified in the application.”
- (3) The following subsection shall be added after that subsection—
  - “(4) In this section references to amounts of tax due and references to sums due in respect of deductions include references to amounts which are deemed to be—
    - (a) amounts of tax which the person is liable to pay by virtue of the Income Tax (Employments) Regulations 1973; or
    - (b) amounts which the person is liable to pay by virtue of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.”

**Marginal Citations**

M24 1970 c. 9.

**155 Priority in cases of poinding etc. by others in Scotland. U.K.**

- (1) Section 64 of the Taxes Management Act 1970 (priority of claim for tax in Scotland) shall be amended as follows.
- (2) In subsection (1)—
  - (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any moveable goods and effects belonging to any person (in this section referred to as “the person in default”) are”,



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- (b) for the word “unless” there shall be substituted the words “theperson in default is in arrears in respect of any such sums as are referredto in subsection (1A) below, the goods and effects may not be so taken unlesson demand made by the collector”, and
  - (c) for the words “the tax so in arrear” onwards there shall besubstituted the words “such sums as have fallen due at or before the dateof pointing or, as the case may be, other diligence or assignation.”
- (3) The following subsection shall be inserted after that subsection—
- “(1A) The sums referred to in subsection (1) above are—
- (a) sums due from the person in default on account of deductions of income taxfrom emoluments paid during the period of twelve months next before the dateof pointing, being deductions which the person in default was liable to makeunder section 203 of the principal Act (pay as you earn) less the amount ofthe repayments of income tax which he was liable to make during that period;and
  - (b) sums due from the person in default in respect of deductions required tobe made by him for that period under section 559 of the principal Act(sub-contractors in the construction industry).”
- (4) In subsection (2)—
- (a) for the words from the beginning to “the tax claimed shall” thereshall be substituted the words “If the sums referred to in subsection (1)above are not paid within ten days of the date of the demand referred to inthat subsection, the sums shall”, and
  - (b) for the words “proceeding at his instance” there shall be substitutedthe word “proceedings”.

*Interest etc.*

## 156 Interest on overdue tax. **U.K.**

- (1) In section 86 of the <sup>M25</sup>Taxes Management Act 1970, forsubsection (3) and the words in subsection (4) preceding the Table there shallbe substituted—
- “(3) For the purposes of this section—
- (a) the reckonable date in relation to any tax charged by an assessment toincome tax under Schedule E, and
  - (b) subject to subsection (3A) below, the reckonable date in relation to taxcharged by any other assessment to which this section applies, is the date on which the tax becomes due and payable.
- (3A) Where an appeal has been made against an assessment and any of the taxcharged by the assessment is due and payable on a date later than the dategiven by the Table in subsection (4) below, the reckonable date in relationto the tax so due and payable is the later of—
- (a) the date given by that Table, and
  - (b) the date on which the tax would have been due and payable if there hadbeen no appeal against the assessment (assuming in a case where the tax wouldnot have been charged by the assessment if there had been no appeal that itwas so charged).

*Status: Point in time view as at 27/12/2007.*

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- (4) The Table referred to in subsection (3A) above is as follows—
- (2) In section 55 of that Act—
- (a) in subsection (2), for the words “it were” onwards there shall be substituted the words “there had been no appeal.”,
- (b) in subsection (6), for paragraphs (a) and (b) there shall be substituted—
- (a) in the case of a determination made on an application under subsection (3) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
- (b) in the case of a determination made on an application under subsection (4) above—
- (i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
- (ii) any tax overpaid shall be repaid.” and
- (c) for subsection (9) there shall be substituted—
- “(9) On the determination of the appeal—
- (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the assessment if there had been no appeal, be determined as if the tax were charged by an assessment—
- (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
- (ii) against which there had been no appeal; and
- (b) any tax overpaid shall be repaid.”
- (3) In section 56(9) of that Act, for the words “amount of” there shall be substituted the words “amount charged by”.
- (4) This section shall apply to tax charged by any assessment notice of which is issued after 30th July 1982.

**Marginal Citations**

M25 1970 c. 9.

*Status: Point in time view as at 27/12/2007.*

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## 157 Effect of certain claims on interest. **U.K.**

- (1) In relation to any tax charged by an assessment made under section 252(1) of the Taxes Act 1988 to recover corporation tax that becomes payable as a result of the making of a claim under section 240 of that Act, the reckonable date for the purposes of section 86 of the <sup>M26</sup>Taxes Management Act 1970 (in this section referred to as “section 86”) is the date which is given by paragraph 5 of the Table in subsection (4) of that section.
- (2) Subsections (3) and (4) below apply in any case where—
  - (a) there is in any accounting period of a company (in this section referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of the Taxes Act 1988, and
  - (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an earlier accounting period (in this section referred to as “the earlier period”), and
  - (c) if the claim under the said subsection (3) had not been made—
    - (i) an amount of corporation tax assessed for the earlier period would carry interest in accordance with section 86, or
    - (ii) an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period.
- (3) In determining the amount of interest payable under section 86 on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from section 239(3) of the Taxes Act 1988 except so far as concerns interest for any time after the day following the expiry of nine months from the end of the later period.
- (4) Where, but for the claim under section 239(3) of the Taxes Act 1988, an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period, interest under section 86 shall be chargeable, in relation to any time not later than the day referred to in subsection (3) above, as if the claim had not been made and such an assessment had been made.
- (5) In relation to interest charged under section 86 by virtue of subsection (4) above, section 69 of the <sup>M27</sup>Taxes Management Act 1970 shall have effect with the substitution for the words following paragraph (c) of the words “as if it were tax charged and due and payable under an assessment”.
- (6) In this section—
  - (a) subsection (1) above shall have effect where the claim under 240 of the Taxes Act 1988 is made on or after 14th March 1989, and
  - (b) subsections (2) to (5) above shall have effect where the claim under section 239(3) of that Act is made on or after that date,but this section shall not have effect in relation to corporation tax for any accounting period ending after the day which is the appointed day for the purposes of section 85 of the <sup>M28</sup>Finance (No.2) Act 1987.

### Marginal Citations

**M26** 1970 c. 9.

**M27** 1970 c. 9.

**M28** 1987 c. 51.

*Status: Point in time view as at 27/12/2007.*

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## 158 Small amounts of interest. **U.K.**

- (1) In the Taxes Management Act 1970—
- (a) section 86(6) (remission of interest payable on overdue income tax, capital gains tax or corporation tax where interest would not exceed £30), and
  - (b) section 87(4) (no interest payable on overdue advance corporation tax or income tax on company payments where interest would not exceed £30),
- shall cease to have effect.
- (2) The words “of not less than £25” in—
- (a) [<sup>F328</sup>section 283(1) of the <sup>M29</sup>Taxation of Chargeable Gains Act 1992] (no repayment supplement where overdue repayment of capital gains tax less than £25), and
  - (b) section 824(1)(a) and (b) and (5) of the Taxes Act 1988 (no repayment supplement where overdue repayment of income tax etc. less than £25),
- and the words “of not less than £100” in section 825(2) of the Taxes Act 1988 (no repayment supplement where overdue repayment of company tax less than £100) shall cease to have effect.
- (3) Paragraph (a) of subsection (1) above shall have effect—
- (a) in relation to income tax under Schedule E, where the demand for the tax is made on or after the appointed day, and
  - (b) in any other case, where the tax is charged by an assessment notice of which is issued on or after the appointed day.
- (4) Paragraph (b) of that subsection shall have effect where the tax is charged by an assessment relating to an accounting period beginning on or after the appointed day.
- (5) Subsection (2) above shall have effect in relation to repayments of tax made on or after the appointed day.
- (6) In this section “the appointed day” means such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed for different enactments or for different purposes of the same enactment.

### Textual Amendments

**F328** Words in s. 158(2)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 19\(3\)](#) (with ss. 60, 101(1), 201(3))

### Marginal Citations

**M29** [1975 c. 45](#).

## <sup>F329</sup>159 Interest on tax in case of failure or error. **U.K.**

- (1) Section 88 of the <sup>M30</sup>Taxes Management Act 1970 (interest on tax recovered to make good loss due to taxpayer’s fault) shall be amended as follows.
- (2) In subsection (1), for the words “the fraud, wilful default or neglect of any person” there shall be substituted the words—

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- “(a) a failure to give a notice, make a return or produce or furnish a document or other information required by or under the Taxes Acts, or
  - (b) an error in any information, return, accounts or other document delivered to an inspector or other officer of the Board.”
- (3) The following subsection shall be added at the end—
- “(7) In paragraph (a) of subsection (1) above the reference to a failure to do something includes, in relation to anything required to be done at a particular time or within a particular period, a reference to a failure to do it at that time or within that period; and, accordingly, section 118(2) of this Act shall not apply for the purposes of that paragraph.”
- (4) This section shall have effect in relation to failures occurring, and errors in any information or documents delivered, on or after the day on which this Act is passed.]

#### Textual Amendments

**F329** S. 159 repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by [1996 c. 8, s. 205, Sch. 41 Pt. V\(8\)](#), note

#### Marginal Citations

**M30** [1970 c. 9](#).

## 160 Determinations under TMA s. 88. **U.K.**

<sup>F330</sup> [(1) In subsection (1) of section 88 of the Taxes Management Act 1970, for the words “shall carry” there shall be substituted the words “shall, if an inspector or the Board so determine, carry”.]

[<sup>F330</sup>(2) The following section shall be inserted after that section—

### “ Determinations under section 88.

- (1) Notice of a determination under section 88 above shall be served on the person liable to pay the interest to which it relates and shall specify—
  - (a) the date on which it is issued,
  - (b) the amount of the tax which carries interest and the assessment by which that tax was charged,
  - (c) the date when for the purposes of section 88 above that tax ought to have been paid, and
  - (d) the time within which an appeal against the determination may be made.
- (2) After the notice of a determination under section 88 above has been served the determination shall not be altered except in accordance with this section.
- (3) A determination under section 88 above may be made at any time—
  - (a) within six years after the end of the chargeable period for which the tax carrying the interest is charged (or, in the case of development land tax, of the financial year in which the liability for that tax arose), or

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- (b) within three years after the date of the final determination of the amount of that tax.
- (4) An appeal may be brought against a determination under section 88 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (5) On an appeal against a determination under section 88 above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
- (a) if it appears to them that the tax carries no interest under that section, set the determination aside,
  - (b) if the determination appears to them to be correct, confirm the determination, or
  - (c) if the determination appears to them to be incorrect as to the amount of tax or the date on which the tax ought to have been paid, revise the determination accordingly.”]

(3) In section 70 (certificates) of the <sup>M31</sup>Taxes Management Act 1970, for subsection (3) there shall be substituted—

“(3) A certificate of the inspector or any other officer of the Board that it has been determined that tax carries interest under section 88 of this Act, together with a certificate of the collector that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence—

    - (a) that interest is chargeable on the tax from the date when for the purposes of section 88 of this Act the tax ought to have been paid, and
    - (b) that the sum mentioned in the certificate is unpaid and is due to the Crown;

and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.”

[<sup>F330</sup>(4) In section 113 of that Act (form of documents), the following subsection shall be inserted after subsection (1B)—

“(1C) Where an officer of the Board has decided that an amount of tax carries interest under section 88 of this Act and has taken the decisions needed for arriving at the date when for the purposes of that section that tax ought to have been paid, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the interest.”]

(5) In section 114 of that Act (want of form not to invalidate), after the word “assessment”, in each place where it occurs, there shall be inserted the words “or determination”.

[<sup>F331</sup>(6) In paragraph 5 of Schedule 3 to that Act (rules for assigning proceedings to Commissioners), the following entry shall be inserted in the first column after the entry relating to an appeal against an assessment to capital gain tax— “ An appeal against a determination under section 88 of this Act. ”]

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#### Textual Amendments

**F330** S. 160(1)(2)(4) repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(8\)](#), note

**F331** S. 160(6) repealed (29.4.1996 with effect as mentioned in [Sch. 22 para. 12](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(12\)](#), note

#### Marginal Citations

**M31** 1970 c. 9.

### [<sup>F332</sup>161 Tax carrying interest under TMA ss. 86 and 88. **U.K.**

The following subsection shall be substituted for section 88(3) of the <sup>M32</sup>Taxes Management Act 1970—

“(3) Where it is finally determined that any tax carries interest under this section, the tax shall carry no interest under section 86 or 86A above (and, accordingly, any interest under either of those sections which has been paid before the final determination shall be set off against the amount of the interest under this section); and for the purposes of this subsection a determination that tax carries interest is not final until it can no longer be varied, whether by any Commissioners on appeal or by the order of any court.”]

#### Textual Amendments

**F332** S. 161 repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(8\)](#), note

#### Marginal Citations

**M32** 1970 c. 9.

### *Penalties*

### 162 Failure to make return. **U.K.**

(1) Section 93 of the Taxes Management Act 1970 (failure to comply with notice to make return for income tax or capital gains tax) shall be amended as follows.

(2) In subsection (1) (initial and daily penalties), for paragraphs (a) and (b) there shall be substituted—

“(a) to a penalty not exceeding £300, and

(b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (a) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).”

(3) The following subsection shall be substituted for subsection (2)—

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- “(2) If a failure by a person to comply with a notice such as is referred to in subsection (1) above continues after the end of the year of assessment following that during which it was served then, without prejudice to any penalty under subsection (1) above, he shall be liable to a penalty of an amount not exceeding so much of the tax with which he is charged (whether for one or for more than one year of assessment) in assessments—
- (a) based wholly or partly on any income or chargeable gains that ought to have been included in the return required by the notice, and
  - (b) made after the end of the year next following the year of assessment in which the notice was served,
- as is attributable to the income or chargeable gains that ought to have been so included.”
- (4) The following subsection shall be substituted for subsection (5)—
- “(5) No penalty shall be imposed under subsection (1) above in respect of a failure at any time after the failure has been remedied.”
- (5) The following subsection shall be substituted for subsection (7)—
- “(7) If the person on whom a notice is served proves that there was no income or chargeable gain to be included in the return, the penalty under this subsection shall not exceed £100.”
- (6) This section shall apply in relation to any failure to comply with a notice served on or after 6th April 1989.

### 163 Incorrect return, accounts etc. U.K.

- (1) In—
- <sup>F333</sup>(a) . . . . .
  - (b) section 96(1) of that Act (incorrect return etc. for corporation tax),
- for the words “the aggregate” onwards there shall be substituted the words “the amount of the difference specified in subsection (2) below.”
- (2) This section shall apply in relation to returns, statements, declarations or accounts delivered, made or submitted on or after the day on which this Act is passed.

#### Textual Amendments

**F333** S. 163(1)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 5\(5\)](#)

### 164 Special returns, information etc. U.K.

- (1) Section 98 of the Taxes Management Act 1970 (special returns, information etc.) shall be amended as follows.
- (2) In subsection (1) (initial and daily penalties)—
- (a) for the word “Where” there shall be substituted the words “Subject to section 98A below, where”, and
  - (b) for the words “subsection (3)” onwards there shall be substituted the words “subsections (3) and (4) below—



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- (i) to a penalty not exceeding £300, and
  - (ii) if the failure continues after a penalty is imposed under paragraph (i) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (i) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).”
- (3) In subsection (2) (maximum penalty for information given fraudulently or negligently)
  - (a) for the word “Where” there shall be substituted the words “Subject to section 98A below, where”, and
  - (b) for the words “ £250, or, in the case of fraud, £500” there shall be substituted “ £3,000”.
- (4) The following subsections shall be substituted for subsection (3)—
  - “(3) No penalty shall be imposed under subsection (1) above in respect of a failure within paragraph (a) of that subsection at any time after the failure has been remedied.
  - (4) No penalty shall be imposed under paragraph (ii) of subsection (1) above in respect of a failure within paragraph (b) of that subsection at any time after the failure has been remedied.”
- (5) In the Table—
  - (a) in the first column, in the entry relating to Part III of the <sup>M33</sup>Taxes Management Act 1970, the words “, except sections 16 and 24(2)” shall be omitted;
  - (b) the entries relating to sections 38(5) and 42 of the Taxes Act 1988 shall be moved from the second column to the appropriate place in the first column; and
  - (c) the entry relating to section 481(5)(k) of that Act shall be omitted from the first column and an entry relating to section 482(2) of that Act shall be inserted at the appropriate place in the second column.
- (6) In consequence of the amendment made by subsection (5)(a) above section 16(6) of the Taxes Management Act 1970 shall cease to have effect.
- (7) This section shall apply in relation to—
  - (a) any failure to comply with a notice or to furnish information, give a certificate or produce a document or record beginning on or after the day on which this Act is passed, and
  - (b) the furnishing, giving, producing or making of any incorrect information, certificate, document, record or declaration on or after that day.

#### Marginal Citations

M33 1970 c.9.

## 165 Special penalties in the case of certain returns. **U.K.**

- (1) The following section shall be inserted after section 98 of the Taxes Management Act 1970—

*Status: Point in time view as at 27/12/2007.*

*Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 18 May 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)*

**“98A Special penalties in the case of certain returns.**

- (1) Regulations under section 203(2) (PAYE) or 566(1) (sub-contractors) of the principal Act may provide that this section shall apply in relation to any specified provision of the regulations.
  - (2) Where this section applies in relation to a provision of regulations, any person who fails to make a return in accordance with the provision shall be liable—
    - (a) to a penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this paragraph has already been imposed, and
    - (b) if the failure continues beyond twelve months, without prejudice to any penalty under paragraph (a) above, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year of assessment to which the return relates as remained unpaid at the end of 19th April after the end of that year.
  - (3) For the purposes of subsection (2)(a) above, the relevant monthly amount in the case of a failure to make a return—
    - (a) where the number of persons in respect of whom particulars should be included in the return is fifty or less, is £100, and
    - (b) where that number is greater than fifty, is £100 for each fifty such persons and an additional £100 where that number is not a multiple of fifty.
  - (4) Where this section applies in relation to a provision of regulations, any person who fraudulently or negligently makes an incorrect return of a kind mentioned in the provision shall be liable to a penalty not exceeding the difference between—
    - (a) the amount payable by him in accordance with the regulations for the year of assessment to which the return relates, and
    - (b) the amount which would have been so payable if the return had been correct.”
- [<sup>F334</sup>(2) In relation to a failure to make a return beginning before such day as the Treasury may by order made by statutory instrument appoint, section 98A(2) shall have effect with the substitution of the following paragraph for paragraph (a)—
- “(a) to—
- (i) a penalty not exceeding twelve times the relevant monthly amount, and
  - (ii) if the failure continues after a penalty is imposed under sub-paragraph (i) above, a further penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this sub-paragraph has already been imposed.”.]

*Status: Point in time view as at 27/12/2007.*

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#### Textual Amendments

**F334** S. 165(2) repealed (with effect in relation to failures beginning on or after 20.5.1995) by [Finance Act 1989 \(c. 26, SIF 63:1\)](#), ss. 165(2), 187(1), [Sch. 17 Pt. VIII](#) Note 7; S.I. 1994/2508, [art. 2](#)

### 166 Assisting in preparation of incorrect return etc. **U.K.**

(1) The following section shall be substituted for section 99 of the <sup>M34</sup>Taxes Management Act 1970—

#### “99 Assisting in preparation of incorrect return etc.

Any person who assists in or induces the preparation or delivery of any information, return, accounts or other document which—

- (a) he knows will be, or is or are likely to be, used for any purpose of tax, and
- (b) he knows to be incorrect,

shall be liable to a penalty not exceeding £3,000.”

(2) This section shall apply in relation to assistance and inducements occurring on or after the day on which this Act is passed.

#### Marginal Citations

**M34** 1970c. 9.

### 167 Determination of penalties. **U.K.**

The following sections shall be substituted for section 100 of the <sup>M35</sup>Taxes Management Act 1970—

#### “100 Determination of penalties by officer of Board.

(1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below or a penalty has been imposed by the Commissioners under section 53 of this Act, an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.

(2) Subsection (1) above does not apply where the penalty is a penalty under—

- (a) section 93(1) above as it has effect before the amendments made by section 162 of the Finance Act 1989 or section 93(1)(a) above as it has effect after those amendments,
- (b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No. 2) Act 1987,
- (c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments, or

*Status: Point in time view as at 27/12/2007.*

*Changes to legislation: Finance Act 1989 is up to date with all changes known to be in force on or before 18 May 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)*

- (d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989.
- (3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within which an appeal against the determination may be made.
- (4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section on appeal.
- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.
- (6) In any case where—
- (a) a determination under this section is of a penalty under section 94(6) above, and
  - (b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,
- the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.

#### **100A Provisions supplementary to section 100.**

- (1) Where a person who has incurred a penalty has died, a determination under section 100 above which could have been made in relation to him may be made in relation to his personal representatives, and any penalty imposed on personal representatives by virtue of this subsection shall be a debt due from and payable out of his estate.
- (2) A penalty determined under section 100 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of determination.
- (3) A penalty determined under section 100 above shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

#### **100B Appeals against penalty determinations.**

- (1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (2) On an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but—

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*Status: Point in time view as at 27/12/2007.*

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- (a) in the case of a penalty which is required to be of a particular amount, the Commissioners may—
    - (i) if it appears to them that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears to them to be correct, confirm the determination, or
    - (iii) if the amount determined appears to them to be incorrect, increase or reduce it to the correct amount,
  - (b) in the case of any other penalty, the Commissioners may—
    - (i) if it appears to them that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears to them to be appropriate, confirm the determination,
    - (iii) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
    - (iv) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (3) Without prejudice to section 56 of this Act, an appeal from a decision of the Commissioners against the amount of a penalty which has been determined under section 100 above or this section shall lie, at the instance of the person liable to the penalty, to the High Court or, in Scotland, to the Court of Session as the Court of Exchequer in Scotland; and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this section.

### **100C Penalty proceedings before Commissioners.**

- (1) An officer of the Board authorised by the Board for the purposes of this section may commence proceedings before the General or Special Commissioners for any penalty to which subsection (1) of section 100 above does not apply by virtue of subsection (2) of that section.
- (2) Proceedings under this section shall be by way of information in writing, made to the Commissioners, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.
- (3) Any penalty determined by the Commissioners in proceedings under this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (4) An appeal against the determination of a penalty in proceedings under this section shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland—
  - (a) by any party on a question of law, and
  - (b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.
- (5) On any such appeal the court may—

*Status: Point in time view as at 27/12/2007.*

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- (a) if it appears that no penalty has been incurred, set the determination aside,
- (b) if the amount determined appears to be appropriate, confirm the determination,
- (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate, or
- (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.

### 100D Penalty proceedings before court.

- (1) Where in the opinion of the Board the liability of any person for a penalty arises by reason of the fraud of that or any other person, proceedings for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.
- (2) Proceedings under this section which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted—
  - (a) in England and Wales, in the name of the Attorney General,
  - (b) in Scotland, in the name of the Lord Advocate, and
  - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any proceedings under this section instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.
- (4) If in proceedings under this section the court does not find that fraud is proved but considers that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.”

#### Marginal Citations

M35 1970 c. 9.

### 168 Amendments consequential on section 167. **U.K.**

- (1) In consequence of the amendment made by section 167 above the <sup>M36</sup>Taxes Management Act 1970 shall be amended in accordance with subsections (2) to (8) below.
- (2) In section 20A (power to call for papers of tax accountant)—
  - (a) in subsection (1), for the words “awarded against him a penalty incurred by” there shall be substituted the words “a penalty imposed on”,

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- (b) in subsection (2), for the word “award” in the first place where it occurs there shall be substituted the word “penalty” and for that word in the second place where it occurs there shall be substituted the word “imposition”, and
- (c) in subsection (4), for the words “award against” there shall be substituted the words “imposition on” and for the word “award” there shall be substituted the word “penalty”.

<sup>F335</sup>(3) . . . . .

(4) In section 102 (mitigation of penalties), for the words “recovery thereof” there shall be substituted the words “a penalty”.

(5) In section 105 (evidence)—

(a) the following paragraph shall be substituted for paragraph (a) of subsection (1)

—  
“(a) pecuniary settlements may be accepted instead of a penalty being determined, or proceedings being instituted, in relation to any tax,”

(b) in paragraph (b) of subsection (2), for the words “sum” onwards there shall be substituted the words “tax due from him”, and

(c) after that paragraph there shall be inserted the words “and  
(c) any proceedings for a penalty or on appeal against the determination of a penalty.”

(6) In section 112 (loss of documents etc.), the following subsection shall be added at the end—

“(3) The references in subsection (1) above to assessments to tax include references to determinations of penalties; and in its application to such determinations the proviso to that subsection shall have effect with the appropriate modifications.”

(7) In section 113 (form of documents)—

(a) the following subsection shall be inserted after subsection (1C)—

“(1D) Where an officer of the Board has decided to impose a penalty under section 100 of this Act and has taken all other decisions needed for arriving at the amount of the penalty, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the penalty.” and

(b) in subsection (3)—

(i) after the words “Every assessment,” there shall be inserted the words “determination of a penalty,”

(ii) after the words “notice of assessment” there shall be inserted the words “, of determination”, and

(iii) after the words “levying tax” there shall be inserted the words “or determining a penalty”.

[<sup>F336</sup>(8) In paragraph 5 of Schedule 3 (rules for assigning proceedings to Commissioners), for the words “section 100(4)” there shall be substituted the words “section 100C or an appeal under section 100B against the determination of a penalty”.]

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(9) In section 41 of the <sup>M37</sup>Development Land Tax Act 1976 (administration of development land tax) the following subsection shall be inserted after subsection (1)—

“(1A) Nothing in sections 167 to 169 of the Finance Act 1989 shall apply to penalties relating to development land tax.”

#### Textual Amendments

**F335** S. 168(3) repealed (1.9.1994) by S.I. 1994/1813, reg. 2(2), Sch. 2 Pt. I

**F336** S. 168(8) repealed (29.4.1996 with effect as mentioned in Sch. 22 para. 12 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(12), note

#### Marginal Citations

**M36** 1970 c.9.

**M37** 1976 c. 24.

## 169 Time limits. **U.K.**

(1) The following section shall be substituted for section 103 of the <sup>M38</sup>Taxes Management Act 1970—

### “103 Time limits for penalties.

(1) Subject to subsection (2) below, where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, the penalty may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the Commissioners or a court—

- (a) at any time within six years after the date on which the penalty was incurred, or
- (b) at any later time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be ascertained.

(2) Where the tax was payable by a person who has died, and the determination would be made in relation to his personal representatives, subsection (1)(b) above does not apply if the tax was charged in an assessment made later than six years after the end of the chargeable period for which it was charged.

(3) A penalty under section 99 of this Act may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within twenty years after the date on which the penalty was incurred.

(4) A penalty to which neither subsection (1) nor subsection (3) above applies may be so determined, or proceedings for such a penalty may be commenced before the Commissioners or a court, at any time within six years after the date on which the penalty was incurred or began to be incurred.”

(2) The amendment made by subsection (1) above shall not affect the application of section 103(4) of the <sup>M39</sup>Taxes Management Act 1970 to proceedings under section 100 of that Act as it has effect before the amendment made by section 167 above.



*Status: Point in time view as at 27/12/2007.*

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#### Marginal Citations

**M38** 1970c. 9.

**M39** 1970 c. 9.

### 170 Up-rating of certain penalties. **U.K.**

[<sup>F337</sup>(1) In section 23(8) of the Taxes Act 1988 (maximum penalty for agents failing to make certain payments on behalf of principals), for “£50” there shall be substituted “£300”.]

<sup>F338</sup>(2) .....

<sup>F339</sup>(3) .....

(4) In—

<sup>F340</sup>(a) .....

<sup>F340</sup>(b) .....

(c) section 658(5) of that Act (maximum penalty for false statements or representations relating to purchased life annuities), for “£500” there shall be substituted “£3,000”.

(5) In paragraph 2(4) of Schedule 19A to that Act and Schedule 16A to the <sup>M40</sup>Finance Act 1973 (maximum penalty for incorrect return by Lloyd’s agent), for the words “£500 in the case of fraud and £250 in the case of negligence” there shall be substituted “£3,000”.

(6) This section shall apply in relation to things done or omitted on or after the day on which this Act is passed.

#### Textual Amendments

**F337** S. 170(1) repealed (1.5.1995 with effect as mentioned in s. 39(4)(5) of the amending Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(1)**, note

**F338** S. 170(2) repealed (16.7.1992 with effect in accordance with s. 32 of the repealing Act) by Finance (No. 2) Act 1992 (c. 48), ss. 32, 82, **Sch. 18 Pt. VII(4)**

**F339** S. 170(3) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

**F340** S. 170(4)(a)(b) repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)

#### Marginal Citations

**M40** 1973 c. 51.

*Status: Point in time view as at 27/12/2007.*

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## PART III U.K.

### MISCELLANEOUS AND GENERAL

#### *Inheritance tax*

#### 171 Gifts to housing associations. U.K.

- (1) The following section shall be inserted in the <sup>M41</sup>Inheritance Tax Act 1984 after section 24—

**“24A Gifts to housing associations.**

- (1) A transfer of value is exempt to the extent that the value transferred by it is attributable to land in the United Kingdom given to a registered housing association.
- (2) In subsection (1) above “registered housing association” means a registered housing association within the meaning of the Housing Associations Act 1985 or Part VII of the Housing (Northern Ireland) Order 1981.
- (3) Subsections (2) to (5) of section 23 and subsection (4) of section 24 above shall apply in relation to subsection (1) above as they apply in relation to section 24(1).”
- (2) In section 23(5) of the Inheritance Tax Act 1984 the words “or, where it is land, of a body mentioned in section 24A below” shall be added at the end.
- (3) In section 29(5) of that Act—
- the words “or, where it is land, of a body mentioned in section 24A” shall be inserted at the end of paragraph (b), and
  - after “24(3) and (4),” there shall be inserted “24A(3),”.
- (4) In section 161(2)(b)(ii) of that Act after “24,” there shall be inserted “24A,”.
- (5) In section 102(5) of the <sup>M42</sup>Finance Act 1986 after paragraph (e) there shall be inserted—
- “(ee) section 24A (gifts to housing associations);”.
- (6) This section shall apply to transfers of value made on or after 14th March 1989.

#### Marginal Citations

M41 1984 c.51.

M42 1986 c. 41.

#### 172 Abatement of exemption where claim settled out of beneficiary’s own resources. U.K.

- (1) The following section shall be inserted after section 29 of the <sup>M43</sup>Inheritance Tax Act 1984—

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*Status: Point in time view as at 27/12/2007.*

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**“29A Abatement of exemption where claim settled out of beneficiary’s ownresources.**

- (1) This section applies where—
  - (a) apart from this section the transfer of value made on the death of any person is an exempt transfer to the extent that the value transferred by it is attributable to an exempt gift, and
  - (b) the exempt beneficiary, in settlement of the whole or part of any claim against the deceased’s estate, effects a disposition of property not derived from the transfer.
- (2) The provisions of this Act shall have effect in relation to the transfer as if—
  - (a) so much of the relevant value as is equal to the following amount, namely the amount by which the value of the exempt beneficiary’s estate immediately after the disposition is less than it would be but for the disposition, or
  - (b) where that amount exceeds the relevant value, the whole of the relevant value,  
were attributable to such a gift to the exempt beneficiary as is mentioned in subsection (3) below (instead of being attributable to a gift with respect to which the transfer is exempt).
- (3) The gift referred to in subsection (2) above is a specific gift with respect to which the transfer is chargeable, being a gift which satisfies the conditions set out in paragraphs (a) and (b) of section 38(1) below.
- (4) In determining the value of the exempt beneficiary’s estate for the purposes of subsection (2) above—
  - (a) no deduction shall be made in respect of the claim referred to in subsection (1)(b) above, and
  - (b) where the disposition referred to in that provision constitutes a transfer of value—
    - (i) no account shall be taken of any liability of the beneficiary for any tax on the value transferred, and
    - (ii) sections 104 and 116 below shall be disregarded.
- (5) Subsection (1)(b) above does not apply in relation to any claim against the deceased’s estate in respect of so much of any liability as is, in accordance with this Act, to be taken into account in determining the value of the estate.
- (6) In this section—

“exempt gift”, in relation to a transfer of value falling within subsection (1)(a) above, means—

  - (a) a gift with respect to which the transfer is (apart from this section) exempt by virtue of the provisions of any of sections 18 and 23 to 28 above, or
  - (b) where (apart from this section) the transfer is so exempt with respect to a gift up to a limit, so much of the gift as is within that limit;

“the exempt beneficiary”, in relation to an exempt gift, means any of the following, namely—

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- (a) where the gift is exempt by virtue of section 18 above, the deceased's spouse,
  - (b) where the gift is exempt by virtue of section 23 above, any person or body—
    - (i) whose property the property falling within subsection (1) of that section becomes, or
    - (ii) by whom that property is held on trust for charitable purposes,
  - (c) where the gift is exempt by virtue of section 24, 25 or 26 above, any body whose property the property falling within subsection (1) of that section becomes,
    - (d) where the gift is exempt by virtue of section 24A above, any body to whom the land falling within subsection (1) of that section is given, and
    - (e) where the gift is exempt by virtue of section 27 or 28 above, the trustees of any settlement in which the property falling within subsection (1) of that section becomes comprised;
 

“gift” and “specific gift” have the same meaning as in Chapter III of this Part; and

“the relevant value”, in relation to a transfer of value falling within subsection (1)(a) above, means so much of the value transferred by the transfer as is attributable to the gift referred to in that provision.”
- (2) This section shall have effect in relation to deaths occurring on or after the day on which this Act is passed.

**Marginal Citations**

**M43** 1984c. 51.

*Stamp duty etc.*

**[<sup>F341</sup>173 Insurance: abolition of certain duties. U.K.]**

- (1) Stamp duty shall not be chargeable under—
  - (a) the heading “Policy of Life Insurance” in Schedule 1 to the <sup>M44</sup>Stamp Act 1891, or
  - (b) paragraph (3) of the heading “Bond, Covenant, or Instrument of any kind whatsoever” in that Schedule (superannuation annuities).
- (2) Subject to section 4 of the Stamp Act 1891 (separate charges on instruments containing or relating to several distinct matters) an instrument which, but for subsection (1) above, would be chargeable with stamp duty under paragraph (3) of the heading mentioned in paragraph (b) of that subsection shall not be chargeable with stamp duty under any other provision of the Stamp Act 1891.
- (3) Section 100 of the Stamp Act 1891 (penalty for not making out policy or making policy not duly stamped) shall cease to have effect.
- (4) Section 118 of the Stamp Act 1891 (assignment of life insurance policy to be stamped before payment of money assured) shall cease to have effect.

*Status: Point in time view as at 27/12/2007.*

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- (5) Section 47(3) of the <sup>M45</sup>Finance Act 1966 (enhanced duty where policy not exceeding 2 years is varied so as to exceed 2 years) and section 5(3) of the <sup>M46</sup>Finance Act (Northern Ireland) 1966 (equivalent provision for Northern Ireland) shall cease to have effect.
- (6) Subsections (1) and (2) above apply to instruments made after 31st December 1989.
- (7) So far as it relates to section 100(1) of the 1891 Act, subsection (3) above applies where a person receives, or takes credit for, a premium or consideration for insurance after 30th November 1989.
- (8) So far as it relates to section 100(2) of the 1891 Act, subsection (3) above applies where the policy is made after 31st December 1989.
- (9) Subsection (4) above applies to instruments of assignment made after 31st December 1989.
- (10) Subsection (5) above applies where the policy is varied after 31st December 1989 (whenever it was made).]

#### Textual Amendments

**F341** S. 173 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. V(2) of the amending Act) by 1999 c. 16, s. 138, Sch. 20 Pt. V(2), notes 1, 2

#### Marginal Citations

**M44** 1891 c. 39.

**M45** 1966 c. 18.

**M46** 1966 c. 21 (N.I.).

### 174 Unit trusts. **U.K.**

F342

#### Textual Amendments

**F342** S. 174 repealed (with effect as mentioned in Sch. 20 Pt. V(5) notes 1, 2 of the amending Act) by Finance Act 1999 (c. 16) s. 139, {Sch. 20 Pt. V(5)}

### 175 Stamp duty: stock exchange nominees **U.K.**

- (1) The Treasury may by regulations provide that where —
  - (a) circumstances would (apart from the regulations) give rise to a charge to stamp duty under [<sup>F343</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)] and to a charge to stamp duty reserve tax,
  - (b) the circumstances involve a stock exchange nominee, and
  - (c) the circumstances are such as are prescribed,the charge to stamp duty shall be treated as not arising.
- (2) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

*Status: Point in time view as at 27/12/2007.*

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- (3) In this section —
- (a) “prescribed” means prescribed by the regulations, and
  - (b) “stock exchange nominee” means a person designated for the purposes of section 127 of the Finance Act 1976 as a nominee of The Stock Exchange by an order made by the Secretary of State under subsection (5) of that section.

#### Textual Amendments

**F343** Words in s. 175(1)(a) substituted (with effect in accordance with s. 112(6) of the amending Act) by Finance Act 1999 (c. 16) ss. 112(4), 122, {Sch. 14 para. 23}

### 176 Stamp duty reserve tax: stock exchange nominees **U.K.**

- (1) The Treasury may by regulations provide that where —
  - (a) circumstances would (apart from the regulations) give rise to two charges to stamp duty reserve tax,
  - (b) the circumstances involve a stock exchange nominee, and
  - (c) the circumstances are such as are prescribed,
 such one of the charges as may be prescribed shall be treated as not arising.
- (2) The Treasury may by regulations provide that where —
  - (a) circumstances would (apart from the regulations) give rise to a charge to stamp duty reserve tax and a charge to stamp duty,
  - (b) the circumstances involve a stock exchange nominee, and
  - (c) the circumstances are such as are prescribed,
 the charge to stamp duty reserve tax shall be treated as not arising.
- (3) The Treasury may by regulations provide that a provision of an Act by virtue of which there is no charge to stamp duty reserve tax shall also apply in circumstances which involve a stock exchange nominee and are such as are prescribed.
- (4) The Treasury may by regulations provide that a provision of an Act by virtue of which the rate at which stamp duty reserve tax is charged is less than it would be apart from the provision shall also apply in circumstances which involve a stock exchange nominee and are such as are prescribed.
- (5) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (6) In this section —
  - (a) “prescribed” means prescribed by the regulations, and
  - (b) “stock exchange nominee” means a person designated for the purposes of section 127 of the Finance Act 1976 as a nominee of The Stock Exchange by an order made by the Secretary of State under subsection (5) of that section.

### 177 Stamp duty reserve tax: information. **U.K.**

— Regulations under section 98(1) of the Finance Act 1986 (administration etc. of stamp duty reserve tax) may include —

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- (a) provision that notice which the regulations require to be given to the Commissioners of Inland Revenue shall be given in a manner or form specified by the Commissioners;
- (b) provision that information which the regulations require to be supplied to the Commissioners shall be supplied in a manner or form specified by the Commissioners.

*Interest etc.*

## 178 **Setting of rates of interest.** **U.K.**

- (1) The rate of interest applicable for the purposes of an enactment to which this section applies shall be the rate which for the purposes of that enactment is provided for by regulations made by the Treasury under this section.
- (2) This section applies to—
  - <sup>F344</sup>(aa) section 15A of the Stamp Act 1891;]
  - (a) section 8(9) of the <sup>M47</sup>Finance Act 1894,
  - (b) section 18 of the <sup>M48</sup>Finance Act 1896,
  - (c) section 61(5) of the <sup>M49</sup>Finance (1909-10) Act 1910,
  - (d) section 17(3) of the <sup>M50</sup>Law of Property Act 1925,
  - <sup>F345</sup>(e) .....
  - (f) [<sup>F346</sup>sections 59C, 86, 86A, 87, 87A, [<sup>F347</sup>88], 103A] of the <sup>M51</sup>TaxesManagement Act 1970,
  - (g) paragraph 3 of Schedule 16A to the <sup>M52</sup>Finance Act 1973,
  - <sup>F348</sup>(gg) [<sup>F349</sup> paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992], ]
  - <sup>F350</sup>(gh) section 71(8A) of the <sup>M53</sup> Social Security Administration Act 1992, and section 69(8A) of the <sup>M54</sup> Social Security Administration (Northern Ireland) Act 1992, as they have effect in any case where the overpayment was made in respect of working families' tax credit or disabled person's tax credit; ]
  - (h) paragraphs 15 and 16 of Schedule 2, and paragraph 8 of Schedule 5, to the <sup>M55</sup>Oil Taxation Act 1975,
  - <sup>F351</sup>(i) section 283 of the <sup>M56</sup>Taxation of Chargeable Gains Act 1992;]
  - (j) paragraph 59 of Schedule 8 to the <sup>M57</sup>Development Land TaxAct 1976,
  - (k) sections 233 and 236(3) and (4) of the <sup>M58</sup>Inheritance TaxAct 1984,
  - (l) section 92 of the Finance Act 1986, and
  - (m) sections <sup>F352</sup>... <sup>F353</sup>... 824, 825 and 826 of, [<sup>F354</sup>and paragraph 6B of Schedule 3 to] and paragraph 3 of Schedule 19A to, the <sup>M59</sup>Taxes Act 1988. [<sup>F355</sup>and]
  - <sup>F356</sup>(n) .....<sup>F357</sup>and
  - [(o) section 14(4) of the Ports Act 1991.]
  - <sup>F358</sup>(p) paragraph 8 of Schedule 4 to the Tax Credits Act 1999., <sup>F359</sup>...]
  - <sup>F360</sup><sup>F361</sup>(q) section 110 of the Finance Act 1999.]
  - <sup>F362</sup>(q) paragraph 8 of Schedule 1 to the Employment Act 2002.]
  - <sup>F363</sup>(r) paragraph 8 of Schedule I to the Employment (Northern Ireland) Order 2002.][<sup>F364</sup>, and
  - (s) Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003.]
  - <sup>F365</sup>(t) sections 87, 88 and 89 of the Finance Act 2003.]

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- (3) Regulations under this section may—
- (a) make different provision for different enactments or for different purposes of the same enactment,
  - (b) either themselves specify a rate of interest for the purposes of an enactment or make provision for any such rate to be determined by reference to such rate or the average of such rates as may be referred to in the regulations,
  - (c) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,
  - (d) provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) provide for circumstances in which alteration of a rate of interest is or is not to take place, and
  - (f) provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day as well as from or from after that day.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where—
- (a) the rate provided for by regulations under this section as the rate applicable for the purposes of any enactment is changed, and
  - (b) the new rate is not specified in the regulations,
- the Board shall by order specify the new rate and the day from which it has effect.
- (6) In section 828(2) of the Taxes Act 1988 (powers to make orders which are not exercisable by statutory instrument) the words “or section 178(5) of the Finance Act 1989” shall be added at the end.
- (7) Subsection (1) shall have effect for periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint and shall have effect in relation to interest running from before that day as well as from or from after that day; and different days may be appointed for different enactments.

#### Textual Amendments

- F344** S. 178(2)(aa) inserted (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1999 c. 16, **ss. 109(2)(4), 123(4)**
- F345** S. 178(2)(e) repealed (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)
- F346** Words in s. 178(2)(f) substituted (1.9.1994 with effect as mentioned in s. 199 of the amending Act) by 1994 c. 9, s. 196, **Sch. 19 Pt. III para. 44**; S.I. 1998/3173, art. 2
- F347** Words in s. 178(2)(f) repealed (29.4.1996 with effect as specified in Sch. 18 para. 17 of the amending Act) by 1996 c. 8, ss. 132, 205, Sch. 18 para. 13, **Sch. 41 Pt. V(8)**, note
- F348** S. 178(2)(gg) inserted (6.4.1992) (E.W.S.) by Social Security Act 1990 (c. 27, SIF 113:1) s. 17(10); S.I. 1992/632, art. 2
- F349** Words in s. 178(2)(gg) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 107**
- F350** S. 178(2)(gh) inserted (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 Pt. IV para. 10(2)**
- F351** s. 178(2)(i) substituted (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in s. 289 of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 19(4)** (with ss. 60, 101(1), 171, 201(3))



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- F352** Words in s. 178(2)(m) repealed (28.7.2000 with effect as mentioned in s. 11(6) of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(17)**, Note 1
- F353** Words in s. 178(2)(m) 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. 6 para. 162(a), **Sch. 8 Pt. 1** (with Sch. 7)
- F354** Words in s. 178(2)(m) repealed (29.4.1996 with effect as mentioned in Sch. 7 paras. 32-35 of the amending Act) by 1996 c. 8, ss. 79(2), 205, Sch. 7 para. 30, **Sch. 41 Pt. V(2)**, note
- F355** “and” inserted by **Finance Act 1990** (c. 29, SIF 58), **s.118(8)**
- F356** S. 178(2)(n) repealed (1.5.1995) by 1995 c. 4, s. 162, **Sch. 29 Pt. XII**
- F357** S. 178(2)(o) and word immediately preceding it inserted (G.B.) by **Ports Act 1991** (c. 52, SIF 58), **s. 14(5)**.
- F358** It is provided that s. 178(2)(p) shall be inserted (5.10.1999) by 1999 c. 10, ss. 10(4), 20(2), **Sch. 4 para. 8(1)**
- F359** Word in s. 178(2)(p) 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. 6 para. 162(b), **Sch. 8 Pt. 1** (with Sch. 7)
- F360** S. 178(2)(p) and word “and” preceding inserted (27.7.1999 with application in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, **ss. 110(9)(10)**, 123(4)
- F361** S. 178(2)(q) renumbered (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. 6 para. 162(c)** (with Sch. 7)
- F362** S. 178(2)(q) inserted (E.W.S.) (8.12.2002) by 2002 c. 22, ss. 11, 12, **Sch. 1 para. 8(1)(2)**; S.I. 2002/2866, art. 2(2), **Sch. 1 Pt. 2**
- F363** S. 178(2)(r) inserted (8.12.2002) by S.I. 2002/2836 (N.I. 2), art. 13(6), **Sch. 1 para. 8(1)** (with art. 16); S.R. 2002/356, art. 2(2), **Sch. 1 Pt. II**
- F364** S. 178(2)(s) and preceding word inserted (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. 6 para. 162(d)** (with Sch. 7)
- F365** S. 178(2)(t) added (10.7.2003) by **Finance Act 2003** (c. 14), **Sch. 18 para. 4**

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

- C53** S. 178 applied by **Ports Act 1991** (c. 52, SIF 58), **s. 14(4)**.  
S. 178 applied (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. II para. 11(4)**  
S. 178 applied (1.9.1994 with effect as mentioned in s. 199 of 1994 c. 9) by 1970 c. 9, **s. 59C** (as inserted by 1994 c. 9, **s. 194**); S.I. 1998/3173, art. 2  
S. 178 applied (1.5.1995) by 1995 c. 4, **s. 157(6)**  
S. 178 extended (1.5.1995) by 1995 c. 4, **s. 157(6)**  
S. 178 applied (31.7.1997) by 1997 c. 58, s. 3, **Sch. 2 para. 12(4)**  
S. 178 applied (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1891 c. 39, **s. 15A(3)** (as substituted (27.7.1999 with application to instruments executed on or after 1.10.1999) by 1999 c. 16, **s. 109(1)(4)**)  
S. 178 applied (27.7.1999 with application in relation to instruments executed on or after 1.10.1999) by ss. 110(1)-(5)(10), 123(4)  
S. 178 applied (5.10.1999) by 1999 c. 10, ss. 10(4), 20(2), **Sch. 4 para. 8(2)**  
S. 178 applied (1.4.2000) by S.I. 2000/944, **art. 25**  
S. 178 applied (1.4.2000) by S.I. 2000/944, art. 41(1)  
S. 178 applied (1.4.2000) by S.I. 2000/944, **art. 46(1)**  
S. 178 applied (1.3.2003) by S.I. 2002/2172, **reg. 8(13)**
- C54** S. 178 applied (6.4.2007) by **The Income Tax (Construction Industry Scheme) Regulations 2005** (S.I. 2005/2045), **regs. 1, 15(5)** (with reg. 60, Sch. 1)
- C55** S. 178 applied (6.4.2007) by **The Income Tax (Construction Industry Scheme) Regulations 2005** (S.I. 2005/2045), **regs. 1, 14(6)** (with reg. 60, Sch. 1)
- C56** *For regulations see S.I. 1989/1297 (in Part III Vol. 5). And see Tables I and O Vol. 1*

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**C57** Power of appointment conferred by s. 178(7) partly exercised: 18.8.1989 appointed by [S.I. 1989/1298](#) for all the enactments specified in s. 178(2) other than s. 87A of the 1970 Act and s. 826 of the 1988 Act

#### Marginal Citations

**M47** 1894 c. 30.  
**M48** 1896 c. 28.  
**M49** 1910 c. 8.  
**M50** 1925 c. 20.  
**M51** 1970 c. 9.  
**M52** 1973 c. 51.  
**M53** 1992 c.5.  
**M54** 1992 c.8.  
**M55** 1975 c. 22.  
**M56** 1992 c. 12.  
**M57** 1976 c. 24.  
**M58** 1984 c. 51.  
**M59** 1986 c. 41.

#### 179 Provisions consequential on section 178. **U.K.**

- (1) The words “rate applicable under section 178 of the Finance Act 1989” shall be substituted—
- (a) for the words from “rate” to “annum” in—
    - (i) section 18(1) of the <sup>M60</sup> Finance Act 1896,
    - (ii) section 61(5) of the <sup>M61</sup> Finance (1909-10) Act 1910,
    - (iii) section 17(3) of the <sup>M62</sup> Law of Property Act 1925,
    - <sup>F366</sup>(iv) .....
    - (v) paragraphs 15(1) and 16 of Schedule 2, and paragraph 8(4) of Schedule 5, to the <sup>M63</sup> Oil Taxation Act 1975,
    - <sup>F367</sup>(vi) .....
    - (vii) sections 824(1) and 825(2) of the Taxes Act 1988,
  - (b) for the words “prescribed rate” in—
    - (i) sections 86(1), 86A(1), 87(1), 87A(1) and (5) [<sup>F368</sup>and 88(1)] of the <sup>M64</sup> Taxes Management Act 1970,
    - (ii) paragraph 3(4) of Schedule 16A to the <sup>M65</sup> Finance Act 1973, and
    - (iii) paragraph 3(4) of Schedule 19A to the Taxes Act 1988,
  - (c) for the words “rate which” onwards in—
    - (i) paragraph 59(1) of Schedule 8 to the <sup>M66</sup> Development Land Tax Act 1976, and
    - (ii) section 826(1) of the Taxes Act 1988,
  - (d) for the words “rate applicable under subsection (2) below” in section 233(1) of the <sup>M67</sup> Inheritance Tax Act 1984,
  - (e) for the words “rate for the time being applicable under section 233(2)(b) above” in subsection (3), and the words “rate for the time being applicable under section 233(2)(a) above” in subsection (4), of section 236 of that Act,
  - (f) for the words “appropriate rate” in section 92(2) of the <sup>M68</sup> Finance Act 1986, and
  - <sup>F369</sup>(g) .....

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- (2) In section 8(9) of the <sup>M69</sup> Finance Act 1894, for the words from “such interest” to “per cent.” there shall be substituted the words “interest at such rate not exceeding that applicable under section 178 of the Finance Act 1989”.
- (3) In section 236(4) of the Inheritance Tax Act 1984, for the words “as if section 233(1)(b) above had applied” there shall be substituted the words “from the end of the period mentioned in section 233(1)(b) above”.
- (4) Any amendment made by subsection (1), (2) or (3) above shall have effect in relation to any period for which section 178(1) above has effect for the purposes of the enactment concerned.

<sup>F370</sup>(5) .....

#### Textual Amendments

- F366** S. 179(1)(a)(iv) repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)
- F367** S. 179(1)(a)(vi) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)
- F368** Words in s. 179(1)(b)(i) repealed (29.4.1996 with effect in accordance with [Sch. 18 para. 17](#) of the amending Act) by [1996 c. 8](#), s. 205, **Sch. 41 Pt. V**
- F369** S. 179(1)(g) 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](#))
- F370** S. 179(5) 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](#))

#### Marginal Citations

- M60** 1896 c. 28.  
**M61** 1910 c. 8.  
**M62** 1925 c. 20.  
**M63** 1975 c. 22.  
**M64** 1970 c. 9.  
**M65** 1973 c. 51.  
**M66** 1976 c. 24.  
**M67** 1984 c. 51.  
**M68** 1986 c. 41.  
**M69** 1894 c. 30.

### 180 Repayment interest: period of accrual. **U.K.**

- (1) In section 48(1) of the <sup>M70</sup> Finance Act 1975, after the words “carry interest” there shall be inserted the words “from the date on which the sums were paid until the order for repayment is issued”.
- (2) In—
  - (a) paragraph 16 of Schedule 2 to the <sup>M71</sup> Oil Taxation Act 1975,
  - (b) section 105(7) of the <sup>M72</sup> Finance Act 1980,
  - (c) paragraph 13(4) and (5) of Schedule 16 to the <sup>M73</sup> Finance Act 1981, and
  - (d) paragraph 10(4) of Schedule 19 to the <sup>M74</sup> Finance Act 1982,

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for the word “repayment” there shall be substituted the words “the order for repayment is issued”.

- (3) In paragraph 59(1) of Schedule 8 to the <sup>M75</sup> Development Land Tax Act 1976, after the word “later,” there shall be inserted the words “until the order for repayment is issued”.
- (4) In section 235(1) of the <sup>M76</sup> Inheritance Tax Act 1984 (and paragraph 19(3) of Schedule 4 to the <sup>M77</sup> Finance Act 1975), after the word “made” there shall be inserted the words “until the order for repayment is issued”.
- (5) In section 92(2) of the <sup>M78</sup> Finance Act 1986, for the words “the time it was paid” there shall be substituted the words “the date on which the payment was made until the order for repayment is issued”.
- (6) In section 826(1) of the Taxes Act 1988, for the words “that repayment or payment is made” there shall be substituted the words “the order for repayment or payment is issued”.
- (7) The amendments made by this section shall be deemed always to have had effect.

#### Marginal Citations

- M70** 1975 c. 7.
- M71** 1975 c. 22.
- M72** 1980 c. 48.
- M73** 1981 c. 35.
- M74** 1982 c. 39.
- M75** 1976 c. 24.
- M76** 1984 c. 51.
- M77** 1975 c. 7.
- M78** 1986 c. 41.

#### *Miscellaneous*

#### [<sup>F371</sup> **181 Broadcasting: additional payments by programme contractors.** U.K.]

- (1) <sup>M79</sup> The Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors under that Act subject to the amendments made by Part I, and with the substitution, for Schedule 4 to that Act, of the provisions contained in Part II, of Schedule 16 to this Act.
- (2) The transitional provisions made by Part III of that Schedule shall have effect.
- (3) This section shall come into force on 1st January 1990.]

#### Textual Amendments

- F371** S. 181, Sch. 16 repealed (prosp. as mentioned in S.I. 1990/2347, art. 3(3)) by Broadcasting Act 1990 (c. 42, SIF 96), ss. 127-129, 134, 203(3), 204(2), Schs. 9-12, **Sch. 21**

#### Marginal Citations

- M79** 1981 c. 68.

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## 182 Disclosure of information. **U.K.**

- (1) A person who discloses any information which he holds or has held in the exercise of tax functions<sup>[F372]</sup>, tax credit functions<sup>[F373]</sup>, child trust fund functions<sup>[F374]</sup> or social security functions<sup>[F375]</sup> is guilty of an offence if it is information about any matter relevant, for the purposes of <sup>[F375]</sup>any of those functions—
- (a) to tax or duty in the case of any identifiable person,
  - <sup>[F376]</sup>(aa) to a tax credit in respect of any identifiable person,<sup>[F377]</sup>
    - [ to a child trust fund of any identifiable person,]
  - (b) to contributions payable by or in respect of any identifiable person, or
  - (c) to statutory sick pay <sup>[F378]</sup>, statutory maternity pay, statutory paternity pay or statutory adoption pay<sup>[F379]</sup> in respect of any identifiable person.]
- (2) In this section “tax functions” means functions relating to tax or duty—
- (a) of the Commissioners, the Board and their officers,
  - (b) of any person carrying out the administrative work of any tribunal mentioned in subsection (3) below, and
  - (c) of any other person providing, or employed in the provision of, services to any person mentioned in paragraph (a) or (b) above.
- <sup>[F379]</sup>(2ZA) In this section “tax credit functions” means the functions relating to tax credits—
- (a) of the Board,
  - (b) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, and
  - (c) of any other person providing, or employed in the provision of, services to the Board or to any person mentioned in paragraph (b) above.]
- <sup>[F380]</sup>(2ZB) In this section “child trust fund functions” means the functions relating to child trust funds—
- (a) of the Board and their officers,
  - (b) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, or
  - (c) of any person providing, or employed in the provision of, services to the Board or any person mentioned in paragraph (b) above.]
- <sup>[F381]</sup>(2A) In this section “social security functions” means—
- (a) the functions relating to contributions, <sup>[F382]</sup>child benefit, guardian’s allowance,<sup>[F383]</sup> statutory sick pay <sup>[F383]</sup>, statutory maternity pay, statutory paternity pay or statutory adoption pay<sup>[F384]</sup>—
    - (i) of the Board and their officers,
    - (ii) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, and
    - (iii) of any other person providing, or employed in the provision of, services to any person mentioned in sub-paragraph (i) or (ii) above, and
  - (b) the functions under Part III of the Pension Schemes Act 1993 or Part III of the Pension Schemes (Northern Ireland) Act 1993 of the Board and their officers and any other person providing, or employed in the provision of, services to the Board or their officers.]
- (3) The tribunals referred to in subsection (2)(b) above are—

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- (a) the General Commissioners and the Special Commissioners,
  - (b) any value added tax tribunal,
  - <sup>F384</sup>(c) .....
  - (d) any tribunal established under section 463 of the Taxes Act 1970 or section 706 of the Taxes Act 1988 [<sup>F385</sup> or section 704 of the Income Tax Act 2007] .
- (4) A person who discloses any information which—
- (a) he holds or has held in the exercise of functions—
    - (i) of the Comptroller Auditor General and any member of the staff of the National Audit Office, <sup>F386</sup> . . .
    - (ii) of the Parliamentary Commissioner for Administration and his officers,
    - <sup>F387</sup>(iii) of the Auditor General for Wales and any member of his staff, <sup>F388</sup> ...
    - <sup>F389</sup>(iv) of the Public Services Ombudsman for Wales and any member of his staff, or]]
    - (v) [<sup>F390</sup>of the Scottish Public Services Ombudsman and any member of his staff,]
  - (b) is, or is derived from, information which was held by any person in the exercise of tax functions [<sup>F391</sup>, tax credit functions] [<sup>F392</sup>, child trust fund functions] [<sup>F393</sup> or social security functions], and
  - (c) is information about any matter relevant, for the purposes of [<sup>F394</sup> tax functions] [<sup>F395</sup>, tax credit functions] [<sup>F396</sup>, child trust fund functions] or social security functions—
    - (i) to tax or duty in the case of any identifiable person,
    - <sup>F397</sup>(ia) to a tax credit in respect of any identifiable person,]  
 [ to a child trust fund of any identifiable person,]
    - <sup>F398</sup>(ib)
    - (ii) to contributions payable by or in respect of any identifiable person, or
    - (iii) to [<sup>F399</sup> child benefit, guardian’s allowance,] statutory sick pay [<sup>F400</sup>, statutory maternity pay, statutory paternity pay or statutory adoption pay] in respect of any identifiable person]
- is guilty of an offence.
- (5) Subsections (1) and (4) above do not apply to any disclosure of information—
- (a) with lawful authority,
  - (b) with the consent of any person in whose case the information is about a matter relevant to tax or duty [<sup>F401</sup>, to a tax credit or to a child trust fund] [<sup>F402</sup> or to contributions, statutory sick pay [<sup>F403</sup>, statutory maternity pay, statutory paternity pay or statutory adoption pay]], or
  - (c) which has been lawfully made available to the public before the disclosure is made.
- (6) For the purposes of this section a disclosure of any information is made with lawful authority if, and only if, it is made—
- (a) by a Crown servant in accordance with his official duty,
  - (b) by any other person for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible,
  - (c) to, or in accordance with an authorisation duly given by, the person responsible,

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- (d) in pursuance of any enactment or of any order of a court, or
  - (e) in connection with the institution of or otherwise for the purposes of any proceedings relating to any matter within the general responsibility of the Commissioners or, as the case requires, the Board,
- and in this subsection “the person responsible” means the Commissioners, the Board, the Comptroller <sup>[F404]</sup>, the Parliamentary Commissioner, the Auditor General for Wales <sup>[F405]</sup>, <sup>[F406]</sup>the Public Services Ombudsman for Wales] or the Scottish Public Services Ombudsman] ,] as the case requires.
- (7) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
    - (a) he believed that he had lawful authority to make the disclosure in question and had no reasonable cause to believe otherwise, or
    - (b) he believed that the information in question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.
  - (8) A person guilty of an offence under this section is liable—
    - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, and
    - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
  - (9) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—
    - (a) by the Commissioners or the Board, as the case requires, or
    - (b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.
  - (10) In this section—
    - “the Board” means the Commissioners of Inland Revenue,
    - <sup>[F407]</sup>“child trust fund” has the same meaning as in the Child Trust Funds Act 2004,]
    - “the Commissioners” means the Commissioners of Customs and Excise,
    - <sup>[F408]</sup>“contributions” means contributions under Part I of the Social Security Contributions and Benefits Act 1992 or Part I of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;]
    - “Crown servant” has the same meaning as in the <sup>M80</sup> Official Secrets Act 1989,
    - <sup>[F409]</sup>“tax credit” means a tax credit under the Tax Credits Act 2002,]
    - “tax or duty” means any tax or duty within the general responsibility of the Commissioners or the Board.
  - <sup>[F410]</sup>(10A) In this section, in relation to the disclosure of information “identifiable person” means a person whose identity is specified in the disclosure or can be deduced from it.]
  - (11) In this section—
    - (a) references to the Comptroller and Auditor General include the Comptroller and Auditor General for Northern Ireland,
    - (b) references to the National Audit Office include the Northern Ireland Audit Office, and
    - (c) references to the Parliamentary Commissioner for Administration include the Health Service Commissioner for England <sup>F411</sup> ..., <sup>F412</sup> ... the <sup>[F413]</sup> Assembly

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Ombudsman for Northern Ireland] and the Northern Ireland Commissioner for Complaints.

[<sup>F414</sup>(11A) In this section, references to statutory paternity pay or statutory adoption pay include statutory pay under Northern Ireland legislation corresponding to Part 12ZA or Part 12ZB of the Social Security Contributions and Benefits Act 1992 (c. 4).]

(12) This section shall come into force on the repeal of section 2 of the <sup>M81</sup> Official Secrets Act 1911.

### Textual Amendments

- F372** Words in s. 182(1) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 5 para. 11\(2\)\(a\)](#); S.I. 2002/1727; [S.I. 2003/392](#), art. 2
- F373** Words in s. 182(1) inserted (1.1.2005) by [Child Trust Funds Act 2004 \(c. 6\)](#), [ss. 18\(2\)\(a\)](#), 27; S.I. 2004/2422, art. 2
- F374** Words in s. 182(1) inserted (1.4.1999) by [1999 c. 2](#), s. 6, [Sch. 6 para. 9\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#)
- F375** S. 182(1)(a)-(c) and words immediately preceding substituted for words in s. 182(1) (1.4.1999) by [1999 c. 2](#), s. 6, [Sch. 6 para. 9\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#)
- F376** S. 182(1)(aa) substituted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 5 para. 11\(2\)\(b\)](#); S.I. 2002/1727; [S.I. 2003/392](#), art. 2
- F377** S. 182(1)(ab) inserted (1.1.2005) by [Child Trust Funds Act 2004 \(c. 6\)](#), [ss. 18\(2\)\(b\)](#), 27; S.I. 2004/2422, art. 2
- F378** Words in s. 128(1)(c) substituted (8.12.2002) by [2002 c. 22](#), s. 53, [Sch. 7 para. 1\(2\)\(a\)](#); S.I. 2002/2866, art. 2(2), [Sch. 1 Pt. 2](#)
- F379** S. 182(2ZA) substituted for (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 5 para. 11\(3\)](#); S.I. 2002/1727; [S.I. 2003/392](#), art. 2
- F380** S. 182(2ZB) inserted (1.1.2005) by [Child Trust Funds Act 2004 \(c. 6\)](#), [ss. 18\(3\)](#), 27; S.I. 2004/2422, art. 2
- F381** S. 182(2A) inserted (1.4.1999) by [1999 c. 2](#), s. 6, [Sch. 6 para. 9\(3\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#)
- F382** Words in s. 182(2A) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 5 para. 11\(4\)](#); S.I. 2002/1727; [S.I. 2003/392](#), art. 2
- F383** Words in s. 182(2A)(a) substituted (8.12.2002) by [2002 c. 22](#), s. 53, [Sch. 7 para. 1\(2\)\(b\)](#); S.I. 2002/2866, art. 2(2), [Sch. 1 Pt. 2](#)
- F384** S. 182(3)(c) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 18
- F385** Words in s. 182(3)(d) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 282](#) (with [Sch. 2](#))
- F386** Word in s. 182(4)(a)(i) repealed (1.2.1999) by [1998 c. 38](#), s. 152, [Sch. 18 Pt. I](#) (with [ss. 137\(1\)](#), [139\(2\)](#), [141\(1\)](#), [143\(2\)](#)); S.I. 1999/118, art. 2
- F387** S. 182(4)(a)(iii)(iv) inserted (1.2.1999) by [1998 c. 38](#), s. 125, [Sch. 12 para. 31\(2\)](#) (with [ss. 137\(1\)](#), [139\(2\)](#), [141\(1\)](#), [143\(2\)](#)); S.I. 1999/118, art. 2
- F388** Word in s. 182(4)(a)(iii) omitted (14.7.2004) by virtue of [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, [10\(a\)](#)
- F389** S. 182(4)(a)(iv) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 22\(a\)](#); S.I. 2005/2800, art. 5(1)(3)
- F390** S. 182(4)(a)(v) and preceding word inserted (14.7.2004) by [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, [10\(b\)](#)



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- F391** Words in s. 182(4)(b) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 5 para. 11(5)(a)**; S.I. 2002/1727; S.I. 2003/392, art. 2
- F392** Words in s. 182(4)(b) inserted (1.1.2005) by **Child Trust Funds Act 2004 (c. 6), ss. 18(4)(a), 27**; S.I. 2004/2422, art. 2
- F393** Words in s. 182(4)(b) inserted (1.4.1999) by 1999 c. 2, s. 6, **Sch. 6 para. 9(4)(a)**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F394** S. 182(4)(c)(i)-(iii) and words immediately preceding substituted for words in s. 182(4)(c) (1.4.1999) by 1999 c. 2, s. 6, **Sch. 6 para. 9(4)(b)**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F395** Words in s. 182(4)(c) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 5 para. 11(5)(b)**; S.I. 2002/1727; S.I. 2003/392, art. 2
- F396** Words in s. 182(4)(c) inserted (1.1.2005) by **Child Trust Funds Act 2004 (c. 6), ss. 18(4)(a), 27**; S.I. 2004/2422, art. 2
- F397** S. 182(4)(c)(ia) substituted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 5 para. 11(5)(c)**; S.I. 2002/1727; S.I. 2003/392, art. 2
- F398** S. 182(4)(c)(ib) inserted (1.1.2005) by **Child Trust Funds Act 2004 (c. 6), ss. 18(4)(b), 27**; S.I. 2004/2422, art. 2
- F399** Words in s. 182(4)(c)(iii) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 5 para. 11(5)(d)**; S.I. 2002/1727; S.I. 2003/392, art. 2
- F400** Words in s. 182(4)(c)(iii) substituted (8.12.2002) by 2002 c. 22, s. 53, **Sch. 7 para. 1(2)(c)**; S.I. 2002/2866, art. 2(2), **Sch. 1 Pt. 2**
- F401** Words in s. 182(5)(b) substituted (1.1.2005) by **Child Trust Funds Act 2004 (c. 6), ss. 18(5), 27**; S.I. 2004/2422, art. 2
- F402** Words in s. 182(5)(b) inserted (1.4.1999) by 1999 c. 2, s. 6, **Sch. 6 para. 9(5)**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F403** Words in s. 182(5)(b) substituted (8.12.2002) by 2002 c. 22, s. 53, **Sch. 7 para. 1(2)(d)**; S.I. 2002/2866, art. 2(2), **Sch. Pt. 2**
- F404** Words in s. 182(6)(e) substituted (1.2.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 31(3)** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/118, art. 2
- F405** Words in s. 182(6) substituted (14.7.2004) by **Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, 10(c)**
- F406** Words in s. 182(6) substituted (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 22(b)**; S.I. 2005/2800, art. 5(1)(3)
- F407** Words in s. 182(10) inserted (1.1.2005) by **Child Trust Funds Act 2004 (c. 6), ss. 18(6), 27**; S.I. 2004/2422, art. 2
- F408** S. 182(10): definition of “contributions” inserted (1.4.1999) by 1999 c. 2, s. 6, **Sch. 6 para. 9(6)**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F409** Words in s. 182(10) inserted (1.8.2002 for specified purposes, 26.2.2003 for specified purposes, 1.4.2003 for specified purposes) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 5 para. 11(7)**; S.I. 2002/1727; S.I. 2003/392, art. 2
- F410** S. 182(10A) inserted (18.4.2005) by **Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 39**; S.I. 2005/1126, art. 2(2)(h)
- F411** Words in s. 182(11)(c) repealed (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 22(c), Sch. 7**; S.I. 2005/2800, art. 5(1)(3)
- F412** Words in s. 182(11)(c) omitted (14.7.2004) by virtue of **Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, 10(d)**
- F413** Words in s. 182(11)(c) substituted (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 21(1), **Sch. 5**
- F414** S. 182(11A) inserted (8.12.2002) by 2002 c. 22, s. 53, **Sch. 7 para. 1(3)**; S.I. 2002/2866, art. 2(2), **Sch. 1 Pt. 2**

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

- C58** S. 182 restricted (6.4.1997) by 1995 c. 26, s. 109(5) (with 121(5)); S.I. 1997/664, art. 2(3), Sch. Pt. II  
S. 182 restricted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 107(2) (with art. 118(5)(6)); S.R.  
1997/192, art. 2(b)
- C59** S. 182 restricted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 202(2), 322(1) (with s. 313); S.I.  
2005/275, art. 2(7), Sch. Pt. 7
- C60** S. 182 restricted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 88(2), 202(2), 322(1) (with s. 313); S.I.  
2005/275, art. 2(7), Sch. Pt. 7
- C61** S. 182(2ZB) modified (temp.) (6.4.2005) by Child Trust Funds Act 2004 (c. 6), s. 24(1)(4)27; S.I.  
2004/3369, art. 2(1)
- C62** S. 182(2ZB) modified (temp.) (6.4.2005) by Child Trust Funds Act 2004 (c. 6), s. 24(1)(4)27; S.I.  
2004/3369, art. 2(1)

#### Marginal Citations

- M80** 1989c. 6.  
**M81** 1911 c. 28.

### [182A <sup>F415</sup>Double taxation: disclosure of information. U.K.]

- (1) A person who discloses any information acquired by him in the exercise of his functions as a member of an advisory commission set up under the Arbitration Convention is guilty of an offence.
- (2) Subsection (1) above does not apply to any disclosure of information—
  - (a) with the consent of the person who supplied the information to the commission, or
  - (b) which has been lawfully made available to the public before the disclosure is made.
- (3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence he believed that the information in question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (5) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—
  - (a) by the Board, or
  - (b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.
- (6) In this section—
 

“the Arbitration Convention” has the meaning given by section 815B(4) of the Taxes Act 1988;

“the Board” means the Commissioners of Inland Revenue.]

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### Textual Amendments

**F415** S. 182A inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 51(3)

## 183 Government securities: redemption and transfer. **U.K.**

(1) In section 47 of the <sup>M82</sup> Finance Act 1942 (power to make regulations about transfer and registration of Government stock)—

(a) the following paragraph shall be inserted after paragraph (b) of subsection (1)

—  
“(bb) for the redemption of such stock and bonds;” and

(b) the following subsection shall be inserted after that subsection—

“(1A) Regulations under subsection (1) of this section may make provision authorising the Bank of England, in such circumstances and subject to such conditions as may be prescribed in the regulations, to transfer stock and bonds standing in their books in the name of a deceased person into the name of another person without requiring the production of probate, confirmation or letters of administration.”

(2) In section 3(1) of the <sup>M83</sup> National Debt Act 1972 (power to make regulations about stock on the National Savings Stock Register) the following paragraph shall be inserted after paragraph (b)—

“(bb) the redemption of stock registered in the register;”.

(3) After section 14 of the <sup>M84</sup> National Loans Act 1968 there shall be inserted—

### “14A Redemption of securities held in Issue Department of Bank of England.

(1) Any securities of Her Majesty’s Government in the United Kingdom which are for the time being held in the Issue Department of the Bank of England may be redeemed by the Treasury before maturity at market prices determined in such manner as may be agreed between the Treasury and the Bank.

(2) Any expenses incurred by the Treasury in connection with the redemption of securities under subsection (1) above shall be paid out of the National Loans Fund.”

### Marginal Citations

**M82** 1942 c. 21.

**M83** 1972 c. 65.

**M84** 1968 c. 13.

## 184 National savings accounts. **U.K.**

(1) In section 2 of the <sup>M85</sup> National Savings Bank Act 1971 (general power to make regulations) after subsection (1) there shall be inserted—

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- “(1A) Regulations under this section may restrict the classes of persons who may open accounts with the National Savings Bank, but any such restriction shall not apply to any account opened before the coming into force of the regulations imposing the restriction.”
- (2) In section 5 of that Act (interest on ordinary deposits) in subsection (1) for the words from the beginning to “in any ordinary deposit account” there shall be substituted “The Director of Savings may, with the consent of the Treasury, from time to time determine the rate or rates at which interest is to be payable on amounts deposited in ordinary accounts or that no interest is to be payable on such amounts, and any such determination in relation to amounts deposited in any ordinary deposit account may be made”.
- (3) After subsection (1) of section 5 of that Act there shall be inserted—
- “(1A) The Director of Savings shall give notice in the London, Edinburgh and Belfast Gazettes of any determination under subsection (1) above; and any such determination may affect deposits received at or before, as well as after, the time the determination is made.”
- (4) Subsection (5) of section 5 of that Act (rate of interest on ordinary deposits to be not less than 2.5 per cent per annum) shall cease to have effect.
- (5) Subsections (2) and (3) above shall come into force on 1st October 1989.

#### Marginal Citations

M85 1971 c. 29.

#### <sup>F416</sup>185 Winding up of Redemption Annuities Account. U.K.

#### Textual Amendments

F416 S. 185 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 6 Group 3

#### *General*

#### 186 Interpretation etc. U.K.

- (1) In this Act “the Taxes Act 1970” means the <sup>M86</sup>Income and Corporation Taxes Act 1970 and “the Taxes Act 1988” means the <sup>M87</sup>Income and Corporation Taxes Act 1988.
- (2) Chapter II of Part I of this Act shall be construed as one with the <sup>M88</sup>Value Added Tax Act 1983.
- (3) Part II of this Act, so far as it relates to capital gains tax, shall be construed as one with the <sup>M89</sup>Capital Gains Tax Act 1979.

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#### Marginal Citations

**M86** 1970 c.10.

**M87** 1988 c. 1.

**M88** 1983 c. 55.

**M89** 1979 c. 14.

#### 187 Repeals. **U.K.**

- (1) The enactments specified in Schedule 17 to this Act (which include unnecessary enactments) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.
- (2) The repeal of the enactments specified in Part XIV of Schedule 17 shall come into force on such day as the Treasury may appoint by order made by statutory instrument; and different days may be appointed for different enactments.

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

**C63** Power of appointment conferred by s. 187(2) partly exercised: 30.9.1989 appointed by [S.I. 1989/1788](#), [art. 2](#) for the repeal of the enactments specified in Part XIV of Schedule 17 other than section 27 in Part II of the [Tithe Act 1936 \(c. 43\)](#)

#### 188 Short title. **U.K.**

This Act may be cited as the Finance Act 1989.

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## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 6.

#### VEHICLES EXCISE DUTY: RATES

#### <sup>F417</sup>PART I **U.K.**

.....  
**Textual Amendments**

**F417** Sch. 1 Pt. I repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

#### PART II <sup>F418</sup> **U.K.**

.....  
**Textual Amendments**

**F418** S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3

### SCHEDULE 2 **U.K.**

Section 8.

#### VEHICLES EXCISE DUTY: SPECIAL MACHINES

<sup>F419</sup>1 .....

.....  
**Textual Amendments**

**F419** Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F420</sup>2 .....

.....  
**Textual Amendments**

**F420** Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

<sup>F421</sup>3

*Status: Point in time view as at 27/12/2007.*

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**Textual Amendments**

**F421** S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3

**F422**<sup>4</sup> .....

**Textual Amendments**

**F422** Sch. 2 paras. 1, 2, 4 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F423** SCHEDULE 3 **U.K.**

.....

**Textual Amendments**

**F423** Sch. 3 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

**F424** SCHEDULE 4 **U.K.**

.....

**Textual Amendments**

**F424** Sch. 4 repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(3) notes 1, 2 of the amending Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**

SCHEDULE 5 **U.K.**

Section 74.

EMPLOYEE SHARE OWNERSHIP TRUSTS

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

**C64** Sch. 5 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the applying Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. **228(7)**, 235(8), 289 (with ss. 60, 101(1), 171, 201(3))

*Qualifying trusts*

- 1 A trust is a qualifying employee share ownership trust at the time it is established if the conditions set out in paragraphs 2 to 11 below are satisfied in relation to the trust at that time.

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

**C65** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

*General*

- 2 (1) The trust must be established under a deed (the trust deed).
- (2) The trust must be established by a company (the founding company) which, at the time the trust is established, is resident in the United Kingdom and not controlled by another company.

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

**C66** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

*Trustees*

- 3 (1) The trust deed must provide for the establishment of a body of trustees.
- (2) The trust deed must—
- (a) appoint the initial trustees;
  - (b) contain rules for the retirement and removal of trustees;
  - (c) contain rules for the appointment of replacement and additional trustees.
- (3) The trust deed must provide that at any time while the trust subsists (the relevant time)—
- (a) the number of trustees must not be less than three;
  - (b) all the trustees must be resident in the United Kingdom;
  - (c) the trustees must include one person who is a trust corporation, a solicitor, or a member of such other professional body as the Board may from time to time allow for the purposes of this paragraph;
  - (d) most of the trustees must be persons who are not and have never been directors of any company which falls within the founding company's group at the relevant time;
  - (e) most of the trustees must be persons who are employees of companies which fall within the founding company's group at the relevant time, and who do not have and have never had a material interest in any such company;
  - (f) the trustees falling within paragraph (e) above must, before being appointed as trustees, have been selected by a majority of the employees of the companies falling within the founding company's group at the time of the selection or by persons elected to represent those employees.
- (4) For the purposes of sub-paragraph (3) above a company falls within the founding company's group at a particular time if—
- (a) it is the founding company, or
  - (b) it is at that time resident in the United Kingdom and controlled by the founding company.



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[<sup>F425</sup>(5) This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed.]

#### Textual Amendments

**F425** Sch. 5 para. 3(5) inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 2

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

**C67** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

**C68** Schedule 5 para. 3(3)(c) amended (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, Sch. 1

[<sup>F426</sup>3A Where a trust is established after the day on which the Finance Act 1994 was passed, the trust deed must make provision as mentioned in one of paragraphs (a) to (c) below—

- (a) provision for the establishment of a body of trustees and complying with paragraph 3(2) to (4) above;
- (b) provision for the establishment of a body of trustees and complying with paragraph 3B(2) to (9) below;
- (c) provision that at any time while the trust subsists there must be a single trustee.]

#### Textual Amendments

**F426** Sch. 5 paras. 3A–3C inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 3

<sup>F427</sup>3B (1) The following are the provisions that must be complied with under paragraph 3A(b) above.

- (2) The trust deed must—
  - (a) appoint the initial trustees;
  - (b) contain rules for the retirement and removal of trustees;
  - (c) contain rules for the appointment of replacement and additional trustees.
- (3) The trust deed must be so framed that at any time while the trust subsists the conditions set out in sub-paragraph (4) below are fulfilled as regards the persons who are then trustees; and in that sub-paragraph “the relevant time” means that time.
- (4) The conditions are that—
  - (a) the number of trustees is not less than three;
  - (b) all the trustees are resident in the United Kingdom;
  - (c) the trustees include at least one person who is a professional trustee and at least two persons who are non-professional trustees;
  - (d) at least half of the non-professional trustees were, before being appointed as trustees, selected in accordance with sub-paragraph (7) or (8) below;
  - (e) all the trustees so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.
- (5) For the purposes of this paragraph a trustee is a professional trustee at a particular time if—

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- (a) the trustee is then a trust corporation, a solicitor, or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,
  - (b) the trustee is not then an employee or director of any company then falling within the founding company's group, and
  - (c) the trustee meets the requirements of sub-paragraph (6) below;
- and for the purposes of this paragraph a trustee is a non-professional trustee at a particular time if the trustee is not then a professional trustee for those purposes.
- (6) A trustee meets the requirements of this sub-paragraph if—
    - (a) he was appointed as an initial trustee and, before being appointed as trustee, was selected by (and only by) the persons who later became the non-professional initial trustees, or
    - (b) he was appointed as a replacement or additional trustee and, before being appointed as trustee, was selected by (and only by) the persons who were the non-professional trustees at the time of the selection.
  - (7) Trustees are selected in accordance with this sub-paragraph if the process of selection is one under which—
    - (a) all the persons who are employees of the companies which fall within the founding company's group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
    - (b) all the employees of the companies falling within the founding company's group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
    - (c) persons gaining more votes are preferred to those gaining less.
  - (8) Trustees are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company's group at the time of the selection.
  - (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
    - (a) it is at that time resident in the United Kingdom, and
    - (b) it is the founding company or it is at that time controlled by the founding company.

#### Textual Amendments

**F427** Sch. 5 paras. 3A-3C inserted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 3**

<sup>F428</sup>3C (1) This paragraph applies where the trust deed provides that at any time while the trust subsists there must be a single trustee.

- (2) The trust deed must—
  - (a) be so framed that at any time while the trust subsists the trustee is a company which at that time is resident in the United Kingdom and controlled by the founding company;
  - (b) appoint the initial trustee;
  - (c) contain rules for the removal of any trustee and for the appointment of a replacement trustee.

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- (3) The trust deed must be so framed that at any time while the trust subsists the company which is then the trustee is a company so constituted that the conditions set out in sub-paragraph (4) below are then fulfilled as regards the persons who are then directors of the company; and in that sub-paragraph “the relevant time” is that time and “the trust company” is that company.
- (4) The conditions are that—
  - (a) the number of directors is not less than three;
  - (b) all the directors are resident in the United Kingdom;
  - (c) the directors include at least one person who is a professional director and at least two persons who are non-professional directors;
  - (d) at least half of the non-professional directors were, before being appointed as directors, selected in accordance with sub-paragraph (7) or (8) below;
  - (e) all the directors so selected are persons who are employees of companies which fall within the founding company’s group at the relevant time, and who do not have and have never had a material interest in any such company.
- (5) For the purposes of this paragraph a director is a professional director at a particular time if—
  - (a) the director is then a solicitor or a member of such other professional body as the Board may at that time allow for the purposes of this sub-paragraph,
  - (b) the director is not then an employee of any company then falling within the founding company’s group,
  - (c) the director is not then a director of any such company (other than the trust company), and
  - (d) the director meets the requirements of sub-paragraph (6) below;and for the purposes of this paragraph a director is a non-professional director at a particular time if the director is not then a professional director for those purposes.
- (6) A director meets the requirements of this sub-paragraph if—
  - (a) he was appointed as an initial director and, before being appointed as director, was selected by (and only by) the persons who later became the non-professional initial directors, or
  - (b) he was appointed as a replacement or additional director and, before being appointed as director, was selected by (and only by) the persons who were the non-professional directors at the time of the selection.
- (7) Directors are selected in accordance with this sub-paragraph if the process of selection is one under which—
  - (a) all the persons who are employees of the companies which fall within the founding company’s group at the time of the selection, and who do not have and have never had a material interest in any such company, are (so far as is reasonably practicable) given the opportunity to stand for selection,
  - (b) all the employees of the companies falling within the founding company’s group at the time of the selection are (so far as is reasonably practicable) given the opportunity to vote, and
  - (c) persons gaining more votes are preferred to those gaining less.
- (8) Directors are selected in accordance with this sub-paragraph if they are selected by persons elected to represent the employees of the companies falling within the founding company’s group at the time of the selection.

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- (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
- (a) it is at that time resident in the United Kingdom, and
  - (b) it is the founding company or it is at that time controlled by the founding company.

#### Textual Amendments

**F428** Sch. 5 paras. 3A-3C inserted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 3**

#### Beneficiaries

- 4 (1) The trust deed must contain provision as to the beneficiaries under the trust, in accordance with the following rules.
- (2) The trust deed must provide that a person is a beneficiary at a particular time (the relevant time) if—
- (a) he is at the relevant time an employee or director of a company which at that time falls within the founding company's group,
  - (b) at each given time in a qualifying period he was an employee or director of a company falling within the founding company's group at that given time, and
  - (c) [<sup>F429</sup>in the case of a director, at that given time he worked as a] director of the company concerned at the rate of at least 20 hours a week (ignoring such matters as holidays and sickness).
- [<sup>F430</sup>(2A) The trust deed may provide that a person is a beneficiary at a given time if at that time he is eligible to participate in [<sup>F431</sup>an SAYE option scheme]—
- (a) which was established by a company within the founding company's group, and
  - (b) which is approved under [<sup>F432</sup>Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003].
- <sup>F430</sup>(2B) Where a trust deed contains a rule conforming with sub-paragraph (2A) above it must provide that the only powers and duties which the trustees may exercise in relation to persons who are beneficiaries by virtue only of that rule are those which may be exercised in accordance with the provisions of a scheme such as is mentioned in that sub-paragraph.]
- (3) The trust deed may provide that a person is a beneficiary at a particular time (the relevant time) if—
- (a) he has at each given time in a qualifying period been an employee or director of a company falling within the founding company's group at that given time,
  - (b) he has ceased to be an employee or director of the company or the company has ceased to fall within that group, and
  - (c) at the relevant time a period of not more than eighteen months has elapsed since he so ceased or the company so ceased (as the case may be).
- (4) The trust deed may provide for a person to be a beneficiary if the person is a charity and the circumstances are such that—
- (a) there is no person who is a beneficiary within any rule which is included in the deed and conforms with sub-paragraph (2) [<sup>F433</sup>, (2A)] or (3) above, and

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- (b) the trust is in consequence being wound up.
- (5) For the purposes of sub-paragraph (2) above a qualifying period is a period—
- (a) whose length is <sup>F434</sup> . . . not more than five years,
  - (b) whose length is specified in the trust deed, and
  - (c) which ends with the relevant time (within the meaning of that sub-paragraph).
- (6) For the purposes of sub-paragraph (3) above a qualifying period is a period—
- (a) whose length is equal to that of the period specified in the trust deed for the purposes of a rule which conforms with sub-paragraph (2) above, and
  - (b) which ends when the person or company (as the case may be) ceased as mentioned in sub-paragraph (3)(b) above.
- (7) The trust deed must not provide for a person to be a beneficiary unless she falls within any rule which is included in the deed and conforms with sub-paragraph (2) [<sup>F435</sup>, (2A)], (3) or (4) above.
- (8) The trust deed must provide that, notwithstanding any other rule which is included in it, a person cannot be a beneficiary at a particular time (the relevant time) [<sup>F436</sup> by virtue of a rule which conforms with sub-paragraph (2), (3) or (4) above] if—
- (a) at that time he has a material interest in the founding company, or
  - (b) at any time in the period of one year preceding the relevant time he has had a material interest in that company.
- (9) For the purposes of this paragraph a company falls within the founding company's group at a particular time if—
- (a) it is at that time resident in the United Kingdom, and
  - (b) it is the founding company or it is at that time controlled by the founding company.
- (10) For the purposes of this paragraph a charity is a body of persons established for charitable purposes only.

#### Textual Amendments

- F429** Words in Sch. 5 para. 4(2)(c) substituted (1.5.1995 with effect as mentioned in s. 137(9) of the amending Act) by 1995 c. 4, s. 137(5)
- F430** Sch. 5 para. 4(2A)(2B) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(1)(12)
- F431** Words in Sch. 5 para. 4(2A) substituted (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. 6 para. 163(2)(a) (with Sch. 7)
- F432** Words in Sch. 5 para. 4(2A)(b) substituted (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. 6 para. 163(2)(b) (with Sch. 7)
- F433** Words in Sch. 5 para. 4(4) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(5)(12)
- F434** Words in Sch. 5 para. 4(5)(a) repealed (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 119(1)(2), 205, Sch. 41 Pt. V(5), note 4
- F435** Words in Sch. 5 para. 4(7) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(6)(12)
- F436** Words in Sch. 5 para. 4(8) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(7)(12)

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

**C69** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

*Trustees' functions*

- 5 (1) The trust deed must contain provision as to the functions of the trustees.
- (2) The functions of the trustees must be so expressed that it is apparent that their general functions are—
- (a) to receive sums from the founding company and other sums (by way of loan or otherwise);
  - (b) to acquire securities;
  - (c) to transfer securities or sums (or both) to persons who are beneficiaries under the terms of the trust deed;
  - [<sup>F437</sup>(cc) to grant rights to acquire shares to persons who are beneficiaries under the terms of the trust deed;]
  - (d) to transfer securities to the trustees of profit sharing schemes approved under Schedule 9 to the Taxes Act 1988, for a price not less than the price the securities might reasonably be expected to fetch on a sale in the open market;
  - (e) pending transfer, to retain the securities and to manage them (whether by exercising voting rights or otherwise).

**Textual Amendments**

**F437** Sch. 5 para. 5(2)(cc) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(8)(12)

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

**C70** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

*Sums*

- 6 (1) The trust deed must require that any sum received by the trustees—
- (a) must be expended within the relevant period,
  - (b) may be expended only for one or more of the qualifying purposes, and
  - (c) must, while it is retained by them, be kept as cash or be kept in an account with a bank or building society.
- (2) For the purposes of sub-paragraph (1) above the relevant period is the period of nine months beginning with the day found as follows—
- (a) in a case where the sum is received from the founding company, or a company which is controlled by that company at the time the sum is received, the day following the end of the period of account in which the sum is charged as an expense of the company from which it is received;
  - (b) in any other case, the day the sum is received.
- (3) For the purposes of sub-paragraph (1) above each of the following is a qualifying purpose—

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- (a) the acquisition of shares in the founding company;
  - (b) the repayment of sums borrowed;
  - (c) the payment of interest on sums borrowed;
  - (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
  - (e) the meeting of expenses.
- (4) The trust deed must provide that, in ascertaining for the purposes of a relevant rule whether a particular sum has been expended, sums received earlier by the trustees shall be treated as expended before sums received by them later; and a relevant rule is one which is included in the trust deed and conforms with sub-paragraph (1) above.
- (5) The trust deed must provide that, where the trustees pay sums to different beneficiaries at the same time, all the sums must be paid on similar terms.
- (6) For the purposes of sub-paragraph (5) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.

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

**C71** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

*Securities*

- 7 (1) Subject to paragraph 8 below, the trust deed must provide that securities acquired by the trustees must be shares in the founding company which—
- (a) form part of the ordinary share capital of the company,
  - (b) are fully paid up,
  - (c) are not redeemable, and
  - (d) are not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by sub-paragraph (2) below.
- (2) Subject to sub-paragraph (3) below, a restriction is authorised by this sub-paragraph if—
- (a) it is imposed by the founding company's articles of association,
  - (b) it requires all shares held by directors or employees of the founding company, or of any other company which it controls for the time being, to be disposed of on ceasing to be so held, and
  - (c) it requires all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not (or have ceased to be) such directors or employees to be disposed of when they are acquired.
- (3) A restriction is not authorised by sub-paragraph (2) above unless—
- (a) any disposal required by the restriction will be by way of sale for a consideration in money on terms specified in the articles of association, and
  - (b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired

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as mentioned in sub-paragraph (2) above) may be required to sell them on terms which are the same as those mentioned in paragraph (a) above.

- (4) The trust deed must provide that shares in the founding company may not be acquired by the trustees at a price exceeding the price they might reasonably be expected to fetch on a sale in the open market.
- (5) The trust deed must provide that shares in the founding company may not be acquired by the trustees at a time when that company is controlled by another company.

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

**C72** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

8 The trust deed may provide that the trustees may acquire securities other than shares in the founding company—

- (a) if they are securities issued to the trustees in exchange in circumstances mentioned in section [F438 135(1) of the M98 Taxation of Chargeable Gains Act 1992], or
- (b) if they are securities acquired by the trustees as a result of a reorganisation, and the original shares the securities represent are shares in the founding company (construing “reorganisation” and “original shares” in accordance with section [F438 126] of that Act).

#### Textual Amendments

**F438** Words in Sch. 5 para. 8 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 19(5) (with s. 60, 101(1), 201(3))

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

**C73** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

#### Marginal Citations

**M98** 1992 c. 12.

- 9 (1) The trust deed must provide that—
- (a) where the trustees transfer securities to a beneficiary, they must do so on qualifying terms;
- (b) the trustees must transfer securities before the expiry of the [F439 qualifying period] beginning with the date on which they acquired them.
- (2) For the purposes of sub-paragraph (1) above a transfer of securities is made on qualifying terms if—
- (a) all the securities transferred at the same time [F440 other than those transferred on a transfer such as is mentioned in sub-paragraph (2ZA) below] are transferred on similar terms,



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- (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed [<sup>F441</sup>by virtue of a rule which conforms with paragraph 4(2), (3) or (4) above] when the transfer is made, and
  - (c) securities are transferred to all such [<sup>F442</sup>persons] who have accepted.
- [<sup>F443</sup>(2ZA) For the purposes of sub-paragraph (1) above a transfer of securities is also made on qualifying terms if—
- (a) it is made to a person exercising a right to acquire shares, and
  - (b) that right was obtained in accordance with the provisions of [<sup>F444</sup>an SAYE option scheme]—
    - (i) which was established by, or by a company controlled by, the founding company, and
    - (ii) which is approved under [<sup>F445</sup>Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003], and
  - (c) that right is being exercised in accordance with the provisions of that scheme, and
  - (d) the consideration for the transfer is payable to the trustees.]
- [<sup>F446</sup>(2A) For the purposes of sub-paragraph (1) above the qualifying period is—
- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
  - (b) twenty years, in the case of other trusts.]
- (3) For the purposes of sub-paragraph (2) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.
- (4) The trust deed must provide that, in ascertaining for the purposes of a relevant rule whether particular securities are transferred, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later; and a relevant rule is one which is included in the trust deed and conforms with sub-paragraph (1) above.

#### Textual Amendments

- F439** Words in Sch. 5 para. 9(1)(b) substituted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 7(2)**
- F440** Words in Sch. 5 para. 9(2)(a) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(9)(a)(12)
- F441** Words in Sch. 5 para. 9(2)(b) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(9)(b)(12)
- F442** Words in Sch. 5 para. 9(2)(c) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(9)(c)(12)
- F443** Sch. 5 para. 9(2ZA) inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(10)(12)
- F444** Words in Sch. 5 para. 9(2ZA)(b) substituted (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. 6 para. 163(3)(a)** (with Sch. 7)
- F445** Words in Sch. 5 para. 9(2ZA)(b)(ii) substituted (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. 6 para. 163(3)(b)** (with Sch. 7)
- F446** Sch. 5 para. 9(2A) inserted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 7(3)**

*Status: Point in time view as at 27/12/2007.*

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

**C74** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

#### Other features

- 10 The trust deed must not contain features which are not essential or reasonably incidental to the purpose of acquiring sums and securities, [<sup>F447</sup>granting rights to acquire shares to persons who are eligible to participate in [<sup>F448</sup>SAYE option schemes approved under Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003], transferring shares to such persons,] transferring sums and securities to employees and directors, and transferring securities to the trustees of profit sharing schemes approved under [<sup>F449</sup>Schedule 9 to the Taxes Act 1988].

#### Textual Amendments

**F447** Words in Sch. 5 para. 10 inserted (29.4.1996 with effect in relation to trusts established on or after 29.4.1996) by 1996 c. 8, s. 120(11)(a)(12)

**F448** Words in Sch. 5 para. 10 substituted (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. 6 para. 163(4)(a) (with Sch. 7)

**F449** Words in Sch. 5 para. 10 substituted (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. 6 para. 163(4)(b) (with Sch. 7)

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

**C75** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

#### Rules about acquisition etc.

- 11 (1) The trust deed must provide that, for the purposes of the deed, the trustees—
- (a) acquire securities when they become entitled to them;
  - (b) transfer securities to another person when that other becomes entitled to them;
  - (c) retain securities if they remain entitled to them.
- (2) But if the deed provides as mentioned in paragraph 8 above, it must provide for the following exceptions to any rule which is included in it and conforms with subparagraph (1)(a) above, namely, that—
- (a) if securities are issued to the trustees in exchange in circumstances mentioned in section [<sup>F450</sup>135(1) of the <sup>M99</sup>Taxation of Chargeable Gains Act 1992], they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged;
  - (b) if the trustees become entitled to securities as a result of a reorganisation, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation” and “original shares” in accordance with section [<sup>F450</sup>126] of that Act).
- (3) The trust deed must provide that—

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- (a) if the trustees agree to take a transfer of securities, for the purposes of the deed they become entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement;
- (b) if the trustees agree to transfer securities to another person, for the purposes of the deed the other person becomes entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.

#### Textual Amendments

**F450** Words in [Sch. 5 para. 11](#) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 19(5)** (with s. 60, 101(1), 201(3))

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

**C76** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of shares to employee share ownership trusts*

#### Marginal Citations

**M99** [1992 c. 12](#).

#### *Position after trust's establishment*

- 12 A trust which was at the time it was established a qualifying employee share ownership trust shall continue to be one, except that it shall not be such a trust at any time when the requirements mentioned in paragraph 3(3)(a) to (f) above are not satisfied. [<sup>F451</sup>This paragraph applies in relation to trusts established on or before the day on which the Finance Act 1994 was passed.]

#### Textual Amendments

**F451** Words in [Sch. 5 para. 12](#) inserted (3.5.1994) by [1994 c. 9, s. 102](#), **Sch. 13 para. 4**

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

**C77** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of shares to employee share ownership trusts*

- [<sup>F452</sup>12(A)] Subject to sub-paragraphs (2) and (3) below, a trust which was at the time it was established a qualifying employee share ownership trust shall continue to be one.
- (2) If the trust deed makes provision under paragraph 3A(a) above, the trust shall not be a qualifying employee share ownership trust at any time when the requirements mentioned in paragraph 3(3)(a) to (f) above are not satisfied.
  - (3) If the trust deed makes provision under paragraph 3A(b) above, the trust shall not be a qualifying employee share ownership trust at any time when the conditions mentioned in paragraph 3B(4)(a) to (e) above are not satisfied.
  - (4) If the trust deed makes provision under paragraph 3A(c) above, the trust shall not be a qualifying employee share ownership trust at any time when—
    - (a) there is not a single trustee,
    - (b) the trustee is not a company which is resident in the United Kingdom and controlled by the founding company, or

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(c) the conditions mentioned in paragraph 3C(4)(a) to (e) above are not satisfied as regards the directors of the trustee.

(5) This paragraph applies in relation to trusts established after the day on which the Finance Act 1994 was passed.]

#### Textual Amendments

**F452** Sch. 5 para. 12A inserted (3.5.1994) by 1994 c. 9, s. 102, Sch. 13 para. 5

13 A trust is an employee share ownership trust at a particular time (the relevant time) if it was a qualifying employee share ownership trust at the time it was established; and it is immaterial whether or not it is a qualifying employee share ownership trust at the relevant time.

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

**C78** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

#### Interpretation

14 For the purposes of this Schedule the following are securities—  
(a) shares;  
(b) debentures.

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

**C79** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

15 For the purposes of this Schedule, the question whether one company is controlled by another shall be construed in accordance with [F<sup>453</sup> section 995 of the Income Tax Act 2007].

#### Textual Amendments

**F453** Words in Sch. 5 para. 15 substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 283(2) (with Sch. 2)

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

**C80** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts

16 (1) For the purposes of this Schedule a person shall be treated as having a material interest in a company if he, either on his own or with one or more of his associates, or if any associate of his with or without other such associates,—  
(a) is the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 percent. of the ordinary share capital of the company, or

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- (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.
- (2) In this paragraph—
- (a) “associate” has the same meaning as in section 417(3) and (4) of the Taxes Act 1988, but subject to sub-paragraph (3) below,
- (b) “control” has the meaning given by [<sup>F454</sup>section 995 of the Income Tax Act 2007], and
- (c) “participator” has the same meaning as in Part XI of [<sup>F455</sup>the Taxes Act 1988].
- (3) Where a person has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (5) below applies in relation to him.
- (4) In sub-paragraph (3) above “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8 to the Taxes Act 1988, except that in its application for this purpose paragraph 7(5)(b) of that Schedule shall have effect as if it referred to the day on which this Act was passed instead of to 14th March 1989.
- (5) This sub-paragraph applies in relation to a person if at any time on or after the day on which this Act was passed—
- (a) he, either on his own or with any one or more of his associates, or
- (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 5 per cent. of the ordinary share capital of the company.
- (6) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 to the Taxes Act 1988 shall apply for the purposes of sub-paragraph (5) above as they apply for the purposes of that paragraph.

#### Textual Amendments

**F454** Words in Sch. 5 para. 16(2)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 283\(3\)\(a\)](#) (with [Sch. 2](#))

**F455** Words in Sch. 5 para. 16(2)(c) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 283\(3\)\(b\)](#) (with [Sch. 2](#))

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

**C81** See [Finance Act 1990 \(c. 29\) ss.31–40—roll-over relief for disposal of shares to employee share ownership trusts](#)

[<sup>F456</sup>17 For the purposes of this Schedule a trust is established when the deed under which it is established is executed.]

#### Textual Amendments

**F456** Sch. 5 para. 17 inserted (3.5.1994) by [1994 c. 9, s. 102, Sch. 13 para. 8](#)

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[<sup>F457</sup>18 For the purposes of this Schedule “SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of the Income Tax (Earnings and Pensions) Act 2003 (approved SAYE option schemes)).]

**Textual Amendments**  
**F457** Sch. 5 para. 18 inserted (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. 6 para. 163(5)** (with Sch. 7)

<sup>F458</sup>SCHEDULE 6 **U.K.** Section 75.

**Textual Amendments**  
**F458** Sch. 6 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)

<sup>F459</sup>SCHEDULE 7 **U.K.** Section 77.

**Textual Amendments**  
**F459** Sch. 7 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)

SCHEDULE 8 **U.K.** Section 84.

AMENDMENTS OF CHAPTER I OF PART XII OF TAXES ACT 1988 (INSURANCE COMPANIES)

1 ..... <sup>F460</sup>

**Textual Amendments**  
**F460** Sch. 8 paras. 1, 3(3), 7 repealed by [Finance Act 1990 \(c.29\)](#), s. 132, **Sch. 19 Pt. IV**, Notes 6, 14

2 Section 433 (profits reserved for policy holders or annuitants) shall cease to have effect.

3 (1) In section 434 (franked investment income etc.), for subsection (3) there shall be substituted the following subsections—

“(3) Subject to sections 437 and 438, the policy holders’ fraction of the franked investment income from investments held in connection with a company’s life assurance business shall not be used under Chapter V of Part VI to frank distributions made by the company and, accordingly, for the

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purposes of that Chapter (other than the application of franked investment income under section 241), in relation to any unrelieved income of a company falling within subsection (1) above, the surplus of franked investment income for any accounting period means the aggregate of—

- (a) the policy holders' fraction of that franked investment income; and
- (b) the amount determined under section 241(3) on the basis that the reference therein to franked investment income is a reference only to the shareholders' fraction of that income.

(3A) The policy holders' fraction of the franked investment income from investments held in connection with a company's life assurance business shall be left out of account in determining, under subsection (7) of section 13, the franked investment income forming part of the company's profits for the purposes of that section."

(2) Subsections (4) and (5) of that section shall be omitted.

(3)

<sup>F461</sup>(4) In subsection (7) of that section for "(4)" there shall be substituted "(3)" and after the words "against which" there shall be inserted "disregarding relief under section 242".

**Textual Amendments**

**F461** Sch. 8 paras. 1, 3(3), 7 repealed by Finance Act 1990 (c.29), s. 132, Sch. 19 Pt. IV, Notes 6, 14

<sup>F462</sup>4 . . . . .

**Textual Amendments**

**F462** Sch. 8 para. 4 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), note

5 Section 435 (taxation of gains reserved for policy holders and annuitants) shall cease to have effect.

<sup>F463</sup>6 . . . . .

**Textual Amendments**

**F463** Sch. 8 para. 6 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(7)

7 . . . . . <sup>F464</sup>

**Textual Amendments**

**F464** Sch. 8 paras. 1, 3(3), 7 repealed by Finance Act 1990 (c.29), s. 132, Sch. 19 Pt. IV, Notes 6, 14

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F465 SCHEDULE 8A U.K.

Section 89A.

**Textual Amendments**

**F465** Sch. 8A repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

SCHEDULE 9 U.K.

Section 90.

LIFE POLICIES ETC. HELD BY COMPANIES

- 1 Chapter II of Part XIII of the Taxes Act 1988 shall be amended as follows.
- 2 At the end of section 539 there shall be added—
- “(9) A policy of life insurance issued in respect of an insurance made before 14th March 1989 shall be treated for the purposes of sections 540(5A), 547(8) and 548(3A) as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation.”
- 3 (1) Section 540 shall be amended as follows.
- (2) In subsection (4), for the words “this section” there shall be substituted the words “subsections (1) and (3) above”.
- (3) After subsection (5) there shall be inserted—
- “(5A) Sub-paragraphs (i) and (ii) of subsection (1)(b) above shall not apply in relation to a policy issued in respect of an insurance made on or after 14th March 1989 if, immediately before the happening of the event, the rights conferred by the policy were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company.”
- 4 (1) Section 541 shall be amended as follows.
- (2) After subsection (4) there shall be inserted—
- “(4A) Where, immediately before the happening of the chargeable event, the rights conferred by a qualifying endowment policy are held as security for a debt owed by a company, then, if—
- (a) the conditions in subsection (4B) below are satisfied,
- (b) the amount of the debt exceeds the total amount previously paid under the policy by way of premiums, and
- (c) the company makes a claim for the purpose within two years after the end of the accounting period in which the chargeable event happens,
- this section shall have effect as if the references in subsection (1)(a) and (b) to that total amount were references to the amount of the debt.



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- (4B) The conditions referred to in subsection (4A) above are—
- (a) that, throughout the period beginning with the making of the insurance and ending immediately before the happening of the chargeable event, the rights conferred by the policy have been held as security for a debt owed by the company;
  - (b) that the capital sum payable under the policy in the event of death during the term of the policy is not less than the amount of the debt when the insurance was made;
  - (c) that any sum payable under the policy by reason of the chargeable event is applied in repayment of the debt (except to the extent that its amount exceeds the amount of the debt);
  - (d) that the debt was incurred to defray money applied—
    - (i) in purchasing an estate or interest in land to be occupied by the company for the purposes of a trade carried on by it, or
    - (ii) for the purpose of the construction, extension or improvement (but not the repair or maintenance) of buildings which are or are to be so occupied.

(4C) If the amount of the debt is higher immediately before the happening of the chargeable event than it was at some earlier time during the period mentioned in subsection (4B)(a) above, the amount to be taken into account for the purposes of subsection (1) above shall be the lowest amount at which it stood during that period.

(4D) If during the period mentioned in subsection (4B)(a) above the company incurs a debt by borrowing in order to repay another debt, subsections (4B) and (4C) above shall have effect as if, where appropriate, references to either debt included references to the other.”

- (3) In subsection (5), after paragraph (b) there shall be inserted “and
- (c) “qualifying endowment policy” means a policy which is a qualifying policy by virtue of paragraph 2 of Schedule 15;”.

5 (1) Section 547 shall be amended as follows.

- (2) In subsection (1), for paragraph (b) there shall be substituted—
- “(b) if, immediately before the happening of that event, those rights were in the beneficial ownership of a company, or were held on trusts created, or as security for a debt owed, by a company, the amount of the gain shall be deemed to form part of the company’s income (chargeable under Case VI of Schedule D) for the accounting period in which the event happened;”.

(3) After subsection (7) there shall be inserted—

- “(8) Subsection (1)(b) above shall not have effect as respects—
- (a) a policy of life insurance issued in respect of an insurance made before 14th March 1989,
  - (b) a contract for a life annuity made before that date, or
  - (c) a capital redemption policy issued in respect of an insurance made before that date, or issued by a company resident in the United Kingdom in respect of an insurance made on or after that date.”

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- 6 (1) Section 548 shall be amended as follows.
- (2) In subsection (1)—
  - <sup>F466</sup>(a) .....
  - (b) in paragraph (c), after the words “that individual” there shall be inserted the words “or company”;
  - (c) for the words “subsection (3)” there shall be substituted the words “subsections (3) and (3A)”.
- (3) After subsection (3) there shall be inserted—
  - “(3A) Subsections (1) and (2) do not apply where the rights conferred by the policy or contract are in the beneficial ownership of a company, or are held on trusts created, or as security for a debt owed, by a company, if the policy was issued in respect of an insurance made before 14th March 1989 or the contract was made before that date.”

**Textual Amendments**  
**F466** Sch. 9 para. 6(2)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

- 7 In section 552, in subsection (2), after paragraph (b) there shall be inserted “or  
(c) the event is a chargeable event only because of section 540(5A).”
- 8 Paragraph 5 above shall have effect in relation to chargeable events happening in any accounting period of the company concerned which begins after 31st March 1989; but subject to that this Schedule shall have effect as from 14th March 1989.

<sup>F467</sup>SCHEDULE 10 **U.K.**

**Textual Amendments**  
**F467** Sch. 10 repealed (29.4.1996) by [1996 c. 8, s. 205](#), [Sch. 41 Pt. V\(3\)](#) (with savings in [Pt. IV Ch. II \(ss. 80-105\)](#))

<sup>F468</sup>SCHEDULE 11 **U.K.**

**Textual Amendments**  
**F468** Sch. 11 repealed (29.4.1996) by [1996 c. 8, ss. 104, 205](#), [Sch. 14 para. 57](#), [Sch. 41 Pt. V\(3\)](#) (with savings in [Pt. IV Ch. II \(ss. 80-105\)](#))

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## SCHEDULE 12 **U.K.**

Section 107.

### CLOSE COMPANIES

#### **PART I U.K.**

##### ADMINISTRATIVE PROVISIONS

###### *Interpretation*

- 1 In this Part of this Schedule “the relevant provisions” means—
- (a) sections [<sup>F490</sup>13, 13ZA, 13A] , 231 and 419 to 422 of the Taxes Act 1988,  
<sup>F491</sup> ...
  - (b) Chapter III of Part XI of that Act (as it has effect in relation to accounting periods beginning before 1st April 1989).
  - [<sup>F492</sup>(c) section 397 of the Income Tax (Trading and Other Income) Act 2005, and
  - (d) Chapter 6 of Part 4 of that Act.]

###### **Textual Amendments**

- F490** Words in *Sch. 12 para. 1(a)* substituted (with effect in accordance with s. 26(8)-(11) of the amending Act) by *Finance Act 2006 (c. 25), s. 26(6)*
- F491** Word in *Sch. 12 para. 1(a)* repealed (6.4.2005) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 412(a), Sch. 3* (with *Sch. 2*)
- F492** *Sch. 12 para. 1(c)(d)* inserted (6.4.2005) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 412(b)* (with *Sch. 2*)

###### *Provision of information by company*

- 2 The inspector may, by notice, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than 30 days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of the relevant provisions.

###### *Provision of information by shareholders*

- 3 (1) If for the purposes of the relevant provisions any person in whose name any shares are registered is so required by notice by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (2) This paragraph shall apply in relation to loan capital as it applies in relation to shares.

###### *Information about bearer securities*

- 4 (1) The inspector may, for the purposes of the relevant provisions, by notice require—
- (a) any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the

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names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person, and

- (b) any person to whom bearer securities were issued by the company, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.

(2) In this paragraph—

“loan creditor” has the same meaning as in Part XI of the Taxes Act 1988, and

“securities” includes shares, stock, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.

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

**C84** Sch. 12 para. 4 extended (24.6.2003) by [The Uncertificated Securities \(Amendment\) \(Eligible Debt Securities\) Regulations 2003 \(S.I. 2003/1633\)](#), reg. 1(1), **Sch. 2 para. 13(c)**

**PART II U.K.**

AMENDMENTS CONNECTED WITH REPEAL OF CHAPTER III OF PART XI OF TAXES ACT 1988

*The Taxes Management Act 1970 (c.9)*

5 In the first column of the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to give particulars etc.) there shall be added at the end— “Paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989.”

*The Capital Gains Tax Act 1979 (c.14)*

F493<sup>6</sup> .....

**Textual Amendments**

**F493** Sch. 12 para. 6 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*The Income and Corporation Taxes Act 1988 (c.1)*

7 In section 13 of the Taxes Act 1988 (small companies’ rate) in subsection (9) for the words “paragraph 17 of Schedule 19” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989”.

F494<sup>g</sup> .....

*Status: Point in time view as at 27/12/2007.*

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### Textual Amendments

**F494** Sch. 12 para. 8 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)

- 9 (1) In section 187(3) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of sections 185 to 187 of, and Schedules 9 and 10 to, that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—

“in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—

- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company, or
- (b) where the company is a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the assets which would then be available for distribution among the participants.” and at the end there shall be added the words “ and “participant” has the meaning given by section 417(1) ”.

- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

- 10 (1) In section 214 of the Taxes Act 1988 (chargeable payments connected with exempt distributions) in subsection (1)(c) for the words from “338(2)(a)” to “Schedule 19” there shall be substituted the words “and 338(2)(a)”.

- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989, except in any case where section 427(4) of the Taxes Act 1988 has effect by virtue of section 103(2) of this Act.

- 11 In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (9) for the words from “paragraph 17” to “that Schedule” there shall be substituted the words “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)”.

12 <sup>F495</sup>(1) .....

<sup>F495</sup>(2) .....

<sup>F495</sup>(3) .....

- (4) This paragraph shall have effect in relation to interest paid on or after the day on which this Act is passed (and, accordingly, the conditions of section 424(4) of the Taxes Act 1988 shall continue to have effect for the purposes of section 360 of that Act in relation to interest paid before that day).

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**Textual Amendments**

**F495** Sch. 12 para. 12(1)-(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

13 <sup>F496</sup>(1) . . . . .

<sup>F496</sup>(2) . . . . .

<sup>F496</sup>(3) . . . . .

(4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

**Textual Amendments**

**F496** Sch. 12 para. 13(1)-(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

14 (1) In section 576 of the Taxes Act 1988 (which relates to relief for losses on certain unquoted shares) in subsection (5), for paragraph (a) of the definition of “trading company” there shall be substituted—

“(a) a company whose business consists wholly or mainly of the carrying on of a trade or trades”.

(2) This paragraph shall have effect in relation to disposals made after 31st March 1989.

<sup>F497</sup>15 . . . . .

**Textual Amendments**

**F497** Sch. 12 para. 15 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)

<sup>F498</sup>16 . . . . .

**Textual Amendments**

**F498** Sch. 12 para. 16 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)

<sup>F499</sup>17 . . . . .

**Textual Amendments**

**F499** Sch. 12 para. 17 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

18 (1) Paragraph 7 of Schedule 8 to the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of a profit-related pay scheme) shall be amended in accordance with this paragraph.

(2) In sub-paragraph (2) for the words from “in a company” onwards there shall be substituted—

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“in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—

- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 percent. of the ordinary share capital of the company, or
- (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 per cent. of the assets which would then be available for distribution among the participators”.

(3) In sub-paragraph (3) the second “and” shall be omitted and after the definition of “control” there shall be inserted “and

“participator” has the meaning given by section 417(1)”.

(4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

SCHEDULE 13 **U.K.**

Section 121.

CAPITAL ALLOWANCES: MISCELLANEOUS AMENDMENTS

1–26 ..... F500

**Textual Amendments**

**F500** Sch. 13 paras. 1–26, 28–30 repealed by Capital Allowance Act 1990 (c. 1), s. 164(4)(5), Sch. 2

*Patent rights*

F501 27 .....

**Textual Amendments**

**F501** Sch. 13 para. 27 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

28–30 ..... F502

**Textual Amendments**

**F502** Sch. 13 paras. 1–26, 28–30 repealed by Capital Allowance Act 1990 (c. 1), s. 164(4)(5), Sch. 2

*Status: Point in time view as at 27/12/2007.*

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F503 SCHEDULE 14 U.K.

**Textual Amendments**

**F503** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

*Gifts of business assets*

F504<sub>1</sub> .....

**Textual Amendments**

**F504** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

F505<sub>2</sub> .....

**Textual Amendments**

**F505** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

F506<sub>3</sub> .....

**Textual Amendments**

**F506** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

*Gifts on which inheritance tax is chargeable etc.*

F507<sub>4</sub> .....

**Textual Amendments**

**F507** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

*Payment of tax by instalments*

F508<sub>5</sub> .....

**Textual Amendments**

**F508** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))



*Status: Point in time view as at 27/12/2007.*

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*Minor and consequential amendments*

F509<sup>6</sup> .....

**Textual Amendments**

**F509** Sch. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F510<sup>SCHEDULE 15</sup> **U.K.**

**Textual Amendments**

**F510** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Postponed charges etc.: pre-1st April 1982 events*

F511<sup>1</sup> .....

**Textual Amendments**

**F511** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F512<sup>2</sup> .....

**Textual Amendments**

**F512** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Reduction of 1982 value in certain cases*

F513<sup>3</sup> .....

**Textual Amendments**

**F513** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

*No gain/no loss disposals*

F514<sup>4</sup> .....

*Status: Point in time view as at 27/12/2007.*

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**Textual Amendments**

**F514** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Elections*

F515

**Textual Amendments**

**F515** Sch. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

[<sup>F516</sup>SCHEDULE 16 **U.K.**

Section 181.

BROADCASTING: ADDITIONAL PAYMENTS BY PROGRAMME CONTRACTORS

**Textual Amendments**

**F516** S. 181, Sch. 16 repealed (prosp. as mentioned in S.I. 1990/2347, **art. 3(3)**) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 127-129, 134, 203(3), 204(2), Schs. 9-12, **Sch. 21**

**PART I **U.K.****

AMENDMENTS OF THE PRINCIPAL SECTIONS

- 1 (1) Section 32 of the <sup>M102</sup>Broadcasting Act 1981 (rentalpayments by programme contractors) shall be amended as follows.
- (2) In subsection (1)(b), after the word “amounts” there shall be inserted the words “in respect of profits and in respect of advertising revenue”.
- (3) In subsection (2)(b), after the word “amounts” there shall be inserted the words “in respect of profits”.
- (4) In subsection (4), for the word “Table”, where it first occurs, there shall be substituted the word “Tables” and the following Tables shall be substituted for the Table in that subsection—

“TABLE A

RATES OF ADDITIONAL PAYMENTS IN  
RESPECT OF ADVERTISING REVENUE

*Rate for determining amount of  
additional payments*

*Status: Point in time view as at 27/12/2007.*

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For so much of the advertising revenue for the accounting period as does not exceed the free slice for advertising revenue.	Nil
For so much of the advertising revenue for the accounting period as exceeds the free slice for advertising revenue.	The relevant revenue rate except where the rate is nil

---

For the purposes of this Table—

- (a) a nil rate, instead of the relevant revenue rate, is applicable in the case of persons who are DBS programme contractors or DBS teletext contractors;
- (b) the relevant revenue rate is 10 per cent; and
- (c) the free slice for advertising revenue is £15 million or, in the case of a TV programme contractor, that amount with the addition of the payments payable by him in pursuance of section 13(2).

#### TABLE B

##### RATES OF ADDITIONAL PAYMENTS IN RESPECT OF PROFITS

---

For so much of the profits for the accounting period after deducting any amount payable under Table A as does not exceed the free slice for profits.	Nil
For so much of the profits for the accounting period after deducting any amount payable under Table A as exceeds the free slice for profits.	The relevant profits rate except where the rate is nil.

---

For the purposes of this Table—

- (a) a nil rate, instead of the relevant profits rate, is applicable in the case of—
  - (i) programme contractors who provide local sound broadcasts, and
  - (ii) DBS programme contractors or DBS teletext contractors;
- (b) the relevant profits rate is 25 per cent; and
- (c) the free slice for profits is £2 million.”

(5) Subsection (4A) shall be omitted.

(6) In subsection (5), for the words “relevant sum mentioned in subsection (4A)” there shall be substituted the words “relevant sum mentioned in the Tables above”.

(7) In subsection (7), after the words “additional payments” there shall be inserted the words “in respect of profits”.

(8) In subsection (8), for the words “any of the provisions of subsections (4), (4A)” there shall be substituted the words “any of the provisions of subsections (4)”.

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(9) For subsection (9) there shall be substituted the following subsections—

“(9) The power of the Secretary of State under subsection (8) shall include power to amend the provisions in question as there mentioned—

- (a) only in their application in relation to the additional payments mentioned in subsection (1)(b); or
- (b) only in their application in relation to the additional payments mentioned in subsection (2)(b); or
- (c) differently in their application as mentioned in paragraphs (a) and (b) respectively; or
- (d) only in their application in relation to additional payments in respect of advertising revenue; or
- (e) only in their application in relation to additional payments in respect of profits; or
- (f) differently in their application as mentioned in paragraphs (d) and (e) respectively.

(9A) In the application of the provisions mentioned in subsection (8) in relation to the additional payments mentioned in subsection (1)(b), the power of the Secretary of State under subsection (8) shall also include power to amend those provisions as mentioned in subsection (8)—

- (a) only in relation to persons who are TV programme contractors (including persons who are both TV programme contractors and teletext contractors); or
- (b) only in relation to persons who are DBS programme contractors (including persons who are both DBS programme contractors and teletext contractors); or
- (c) only in relation to persons who are teletext contractors (other than DBS teletext contractors) but are not TV or DBS programme contractors; or
- (d) only in relation to persons who are DBS teletext contractors but are not TV or DBS programme contractors; or
- (e) differently in relation to persons within paragraphs (a), (b), (c) and (d) respectively.”

**Marginal Citations**

**M102** 1981 c. 68.

- 2 (1) Section 33 of the <sup>M103</sup>Broadcasting Act 1981 (supplemental provisions) shall be amended as follows.
- (2) In subsection (1), for the words “advertising receipts” there shall be substituted the words “advertising revenue”.
- (3) In subsection (2), for the words “advertising receipts” there shall be substituted the words “advertising revenue” and for the words “those receipts derive” there shall be substituted the words “the revenue derives”.

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- (4) In subsection (3)(c), for the words “advertising receipts” there shall be substituted the words “advertising revenue” and for the word “derive” there shall be substituted the word “derives”.

**Marginal Citations**

M103 1981 c. 68.

- 3 (1) Section 34 of the Broadcasting Act 1981 (instalments payable on account by programme contractors for their accounting periods) shall be amended as follows.
- (2) In subsection (3)(c), for the words “receipts are” there shall be substituted the words “revenue is”.
- 4 (1) Section 35 of the <sup>M104</sup>Broadcasting Act 1981 (provision for supplementing additional payments) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after the words “additional payments” there shall be inserted the words “in respect of profits”;
  - (b) in paragraph (b)(ii), the words “in the case of second category profits,” shall be omitted; and
  - (c) at the end, there shall be added the words “in respect of profits of his for that period”.

**Marginal Citations**

M104 1981 c. 68.

**PART II U.K.**

PROVISIONS INSERTED AS SCHEDULE 4 TO THE BROADCASTING ACT 1981

“SCHEDULE 4 U.K.

RENTAL PAYMENTS

*Advertising revenue*

- 1 (1) The advertising revenue of a programme contractor for an accounting period shall be computed in accordance with this paragraph.
- (2) Advertising revenue shall consist of the payments received or to be received by the programme contractor in consideration of the insertion of advertisements in programmes provided by the programme contractor and broadcast in the United Kingdom by the Authority.
- (3) In the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), the advertising revenue of a programme contractor other than a teletext contractor who is not a TV programme contractor includes payments received or to be received by him in consideration of the insertion of programmes consisting

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of advertisements provided by him for broadcasting on the Fourth Channel and so broadcast.

- (4) If, in connection with the insertion of advertisements which are paid for by payments constituting advertising revenue, any payments are made to the programme contractor to meet any additional payments, those payments shall be regarded as made in consideration of the insertion of the advertisements in question.
- (5) In the case of an advertisement inserted in a programme under arrangements made between a programme contractor and a person acting as advertising agent, the amount of any receipt by the programme contractor which represents a payment by the advertiser from which the advertising agent has deducted any amount by way of commission shall, except in a case falling within sub-paragraph (6), be the amount of the payment by the advertiser after the deduction of the commission.
- (6) If the amount deducted by way of commission as mentioned in sub-paragraph (5) exceeds 15 per cent. of the payment by the advertiser, the amount of the receipt shall be the amount of that payment less 15 per cent.
- (7) Any contract shall provide that where for any insertion of an advertisement a programme contractor receives or is entitled to an entire consideration not solely referable to that insertion, the advertising revenue shall be calculated by reference to so much only of the consideration as is referable to that insertion according to an apportionment made in such manner as the contract may provide.

### *Profits*

- 2 (1) The profits of a programme contractor for an accounting period shall be computed in accordance with this paragraph.
- (2) The profits shall consist of the excess of relevant income over relevant expenditure.
- (3) “Relevant income” means—
  - (a) in relation to a programme contractor other than a DBS programme contractor or a DBS teletext contractor, income which accrues to the contractor in connection (directly or indirectly) with—
    - (i) the provision by the contractor of programmes for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service, or
    - (ii) the provision by the contractor, for broadcasting, distribution or showing in the United Kingdom, of programmes provided by him for broadcasting on ITV, the Fourth Channel or a local sound broadcasting service;
  - (b) in relation to a DBS programme contractor or DBS teletext contractor, income which accrues to the contractor in connection (directly or indirectly) with—
    - (i) the provision by the contractor to the Authority, in accordance with the terms of his contract as a DBS programme contractor or (as the case may be) DBS teletext contractor, of programmes for broadcasting in the Authority’s DBS service to which his contract with the Authority relates, or
    - (ii) the provision by the contractor, for broadcasting, distribution or showing in the United Kingdom, of programmes broadcast in the Authority’s DBS service.
- (4) Without prejudice to the generality of sub-paragraph (3), “relevant income” includes—

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- (a) all revenue which is advertising revenue for the purposes of this paragraph; and
  - (b) such part of any income which—
    - (i) accrues to any subsidiary of or company related to the programme contractor or to the contractor’s holding company, and
    - (ii) would be relevant income of that contractor if he and the subsidiary or related company or his holding company were a single programme contractor,as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary or the respective financial interests of the holding company in the contractor and the company related to the contractor or the financial interest of the holding company in the contractor, as the case may be.
- (5) For the purposes of this paragraph advertising revenue includes—
- (a) in relation to a DBS programme contractor, payments received or to be received by him in respect of charges made for the reception of programmes provided by him and broadcast in a DBS service;
  - (b) in relation to a teletext contractor, payments received or to be received by him in respect of charges made for the reception of programmes provided by him and broadcast in a DBS or additional teletext service.
- (6) “Relevant expenditure” means any expenditure of the programme contractor which is properly chargeable to revenue account and which is incurred in connection with the provision by him of programmes of a kind mentioned in sub-paragraph (3).
- (7) Without prejudice to the generality of sub-paragraph (6), “relevant expenditure” includes—
- (a) expenditure in connection with the sale of rights to insert advertisements in programmes; and
  - (b) such part of any expenditure which—
    - (i) is incurred by any subsidiary of or company related to the programme contractor or by the contractor’s holding company, and
    - (ii) would be relevant expenditure of that contractor if he and the subsidiary or related company or his holding company were a single programme contractor,as, in the opinion of the Authority, should be attributed to the contractor as reflecting his financial interest in the subsidiary or the respective financial interests of the holding company in the contractor and the company related to the contractor or the financial interest of the holding company in the contractor, as the case may be;
  - (c) in the case of a DBS programme contractor or a teletext contractor, any expenditure incurred in connection with the collection of charges for the reception of programmes provided by him and broadcast in a DBS service or in a DBS or additional teletext service, as the case may be; and
  - (d) in the case of a DBS programme or DBS teletext contractor, any expenditure incurred in connection with the provision of the satellite transponder.
- (8) In ascertaining relevant income or relevant expenditure no account shall be taken of interest on any loan.

*Status: Point in time view as at 27/12/2007.*

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- (9) Items of relevant income and items of relevant expenditure shall be attributed to accounting periods in accordance with the foregoing provisions of this Schedule.
- (10) In this paragraph “programme” means—
- (a) in the application of this Schedule in relation to the additional payments mentioned in section 32(1)(b), a television programme; and
  - (b) in the application of this Schedule in relation to the additional payments mentioned in section 32(2)(b), a local sound broadcast.

*Carry forward of losses*

- 3 (1) Where, in any accounting period, the relevant expenditure of a programme contractor exceeds his relevant income, the excess shall be carried forward to the following accounting period and treated as relevant expenditure for that period for the purpose of computing his profits for that period.
- (2) When a programme contractor’s contract with the Authority comes to an end, no losses incurred at any time during the currency of that contract may be carried forward under this paragraph and set against income attributable to any subsequent contract between him and the Authority.

*Computation of profits of programme contractors*

- 4 (1) It shall be the duty of the Authority—
- (a) to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining, for any accounting period, a programme contractor’s—
    - (i) advertising revenue, and
    - (ii) relevant income and relevant expenditure for the purpose of computing his profits;
  - (b) in computing the advertising revenue and the profits of a programme contractor for any accounting period, to take account of that statement (including any revision thereof which has taken effect before the end of that period).
- (2) A statement under this paragraph may set out different principles for TV programme contractors, DBS programme contractors, programme contractors for the provision of local sound broadcasting and teletext contractors.
- (3) Before drawing up or revising a statement under this paragraph the Authority shall consult the Secretary of State and the Treasury.
- (4) The Authority shall—
- (a) publish the statement drawn up under this paragraph and every revision of that statement; and
  - (b) transmit a copy of the statement, and of every revision of it, to the Secretary of State;
- and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.
- (5) The principles relating to advertising revenue and to profits may be set out in separate statements under this paragraph; and where this is done its provisions apply to each statement.



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### *Disputes*

- 5 (1) For the purposes of the principal sections and this Schedule—
- (a) the amount of any advertising revenue, or
  - (b) the amount of any profits, or
  - (c) the amount of any additional payments, or of an instalment of additional payments,
- shall, in the event of a disagreement between the Authority and the programme contractor, be the amount determined by the Authority.
- (2) No determination of the Authority under this paragraph shall be called in question in any court of law, or be the subject of any arbitration; but nothing in this sub-paragraph shall prevent the bringing of proceedings for judicial review.

### *Accounting periods*

- 6 (1) Subject to the provisions of this Schedule, each period for which a body corporate which is a programme contractor makes up a profit and loss account which is laid before the body corporate in general meeting shall be an accounting period, whether that period is a year or not.
- (2) If part of the said period for which a profit and loss account is made up falls before, and part after—
- (a) the commencement of a relevant order under section 32, or
  - (b) the time when the programme contractor begins or ceases to provide programmes for broadcasting by the Authority,
- the two parts shall be treated as separate accounting periods.
- In paragraph (a) “relevant order” means, in the application of this Schedule in relation to the additional payments mentioned in subsection (1)(b) or (as the case may be) subsection (2)(b) of section 32, an order having effect in relation to those payments.
- (3) Where two parts of such a period as is mentioned in sub-paragraph (1) fall to be divided from each other under sub-paragraph (2)(a), section 32(4) shall have effect as if the profits and advertising revenue for each part were the profits and advertising revenue for the whole multiplied by—

$$\frac{X}{X+Y}$$

where X and Y are respectively the number of weeks in that part and the number of weeks in the other part, counting (in each case) an odd four days or more as a week.

- (4) If sub-paragraph (2)(b) would produce an accounting period of three months or less, that period shall be added on to the accounting period (if any) which precedes or succeeds it (and which does not fall to be divided from it under sub-paragraph (2)(b)).
- (5) A contract which varies another contract may modify the preceding provisions of this paragraph.
- (6) Nothing in this paragraph shall create an accounting period during which the programme contractor is not providing programmes for broadcasting by the Authority.

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- 7 If a programme contractor is not a body corporate the contractor's accounting periods shall be such as the Authority may direct, or as may be provided in the contract.

#### *Information*

- 8 (1) Every contract shall impose on the contractor such requirements with respect to the furnishing of information to the Authority as appear to the Authority, after consultation with the Secretary of State, to be requisite—
- (a) for enabling the Authority to perform their functions under the provisions of the principal sections and this Schedule, and
  - (b) for enabling the Authority to furnish to the Secretary of State such information as he may require for the purpose of determining whether, and in what manner, to exercise his powers of making orders under the said provisions.
- (2) Without prejudice to the generality of sub-paragraph (1), the duty imposed on the Authority by that sub-paragraph includes the duty to impose, so far as is reasonably practicable, such requirements as will enable the Authority to determine the amounts (if any) which, in relation to any programme contractor, are to be treated as advertising revenue and relevant income and relevant expenditure for the computation of profits by virtue, respectively, of paragraphs 1 and 2.
- (3) It shall be the duty of the Authority to furnish to the Secretary of State such information (whether obtained from contractors or otherwise) as is in their possession and is required by the Secretary of State for the purpose of determining whether, and in what manner, to exercise his powers of making orders under the said provisions.
- 9 It shall be the duty of the Authority in framing any contract to include terms ensuring that the Authority will have the right to inspect accounts and records—
- (a) of the programme contractor, and
  - (b) of any subsidiary of the programme contractor,
- for the purpose of discharging their functions under the principal sections and this Schedule.

#### *Interpretation*

- 10 (1) In this Schedule, and in the principal sections, except where the context otherwise requires—
- “accounting period” shall be construed in accordance with paragraph 6;
- “additional payments” and “contract”—
- (a) in the application of this Schedule and the principal sections in relation to the additional payments mentioned in section 32(1)(b), mean respectively additional payments payable by virtue of that paragraph and a contract between the Authority and a programme contractor under which television programmes are to be provided by the programme contractor, and
  - (b) in their application in relation to the additional payments mentioned in section 32(2)(b), mean respectively additional payments payable by virtue of that paragraph and a contract between the Authority and a programme contractor under which local sound broadcasts are to be provided by the programme contractor;
- “related”, in relation to a company and a programme contractor, means that another person (whether alone or jointly with one or more persons and whether directly or indirectly) holds, or is beneficially entitled to, 50 per cent or more of

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the equity share capital, or possesses 50 per cent or more of the voting power, in the company and in the programme contractor and “holding company” means that other person; and

“subsidiary”, in relation to any person, means a company in which that person (whether alone or jointly with one or more persons and whether directly or indirectly) holds, or is beneficially entitled to, 10 per cent or more of the equity share capital, or possesses 10 per cent or more of the voting power.

- (2) In this Schedule “payment” includes any valuable consideration, and references to revenue and receipts and expenditure shall be construed accordingly.”

### PART III U.K.

#### TRANSITIONAL PROVISIONS

- 1 (1) In this paragraph—

“new statutory provisions” means the provisions of the <sup>M105</sup>Broadcasting Act 1981 as amended by this Act; and

“existing statutory provisions” means the provisions of that Act as they had effect immediately before the coming into force of section 181.

- (2) Any contract between the Authority and a programme contractor which is in force immediately before the day on which section 181 of this Act comes into force shall, until it is varied or superseded by a further contract between them or expires or is otherwise terminated (whichever first occurs), be deemed to be modified by virtue of this Schedule so as—

- (a) to substitute provisions in conformity with the new statutory provisions for so much of the contract as is in accordance with the existing statutory provisions and is not in conformity with the new statutory provisions, and
- (b) to incorporate in the contract such additional provisions as a contract between the Authority and a programme contractor is required to include in accordance with the new statutory provisions;

and (subject to paragraph 5 of Schedule 4 to the 1981 Act) any provisions of the contract which provide for arbitration as to any matters contained in the contract in accordance with the existing statutory provisions shall be construed as making the like provision for arbitration in relation to matters deemed to be included in the contract by virtue of this sub-paragraph.

- (3) Where it appears to the Authority that the new statutory provisions call for the inclusion of additional terms in any such contract, but do not afford sufficient particulars of what those terms should be, the Authority may, after consulting the programme contractor, decide what those terms are to be.
- (4) This paragraph shall not be taken to have effect in relation to any contract entered into by a programme contractor and any person other than the Authority before the day on which section 181 of this Act comes into force.

#### Marginal Citations

M105 1981 c. 68.

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2 Where any accounting period of a programme contractor begins before 1st January 1990 and ends after 31st December 1989, the additional payments payable by the programme contractor in relation to that accounting period under section 32 of the <sup>M106</sup>Broadcasting Act 1981 shall be the aggregate of—

- (a) the amounts payable by him on the assumption that section 181 of this Act was not in force at any time during the accounting period, multiplied by—

$$\frac{X}{X + Y},$$

and

- (b) the amounts payable by him on the assumption that that section was in force throughout the accounting period, multiplied by—

$$\frac{Y}{X + Y};$$

where (taking any odd four days or more as a week)—

X is the number of weeks in the accounting period falling before 1st January 1990, and

Y is the number of weeks in the accounting period falling after 31st December 1989.

**Marginal Citations**

M106 1981 c. 68.

3 Where, under the existing statutory provisions, any excess of first category expenditure over first category income of a programme contractor would have been carried forward and treated as relevant first category expenditure of his for an accounting period ending after 31st December 1989 if those provisions had applied in relation to that period then the excess shall be carried forward and treated, under the new statutory provisions, as relevant expenditure of the contractor for any accounting period which ends after that date.

4 In this Part of this Schedule, references to programme contractors shall be read as including references to teletext contractors.]

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## SCHEDULE 17 **U.K.**

Section 187.

### REPEALS

#### PART I **U.K.**

##### CUSTOMS AND EXCISE

1979 c. 2.	The Customs and Excise Management Act 1979.	Section 17(5)(a).Section 147(1).
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 73.
1988 c. 39.	The Finance Act 1988.	Section 11(2).

The repeals of section 147(1) of the Customs and Excise Management Act 1979 and section 11(2) of the Finance Act 1988 have effect in relation to offences committed on or after the day on which this Act is passed.

#### <sup>F517</sup> PART II **U.K.**

##### Textual Amendments

**F517** Sch. 17 Pt. II repealed (20.7.1998) by S.I. 1998/1446, art. 30(2), Sch. 2 Pt. I

#### PART III **U.K.**

##### VALUE ADDED TAX

1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, Group 6 and, in Group 8A, Note (5).
1984 c. 43.	The Finance Act 1984.	In Schedule 6, Part II.
S.I. 1986/704.	The Value Added Tax (Land) Order 1986.	The whole Order.
S.I. 1986/716.	The Value Added Tax (Land) (No.2) Order 1986.	The whole Order.
S.I. 1987 /1072.	The Value Added Tax (Construction of Buildings) (No.2) Order 1987.	Article 2.

- 1 The repeal of Group 6 of Schedule 5 to the Value Added Tax Act 1983 has effect in relation to supplies made on or after 1st April 1989.
- 2 The remaining repeals have effect in accordance with Schedule 3 to this Act.

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## PART IV U.K.

### INCOME AND CORPORATION TAX: GENERAL

1970 c. 9.	The Taxes Management Act 1970.	In section 15(11), paragraph (b) and the word “and” preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 131(2), the words “for the same or another chargeable period”. In section 149(1), the words “for that period” and the words “for that or any other period”. Section 170. Section 175(3). In section 176(1), the words “(but not more than six months)”. In section 178(2), paragraph (b) and the word “or” preceding it. Section 203(4). In section 231, in subsection (4) the words “and where” onwards, and subsection (5). Section 433. Section 434(4) and (5). Section 435. Section 436(3)(b). Section 507(2). In section 590(3)(d), the words “(disregarding any excess of that remuneration over the permitted maximum)”. Section 595(2) and (3). In section 596(3)(a), the word “either” and the words “or subsection (2)”. In section 600(1), the words “or have been” and the words “or has at any time been”. Section 635(4). In section 645, in subsection (3), the word “and” following paragraph (a) and subsection (5). In section 655(5), the words “in cases where the applications are made before 1st February 1990”. Section 769(7)(b) and (c). In section 824(10), the definition of “United Kingdom estate”. In Schedule 8, in paragraph 7(1), the words “, or is an associate of

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		a person who has,”; in paragraph 13, in sub-paragraph (1) the word “fixed” and sub-paragraphs (2) and (3); and, in paragraph 14, sub-paragraph (2), in sub-paragraph (5) the words “specified in, or” and sub-paragraph (7). In Schedule 9, in paragraph 10, paragraph (ii) of sub-paragraph (c) and the word “and” preceding it. In Schedule 23, paragraph 8.
1988 c. 39.	The Finance Act 1988.	In section 68(1), the words from “at the fixed price” to “tendered”.

- 1 The repeals in sections 131 and 149 and of section 170 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 42 of this Act.
- 2 The repeals in sections 231 and 824 of the Income and Corporation Taxes Act 1988 have effect in accordance with sections 110 and 111 of this Act.
- 3 The repeals in sections 433 to 435 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 84(5) of this Act and the repeal of section 436(3)(b) of that Act has effect in accordance with section 87(5) of this Act.
- 4 The repeals in sections 590, 595, 596 and 600 of, and in Schedule 23 to, the Income and Corporation Taxes Act 1988 have effect in accordance with Schedule 6 to this Act.
- 5 The repeals in sections 635, 645 and 655 of the Income and Corporation Taxes Act 1988 have effect in accordance with Schedule 7 to this Act.
- 6 The repeal of section 769(7)(b) and (c) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 100 of this Act.
- 7 The repeal in the Finance Act 1988 has effect in relation to offers made on or after 11th October 1988.

## PART V U.K.

### CLOSE COMPANIES

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

C85 Sch. 17 Pt. V restricted (*retrospectively*) by 1993 c. 34, s. 79(2)(a)

1970 c. 9.	The Taxes Management Act 1970.	Section 29(2). In section 31(3)(b), the words “426,”. In the Table in section 98,
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		in the first column, the reference to paragraph 17 of Schedule 19 to the principal Act. In Schedule 3, in rule 8, the words from “or relating” to “Schedule 19 to the principal Act”.
1972 c. 41.	The Finance Act 1972.	In Schedule 24, paragraph 6.
1979 c. 14.	The Capital Gains Tax Act 1979.	In section 89(1), paragraph (b) and the word “or” preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 127(3), paragraph (b) and the word “or” preceding it. In section 230, the word “either”, the words from “or to” to “Schedule 19” and the words “in either case”. In section 239(7), the words “subsections (5) to (7) of section 430 and”. In section 249(3), the words “and paragraph 12(1) to (3) of Schedule 19”. In section 250(7), the words “and paragraph 12 of Schedule 19”. Section 414(3). In section 416(1), the words from “except” to “Schedule 19”. Sections 423 to 430. In section 539(1), the words “including tax under section 426”. In section 681, in subsection (1), paragraph (b) and the word “and” preceding it and subsections (2) and (3). Section 686(3) and (4). Section 687(3)(b) and (c). In section 701(8), the words “426(3)”. Section 742(9)(d) and (10). In section 825(1)(a), the words from “and any” to “430(7) (a)”. In Schedule 4, paragraph 10(3). In Schedule 8, in paragraph 7(3), the second “and”. Schedule 19. In Schedule 29, in the Table in paragraph 32, the entries relating to section 29(2) of the Taxes Management Act



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		1970 and sections 89(1)(b) and 136(10)(b) of the Capital Gains Tax Act 1979.
1988 c. 39.	The Finance Act 1988.	Section 102(2)(a).
1	The repeal in section 98 of the Taxes Management Act 1970 and the repeal of paragraph 17 of Schedule 19 to the Income and Corporation Taxes Act 1988 have effect on and after the day on which this Act is passed.	
2	The repeal in section 89 of the Capital Gains Tax Act 1979 (and the corresponding repeal in Schedule 29 to the Income and Corporation Taxes Act 1988) have effect where the due date of issue of the share capital issued to a close company falls in an accounting period of the company beginning after 31st March 1989.	
3	The repeal of section 414(3) of the Income and Corporation Taxes Act 1988 has effect from 1st April 1989.	
4	The repeal of sections 423 to 430 of, and Schedule 19 to, the Income and Corporation Taxes Act 1988 has effect in accordance with section 103 of this Act.	
5	The repeals in section 681 of the Income and Corporation Taxes Act 1988 have effect in relation to the income of bodies corporate for accounting periods beginning after 31st March 1989.	
6	The remaining repeals have effect in relation to accounting periods beginning after 31st March 1989.	

## PART VI U.K.

### CAPITAL ALLOWANCES

1968 c. 3.	The Capital Allowances Act 1968.	Section 9(b). Section 14. Section 50. Section 67(11). In section 68, in subsections (1) and (3), the words “or forestry”, in each place where they occur, and in subsection (2), the words “and forestry income”. Section 80. In section 87(4), the words “or forestry”, in both places where they occur. In section 92(5), the words “allowed or” and the words “balancing allowance or”. Section 93(1) and (2). Schedule 8.
1971 c. 68.	The Finance Act 1971.	In Schedule 8, paragraph 2 and, in paragraph 7, in sub-paragraph (1) the words “Subject to sub-paragraph (2) below” and the words from

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		“byreason of” to the end of paragraph (b) and sub-paragraph (2).
1978 c. 42.	The Finance Act 1978.	In Schedule 6, paragraph 8.
1980 c. 48.	The Finance Act 1980.	In section 74(6), the words from the beginning to “and”. In section 75(6), the words from the beginning to “and”.
1982 c. 39.	The Finance Act 1982.	In Schedule 12, paragraph 11.
1986 c. 41.	The Finance Act 1986.	Section 56(5). In Schedule 15, in paragraphs 1 to 3, the words “orforestry”, in each place where they occur, in paragraph 7(3), the words “subject to paragraph 9 below”, and in paragraph 11, the words “andforestry income” and the words “or forestry income”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 521(5), the words “within the terms of section 839”.

- 1 The repeal in paragraph 7(1)(b) of Schedule 8 to the Finance Act 1971 has effect in cases where machinery or plant is brought into use on or after the day on which this Act is passed.
- 2 The repeals in sections 68 and 87(4) of the Capital Allowances Act 1968 and in paragraphs 1 to 3 and 11 of Schedule 15 to the Finance Act 1986 have effect in relation to chargeable periods beginning on or after 6th April 1993.
- 3 The repeal in section 521(5) of the Income and Corporation Taxes Act 1988 has effect in accordance with paragraph 27 of Schedule 13 to this Act.
- 4 The repeals of the provisions listed in sub-paragraph (5) of paragraph 28 of Schedule 13 to this Act have effect in accordance with that paragraph.

## PART VII U.K.

### CAPITAL GAINS

1973 c. 51.	The Finance Act 1973.	In section 38(3B)(a), the words “within the period of two years ending at the date of the disposal”.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 126(7)(b). Section 142A(5)(c). In Schedule 4, in paragraph 1(2), the words “at the rate of 50 per cent.”,

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		in paragraph 3(1), the words from “by virtue” to “(settled property)”, in paragraph 3(2), the words “at the rate of 50 per cent.,” and in paragraph 4(4), the words “(taking account” onwards.
1980 c. 48.	The Finance Act 1980.	Section 79.
1981 c. 35.	The Finance Act 1981.	Section 78. Section 96(3)(e) and (4).
1982 c. 39.	The Finance Act 1982.	Sections 81 and 82.
1984 c. 43.	The Finance Act 1984.	Section 64(2)(a).
1984 c. 51.	The Inheritance Tax Act 1984.	In section 97(2), the words from “and in this section” to the end.
1985 c. 54.	The Finance Act 1985.	In section 70(10), paragraph (a) and the word “and” following it.
1986 c. 41.	The Finance Act 1986.	In section 58(2), paragraph (b) and the word “and” preceding it. Section 101(2).
1987 c. 51.	The Finance (No.2) Act 1987.	Section 78.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 29, in the Table in paragraph 32, the entry relating to section 126(7) of the Capital Gains Tax Act 1979.

- 1 The repeal in the Finance Act 1973 has effect in accordance with section 130 of this Act.
- 2 The repeal in section 142A of the Capital Gains Tax Act 1979 has effect in accordance with section 92 of this Act.
- 3 The repeal of section 81 of the Finance Act 1982 has effect in relation to disposals on or after 6th April 1989 or, in the case of section 81(1)(b), assets acquired on or after that date.
- 4 The repeal of section 64(2)(a) of the Finance Act 1984 has effect in accordance with section 139(1) of this Act.
- 5 The repeal in section 97(2) of the Inheritance Tax Act 1984 has effect in accordance with section 138(7) of this Act.
- 6 The repeal in the Finance (No.2) Act 1987 has effect in accordance with section 140 of this Act.
- 7 The remaining repeals have effect in relation to disposals on or after 14th March 1989 (except that they shall not have effect in relation to such a disposal in a case

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where the enactment in question operates in consequence of relief having been given under section 79 of the Finance Act 1980 in respect of a disposal made before that date).

## PART VIII U.K.

### MANAGEMENT

1970 c. 9.	The Taxes Management Act 1970.	Section 16(6). In section 20, subsections (4) and (5) and, in subsection (6), the words “and in relation” onwards. In section 20B(7), the words from “to a person” to “daughter”. Sections 37 to 39. In section 40(2), the words “Subject to section 41 below,”. Section 41. In section 53(1), the words “and the reference” onwards. In section 61(5), the words “within the said five days” and the words from “The costs” to “the collector, and”. Section 62(3), so far as unrepealed. Section 64(3), so far as unrepealed. Section 70(5). Section 86(6). Section 87(4) and (5). In section 98, in the Table, in column 1, in the entry relating to Part III of the Taxes Management Act 1970, the words “, except sections 16 and 24(2)” and the entry relating to section 481(5)(k) of the Income and Corporation Taxes Act 1988. In section 118(1), the definition of “neglect”.
1973 c. 51.	The Finance Act 1973.	In Schedule 16A, paragraph 10.
1975 c. 45.	The Finance (No.2) Act 1975.	In section 47(1), the words “of not less than £25”.
1976 c. 24.	The Development Land Tax Act 1976.	In Schedule 8, paragraphs 17 and 18, so far as unrepealed.
1980 c. 48.	The Finance Act 1980.	Section 62.
1982 c. 39.	The Finance Act 1982.	Section 69.

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1987 c. 51.	The Finance (No.2) Act 1987.	In section 84, subsections (1) to (3) and (5) to (8).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 824, in subsections (1)(a) and (b), the words “of not less than £25” and, in subsection (5), the words “of not less than £25” and paragraph (b) and the word “and” preceding it. In section 825(2), the words “of not less than £100”. In Schedule 19A, paragraph 10.
1988 c. 39.	The Finance Act 1988.	In section 126, subsection (1) and, in subsection (4)(b), the words “and(9)”. In Schedule 3, paragraph 29.
1989 c. 26.	The Finance Act 1989.	Section 165(2).

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- 1 The repeals in sections 16, 53 and 98 of the Taxes Management Act 1970 have effect in accordance with section 164 of this Act.
- 2 The repeals in sections 20 and 20B of the Taxes Management Act 1970 and section 126 of the Finance Act 1988 have effect with respect to notices given, or warrants issued, on or after the day on which this Act is passed.
- 3 The repeals of sections 37 to 39, in section 40, of section 41 and in section 118 of the Taxes Management Act 1970 and in Schedule 3 to the Finance Act 1988 have effect in accordance with section 149 of this Act.
- 4 The repeals in section 61 of the Taxes Management Act 1970 come into force on the day appointed under section 152(7) of this Act.
- 5 The repeals in sections 86 and 87 of the Taxes Management Act 1970, the Finance (No.2) Act 1975, the Finance Act 1980 and sections 824 and 825 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 158 of this Act.
- 6 The repeal in the Finance Act 1982 has effect in accordance with section 156(4) of this Act.
- 7 The repeal of subsection (2) of section 165 of this Act has effect in relation to failures beginning on or after the day appointed under that subsection.

## PART IX U.K.

### STAMP DUTY: INSURANCE

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54 & 55 Vict. c. 39.	The Stamp Act 1891.	Section 91. Section 98(1). Section 100. Section 118. In Schedule 1, paragraph (3) of the heading beginning “Bond, Covenant, or Instrument of any
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		kindwhatsoever”, the whole of the heading beginning “Insurance”, and the whole of the heading beginning “Policy of Life Insurance”.
4 & 5 Eliz. 2 c. 54.	The Finance Act 1956.	Section 38.
4 & 5 Eliz. 2 c. 11 (N.I.).	The Finance Act (Northern Ireland) 1956.	Section 6.
7 & 8 Eliz. 2 c. 58.	The Finance Act 1959.	In section 30(4), the words preceding paragraph (a) and the words following paragraph (c).
7 & 8 Eliz. 2 c. 9 (N.I.).	The Finance Act (Northern Ireland) 1959.	In section 5(4), the words preceding paragraph (a) and the words following paragraph (c).
1966 c. 18.	The Finance Act 1966.	Section 47.
1966 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1966.	Section 5.
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraphs 7(4) and 17.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	In Schedule 2, paragraphs 7(4) and 17.
1982 c. 39.	The Finance Act 1982.	Section 130.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 14, in paragraph 3(4) the words from “and section 100” to the end.

These repeals have effect in accordance with section 173 of this Act.

## PART X U.K.

### RATES OF INTEREST

1970 c. 9.	The Taxes Management Act 1970.	Section 89.
1970 c. 24.	The Finance Act 1970.	Section 30.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	Section 1(1) and (2).
1973 c. 51.	The Finance Act 1973.	In Schedule 16A, in paragraph 3(4), paragraph (a) and the word “and” following it and the words “they apply”.

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1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 2, in the Table in paragraph 1, the entry relating to section 89 of the Taxes Management Act 1970.
1975 c. 45.	The Finance (No.2) Act 1975.	Section 47(2).
1980 c. 1.	The Petroleum Revenue Tax Act 1980.	Section 2(3).
1984 c. 51.	The Inheritance Tax Act 1984.	Section 233(2) and (4).
1986 c. 41.	The Finance Act 1986.	Section 92(4) and (5). In Schedule 19, paragraph 32.
1987 c. 51.	The Finance (No.2) Act 1987.	Section 89.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 824, subsection (1A), in subsection (2) the words “and(1A)” and in subsection (6) the words “Without prejudice to subsection(1A) above”. In section 825, subsection (2A) and in subsection (5) the words “Without prejudice to subsection (2A) above”. In Schedule 19A, in paragraph 3(4), paragraph (a) and the word “and” following it and the words “they apply”.
1988 c. 39.	The Finance Act 1988.	In Schedule 13, paragraphs 7(b) and (f) and 8.

These repeals have effect in accordance with section 178(7) of this Act.

## PART XI U.K.

### BROADCASTING

1981 c. 68.	The Broadcasting Act 1981.	Section 32(4A). In section 35(1)(b)(ii), the words “in the case of second category profits,”.
1982 c. 39.	The Finance Act 1982.	In section 144, subsections (1), (2), (4) and (5).

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1984 c. 46.	The Cable and Broadcasting Act 1984.	Section 40(2). In Schedule 5, in paragraph 40, subparagraphs (7), (8) and (9).
1986 c. 41.	The Finance Act 1986.	In Schedule 22, paragraph 1, and paragraphs 4 to 8.

These repeals have effect on 1st January 1990.

## PART XII U.K.

### GOVERNMENT STOCK: REDEMPTION

11 and 12 Geo. 5 c. 32.	The Finance Act 1921.	Sections 50 and 51. Schedule 3.
5 and 6 Geo. 6 c. 21.	The Finance Act 1942.	In Schedule 11, in Part II, the amendments of the Finance Act 1921.
9 and 10 Geo. 6 c. 64.	The Finance Act 1946.	Section 66.
1969 c. 48.	The Post Office Act 1969.	Section 108(1)(c).
1982 c. 41.	The Stock Transfer Act 1982.	Section 4.

So far as relating to stock registered in the National Savings Stock Register these repeals have effect on the coming into force of the first regulations made by virtue of section 3(1)(bb) of the National Debt Act 1972 and so far as relating to other stock and bonds they have effect on the coming into force of the first regulations made by virtue of section 47(1)(bb) of the Finance Act 1942.

## PART XIII U.K.

### NATIONAL SAVINGS

1971 c. 29.	The National Savings Bank Act 1971.	Section 5(2), (5), (6) and (7). In section 26(2), paragraph (b) and the word “or” preceding it.
1982 c. 39.	The Finance Act 1982.	In Schedule 20, paragraph 4(2).

These repeals, apart from the repeal of section 5(2), (5) and (6) of the National Savings Bank Act 1971, come into force on 1st October 1989.



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## PART XIV U.K.

### TITHE REDEMPTION

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26 Geo. 5 & 1 Edw. 8 c. 43.	The Tithe Act 1936.	Section 2(1).In section 4(2), in paragraph (a) the words “the amount”onwards.Section 7.Part II.Section 31(7).In section 47(1), the definition of “interest date”.In section 47(4), the words “of any stock, or”.InSchedule 7, paragraph 3(a) of Part I, Part II, and paragraph 2 of Part III.
5 & 6 Geo. 6 c. 21.	The Finance Act 1942.	In Schedule 11, in Part I the entry relating to Redemption Stock and inPart II the amendment of the Tithe Act 1936.
14 & 15 Geo. 6 c. 62.	The Tithe Act 1951.	In section 8(2), the words from “which” to “Act”, and the words “and appended” onwards.
6 & 7 Eliz. 2 c. 55.	The Local Government Act 1958.	In Schedule 8, paragraph 15.
1968 c. 13.	The National Loans Act 1968.	In section 16(7), the words “Part II of the Tithe Act 1936”.Section16(9)(a).In section 22(3), the words “Part II of the Tithe Act 1936”.InSchedule 1, the entries relating to section 26 of the Tithe Act 1936.
1972 c. 65.	The National Debt Act 1972.	In section 15(1), the words “section 24 of the Tithe Act 1936”.
1979 c. 14.	The Capital Gains Tax Act 1979.	In Schedule 2, in Part II, the entry relating to securities issued underPart II of the Tithe Act 1936.

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These repeals have effect from the day appointed under section 187(2)of this Act.

**Status:**

Point in time view as at 27/12/2007.

**Changes to legislation:**

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