



# Finance Act 1995

## 1995 CHAPTER 4

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Pensions*

#### **59 Pensions: meaning of insurance company etc**

- (1) Part XIV of the Taxes Act 1988 (pension schemes etc.) shall be amended as follows.
- (2) In section 591 (discretionary approval of retirement benefits schemes) the following subsection shall be substituted for subsection (3)—
  - “(3) In subsection (2)(g) above “insurance company” has the meaning given by section 659B.”
- (3) In section 599 (charge to tax: commutation of entire pension in special circumstances) the following subsection shall be substituted for subsection (8)—
  - “(8) In subsection (7) above “insurance company” has the meaning given by section 659B.”
- (4) In section 630 (personal pension schemes: interpretation) the following definition shall be substituted for the definition of “authorised insurance company”—
  - ““authorised insurance company” has the meaning given by section 659B.”
- (5) The following sections shall be inserted after section 659A—

#### **“659B Definition of insurance company**

- (1) In sections 591(2)(g) and 599(7) “insurance company” means one of the following—

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- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 (or any similar previous enactment) to carry on long term business;
  - (b) a friendly society carrying on long term business;
  - (c) an EC company falling within subsection (3) below.
- (2) In Chapter IV of this Part “authorised insurance company” means a company that is an insurance company within the meaning given by subsection (1) above.
- (3) An EC company falls within this subsection if it—
  - (a) lawfully carries on long term business, or lawfully provides long term insurance, in the United Kingdom, and
  - (b) fulfils the requirement under subsection (5) below or that under subsection (6) below or that under subsection (7) below.
- (4) For the purposes of subsection (3) above an EC company—
  - (a) lawfully carries on long term business in the United Kingdom if it does so through a branch in respect of which such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with;
  - (b) lawfully provides long term insurance in the United Kingdom if such of those requirements as are applicable have been complied with in respect of the insurance.
- (5) The requirement under this subsection is that—
  - (a) a person who falls within subsection (8) below is for the time being appointed by the company to be responsible for securing the discharge of the duties mentioned in subsection (9) below, and
  - (b) his identity and the fact of his appointment have been notified to the Board by the company.
- (6) The requirement under this subsection is that there are for the time being other arrangements with the Board for a person other than the company to secure the discharge of those duties.
- (7) The requirement under this subsection is that there are for the time being other arrangements with the Board designed to secure the discharge of those duties.
- (8) A person falls within this subsection if—
  - (a) he is not an individual and has a business establishment in the United Kingdom, or
  - (b) he is an individual and is resident in the United Kingdom.
- (9) The duties are the following duties that fall to be discharged by the company—
  - (a) any duty to pay by virtue of section 203 and regulations made under it tax charged under section 597(3);
  - (b) any duty to pay tax charged under section 599(3) and (7);
  - (c) any duty imposed by regulations made under section 605;
  - (d) any duty to pay by virtue of section 203 and regulations made under it tax charged under section 648A(1).
- (10) For the purposes of this section—

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- (a) references to an EC company shall be construed in accordance with section 2(6) of the Insurance Companies Act 1982;
- (b) references to long term business shall be construed in accordance with section 1(1) of that Act;
- (c) references to the provision of long term insurance in the United Kingdom shall be construed in accordance with section 96A(3A) of that Act;
- (d) a friendly society is a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).

### **659C Effect of appointment or arrangements under section 659B**

- (1) This section shall have effect where—
  - (a) in accordance with section 659B(5) a person is for the time being appointed to be responsible for securing the discharge of duties, or
  - (b) in accordance with section 659B(6) there are for the time being arrangements for a person to secure the discharge of duties.
- (2) In such a case the person concerned—
  - (a) shall be entitled to act on the company's behalf for any of the purposes of the provisions relating to the duties;
  - (b) shall secure (where appropriate by acting on the company's behalf) the company's compliance with and discharge of the duties;
  - (c) shall be personally liable in respect of any failure of the company to comply with or discharge any such duty as if the duties imposed on the company were imposed jointly and severally on the company and the person concerned.”