



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Corporation tax: currency

92 The basic rule: sterling to be used.

Where a company carries on a trade, the profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to any regulations under section 93 or 94 below.

Modifications etc. (not altering text)

C1 S. 92 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, ss. 226(1), 230(3)

93 Currency other than sterling for trades.

- (1) Regulations may provide that where a company carries on a trade the basic profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such currency (other than sterling) as is found in accordance with prescribed rules, in a case where—
- prescribed conditions are fulfilled, and
 - an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.

Status: Point in time view as at 03/05/1994. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1993, Cross Heading: Corporation tax: currency. (See end of Document for details)*

- (2) For the purposes of this section the basic profits or losses of a trade for an accounting period are all the profits or losses of the trade for the period, but leaving out of account—
- (a) any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the ^{M1}Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges);
 - (b) any amount mentioned in section 142(4) below and treated as received in respect of the trade and in respect of the period.
- (3) Subsections (4) and (5) below apply where the basic profits or losses of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling.
- (4) The amount of the basic profits or losses shall be treated for the purposes of corporation tax as the sterling equivalent of their amount expressed in the other currency.
- (5) The profits or losses of the trade for the period shall for the purposes of corporation tax be found by taking the amount of the basic profits or losses found in sterling under subsection (4) above and then—
- (a) taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the ^{M2}Capital Allowances Act 1990, and
 - (b) taking account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the trade and in respect of the period.
- (6) For the purposes of subsection (4) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—
- (a) such rate of exchange as is found under prescribed rules, or
 - (b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Modifications etc. (not altering text)

C2 S. 93 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, ss. 226(1), 230(3)

Marginal Citations

M1 1990 c. 1.

M2 1990 c. 1.

VALID FROM 24/07/2002

[^{F1}93A Use of other currency: accounts partly from statements in foreign currency

- (1) This section applies where in an accounting period a company carries on a business and either the first condition or the second condition is fulfilled.
- (2) The first condition is that—

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- (a) the accounts of the company as a whole are prepared in sterling but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency other than sterling; or
 - (b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to part of the business, it is prepared, using that method, from financial statements and records prepared in a currency other than sterling.
- (3) The second condition is that—
- (a) the accounts of the company as a whole are prepared in a currency other than sterling (“the first currency”) in accordance with generally accepted accounting practice but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency (“the second currency”) which is neither sterling nor the first currency; or
 - (b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in a currency other than sterling (“the first currency”) in accordance with generally accepted accounting practice, but, so far as relating to part of the business, it is prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency (“the second currency”) which is neither sterling nor the first currency.
- (4) The profits or losses of the part of the business for an accounting period shall for the purposes of corporation tax be found by—
- (a) taking the amount of all the profits and losses of the part of the business for the period computed and expressed in the relevant foreign currency; and
 - (b) taking—
 - (i) in a case where the first condition is fulfilled, the sterling equivalent, or
 - (ii) in a case where the second condition is fulfilled, the equivalent in the first currency,of the amount found by applying paragraph (a) above.
- (5) In a case where the second condition is fulfilled, effect shall be given to subsection (4) above before effect is given to section 93(4) above.
- (6) In the application for the purposes of subsection (4)(a) above of—
- (a) section 578A(2) or (3) of the Taxes Act 1988, or
 - (b) section 43(3), 74(2), 75(1), 76(2), (3) or (4), 99(1), (2) or (3) or 208(1) of the Capital Allowances Act,
- it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.
- (7) Where for any accounting period—
- (a) the accounts of the company, so far as relating to a part of its business, are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency which is not sterling and, where the second condition is fulfilled, is not the first currency, or

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(b) in the case of a company which is not resident in the United Kingdom, its return of accounts for its branch in the United Kingdom, so far as relating to a part of the company's business, is prepared, using that method, from such financial statements and records,

then, if different such financial statements and records are prepared in different currencies, the company shall be treated for the purposes of this section as having a separate part of a separate business for each such different currency (and this section shall accordingly apply separately in relation to each such part).

(8) In this section, "part of a business" includes any collection of assets and liabilities.

(9) In this section, unless the context otherwise requires—

"accounts" has the same meaning as in section 93 above;

"the closing rate/net investment method" means the method so called as described under the title "Foreign currency translation" in the Statement of Standard Accounting Practice issued in April 1983 by the Institute of Chartered Accountants in England and Wales;

"losses" has the same meaning as in section 92 above, except that it does not include allowable losses within the meaning of the Taxation of Chargeable Gains Act 1992;

"profits" has the same meaning as in section 92 above, except that it does not include chargeable gains within the meaning of that Act;

"the relevant foreign currency" means the currency in which the financial statements and records mentioned in subsection (2) or, as the case may be, (3) above are prepared;

"return of accounts" has the same meaning as in section 93 above.]

Textual Amendments

F1 S. 93A inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 4** (with **Sch. 23 para. 25**)

Modifications etc. (not altering text)

C3 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with **Sch. 23 para. 25**)

VALID FROM 24/07/2002

[^{F2}94AA Rules for ascertaining currency equivalents: general

(1) Where any receipt or expense, or the value of any asset, liability or derivative contract, of a company—

(a) is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and

(b) is denominated in a currency other than sterling,

it shall be translated into its sterling equivalent by reference to a rate determined in accordance with subsection (4) below.

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- (2) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company—
 - (a) falls to be brought into account for the purposes of the accounts mentioned in paragraph (a), or the return of accounts mentioned in paragraph (b), of subsection (2) of section 93 above,
 - (b) is denominated in a currency other than the relevant foreign currency, within the meaning of that section, and
 - (c) accordingly falls to be translated into the relevant foreign currency,the amount or value shall for the purposes of that section be translated from the currency mentioned in paragraph (b) above into the relevant foreign currency by reference to a rate determined in accordance with subsection (4) below.
- (3) Where, for any purpose of any provision of section 93A(4) or (6) above, any profit or loss denominated in one currency falls to be translated into its equivalent expressed in another currency, the translation shall be made by reference to a rate determined in accordance with subsection (4) below.
- (4) The rate is—
 - (a) the rate used in the preparation of the accounts of the company for the accounting period in question, if that rate is an arm's length exchange rate for the relevant day, or
 - (b) in any other case, the London closing exchange rate for the relevant day.
- (5) The reference in subsection (4)(a) above to the exchange rate used in the preparation of the accounts of the company includes a reference to any exchange rate implied by a derivative contract whose underlying subject matter is currency.
- (6) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).
- (7) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).
- (8) In this section—
 - “accounts” has the same meaning as in section 93 above;
 - “arm's length exchange rate” means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm's length;
 - “derivative contract” shall be construed in accordance with Schedule 26 to the Finance Act 2002;
 - “the relevant day”—
 - (a) where the rate used in the preparation of the accounts is an exchange rate for a particular day, means that day; and
 - (b) where the rate used in the preparation of the accounts is an average rate for a number of days, means each of those days;
 - “underlying subject matter”, in relation to a derivative contract, shall be construed in accordance with Schedule 26 to the Finance Act 2002.]

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Cross Heading: Corporation tax: currency. (See end of Document for details)

Textual Amendments

- F2** S. 94AA substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) for s. 94 by 2002 c. 23, s. 80, **Sch. 24 para. 5** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

- C4** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

VALID FROM 24/07/2002

[^{F3}94AB Rules for ascertaining sterling equivalent for section 93(4) or (5)]

- (1) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company falls to be translated into its sterling equivalent for the purposes of section 93(4) or (5) above, the translation shall be made by reference to a rate which is an arm's length exchange rate for the appropriate day.
- (2) For the purposes of subsection (1) above, the "appropriate day" is the day the rate for which would have been used if the accounts, or return of accounts, of the company were translated into sterling in accordance with generally accepted accounting practice in relation to foreign currency translation.
- (3) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).
- (4) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).
- (5) In this section—
 - “accounts” has the same meaning as in section 93 above;
 - “arm's length exchange rate” has the same meaning as in section 94AA;
 - “derivative contract” shall be construed in accordance with Schedule 26 to the Finance Act 2002.]

Textual Amendments

- F3** S. 94AB inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 6** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

- C5** Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)**

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94 Parts of trades.

- (1) Regulations may make provision under this section as regards a case where in an accounting period—
 - (a) a company carries on part of a trade in the United Kingdom, and carries on a different part of the trade through an overseas branch or different parts through different overseas branches, or
 - (b) a company carries on different parts of a trade through different overseas branches;and “overseas branch” means a branch outside the United Kingdom.
- (2) Regulations may provide that the basic profits or losses of different parts of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such different currencies as are found in accordance with prescribed rules, in a case where—
 - (a) prescribed conditions are fulfilled, and
 - (b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.
- (3) The regulations must be so framed that—
 - (a) one currency is used for each part;
 - (b) at least two currencies are used;
 - (c) subject to paragraph (b) above, the same currency may be used for more than one part;
 - (d) if no election is made as regards a particular part, sterling is to be used for that part.
- (4) For the purposes of this section the basic profits or losses of part of a trade for an accounting period are all the profits or losses of the part for the period; but this is subject to subsections (5) and (6) below.
- (5) No account shall be taken of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the ^{M3}Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges).
- (6) Where the basic profits or losses of the part of the trade for the period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling, no account shall be taken of any amount mentioned in section 142(4) below and treated as received in respect of the part of the trade and in respect of the period.
- (7) Where the basic profits or losses of different parts of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in two or more different currencies, subsections (8) to (10) below have effect for finding the profits or losses of the trade for the period for the purposes of corporation tax.
- (8) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in a currency other than sterling—
 - (a) find the sterling equivalent of their amount expressed in the other currency, then
 - (b) take account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the part and in respect of the period, then

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- (c) call the result the accountable profits or losses of the part for the period.
- (9) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in sterling, take those profits or losses and call them the accountable profits or losses of the part for the period.
- (10) The profits or losses of the trade for the period for the purposes of corporation tax shall then be found by—
- (a) taking account of the accountable profits or losses of the different parts for the period, and
 - (b) then taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990.
- (11) For the purposes of subsection (8) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—
- (a) such rate of exchange as is found under prescribed rules, or
 - (b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Modifications etc. (not altering text)

C6 S. 94 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, ss. 226(1), 230(3)

Marginal Citations

M3 1990 c. 1.

[^{F4}94A Parts of trades: petroleum extraction companies.

- (1) If a trade carried on by a petroleum extraction company is a ring fence trade—
- (a) subsection (1) of section 94 above shall not apply as regards the trade, but
 - (b) regulations may make provision under that section as regards a case where in an accounting period the company carries on the trade and the condition mentioned in subsection (2) below is fulfilled.
- (2) The condition is that—
- (a) part of the trade consists of activities which relate to oil and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area, and
 - (b) part of the trade consists of activities which relate to gas and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area.
- (3) For the purposes of this section—
- (a) a petroleum licence is a licence granted under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964;
 - (b) a petroleum extraction company is a company which carries on activities under the authority of such a licence;
 - (c) a designated area is an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

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- (4) For the purposes of this section “ring fence trade” means activities which—
- fall within any of paragraphs (a) to (c) of subsection (1) of section 492 of the Taxes Act 1988 (oil extraction etc.), and
 - constitute a separate trade (whether by virtue of that subsection or otherwise).
- (5) For the purposes of this section—
- “oil” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is not gas;
 - “gas” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is gas of which the largest component by volume, measured at a temperature of 15 degrees centigrade and a pressure of one atmosphere, is methane or ethane or a combination of those gases.]

Textual Amendments

F4 S. 94A inserted (3.5.1994) by 1994 c. 9, s. 136(1)

Modifications etc. (not altering text)

C7 S. 94A excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, ss. 226(1), 230(3)

^{F5}95 Currency to be used: supplementary.

- (1) Regulations under section 93 or 94 above may include—
- provision that an election may in prescribed circumstances have effect from a time before it is made;
 - provision that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (c) below);
 - provision that prescribed conditions shall be treated as not having been fulfilled if the inspector notifies the company that he is not satisfied that they are fulfilled;
 - provision for an appeal from the inspector’s notification;
- and any provision under paragraph (c) above may allow a notification to be made after the accounting period ends.
- (2) The power to make regulations under section 93 or 94 above shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (3) In sections 93 and 94 above “prescribed” means prescribed by regulations made under the section concerned.
- (4) Where as regards a trade and for an accounting period—
- an election is made under regulations made under section 93 above, or
 - an election is made under regulations made under section 94 above,
- no election may be made as regards the trade for the period under regulations made under the other section.
- (5) For the purposes of sections 93 and 94 above the ecu shall be regarded as a currency other than sterling; and the reference here to the ecu is to the European currency

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unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.

- (6) Sections 92 to [F694A] above apply in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.

Textual Amendments

F5 Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, s. 105(1)

F6 Words in s. 95(6) substituted (3.5.1994) by 1994 c. 9, s. 136(2)

Modifications etc. (not altering text)

C8 S. 95 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, ss. 226(1), 230(3)

[F796 Foreign companies: trading currency.

- (1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

“4A (1) Sub-paragraph (2) below applies where—
 (a) the company carries on a trade, and
 (b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.

(2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.

(3) References in this paragraph to the accounts of a company—
 (a) are to the accounts which the company is required by the law of its home State to keep, or
 (b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the ^{M4}Companies Act 1985 are required by that Act to keep;

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

(4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993.”

- (2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.]

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Cross Heading: Corporation tax: currency. (See end of Document for details)

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Textual Amendments

F7 S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

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Marginal Citations

M4 1985 c. 6.

Status:

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Changes to legislation:

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