



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Miscellaneous

^{F1}135 Change in ownership of investment company: deductions.

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Textual Amendments

F1 S. 135 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

[^{F2}136 Profit-related pay.

- (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.
- (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—
 - “(l) 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—

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“(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).

(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.

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- (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.”]

Textual Amendments

F2 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.

[^{F3}(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.]

^{F4}(2)

^{F4}(3)

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- (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 ^{M1}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”.
- ^{F3}(6) Subsection (1) above shall apply in relation to any scheme not registered before the day on which this Act is passed.]
- (7) [^{F5}Subsection] (4) above shall apply in relation to any scheme not approved before the day on which this Act is passed.
- ^{F6}(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

F3 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

F4 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)

F5 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)

F6 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

M1 1989 c. 26.

^{F7}**138 Charities, etc.: lotteries.**
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Textual Amendments

F7 S. 138 repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1** (with Sch. 2)

^{F8}**139 Sub-contractors in the construction industry.**
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Textual Amendments

- F8** S. 139 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(7\)](#)

^{F9}140 Valuation of trading stock on discontinuance of trade.

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Textual Amendments

- F9** S. 140 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

^{F10}141 Incapacity benefit.

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Textual Amendments

- F10** 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](#))

[^{F11}142 Annuities purchased where certain claims or actions are settled.

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
 - (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

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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 ^{M2}Law Reform (Miscellaneous Provisions) Act 1934;
 - (b) such a claim or action brought by virtue of the ^{M3}Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
 - (c) such a claim or action brought by virtue of the ^{M4}Damages (Scotland) Act 1976;
 - (d) a claim or action brought by virtue of the ^{M5}Fatal Accidents Act 1976;
 - (e) a claim or action brought by virtue of the ^{M6}Fatal Accidents (Northern Ireland) Order 1977.
- (11) For the purposes of subsection (2) above—
- (a) subsections (6), (9) and (10) above apply;
 - (b) subsection (7) above applies as if the reference to the agreement were to that mentioned in subsection (2)(a) above;

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- (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.”]

Textual Amendments

F11 S. 142 repealed (29.4.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(16)**

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Marginal Citations

- M2 1934 c. 41.
- M3 1937 c. 9 (N.I.).
- M4 1976 c. 13.
- M5 1976 c. 30.
- M6 S.I. 1977/1251 (N.I. 18).

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

- (1) In Schedule 20 to the ^{M7}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

- M7 1993 c. 34.

^{F12}144 Local government residuary body.

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Textual Amendments

- F12 S. 144 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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

- (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.

^{F13}(2)

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

Textual Amendments

- F13 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](#))

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