



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Interest, dividends and distributions

29 Returns of interest

- (1) In section 17 of the Taxes Management Act 1970 (returns of interest) in subsection (4) (interest not required to be included in return if declaration that person beneficially entitled to interest not ordinarily resident in UK) the words from “and if a person” to the end of the subsection shall cease to have effect and after that subsection there shall be inserted the following subsections—

“(4A) If a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—

- (a) has declared that the person beneficially entitled to the interest is a company not resident in the United Kingdom, and
- (b) has requested that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include the interest in any such return.

(4B) Subsection (4C) below shall apply where—

- (a) as a result of a declaration made under section 481(5)(k) of the principal Act and the operation of section 482(5) of that Act in relation

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to that declaration, there is no obligation under section 480A(1) of that Act to deduct a sum representing income tax out of any interest paid or credited in respect of any money received or retained in the United Kingdom, and

- (b) the person who makes the declaration referred to in paragraph (a) above, by notice in writing served on the person paying or crediting the interest, requests that the interest shall not be included in any return under this section.

(4C) Where this subsection applies, the person paying or crediting the interest shall not be required to include the interest in any return under this section.”

- (2) This section shall apply to interest paid or credited after the day on which this Act is passed.

30 Foreign dividends

In section 123 of the Taxes Act 1988 (foreign dividends) the following subsections shall be inserted after subsection (6)—

“(7) In a case where—

- (a) relevant foreign dividends referred to in subsection (2) above are dividends (as opposed to interest or other annual payments),
- (b) they are entrusted by a company which at the time they are entrusted (the relevant time) is not resident in the United Kingdom,
- (c) they are entrusted for payment to a company which at the relevant time is resident in the United Kingdom,
- (d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and
- (e) the relevant time falls on or after 1st January 1992,

subsection (2) above shall not apply.

(8) In a case where—

- (a) foreign dividends referred to in subsection (3)(a) above are dividends (as opposed to interest or other annual payments),
- (b) they are paid by a company which at the time of the payment (the relevant time) is not resident in the United Kingdom,
- (c) payment is obtained on behalf of a company which at the relevant time is resident in the United Kingdom,
- (d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and
- (e) the relevant time falls on or after 1st January 1992,

subsection (3) above shall not apply.”

31 Equity notes

- (1) In section 209 of the Taxes Act 1988 (meaning of “distribution” for purposes of Corporation Tax Acts) in subsection (2)(e) after sub-paragraph (vi) there shall be inserted “or

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- (vii) equity notes issued by the company (“the issuing company”) and held by a company which is associated with the issuing company or is a funded company;”.

(2) In that section the following subsections shall be inserted after subsection (8)—

“(9) For the purposes of subsection (2)(e)(vii) above a security is an equity note if as regards the whole of the principal or as regards any part of it—

- (a) the security’s terms contain no particular date by which it is to be redeemed,
- (b) under the security’s terms the date for redemption, or the latest date for redemption, falls after the expiry of the permitted period,
- (c) under the security’s terms redemption is to occur after the expiry of the permitted period if a particular event occurs and the event is one which (judged at the time of the security’s issue) is certain or likely to occur, or
- (d) the issuing company can secure that there is no particular date by which the security is to be redeemed or that the date for redemption falls after the expiry of the permitted period;

and the permitted period is the period of 50 years beginning with the date of the security’s issue.

(10) For the purposes of subsection (2)(e)(vii) above and subsection (11) below a company is associated with the issuing company if—

- (a) the issuing company is a 75 per cent. subsidiary of the other company,
- (b) the other company is a 75 per cent. subsidiary of the issuing company, or
- (c) both are 75 per cent. subsidiaries of a third company.

(11) For the purposes of subsection (2)(e)(vii) above a company is a funded company if there are arrangements involving the company being put in funds (directly or indirectly) by the issuing company or a company associated with the issuing company.”

(3) In section 212 of the Taxes Act 1988 (exclusions from “distribution”) in subsection (1) (b) after “(vi)” there shall be inserted “and (vii)”.

(4) This section shall apply where the interest or other distribution is paid after 14th May 1992.

32 Information relating to distributions

(1) The following section shall be inserted after section 234 of the Taxes Act 1988—

“234A Information relating to distributions: further provisions

(1) This section applies where dividend or interest is distributed by a company which is—

- (a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or
- (b) a company created by letters patent or by or in pursuance of an Act.

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- (2) If the company makes a payment of dividend or interest to any person, and subsection (3) below does not apply, within a reasonable period the company shall send an appropriate statement to that person.
- (3) If the company makes a payment of dividend or interest into a bank or building society account held by any person, within a reasonable period the company shall send an appropriate statement to either—
- (a) the bank or building society concerned, or
 - (b) the person holding the account.
- (4) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
 - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
 - (c) the nominee makes a payment of the sum or part to the other person and subsection (5) below does not apply,
- within a reasonable period the nominee shall send an appropriate statement to that person.
- (5) In a case where—
- (a) a statement is received by a person under subsection (2) or (3)(b) above,
 - (b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and
 - (c) the nominee makes a payment of the sum or part into a bank or building society account held by the other person,
- within a reasonable period the nominee shall send an appropriate statement to either the bank or building society concerned or the other person.
- (6) In the case of a payment of interest which is not a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the gross amount which, after deduction of the income tax appropriate to the interest, corresponds to the net amount actually paid,
 - (b) the rate and the amount of income tax appropriate to such gross amount,
 - (c) the net amount actually paid, and
 - (d) the date of the payment.
- (7) In the case of a payment of dividend or interest which is a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—
- (a) the amount of the dividend or interest paid,
 - (b) the date of the payment, and
 - (c) the amount of the tax credit to which a person is entitled in respect of the dividend or interest, or to which a person would be so entitled if he had a right to a tax credit in respect of the dividend or interest.
- (8) In this section “send” means send by post.

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- (9) If a person fails to comply with subsection (2), (3), (4) or (5) above, the person shall incur a penalty of £60 in respect of each offence, except that the aggregate amount of any penalties imposed under this subsection on a person in respect of offences connected with any one distribution of dividends or interest shall not exceed £600.
- (10) The Board may by regulations provide that where a person is under a duty to comply with subsection (2), (3), (4) or (5) above, the person shall be taken to comply with the subsection if the person either—
- (a) acts in accordance with the subsection concerned, or
 - (b) acts in accordance with rules contained in the regulations;
- and subsection (9) above shall be construed accordingly.
- (11) Regulations under subsection (10) above may make different provision for different circumstances.”
- (2) In section 234 of that Act—
- (a) in subsection (1) for “subsections (3) and (4) below” there shall be substituted “section 234A”;
 - (b) subsections (3) and (4) shall be omitted.
- (3) In section 468(3) of that Act for “234(3) and (4)” there shall be substituted “234A”.
- (4) This section shall apply in relation to distributions begun after the day on which this Act is passed.