



Finance Act 1995

1995 CHAPTER 4

PART III **U.K.**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Securities

^{F1}77 **Interest on gilt-edged securities payable without deduction of tax.** **U.K.**

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Textual Amendments

F1 S. 77 repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt.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))

[^{F2}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;

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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
 - (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;

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- (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 ^{M1}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
 - (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

F2 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

M1 1989 c. 26.

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

- (1) In Chapter II of Part XVII of the Taxes Act 1988 (transfers of securities) after section 727 insert—

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“727A Exception for sale and repurchase of securities.

- (1) Where securities are transferred under an agreement to sell them, and under the same or any related agreement the transferor or a person connected with him—
 - (a) is required to buy back the securities, or
 - (b) acquires an option, which he subsequently exercises, to buy back the securities,
 section 713(2) and (3) and section 716 do not apply to the transfer by the transferor or the transfer back.
- (2) For the purposes of this section 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).
- (3) Section 839 (connected persons) applies for the purposes of this section.
- (4) References in this section to buying back securities include buying similar securities.

For this purpose securities are similar if they entitle their holders—

- (a) to the same rights against the same persons as to capital and interest, 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) For the purposes of this section—
 - (a) a person connected with the transferor who is required to buy securities sold by the transferor shall be treated as being required to buy the securities back, and
 - (b) a person connected with the transferor who acquires an option to buy securities sold by the transferor shall be treated as acquiring an option to buy the securities back,
 notwithstanding that it was not he who sold them.”.

- (2) In section 728 of the Taxes Act 1988 (information) in subsections (1) and (5) for “sections 710 to 727” substitute “ sections 710 to 727A ”.
- (3) The above amendments have effect where the agreement to sell the securities is entered into on or after the date on which this Act is passed.
- (4) If the appointed day for the purposes of section 737A of the Taxes Act 1988 in relation to any description of securities falls after the date on which this Act is passed, the reference in subsection (3) above to the date on which this Act is passed shall be construed in relation to an agreement relating to securities of that description and to which section 737A would apply if it were in force as a reference to that appointed day.

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—

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“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—
 - (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.

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- (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,
- 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.”

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[^{F3}(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 ^{M2}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“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

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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

F3 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

M2 1992 c. 12.

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.

F⁴82 **U.K.**

Textual Amendments

F4 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

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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.

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

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- (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
 - (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 ^{M3}Finance Act 1993 and section 229 of the ^{M4}Finance Act 1994 (powers to modify provisions relating to Lloyd's), the following paragraph shall be inserted, in each case, after paragraph (c)—

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- “(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

- M3** 1993 c. 34.
- M4** 1994 c. 9.

^{F5}**84** **U.K.**

Textual Amendments

- F5** 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**

^{F6}**85** **U.K.**

Textual Amendments

- F6** 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**

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1995, Cross Heading: Securities.