



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Miscellaneous

112 Security: trades etc

- (1) This section applies in computing, for the purposes of Case I or Case II of Schedule D, the profits or gains of a trade, profession or vocation carried on by an individual or by a partnership of individuals.
- (2) In a case where this section applies, nothing in section 74(a) or (b) of the Taxes Act 1988 (deductions limited by reference to purposes of trade etc.) shall prevent the deduction of a sum in respect of expenditure incurred in connection with the provision for or use by the individual, or any of the individuals, of a security asset or security service.
- (3) Subsection (2) above shall not apply unless the asset or service is provided or used to meet a threat which—
 - (a) is a special threat to the individual's personal physical security, and
 - (b) arises wholly or mainly by virtue of the particular trade, profession or vocation concerned.
- (4) Subsection (2) above shall not apply unless the person incurring the expenditure has as his sole object in doing so the meeting of that threat.

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- (5) Subsection (2) above shall not apply in the case of a service unless the benefit resulting to the individual consists wholly or mainly of an improvement of his personal physical security.
- (6) Subsection (2) above shall not apply in the case of an asset unless the person incurring the expenditure intends the asset to be used solely to improve personal physical security.
- (7) But in a case where—
 - (a) apart from subsection (6) above, subsection (2) above would apply in the case of an asset, and
 - (b) the person incurring the expenditure intends the asset to be used partly to improve personal physical security,
 subsection (2) shall nevertheless apply, but only as regards the appropriate proportion of the expenditure there mentioned.
- (8) For the purposes of subsection (7) above the appropriate proportion of the expenditure mentioned in subsection (2) above is such proportion of that expenditure as is attributable to the intention of the person incurring it that the asset be used to improve personal physical security.

113 Security: trades etc. (supplementary)

- (1) For the purposes of section 112 above—
 - (a) a security asset is an asset which improves personal security,
 - (b) a security service is a service which improves personal security,
 - (c) references to an asset do not include references to a car, a ship or an aircraft,
 - (d) references to an asset or service do not include references to a dwelling or grounds appurtenant to a dwelling, and
 - (e) references to an asset include references to equipment and a structure (such as a wall).
- (2) If the person incurring the expenditure intends the asset to be used solely to improve personal physical security, but there is another use for the asset which is incidental to improving personal physical security, that other use shall be ignored in construing section 112(6) above.
- (3) The fact that an asset or service improves the personal physical security of any member of the family or household of the individual concerned, as well as that of the individual, shall not prevent section 112(2) above from applying.
- (4) For the purposes of section 112 above in its application to an asset, it is immaterial whether or not the asset becomes affixed to land (whether constituting a dwelling or otherwise).
- (5) For the purposes of section 112 above in its application to an asset, it is immaterial whether or not the individual concerned is or becomes entitled to the property in the asset or (in the case of a fixture) an estate or interest in the land concerned.
- (6) Section 112 above applies where expenditure is incurred on or after 6th April 1989.

114 Relief for pre-trading expenditure

- (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

- (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 receive 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.

116 Interest payments to Netherlands Antilles subsidiaries

- (1) A payment to which this section applies shall be treated for the purposes of—
 - (a) section 338 of the Taxes Act 1988 (payment of interest within section 124 of that Act to be a charge on income), and
 - (b) section 349 of that Act (such a payment to be made gross),as if it were a payment of interest within section 124 of that Act (quoted Eurobonds).
- (2) This section applies to a payment of interest if—
 - (a) it is made on or after 1st April 1989 by a relevant United Kingdom company to a relevant Netherlands Antilles subsidiary, and
 - (b) not later than 90 days after the payment is received by the subsidiary, it is applied by the subsidiary in paying interest on quoted Eurobonds issued by it before 26th July 1984 or in meeting expenses incurred in connection with the issue of quoted Eurobonds so issued.
- (3) In subsection (2) above—
 - (a) “relevant Netherlands Antilles subsidiary” means a company which—

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- (i) at the time when the quoted Eurobonds were issued was resident in the Netherlands Antilles (including Aruba) and was a 90 per cent. subsidiary of a company resident in the United Kingdom, and
 - (ii) at the time when the payment is made is resident in the Netherlands Antilles (but not Aruba) and is a 90 per cent. subsidiary of the relevant United Kingdom company; and
 - (b) “relevant United Kingdom company” means a company which is resident in the United Kingdom and which is not a 51 per cent. subsidiary of a company not resident in the United Kingdom.
- (4) For the purpose of determining whether a company is a relevant Netherlands Antilles subsidiary, its residence (whether before 1st April 1989 or at any later time) shall be ascertained in accordance with the terms of the arrangements made with the Government of the Kingdom of the Netherlands on behalf of the Government of the Netherlands Antilles which had effect by virtue of section 788 of the Taxes Act 1988 immediately before 1st April 1989.
- (5) In this section “quoted Eurobond” has the same meaning as in section 124 of the Taxes Act 1988.