



Finance Act 1995

1995 CHAPTER 4

PART III **U.K.**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax: charge, rates and reliefs

^{F1}35 **Charge and rates of income tax for 1995-96. **U.K.****

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Textual Amendments

F1 S. 35 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F2}36 **Personal allowance. **U.K.****

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Textual Amendments

F2 S. 36 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Corporation tax: charge and rate

37 Charge and rate of corporation tax for 1995. **U.K.**

Corporation tax shall be charged for the financial year 1995 at the rate of 33 per cent.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

38 Small companies. U.K.

For the financial year 1995—

- (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.

Taxation of income from land

F3 39 Income chargeable under Schedule A. U.K.

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Textual Amendments

F3 S. 39 repealed (31.7.1998 with effect as mentioned in s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165(1), **Sch. 27 Pt. III(4)** Note

40 Non-residents and their representatives. U.K.

^{F4}(1)

^{F4}(2)

- (3) Section 43 of the Taxes Act 1988 (payments to non-residents of amounts chargeable under Schedule A) shall not have effect in relation to any payment made on or after 6th April 1996.

Textual Amendments

F4 S. 40(1)(2) repealed (6.4.2007) by **Income Tax Act 2007** (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F5 41 Income from overseas property. U.K.

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Textual Amendments

F5 S. 41 repealed (31.7.1998 with effect as mentioned in s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165(1), **Sch. 27 Pt. III(4)** Note

42 Abolition of interest relief for commercially let property. U.K.

^{F6}(1)

(2) That Act shall be further amended as follows—

^{F7}(a)

^{F6}(b)

^{F6}(c)

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F6(d)
F6(e)

(3) Subject to subsections (4) to (6) below, this section shall have effect in relation to any payment of interest made on or after 6th April 1995.

(4) Where—

- (a) the profits or gains of any source of income that ceases in the course of the year 1995-96 are taxed, by virtue of section 39(5) or 41(9) above, without reference to the Schedule A that has effect by virtue of section 39(1) above, and
- (b) that source of income includes any land, caravan or house-boat with respect to which the condition specified in section 355(1)(b) of the Taxes Act 1988 would be satisfied in the case of any loan,

this section shall not apply to any payment of interest on that loan which is made before the time in the year 1995-96 when that source of income ceases.

(5) Subject to paragraph 19(3) of Schedule 6 to this Act, no relief in respect of any payment of interest before 6th April 1995 shall be given under section 355(4) of the Taxes Act 1988 (income against which relief available) against any income for the year 1995-96 or any subsequent year of assessment except in a case where the income falls within subsection (4)(a) above.

[^{F8}(6) Schedule 7 to this Act (which makes amendments in relation to corporation tax which are consequential on this section) shall have effect in relation to accounting periods ending after 31st March 1995.]

Textual Amendments

- F6** S. 42(1)(2)(b)-(e) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7) Note 4 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4
- F7** S. 42(2)(a) repealed (6.4.2007) by **Income Tax Act 2007** (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F8** S. 42(6) repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

Benefits in kind

^{F9}**43** **Cars available for private use.** **U.K.**

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Textual Amendments

- F9** Ss. 43-45 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003** (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

^{F9}**44** **Cars: accessories for the disabled.** **U.K.**

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Textual Amendments

- F9** Ss. 43-45 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F9 45 Beneficial loan arrangements: replacement loans. U.K.

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Textual Amendments

- F9** Ss. 43-45 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

Chargeable gains

46 Relief on re-investment: property companies etc. U.K.

- (1) Chapter IA of Part V of the ^{M1}Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.
- (2) In section 164A (relief on re-investment for individuals) the following subsection shall be inserted after subsection (12)—

“(13) Where an acquisition is made on or after 29th November 1994 section 164H shall be ignored in deciding whether it is an acquisition of a qualifying investment for the purposes of this section.”
- (3) In section 164F (failure of conditions of relief) the following subsection shall be inserted after subsection (2)—

“(2A) In deciding for the purposes of subsection (2)(b) above whether a company is a qualifying company at a time falling on or after 29th November 1994 section 164H shall be ignored.”
- (4) In section 164I (qualifying trades) the following subsection shall be inserted after subsection (4)—

“(4A) In deciding whether a trade complies with this section at a time falling on or after 29th November 1994 paragraphs (g) and (h) of subsection (2) above shall be ignored.”

Marginal Citations

- M1** [1992 c. 12.](#)

47 Relief on re-investment: amount of relief, etc. U.K.

- (1) Chapter IA of Part V of the ^{M2}Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.

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(2) In section 164A after subsection (13) (inserted by section 46 above) there shall be inserted—

“(14) This section is subject to sections 164FF and 164FG.”

(3) In section 164F after subsection (10B) there shall be inserted—

“(10C) Subsection (10A) above is subject to sections 164FF and 164FG.”

(4) After section 164F there shall be inserted—

“164FF Qualifying investment acquired from husband or wife.

(1) This section applies where—

- (a) a claim is made under subsection (2) of section 164A or subsection (10A) of section 164F; and
- (b) the qualifying investment as respects which the claim is made is acquired by a disposal to which section 58 applies.

(2) The amounts by reference to which the reduction is determined shall be treated as including the amount of the consideration which the claimant would under this Act be treated as having given for the qualifying investment if he had, immediately upon acquiring the qualifying investment, disposed of it on a disposal which was not a no gain/no loss disposal.

(3) Where—

- (a) the claimant makes a disposal, which is not a no gain/no loss disposal, of the qualifying investment, and
- (b) any disposal after 31st March 1982 and before he acquired the qualifying investment was a no gain/no loss disposal,

nothing in paragraph 1 of Schedule 3, section 35 or section 55 shall operate to defeat the reduction falling to be made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b) in the consideration for the acquisition of the qualifying investment.

(4) Where—

- (a) the claimant makes a disposal of the qualifying investment and that disposal is a disposal to which section 58 applies, and
- (b) any disposal after 31st March 1982 and before the claimant acquired the qualifying investment was a no gain/no loss disposal,

nothing in the application of paragraph 1 of Schedule 3, section 35 or section 55 to the person to whom the claimant makes the disposal of the qualifying investment shall operate to defeat the reduction made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b).

(5) For the purposes of this section a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues.”

(5) After section 164FF (inserted by subsection (4) above) there shall be inserted—

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“164FG Multiple claims.

- (1) This section applies where—
 - (a) a reduction is claimed by a person as respects a qualifying investment under subsection (2) of section 164A or subsection (10A) of section 164F; and
 - (b) any other reduction has been or is being claimed by that person under either subsection as respects that investment.
- (2) Subject to subsection (5) below, the reductions shall be treated as claimed separately in such sequence as the claimant elects or an officer of the Board in default of an election determines.
- (3) In relation to a later claim as respects the qualifying investment under either subsection, the subsection shall have effect as if each of the relevant amounts were reduced by the aggregate of any reductions made in the amount or value of the consideration for the acquisition of that investment by virtue of any earlier claims as respects that investment.
- (4) In subsection (3) above “the relevant amounts” means—
 - (a) if the claim is under section 164A(2), the amounts referred to in subsection (2)(a)(ii) and (iii) and any amount required to be included by virtue of section 164FF(2); and
 - (b) if the claim is under section 164F(10A), the amounts referred to in subsection (10A)(a)(i) and (ii) and any amount required to be included by virtue of section 164FF(2).
- (5) A claim that has become final shall be treated as made earlier than any claim that has not become final.
- (6) For the purposes of subsection (5) above, a claim becomes final when—
 - (a) it may no longer be amended, or
 - (b) it is finally determined,
 whichever occurs first.”
- (6) Subsection (4) above (and subsections (1) to (3) above so far as relating to subsection (4) above) shall apply to a claim as respects a qualifying investment if—
 - (a) the qualifying investment is acquired on or after 20th June 1994; or
 - (b) the claim is under section 164A(2) and relates to a disposal on or after that day; or
 - (c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day.
- (7) Subsection (5) above (and subsections (1) to (3) above so far as relating to subsection (5) above) shall apply to a claim as respects a qualifying investment if—
 - (a) the qualifying investment is acquired on or after 20th June 1994; or
 - (b) the claim is under section 164A(2) and relates to a disposal on or after that day; or
 - (c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day; or
 - (d) there is another claim as respects that qualifying investment which is under section 164A(2) and which relates to a disposal on or after that day; or

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- (e) there is another claim as respects that qualifying investment which is under subsection (10A) of section 164F and which relates to a gain which (apart from that subsection) would accrue on or after that day.
- (8) Any such adjustment as is appropriate in consequence of this section may be made (whether by discharge or repayment of tax, the making of an assessment or otherwise).

Marginal Citations

M2 1992 c. 12.

48 Roll-over relief and groups of companies. **U.K.**

- (1) In section 175 of the ^{M3}Taxation of Chargeable Gains Act 1992 (replacement of business assets by members of a group), after subsection (2) there shall be inserted the following subsections—

“(2A) Section 152 shall apply where—

- (a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies,
- (b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and
- (c) the claim is made by both companies,

as if both companies were the same person.

(2B) Section 152 shall apply where a company which is a member of a group of companies but is not carrying on a trade—

- (a) disposes of assets (or an interest in assets) used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade, or
- (b) acquires assets (or an interest in assets) taken into use, and used only, for those purposes,

as if the first company were carrying on that trade.

(2C) Section 152 shall not apply if the acquisition of, or of the interest in, the new assets—

- (a) is made by a company which is a member of a group of companies, and
- (b) is one to which any of the enactments specified in section 35(3)(d) applies.”

- (2) In section 247 of the ^{M4}Taxation of Chargeable Gains Act 1992 (roll-over relief on compulsory acquisition of land), after subsection (5) there shall be inserted the following subsection—

“(5A) Subsections (2A) and (2C) of section 175 shall apply in relation to this section as they apply in relation to section 152 (but as if the reference in subsection (2C) to the new assets were a reference to the new land).”

- (3) Subject to subsection (4) below—

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- (a) the subsection inserted into section 175 of the ^{M5}Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2A) shall be deemed always to have had effect; and
 - (b) the earlier enactments corresponding to that section shall be deemed to have contained provision to the same effect as that subsection (2A).
- (4) Paragraph (c) of that subsection (2A) shall not apply unless the claim is made on or after 29th November 1994.
- (5) The subsection inserted into section 175 of the ^{M6}Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2B) shall apply where the disposal or the ^{M7}acquisition is on or after 29th November 1994; and the subsection so inserted as subsection (2C) shall apply where the acquisition is on or after that date.
- (6) The subsection inserted into section 247 of the ^{M8}Taxation of Chargeable Gains Act 1992 by subsection (2) above shall apply—
- (a) so far as it relates to section 175(2A), where the disposal or the acquisition is on or after 29th November 1994; and
 - (b) so far as it relates to section 175(2C), where the acquisition is on or after that date.

Marginal Citations

M3	1992 c. 12.
M4	1992 c. 12.
M5	1992 c. 12.
M6	1992 c. 12.
M7	1992 c. 12.
M8	1992 c. 12.

49 De-grouping charges. **U.K.**

- (1) In section 179 of the ^{M9}Taxation of Chargeable Gains Act 1992 (de-grouping charges), after subsection (2) there shall be inserted the following subsections—

“(2A) Where—

- (a) a company that has ceased to be a member of a group of companies (“the first group”) acquired an asset from another company which was a member of that group at the time of the acquisition,
- (b) subsection (2) above applies in the case of that company’s ceasing to be a member of the first group so that subsection (1) above does not have effect as respects the acquisition of that asset,
- (c) the company that made the acquisition subsequently ceases to be a member of another group of companies (“the second group”), and
- (d) there is a connection between the two groups,

subsection (1) above shall have effect in relation to the company’s ceasing to be a member of the second group as if it had been the second group of which both companies had been members at the time of the acquisition.

- (2B) For the purposes of subsection (2A) above there is a connection between the first group and the second group if, at the time when the chargeable company

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ceases to be a member of the second group, the company which is the principal company of that group is under the control of—

- (a) the company which is the principal company of the first group or, if that group no longer exists, which was the principal company of that group when the chargeable company ceased to be a member of it;
- (b) any company which controls the company mentioned in paragraph (a) above or which has had it under its control at any time in the period since the chargeable company ceased to be a member of the first group; or
- (c) any company which has, at any time in that period, had under its control either—
 - (i) a company which would have fallen within paragraph (b) above if it had continued to exist, or
 - (ii) a company which would have fallen within this paragraph (whether by reference to a company which would have fallen within that paragraph or to a company or series of companies falling within this sub-paragraph).”

(2) After subsection (9) of that section there shall be inserted the following subsection—

“(9A) Section 416(2) to (6) of the Taxes Act (meaning of control) shall have effect for the purposes of subsection (2B) above as it has effect for the purposes of Part XI of that Act; but a person carrying on a business of banking shall not for the purposes of that subsection be regarded as having control of any company by reason only of having, or of the consequences of having exercised, any rights of that person in respect of loan capital or debt issued or incurred by the company for money lent by that person to the company in the ordinary course of that business.”

(3) This section has effect in relation to a company in any case in which the time of the company’s ceasing to be a member of the second group is on or after 29th November 1994.

Marginal Citations

M9 1992 c. 12.

[^{F10}50 Corporate bonds. **U.K.**

In section 117 of the ^{M10}Taxation of Chargeable Gains Act 1992 (qualifying corporate bonds) the following subsection shall be inserted after subsection (2)—

“(2A) Where it falls to be decided whether at any time on or after 29th November 1994 a security (whenever issued) is a corporate bond for the purposes of this section, a security which falls within paragraph 2(2)(c) of Schedule 11 to the ^{M11}Finance Act 1989 (quoted indexed securities) shall be treated as not being a corporate bond within the definition in subsection (1) above.”]

Textual Amendments

F10 S. 50 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3)

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Marginal Citations

M10 1992 c. 12.

M11 1989 c. 26.

Insurance companies and friendly societies

51 Companies carrying on life assurance business. **U.K.**

Schedule 8 to this Act has effect in relation to companies carrying on life assurance business, as follows—

Part I contains general amendments,

Part II contains amendments of provisions relating to overseas life insurance companies, and

Part III contains supplementary provisions.

52 Meaning of “insurance company”. **U.K.**

^{F11}(1)

(2) ^{F12}

(3) ^{F13}

(4) In section 59(3)(b) of the Inheritance Tax Act 1984 (interests of insurance companies acquired before 14th March 1975 to be qualifying interests in possession), for the words from “if” onwards there shall be substituted “if the company is an insurance company (within the meaning of Chapter I of Part XII of the ^{M12}Taxes Act 1988) and either—

(i) is authorised to carry on long term business under section 3 or 4 of the ^{M13}Insurance Companies Act 1982; or

(ii) carries on through a branch or agency in the United Kingdom the whole or any part of any long term business which it is authorised to carry on by an authorisation granted outside the United Kingdom for the purposes of the first long term insurance Directive;

and in paragraph (b) above “long term business” and “the first long term insurance Directive” have the same meanings as in that Act of 1982.”

(5) Subsections (1) to (3) above shall have effect in relation to any accounting period ending after 30th June 1994; and subsection (4) above shall have effect for the purposes of the making, on an anniversary or other occasion after that date, of any charge to tax under section 64 or 65 of the ^{M14}Inheritance Tax Act 1984.

Textual Amendments

F11 S. 52(1) repealed (1.12.2001) by S.I. 2001/3629, art. 109, Sch.

F12 S. 52(2) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by Finance Act 2002 (c. 23), s.141, Sch.40 Pt. 3(10) Note 2

F13 S. 52(3) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3 Note 2 of the amending Act) by Finance Act 2002 (c. 23), s.141, Sch.40 Pt. 3(13) Note 2

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Marginal Citations

M12 1984 c. 51.

M13 1982 c. 50.

M14 1984 c. 51.

53 Transfer of life insurance business. **U.K.**

- (1) The amendments specified in Schedule 9 to this Act (which relate to enactments referring to the transfer of the whole or part of the long term business of an insurance company) shall have effect.
- (2) This section and that Schedule shall have effect in relation to any transfers sanctioned or authorised after 30th June 1994.

54 Friendly societies. **U.K.**

Schedule 10 to this Act (which makes provision about friendly societies) shall have effect.

Insurance policies

55 Qualifying life insurance policies. **U.K.**

- (1) Subject to subsections (2) and (3) below—
 - (a) paragraph 21 of Schedule 15 to the Taxes Act 1988 (certification of policies and of standard forms etc.) shall not apply, in relation to any time on or after [F14the appointed date], for determining whether a policy is or would be a qualifying policy at that time; and
 - (b) no certificate may be issued under that paragraph at any time on or after that date except, in the case of a certificate under sub-paragraph (1)(a) of that paragraph, in relation to a time before that date.
- (2) Subsection (1) above shall not affect the right of any person to bring or continue with an appeal under paragraph 21(3) of that Schedule against either a refusal before [F14the appointed date] to certify any policy or a refusal on or after that date to certify any policy in relation to times before that date.
- (3) A certificate issued—
 - (a) before [F14the appointed date] in pursuance of paragraph 21(1)(a) of that Schedule, or
 - (b) in pursuance of a determination on an appeal determined after that date by virtue of subsection (2) above,shall, in relation to any time on or after that date or, as the case may be, the date on which it is issued, be conclusive evidence that the policy to which it relates is (subject to any variation of the policy) a qualifying policy.
- (4) Paragraph 22 of that Schedule (certificates from body issuing policy) shall cease to have effect in relation to any time on or after [F14the appointed date].
- (5) Paragraph 24 of that Schedule (policies issued by non-resident companies) shall have effect in relation to times on or after [F14the appointed date]—

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

- (a) with the substitution of the following sub-paragraphs for sub-paragraph (2)—
- “(2) Subject to section 55(3) of the Finance Act 1995 (transitional provision for the certification of certain policies), a new non-resident policy that falls outside sub-paragraph (2A) below shall not be a qualifying policy until such time as the conditions in sub-paragraph (3) are fulfilled with respect to it.
- (2A) A policy falls outside this sub-paragraph unless, at the time immediately before [^{F14}the appointed day], it was a qualifying policy by virtue of sub-paragraphs (2)(b) and (4) of this paragraph, as they had effect in relation to that time.”; and
- (b) with the omission, in sub-paragraph (3), of the word “first” and of sub-paragraph (4).
- (6) In paragraph 25 of that Schedule (policies substituted for policies issued by non-resident companies), for sub-paragraph (2) there shall be substituted the following sub-paragraph—
- “(2) The modifications are the following—
- (a) if, apart from paragraph 24, the old policy or any related policy (within the meaning of paragraph 17(2)(b)) of which account falls to be taken would have been a qualifying policy, that policy shall be assumed to have been a qualifying policy for the purposes of paragraph 17(2); and
- (b) if, apart from this paragraph, the new policy would be a qualifying policy, it shall not be such a policy unless the circumstances are as specified in paragraph 17(3); and
- (c) in paragraph 17(3)(c) the words “either by a branch or agency of theirs outside the United Kingdom or” shall be omitted;
- and references in this sub-paragraph to being a qualifying policy shall have effect, in relation to any time before [^{F14}the appointed date], as including a reference to being capable of being certified as such a policy.”
- (7) In paragraph 27(1) of that Schedule, except so far as it has effect for the purposes of any case to which paragraph 21 of that Schedule applies by virtue of the preceding provisions of this section, for “paragraphs 21 and” there shall be substituted “paragraph ”.
- (8) In section 553 of the Taxes Act 1988 (which contains provisions referring to paragraph 24(3) or (4) of Schedule 15 to that Act)—
- (a) in subsection (2), for the words from “neither” to “fulfilled” there shall be substituted “the conditions in paragraph 24(3) of Schedule 15 to this Act are not fulfilled ”; ^{F15}...
- ^{F15}(b)
- but this subsection shall not affect the operation of Chapter II of Part XIII of that Act in relation to any policy in relation to which the conditions in paragraph 24(4) of Schedule 15 to that Act, as it then had effect, were fulfilled at times in accounting periods before those in relation to which section 103 of the Finance Act 1993 (which repealed section 445 of the ^{M15}Taxes Act 1988) had effect.
- [^{F16}(9) In this section “the appointed date” means such date as may be specified for the purpose in an order made by the Board.]

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Textual Amendments

- F14** Words in s. 55(1)(a)(2)(3)(a)(4)(5)(a)(6) substituted (29.4.1996) by 1996 c. 8, s. 162(1)(a)
- F15** S. 55(8)(b) and preceding word repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 3 (with Sch. 2)
- F16** S. 55(9) inserted (29.4.1996) by 1996 c. 8, s. 162(1)(b)

Marginal Citations

- M15** 1993 c. 34.

^{F17} 56 Foreign life policies etc. **U.K.**

Textual Amendments

- F17** S. 56 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 476, Sch. 3 (with Sch. 2)

57 Duties of insurers in relation to life policies etc. **U.K.**

- (1) In section 552 of the Taxes Act 1988 (duties of insurers of life policies etc.), the following subsection shall be inserted after subsection (2) in relation to times on or after the day on which this Act is passed—

“(2A) Where the obligations under any policy or contract of the body that issued, entered into or effected it (“the original insurer”) are at any time the obligations of another body (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, this section shall have effect in relation to that time, except where the chargeable event—

- (a) happened before the transfer, and
- (b) in the case of a death or assignment, is an event of which the notification mentioned in subsection (1) above was given before the transfer,

as if the policy or contract had been issued, entered into or effected by the transferee.”

- (2) In that section, the following subsections shall be inserted after subsection (4)—

“(4A) The Board may by regulations—

- (a) make provision as to the form which is to be taken by certificates under this section (including provision enabling such a certificate to be delivered otherwise than in the form of a document); and
- (b) make such provision as they think fit for securing that they are able to ascertain whether there has been or is likely to be any contravention of the requirements of this section and to verify any such certificate.

(4B) Regulations by virtue of subsection (4A)(b) above may include, in particular, provision requiring persons to whom premiums under any policy are or have at any time been payable to supply information to the Board and to make

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available books, documents and other records for inspection on behalf of the Board.

(4C) Regulations under subsection (4A) above may—

- (a) make different provision for different cases; and
- (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate.”

(3) In the second column of the Table in section 98 of the Management Act (penalties in respect of certain information provisions), for the entry relating to section 552 of the Taxes Act 1988 there shall be substituted the following entries—

“section 552(1) to (4);

regulations under section 552(4A);”.

Pensions

F1858 Personal pensions: income withdrawals. U.K.

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Textual Amendments

F18 Ss. 58-61 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F1859 Pensions: meaning of insurance company etc. U.K.

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Textual Amendments

F18 Ss. 58-61 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F1860 Application of section 59. U.K.

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Textual Amendments

F18 Ss. 58-61 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F1861 Cessation of approval of certain retirement benefits schemes. U.K.

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Textual Amendments

F18 Ss. 58-61 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

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Saving and investment: general

F19 62 Follow-up TESSAs. U.K.

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Textual Amendments

F19 S. 62 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F20 63 TESSAs: European institutions. U.K.

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Textual Amendments

F20 S. 63 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F21 64 Personal equity plans: tax representatives. U.K.

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Textual Amendments

F21 S. 64 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F22 65 Contractual savings schemes. U.K.

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Textual Amendments

F22 S. 65 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F23 66 Enterprise investment scheme: ICTA amendments. U.K.

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Textual Amendments

F23 S. 66 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

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*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 1995, Part III. (See end of Document for details)*

67 Enterprise investment scheme: TCGA amendments. U.K.

Schedule 13 to this Act (which contains amendments relating to chargeable gains as regards the enterprise investment scheme) shall have effect.

68 Business expansion scheme: ICTA amendments U.K.

(1) Chapter III of Part VII of the Taxes Act 1988 as it has effect in relation to shares issued before 1st January 1994 (the business expansion scheme) shall be amended as follows.

(2) In section 289 (the relief) the following subsection shall be inserted after subsection (12) (which defines “the relevant period” for the purposes of the Chapter)

—
 “(12A) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and subsection (12) above shall have effect subject to the preceding provisions of this subsection.”

(3) In section 305 (reorganisation of share capital) the following subsections shall be inserted after subsection (4)—

“(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.

(6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994.”

69 Business expansion scheme: TCGA amendments. U.K.

In section 150 of the ^{M16}Taxation of Chargeable Gains Act 1992 (business expansion schemes) the following subsections shall be inserted after subsection (8) (which disapplies provisions about exchanges, reconstructions or amalgamations in certain circumstances)—

“(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—

- (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed,
- (b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and
- (c) the condition in subsection (8B) below is fulfilled.

(8B) The condition is that at some time before the issue of the new shares—

- (a) the company issuing them issued eligible shares, and
- (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.

(8C) In subsection (8A) above—

- (a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;

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- (b) “relevant period” means the period found by applying section 289(12)(a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.”

Marginal Citations

M16 1992 c. 12.

Venture capital trusts

F2470 Approval of companies as trusts. U.K.

Textual Amendments

F24 S. 70 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F2571 Income tax relief. U.K.

Textual Amendments

F25 S. 71 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

72 Capital gains. U.K.

- (1) The ^{M17}Taxation of Chargeable Gains Act 1992 shall be amended as follows.
- (2) In section 100(1) (exemption from charge for gains accruing to authorised unit trusts, investment trusts etc.), after “investment trust” there shall be inserted “ a venture capital trust ”.
- (3) In Chapter III of Part IV (miscellaneous provisions relating to securities), after section 151 there shall be inserted the following sections—

“151A Venture capital trusts: reliefs.

- (1) A gain or loss accruing to an individual on a qualifying disposal of any ordinary shares in a company which—
 - (a) was a venture capital trust at the time when he acquired the shares, and
 - (b) is still such a trust at the time of the disposal,shall not be a chargeable gain or, as the case may be, an allowable loss.
- (2) For the purposes of this section a disposal of shares is a qualifying disposal in so far as—
 - (a) it is made by an individual who has attained the age of eighteen years;

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- (b) the shares disposed of were not acquired in excess of the permitted maximum for any year of assessment; and
 - (c) that individual acquired those shares for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.
- (3) Schedule 5C shall have effect for providing relief in respect of gains invested in venture capital trusts.
- (4) In determining for the purposes of this section whether a disposal by any person of shares in a venture capital trust relates to shares acquired in excess of the permitted maximum for any year of assessment, it shall be assumed (subject to subsection (5) below)—
- (a) as between shares acquired by the same person on different days, that those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
 - (b) as between shares acquired by the same person on the same day, that those acquired in excess of the permitted maximum are disposed of by that person before he disposes of any other shares acquired on that day.
- (5) It shall be assumed for the purposes of subsection (1) above that a person who disposes of shares in a venture capital trust disposes of shares acquired at a time when it was not such a trust before he disposes of any other shares in that trust.
- (6) References in this section to shares in a venture capital trust acquired in excess of the permitted maximum for any year of assessment shall be construed in accordance with the provisions of Part II of Schedule 15B to the Taxes Act; and the provisions of that Part of that Schedule shall apply (with subsections (4) and (5) above) for identifying the shares which are, in any case, to be treated as representing shares acquired in excess of the permitted maximum.
- (7) In this section and section 151B “ordinary shares”, in relation to a company, means any shares forming part of the company’s ordinary share capital (within the meaning of the Taxes Act).

151B Venture capital trusts: supplementary.

- (1) Sections 104, 105 and 107 shall not apply to any shares in a venture capital trust which are eligible for relief under section 151A(1).
- (2) Subject to the following provisions of this section, where—
- (a) an individual holds any ordinary shares in a venture capital trust,
 - (b) some of those shares fall within one of the paragraphs of subsection (3) below, and
 - (c) others of those shares fall within at least one other of those paragraphs,
- then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply separately in relation to the shares (if any) falling within each of the paragraphs of that subsection (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

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- (3) The kinds of shares referred to in subsection (2) above are—
- (a) any shares in a venture capital trust which are eligible for relief under section 151A(1) and by reference to which any person has been given or is entitled to claim relief under Part I of Schedule 15B to the Taxes Act;
 - (b) any shares in a venture capital trust which are eligible for relief under section 151A(1) but by reference to which no person has been given, or is entitled to claim, any relief under that Part of that Schedule;
 - (c) any shares in a venture capital trust by reference to which any person has been given, or is entitled to claim, any relief under that Part of that Schedule but which are not shares that are eligible for relief under section 151A(1); and
 - (d) any shares in a venture capital trust that do not fall within any of paragraphs (a) to (c) above.
- (4) Where—
- (a) an individual holds ordinary shares in a company (“the existing holding”),
 - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
 - (c) immediately following the reorganisation, the shares or the allotted holding are shares falling within any of paragraphs (a) to (c) of subsection (3) above,
- sections 127 to 130 shall not apply in relation to the existing holding.
- (5) Sections 135 and 136 shall not apply where—
- (a) the exchanged holding consists of shares falling within paragraph (a) or (b) of subsection (3) above; and
 - (b) that for which the exchanged holding is or is treated as exchanged does not consist of ordinary shares in a venture capital trust.
- (6) Where—
- (a) the approval of any company as a venture capital trust is withdrawn, and
 - (b) the withdrawal of the approval is not one to which section 842AA(8) of the Taxes Act applies,
- any person who at the time when the withdrawal takes effect is holding shares in that company which (apart from the withdrawal) would be eligible for relief under section 151A(1) shall be deemed for the purposes of this Act, at that time, to have disposed of and immediately re-acquired those shares for a consideration equal to their market value at that time.
- (7) The disposal that is deemed to take place by virtue of subsection (6) above shall be deemed for the purposes of section 151A to take place while the company is still a venture capital trust; but, for the purpose of applying sections 104, 105 and 107 to the shares that are deemed to be re-acquired, it shall be assumed that the re-acquisition for which that subsection provides takes place immediately after the company ceases to be such a trust.
- (8) For the purposes of this section—

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- (a) shares are eligible for relief under section 151A(1) at any time when they are held by an individual whose disposal of the shares at that time would (on the assumption, where it is not the case, that the individual attained the age of eighteen years before that time) be a disposal to which section 151A(1) would apply; and
 - (b) shares shall not, in relation to any time, be treated as shares by reference to which relief has been given under Part I of Schedule 15B to the Taxes Act if that time falls after—
 - (i) any relief given by reference to those shares has been reduced or withdrawn,
 - (ii) any chargeable event (within the meaning of Schedule 5C) has occurred in relation to those shares, or
 - (iii) the death of a person who held those shares immediately before his death;
- and
- (c) the references, in relation to sections 135 and 136, to the exchanged holding is a reference to the shares in company B or, as the case may be, to the shares or debentures in respect of which shares or debentures are issued under the arrangement in question.”

^{F26}(4)

- (5) In section 257(1) (gifts to charities etc.), after paragraph (b) there shall be inserted—
“and the disposal is not one in relation to which section 151A(1) has effect.”

^{F27}(6)

- (7) In section 288(1) (interpretation), after the definition of “trading stock” there shall be inserted the following definition—
““venture capital trust” has the meaning given by section 842AA of the Taxes Act;”.
- (8) Subsection (2) above shall have effect in relation to gains accruing on or after 6th April 1995 and the other provisions of this section have effect for the year 1995-96 and subsequent years of assessment.

Textual Amendments

F26 S. 72(4) repealed (with effect in accordance with Sch. 19 para. 7 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(13\)](#)

F27 S. 72(6) repealed (with effect in accordance with Sch. 21 para. 10(8) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(14\)](#)

Marginal Citations

M17 1992 c. 12.

^{F28}73 **Regulations.** **U.K.**
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Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Textual Amendments

F28 S. 73 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 365, [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Settlements and estates

74 Settlements: liability of settlor. U.K.

- (1) Schedule 17 to this Act has effect with respect to settlements and the liability of the settlor, as follows—
- Part I inserts new provisions in place of sections 660 to 676 and 683 to 685 of the Taxes Act 1988,
 - Part II makes minor and consequential amendments of that Act, and
 - Part III contains consequential amendments of other enactments.
- (2) The amendments made by Schedule 17 have effect for the year 1995-96 and subsequent years of assessment and apply to every settlement, wherever and whenever it was made or entered into.

75 Deceased persons' estates: taxation of beneficiaries. U.K.

Part XVI of the Taxes Act 1988 (deceased persons' estates) shall have effect with the amendments specified in Schedule 18 to this Act.

76 Untaxed income of a deceased person's estate. U.K.

[^{F29}(1) In section 246D of the Taxes Act 1988 (foreign income dividends), after subsection (3) there shall be inserted the following subsection—

“(3A) Without prejudice to subsection (3) above, a foreign income dividend paid as mentioned in that subsection to personal representatives shall not be treated for the purposes of income tax as income of the personal representatives as such.”]

^{F30}(2)

^{F30}(3)

(4) After section 699 of that Act there shall be inserted the following section—

“699A Untaxed sums comprised in the income of the estate.

- (1) In this section “a relevant amount” means so much of any amount which a person is deemed by virtue of this Part to receive or to have a right to receive as is or would be paid out of sums which—
- (a) are included in the aggregate income of the estate of the deceased by virtue of any of sections 246D(3), 249(5), 421(2) and 547(1)(c); and
 - (b) are sums in respect of which the personal representatives are not directly assessable to United Kingdom income tax.

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- (2) In determining for the purposes of this Part whether any amount is a relevant amount—
- (a) such apportionments of any sums to which subsection (1)(a) and (b) above applies shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and
 - (b) subject to paragraph (a) above, the assumption in section 701(3A)(b) shall apply, but (subject to that) it shall be assumed that payments are to be made out of other sums comprised in the aggregate income of the estate before they are made out of any sums to which subsection (1) (a) and (b) above applies.
- (3) In the case of a foreign estate, and notwithstanding anything in section 695(4) (b) or 696(6), a relevant amount shall be deemed—
- (a) to be income of such amount as would, after deduction of income tax for the year in which it is deemed to be paid, be equal to the relevant amount; and
 - (b) to be income that has borne tax at the applicable rate.
- (4) Sums to which subsection (1)(a) and (b) above applies shall be assumed, for the purpose of determining the applicable rate in relation to any relevant amount, to bear tax—
- (a) in the case of sums included by virtue of section 246D(3), 249(5) or 421(2), at the lower rate, and
 - (b) in the case of sums included by virtue of section 547(1)(c), at the basic rate.
- (5) No repayment shall be made of any income tax which by virtue of this Part is treated as having been borne by the income that is represented by a relevant amount.
- (6) For the purposes of sections 348 and 349(1) the income represented by a relevant amount shall be treated as not brought into charge to income tax.”
- (5) In section 701 of that Act (interpretation), after subsection (10), there shall be inserted the following subsection—
- “(10A) Amounts to which section 699A(1)(a) and (b) applies shall be disregarded in determining whether an estate is a United Kingdom estate or a foreign estate, except that any estate the aggregate income of which comprises only such amounts shall be a United Kingdom estate.”
- (6) This section has effect for the year 1995-96 and subsequent years of assessment.

Textual Amendments

- F29** S. 76(1) repealed (31.7.1997 with effect as mentioned in s. 36 and [Sch. 6](#) of the amending Act) by [1997 c. 58, s. 52, Sch. 8 Pt. II\(11\)](#) Note (with s. 3(3))
- F30** S. 76(2)(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Securities

^{F31}77 Interest on gilt-edged securities payable without deduction of tax. **U.K.**

Textual Amendments

F31 S. 77 repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(13) Note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(13)** (with s. 3(3))

[^{F32}78 Periodic accounting for tax on interest on gilt-edged securities. **U.K.**

- (1) After the section 51A of the Taxes Act 1988 inserted by section 77 above there shall be inserted the following section—

“ Periodic accounting for tax on interest on gilt-edged securities.

- (1) The Treasury may by regulations provide for persons to whom payments of interest on relevant gilt-edged securities are made without deduction of tax to be required to make periodic returns to an officer of the Board of—
- (a) amounts of any payments of such interest made to that person, and
 - (b) amounts of tax for which, assuming the payments to bear tax at the basic rate for the relevant year of assessment, that person is to be accountable under the regulations in respect of those payments;
- and any such regulations may further provide for the amounts of tax required to be included in any such return to become due, at the time when the return is required to be made, from the person required to make it.
- (2) Regulations made by the Treasury for the purposes of this section may—
- (a) specify such periods as the Treasury may consider appropriate as the periods for which returns are to be made, and in respect of which any person is to account for tax, under the regulations;
 - (b) make provision for enabling returns under the regulations to be combined with returns under Schedule 16 and for requiring particulars of claims and calculations made for the purposes of the regulations to be set out in the returns;
 - (c) provide, in respect of any period for which a return is to be made by any person under the regulations, for that person to be obliged, before the end of the period, to make a payment on account of amounts that may become due from him in respect of that period;
 - (d) impose a requirement for a special return to be made for the purposes of any obligation imposed by virtue of paragraph (c) above;
 - (e) provide for the amount which, under the regulations, is to be due from any person in respect of any period to be reduced by reference to amounts which—
 - (i) are paid by or on behalf of that person under contracts or arrangements relating to transfers of gilt-edged securities;and

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- (ii) are or fall to be treated as representative of interest on those securities;
 - (f) authorise amounts in respect of which there is an obligation to account for tax under the regulations to be treated for specified purposes of the Tax Acts as payments on which a person has borne income tax by deduction;
 - (g) make provision for the assessment of amounts due under the regulations and for the repayment in specified circumstances of amounts paid under the regulations;
 - (h) make provision for interest to be payable, at such rate as may be determined by or under the regulations, on amounts that have become due under the regulations but have not been paid;
 - (i) make provision, where payments of interest on any relevant gilt-edged securities would be comprised in the income of a member of Lloyd's, for obligations that may be imposed by regulations under this section on the person to whom the interest is paid to be imposed, instead, on such other person as may be described in the regulations.
- (3) Regulations made by the Treasury for the purposes of this section may—
- (a) include provision which for the purposes of the regulations makes any provision corresponding, with or without modifications, to any of the provisions of Schedule 16;
 - (b) make provision modifying the operation of Schedule 19AB in relation to cases where payments of interest on relevant gilt-edged securities are made without deduction of tax to companies carrying on pension business;
 - (c) include provision which requires obligations and liabilities under the regulations to be treated as obligations and liabilities to which provisions of Schedule 23 to the Finance Act 1995 (UK representatives) apply; and
 - (d) include provision which, for any of the purposes of the regulations, applies provisions of sections 126 and 127 of, and Schedule 23 to, that Act in relation to times before those provisions otherwise come into force.
- (4) Regulations made by the Treasury for the purposes of this section may—
- (a) make different provision for different cases; and
 - (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate;
- and subsection (3) of section 178 of the ^{M18}Finance Act 1989 (extent of powers to set rates of interest) shall apply for the purposes of the power conferred by virtue of subsection (2)(h) above as it applies for the purposes of the power to make regulations under that section.
- (5) In this section “relevant gilt-edged securities” means securities which are gilt-edged securities within the meaning of section 51A, other than any to which a direction of the Treasury under section 50 relates.
- (6) In this section “relevant year of assessment”—
- (a) in relation to a manufactured payment, means the year of assessment in which it is received by the person to whom it is paid; and

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(b) in relation to any other payment of interest, means the year of assessment in which the payment is made;

and in this subsection “manufactured payment” means any payment which for the purposes of Schedule 23A is a payment of manufactured interest.”

(2) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), immediately before the entry in the second column relating to section 124(3) of the Taxes Act 1988 there shall be inserted the following entry—

“regulations under section 51B;”.]

Textual Amendments

F32 S. 78 repealed (31.7.1998 with effect as mentioned in s. 37(3) of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(3) Note

Marginal Citations

M18 1989 c. 26.

F33⁷⁹ **Sale and repurchase of securities: exclusion from accrued income scheme.** **U.K.**

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Textual Amendments

F33 S. 79 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

80 **Treatment of price differential on sale and repurchase of securities.** **U.K.**

(1) After section 730 of the Taxes Act 1988 there shall be inserted the following sections—

“730A Treatment of price differential on sale and repurchase of securities.

(1) Subject to subsection (8) below, this section applies where—

- (a) a person (“the original owner”) has transferred any securities to another person (“the interim holder”) under an agreement to sell them;
- (b) the original owner or a person connected with him is required to buy them back either—
 - (i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or
 - (ii) in consequence of the exercise of an option acquired under that agreement or any related agreement;

and

- (c) the sale price and the repurchase price are different.

(2) The difference between the sale price and the repurchase price shall be treated for the purposes of the Tax Acts—

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- (a) where the repurchase price is more than the sale price, as a payment of interest made by the repurchaser on a deemed loan from the interim holder of an amount equal to the sale price; and
 - (b) where the sale price is more than the repurchase price, as a payment of interest made by the interim holder on a deemed loan from the repurchaser of an amount equal to the repurchase price.
- (3) Where any amount is deemed under subsection (2) above to be a payment of interest, that payment shall be deemed for the purposes of the Tax Acts to be one that becomes due at the time when the repurchase price becomes due and, accordingly, is treated as paid when that price is paid.
- (4) Where any amount is deemed under subsection (2) above to be a payment of interest, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—
 - (a) in a case falling within paragraph (a) of that subsection, as reduced by the amount of the deemed payment; and
 - (b) in a case falling within paragraph (b) of that subsection, as increased by the amount of the deemed payment.
- (5) For the purposes of section 209(2)(d) and (da) any amount which is deemed under subsection (2)(a) above to be a payment of interest shall be deemed to be interest in respect of securities issued by the repurchaser and held by the interim holder.
- (6) Any amount which—
 - (a) is deemed under subsection (2) above to be a payment of interest, and
 - (b) does not fall (apart from this subsection) to be treated as yearly interest,shall be treated for the purposes of section 338 as if the reference to yearly interest in subsection (3)(a) of that section included a reference to that amount.
- (7) The Treasury may by regulations provide for any amount which is deemed under subsection (2) above to be received as a payment of interest to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).
- (8) Except where regulations under section 737E otherwise provide, this section does not apply if—
 - (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
 - (b) all of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.
- (9) In this section references to the repurchase price are to be construed—
 - (a) in cases where section 737A applies, and
 - (b) in cases where section 737A would apply if it were in force in relation to the securities in question,

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as references to the repurchase price which is or, as the case may be, would be applicable by virtue of section 737C(3)(b), (9) or (11)(c).

730B Interpretation of section 730A.

- (1) For the purposes of section 730A agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
 - (2) References in section 730A to buying back securities—
 - (a) shall include references to buying similar securities; and
 - (b) in relation to a person connected with the original owner, shall include references to buying securities sold by the original owner or similar securities,
notwithstanding (in each case) that the securities bought have not previously been held by the purchaser; and references in that section to repurchase or to a repurchaser shall be construed accordingly.
 - (3) In section 730A and this section “securities” has the same meaning as in section 737A.
 - (4) For the purposes of this section securities are similar if they entitle their holders—
 - (a) to the same rights against the same persons as to capital, interest and dividends, and
 - (b) to the same remedies for the enforcement of those rights,
notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.
 - (5) Section 839 (connected persons) applies for the purposes of section 730A.”
- [^{F34}(2) In section 729 of that Act (sale and repurchase of securities), after subsection (5) there shall be inserted the following subsection—
- “(5A) This section shall not apply where section 737A applies; and this section shall be disregarded in determining whether the condition in subsection (2)(b) of that section is fulfilled in any case.”]
- (3) In subsections (3)(b), (9) and (11)(c) of section 737C of that Act (adjustment of repurchase price), for “the Tax Acts other than section 737A and of the 1992 Act” there shall be substituted, in each case, “ section 730A ”; and after subsection (11) of that section there shall be inserted the following subsection—

“(11A) The deemed increase of the repurchase price which is made for the purposes of section 730A by subsection (3)(b), (9) or (11)(c) above shall also have effect—
 - (a) for all the purposes of the Tax Acts, other than section 737A, and
 - (b) in cases where section 263A of the 1992 Act does not apply, for the purposes of the 1992 Act,
wherever in consequence of that increase there is for the purposes of section 730A no difference between the sale price and the repurchase price.”
 - (4) After section 263 of the ^{M19}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

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“263A Agreements for sale and repurchase of securities.

- (1) Subject to subsections (2) to (4) below, in any case falling within subsection (1) of section 730A of the Taxes Act (treatment of price differential on sale and repurchase of securities) and in any case which would fall within that subsection if the sale price and the repurchase price were different—
- (a) the acquisition of the securities in question by the interim holder and the disposal of those securities by him to the repurchaser, and
 - (b) except where the repurchaser is or may be different from the original owner, the disposal of those securities by the original owner and any acquisition of those securities by the original owner as the repurchaser,
- shall be disregarded for the purposes of capital gains tax.
- (2) Subsection (1) above does not apply in any case where the repurchase price of the securities in question falls to be calculated for the purposes of section 730A of the Taxes Act by reference to provisions of section 737C of that Act that are not in force in relation to those securities when the repurchase price becomes due.
- (3) Subsection (1) above does not apply if—
- (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm’s length; or
 - (b) any of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrues to, or falls on, the interim holder.
- (4) Subsection (1) above does not apply in relation to any disposal or acquisition of qualifying corporate bonds in a case where the securities disposed of by the original owner or those acquired by him, or by any other person, as the repurchaser are not such bonds.
- (5) Expressions used in this section and in section 730A of the Taxes Act have the same meanings in this section as in that section.”
- (5) This section shall have effect where the agreement to sell the securities is entered into on or after the date on which this Act is passed.

Textual Amendments

F34 S. 80(2) repealed (29.4.1996 with effect as mentioned in s. 159(1) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(21)** Note 1

Marginal Citations

M19 1992 c. 12.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

81 Manufactured interest payments: exclusion from bond-washing provisions. U.K.

(1) Section 731 of the Taxes Act 1988 (application of sections 732 to 734) is amended as follows.

(2) After subsection (2) insert—

“(2A) The relevant provisions do not apply where the first buyer is required under the arrangements for the purchase of the securities to make to the person from whom he purchased the securities, not later than the date on which he subsequently sells the securities, a payment of an amount representative of the interest, or is treated by virtue of section 737A(5) as required to make such a payment.”.

(3) In consequence of the above amendment—

(a) in subsection (2) for “Subject to subsections (3) to (10) below” substitute “Subject to subsections (2A) to (10)” below, and for “relate” substitute “apply”.

(b) in subsection (3) for “relate to cases” substitute “apply”.

(4) The above amendments have effect where the date on which the payment referred to in the inserted subsection (2A) is required to be made, or treated as required to be made, is after the passing of this Act.

^{F35}**82** **U.K.**

Textual Amendments

F35 S. 82 repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 18 Pt. VI(10) Note 1; S.I. 1997/991, art. 2

83 Power to make special provision for special cases. U.K.

(1) Immediately before section 738 of the Taxes Act 1988 there shall be inserted the following sections—

“737D Power to provide for manufactured payments to be eligible for relief.

(1) The Treasury may by regulations provide for any manufactured payment made to any person to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income of that person that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).

(2) In this section “manufactured payment” means any manufactured dividend, manufactured interest or manufactured overseas dividend, within the meaning of Schedule 23A.

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737E Power to modify sections 727A, 730A and 737A to 737C.

- (1) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where—
 - (a) the obligation to make the repurchase is not performed or the option to repurchase is not exercised;
 - (b) provision is made by or under any agreement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;
 - (c) provision is made by or under any agreement for any securities to be treated as not included with securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;
 - (d) provision is made by or under any agreement for the sale price or repurchase price to be determined or varied wholly or partly by reference to fluctuations, occurring in the period after the making of the agreement for the original sale, in the value of securities transferred in pursuance of that sale, or in the value of securities treated as representing those securities; or
 - (e) provision is made by or under any agreement for any person to be required, in a case where there are any such fluctuations, to make any payment in the course of that period and before the repurchase price becomes due.
- (2) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases where—
 - (a) arrangements, corresponding to those made in cases involving an arrangement for the sale and repurchase of securities, are made by any agreement, or by one or more related agreements, in relation to securities that are to be redeemed in the period after their sale; and
 - (b) those arrangements are such that the person making the sale or a person connected with him (instead of being required to repurchase the securities or acquiring an option to do so) is granted rights in respect of the benefits that will accrue from their redemption.
- (3) The Treasury may by regulations provide that section 730A is to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where there is an agreement relating to the sale or repurchase which is not such as would be entered into by persons dealing with each other at arm's length.
- (4) The powers conferred by subsections (1) and (2) above shall be exercisable in relation to section 263A of the 1992 Act as they are exercisable in relation to section 730A of this Act.
- (5) Regulations made for the purposes of this section may—
 - (a) make different provision for different cases; and

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- (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate.
- (6) The supplementary, incidental and consequential provision that may be made by regulations under this section shall include—
 - (a) in the case of regulations relating to section 730A, provision modifying subsections (3)(b), (9), (11)(c) and (11A) of section 737C; and
 - (b) in the case of regulations relating to section 263A of the 1992 Act, provision modifying the operation of that Act in relation to cases where by virtue of the regulations any acquisition or disposal is excluded from those which are to be disregarded for the purposes of capital gains tax.
- (7) In this section “modifications” includes exceptions and omissions; and any power under this section to provide for an enactment to have effect with modifications in any case shall include power to provide for it not to apply (if it otherwise would do) in that case.
- (8) References in this section to a case involving an arrangement for the sale and repurchase of securities are references to any case where—
 - (a) a person makes a sale of any securities under any agreement (“the original sale”); and
 - (b) that person or a person connected with him either—
 - (i) is required under that agreement or any related agreement to buy them back; or
 - (ii) acquires, under that agreement or any related agreement, an option to buy them back.
- (9) Section 730B shall apply for the purposes of this section as it applies for the purposes of section 730A.”
- (2) In section 182(1) of the ^{M20}Finance Act 1993 and section 229 of the ^{M21}Finance Act 1994 (powers to modify provisions relating to Lloyd’s), the following paragraph shall be inserted, in each case, after paragraph (c)—
 - “(ca) for modifying the application of this Chapter in relation to cases where assets forming part of a premiums trust fund are the subject of—
 - (i) any such arrangement as is mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988 (stock lending etc.); or
 - (ii) any such arrangements or agreements as are mentioned in section 737E(2) and (8) of the Taxes Act 1988 (sale and repurchase of securities etc.);”.

Marginal Citations

M20 1993 c. 34.

M21 1994 c. 9.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Textual Amendments

F36 S. 84 repealed (19.3.1997 with effect as mentioned in [Sch. 10 para. 7\(1\)](#) of the amending Act) by 1997 c. 16, ss. 76, 113, [Sch. 18 Pt. VI\(10\)](#) Note 1; S.I. 1997/991, [art. 2](#)

^{F37}**85** **U.K.**

Textual Amendments

F37 S. 85 repealed (19.3.1997 with effect as mentioned in [Sch. 10 para. 7\(1\)](#) of the amending Act) by 1997 c. 16, ss. 76, 113, [Sch. 18 Pt. VI\(10\)](#) Note 1; S.I. 1997/991, [art. 2](#)

Interest

^{F38}**86** **Deduction of tax from interest on deposits.** **U.K.**

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Textual Amendments

F38 S. 86 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

87 **Interest payments deemed to be distributions.** **U.K.**

^{F39}(1)

- (2) In paragraph (e) of that subsection—
- (a) for “paragraph (d)” there shall be substituted “ paragraph (d) or (da) ”; and
 - (b) sub-paragraphs (iv) and (v) (distribution in respect of securities of subsidiaries of non-resident companies etc.) shall be omitted;
- and, in subsection (3) of that section, for “subsection (2)(d)” there shall be substituted “ subsection (2)(d), (da) ”.

^{F40}(3)

^{F41}(4)

^{F42F43}(5)

[^{F44}(6) In paragraph 5(5) of Schedule 4 to that Act (deep discount securities), for “section 209(2)(d)” there shall be substituted “ section 209(2)(d), (da) ”.]

- (7) This section has effect, subject to subsection (8) below, in relation to any interest or other distribution paid on or after 29th November 1994.
- (8) This section shall not have effect in relation to any interest or other distribution paid before 1st April 1995 in respect of any security if the security is one in the case of which a notice given before 29th November 1994 under Regulation 2(2) of the ^{M22}Double Taxation Relief (Taxes on Income) (General) Regulations 1970 was in force

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immediately before 29th November 1994 as regards payments of interest or other distributions made in respect of that security.

Textual Amendments

- F39** S. 87(1) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#)
- F40** S. 87(3) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#)
- F41** S. 87(4) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#)
- F42** S. 87(5) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#)
- F43** S. 87(5) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)
- F44** S. 87(6) repealed (29.4.1996 with effect as mentioned in ss. 80-105) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#)

Marginal Citations

- M22** [S.I. 1970/488](#).

Debts

[^{F45}88] **Generalisation of ss.63 to 66 of Finance Act 1993.** **U.K.**

- (1) In sections 63 to 66 of the ^{M23}Finance Act 1993 (deemed periodic disposal of certain debts), for “the resident company”, wherever occurring, substitute “ the creditor company ”.
- (2) After section 62 of that Act insert—

“ **Application of sections 63 to 66: supplementary.**

In sections 63 to 66 below as they apply by virtue of section 61 above—

- (a) “the creditor company” means the company identified in subsection (1) of that section as the person entitled to the debt (referred to there as “the resident company”); and
- (b) “the commencement date” means 1st April 1993.”.
- (3) In section 63 of that Act, omit subsection (12) (meaning of “commencement date”).
- (4) The above amendments shall be deemed always to have had effect.
- (5) Anything done before the passing of this Act under or by reference to the provisions of sections 63 to 66 of the Finance Act 1993 as originally enacted shall have effect as if done under or by reference to those provisions as amended by this section.]

Textual Amendments

- F45** S. 88 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#) Note

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Marginal Citations

M23 1993 c. 34.

[^{F46}89] Application of ss.63 to 66 to debts held by associates of banks. **U.K.**

- (1) A debt is a qualifying debt for the purposes of sections 63 to 66 of the ^{M24}Finance Act 1993 (deemed periodic disposal of certain debts) at any time if, at that time, the person entitled to the debt is a company which—
 - (a) is resident in the United Kingdom, and
 - (b) is an associated company of a company (whether or not itself resident in the United Kingdom) which carries on a banking business in the United Kingdom, and the debt is not an exempted debt as defined by the following provisions.
- (2) A debt is an exempted debt for those purposes at any time if at that time it is held by the company entitled to it for the purposes of long term insurance business.
- (3) A debt is an exempted debt for those purposes at any time if each of the first, second and third conditions mentioned below—
 - (a) is fulfilled at that time,
 - (b) has been fulfilled throughout so much of the period of the debt as falls before that time, and
 - (c) is likely to be fulfilled throughout so much of that period as falls after that time.
- (4) The first condition is that the terms of the debt provide that any interest carried by it shall be at a rate which falls into one, and one only, of the following categories—
 - (a) a fixed rate which is the same throughout the period of the debt,
 - (b) a rate which bears to a standard published rate the same fixed relationship throughout that period, and
 - (c) a rate which bears to a published index of prices the same fixed relationship throughout that period.
- (5) The second condition is that those terms provide for any such interest to be payable as it accrues at intervals of 12 months or less.
- (6) The third condition is that the terms of the debt are not such—
 - (a) in the case of a debt on a security, that the security is a deep discount or deep gain security, or
 - (b) in any other case, that if the debt were a debt on a security it would be a deep discount or deep gain security.

In this subsection “deep discount security” has the same meaning as in Schedule 4 to the Taxes Act 1988 and “deep gain security” has the same meaning as in Schedule 11 to the ^{M25}Finance Act 1989, disregarding paragraph 1(4)(c) of that Schedule.

- (7) In this section—

“associated company” shall be construed in accordance with section 416 of the Taxes Act 1988;

“long term insurance business” means insurance business of any of the classes specified in Schedule 1 to the ^{M26}Insurance Companies Act 1982; and

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“published index of prices” means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom.

- (8) In sections 63 to 66 of the ^{M27}Finance Act 1993 as they apply by virtue of this section “the creditor company” means the company identified in subsection (1) above as the person entitled to the debt.
- (9) In sections 63 to 66 of the ^{M28}Finance Act 1993 as they apply by virtue of this section “the commencement date” means—
- (a) in relation to a debt not falling within subsection (10) below, 29th November 1994; and
 - (b) in relation to a debt falling within that subsection, 1st April 1996.
- (10) A debt falls within this subsection if the person liable for it is—
- (a) an institution which is a higher education institution for the purposes of section 65 of the Further and Higher Education Act 1992 or Article 30 of the ^{M29}Education and Libraries (Northern Ireland) Order 1993,
 - (b) an institution which is an institution within the higher education sector for the purposes of the ^{M30}Further and Higher Education (Scotland) Act 1992, or
 - (c) a registered housing association within the meaning of the Housing Associations Act 1985 or Part II of the ^{M31}Housing (Northern Ireland) Order 1992,

and that person was so liable at the end of 28th November 1994.]

Textual Amendments

F46 S. 89 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

Marginal Citations

M24 1993 c. 34.
M25 1989 c. 26.
M26 1982 c. 50.
M27 1993 c. 34.
M28 1993 c. 34.
M29 1992 c. 13.
M30 1992 c. 37.
M31 1985 c. 69.

Reliefs

F4790 Relief for post-cessation expenditure. **U.K.**

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Textual Amendments

F47 S. 90 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 366, Sch. 3 Pt. 1 (with Sch. 2)

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

F4891 Employee liabilities and indemnity insurance. U.K.

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Textual Amendments

F48 Ss. 91-93 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

F4892 Post-employment deductions. U.K.

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Textual Amendments

F48 Ss. 91-93 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

F4893 Incidental overnight expenses etc. U.K.

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Textual Amendments

F48 Ss. 91-93 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

Capital allowances: ships

F4994 U.K.

Textual Amendments

F49 S. 94 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2](#), ss. 579(1), 580, **Sch. 4**

F5095 U.K.

Textual Amendments

F50 S. 95 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2](#), ss. 579(1), 580, **Sch. 4**

F5196 U.K.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Textual Amendments

F51 S. 96 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

F52⁹⁷ **U.K.**

Textual Amendments

F52 S. 97 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

F53⁹⁸ **U.K.**

Textual Amendments

F53 S. 98 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

Capital allowances: other provisions

F54⁹⁹ **U.K.**

Textual Amendments

F54 S. 99 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

F55¹⁰⁰ **U.K.**

Textual Amendments

F55 S. 98 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

F56¹⁰¹ **U.K.**

Textual Amendments

F56 S. 98 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 579(1), 580, **Sch. 4**

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102 Commencement of certain provisions. **U.K.**

- (1) Chapter IV of Part IV of the ^{M32}Finance Act 1994 (changes for facilitating self-assessment) shall be deemed to have been enacted with the following modification.
- (2) In section 218 (commencement etc. of Chapter IV, sections 213(4) and (8) and 214(4) and (6) of which relate to capital allowances) the following subsection shall be inserted after subsection (1)—
- “(1A) In a case where—
- (a) a trade is set up and commenced by a company, and
- (b) it is not set up and commenced before 6th April 1994,
- sections 213(4) and (8) and 214(4) and (6) have effect only if it is set up and commenced on or after 6th April 1995.”

Marginal Citations

M32 1994 c. 9.

Management: self-assessment etc.

103 Liability of trustees. **U.K.**

- (1) In subsection (2) of section 7 of the Management Act (notice of liability)—
- (a) for the words “a person who is” there shall be substituted the words “ persons who are ”; and
- (b) for the words “a trustee” there shall be substituted the words “ the relevant trustees ”.
- (2) After subsection (8) of that section there shall be inserted the following subsection—
- “(9) For the purposes of this Act the relevant trustees of a settlement are—
- (a) in relation to income, the persons who are trustees when the income arises and any persons who subsequently become trustees; and
- (b) in relation to chargeable gains, the persons who are trustees in the year of assessment in which the chargeable gains accrue and any persons who subsequently become trustees.”
- (3) In subsection (1) of section 8A of that Act (trustee’s return)—
- (a) for the words “a trustee” there shall be substituted the words “ the relevant trustees ”; and
- (b) for the words “the trustee”, in the first place where they occur, there shall be substituted the words “ any relevant trustee ”.
- (4) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) The following references, namely—
- (a) references in section 9 or 28C of this Act to a person to whom a notice has been given under this section being chargeable to tax; and
- (b) references in section 29 of this Act to such a person being assessed to tax,

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shall be construed as references to the relevant trustees of the settlement being so chargeable or, as the case may be, being so assessed.”

- (5) At the beginning of Part XI of that Act (miscellaneous and supplemental) there shall be inserted the following section—

“ Settlements

107A Relevant trustees.

- (1) Subject to the following provisions of this section, anything which for the purposes of this Act is done at any time by or in relation to any one or more of the relevant trustees of a settlement shall be treated for those purposes as done at that time by or in relation to the other or others of those trustees.
- (2) Subject to subsection (3) below, where the relevant trustees of a settlement are liable—
- (a) to a penalty under section 7, 12B, 93, 95 or 97AA of this Act or paragraph 2A of Schedule 1A to this Act, or to interest under section 103A of this Act on such a penalty;
 - (b) to make a payment in accordance with an assessment under section 30 of this Act, or to make a payment under section 59A or 59B of this Act;
 - (c) to a surcharge under section 59C of this Act, or to interest under that section on such a surcharge; or
 - (d) to interest under section 86 of this Act,
- the penalty, interest, payment or surcharge may be recovered (but only once) from any one or more of those trustees.
- (3) No amount may be recovered by virtue of subsection (2)(a) or (c) above from a person who did not become a relevant trustee until after the relevant time, that is to say—
- (a) in relation to so much of a penalty under section 93(3) or 97AA(1) (b) of this Act as is payable in respect of any day, or to interest under section 103A of this Act on so much of such a penalty as is so payable, the beginning of that day;
 - (b) in relation to a penalty under any other provision of this Act mentioned in subsection (2)(a) above, or to interest under section 103A of this Act on such a penalty, the time when the relevant act or omission occurred; and
 - (c) in relation to a surcharge under subsection (2) or (3) of section 59C of this Act, or to interest under that section on such a surcharge, the beginning of the day mentioned in that subsection;
- and in paragraph (b) above “the relevant act or omission” means the act or omission which caused the penalty to become payable.
- (4) In a case where—
- (a) subsection (2)(a) above applies in relation to a penalty under section 93 of this Act, or
 - (b) subsection (2)(c) above applies in relation to a surcharge under section 59C of this Act,

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subsection (8) of section 93 or, as the case may be, subsection (9) of section 59C of this Act shall have effect as if the reference to the taxpayer were a reference to each of the relevant trustees.”

- (6) In section 118 of that Act (interpretation), after the definition of “the principal Act” there shall be inserted the following definition—

““the relevant trustees”, in relation to a settlement, shall be construed in accordance with section 7(9) of this Act.”

- (7) Unless the contrary intention appears, this section, sections 104 to 115 below and Schedule 20 to this Act—

- (a) so far as they relate to income tax and capital gains tax, have effect as respects the year 1996-97 and subsequent years of assessment, and
- (b) so far as they relate to corporation tax, have effect as respects accounting periods ending on or after the appointed day for the purposes of Chapter III of Part IV of the ^{M33}Finance Act 1994.

Marginal Citations

M33 1994 c. 9.

104 Returns and self-assessments. U.K.

- (1) In each of the following, namely—
- (a) subsection (1A) of section 8 of the Management Act (personal return); and
 - (b) subsection (1A) of section 8A of that Act (trustee’s return),
- there shall be inserted at the end the words “ and the amounts referred to in that subsection are net amounts, that is to say, amounts which take into account any relief, allowance or repayment of tax for which a claim is made and give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies ”.
- (2) In subsection (1B) of section 8 of that Act, for the word “loss” there shall be substituted the words “ loss, tax, credit ”.
- (3) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) In this section and sections 8A, 9 and 12AA of this Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.”
- (4) In subsection (1) of section 9 of that Act (returns to include self-assessment), for the words “on the basis of the information contained in the return” there shall be substituted the following paragraphs—
- “(a) on the basis of the information contained in the return; and
 - (b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return and giving credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies.”.

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- [^{F57}(5) In subsection (1) of section 11AA of that Act (return of profits to include self-assessment), for the words “on the basis of the information contained in the return” there shall be substituted the following paragraphs—
- “(a) on the basis of the information contained in the return; and
 - (b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return.”.]
- (6) For subsection (1) of section 12AA of that Act (partnership return) there shall be substituted the following subsections—
- “(1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating the establishment of the following amounts, namely—
 - (a) the amount in which each partner chargeable to income tax for any year of assessment is so chargeable, and
 - (b) the amount in which each partner chargeable to corporation tax for any period is so chargeable,an officer of the Board may act under subsection (2) or (3) below (or both).
 - (1A) The amounts referred to in paragraphs (a) and (b) of subsection (1) above are net amounts, that is to say, amounts which—
 - (a) take into account any relief, allowance or repayment of tax for which a claim is made; and
 - (b) in the case of the amount referred to in paragraph (a) of that subsection, give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies.”
- (7) For subsection (1) of section 12AB of that Act (partnership return to include partnership statement) there shall be substituted the following subsection—
- “(1) Every return under section 12AA of this Act shall include a statement (a partnership statement) of the following amounts, namely—
 - (a) in the case of each period of account ending within the period in respect of which the return is made—
 - (i) the amount of income or loss from each source which, on the basis of the information contained in the return and taking into account any relief or allowance a section 42(7) claim for which is included in the return, has accrued to or has been sustained by the partnership for that period,
 - (ii) each amount of income tax which, on that basis, has been deducted or treated as deducted from any income of the partnership, or treated as paid on any such income, for that period,
 - (iii) the amount of each tax credit which, on that basis, has accrued to the partnership for that period, and
 - (iv) the amount of each charge which, on that basis, was a charge on the income of the partnership for that period; and
 - (b) in the case of each such period and each of the partners, the amount which, on that basis and (where applicable) taking into account any such relief or allowance, is equal to his share of that income, loss, tax, credit or charge.”

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- (8) In subsection (5) of that section, after the definition of “period of account” there shall be inserted the following definitions—

““section 42(7) claim” means a claim under any of the provisions mentioned in section 42(7) of this Act;

“tax credit” means a tax credit to which section 231 of the principal Act applies.”

Textual Amendments

F57 S. 104(5) repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28) Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28) Note; S.I. 1998/3173, art. 2

105 Records for purposes of returns. **U.K.**

- (1) In subsection (1) of section 12B of the Management Act (records to be kept for purposes of returns), for paragraph (b) there shall be substituted the following paragraph—

“(b) preserve those records until the end of the relevant day, that is to say, the day mentioned in subsection (2) below or, where a return is required by a notice given on or before that day, whichever of that day and the following is the latest, namely—

(i) where enquiries into the return or any amendment of the return are made by an officer of the Board, the day on which, by virtue of section 28A(5) or 28B(5) of this Act, those enquiries are treated as completed; and

(ii) where no enquiries into the return or any amendment of the return are so made, the day on which such an officer no longer has power to make such enquiries.”

- (2) In subsection (2) of that section, the words from “or, where a return” to the end shall cease to have effect.

- (3) After that subsection there shall be inserted the following subsection—

“(2A) Any person who—

(a) is required, by such a notice as is mentioned in subsection (1) above given at any time after the end of the day mentioned in subsection (2) above, to make and deliver a return for a year of assessment or other period; and

(b) has in his possession at that time any records which may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period,

shall preserve those records until the end of the relevant day, that is to say, the day which, if the notice had been given on or before the day mentioned in subsection (2) above, would have been the relevant day for the purposes of subsection (1) above.”

- (4) In subsection (3) of that section—

(a) in paragraph (a), after the words “subsection (1)” there shall be inserted the words “ or (2A) ”; and

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- (b) in paragraph (b), for the words “the day mentioned in subsection (2) above” there shall be substituted the words “ the end of the relevant day ”.
- (5) In subsection (4) of that section, after the words “subsection (1)” there shall be inserted the words “ or (2A) ”.
- (6) In subsection (5) of that section—
 - (a) at the beginning there shall be inserted the words “ Subject to subsection (5A) below, ”; and
 - (b) after the words “subsection (1)” there shall be inserted the words “ or (2A) ”.
- (7) After that subsection there shall be inserted the following subsection—

“(5A) Subsection (5) above does not apply where the records which the person fails to keep or preserve are records which might have been requisite only for the purposes of claims, elections or notices which are not included in the return.”

106 Return of employees’ emoluments etc. U.K.

- (1) For section 15 of the Management Act there shall be substituted the following section—

“15 Return of employees’ emoluments etc.

- (1) Every employer, when required to do so by notice from an officer of the Board, shall, within the time limited by the notice, prepare and deliver to the officer a return relating to persons who are or have been employees of his, containing the information required under the following provisions of this section.
- (2) An employer shall not be required to include in his return information relating to any year of assessment if the notice is given more than five years after the 31st January next following that year.
- (3) A notice under subsection (1) above—
 - (a) shall specify the employees for whom a return is to be made and may, in particular, specify individuals (by name or otherwise) or all employees of an employer or all his employees who are or have been in employment to which Chapter II of Part V of the principal Act applies; and
 - (b) shall specify the years of assessment or other periods with respect to which the information is to be provided.
- (4) A notice under subsection (1) above may require the return to state the name and place of residence of an employee to whom it relates.
- (5) A notice under subsection (1) above may require the return to contain, in respect of an employee to whom it relates, the following particulars—
 - (a) in the case of relevant payments made by the employer, particulars of the payments;
 - (b) in the case of relevant payments not falling within paragraph (a) above the making of which by another person has been arranged by the employer—
 - (i) particulars of the payments; and
 - (ii) the name and business address of the other person; and

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- (c) in the case of relevant payments not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, made the payments.
- (6) Any payments made to an employee in respect of his employment are relevant payments for the purposes of this section, including—
 - (a) payments to him in respect of expenses (including sums put at his disposal and paid away by him);
 - (b) payments made on his behalf and not repaid; and
 - (c) payments to him for services rendered in connection with a trade or business, whether the services were rendered in the course of his employment or not.
- (7) Where, for the purposes of his return, an employer apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters—
 - (a) the return shall contain a statement that the sum included in the return is the result of such an apportionment; and
 - (b) if required to do so by notice from an officer of the Board, the employer shall prepare and deliver to the officer, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which, and the grounds on which, the apportionment has been made.
- (8) A notice under subsection (1) above may require the return—
 - (a) to state in respect of an employee to whom it relates whether any benefits are or have been provided for him (or for any other person) by reason of his employment, such as may give rise to charges to tax under the relevant sections, that is to say, sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the principal Act (miscellaneous benefits in cash or in kind); and
 - (b) if such benefits are or have been provided, to contain such particulars of those benefits as may be specified in the notice.
- (9) Where such benefits are provided the notice may, without prejudice to subsection (8)(b) above, require the return to contain the following particulars—
 - (a) in the case of benefits which are or have been provided by the employer, particulars of the amounts which may be chargeable to tax by virtue of the relevant sections;
 - (b) in the case of benefits not falling within paragraph (a) above the provision of which by another person is or has been arranged by the employer—
 - (i) particulars of the amounts which may be so chargeable; and
 - (ii) the name and business address of the other person; and
 - (c) in the case of benefits not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, provided the benefits.
- (10) Where it appears to an officer of the Board that a person has, in any year of assessment, been concerned in making relevant payments to, or providing benefits to or in respect of, employees of another, the officer may at any time

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up to five years after the 31st January next following that year by notice require that person—

- (a) to deliver to the officer, within the time limited by the notice, such particulars of those payments or benefits, or of the amounts which may be chargeable to tax in respect of the benefits, as may be specified in the notice (so far as known to him); and
- (b) to include with those particulars the names and addresses (so far as known to him) of the employees concerned.

(11) In determining, in pursuance of a notice under subsection (1) or (10) above, amounts which may be chargeable to tax by virtue of the relevant sections, a person—

- (a) shall not make—
 - (i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant sections; or
 - (ii) any deduction authorised by section 141(3), 142(2), 145(3) or 156(8) of the principal Act; but
- (b) subject to that, shall make all such deductions and other adjustments as may be authorised or required by the relevant sections.

(12) Where the employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall be treated as the employer for the purposes of this section.

Where the employer is a body corporate, that body corporate, as well as the secretary or other officer, shall be liable to a penalty for failure to comply with this section.

(13) In this section—

“arranged” includes guaranteed and in any way facilitated;

“employee” means an office holder or employee whose emoluments fall to be assessed under Schedule E, and related expressions are to be construed accordingly;

“relevant payments” has the meaning given by subsection (6) above; and

“the relevant sections” has the meaning given by subsection (8)(a) above.”

(2) This section has effect as respects payments made or benefits provided on or after 6th April 1996.

107 Procedure for making claims etc. **U.K.**

(1) After subsection (1) of section 42 of the Management Act (procedure for making claims etc.) there shall be inserted the following subsection—

“(1A) Subject to subsection (3) below, a claim for a relief, an allowance or a repayment of tax shall be for an amount which is quantified at the time when the claim is made.”

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- (2) In subsection (2) of that section, for the words “subsection (3)” there shall be substituted the words “ subsections (3) and (3A) ”.
- (3) In subsection (3) of that section, for the words “Subsection (2)” there shall be substituted the words “ Subsections (1A) and (2) ”.
- (4) After subsection (3) of that section there shall be inserted the following subsections—
- “(3A) Where a person makes a claim requiring relief for a loss incurred or treated as incurred, or a payment made, in one year of assessment (“the later year”) to be given in an earlier year of assessment (“the earlier year”)—
- (a) subsection (2) above shall not apply in relation to the claim;
- (b) the claim shall be made in relation to the later year;
- (c) the claim shall be for an amount equal to the difference between—
- (i) the amount in which he has been assessed to tax under section 9 of this Act for the earlier year; and
- (ii) the amount in which he would have been so assessed if the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year; and
- (d) effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an addition to the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.
- (3B) Where no notice under section 8 or 8A of this Act has been given to the person for the earlier year, subsection (3A)(c) above shall have effect as if—
- (a) sub-paragraph (i) referred to the amount in which he would have been assessed to tax under section 9 of this Act for that year if such a notice had been so given; and
- (b) sub-paragraph (ii) referred to the amount in which he would have been so assessed if such a notice had been so given and the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year.”
- [^{F58}(5) In subsection (4) of that section, there shall be inserted at the beginning the words “ Subject to subsection (4A) below, ”.]
- [^{F58}(6) After subsection (4) of that section there shall be inserted the following subsection—
- “(4A) Subsection (4) above shall not apply where—
- (a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income; and
- (b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the principal Act.”]
- (7) In subsection (5) of that section, for the words “subsections (2) and (4) above” there shall be substituted the words “ this section ”.
- (8) In subsection (7)(a) of that section, for the words “sections 84” there shall be substituted the words “ sections 62A, 84 ”.
- (9) In subsection (10) of that section, after the words “This section” there shall be inserted the words “ (except subsection (1A) above) ”.

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- (10) In subsection (11) of that section, paragraph (b) and the word “and” immediately preceding that paragraph shall cease to have effect.
- (11) Schedule 1A to that Act (claims etc. not included in returns) shall have effect subject to the amendments specified in Schedule 20 to this Act.

Textual Amendments

- F58** S. 107(5)(6) repealed (31.7.1997 with effect as mentioned in Sch. 4 paras. 2, 3 of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)** Note 1 (with s. 3(3)); S. 107(5)(6) expressed to be repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28) Note of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note; S.I. 1998/3173, **art. 2**

^{F59F60}**108 Payments on account of income tax. U.K.**

Textual Amendments

- F59** S. 108 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 8 Pt. 1** (with Sch. 7)
- F60** S. 108 restored (22.7.2004) by **Finance Act 2004 (c. 12)**, **Sch. 17 para. 6(1)** (with Sch. 17 para. 6(2))

109 Surcharges on unpaid tax. U.K.

- (1) In section 59C of the Management Act (surcharges on unpaid income tax and capital gains tax), in subsection (4) (exceptions to surcharge), for the words “or 95” there shall be substituted the words “, 95 or 95A”.
- (2) That section of that Act shall apply in relation to any income tax or capital gains tax which—
- (a) is charged by an assessment made on or after 6th April 1998; and
 - (b) is for the year 1995-96 or an earlier year of assessment,
- as it applies in relation to any income tax or capital gains tax which becomes payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.

110 Interest on overdue tax. U.K.

- (1) For section 86 of the Management Act there shall be substituted the following section—

“86 Interest on overdue income tax and capital gains tax.

- (1) The following, namely—
- (a) any amount on account of income tax which becomes due and payable in accordance with section 59A(2) of this Act, and
 - (b) any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of this Act,

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shall carry interest at the rate applicable under section 178 of the ^{M34}Finance Act 1989 from the relevant date until payment.

- (2) For the purposes of subsection (1)(a) above the relevant date is whichever of the dates mentioned in section 59A(2) of this Act is applicable; and for the purposes of subsection (1)(b) above the relevant date is—
 - (a) in any such case as is mentioned in subsection (3) of section 59B of this Act, the last day of the period of three months mentioned in that subsection; and
 - (b) in any other case, the date mentioned in subsection (4) of that section.
- (3) Subsection (1) above applies even if the relevant date is a non-business day within the meaning of section 93 of the ^{M35}Bills of Exchange Act 1882.
- (4) Subsection (5) below applies where as regards a year of assessment—
 - (a) any person makes a claim under subsection (3) or (4) of section 59A of this Act in respect of the amounts (the section 59A amounts) payable by him in accordance with subsection (2) of that section, and
 - (b) an amount (the section 59B amount) becomes payable by him in accordance with section 59B(3), (4) or (5) of this Act.
- (5) Interest shall be payable under this section as if each of the section 59A amounts had been equal to—
 - (a) the aggregate of that amount and 50 per cent. of the section 59B amount, or
 - (b) the amount which would have been payable in accordance with subsection (2) of section 59A of this Act if the claim under subsection (3) or (4) of that section had not been made,
 whichever is the less.
- (6) In determining for the purposes of subsections (4) and (5) above what amount (if any) is payable by any person in accordance with section 59B(3), (4) or (5) of this Act—
 - (a) it shall be assumed that both of the section 59A amounts have been paid, and
 - (b) no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.
- (7) Subsection (8) below applies where as regards any person and a year of assessment—
 - (a) amounts (the section 59A amounts) become payable by him in accordance with section 59A(2) of this Act, and
 - (b) an amount (the section 59B amount) becomes repayable to him in accordance with section 59B (3), (4) or (5) of this Act.
- (8) So much of any interest payable under this section on either of the section 59A amounts as is not attributable to the amount by which that amount exceeds 50 per cent. of the section 59B amount shall be remitted.
- (9) In determining for the purposes of subsections (7) and (8) above what amount (if any) is repayable to any person in accordance with section 59B(3), (4) or (5) of this Act, no account shall be taken of any amount which has been paid

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on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.”

(2) That section of that Act shall apply in relation to any income tax or capital gains tax which—

- (a) is charged by an assessment made on or after 6th April 1998; and
- (b) is for the year 1995-96 or an earlier year of assessment,

as it applies in relation to any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.

(3) In that section of that Act as it so applies, “the relevant date” means the 31st January next following the year of assessment.

[^{F61}(4) So far as it relates to partnerships whose trades, professions or businesses were set up and commenced before 6th April 1994, subsection (1) above has effect as respects the year 1997-98 and subsequent years of assessment.]

Textual Amendments

F61 S. 110(4) inserted (*retrospectively*) by 1996 c. 8, s. 131(1)

Marginal Citations

M34 1989 c. 26.

M35 1882 c. 61.

^{F62}111 Assessments in respect of income taken into account under PAYE. U.K.

Textual Amendments

F62 S. 111 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

112 Recovery of certain amounts deducted or paid under MIRAS. U.K.

(1) After section 374 of the Taxes Act 1988 there shall be inserted the following section—

“374A Interest which never has been relevant loan interest etc.

- (1) This section applies where, in the case of any loan, interest on the loan never has been relevant loan interest or the borrower never has been a qualifying borrower.
- (2) Without prejudice to subsection (3) below, in relation to a payment of interest—
 - (a) as respects which either of the conditions mentioned in paragraphs (a) and (b) of section 374(1) is fulfilled, and
 - (b) from which a deduction was made as mentioned in section 369(1),

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section 369 shall have effect as if the payment of interest were a payment of relevant loan interest made by a qualifying borrower.

- (3) Nothing in subsection (2) above shall be taken as regards the borrower as entitling him to make any deduction or to retain any amount deducted and, accordingly, where any amount has been deducted, he shall be liable to make good that amount and an officer of the Board may make such assessments as may in his judgment be required for recovering that amount.
- (4) The Management Act shall apply to an assessment under subsection (3) above as if it were an assessment to income tax for the year of assessment in which the deduction was made and as if—
 - (a) the assessment were among those specified in section 55(1) of that Act (recovery of tax not postponed);
 - (b) the assessment were made for the purpose of making good to the Crown a loss of tax wholly attributable to such a failure or error as is mentioned in subsection (1) of section 88 of that Act (interest on tax recovered to make good loss due to taxpayer's fault); and
 - (c) for the purposes of that section the date when the tax ought to have been paid were the 1st December following the year of assessment.
- (5) If the borrower fraudulently or negligently makes any false statement or representation in connection with the making of any deduction, he shall be liable to a penalty not exceeding the amount deducted.”
- (2) In subsection (2) of section 375 of that Act (interest ceasing to be relevant loan interest etc.), after paragraph (a) there shall be inserted the following paragraph—
 - “(aa) as respects which any of the conditions mentioned in section 374(1) is fulfilled, and”.
- (3) For subsection (4) of that section there shall be substituted the following subsections—
 - “(4) The Management Act shall apply to an assessment under subsection (3) above as it applies, by virtue of subsection (4) of section 374A, to an assessment under subsection (3) of that section.
 - (4A) If there is any unreasonable delay in the giving of a notice under subsection (1) above, the borrower shall be liable to a penalty not exceeding so much of the aggregate amount that he is liable to make good under subsection (3) above as is attributable to that delay.”
- (4) After subsection (8) of that section there shall be inserted the following subsection—
 - “(8A) In any case where an amount to which a person is not entitled is paid to him by the Board in pursuance of regulations made by virtue of subsection (8) above, regulations may—
 - (a) provide for an officer of the Board to make such assessments as may in his judgment be required for recovering that amount from that person; and
 - (b) make provision corresponding to that made by subsection (4A) above and subsections (4) and (5) of section 374A.”
- (5) This section applies in relation to deductions made by borrowers, and payments made by the Board, after the passing of this Act.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

113 Allowable losses: capital gains tax. **U.K.**

(1) After subsection (2) of section 16 of the ^{M36}Taxation of Chargeable Gains Act 1992 (computation of losses) there shall be inserted the following subsection—

“(2A) A loss accruing to a person in a year of assessment shall not be an allowable loss for the purposes of this Act unless, in relation to that year, he gives a notice to an officer of the Board quantifying the amount of that loss; and sections 42 and 43 of the Management Act shall apply in relation to such a notice as if it were a claim for relief.”

(2) Deductions under that Act in respect of allowable losses shall be given preference as follows—

- (a) a deduction in respect of a loss accruing to a person in the year 1996-97 or a subsequent year of assessment shall be preferred to a deduction in respect of a loss accruing to him in an earlier year of assessment; and
- (b) a deduction in respect of a loss accruing to a company in an accounting period ending on or after the appointed day for the purposes of Chapter III of Part IV of the ^{M37}Finance Act 1994 shall be preferred to a deduction in respect of a loss accruing to the company in an accounting period ending before that day.

Modifications etc. (not altering text)

C1 S. 113(2) excluded (27.7.1999) by 1992 c. 12, s. 71(2C) (as substituted (27.7.1999) by 1999 c. 16, s. 75(1))

Marginal Citations

M36 1992 c. 12.

M37 1994 c. 9.

114 Liability of trustees and personal representatives: capital gains tax. **U.K.**

(1) For subsection (1) of section 65 of the ^{M38}Taxation of Chargeable Gains Act 1992 (liability for tax of trustees and personal representatives) there shall be substituted the following subsection—

“(1) Subject to subsection (3) below, capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of the relevant trustees or the relevant personal representatives.”

(2) After subsection (2) of that section there shall be inserted the following subsections—

“(3) Where section 80 applies as regards the trustees of a settlement (“the migrating trustees”), nothing in subsection (1) above shall enable any person—

- (a) who ceased to be a trustee of the settlement before the end of the relevant period, and
- (b) who shows that, when he ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the United Kingdom,

to be assessed and charged to any capital gains tax which is payable by the migrating trustees by virtue of section 80(2).

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

(4) In this section—

“the relevant period” has the same meaning as in section 82;

“the relevant trustees”, in relation to any chargeable gains, means the trustees in the year of assessment in which the chargeable gains accrue and any subsequent trustees of the settlement, and “the relevant personal representatives” has a corresponding meaning.”

Marginal Citations

M38 1992 c. 12.

115 Minor amendments and repeals. U.K.

- (1) In subsection (7) of section 7 of the Management Act (notice of liability), for the words “income from which” there shall be substituted the words “ income on which ”.
- (2) In subsection (3) of section 9 of that Act (returns to include self-assessment), the words “the following provisions of” shall cease to have effect.
- (3) Section 11A of that Act (notice of liability to capital gains tax) shall cease to have effect.
- (4) In subsection (2) of section 12AA of that Act (partnership return), for the words “such accounts and statements” there shall be substituted the words “ such accounts, statements and documents, relating to information contained in the return, ”.
- (5) In subsection (1)(c) of section 30B of that Act (amendment of partnership statement where loss of tax discovered), after the word “relief” there shall be inserted the words “ or allowance ”.
- (6) In subsection (6) of section 59B of that Act (payment of income tax and capital gains tax), for the words “under section 29 of this Act shall” there shall be substituted the words “ otherwise than under section 9 of this Act shall, unless otherwise provided, ”.
- (7) In subsection (1) of section 100B of that Act (appeals against penalty determinations), after the words “95A of this Act” there shall be inserted the word “ and ”.
- (8) In section 103A of that Act (interest on penalties), for the words “Part II or VA” there shall be substituted the words “ Part II, IV or VA ”.
- (9) Section 73 of the Taxes Act 1988 (single assessments for purposes of Cases III, IV and V of Schedule D) shall cease to have effect.
- (10) In sections 536 and 537B of that Act (taxation of royalties where owner abroad)—
 - (a) in subsection (2) (exemption from requirement to deduct tax from royalties), the words “are shown on a claim to” shall cease to have effect; and
 - (b) in subsection (4) (deduction of tax where agent’s commission unknown), the words from “and in that case” to the end shall cease to have effect.
- (11) In Schedule 3 to that Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D), in paragraph 6E, subparagraphs (1) and (3) shall cease to have effect.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

- (12) Section 7 of the ^{M39}Taxation of Chargeable Gains Act 1992 (time for payment of capital gains tax) shall cease to have effect.
- (13) Subsection (3) above has effect as respects the year 1995-96 and subsequent years of assessment.

Marginal Citations

M39 1992 c. 12.

116 Transitional provisions. U.K.

- (1) The provisions of the Management Act specified in Schedule 21 to this Act shall have effect subject to the transitional provisions contained in that Schedule.
- (2) Section 198 of the ^{M40}Finance Act 1994 (which is superseded by this section) shall cease to have effect.

Marginal Citations

M40 1994 c. 9.

Changes for facilitating self-assessment

117 Treatment of partnerships. U.K.

- (1) Section 215 of the ^{M41}Finance Act 1994 (treatment of partnerships) shall have effect, and shall be deemed always to have had effect, as if—
- for the section set out in subsection (1) of that section there were substituted the section set out in subsection (2) below;
 - after the said subsection (1) there were inserted the subsection set out in subsection (3) below;
 - in subsection (2) of section 215, the word “ and ” were inserted immediately after paragraph (a), and paragraph (c) and the word “and” immediately preceding that paragraph were omitted; and
 - in subsection (3) of that section, in paragraph (a), for the words from “in subsection (3)” to the end there were substituted the words “ subsections (3) and (4) ”.
- (2) Subject to subsection (4) below, the section referred to in subsection (1)(a) above is as follows—

“111 Treatment of partnerships.

- (1) Where a trade or profession is carried on by persons in partnership, the partnership shall not, unless the contrary intention appears, be treated for the purposes of the Tax Acts as an entity which is separate and distinct from those persons.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

- (2) So long as a trade or profession is carried on by persons in partnership, and any of those persons is chargeable to income tax, the profits or gains or losses arising from the trade or profession (“the actual trade or profession”) shall be computed for the purposes of income tax in like manner as if—
 - (a) the partnership were an individual; and
 - (b) that individual were an individual resident in the United Kingdom.
- (3) A person’s share in the profits or gains or losses arising from the actual trade or profession which for any period are computed in accordance with subsection (2) above shall be determined according to the interests of the partners during that period.
- (4) Where a person’s share in any profits or gains or losses is determined in accordance with subsection (3) above, sections 60 to 63A shall apply as if—
 - (a) that share of the profits or gains or losses derived from a trade or profession carried on by him alone;
 - (b) that trade or profession (“the deemed trade or profession”) had been set up and commenced by him at the time when he became a partner or, where the actual trade or profession was previously carried on by him alone, the time when the actual trade or profession was set up and commenced;
 - (c) as regards each year of assessment, any accounting date or accounting change of the actual trade or profession were also an accounting date or accounting change of the deemed trade or profession;
 - (d) subsection (2) of section 62 applied in relation to any accounting change of the deemed trade or profession if, and only if, on the assumption that the partnership were an individual, that subsection would apply in relation to the corresponding accounting change of the actual trade or profession; and
 - (e) the deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner or, where the actual trade or profession is subsequently carried on by him alone, the time when the actual trade or profession is permanently discontinued.
- (5) Where section 62(2) does not apply in relation to any accounting change of the deemed trade or profession which is made or treated as made in the year of assessment next following or next but one following the commencement year, sections 60(3)(a) and 61(2)(a) shall apply as if the old date in that year were the accounting date.
- (6) For the purpose of determining whether, on the assumption that the partnership were an individual, section 62(2) would apply in relation to an accounting change of the actual trade or profession—
 - (a) a notice may be given under subsection (3) of section 62A; and
 - (b) an appeal may be brought under subsection (6) of that section,by such one of the partners as may be nominated by them for the purposes of this subsection.
- (7) Where—
 - (a) subsections (2) and (3) above apply in relation to the profits or gains or losses of a trade or profession carried on by persons in partnership; and

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- (b) other income or other relieviable losses accrue to those persons by virtue of their being partners,
- those subsections shall apply as if references to the profits or gains or losses arising from the trade or profession included references to that other income or those other relieviable losses.
- (8) Where a person's share in any untaxed income from one or more sources, or in any relieviable losses, is determined in accordance with subsection (3) as applied by subsection (7) above, sections 60 to 63A shall apply as if—
- (a) that share of that income or of those losses were profits or gains or losses of a trade or profession carried on by that person alone;
 - (b) that trade or profession (“the second deemed trade or profession”) had been set up and commenced by him at the time when he became a partner;
 - (c) paragraphs (c) and (d) of subsection (4) and subsection (5) above applied in relation to the second deemed trade or profession as they apply in relation to the other deemed trade or profession;
 - (d) the second deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner; and
 - (e) each source of the income were treated as continuing until the second deemed trade or profession is treated as permanently discontinued.
- (9) Where—
- (a) the basis period for any year of assessment is given by section 62(2)
 - (b) in the case of a person's second deemed trade or profession, or such a trade or profession is treated as permanently discontinued in any year of assessment; and
 - (b) the amount falling to be deducted under subsection (1) or (3) of section 63A exceeds that person's share, as determined in accordance with subsection (3) as applied by subsection (7) above, in any untaxed income,
- the amount of the excess shall be deducted in computing that person's income for that year.
- (10) Subsections (1) to (3) above apply in relation to persons in partnership by whom a business which is not a trade or profession is carried on as they apply in relation to persons in partnership by whom a trade or profession is carried on.
- (11) In subsections (2) and (3) above as applied by subsection (10) above, references to the profits or gains or losses arising from the trade or profession shall have effect as references to any income or relieviable losses arising from the business.
- (12) In this section—
- “accounting change” and “the old date” have the meanings given by section 62(1);
 - “accounting date” has the meaning given by section 60(5);
 - “the commencement year”, in relation to the deemed trade or profession or the second deemed trade or profession, means the year of assessment in which that trade or profession is deemed to have been set up and commenced;

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“income” means any income (whether or not chargeable under Schedule D);

“untaxed income” means income which is not—

- (a) income from which income tax has been deducted;
- (b) income from or on which income tax is treated as having been deducted or paid; or
- (c) income chargeable under Schedule F.

(13) In this section—

- (a) any reference to sections 60 to 63A includes a reference to those sections as applied in relation to losses by section 382(3) and (4) and section 385(1); and
- (b) any reference to a person becoming or ceasing to be a partner is a reference to his beginning or, as the case may be, ceasing to carry on the actual trade or profession in partnership with other persons.”

(3) The subsection referred to in subsection (1)(b) above is as follows—

“(1A) In subsection (2) of section 110 of that Act (interpretation of sections 103 to 109A), for the words from “any event” to the end there shall be substituted the following paragraphs—

- (a) any event which, under section 113 or 337(1), is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation; or
- (b) in relation to a trade or profession carried on by a person in partnership with other persons, any event which, under subsection (4) of section 111, is to be treated as equivalent to the permanent discontinuance of his deemed trade or profession (within the meaning of that subsection)”.

(4) As respects the year 1994-95, the section set out in subsection (2) above shall have effect as if, in subsection (2) of that section, paragraph (b) and the word “and” immediately preceding that paragraph were omitted.

Marginal Citations
M41 1994 c. 9.

^{F63} **118 Loss relief: general. U.K.**

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Textual Amendments
F63 S. 118 repealed (6.4.2007) by *Income Tax Act 2007 (c. 3)*, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

^{F64} **119 Relief for losses on unquoted shares. U.K.**

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Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Textual Amendments

F64 S. 119 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

120 Relief for pre-trading expenditure. U.K.

- (1) In section 401 of the Taxes Act 1988 (relief for pre-trading expenditure)—
- (a) in subsection (1), for the words from “treated” to the end there shall be substituted the words “ treated as incurred on the day on which the trade, profession or vocation is first carried on by him ”; and
 - (b) subsection (2) shall cease to have effect.
- (2) This section has effect as respects trades, professions and vocations which are set up and commenced on or after 6th April 1995.

121 Basis of apportionment for Cases I, II and VI of Schedule D. U.K.

In section 72(2) of the Taxes Act 1988 (apportionments etc. for purposes of Cases I, II and VI of Schedule D) for the words “months, or fractions of months,” there shall be substituted the word “ days ”.

F65 122 Amendments of transitional provisions. U.K.

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Textual Amendments

F65 S. 122 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

123 Prevention of exploitation of transitional provisions. U.K.

Schedule 22 to this Act shall have effect for preventing the exploitation of, and (in certain cases) penalising attempts to exploit, the transitional provisions set out in paragraphs [^{F66}52 and 53 of Schedule 2 to the [Income Tax \(Trading and Other Income\) Act 2005](#)] (changes for facilitating self-assessment: transitional provisions and savings).

Textual Amendments

F66 Words in s. 123 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 478](#) (with [Sch. 2](#))

Change of residence and non-residents

F67 124 Change of residence. U.K.

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Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

Textual Amendments

F67 S. 124 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

125 Non-resident partners. **U.K.**

- (1) The provisions of the Taxes Act 1988 to which sections 215 and 216 of the ^{M42}Finance Act 1994 (partnerships and change of ownership of trade etc.) relate shall have effect as respects the year 1995-96 and subsequent years of assessment as if subsection (5) (b) of section 215 (amendments not to apply until the year 1997-98 to partnerships controlled abroad) were omitted; and the ^{M43}Taxes Act 1988 shall have effect—
- (a) as respects the year 1997-98 and subsequent years of assessment, and
 - (b) in its application with the amendments made by those sections to partnerships whose trades, professions or businesses were set up and commenced on or after 6th April 1994, as respects the years 1995-96 and 1996-97,
- with the further amendments specified in the following provisions of this section.

^{F68}(2)

^{F68}(3)

- (4) In section 114(1) (partnerships including companies), after the word “company”, in the second place where it occurs, there shall be inserted “ and, subject to section 115(4), as if that company were resident in the United Kingdom ”.
- (5) In section 115 (provisions supplementary to section 114), for subsections (4) and (5) there shall be substituted the following subsections—
- “(4) So long as a trade, profession or business is carried on by persons in partnership and any of those persons is a company which is not resident in the United Kingdom, section 114 shall have effect in relation to that company as if—
- (a) the reference in subsection (1) to a company resident in the United Kingdom were a reference to a company that is not so resident; and
 - (b) in subsection (2), after “carried on” there were inserted “in the United Kingdom through a branch or agency”.
- (5) Where the partners in a partnership include a company, subsections (4) and (5) of section 112 shall apply for the purposes of corporation tax as well as for the purposes of income tax, and section 114 shall have effect accordingly.”

Textual Amendments

F68 S. 125(2)(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

Marginal Citations

M42 1994 c. 9.

M43 1994 c. 9.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

126 UK representatives of non-residents. **U.K.**

- (1) Schedule 23 to this Act shall have effect for imposing obligations and liabilities in relation to income tax ^{F69}... and capital gains tax on a branch or agency which, under this section, is the UK representative of a person who is not resident in the United Kingdom (“the non-resident”).
- (2) Subject to the following provisions of this section and to section 127 below, a branch or agency in the United Kingdom through which the non-resident carries on (whether solely or in partnership) any trade, profession or vocation shall, for the purposes of this section and Schedule 23 to this Act, be the non-resident’s UK representative in relation to the following amounts, that is to say—
 - (a) the amount of any such income from the trade, profession or vocation as arises, directly or indirectly, through or from that branch or agency;
 - (b) the amount of any income from property or rights which are used by, or held by or for, that branch or agency; [^{F70}and]
 - (c) amounts which, by reference to that branch or agency, are chargeable to capital gains tax under section 10 of the ^{M44}Taxation of Chargeable Gains Act 1992 (non-residents) ^{F71}... ; ^{F72}...
^{F72}(d)
- (3) For the purposes of this section and Schedule 23 to this Act, the non-resident’s UK representative in relation to any amount shall continue to be the non-resident’s UK representative in relation to that amount even after ceasing to be a branch or agency through which the non-resident carries on the trade, profession or vocation in question.
- (4) For the purposes of this section and Schedule 23 to this Act, the non-resident’s UK representative in relation to any amount shall be treated, where he would not otherwise be so treated, as if he were a separate and distinct person from the non-resident.
- (5) Where the branch or agency through which the non-resident carries on the trade, profession or vocation is one carried on by persons in partnership, the partnership, as such, shall be deemed for the purposes of this section and Schedule 23 to this Act to be the non-resident’s UK representative in relation to the amounts mentioned in subsection (2) above.
- (6) Where a trade or profession carried on by the non-resident through a branch or agency in the United Kingdom is one carried on by him in partnership, the trade or profession carried on through that branch or agency shall be deemed, for the purposes of this section and Schedule 23 to this Act, to include [^{F73}the notional or deemed trade or profession].
- (7) For the purposes of this section and Schedule 23 to this Act where—
 - (a) a trade or profession carried on by the non-resident in the United Kingdom is one carried on by him in partnership, and
 - (b) any member of that partnership is resident in the United Kingdom, [^{F73}the notional or deemed trade or profession] shall be treated (in addition, where subsection (6) above also applies, to being treated as included in a trade or profession carried on through any such branch or agency as is mentioned in that subsection) as a trade carried on in the United Kingdom through the partnership as such.

^{F74}(7A) In subsections (6) and (7) “the notional or deemed trade or profession” means—

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- (a) the notional trade from which the non-resident's share in the partnership's profits or losses is treated for the purposes of section 852 of the Income Tax (Trading and Other Income) Act 2005 as deriving, or
- (b) the deemed trade or profession from which that share is treated for the purposes of section 114 of the Taxes Act as deriving.]

[^{F75}(8) In this section, “branch or agency” means any factorship, agency, receivership, branch or management.]

(9) This section and Schedule 23 to this Act apply—

- (a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment; ^{F76}...

^{F76}(b)

[^{F77}(10) This section does not apply in relation to income tax chargeable on income of a company otherwise than as a trustee.]

Textual Amendments

- F69** Words in s. 126(1) repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(2\)](#), [Sch. 43 Pt. 3\(6\)](#)
- F70** Word in s. 126(2)(b) inserted (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(3\)\(a\)](#)
- F71** Words in s. 126(2)(c) repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(3\)\(b\)](#), [Sch. 43 Pt. 3\(6\)](#)
- F72** S. 126(2)(d) and preceding word repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(3\)\(c\)](#), [Sch. 43 Pt. 3\(6\)](#)
- F73** Words in s. 126(6)(7) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 479\(2\)](#) (with [Sch. 2](#))
- F74** S. 126(7A) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 479\(3\)](#) (with [Sch. 2](#))
- F75** S. 126(8) substituted (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(4\)](#)
- F76** S. 126(9)(b) and preceding word repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(5\)](#), [Sch. 43 Pt. 3\(6\)](#)
- F77** S. 126(10) inserted (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 4\(6\)](#)

Modifications etc. (not altering text)

- C2** S. 126(6)(7) amended (31.7.1998) by [1998 c. 36](#), s. 46(3), [Sch. 7 para. 10](#)

Marginal Citations

- M44** [1992 c. 12](#).

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127 Persons not treated as UK representatives. **U.K.**

- (1) For the purposes of section 126 above and Schedule 23 to this Act, none of the following persons shall be capable of being the non-resident's UK representative in relation to income or other amounts falling within paragraphs [^{F78}(a) to (c)] of section 126(2) above, that is to say—
- (a) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to transactions carried out through a person who (though an agent of the non-resident) does not act in relation to the transactions in the course of carrying on a regular agency for the non-resident, that agent;
 - (b) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to transactions carried out through a broker and falling within subsection (2) below, that broker;
 - (c) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to investment transactions carried out through an investment manager and falling within subsection (3) below, that manager;
 - [^{F79}[^{F80}(ca)] where the income consists of alternative finance return, as defined by subsection (5) of section 47 of the Finance Act 2005, the other party to the arrangements falling within that section or any other person acting for the non-resident in relation to the arrangements;]
 - [^{F81}(cb) where the income consists of profit share return in accordance with arrangements to which section 49A of FA 2005 applies (alternative finance arrangements: profit share agency), the other party to the arrangements or any other person acting for the non-resident in relation to the arrangements;]and
 - (d) where the non-resident is a member of Lloyd's and the income arises from, or the other amounts are chargeable by reference to, his underwriting business, any person who, in relation to or to matters connected with that income or those amounts, has been the non-resident's members' agent or the managing agent of the syndicate in question.
- (2) For the purposes of subsection (1)(b) above where any income arises from, or other amounts are chargeable by reference to, so much of any business as relates to any transaction carried out through a broker, that transaction shall be taken, in relation to the income or other amounts ("the taxable sums"), to fall within this subsection if—
- (a) at the time of the transaction, the broker was carrying on the business of a broker;
 - (b) the transaction was carried out by the broker on behalf of the non-resident in the ordinary course of that business;
 - (c) the remuneration which the broker received for the provision of the services of a broker to the non-resident in respect of that transaction was at a rate not less than that which would have been customary for that class of business; and
 - (d) the non-resident does not fall (apart from this paragraph) to be treated as having the broker as his UK representative in relation to any income or other amounts not included in the taxable sums but chargeable to tax for the same chargeable period.
- (3) For the purposes of subsection (1)(c) above where any income arises from, or other amounts are chargeable by reference to, so much of any business as relates to any investment transaction, that transaction shall be taken, in relation to that income or

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those amounts (“the taxable sums”), to have been carried out through an investment manager and to fall within this subsection if—

- (a) the transaction was carried out on behalf of the non-resident by a person (“the manager”) who at the time was carrying on a business of providing investment management services;
 - (b) the transaction was carried out in the ordinary course of that business;
 - (c) the manager, when he acted on behalf of the non-resident in relation to the transaction, did so in an independent capacity;
 - (d) the requirements of subsection (4) below are satisfied in relation to the transaction;
 - (e) the remuneration which the manager received for the provision to the non-resident of the investment management services in question was at a rate which was not less than that which would have been customary for that class of business; and
 - (f) the non-resident does not fall (apart from this paragraph) to be treated as having the manager as his UK representative in relation to any income or other amounts not included in the taxable sums but chargeable to tax for the same chargeable period.
- (4) Subject to subsections (9) to (11) below, the requirements of this subsection are satisfied in relation to any transaction if—
- (a) there is a qualifying period in relation to which it has been or is the intention of the manager and the persons connected with him that the non-resident’s relevant excluded income should, as to at least 80 per cent., consist of amounts to which neither the manager nor any such person has a beneficial entitlement; and
 - (b) to the extent that there is a failure to fulfil that intention, that failure—
 - (i) is attributable (directly or indirectly) to matters outside the control of the manager and persons connected with him; and
 - (ii) does not result from a failure by the manager or any of those persons to take such steps as may be reasonable for mitigating the effect of those matters in relation to the fulfilment of that intention.
- (5) For the purposes of this section any reference to the relevant excluded income of the non-resident for a qualifying period is a reference to the aggregate of such of the profits and gains of the non-resident for the chargeable periods comprised in the qualifying period as—
- (a) derive from transactions carried out by the manager while acting on the non-resident’s behalf; and
 - (b) for the purposes of [F82 Chapter 1 of Part 14 of the Income Tax Act 2007 (limits on liability to income tax of non-UK residents) would fall (apart from the requirements of section 819 of that Act) to be treated as disregarded income (see section 813 of that Act)] for any of those chargeable periods.
- (6) For the purposes of this section any reference to an amount of relevant excluded income to which a person has a beneficial entitlement is a reference to so much of any amount to which he has or may acquire a beneficial entitlement by virtue of—
- (a) any interest of his (whether or not an interest giving a right to an immediate payment of a share in the profits or gains) in property in which the whole or any part of that income is represented, or
 - (b) any interest of his in or other rights in relation to the non-resident,

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as is or would be attributable to that income.

- (7) For the purposes of subsections (4) to (6) above references to a qualifying period, in relation to any transaction, are references to any period consisting in or including the chargeable period for which the taxable sums are chargeable to tax, being, in a case where it is not that chargeable period, a period of not more than five years comprising two or more complete chargeable periods.
- (8) Where there is a transaction which would fall within subsection (3) above but for its being a transaction in relation to which the requirements of subsection (4) above are not satisfied, this section shall have effect as if the transaction did fall within subsection (3) above but only in relation to so much of the amount of the taxable sums as does not represent any amount of the non-resident's relevant excluded income to which the manager or a person connected with him has or has had any beneficial entitlement.
- (9) Subsections (10) and (11) below shall apply, where amounts arise or accrue to the non-resident as a participant in a collective investment scheme, for the purpose of determining whether a transaction carried out for the purposes of that scheme, in so far as it is a transaction in respect of which any such amounts arise or accrue to him, is one in relation to which the requirements of subsection (4) above are satisfied.
- (10) Those requirements shall be deemed to be satisfied in relation to the transaction wherever the collective investment scheme is such that, if the following assumptions applied, namely—
- (a) that all transactions carried out for the purposes of the scheme were carried out on behalf of a company constituted for the purposes of the scheme and resident outside the United Kingdom, and
 - (b) that the participants did not have any rights in respect of the amounts arising or accruing in respect of those transactions other than the rights which, if they held shares in the company on whose behalf the transactions are assumed to be carried out, would be their rights as shareholders,
- the assumed company would not, in relation to the chargeable period in which the taxable sums are chargeable to tax, be regarded for tax purposes as a company carrying on a trade in the United Kingdom.
- (11) Where, on those assumptions, the assumed company would be so regarded for tax purposes, subsections (4) to (8) above shall have effect in relation to the transaction as if, applying those assumptions—
- (a) references to the non-resident were references to the assumed company; and
 - (b) the following subsection were substituted for subsection (5) above, namely—
- “(5) In subsection (4) above the reference to the assumed company's relevant excluded income for a qualifying period is a reference to the aggregate of the amounts which would, for the chargeable periods comprised in the qualifying period, be chargeable to tax on that company as profits deriving from the transactions carried out by the manager and assumed to be carried out on the company's behalf.”
- (12) In this section “investment transactions” means—
- (a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land,

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- (b) transactions consisting in the buying or selling of any foreign currency or in the placing of money at interest, and
- (c) such other transactions as the Treasury may by regulations designate for the purposes of this section;

and the power to make regulations for the purposes of paragraph (c) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

- (13) For the purposes of subsection (12) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.
- (14) The preceding provisions of this section shall have effect in the case of a person who acts as a broker or provides investment management services as part only of a business as if that part were a separate business.
- (15) For the purposes of this section—
- (a) a person shall be taken to carry out a transaction on behalf of another where he undertakes the transaction himself, whether on behalf of or to the account of that other, and also where he gives instructions for it to be so carried out by another; and
 - (b) the references to the income arising from so much of a business as relates to transactions carried out through a branch or agency on behalf of the non-resident shall include references to income from property or rights which, as a result of the transactions, are used by, or held by or for, that branch or agency.
- (16) In paragraph (d) of subsection (1) above—
- (a) the reference to a member of Lloyd’s is a reference to any person who is a member within the meaning of Chapter III of Part II of the Finance Act 1993 or a corporate member within the meaning of Chapter V of Part IV of the ^{M45}Finance Act 1994, and
 - (b) the references to a members’ agent and to a managing agent shall also be construed in accordance with section 184 of that Act of 1993 or, as the case may be, section 230 of that Act of 1994.
- (17) In this section—
- “branch or agency” has the same meaning as in [^{F83}section 126 above];
- [^{F84}“collective investment scheme” has the meaning given by section 235 of the Financial Services and Markets Act 2000 and “participant”, in relation to such a scheme, shall be construed in accordance with that section;]
- and [^{F85}section 993 of the Income Tax Act 2007] (connected persons) shall apply for the purposes of this section.
- (18) For the purposes of this section a person shall not be regarded as acting in an independent capacity when acting on behalf of the non-resident unless, having regard to its legal, financial and commercial characteristics, the relationship between them is a relationship between persons carrying on independent businesses that deal with each other at arm’s length.
- (19) This section applies—

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- (a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment; ^{F86}...
- ^{F86}(b)

Textual Amendments

- F78** Words in s. 127(1) substituted (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 5\(2\)](#)
- F79** S. 127(1)(cc) inserted (with effect in accordance with s. 56 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 48\(3\)](#)
- F80** S. 127(1)(ca): s. 127(1)(cc) renumbered as s. 127(1)(ca) (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 95\(10\)](#)
- F81** S. 127(1)(cb) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 95\(10\)](#)
- F82** Words in s. 127(5)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 367\(2\)](#) (with [Sch. 2](#))
- F83** Words in s. 127(17) substituted (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 5\(4\)](#)
- F84** S. 127(17): definition of “collective investment scheme” substituted (1.12.2001) for definitions of “collective investment scheme” and “participant” by [S.I. 2001/3629](#), [art. 89](#)
- F85** Words in s. 127(17) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 367\(3\)](#) (with [Sch. 2](#))
- F86** S. 127(19)(b) and preceding word repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 5\(5\)](#), [Sch. 43 Pt. 3\(6\)](#)

Marginal Citations

- M45** 1993 c. 34.

^{F87}**128 Limit on income chargeable on non-residents: income tax.** **U.K.**

.....

Textual Amendments

- F87** S. 128 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 368](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F88}**129 Limit on income chargeable on non-residents: corporation tax.** **U.K.**

.....

Textual Amendments

- F88** S. 129 repealed (with effect in relation to accounting periods beginning on or after 1.1.2003 in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 7](#), [Sch. 43 Pt. 3\(6\)](#)

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Exchange gains and losses and currency contracts

130 Exchange gains and losses: general. U.K.

Schedule 24 to this Act (which amends the provisions of the ^{M46}Finance Act 1993 relating to exchange gains and losses and other provisions connected with exchange gains and losses) shall have effect.

Marginal Citations

M46 1993 c. 34.

131 Exchange gains and losses: transitional provision. U.K.

F89

Textual Amendments

F89 S. 131 repealed (24.7.2002 with effect as mentioned in s.79(3) of the amending Act) by Finance Act 2002 (c. 23), ss 79, 141, Sch. 23 para. 22(2), Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 para. 25)

132 Currency contracts: transitional provisions. U.K.

F90

Textual Amendments

F90 S. 132 repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(13) Note 2 of the amending Act) by Finance Act 2002 (c. 23), s. 141, Sch. 40 Pt 3(13) Note 2

Provisions with a foreign element

133 Controlled foreign companies. U.K.

Schedule 25 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988 and connected amendments) shall have effect.

134 Offshore funds. U.K.

F91(1)

F91(2)

F91(3)

(4) In Schedule 27 to the Taxes Act 1988 (distributing funds) in Part I (the distribution test) in paragraph 1(2) for paragraphs (a) and (b) there shall be substituted—

“(a) there is no income of the fund and there are no United Kingdom equivalent profits of the fund, or

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- (b) the amount of the gross income of the fund does not exceed 1 per cent. of the average value of the fund's assets held during the account period.”
- (5) Section 212 of the ^{M47}Taxation of Chargeable Gains Act 1992 (annual deemed disposal of certain holdings, including holdings consisting of a relevant interest in an offshore fund) shall be amended as mentioned in subsections (6) and (7) below.
- (6) In subsection (5) (meaning of “relevant interest in an offshore fund”) for paragraph (b) there shall be substituted—
- “(b) it would be such an interest if either or both of the assumptions mentioned in subsection (6A) below were made.”
- (7) Immediately before subsection (7) there shall be inserted—
- “(6A) The assumptions referred to in subsection (5)(b) above are—
- (a) that the companies, unit trust schemes and arrangements referred to in paragraphs (a) to (c) of subsection (1) of section 759 of the Taxes Act are not limited to those which are also collective investment schemes;
- (b) that the shares and interests excluded by subsections (6) and (8) of that section are limited to shares or interests in trading companies.”
- ^{F92}(8)
- (9) Subsection (4) above shall apply in relation to account periods ending on or after 29th November 1994.
- (10) Subsections (5) to (7) above shall apply where it falls to be decided whether an interest is, at any time on or after 29th November 1994, a relevant interest in an offshore fund.

Textual Amendments

F91 S. 134(1)-(3) repealed (with effect in accordance with s. 145(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(18\)](#)

F92 S. 134(8) repealed (with effect in accordance with s. 145(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(18\)](#)

Marginal Citations

M47 1992 c. 12.

Miscellaneous

135 Change in ownership of investment company: deductions. U.K.

Schedule 26 to this Act (which makes provision for the purposes of corporation tax about deductions following a change in the ownership of an investment company) shall have effect.

[^{F93}136 Profit-related pay. U.K.]

- (1) In Schedule 8 to the Taxes Act 1988 (profit-related pay schemes) paragraph 19 (ascertainment of profits) shall be amended in accordance with subsections (2) to (4) below.

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- (2) In sub-paragraph (6) (cases where scheme may provide for departure from requirements applicable to profit and loss account) paragraphs (g) to (k) (extraordinary items) shall be omitted.
- (3) After paragraph (ff) of sub-paragraph (6) there shall be inserted—
- “(1) any exceptional items which fall within sub-paragraph (6A) below and should in accordance with any accounting practices regarded as standard be shown separately on the face of the profit and loss account.”
- (4) After sub-paragraph (6) there shall be inserted—
- “(6A) The items are—
- (a) profits or losses on the sale or termination of an operation;
- (b) costs of a fundamental reorganisation or restructuring having a material effect on the nature and focus of the employment unit’s operations;
- (c) profits or losses on the disposal of fixed assets; and
- (d) the effect on tax of any of the items mentioned in paragraphs (a) to (c) above.”
- (5) Subject to subsections (6) to (10) below, subsections (2) to (4) above shall have effect in relation to the preparation, for the purposes of a scheme, of a profit and loss account in respect of a period beginning on or after the day on which this Act is passed.
- (6) Subsections (2) to (4) above shall not have effect in relation to an existing scheme unless, before the end of the period of 6 months beginning with the day on which this Act is passed, the scheme is altered to take account of the amendments made by those subsections.
- (7) Subsections (8) to (10) below apply where, before the end of the period mentioned in subsection (6) above, an existing scheme is altered as mentioned in that subsection.
- (8) The provision made by the scheme in compliance with paragraph 20(1) of Schedule 8 to the Taxes Act 1988 shall not prevent a profit and loss account being prepared in accordance with the alteration.
- (9) Where the distributable pool would but for this subsection be determined by reference—
- (a) to an amount shown in a profit and loss account prepared in accordance with the altered scheme, and
- (b) to an amount shown in a profit and loss account (“an earlier account”) prepared in accordance with the scheme in a form in which it stood before the alteration,
- then, for the purposes of the determination of the pool, the amount shown in the earlier account shall be recalculated using the same method as that used to calculate the amount mentioned in paragraph (a) above.
- (10) The alteration of the existing scheme shall be treated as being within subsection (8) of section 177B of the Taxes Act 1988 (alterations which are registrable and which once registered cannot give rise to Board’s power of cancellation).

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- (11) In subsections (6) to (10) above “an existing scheme” means a scheme which, immediately before the day on which this Act is passed, is registered under Chapter III of Part V of the Taxes Act 1988.
- (12) After paragraph 19 of Schedule 8 to the Taxes Act 1988 there shall be inserted—
- “19A (1) The Treasury may by order amend paragraph 19 above so as to add to, delete or vary any of the items mentioned in sub-paragraph (6) of that paragraph.
- (2) In this paragraph references to an order are references to an order under sub-paragraph (1) above.
- (3) Subject to sub-paragraphs (4) to (8) below, any amendment or amendments made by virtue of an order shall have effect in relation to the preparation, for the purposes of a scheme, of a profit and loss account in respect of a period beginning on or after the day on which the order comes into force.
- (4) Any amendment or amendments made by virtue of an order shall not have effect in relation to an existing scheme unless, before the end of the period of 6 months beginning with the day on which the order comes into force, the scheme is altered to take account of the amendment or amendments.
- (5) Sub-paragraphs (6) to (8) below apply where, before the end of the period mentioned in sub-paragraph (4) above, an existing scheme is altered as mentioned in that sub-paragraph.
- (6) The provision made by the scheme in compliance with paragraph 20(1) below shall not prevent a profit and loss account being prepared in accordance with the alteration.
- (7) Where the distributable pool would but for this sub-paragraph be determined by reference—
- (a) to an amount shown in a profit and loss account prepared in accordance with the altered scheme, and
- (b) to an amount shown in a profit and loss account (“an earlier account”) prepared in accordance with the scheme in a form in which it stood before the alteration,
- then, for the purposes of the determination of the pool, the amount shown in the earlier account shall be recalculated using the same method as that used to calculate the amount mentioned in paragraph (a) above.
- (8) The alteration of the existing scheme shall be treated as being within subsection (8) of section 177B.
- (9) An order may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient.
- (10) In this paragraph “an existing scheme”, in relation to an order, means a scheme which, immediately before the day on which the order comes into force, is a registered scheme.”]

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Textual Amendments

- F93** S. 136 repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(3) Notes 1,2 of the amending Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(3)** Notes 1-3

137 Part-time workers: miscellaneous provisions. **U.K.**

[^{F94}(1) In Schedule 8 to the Taxes Act 1988 (profit-related pay schemes) paragraph 8(a) (employees working less than 20 hours a week excluded by scheme from receiving profit-related pay) shall be omitted.]

^{F95}(2)

^{F95}(3)

(4) In Part V of Schedule 9 to the Taxes Act 1988 (profit sharing schemes) in paragraph 36(1)(a) (certain full-time employees and directors must be eligible to participate in scheme on similar terms) for the words “a full-time employee” there shall be substituted “an employee”.

(5) In Schedule 5 to the ^{M48}Finance Act 1989 (employee share ownership trusts) in paragraph 4(2)(c) (trust deed must provide that certain persons are beneficiaries if they work at rate of at least 20 hours a week) for the words “at that given time he worked as an employee or” there shall be substituted “in the case of a director, at that given time he worked as a”.

[^{F94}(6) Subsection (1) above shall apply in relation to any scheme not registered before the day on which this Act is passed.]

(7) [^{F96}Subsection] (4) above shall apply in relation to any scheme not approved before the day on which this Act is passed.

^{F97}(8)

(9) Subsection (5) above shall apply in relation to trusts established on or after the day on which this Act is passed; and for this purpose a trust is established when the deed under which it is established is executed.

Textual Amendments

- F94** S. 137(1)(6) repealed (19.3.1997 with effect as mentioned in s. 61(2)(3)) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(3)** Notes 1-3
- F95** S. 137(2)(3) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 8 Pt. 1** (with **Sch. 7**)
- F96** Word in s. 137(7) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 227** (with **Sch. 7**)
- F97** S. 137(8) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 8 Pt. 1** (with **Sch. 7**)

Marginal Citations

- M48** 1989 c. 26.

Status: Point in time view as at 06/04/2007.

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138 Charities, etc.: lotteries. U.K.

(1) In section 505 of the Taxes Act 1988 (charities: general) in subsection (1) (exemptions) after paragraph (e) there shall be inserted—

“(f) exemption from tax under Schedule D in respect of profits accruing to a charity from a lottery if—

(i) the lottery is promoted and conducted in accordance with section 3 or 5 of the ^{M49}Lotteries and Amusements Act 1976 or Article 133 or 135 of the ^{M50}Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; and

(ii) the profits are applied solely to the charity’s purposes.”

(2) Subsection (1) above shall apply to chargeable periods beginning—

(a) in the case of a company, after 31st March 1995; and

(b) in any other case, after 5th April 1995.

Marginal Citations

M49 1976 c. 32.

M50 S.I. 1985/1204 (N.I.11).

^{F98}**139 Sub-contractors in the construction industry. U.K.**

Textual Amendments

F98 S. 139 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(7\)](#)

140 Valuation of trading stock on discontinuance of trade. U.K.

(1) In section 100 of the Taxes Act 1988 (valuation of trading stock on discontinuance of trade), in paragraph (a) of subsection (1), for the words from “realised” to the end of the paragraph there shall be substituted “determined in accordance with subsections (1A) to (1C) below; and ”; and after that subsection there shall be inserted the following subsections—

“(1A) Subject to subsections (1B) and (1C) below and to paragraph 2 of Schedule 12 to the ^{M51}Finance Act 1988 (gilt-edged securities and other financial trading stock), the value of any trading stock falling to be valued under paragraph (a) of subsection (1) above shall be taken—

(a) except where the person to whom it is sold or transferred is connected with the person who makes the sale or transfer, to be the amount (“the price actually received for it”) which is in fact realised on the sale or, as the case may be, which is in fact the value of the consideration given for the transfer; and

(b) if those persons are connected with each other, to be what would have been the price actually received for it had the sale or transfer been a transaction between independent persons dealing at arm’s length.

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- (1B) In a case falling within subsection (1)(a) above—
- (a) stock consisting of debts to which section 88A(2) applies shall have the value for which paragraph (a) of subsection (1A) above provides even where the persons in question are connected with each other; and
 - (b) stock sold in circumstances in which the amount realised on the sale would be taken to be an amount determined in accordance with paragraph 5 of Schedule 5 shall be taken to have the value so determined, instead of the value for which subsection (1A)(a) or (b) above provides.
- (1C) If—
- (a) trading stock is sold or transferred to a person in circumstances where paragraph (b) of subsection (1A) above would apply (apart from this subsection) for determining the value of the stock so sold or transferred,
 - (b) the amount which would be taken in accordance with that paragraph to be the value of all of the stock sold or transferred to that person is more than the acquisition value of that stock and also more than the price actually received for it, and
 - (c) both parties to the sale or transfer, by notice signed by them and sent to the inspector no later than two years after the end of the chargeable period in which the trade is discontinued, elect that this subsection shall apply,
- then the stock sold or transferred to that person shall be taken to have a value equal to whichever is the greater (taking all the stock so sold or transferred together) of its acquisition value and the price actually received for it or, in a case where they are the same, to either of them.
- (1D) In subsection (1C) above “acquisition value”, in relation to any trading stock, means the amount which, in computing for any tax purposes the profits or gains of the discontinued trade, would have been deductible as representing the acquisition value of that stock if—
- (a) the stock had, immediately before the discontinuance, been sold in the course of the trade for a price equal to whatever would be its value in accordance with subsection (1A)(b) above; and
 - (b) the period for which those profits or gains were to be computed began immediately before the sale.
- (1E) Where any trading stock falls to be valued under subsection (1)(a) above, the amount determined in accordance with subsections (1A) to (1C) above to be the amount to be brought into account as the value of that stock in computing profits or gains of the discontinued trade shall also be taken, for the purpose of making any deduction in computing the profits or gains of any trade carried on by the purchaser, to be the cost of that stock to the purchaser.
- (1F) For the purposes of this section two persons are connected with each other if—
- (a) they are connected with each other within the meaning of section 839;
 - (b) one of them is a partnership and the other has a right to a share in the partnership;
 - (c) one of them is a body corporate and the other has control over that body;

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- (d) both of them are partnerships and some other person has a right to a share in each of them; or
- (e) both of them are bodies corporate or one of them is a partnership and the other is a body corporate and, in either case, some other person has control over both of them;

and in this subsection the references to a right to a share in a partnership are references to a right to a share of the assets or income of the partnership and “control” has the meaning given by section 840.

(1G) In this section “purchaser”, in relation to a transfer otherwise than by sale, means the person to whom the transfer is made.”

(2) This section applies in relation to any case in which a trade is discontinued at a time on or after 29th November 1994.

Marginal Citations

M51 1988 c. 39.

^{F99}**141 Incapacity benefit. U.K.**

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Textual Amendments

F99 S. 141 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

^{F100}**142 Annuities purchased where certain claims or actions are settled. U.K.**

The following sections shall be inserted after section 329 of the Taxes Act 1988—

“ Annuities purchased for certain persons.

- (1) In a case where—
 - (a) an agreement is made settling a claim or action for damages for personal injury,
 - (b) under the agreement the damages are to consist wholly or partly of periodical payments, and
 - (c) under the agreement the person entitled to the payments is to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,the agreement is for the purposes of this section a qualifying agreement.
- (2) In a case where—
 - (a) an agreement is made settling a claim or action for damages for personal injury,
 - (b) under the agreement the damages are to consist wholly or partly of periodical payments, and

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- (c) a later agreement is made under which the person entitled to the payments is from a future date to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,

the agreement mentioned in paragraph (c) above is for the purposes of this section a qualifying agreement.

- (3) Subsection (4) below applies where—
- (a) a person receives a sum as the annuitant under an annuity purchased for him pursuant to a qualifying agreement, or
 - (b) a person receives a sum on behalf of the annuitant under an annuity purchased for the annuitant pursuant to a qualifying agreement.
- (4) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).
- (5) Subsections (6) to (10) below apply for the purposes of subsection (1) above.
- (6) The periodical payments may be for the life of the claimant, for a specified period or of a specified number or minimum number or include payments of more than one of those descriptions.
- (7) The amounts of the periodical payments (which need not be at a uniform rate or payable at uniform intervals) may be—
- (a) specified in the agreement, with or without provision for increases of specified amounts or percentages,
 - (b) subject to adjustment in a specified manner so as to preserve their real value, or
 - (c) partly specified as mentioned in paragraph (a) and partly subject to adjustment as mentioned in paragraph (b) above.
- (8) The annuity or annuities must be such as to provide sums which as to amount and time of payment correspond to the periodical payments described in the agreement.
- (9) Personal injury includes any disease and any impairment of a person's physical or mental condition.
- (10) A claim or action for personal injury includes—
- (a) such a claim or action brought by virtue of the ^{M52}Law Reform (Miscellaneous Provisions) Act 1934;
 - (b) such a claim or action brought by virtue of the ^{M53}Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
 - (c) such a claim or action brought by virtue of the ^{M54}Damages (Scotland) Act 1976;
 - (d) a claim or action brought by virtue of the ^{M55}Fatal Accidents Act 1976;
 - (e) a claim or action brought by virtue of the ^{M56}Fatal Accidents (Northern Ireland) Order 1977.
- (11) For the purposes of subsection (2) above—
- (a) subsections (6), (9) and (10) above apply;

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- (b) subsection (7) above applies as if the reference to the agreement were to that mentioned in subsection (2)(a) above;
 - (c) subsection (8) above applies as if the reference to periodical payments described in the agreement were to periodical payments described in the agreement mentioned in subsection (2)(a) above and falling to be made after the later agreement takes effect.
- (12) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when—
- (a) the agreement mentioned in subsection (1) above is made or takes effect, or
 - (b) either of the agreements mentioned in subsection (2) above is made or takes effect.

Annuities assigned in favour of certain persons.

- (1) In a case where—
- (a) an agreement is made settling a claim or action for damages for personal injury,
 - (b) under the agreement the damages are to consist wholly or partly of periodical payments,
 - (c) the person against whom the claim or action is brought (or, if he is insured against the claim concerned, his insurer) purchases one or more annuities, and
 - (d) a later agreement is made under which the annuity is, or the annuities are, assigned in favour of the person entitled to the payments so as to secure that from a future date he receives the payments as the annuitant under the annuity or annuities,
- the agreement mentioned in paragraph (d) above is for the purposes of this section a qualifying agreement.
- (2) Subsection (3) below applies where—
- (a) a person receives a sum as the annuitant under an annuity assigned in his favour pursuant to a qualifying agreement, or
 - (b) a person receives a sum on behalf of the annuitant under an annuity assigned in the annuitant's favour pursuant to a qualifying agreement.
- (3) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).
- (4) For the purposes of subsection (1) above—
- (a) subsections (6), (9) and (10) of section 329A apply;
 - (b) subsections (7) and (8) of section 329A apply as if references to the agreement were to that mentioned in subsection (1)(a) above.
- (5) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when either of the agreements mentioned in subsection (1) above is made or takes effect.”]

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Textual Amendments

F100 S. 142 repealed (29.4.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(16)**

Marginal Citations

M52 1934 c. 41.
M53 1937 c. 9 (N.I.).
M54 1976 c. 13.
M55 1976 c. 30.
M56 S.I. 1977/1251 (N.I. 18).

143 Lloyd’s underwriters: new-style special reserve funds. **U.K.**

- (1) In Schedule 20 to the ^{M57}Finance Act 1993 (Lloyd’s underwriters: special reserve funds) paragraph 2 (general requirements about special reserve funds) shall be deemed to have been enacted with the modification in subsection (2) below.
- (2) For sub-paragraphs (2) and (3) there shall be substituted—
- “(2) The arrangements must be such as to secure that—
- (a) any income arising to the trustee or trustees of the special reserve fund shall be added to the capital of the fund and held on the same trusts as the fund; and
- (b) except as required or permitted by this Schedule, no payments shall be made into or out of the special reserve fund.”

Marginal Citations

M57 1993 c. 34.

144 Local government residuary body. **U.K.**

- (1) In section 842A of the Taxes Act 1988 (meaning of “local authority” in the Tax Acts) in subsection (2) (England and Wales) after paragraph (g) insert—
- “(h) a residuary body established by order under section 22(1) of the ^{M58}Local Government Act 1992;”.
- (2) This section shall be deemed to have come into force on 29th November 1994.

Commencement Information

II S. 144 in force on 29.11.1994: see s. 144(2).

Marginal Citations

M58 1992 c. 19.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Part III. (See end of Document for details)

145 Payment of rent &c., under deduction of tax. U.K.

(1) In section 119(1) of the Taxes Act 1988 (rent, &c., payable in connection with mines, quarries and similar concerns), the words from “and, subject to subsection (2) below, shall be subject to deduction of income tax” to the end shall cease to have effect.

^{F101}(2)

(3) The provisions of this section have effect in relation to payments made after the passing of this Act.

Textual Amendments

F101 [S. 145\(2\)](#) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1995, Part III.