



# Finance Act 1991

## 1991 CHAPTER 31

### PART II

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

### CHAPTER I

#### GENERAL

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##### Commencement Information

- II** Chapter I partly in force at 4.5.1988 due to retrospective effect of s. 74(5)

##### *Income tax rates and allowances*

**<sup>F1</sup>21** Charge and rates of income tax for 1991-92.

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##### Textual Amendments

- F1** S. 21 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**<sup>F2</sup>22** Married couple's allowance.

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*Status: Point in time view as at 19/07/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, CHAPTER I. (See end of Document for details)*

### Textual Amendments

- F2** S. 22 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### *Corporation tax rates*

#### **23 Rate of corporation tax for 1990.**

- (1) The rate at which corporation tax is charged for the <sup>M1</sup>financial year 1990 shall be 34 per cent. (and not 35 per cent. as provided by section 19 of the Finance Act 1990).
- (2) For the financial year 1990 the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths (and not one fortieth as provided by section 20 of the Finance Act 1990).
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

### Marginal Citations

- M1** 1990 c. 29.

#### **24 Charge and rate of corporation tax for 1991.**

Corporation tax shall be charged for the financial year 1991 at the rate of 33 per cent.

#### **25 Small companies.**

- (1) For the financial year 1991—
  - (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 fiftieth.
- (2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—
  - (a) for “£200,000” there shall be substituted “£250,000”, and
  - (b) for “£1,000,000” there shall be substituted “£1,250,000”.
- (3) Subsection (2) above shall have effect for the financial year 1991 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.

*Status: Point in time view as at 19/07/2007.*

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### *Interest*

#### **26 Relief for interest.**

For the year 1991-92 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.

#### **27 Abolition of higher rate relief on certain mortgage interest etc.**

<sup>F3</sup>(1) .....

<sup>F3</sup>(2) .....

<sup>F3</sup>(3) .....

<sup>F3</sup>(4) .....

<sup>F3</sup>(5) .....

(6) The enactments mentioned in Schedule 6 to this Act shall have effect for the year 1991-92 and subsequent years of assessment with the amendments there specified.

<sup>F3</sup>(7) .....

#### **Textual Amendments**

**F3** S. 27(1)-(5)(7) repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), ss. 81(6), 258, **Sch. 26 Pt. V(2)** Note

#### **28 Mortgage interest relief: caravans.**

(1) Section 354(3) of the Taxes Act 1988 (interest eligible for relief in the case of a caravan only if the caravan is large or certain conditions presupposing domestic rating are met) shall cease to have effect.

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

### *Benefits in kind*

#### **29 Car benefits.**

(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—

*Status: Point in time view as at 19/07/2007.*

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**“PART I**

**TABLES OF FLAT RATE CASH EQUIVALENTS**

**TABLE A**

*Cars with an original market value up to £19,250 and having a cylinder capacity*

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Age of car at end of relevant year of assessment</i>	
	Under 4 years	4 years or more
1400 or less	£2,050	£1,400
More than 1400 but not more than 2000	£2,650	£1,800
More than 2000	£4,250	£2,850

**TABLE B**

*Cars with an original market value up to £19,250 and not having a cylinder capacity*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	Under 4 years	4 years or more
Less than £6,000	£2,050	£1,400
£6,000 or more but less than £8,500	£2,650	£1,800
£8,500 or more but not more than £19,250	£4,250	£2,850

**TABLE C**

*Cars with an original market value of more than £19,250*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	Under 4 years	4 years or more

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More than £19,250 but not more than £29,000	£5,500	£3,700
More than £29,000	£8,900	£5,900”

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

<sup>F4</sup>30 .....

**Textual Amendments**

**F4** S. 30 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(9) Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(9)** Note

<sup>F5</sup>31 .....

**Textual Amendments**

**F5** S. 31 repealed (3.5.1994 with effect in accordance with s. 88(5) of the amending Act) by 1994 c. 9, s. 88(5), 258, **Sch. 26 Pt. V(5)** Note

*Vocational training*

[<sup>F6</sup>32 **Relief.**

(1) This section applies where—

- (a) on or after 6th April 1992 an individual resident in the United Kingdom makes a payment in respect of a qualifying course of vocational training,
- (b) the payment is made in respect of an allowable expense,
- (c) the payment is made in connection with the individual’s own training,

[ at the time the payment is made, the individual—

- <sup>F7</sup>(ca) (i) in a case where the qualifying course of vocational training is such a course by virtue only of paragraph (b) of subsection (10) below, has attained the age of thirty, or
- (ii) in any other case, has attained school-leaving age and, if under the age of nineteen, is not a person who is being provided with full-time education at a school,]

[ the individual undertakes the course neither wholly nor mainly for recreational purposes or as a leisure activity,]

- <sup>F8</sup>(cb) (d) at the time the payment is made, the individual has not received in relation to the course, and is not entitled to receive in relation to it, any public financial assistance of a description specified in regulations made by the Treasury for the purposes of this paragraph, and
- (e) the individual is not entitled to claim any relief or deduction in respect of the payment under any other provision of the Income Tax Acts.

[ The individual shall be entitled to relief under this subsection in respect of the payment <sup>F9</sup>(2) for the year of assessment in which it is made; but relief under this subsection shall

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be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.

- <sup>F9</sup>(2A) Where an individual is entitled to relief under subsection (2) above in respect of any payment made in a year of assessment, the amount of his liability for that year 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 which is equal to such percentage of the amount of the payment as is the basic rate for the year; and
  - (b) the amount which reduces his liability to nil.
- <sup>F9</sup>(2B) In determining for the purposes of subsection (2A) above the amount of income tax to which a person 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;
  - (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.]
- (3) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (2) above shall be given in accordance with subsections (4) and (5) below.
- (4) 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.
- (5) 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>F10</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
- (6) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
- (a) an individual who makes, in respect of a qualifying course of vocational training, a payment in respect of an allowable expense shall cease to be and be treated as not having been entitled to relief under subsection (2) above in respect of the payment or such part of it as may be determined in accordance with the regulations; 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.
- (7) Regulations under subsection (6) 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.

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- (8) In subsection (1)(a) above, the reference to an individual resident in the United Kingdom includes an individual performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.
- (9) For the purposes of this section, a payment made in respect of a qualifying course of vocational training is made in respect of an allowable expense if—
- (a) it is made in respect of fees payable in connection with undertaking the course, including fees payable for assessment purposes, or
  - (b) it is made in respect of fees payable in connection with the making, as a result of having undertaken the course, of any entry in an official register or any award.

[ In this section “qualifying course of vocational training means—

- <sup>F11</sup>(10) (a) any programme of activity capable of counting towards a qualification—
- [ accredited as a National Vocational Qualification by the <sup>F12</sup>(i) Qualifications and Curriculum Authority or by the Qualifications, Curriculum and Assessment Authority for Wales, or]
  - (ii) accredited as a Scottish Vocational Qualification by the [<sup>F13</sup>Scottish Qualifications Authority]; or
- (b) any course of training which—
- (i) satisfies the conditions set out in the paragraphs of section 589(1) of the Taxes Act 1988 (qualifying courses of training etc),
  - (ii) requires participation on a full-time or substantially full-time basis, and
  - (iii) extends for a period which consists of or includes four consecutive weeks,
- but treating any time devoted to study in connection with the course as time devoted to the practical application of skills or knowledge.]

[ In this section—

- <sup>F14</sup>(11) “school means any institution at which full-time education is provided to persons at least some of whom are under school-leaving age; and  
“school-leaving age means the age of sixteen.]]

#### Textual Amendments

- F6** S. 32 repealed (27.7.1999 with effect on 1.9.2000) by 1999 c. 16, s. 59(2)(3)(b), **Sch. 20 Pt. III(15)** Note; S.I. 2000/2004, **art. 2**
- F7** S. 32(1)(ca) substituted (29.4.1996 with effect in relation to payments made on or after 6.5.1996) by 1996 c. 8, s. **144(1)(2)(4)**
- F8** S. 32(1)(ca)(cb) inserted (3.5.1994) by 1994 c. 9, s. **84(1)(4)**
- F9** S. 32(2)(2A)(2B) substituted for s. 32(2) (27.7.1999 with effect as mentioned in s. 59(3)(a) of the amending Act) by 1999 c. 16, s. **59(1)(3)(a)**
- F10** Words in s. 32(5)(b) inserted (29.4.1996) by 1996 c. 8, s. **129(2)**
- F11** S. 32(10) substituted (29.4.1996 with effect in relation to payments made on or after 6.5.1996) by 1996 c. 8, s. **144(1)(3)(4)**
- F12** S. 32(10)(a)(i) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 6** (with transitional provisions in S.I. 1997/1468, arts. 2(3), 4(2), **Sch. 1 Pt. III**) (which amending para. 6 was repealed (27.7.1999) by 1999 c. 16, s. 139, **Sch. 20 Pt. III** Note)
- F13** Words in s. 32(10)(a)(ii) substituted (1.4.1997) by 1996 c. 43, s. 36, **Sch. 5 para. 7**; S.I. 1997/365, **art. 2**

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**F14** S. 32(11) inserted (3.5.1994) by 1994 c. 9, s. 84(3)(4)

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

**C1** S. 32(5)(b) excluded (29.4.1996) by 1996 c. 8, s. 129(2)

**[<sup>F15</sup>33 Section 32: supplementary.**

(1) The Board may by regulations—

(a) provide that a claim under section 32(2) or (5)(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;

<sup>F16</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 32(5)(b) above;]

(b) make provision, in relation to payments in respect of which a person is entitled to relief under section 32 above, for persons who provide vocational training courses to give, in such circumstances as may be prescribed, 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) training courses which are (or were) qualifying courses of vocational training for the purposes of section 32 above 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 courses;

(d) provide that persons of such 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 training courses which are qualifying courses of vocational training for the purposes of section 32 above;

(e) make provision generally as to administration in connection with section 32 above.

(2) The words “Regulations under section 33 of the Finance Act 1991 ” shall be added at the end of each column in the Table in section 98 of the <sup>M2</sup>Taxes Management Act 1970 (penalties for failure to furnish information etc.).

(3) The following provisions of the <sup>M3</sup>Taxes Management Act 1970, namely—

<sup>F17</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>F18</sup>apart from subsection (1B)],

(c) [<sup>F19</sup>section 86] (interest), and

(d) section 95 (incorrect return or accounts),

[<sup>F20</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 32(5)(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 amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]

<sup>F21</sup>(3A) [ In the application of section 86 of the Taxes Management Act 1970 by virtue of subsection (3) above in relation to sums due and payable by virtue of an assessment



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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 32(5) above has made any interim claim, within the meaning of regulations made under subsection (1) 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>F22</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988, after paragraph (d) there shall be inserted
- (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”
- (5) In subsection (1) above, “prescribed means prescribed by or, in relation to form, under the regulations.]

#### Textual Amendments

- F15** S. 33 repealed (27.7.1999 with effect on 1.9.2000) by 1999 c. 16, ss. 59(3)(b), 139, **Sch. 20 Pt. III(15)** Note; S.I. 2000/2004, **art. 2**
- F16** S. 33(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. **129(4)**
- F17** S. 33(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. 14(2)(a)**
- F18** Words in s. 33(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. 14(2)(b)**
- F19** Words in s. 33(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. 14(2)(c)**
- F20** Words following s. 33(3)(d) 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. 14(2)(d)**
- F21** S. 33(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. 14(3)**
- F22** S. 33(4): reference to section 257B(2) repealed (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48, SIF 63:1), ss. 20, 82, Sch. 5 para. 10, **Sch. 18 Part VII(1)**.

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

- C2** S. 33(3A) modified (29.4.1996) by 1996 c. 8, s. 132, **Sch. 18 para. 17(3)**

#### Marginal Citations

- M2** 1970 c. 9.
- M3** 1970 c. 9.

### *Retirement benefits schemes*

#### <sup>F23</sup>34 **Conditions for approval: amendments.**

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**Textual Amendments**  
F23 Ss. 34-36 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F23 35 Cessation of approval.**

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**Textual Amendments**  
F23 Ss. 34-36 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F23 36 Cessation of approval: general provisions.**

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**Textual Amendments**  
F23 Ss. 34-36 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

*Profit-related pay, share schemes etc.*

**F24 37**

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**Textual Amendments**  
F24 S. 37 repealed (19.3.1997 in accordance with Sch. 18 Pt. VI(3) Note 1 of the amending Act) by 1997 c. 16, s. 61(2)(3), 113, Sch. 18 Pt. VI(3) Notes 1, 2

**38 Employee share schemes: non-discrimination.**

(1) The Taxes Act 1988 shall be amended as follows.

F25(2) .....

(3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for “pensionable age” there shall be substituted “the relevant age”, and at the end of each of those paragraphs there shall be inserted—

“In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991 was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age.”

(4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of “shares” there shall be inserted—

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“specified age, in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;”.

(5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

“8A (1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.

(2) The age specified—

- (a) must be the same for men and women, and
- (b) must be not less than 60 and not more than 75.”

(6) [<sup>F26</sup>Subsection] (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

**Textual Amendments**

**F25** S. 38(2) repealed (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. 168\(2\)](#), [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F26** Word in s. 38(6) 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. 168\(3\)](#) (with [Sch. 7](#))

<sup>F27</sup>**39 Approved share option schemes: price at which shares may be acquired.**

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**Textual Amendments**

**F27** Ss. 39, 40 repealed (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](#))

<sup>F27</sup>**40 Savings-related share option schemes.**

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**Textual Amendments**

**F27** Ss. 39, 40 repealed (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](#))

**41 Profit sharing schemes.**

(1) In section 187(2) of the Taxes Act 1988, in the definition of “relevant amount” (limit on the value of shares that may be appropriated to a participant in a year of assessment)

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for “not less than £2,000 and not more than £6,000” there shall be substituted “not less than £3,000 and not more than £8,000”.

(2) This section shall apply for the year 1991-92 and subsequent years of assessment.

**42 Costs of establishing share option or profit sharing schemes: relief.**

The following section shall be inserted after section 84 of the Taxes Act 1988—

**“84A Costs of establishing share option or profit sharing schemes: relief.**

(1) Subsection (2) below applies where—

- (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or
- (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.

(2) In such a case the expenditure—

- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains 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 applies by virtue of section 76, shall be treated as expenses of management.

(3) In a case where—

- (a) subsection (2) above applies, and
- (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).

(4) References in this section to approving are to approving under Schedule 9.

(5) This section applies where the expenditure is incurred on or after 1st April 1991.”

**43 Costs of establishing employee share ownership trusts: relief.**

The following section shall be inserted after section 85 of the Taxes Act 1988—

**“85A Costs of establishing employee share ownership trusts: relief.**

(1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.

(2) In such a case the expenditure—

- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

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- (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
  - (a) subsection (2) above applies, and
  - (b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,  
for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).
- (4) In this section “qualifying employee share ownership trust shall be construed in accordance with Schedule 5 to the Finance Act 1989.
- (5) For the purposes of this section the trust is established when the deed under which it is established is executed.
- (6) This section applies where the expenditure is incurred on or after 1st April 1991.”

**F28 44 Priority share allocations for employees etc.**

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**Textual Amendments**

**F28** S. 44 repealed (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)

*Foreign earnings*

**F29 45**

.....

**Textual Amendments**

**F29** S. 45 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(11) Note) by [1998 c. 36, ss. 63, 165](#), **Sch. 27 Pt. III(11)** Note (with Sch. 18 para. 6(3))

**46 Workers in Kuwait or Iraq.**

- (1) This section applies if—
  - (a) a person was in Kuwait or Iraq at any time in the period of 62 days ending with 2nd August 1990,
  - (b) he was at that time engaged in performing the duties of an office or employment which were to be performed to a substantial extent in Kuwait or Iraq,
  - (c) he returned to the United Kingdom after that time,

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- (d) the period of absence from the United Kingdom which ends with his return is not, and is not part of, a qualifying period consisting of at least 365 days, and
  - (e) he satisfies the Board (or the Commissioners on appeal) that, having regard to the circumstances, it is likely that that period of absence would have been part of such a qualifying period but for events leading up to or arising from the invasion of Kuwait on 2nd August 1990.
- (2) In such a case, so much of the period before the day of his return to the United Kingdom as the Board are satisfied would have been part of a qualifying period consisting of at least 365 days (but for those events) shall be treated as a qualifying period consisting of at least 365 days.
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.
- (4) In the case of employment as a seafarer, this section shall have effect as if “62 days” read “90 days”.
- (5) In this section—
- (a) “qualifying period means a qualifying period for the purposes of section 193(1) of the Taxes Act 1988 (foreign earnings);
  - (b) “employment as a seafarer has the same meaning as in paragraph 3(2A) of Schedule 12 to that Act (further provisions about foreign earnings).

*Insurance companies and friendly societies*

**F30 47 Investor protection schemes.**

.....

**Textual Amendments**

**F30** S. 47 repealed (with effect for accounting periods beginning on or after 1.4.2004 in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

**48 Assimilation of basic life assurance business and general annuity business.**

Schedule 7 to this Act shall have effect.

**F31 49** .....

**Textual Amendments**

**F31** S. 49 repealed (22.3.2001 with effect in accordance with s. 87 of the amending Act) by [2001 c. 9, s. 110](#), [Sch. 33 Pt. 2\(12\)](#)

**50 Friendly societies.**

Schedule 9 to this Act (which makes provision about friendly societies) shall have effect.

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### *Building societies*

#### **51 Qualifying shares.**

Schedule 10 to this Act (which makes provision about certain kinds of building society share) shall have effect.

#### **52 Marketable securities.**

(1) Schedule 11 to this Act (which makes provision about the deduction of income tax in the case of marketable securities issued by building societies) shall have effect.

<sup>F32</sup>(2) .....

<sup>F32</sup>(3) .....

#### **Textual Amendments**

**F32** S. 52(2)(3) repealed (the repeal coming into force in accordance with the provisions of Ch. II of Pt. IV of the repealing Act) by 1996 c. 8, ss. 105, 205, **Sch. 41 Pt. V(3)** Note

#### <sup>F33</sup>**53 Income Tax (Building Societies) Regulations 1986.**

.....

#### **Textual Amendments**

**F33** S. 53 repealed (with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 1 para. 286, Sch. 3 Pt. 1** (with **Sch. 2**)

### *Securities*

#### **54 New issues.**

Schedule 12 to this Act (which contains provisions about securities issued after an issue of securities of the same kind) shall have effect.

#### **55 Purchase and sale of securities: options.**

(1) In section 731 of the Taxes Act 1988 (scope of bondwashing provisions) the following subsections shall be inserted after subsection (4)—

“(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm’s length terms.

(4B) For the purposes of subsection (4A) above an option is a “qualifying option if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that

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subsection to the time of the abandonment or other disposal a reference to the time of exercise.

(4C) In subsection (4A) above the reference to arm’s length terms is to terms—

- (a) agreed between persons dealing at arm’s length, or
- (b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing.”

(2) This section shall apply where the subsequent sale by the first buyer takes place on or after the day on which this Act is passed.

F34 **56** .....

**Textual Amendments**

**F34** S. 56 repealed (with effect where, for the purposes of 1988 c. 1, s. 731(2), the interest receivable by the first buyer is paid on or after 2.7.1997) by Finance (No. 2) Act 1997 (c. 58), ss. 26, 52, Sch. 8 Pt. II Note; and s. 56, in so far as it is still in force, repealed (with effect in relation to cases where the purchase by the first buyer (within the meaning of 1988 c. 1, s. 731(2)) is made on or after 1.4.2008) by Finance Act 2008 (c. 9), s. 66(4)(c)(6)-(8)

F35 **57** .....

**Textual Amendments**

**F35** S. 57 repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after 1.7.1997) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), Sch. 18 Pt. VI(10) Note 1; S.I. 1997/991, art. 2

**58 Manufactured dividends and interest.**

(1) After section 736 of the Taxes Act 1988 there shall be inserted—

**“736A Manufactured dividends and interest.**

Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities.”

(2) The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified.

(3) This section shall have effect in relation to payments made on or after such day as the Treasury may specify for this purpose by regulations made by statutory instrument and different days may be so appointed for different provisions or different purposes.



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**Subordinate Legislation Made**

- P1** [S. 58\(3\)](#) power partly exercised (4.2.1992): 26.2.1992 appointed day for specified provisions and purposes by [S.I. 1992/173](#)  
[S. 58\(3\)](#) power partly exercised (5.6.1992): 30.6.1992 appointed day for specified provisions and purposes by [S.I. 1992/1346](#)  
[S. 58\(3\)](#) power partly exercised (21.4.1993): 22.4.1993 appointed day for specified provisions and purposes by [S.I. 1993/933](#).

**Commencement Information**

- I2** [S. 58](#): s. 58 came into force at Royal Assent (25.7.1991) with effect as mentioned in s. 58(3) in relation to payments made on or after such day or days as the Treasury may specify:  
26.2.1992 appointed for specified provisions and purposes by [S.I. 1992/173](#), [reg. 2](#).  
30.6.1992 appointed for specified provisions and purposes by [S.I. 1992/1346](#), [regs. 2-4](#).  
22.4.1993 appointed for specified provisions and purposes by [S.I. 1993/933](#), [regs. 2-4](#).

*Capital allowances*

<sup>F36</sup>**59** .....

**Textual Amendments**

- F36** [Ss. 59-61](#) repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

<sup>F37</sup>**60** .....

**Textual Amendments**

- F37** [Ss. 59-61](#) repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

<sup>F38</sup>**61** .....

**Textual Amendments**

- F38** [Ss. 59-61](#) repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

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### *Oil industry*

## **62 Expenditure on and under abandonment guarantees.**

- (1) To the extent that, by virtue of paragraph (hh) of subsection (1) of section 3 of the <sup>M4</sup>Oil Taxation Act 1975 (as set out in section 103(2) of this Act), expenditure incurred on or after 19th March 1991 by a participator in an oil field is allowable for the purposes of petroleum revenue tax under the said section 3, that expenditure shall be allowed as a deduction in computing the participator's ring fence income.
- (2) Expressions used in subsection (1) above and the following provisions of this section have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any purposes of tax as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (4) In any case where—
  - (a) a payment made by the guarantor under the abandonment guarantee is not immediately applied in meeting any expenditure, and
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,
 any reference in subsection (3) above or section 63 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.
- (5) In subsections (3) and (4) above—
  - (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 105 of this Act; and
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act.

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

**C3** S. 62 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

#### **Marginal Citations**

**M4** 1975 c. 22.

## **63 Relief for reimbursement expenditure under abandonment guarantees.**

- (1) This section applies in any case where—

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- (a) on or after 19th March 1991 a payment (in this section referred to as “the guarantee payment”) is made by the guarantor under an abandonment guarantee; and
  - (b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and
  - (c) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability.
- (2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 62(4) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 of this Act and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—
- (a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and
  - (b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.
- (3) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall, by virtue of this section, be allowed as a deduction in computing the relevant participator’s ring fence income; and no part of the expenditure which is so allowed shall be otherwise deductible or allowable by way of relief for any purposes of tax.
- (5) Subject to subsection (6) below, of the reimbursement expenditure incurred in any accounting period by the relevant participator, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$Ax \frac{B}{C}$$

where—

- ”A” is the reimbursement expenditure incurred in the accounting period;
- ”B” is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in computing his ring fence income; and
- ”C” is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

- (6) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure shall not exceed

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whichever is the less of “B” and “C” in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier accounting period.

- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable; and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 62(3) above is not to be regarded as expenditure incurred by the relevant participator).
- (8) In this section—
- (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 3 of the 1975 Act;
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act; and
  - (c) other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

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

**C4** S. 63 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**64 Relief for expenditure incurred by a participator in meeting defaulter’s abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure).
- (2) In this section “default payment, “the defaulter and “qualifying participator have the same meaning as in paragraph 2A of Schedule 5 to the 1975 Act and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) In this section, the amount which is attributed to the qualifying participator as mentioned in subsection (1)(b) above (whether representing the whole or only a part of the default payment) is referred to as the additional abandonment expenditure.
- (4) Relief by way of capital allowance or, as the case may be, a deduction in computing ring fence income shall be available to the qualifying participator by virtue of this section in respect of the additional abandonment expenditure in any case where any such relief or deduction would have been available to the defaulter if—
- (a) the defaulter had incurred the additional abandonment expenditure; and
  - (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

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- (5) The basis of qualification for or entitlement to any relief or deduction which is available to the qualifying participator by virtue of this section shall be determined on the assumption that the conditions in paragraphs (a) and (b) of subsection (4) above are fulfilled but, subject to that, any such relief or deduction shall be available in like manner as if the additional abandonment expenditure had been incurred by the qualifying participator for the purposes of the ring fence trade carried on by him.

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

C5 S. 64 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**65 Reimbursement by defaulter in respect of certain abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and
  - (c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;
- and in this section “default payment,” “the defaulter and “qualifying participator have the same meaning as in the said paragraph 2A and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (2) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (3) Subject to subsection (7) below, reimbursement expenditure shall be allowed as a deduction in computing the defaulter's ring fence income.
- (4) Subject to subsection (7) below, reimbursement expenditure received by the qualifying participator shall be treated as a receipt (in the nature of income) of his ring fence trade for the relevant accounting period.
- (5) For the purposes of subsection (4) above, the relevant accounting period is the accounting period in which the reimbursement expenditure is received by the qualifying participator or, if the qualifying participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.
- (6) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the qualifying participator may be made at any time not later than six years after the end of the calendar year in which the reimbursement expenditure is so received.

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- (7) In relation to a particular default payment, reimbursement expenditure incurred at any time—
- (a) shall be allowed as mentioned in subsection (3) above, and
  - (b) shall be taken into account in computing the qualifying participator's ring fence income by virtue of subsection (4) above,
- only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.
- (8) The incurring of reimbursement expenditure shall not be regarded, by virtue of [F39 section 532 of the Capital Allowances Act (the general rule excluding contributions)], as the meeting of the expenditure of the qualifying participator in making the default payment.

**Textual Amendments**

**F39** Words in s. 65(8) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 73**

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

**C6** S. 65 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**66 Restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.**

- (1) In section 497 of the Taxes Act 1988 (restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.), in subsection (2) after the words “resident in the United Kingdom” there shall be inserted the words “or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme”.
- (2) After subsection (2) of that section there shall be inserted the following subsections—
- “(2A) For the purposes of subsection (2) above, a distribution ( “the relevant distribution) is made pursuant to a substitution scheme if—
- (a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and
  - (b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and
  - (c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.
- (2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not

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be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section.”

F40 67 .....

**Textual Amendments**

**F40** S. 67 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. 20, 22, 26(2), 27)

*Miscellaneous*

**68 Gifts to educational establishments.**

(1) For section 84 of the Taxes Act 1988 (payments for technical education) there shall be substituted the following—

**“84 Gifts to educational establishments.**

(1) This section applies where a person carrying on a trade, profession or vocation ( “the donor) makes a gift for the purposes of a designated educational establishment of—

- (a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or
- (b) an article used by the donor in the course of his trade, profession or vocation—
  - (i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and
  - (ii) in respect of which he has claimed an allowance under that Part of that Act.

(2) For the purposes of this section, an article “qualifies as machinery or plant in the hands of an educational establishment if, and only if, it is an article such that—

- (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
- (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and
- (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

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

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- (3) Where this section applies—
- (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and
  - (b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;
- but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.
- (4) In any case where—
- (a) relief is given under subsection (3) above in respect of the gift of an article, and
  - (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,
- the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
- (5) In this section “designated educational establishment means any educational establishment designated, or of a category designated,—
- (a) as respects Great Britain, in regulations made by the Secretary of State; or
  - (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;
- and any such regulations may make different provision for different areas.
- (6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—
- (a) in the case of an establishment in Great Britain, to the Secretary of State, or
  - (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.”



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- (2) The amendment made by subsection (1) above shall have effect with respect to gifts made on or after 19th March 1991.

**F41 69 Expenses of entertainers.**

.....

**Textual Amendments**

- F41** S. 69 repealed (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](#))

**F42 70 Personal equity plans.**

.....

**Textual Amendments**

- F42** S. 70 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with [Sch. 2](#))

**71 Donations to charity.**

- (1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.
- (2) In consequence of subsection (1) above, in section 338(2) of that Act, for “to sections 339 and 339A” there shall be substituted “to section 339”.
- (3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.
- (4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—
- (a) in subsections (1) and (2), after the words “in that period”, in the first place where they occur, there were inserted “and before 19th March 1991”; and
  - (b) in subsection (3)(b), after “that section” there were inserted “in respect of payments made before 19th March 1991”.
- (5) In section 25 of the <sup>M5</sup>Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect.
- (6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

**Marginal Citations**

- M5** [1990 c. 29](#).

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**F43 72 Deduction of trading losses.**

.....

**Textual Amendments**

**F43** S. 72 repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 287, **Sch. 3 Pt. 1** (with Sch. 2)

**73 Relief for company trading losses.**

- (1) After section 393 of the Taxes Act 1988 (losses other than terminal losses) there shall be inserted—

**“393A Losses: set off against profits of the same, or an earlier, accounting period.**

- (1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—
- (a) of that accounting period, and
  - (b) if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;
- and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.
- (2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.
- (3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—
- (a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or
  - (b) it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part;
- but this subsection is without prejudice to section 397.
- (4) For the purposes of subsection (3) above—

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- (a) the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and
  - (b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—
  - (a) to be made to the company by way of discharge or repayment of tax, and
  - (b) to be so made for an accounting period ending on or after 1st April 1991,shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.
- (6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.
- (7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.
- (8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.
- (9) For the purposes of this section—
  - (a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;
  - (b) “trading income means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and
  - (c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.
- (10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.
- (11) In any case where—
  - (a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or

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- (b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,
- then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of “five years” for “two years”.”
- (2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.
- (3) Schedule 15 to this Act shall have effect.
- (4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.
- (5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

#### **74 Trade unions and employers’ associations.**

- (1) Section 467 of the Taxes Act 1988 (trade unions and employers’ associations) shall be amended as follows.
- (2) In subsection (1) (exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity)—
- (a) for “£3,000” there shall be substituted “£4,000 ”, and
- (b) for “£625” there shall be substituted “£825 ”.
- (3) In subsection (3) (matters to be disregarded in applying subsection (1)) for “£625” there shall be substituted “£825 ”.
- (4) After subsection (3) there shall be inserted—
- “(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order.”
- (5) In subsection (4) (definition of “trade union”)—
- (a) in paragraphs (a) and (b), for “Registrar of Friendly Societies” there shall be substituted “Certification Officer ”; and
- (b) for “and” at the end of paragraph (b) there shall be substituted—
- “(ba) any trade union within the meaning of the Trade Union Act 1871 registered in Northern Ireland under section 6 of that Act; and”.

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(6) Subsections (2) and (3) above shall have effect in relation to income or gains which are applicable and applied as mentioned in section 467 of the Taxes Act 1988 on or after 1st April 1991.

(7) Subsection (5) above shall be deemed always to have had effect.

#### Commencement Information

**I3** S. 74 in force at Royal Assent except s. 74(5) which is retrospective to 5.4.1988 being the commencement of s. 467, 1988 c.1

### 75 Audit powers in relation to non-residents.

The following section shall be inserted after section 482 of the Taxes Act 1988—

#### “482A Audit powers in relation to non-residents.

- (1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) (“audit powers”).
- (2) Regulations under subsection (1) above may in particular—
  - (a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;
  - (b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;
  - (c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;
  - (d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and
  - (e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.
- (3) Regulations under subsection (1) above may—
  - (a) make different provision for different cases; and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.
- (4) In this section “deposit-taker has the meaning given by section 481(2).”

### 76 Capital element in annuities.

(1) Section 656 of the Taxes Act 1988 (purchased life annuities other than retirement annuities) shall have effect, and be deemed always to have had effect, with the addition of the following subsections—

“(7) In using the prescribed tables of mortality to determine—

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- (a) the expected term of an annuity for the purposes of subsection (2)(a) above, or
- (b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,

the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.

- (8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.
- (9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary.”

- (2) Section 230 of the <sup>M6</sup>Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for “(2)(a)” and “(4)(c)”, in each place where they occur, of “(2A)(a)” and “(3)(c)” respectively.
- (3) Section 27 of the <sup>M7</sup>Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of “(3)(c)” for “(4)(c)” in both places where it occurs.

**Marginal Citations**

**M6** 1970 c. 10.

**M7** 1956 c. 54.

**77 Definition of “normal commercial loan”.**

- (1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—

“(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—

- (a) shall not be treated as depending to any extent on the results of the company’s business or any part of it by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the results of the company’s business or any part of it improving, and
- (b) shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of

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the loan provide for the rate of interest to be reduced in the event of the value of any of the company's assets increasing.

(5F) Sub-paragraph (5H) below applies where—

- (a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and
- (b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

- (a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,
- (b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and
- (c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it.”

<sup>F44</sup>(2) .....

(3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.

#### Textual Amendments

**F44** S. 77(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 s. 201(3), [Sch. 11 paras. 20, 22, 26\(2\), 27](#))

## 78 Sharing of transmission facilities.

(1) This section applies to any agreement relating to the sharing of transmission facilities—

- (a) to which the parties are national broadcasting companies,
- (b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and

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- (c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.

<sup>F45</sup>(2) .....

<sup>F45</sup>(3) .....

- (4) Where under an agreement to which this section applies one party to the agreement disposes of [<sup>F46</sup>plant or machinery] to another party to the agreement, the [<sup>F47</sup>Capital Allowances Act] shall apply—

- (a) in the case of the party making the disposal, as if the disposal value of the [<sup>F46</sup>plant or machinery] for the purposes of [<sup>F48</sup>section 60 of that Act] were equal to the capital expenditure incurred by that party on its provision, and
- (b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the [<sup>F46</sup>plant or machinery] were equal to the capital expenditure so incurred.

- (5) In subsection (4) above, references to [<sup>F49</sup>plant or machinery] include a share in [<sup>F49</sup>plant or machinery].

<sup>F45</sup>(6) .....

<sup>F45</sup>(7) .....

- (8) In this section, “national broadcasting company means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

#### Textual Amendments

- F45** S. 78(2)(3)(6)(7) 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. 20, 22, 26(2), 27)
- F46** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(b)**
- F47** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(a)**
- F48** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(1)(c)**
- F49** Words in s. 78(5) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(2)**

#### 79 Abolition of CRT: consequential amendment.

- (1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for “section 476” there shall be substituted “section 477A ”.
- (2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.



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**80 Interest on certain debentures.**

Paragraph 8(2) of Schedule 11 to the <sup>M8</sup>Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and be deemed always to have had effect, with the addition after paragraph (b) of the words—

“ and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture. ”

**Marginal Citations**

**M8** 1989 c. 29.

<sup>F50</sup>**81** .....

**Textual Amendments**

**F50** S. 81 repealed (1.5.1995 for the purposes mentioned in Sch. 29 Pt.VIII(16) Note 5 of the amending Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII** Note 5

**82 Certificates of non-liability to tax.**

(1) In the <sup>M9</sup>Taxes Management Act 1970, the following section shall be inserted after section 99—

**“99A Certificates of non-liability to income tax.**

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or
- (b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.”

(2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.

(3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.

**Marginal Citations**

**M9** 1970 c. 9.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1991, CHAPTER I.