



# Finance Act 1996

## 1996 CHAPTER 8

### PART IV

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

### CHAPTER I

#### PRINCIPAL PROVISIONS

##### *Income tax charge, rates and reliefs*

#### **72 Charge and rates of income tax for 1996-97.**

- (1) Income tax shall be charged for the year 1996-97, and for that year—
  - (a) the lower rate shall be 20 per cent.;
  - (b) the basic rate shall be 24 per cent.; and
  - (c) the higher rate shall be 40 per cent.
- (2) For the year 1996-97 section 1(2) of the Taxes Act 1988 shall apply—
  - (a) as if the amount specified in paragraph (aa) (the lower rate limit) were £3,900; and
  - (b) as if the amount specified in paragraph (b) (the basic rate limit) were £25,500; and, accordingly, section 1(4) of that Act (indexation) shall not apply for the year 1996-97.

<sup>F1</sup>(3) .....

#### **Textual Amendments**

- F1** S. 72(3) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(7\)](#)

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for the Finance Act 1996, Part IV. (See end of Document for details)*

### 73 **Application of lower rate to income from savings.**

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

**“1A Application of lower rate to income from savings and distributions.**

- (1) Subject to sections 469(2) and 686, so much of any person’s total income for any year of assessment as—
- (a) comprises income to which this section applies, and
  - (b) in the case of an individual, is not income falling within section 1(2)(b),
- shall, by virtue of this section, be charged for that year at the lower rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(aa) and (a).
- (2) Subject to subsection (4) below, this section applies to the following income—
- (a) any income chargeable under Case III of Schedule D other than—
    - (i) relevant annuities and other annual payments that are not interest; and
    - (ii) amounts so chargeable by virtue of section 119 or 120;
  - (b) any income chargeable under Schedule F; and
  - (c) subject to subsection (4) below, any equivalent foreign income.
- (3) The income which is equivalent foreign income for the purposes of this section is any income chargeable under Case IV or V of Schedule D which—
- (a) is equivalent to a description of income falling within subsection (2)(a) above but arises from securities or other possessions out of the United Kingdom; or
  - (b) consists in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable under Schedule F if the company were resident in the United Kingdom.
- (4) This section does not apply to—
- (a) any income chargeable to tax under Case IV or V of Schedule D which is such that section 65(5)(a) or (b) provides for the tax to be computed on the full amount of sums received in the United Kingdom; or
  - (b) any amounts deemed by virtue of section 695(4)(b) or 696(6) to be income chargeable under Case IV of Schedule D.
- (5) So much of any person’s income as comprises income to which this section applies shall be treated for the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts as the highest part of his income.
- (6) Subsection (5) above shall have effect subject to section 833(3) but shall otherwise have effect notwithstanding any provision requiring income of any description to be treated for the purposes of the Income Tax Acts (other than section 550) as the highest part of a person’s income.
- (7) In this section “relevant annuity” means any annuity other than a purchased life annuity to which section 656 applies or to which that section would apply but for section 657(2)(a).”

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- (2) In section 4 of that Act (construction of references to deduction of tax), after subsection (1) there shall be inserted the following subsection—
- “(1A) As respects deductions from, and tax treated as paid on, any such amounts as constitute or (but for the person whose income they are) would constitute income to which section 1A applies, subsection (1) above shall have effect with a reference to the lower rate in force for the relevant year of assessment substituted for the reference to the basic rate in force for that year.”
- (3) Subsection (1) above has effect in relation to the year 1996-97 and subsequent years of assessment and subsection (2) above has effect in relation to payments on or after 6th April 1996.
- (4) Schedule 6 to this Act (which makes further amendments in connection with the charge at the lower rate on income from savings etc.) shall have effect.
- (5) Where any subordinate legislation (within the meaning of the <sup>M1</sup>Interpretation Act 1978) falls to be construed in accordance with section 4 of the Taxes Act 1988, that legislation (whenever it was made) shall be construed, in relation to payments on or after 6th April 1996, subject to subsection (1A) of that section.

#### Marginal Citations

M1 1978 c. 30.

#### 74 Personal allowances for 1996-97.

- (1) For the year 1996-97 the amounts specified in the provisions mentioned in subsection (2) below shall be taken to be as set out in that subsection; and, accordingly, section 257C(1) of the Taxes Act 1988 (indexation), so far as it relates to the amounts so specified, shall not apply for the year 1996-97.
- (2) In section 257 of that Act (personal allowance)—
- the amount in subsection (1) (basic allowance) shall be £3,765;
  - the amount in subsection (2) (allowance for persons aged 65 or more but not aged 75 or more) shall be £4,910; and
  - the amount in subsection (3) (allowance for persons aged 75 or more) shall be £5,090.

#### 75 Blind person's allowance.

- (1) In section 265(1) of the Taxes Act 1988 (blind person's allowance), for “£1,200” there shall be substituted “£1,250”.
- (2) This section shall apply for the year 1996-97 and subsequent years of assessment.

#### 76 Limit on relief for interest.

For the year 1996-97 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

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### *Corporation tax charge and rate*

#### 77 **Charge and rate of corporation tax for 1996.**

Corporation tax shall be charged for the financial year 1996 at the rate of 33 per cent.

#### 78 **Small companies.**

For the financial year 1996—

- (a) the small companies' rate shall be 24 per cent.; and
- (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths.

### *Abolition of Schedule C charge etc.*

#### 79 **Abolition of Schedule C charge etc.**

- (1) The charge to tax under Schedule C is abolished—
  - (a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment;
  - (b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.
- (2) Schedule 7 to this Act (which, together with Chapter II of this Part of this Act, makes provision for imposing a charge under Schedule D on descriptions of income previously charged under Schedule C, and makes connected amendments) shall have effect.

## CHAPTER II

### LOAN RELATIONSHIPS

#### **Modifications etc. (not altering text)**

- C1** Pt. 4 Ch. 2 modified (29.4.1996) by 1986 c. 44, s. 60(3) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 4 (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1988 c. 1, s. 730A(6) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 37 (with savings in Pt. 4 Ch. 2) and as further substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by 2002 c. 23, s. 82(1), Sch. 25 Pt. 2 para. 52(3))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1988 c. 1, s. 768B(10) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 39(1) (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1988 c. 1, s. 786C(9) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 40 (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1988 c. 35, s. 11(7) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 55 (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1988 c. 1, s. 477A(3)(a) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 28(1) (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (29.4.1996) by 1986 c. 31, s. 77(3) (as substituted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 3 (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 modified (24.7.1996) by 1996 c. 55, s. 135, Sch. 7 para. 11(2)

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- Pt. 4 Ch. 2 modified (27.7.1999 with effect as mentioned in s. 100(2)(3) of 1999 c. 16) by 1988 c. 1, **s. 494AA(5)** (as inserted (27.7.1999 with effect as mentioned in **s. 100(2)(3)** of the amending Act) by 1999 c. 16, s. 100(1))
- Pt. 4 Ch. 2 modified (15.1.2001) by 2000 c. 38, s. 250, **Sch. 26 paras. 7(2)**; S.I. 2000/3376, **art. 2**
- Pt. 4 Ch. 2 modified (15.1.2001) by 2000 c. 38, s. 250, **Sch. 26 paras. 17(2)**; S.I. 2000/3376, **art. 2**
- Pt. 4 Ch. 2 modified (15.1.2001) by 2000 c. 38, s. 250, **Sch. 26 paras. 29(2)**; S.I. 2000/3376, **art. 2**
- Pt. 4 Ch. 2 modified (24.7.2002 with effect as mentioned in s. 71(2)(4) of the amending Act) by Finance Act 2002 (c. 23), **s. 71(3)**
- Pt. 4 Ch. 2 modified (24.7.2002 with effect as mentioned in s. 79(3) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 494(2ZA) (as inserted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by Finance Act 2002 (c. 23), s. 79(2), **Sch. 23 Pt. 2 para. 17(7)** (with Sch. 23 para. 25))
- Pt. 4 Ch. 2 modified (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 730A(6B) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 2 para. 52(4)**)
- Pt. 4 Ch. 2 modified (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 842(1AB) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 2 para. 56(4)**)
- Pt. 4 Ch. 2 modified (24.7.2002) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 3 para. 64**
- Pt. 4 Ch. 2 modified (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 26 Pt. 4 para. 19(4)**
- Pt. 4 Ch. 2 modified (1.10.2002 with effect in relation to accounting periods beginning on or after that date) by **The Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002 (S.I. 2002/1970)**, regs. 1(2), **6, 7, 13**
- C2** Pt. 4 Ch. 2 applied (29.4.1996) by 1988 c. 1, **s. 434A(2A)** (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 23(2)** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 applied (29.4.1996) by 1993 c. 34, **s. 130(1)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 69** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 applied (29.4.1996) by 1994 c. 9, **s. 160(2)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 75** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 applied (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 510A(6A) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 2 para. 49(4)**)
- C3** Pt. 4 Ch. 2 restricted (29.4.1996) by 1988 c. 1, **s. 475(2)(b)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 27(1)** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 restricted (29.4.1996) by 1988 c. 1, **s. 487(1)(b)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 31(1)** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 restricted (29.4.1996) by 1988 c. 1, **s. 487(3A)** (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 31(3)** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 restricted (29.4.1996) by 1988 c. 1, **s. 494(2)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 32(2)** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 restricted (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 582(3A) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 2 para. 50**)
- Pt. 4 Ch. 2 restricted (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c.1)**, s. 787(1A) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 25 Pt. 2 para. 53(2)**)
- C4** Pt. 4 Ch. 2 excluded (29.4.1996) by 1988 c. 1, **s. 56(4B)** (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 6** (with savings in Pt. 4 Ch. 2))
- Pt. 4 Ch. 2 excluded (29.4.1996) by 1988 c. 1, **s. 468L(5)** (as substituted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 26** (with savings in Pt. 4 Ch. 2))

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- C5** Pt. 4 Ch. 2 modified (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 10 para. 9](#) (with [Sch. 10 para. 10](#)); S.I. 2003/120, art. 2, Sch. (with arts. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- C6** Pt. 4 Ch. 2 restricted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 83\(1\), Sch. 26 Pt. 9 para. 48\(4\)](#)Pt. 4 Ch. 2 (as amended (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 64](#))
- C7** Pt. 4 Ch. 2 applied (with modifications) (5.10.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 9 para. 11](#) (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C8** Pt. 4 Ch. 2 applied (with modifications) (5.10.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 9 para. 23](#) (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C9** Pt. 4 Ch. 2 modified (with effect in accordance with s. 56(1)-(3)(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 56\(4\)\(b\)](#)
- C10** Pt. 4 Ch. 2 modified (with effect in accordance with s. 56 of the amending Act) by [Finance Act 2005 \(c. 7\), s. 50](#)
- C11** Pt. 4 Ch. 2 modified (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\), s. 60\(2\), Sch. 10 para. 7](#); S.I. 2005/1444, art. 2(1), Sch. 1
- C12** Pt. 4 Ch. 2 modified (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\), s. 60\(2\), Sch. 10 para. 18](#); S.I. 2005/1444, art. 2(1), Sch. 1
- C13** Pt. 4 Ch. 2 modified (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 14\(5\)-\(7\)](#)
- C14** Pt. 4 Ch. 2 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\), regs. 1\(1\), 12](#)

### *Introductory provisions*

## **80 Taxation of loan relationships.**

- (1) For the purposes of corporation tax all profits and gains arising to a company from its loan relationships shall be chargeable to tax as income in accordance with this Chapter.
- (2) To the extent that a company is a party to a loan relationship for the purposes of a trade carried on by the company, profits and gains arising from the relationship shall be brought into account in computing the [<sup>F2</sup>profits] of the trade.
- (3) Profits and gains arising from a loan relationship of a company that are not brought into account under subsection (2) above shall be brought into account as profits and gains chargeable to tax under Case III of Schedule D.
- (4) This Chapter shall also have effect for the purposes of corporation tax for determining how any deficit on a company's loan relationships is to be brought into account in any case, including a case where none of the company's loan relationships falls by virtue of this Chapter to be regarded as a source of income.
- (5) Subject to any express provision to the contrary, the amounts which in the case of any company are brought into account in accordance with this Chapter as respects any matter shall be the only amounts brought into account for the purposes of corporation tax as respects that matter.

### **Textual Amendments**

- F2** Words in s. 80(2) substituted (31.7.1998) by [1998 c. 36, s. 46\(3\)\(a\), Sch. 7 para. 11](#)

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#### **Modifications etc. (not altering text)**

- C15** S. 80(5) excluded (29.4.1996) by 1988 c. 1, s. 400(9A) (as inserted 29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 19** (with savings in Pt. 4 Ch. 2)
- S. 80(5) excluded (29.4.1996) by 1988 c. 1, s. 795(4) (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 41** (with savings in Pt. 4 Ch. 2))
- S. 80(5) excluded (29.4.1996) by 1998 c. 1, s. 811(3) (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 47** (with savings in Pt. 4 Ch. 2))
- S. 80(5) excluded (29.4.1996) by 1988 c. 1, s. 116(16) (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 60(4)** (with savings in Pt. 4 Ch. 2))
- S. 80(5) excluded (29.4.1996) by 1988 c. 1, s. 798(3A) (as inserted (29.4.1996) by 1996 c. 8, s. 104, **Sch. 14 para. 44(2)** (with savings in Pt. 4 Ch. 2))
- S. 80(5) excluded (31.7.1998 with effect as mentioned in s. 103(2)(3) of 1998 c. 36) by 1988 c. 1, s. 798A(4) (as inserted (31.7.1998 with effect as mentioned in s. 103(2)(3) of the amending Act) by 1998 c. 36, s. 104)
- S. 80(5) excluded (24.7.2002 with effect as mentioned in s. 82(2) of Finance Act 2002) by **Income and Corporation Taxes Act 1988 (c. 1), s. 582(3A)** (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by **Finance Act 2002 (c. 23), s. 82(1), Sch. 25 Pt. 2 para. 50**)

## **81 Meaning of “loan relationship” etc.**

- (1) Subject to the following provisions of this section, a company has a loan relationship for the purposes of the Corporation Tax Acts wherever—
- the company stands (whether by reference to a security or otherwise) in the position of a creditor or debtor as respects any money debt; and
  - that debt is one arising from a transaction for the lending of money;
- and references to a loan relationship and to a company’s being a party to a loan relationship shall be construed accordingly.
- (2) For the purposes of this Chapter a money debt is a debt [<sup>F3</sup>which is, or has at any time been, one that falls, or that may at the option of the debtor or of the creditor fall,] to be settled—
- by the payment of money; or
  - by the transfer of a right to settlement under a debt which is itself a money debt [<sup>F4</sup>disregarding any other option exercisable by either party.]
- (3) Subject to subsection (4) below, where an instrument is issued by any person for the purpose of representing security for, or the rights of a creditor in respect of, any money debt, then (whatever the circumstances of the issue of the instrument) that debt shall be taken for the purposes of this Chapter to be a debt arising from a transaction for the lending of money.
- (4) For the purposes of this Chapter a debt shall not be taken to arise from a transaction for the lending of money to the extent that it is a debt arising from rights conferred by shares in a company.
- (5) For the purposes of this Chapter—
- references to payments or interest under a loan relationship are references to payments or interest made or payable in pursuance of any of the rights or liabilities under that relationship; and

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(b) references to rights or liabilities under a loan relationship are references to any of the rights or liabilities under the agreement or arrangements by virtue of which that relationship subsists;

and those rights or liabilities shall be taken to include the rights or liabilities attached to any security which, being a security issued in relation to the money debt in question, is a security representing that relationship.

(6) In this Chapter “money” includes money expressed in a currency other than sterling.

#### **Textual Amendments**

**F3** Words in s. 81(2) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 2\(2\)\(a\)](#)

**F4** Words in s. 81(2) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 2\(2\)\(b\)](#)

### *Taxation of profits and gains and relief for deficits*

## **82 Method of bringing amounts into account.**

- (1) For the purposes of corporation tax—
  - (a) the profits and gains arising from the loan relationships of a company, and
  - (b) any deficit on a company’s loan relationships,
 shall be computed in accordance with this section using the credits and debits given for the accounting period in question by the following provisions of this Chapter.
- (2) To the extent that, in any accounting period, a loan relationship of a company is one to which it is a party for the purposes of a trade carried on by it, the credits and debits given in respect of that relationship for that period shall be treated (according to whether they are credits or debits) either—
  - (a) as receipts of that trade falling to be brought into account in computing the [<sup>F5</sup>profits] of that trade for that period; or
  - (b) as expenses of that trade which are deductible in computing those profits and gains.
- (3) Where for any accounting period there are, in respect of the loan relationships of a company, both—
  - (a) credits that are not brought into account under subsection (2) above (“non-trading credits”), and
  - (b) debits that are not so brought into account (“non-trading debits”),
 the aggregate of the non-trading debits shall be subtracted from the aggregate of the non-trading credits to give the amount to be brought into account under subsection (4) below.
- (4) That amount is the amount which for any accounting period is to be taken (according to whether the aggregate of the non-trading credits or the aggregate of the non-trading debits is the greater) to be either—
  - (a) the amount of the company’s profits and gains for that period that are chargeable under Case III of Schedule D as profits and gains arising from the company’s loan relationships; or



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- (b) the amount of the company’s non-trading deficit for that period on its loan relationships.
- (5) Where for any accounting period a company has non-trading credits but no non-trading debits in respect of its loan relationships, the aggregate amount of the credits shall be the amount of the company’s profits and gains for that period that are chargeable under Case III of Schedule D as profits and gains arising from those relationships.
- (6) Where for any accounting period a company has non-trading debits but no non-trading credits in respect of its loan relationships, that company shall have a non-trading deficit on its loan relationships for that period equal to the aggregate of the debits.
- (7) Subsection (2) above, so far as it provides for any amount to be deductible as mentioned in paragraph (b) of that subsection, shall have effect notwithstanding anything in section 74 of the Taxes Act 1988 (allowable deductions).

**Textual Amendments**

**F5** Words in s. 82(2)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3)(a), **Sch. 7 para. 11**

**83 Non-trading deficit on loan relationships.**

- (1) This section applies for the purposes of corporation tax where for any accounting period (“the deficit period”) there is a non-trading deficit on a company’s loan relationships.
- (2) The company may make a claim for the whole or any part of the deficit [<sup>F6</sup>(to the extent that it is not surrendered as group relief by virtue of section 403 of the Taxes Act 1988)] to be treated in any of the following ways, that is to say—
  - (a) to be set off against any profits of the company (of whatever description) for the deficit period; [<sup>F7</sup>or]
  - (b) <sup>F8</sup> .....
  - (c) to be carried back to be set off against profits for earlier accounting periods; <sup>F9</sup> .....
  - (d) <sup>F10</sup> .....

[<sup>F11</sup>(3A) So much of the deficit for the deficit period as is not—

- (a) surrendered as group relief by virtue of section 403 of the Taxes Act 1988, or
  - (b) treated in any of the ways specified in subsection (2) above,
- shall be carried forward and set against non-trading profits of the company for succeeding accounting periods.]

- (4) <sup>F12</sup> .....
- (5) No part of any non-trading deficit of a company established for charitable purposes only shall be set off against the profits of that or any other company in pursuance of a claim under subsection (2) above.
- (6) A claim under subsection (2) above must be made within the period of two years immediately following the end of the relevant period, or within such further period as the Board may allow.
- (7) In subsection (6) above “the relevant period”—

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- (a) in relation to a claim under subsection (2)(a), <sup>F13</sup> . . . or (c) above, means the deficit period; <sup>F14</sup> . . .
  - (b) <sup>F14</sup> .....
- (8) Different claims may be made under subsection (2) above as respects different parts of a non-trading deficit for any period, but no claim may be made as respects any part of a deficit to which another claim made under that subsection relates.
- (9) Schedule 8 to this Act (which makes provision about what happens where a claim is made under [<sup>F15</sup>subsection (2)(a) or (c) above or where subsection (3A) above has effect]) shall have effect.

**Textual Amendments**

- F6** Words in s. 83(2) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 3(2)**
- F7** Word in s. 83(2)(a) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 3(3)**
- F8** S. 83(2)(b) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 82(1), 141, **Sch. 25 Pt. 1 para. 3(4)**, **Sch. 40 Pt. 3(12)**
- F9** Word in s. 83(2)(c) repealed (24.7.2002 with effect in accordance with s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, **Sch. 40 Pt. 3(12)**
- F10** S. 83(2)(d) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 82(1), 141, **Sch. 25 Pt. 1 para. 3(5)**, **Sch. 40 Pt. 3(12)**
- F11** S. 83(3A) substituted for s. 83(3) (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 3(6)**
- F12** S. 83(4) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 82(1), 141, **Sch. 25 Pt. 1 para. 3(7)**, **Sch. 40 Pt. 3(12)**
- F13** Word in s. 83(7)(a) repealed (24.7.2002 with effect in accordance with s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, **Sch. 40 Pt. 3(12)**
- F14** S. 83(7)(b) and preceding word repealed (24.7.2002 with effect in accordance with s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, **Sch. 40 Pt. 3(12)**
- F15** Words in s. 83(9) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), **Sch. 25 Pt. 1 para. 3(8)**

*Computational provisions etc.*

**84 Debits and credits brought into account.**

- (1) The credits and debits to be brought into account in the case of any company in respect of its loan relationships shall be the sums which, <sup>F16</sup>... when taken together, fairly represent, for the accounting period in question—
- (a) all profits, gains and losses of the company, including those of a capital nature, which (disregarding interest and any charges or expenses) arise to the company from its loan relationships and related transactions; and
  - (b) all interest under the company’s loan relationship and all charges and expenses incurred by the company under or for the purposes of its loan relationships and related transactions.

<sup>F17</sup>(2) .....

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- (3) The reference in subsection (1)(b) above to charges and expenses incurred for the purposes of a company's loan relationships and related transactions does not include a reference to any charges or expenses other than those incurred directly—
- (a) in bringing any of those relationships into existence;
  - (b) in entering into or giving effect to any of those transactions;
  - (c) in making payments under any of those relationships or in pursuance of any of those transactions; or
  - (d) in taking steps for ensuring the receipt of payments under any of those relationships or in accordance with any of those transactions.
- (4) Where—
- (a) any charges or expenses are incurred by a company for purposes connected—
    - (i) with entering into a loan relationship or related transaction, or
    - (ii) with giving effect to any obligation that might arise under a loan relationship or related transaction,
  - (b) at the time when the charges or expenses are incurred, the relationship or transaction is one into which the company may enter but has not entered, and
  - (c) if that relationship or transaction had been entered into by that company, the charges or expenses would be charges or expenses incurred as mentioned in subsection (3) above,

those charges or expenses shall be treated for the purposes of this Chapter as charges or expenses in relation to which debits may be brought into account in accordance with subsection (1)(b) above to the same extent as if the relationship or transaction had been entered into.

<sup>F18</sup>(4A) .....

- (5) [<sup>F19</sup>In this Chapter]“related transaction”, in relation to a loan relationship, means any disposal or acquisition (in whole or in part) of rights or liabilities under that relationship.
- (6) The cases where there shall be taken [<sup>F20</sup>for the purposes of subsection (5) above] to be a disposal and acquisition of rights or liabilities under a loan relationship shall include those where such rights or liabilities are transferred or extinguished by any sale, gift, exchange, surrender, redemption or release.
- [<sup>F21</sup>(7) Schedule 9 to this Act contains further provisions as to the debits and credits to be brought into account for the purposes of this Chapter.]

#### Textual Amendments

- F16** Words in s. 84(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 1\(2\), Sch. 42 Pt. 2\(6\)](#)
- F17** S. 84(2) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 1\(3\), Sch. 42 Pt. 2\(6\)](#)
- F18** S. 84(4A) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 1\(3\), Sch. 42 Pt. 2\(6\)](#)
- F19** Words in s. 84(5) substituted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 79\(2\), Sch. 23 Pt. 1 para. 2\(2\)](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F20** Words in s. 84(6) substituted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 79\(2\), Sch. 23 Pt. 1 para. 2\(3\)](#) (with [Sch. 23 Pt. 3 para. 25](#))

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**F21** S. 84(7) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 1\(4\)](#)

**[<sup>F22</sup>84A Exchange gains and losses from loan relationships**

- (1) The reference in section 84(1)(a) above to the profits, gains and losses arising to a company from its loan relationships and related transactions includes a reference to exchange gains and losses arising to the company from its loan relationships.
- (2) Subsection (1) above is subject to the following provisions of this section.
- [<sup>F23</sup>(3) Subsection (1) does not apply to an exchange gain or loss of a company to the extent that it arises—
- (a) in relation to an asset or liability representing a loan relationship of the company, or
- (b) as a result of the translation from one currency to another of the profit or loss of part of the company’s business,
- and is recognised in the company’s statement of recognised gains and losses or statement of changes in equity.
- (3A) Subsection (1) does not apply to so much of an exchange gain or loss arising to a company in relation to an asset or liability representing a loan relationship of the company as falls within a description prescribed for the purpose in regulations made by the Treasury.]
- <sup>F24</sup>(4) .....
- <sup>F24</sup>(5) .....
- <sup>F24</sup>(6) .....
- <sup>F24</sup>(7) .....
- (8) The Treasury may by regulations make provision for or in connection with bringing into account in prescribed circumstances amounts in relation to which subsection (3) [<sup>F25</sup>or (3A)] above does not, by virtue of subsection (3) above, have effect.
- (9) The reference in subsection (8) above to bringing amounts into account is a reference to bringing amounts into account—
- (a) for the purposes of this Chapter, as credits or debits in respect of the loan relationships of the company concerned; or
- (b) for the purposes of the Taxation of Chargeable Gains Act 1992.
- (10) Any power to make regulations under this section includes power to make different provision for different cases.][<sup>F26</sup>and power to make provision subject to an election or to other prescribed conditions]

**Textual Amendments**

**F22** S. 84A inserted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 79(2), [Sch. 23 paras. 3, 26\(5\)](#) (with [Sch. 23 para. 25](#))

**F23** S. 84A(3)(3A) substituted for s. 84A(3) (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 2\(2\)](#)

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- F24** Ss. 84A(4)-(7) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 2\(3\), Sch. 42 Pt. 2\(6\)](#)
- F25** Words in s. 84A(8) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 2\(4\)](#)
- F26** Words in s. 84A(10) added (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 2\(5\)](#)

## **[<sup>F27</sup>85A Computation in accordance with generally accepted accounting practice**

- (1) Subject to the provisions of this Chapter, the amounts to be brought into account by a company for any period for the purposes of this Chapter are those that, in accordance with generally accepted accounting practice, are recognised in determining the company's profit or loss for the period.
- (2) If a company does not draw up accounts in accordance with generally accepted accounting practice ("correct accounts")—
  - (a) the provisions of this Chapter apply as if correct accounts had been drawn up, and
  - (b) the amounts referred to in this Chapter as being recognised for accounting purposes are those that would have been recognised if correct accounts had been drawn up.
- (3) If a company draws up accounts that rely to any extent on amounts derived from an earlier period of account for which the company did not draw up correct accounts, the amounts referred to in this Chapter as being recognised for accounting purposes in the later period are those that would have been recognised if correct accounts had been drawn up for the earlier period.
- (4) The provisions of subsections (2) and (3) apply where the company does not draw up accounts at all as well as where it draws up accounts that are not correct.

### **Textual Amendments**

- F27** Ss. 85A, 85B substituted for ss. 85, 86 (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 3](#)

## **85B Amounts recognised in determining company's profit or loss**

- (1) Any reference in this Chapter to an amount being recognised in determining a company's profit or loss for a period is to an amount being recognised for accounting purposes—
  - (a) in the company's profit and loss account [<sup>F28</sup>or income statement],
  - (b) in the company's statement of recognised gains and losses or statement of changes in equity, or
  - (c) in any other statement of items brought into account in computing the company's profits and losses for that period.
- <sup>F29</sup>(2) An amount that in accordance with generally accepted accounting practice is shown as a prior period adjustment in any such statement as is mentioned in subsection (1) shall be brought into account for the purposes of this Chapter in computing the company's profits and losses for the period to which the statement relates. This does not apply to

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an amount recognised for accounting purposes by way of correction of a fundamental error.]

- (3) The Treasury may by regulations—
- (a) make provision excluding from subsection (1) [<sup>F30</sup>or (2)] amounts of a prescribed description, and
  - (b) make provision for or in connection with bringing into account in prescribed circumstances amounts in relation to which [<sup>F31</sup>that subsection] does not have effect by virtue of regulations under paragraph (a) above.
- (4) The regulations may provide that subsection (1) [<sup>F32</sup>or (2)] does not apply to prescribed amounts in a period of account to the extent that they derive from or otherwise relate to amounts brought into account in a prescribed manner in a previous period of account.
- (5) The power to make regulations under this section includes—
- (a) power to make different provision for different cases; and
  - (b) power to make provision subject to an election or to other prescribed conditions.
- (6) The power to make regulations under this section does not apply to exchange gains or losses (but see section 84A(3A) and (8) to (10)).]

#### Textual Amendments

- F27** Ss. 85A, 85B substituted for ss. 85, 86 (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 3](#)
- F28** Words in s. 85B(1)(a) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 26\(2\)](#)
- F29** S. 85B(2) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 26\(3\)](#)
- F30** Words in s. 85B(3)(a) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 26\(4\)\(a\)](#)
- F31** Words in s. 85B(3)(b) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 26\(4\)\(b\)](#)
- F32** Words in s. 85B(4) inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 26\(5\)](#)

#### Modifications etc. (not altering text)

- C16** [S. 85B\(1\)](#) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Exchange Gains and Losses using Fair Value Accounting\) Regulations 2005 \(S.I. 2005/3422\)](#), regs. 1, [9\(5\)](#)

## 87 Accounting method where parties have a connection.

- (1) This section applies in the case of a loan relationship of a company where for any accounting period there is a connection between the company and—
- (a) in the case of a debtor relationship of the company, a person standing in the position of a creditor as respects the debt in question; or
  - (b) in the case of a creditor relationship of the company, a person standing in the position of a debtor as respects that debt.
- [<sup>F33</sup>(2) Where this section applies the debits and credits to be brought into account for the purposes of this Chapter as respects the loan relationship must be determined on an amortised cost basis of accounting.
- (2A) The provisions of subsections (2B) and (2C) apply where subsection (2) applies, or ceases to apply, with the result that there is a change of basis of accounting for a loan relationship as between one accounting period of a company and the next.

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- (2B) Where for an accounting period (“the relevant period”) a company brings into account debits or credits determined in accordance with an amortised cost basis of accounting, having used a fair value basis of accounting for the immediately previous accounting period (“the previous period”)—
- (a) any amount by which the fair value of the relevant asset or liability at the end of the previous period (“A”) exceeds the cost of the asset or liability that would be given at that time on an amortised cost basis of accounting (“B”) shall be brought into account for the purposes of this Chapter as a debit (in the case of an asset) or credit (in the case of a liability) for the relevant period, and
  - (b) any amount by which B exceeds A shall be brought into account for the purposes of this Chapter as a credit (in the case of an asset) or debit (in the case of a liability) for that period.
- (2C) Where for an accounting period (“the relevant period”) a company brings into account debits or credits determined on the basis of fair value accounting, having used an amortised cost basis of accounting for the immediately previous accounting period (“the previous period”)—
- (a) any amount by which the fair value of the relevant asset or liability immediately before the relevant period (“C”) exceeds the cost of the asset or liability that would be given at that time on an amortised cost basis of accounting (“D”) shall be brought into account for the purposes of this Chapter as a credit (in the case of an asset) or debit (in the case of a liability) for the relevant period, and
  - (b) any amount by which D exceeds C shall be brought into account for the purposes of this Chapter as a debit (in the case of an asset) or credit (in the case of a liability) for that period.]
- (3) For the purposes of this section there is a connection between a company and another person for an accounting period if (subject to subsection (4) and section 88 below)—
- (a) the other person is a company and there is a time in that period <sup>F34</sup> . . . when one of the companies has had control of the other; [<sup>F35</sup>or]
  - (b) the other person is a company and there is a time in that period <sup>F36</sup> . . . when both the companies have been under the control of the same person; or
  - (c) <sup>F37</sup> . . . . .
- (4) Two companies which have at any time been under the control of the same person shall not, by virtue of that fact, be taken for the purposes of this section to be companies between whom there is a connection if the person was the Crown, a Minister of the Crown, a government department, a Northern Ireland department, a foreign sovereign power or an international organisation.
- (5) The references in subsection (1) above to a person who stands in the position of a creditor or debtor as respects a loan relationship include references to a person who indirectly stands in that position by reference to a series of loan relationships [<sup>F38</sup>or money debts which would be loan relationships if a company directly stood in the position of creditor or debtor] .
- [<sup>F39</sup>(5A) Where a trade, profession or business is carried on by two or more persons in partnership (“the firm”) and the firm stands in the position of a creditor or debtor as respects a money debt, any question—

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- (a) whether there is for the purposes of this Chapter a connection, within the meaning of this section, between any two companies for an accounting period in the case of a loan relationship, or
- (b) to what extent any amount is to be treated under this Chapter in any particular way as a result of there being, or not being, such a connection,

shall be determined as if to the extent of his appropriate share each of the partners separately, instead of the firm, stood in the position of a creditor or, as the case may be, debtor as respects the money debt.

The reference in the words following paragraph (b) above to partners does not include a reference to the general partner of a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000.

(5B) For the purposes of subsection (5A) above, a partner’s “appropriate share” is the share that would be apportioned to him if an apportionment were made in the shares in which any profit or loss computed in accordance with subsection (1) of section 114 of the Taxes Act 1988 for the accounting period in question would be apportioned between the partners under subsection (2) of that section.]

- (6) <sup>F40</sup> .....
- (7) <sup>F40</sup> .....
- (8) <sup>F40</sup> .....

**Textual Amendments**

- F33** S. 87(2)-(2C) substituted for s. 87(2) (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 4](#)
- F34** Words in s. 87(3)(a) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 7\(2\)\(a\), Sch. 40 Pt. 3\(12\)](#)
- F35** Word in s. 87(3)(a) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 82\(1\), Sch. 25 Pt. 1 para. 7\(2\)\(b\)](#)
- F36** Words in s. 87(3)(b) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 7\(3\), Sch. 40 Pt. 3\(12\)](#)
- F37** S. 87(3)(c) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 7\(4\), Sch. 40 Pt. 3\(12\)](#)
- F38** Words in s. 87(5) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 82\(1\), Sch. 25 Pt. 1 para. 7\(5\)](#)
- F39** S. 87(5A)(5B) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 82\(1\), Sch. 25 Pt. 1 para. 7\(6\)](#)
- F40** S. 87(6)-(8) repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 7\(7\), Sch. 40 Pt. 3\(12\)](#)

**Modifications etc. (not altering text)**

- C17** S. 87(3) applied (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 73\(8\)](#)
- C18** S. 87(3)(4) applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 83\(1\), Sch. 26 Pt. 2 paras. 6\(9\), 7\(8\) \(with Sch. 26 Pt. 2 para. 10\(2\)\)](#)  
S. 87(3)(4) applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 83\(1\), Sch. 26 Pt. 6 para. 26\(6\)](#)



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### [<sup>F41</sup>87A Meaning of “control” in section 87

- (1) For the purposes of section 87 above, “control”, in relation to a company, means the power of a person to secure—
  - (a) by means of the holding of shares or the possession of voting power in or in relation to the company or any other company, or
  - (b) by virtue of any powers conferred by the articles of association or other document regulating the company or any other company,that the affairs of the company are conducted in accordance with his wishes.
- (2) There shall be left out of account for the purposes of this section—
  - (a) any shares held by a company, and
  - (b) any voting power or other powers arising from shares held by a company,if a profit on a sale of the shares would be treated as a trading receipt of a trade carried on by the company and the shares are not, within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988, assets of an insurance company’s long-term insurance fund (see section 431(2) of that Act).
- (3) Where section 114 of the Taxes Act 1988 (partnerships involving companies: special rules for computing profits and losses) applies in relation to a partnership, any property, rights or powers held or exercisable for the purposes of the partnership shall be treated for the purposes of this section, as respects any time in an accounting period of the partnership, as if—
  - (a) the property, rights or powers had been apportioned between, and were held or exercisable by, the partners severally, and
  - (b) the apportionment had been in the shares in which the profit or loss of the accounting period of the partnership would be apportioned between the partners under subsection (2) of that section,but taking the references in paragraphs (a) and (b) above to partners as not including a reference to the general partner of a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000.]

#### Textual Amendments

**F41** S. 87A inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 8](#)

#### Modifications etc. (not altering text)

**C19** S. 87A applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 83(1), [Sch. 26 Pt. 2 paras. 6\(9\), 7\(8\)](#) (with [Sch. 26 Pt. 2 para. 10\(2\)](#))

S. 87A applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 83(1), [Sch. 26 Pt. 6 para. 26\(6\)](#)

### 88 Exemption from section 87 in certain cases.

- (1) Subject to subsection (5) below, where a creditor relationship of a company is one to which that company is a party in any accounting period in exempt circumstances, any connection for that accounting period between the company and a person who stands

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in the position of a debtor as respects the debt shall be disregarded for the purposes of section 87 above.

- (2) A company having a creditor relationship in any accounting period shall, for that period, be taken for the purposes of this section to be a party to that relationship in exempt circumstances if—
- (a) the company, in the course of carrying on any activities forming an integral part of a trade carried on by that company in that period, disposes of or acquires assets representing creditor relationships;
  - <sup>F42</sup>(b) .....
  - (c) the asset representing the creditor relationship in question was acquired in the course of those activities;
  - (d) that asset is either—
    - (i) listed on a recognised stock exchange at the end of that period; or
    - (ii) a security the redemption of which must occur within twelve months of its issue;
  - (e) there is a time in that period when assets of the same kind as the asset representing the loan relationship in question are in the beneficial ownership of persons other than the company; and
  - (f) there is not more than three months, in aggregate, in that accounting period during which the equivalent of 30 per cent. or more of the assets of that kind is in the beneficial ownership of connected persons.
- (3) An insurance company carrying on basic life assurance and general annuity business and having a creditor relationship in any accounting period shall, for that period, be taken for the purposes of this section to be a party to that relationship in exempt circumstances if—
- (a) assets of the company representing any of its creditor relationships are linked for that period to its basic life assurance and general annuity business;
  - <sup>F43</sup>(b) .....
  - (c) the asset representing the creditor relationship in question is so linked;
  - (d) that asset is either—
    - (i) listed on a recognised stock exchange at the end of that period; or
    - (ii) a security the redemption of which must occur within twelve months of its issue;
  - (e) there is a time in that period when assets of the same kind as the asset representing the creditor relationship in question are in the beneficial ownership of persons other than the company; and
  - (f) there is not more than three months, in aggregate, in that accounting period during which the equivalent of 30 per cent. or more of the assets of that kind is in the beneficial ownership of connected persons.
- (4) For the purposes of subsections (2) and (3) above—
- (a) assets shall be taken to be of the same kind where they are treated as being of the same kind by the practice of any recognised stock exchange, or would be so treated if dealt with on such a stock exchange; and
  - (b) a connected person has the beneficial ownership of an asset wherever there is, or (apart from this section) would be, a connection (within the meaning of section 87 above) between—
    - (i) the person who has the beneficial ownership of the asset, and

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- (ii) a person who stands in the position of a debtor as respects the money debt by reference to which any loan relationship represented by that asset subsists.
- (5) Where for any accounting period—
- (a) subsection (1) above has effect in the case of a creditor relationship of a company, and
  - (b) the person who stands in the position of a debtor as respects the debt in question is also a company,
- that subsection shall not apply for determining, for the purposes of so much of section 87 above as relates to the corresponding debtor relationship, whether there is a connection between the two companies.
- (6) Subsection (5) of section 87 above shall apply for the purposes of this section as it applies for the purposes of that section.
- (7) In this section “basic life assurance and general annuity business” and “insurance company” have the same meanings as in Chapter I of Part XII of the Taxes Act 1988, and section 432ZA of that Act (linked assets) shall apply for the purposes of this section as it applies for the purposes of that Chapter.

#### Textual Amendments

- F42** S. 88(2)(b) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 5](#), [Sch. 42 Pt. 2\(6\)](#)
- F43** S. 88(3)(b) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 5](#), [Sch. 42 Pt. 2\(6\)](#)

#### [<sup>F44</sup>88A Accounting method where rate of interest is reset

- (1) This section applies where—
- (a) the conditions in subsections (2) and (3) below are satisfied in relation to an asset representing a creditor relationship of a company; and
  - (b) the object, or one of the main objects, of the company entering into or becoming a party to the creditor relationship was the securing, whether for itself or any other person, of a tax advantage (within the meaning of Chapter 1 of Part 17 of the Taxes Act 1988).
- (2) The first condition is that there is or has at any time been a change in—
- (a) the rate of interest payable in the case of the asset;
  - (b) the amount payable to discharge the debt; or
  - (c) the time at which any payments under the asset (whether of interest or otherwise) fall due.
- (3) The second condition is that the difference between—
- (a) the fair value of the asset immediately after the change, and
  - (b) the issue price of the asset,
- is equal to at least 5 per cent of the issue price of the asset.
- (4) On and after the day on which the conditions in subsections (2) and (3) above become satisfied in the case of an asset, [<sup>F45</sup>the debits and credits to be brought into account

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for the purposes of this Chapter as respects the loan relationship must be determined on the basis of fair value accounting] .

<sup>F46</sup>(5) . . . . .

(6) In determining the fair value of an asset for any purpose of this section it shall be assumed that all amounts payable by the debtor will be paid in full as they fall due.]

**Textual Amendments**

- F44** S. 88A inserted (24.7.2002 with effect as mentioned in s. 71(2)(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 71\(1\)](#)
- F45** Words in s. 88A(4) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 6\(2\)](#)
- F46** S. 88A(5) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 6\(3\), Sch. 42 Pt. 2\(6\)](#)

**89 Inconsistent application of accounting methods.**

<sup>F47</sup> . . . . .

**Textual Amendments**

- F47** S. 89 repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\), ss. 82\(1\), 141, Sch. 25 Pt. 1 para. 9, Sch. 40 Pt. 3\(12\)](#)

<sup>F48</sup>**90 Changes of accounting method.**

. . . . .

**Textual Amendments**

- F48** S. 90 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 10 para. 7, Sch. 42 Pt. 2\(6\)](#)

<sup>F49</sup>**90A Change of accounting basis applicable to assets or liabilities**

- (1) The Treasury may by regulations provide that where in accordance with generally accepted accounting practice assets or liabilities of a company that were previously dealt with for accounting purposes on an amortised cost basis of accounting are required to be dealt with for accounting purposes on the basis of fair value accounting, the debits or credits to be brought into account for the purposes of this Chapter shall continue to be determined on an amortised cost basis of accounting.
- (2) The power to make regulations under this section includes power—
  - (a) to make different provision for different cases;
  - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient; and
  - (c) to make provision subject to an election or to other prescribed conditions.]

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#### Textual Amendments

**F49** S. 90A inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 8](#)

### 91 Payments subject to deduction of tax.

**F50** .....

#### Textual Amendments

**F50** S. 91 repealed (24.7.2002 with effect as mentioned in s. 82(2) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), ss. 82(1), 141, [Sch. 25 Pt. 1 para. 11](#), [Sch. 40 Pt. 3\(12\)](#)

*[<sup>F51</sup>Shares treated as loan relationships]*

#### Textual Amendments

**F51** S. 91A and cross-heading inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(1\)\(2\)](#)

### <sup>F51</sup>91A Shares subject to outstanding third party obligations

- (1) This section applies for the purposes of corporation tax in relation to a company if at any time in an accounting period—
  - (a) that company (“the investing company”) holds a share in another company (“the issuing company”),
  - (b) the share is subject to outstanding third party obligations (see subsection (5)), and
  - (c) the share is an interest-like investment (see subsections (7) and (8)).
- (2) This Chapter shall have effect for the accounting period of the investing company in accordance with subsection (3) below as if—
  - (a) the share were rights under a creditor relationship of that company, and
  - (b) any distribution in respect of the share were not a distribution falling within section 209(2)(a) or (b) of the Taxes Act 1988.
- (3) The debits and credits to be brought into account by the investing company for the purposes of this Chapter as respects the share must be determined on the basis of fair value accounting.
- (4) No debits are to be brought into account in respect of any transaction (or series of transactions) which (apart from the assumption in subsection (8)(b) below) would have the effect of causing the condition in paragraph (a) or (b) of subsection (7) below not to be satisfied.
- (5) For the purposes of this section, the cases where a share is subject to outstanding third party obligations are those cases where—
  - (a) the share is subject to obligations of any description in subsection (6) below,

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- (b) the obligations are obligations of a person other than the investing company, and
  - (c) the obligations are yet to be discharged,
- and where a share is subject to any such obligations, they are for the purposes of this section the “third party obligations” in the case of that share.
- (6) The descriptions of obligation are—
- (a) an obligation to meet unpaid calls on the share;
  - (b) an obligation (not falling within paragraph (a) above) to make a contribution to the capital of the issuing company that could affect the value of the share.
- (7) In this section “interest-like investment” means a share whose nature is such that the fair value of the share—
- (a) is likely to increase at a rate which represents a return on an investment of money at a commercial rate of interest (see section 103(3A)), and
  - (b) is unlikely to deviate to a substantial extent from that rate of increase.
- Fluctuations in value resulting from changes in exchange rates are to be left out of account for the purposes of paragraph (b) above.
- (8) For the purposes of subsection (7) above, it shall be assumed—
- (a) that any third party obligations will be met in the amounts, and at the time, at which they are due, and
  - (b) that no transaction (or series of transactions) intended to cause the condition in paragraph (a) or (b) of that subsection not to be satisfied will be entered into.
- (9) For the purposes of this section, the fair value of a share that is subject to outstanding third party obligations must include the fair value of the obligations.
- (10) For the purposes of this section a company shall be treated as continuing to hold a share notwithstanding that the share has been transferred to another person—
- (a) under a repo or stock lending arrangement, or
  - (b) under a transaction which is treated by section 26 of the Taxation of Chargeable Gains Act 1992 as not involving any disposal.]

### **[<sup>F52</sup>91B Non-qualifying shares**

- (1) This section applies for the purposes of corporation tax in relation to a company if at any time in an accounting period—
- (a) the company (“the investing company”) holds a share in another company (“the issuing company”),
  - (b) the share is not one which, by virtue of paragraph 4 of Schedule 10 to this Act (holdings in unit trusts and offshore funds), falls to be treated for that accounting period as if it were rights under a creditor relationship of the investing company, and
  - (c) the share is a non-qualifying share (see subsection (6)),
- and at no time in the accounting period does section 91A above apply in relation to the investing company in the case of that share.
- (2) This Chapter shall have effect for that accounting period in accordance with subsection (3) below as if—

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- (a) the share were rights under a creditor relationship of the investing company, and
  - (b) any distribution in respect of the share were not a distribution falling within section 209(2)(a) or (b) of the Taxes Act 1988.
- (3) The debits and credits to be brought into account by the investing company for the purposes of this Chapter as respects the share must be determined on the basis of fair value accounting.
- (4) In any case where Condition 1 in section 91C below is satisfied, no debits are to be brought into account in respect of any transaction (or series of transactions) which (apart from the assumption in subsection (6) of section 91C below) would have the effect of causing the condition in paragraph (a) or (b) of subsection (1) of that section not to be satisfied.
- (5) In any case where Condition 3 in section 91E below is satisfied—
- (a) debits and credits shall be brought into account for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) by the investing company in respect of any associated transaction falling within section 91E below as if it were, or were a transaction in respect of, a derivative contract (if that is not in fact the case), and
  - (b) those debits and credits shall be determined on the basis of fair value accounting.
- (6) A share is a non-qualifying share for the purposes of this section if—
- (a) it is not one where section 95 of the Taxes Act 1988 (dealers etc) applies in relation to distributions in respect of the share, and
  - (b) one or more of the Conditions in sections 91C to 91E below is satisfied.
- (7) Subsection (10) of section 91A above (company treated as holding a share) also applies for the purposes of this section.]

#### Textual Amendments

**F52** S. 91B inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(3\)](#)

#### [<sup>F53</sup>91C Condition 1 for section 91B(6)(b)]

- (1) Condition 1 is that the assets of the issuing company are of such a nature that the fair value of the share—
  - (a) is likely to increase at a rate which represents a return on an investment of money at a commercial rate of interest, and
  - (b) is unlikely to deviate to a substantial extent from that rate of increase.

Fluctuations in value resulting from changes in exchange rates are to be left out of account for the purposes of paragraph (b) above.
- (2) But Condition 1 is not satisfied if the whole or substantially the whole by fair value of the assets of the issuing company are income producing.
- (3) The assets which, for the purposes of this section, are “income producing” are—

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- (a) any share as respects which the conditions in section 91A(1) above are satisfied;
  - (b) any share as respects which Condition 1 above is satisfied or would, apart from subsection (2) above, be satisfied;
  - (c) any share as respects which Condition 2 in section 91D below is satisfied or would, apart from subsection (1)(c) of that section (excepted shares), be satisfied;
  - (d) any share as respects which Condition 3 in section 91E below is satisfied;
  - (e) any asset of a description specified in any paragraph of paragraph 8(2) of Schedule 10 to this Act (qualifying investments in relation to a unit trust scheme or an offshore fund);
  - (f) rights under a repo in relation to which section 730A of the Taxes Act 1988 applies;
  - (g) any share in a company the whole or substantially the whole by fair value of whose assets are assets within paragraphs (a) to (f) above.
- (4) The Treasury may by regulations amend this section for the purpose of adding to the assets which are income producing.
- (5) The provision that may be made by regulations under this section includes provision for the regulations to have effect in relation to accounting periods (whenever beginning) which end on or after the day on which the regulations come into force.
- (6) For the purposes of subsection (1) above, it shall be assumed that no transaction (or series of transactions) intended to cause the condition in paragraph (a) or (b) of that subsection not to be satisfied will be entered into by the investing company.
- (7) This section shall be construed as one with section 91B above.

#### Textual Amendments

**F53** Ss. 91C-91E inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 10(4)**

#### **91D Condition 2 for section 91B(6)(b)**

- (1) Condition 2 is that the share—
- (a) is redeemable (see subsection (2)),
  - (b) is designed to produce a return which equates, in substance, to the return on an investment of money at a commercial rate of interest, and
  - (c) is not an excepted share (see subsection (3)).
- (2) For the purposes of this section, a share is to be regarded as redeemable only if it is redeemable as a result of its terms of issue (or any collateral agreements, arrangements or understandings)—
- (a) requiring redemption,
  - (b) entitling the holder to require redemption, or
  - (c) entitling the issuer to redeem.
- (3) A share is an “excepted share” for the purposes of this section if—
- (a) it is a qualifying publicly issued share (see subsections (4) and (5)),



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- (b) it is a share that mirrors a public issue (see subsections (6) to (8)), or
  - (c) the investing company's purpose in acquiring the share is not an unallowable purpose (see subsection (9)).
- (4) A share is a “qualifying publicly issued share” for the purposes of this section if—
- (a) it was issued by a company as part of an issue of shares to independent persons, and
  - (b) less than 10% of the shares in that issue are held by the investing company or persons connected with it.
- (5) But a share is not a qualifying publicly issued share for those purposes if the investing company's purpose in acquiring the share is an unallowable purpose by virtue of subsection (9)(a) below.
- (6) The cases where a share mirrors a public issue are those set out in subsections (7) and (8) below.
- (7) Case 1 is where—
- (a) a company (company A) issues shares (the public issue) to independent persons,
  - (b) within 24 hours of that issue, one or more other companies (companies BB) issue shares (the mirroring shares) to company A on the same, or substantially the same, terms as the public issue,
  - (c) company A and companies BB are associated companies (see subsection (11)), and
  - (d) the total nominal value of the mirroring shares does not exceed the nominal value of the public issue,
- and in any such case the mirroring shares are shares that mirror a public issue.
- (8) Case 2 is where, in the circumstances of Case 1,—
- (a) within 24 hours of the public issue, one or more other companies (companies CC) issue shares (the second-level mirroring shares) to one or more of companies BB on the same, or substantially the same, terms as the public issue,
  - (b) company A, companies BB and companies CC are associated companies, and
  - (c) the total nominal value of the second-level mirroring shares does not exceed the nominal value of the public issue,
- and in any such case the second-level mirroring shares are also shares that mirror a public issue.
- (9) For the purposes of this section, a share is acquired by the investing company for an unallowable purpose if the purpose, or one of the main purposes, for which the company holds the share is—
- (a) the purpose of circumventing section 95 of the Taxes Act 1988 (see subsection (10)), or
  - (b) any other purpose which is a tax avoidance purpose (see subsection (11)).
- (10) The purpose, or one of the main purposes, for which the investing company holds a share shall, in particular, be taken to be the purpose of circumventing section 95 of the Taxes Act 1988 (taxation of dealers in respect of distributions etc) if the investing company was an associated company of a bank (see subsection (11)) at the time when the investing company acquired the share, unless the investing company shows that—

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- (a) immediately before that time, some or all of its business consisted in making and holding investments, and
- (b) it acquired the share in the ordinary course of that business.

(11) In this section—

“associated company”, in relation to any other company, means a company which, within the meaning given by section 413(3)(a) of the Taxes Act 1988, is a member of the same group of companies as that other company;

“bank” has the meaning given by section 840A of the Taxes Act 1988;

“independent person”, in relation to a company, means a person who is not connected with the company;

“tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988;

“tax avoidance purpose”, in the case of any company, means any purpose that consists in securing a tax advantage (whether for the company or any other person).

(12) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this section.

(13) This section is to be construed as one with section 91B above.

#### **Textual Amendments**

**F53** Ss. 91C-91E inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(4\)](#)

#### **91E Condition 3 for section 91B(6)(b)**

- (1) Condition 3 is that there is a scheme or arrangement under which the share and one or more associated transactions are together designed to produce a return which equates, in substance, to the return on an investment of money at a commercial rate of interest.
- (2) But Condition 3 is not satisfied if—
  - (a) Condition 1 in section 91C above is satisfied as respects the share or would, apart from subsection (2) of that section (income producing assets), be so satisfied, or
  - (b) Condition 2 in section 91D above is satisfied as respects the share or would, apart from subsection (1)(c) of that section (excepted shares), be so satisfied.
- (3) In this section “associated transaction” includes entering into, or acquiring rights or liabilities under, any of the following—
  - (a) a derivative contract;
  - (b) a contract that would be a derivative contract, apart from paragraph 4(2B) of Schedule 26 to the Finance Act 2002 (trades etc: hedging relationships with shares);
  - (c) a contract having a similar effect to—
    - (i) a derivative contract, or
    - (ii) a contract falling within paragraph (b) above;
  - (d) a contract of insurance or indemnity.

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(4) This section is to be construed as one with section 91B above.]

#### Textual Amendments

**F53** Ss. 91C-91E inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(4\)](#)

#### [<sup>F54</sup>91F Power to add, vary or remove Conditions for section 91B(6)(b)

- (1) The Treasury may by regulations amend this Chapter so as to add, vary or remove Conditions for the purposes of section 91B(6)(b) above.
- (2) Where the Treasury so add, vary or remove a Condition, they may also by regulations amend any of the following enactments—
  - (a) this Chapter,
  - (b) Chapters 1 to 3 of Part 6 of the Taxes Act 1988 (company distributions),
  - (c) Part 18 of the Taxes Act 1988 (double taxation relief),
  - (d) the Taxation of Chargeable Gains Act 1992,
  - (e) Schedule 26 to the Finance Act 2002 (derivative contracts),so as to make provision for or in connection with taxation in the case of any asset or transaction that is or was mentioned in the Condition.
- (3) The power to make regulations under this section includes power—
  - (a) to make different provision for different cases, and
  - (b) to make such consequential, supplementary, incidental or transitional provisions, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under an enactment).]

#### Textual Amendments

**F54** S. 91F inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(5\)](#)

#### [<sup>F55</sup>91G Shares beginning or ceasing to be subject to section 91A or 91B

- (1) Where at any time on or after 16th March 2005 the conditions in section 91A(1) or 91B(1) above become satisfied in the case of any share, otherwise than in the circumstances described in subsection (3) below, the investing company shall be deemed for the purposes of the Taxation of Chargeable Gains Act 1992—
  - (a) to have disposed of the share immediately before that time for a consideration of an amount equal to its fair value at that time, and
  - (b) to have immediately reacquired it for a consideration of the same amount.
- (2) Where at any time the conditions in section 91A(1) or 91B(1) above cease to be satisfied in the case of any share, the investing company shall be deemed for the purposes of the Taxation of Chargeable Gains Act 1992 and of this Chapter—
  - (a) to have disposed of the share immediately before that time for a consideration of an amount equal to its fair value at that time, and

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- (b) to have immediately reacquired it for a consideration of the same amount.
- (3) In any case where—
- (a) a share is held by a company both—
    - (i) at the end of 15th March 2005, and
    - (ii) at the beginning of 16th March 2005, and
  - (b) the conditions in section 91A(1) or 91B(1) above are satisfied in relation to that share at the beginning of 16th March 2005,
- subsection (4) below applies.
- (4) In any such case, section 116 of the Taxation of Chargeable Gains Act 1992 (reorganisations etc involving qualifying corporate bonds) shall have effect in accordance with—
- (a) the assumptions in subsections (5) and (6) below, and
  - (b) the provisions of subsections (7) and (8) below.
- (5) The first of the assumptions is that the share became an asset representing a creditor relationship of the company (and, accordingly, a qualifying corporate bond) in consequence of the occurrence on 16th March 2005 of a transaction such as is mentioned in section 116(1) of the Taxation of Chargeable Gains Act 1992.
- (6) The remaining assumptions are that, in relation to the transaction deemed to have occurred as mentioned in subsection (5) above,—
- (a) the share immediately before 16th March 2005 shall be assumed to be the old asset for the purposes of section 116 of the Taxation of Chargeable Gains Act 1992, and
  - (b) the asset representing a creditor relationship immediately after the beginning of 16th March 2005 shall be assumed for those purposes to be the new asset.
- (7) Where—
- (a) subsection (3) above has effect in the case of any share, but
  - (b) the conditions in section 91A(1) or 91B(1) above cease to be satisfied in the case of the share at any time on or before 31st December 2005,
- subsection (8) below applies.
- (8) In any such case—
- (a) the deemed disposal of the share at that time by virtue of subsection (2)(a) above shall not be regarded as a disposal for the purposes of subsection (10)(b) or (c) of section 116 of the Taxation of Chargeable Gains Act 1992, but
  - (b) the share shall continue to be the new asset for the purposes of that section.]

#### **Textual Amendments**

**F55** S. 91G inserted (with effect in accordance with Sch. 7 para. 10(7) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 10\(6\)](#)

#### *Special cases*

#### **F5692 Convertible securities etc: creditor relationships**

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**Textual Amendments**

**F56** S. 92 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 9, [Sch. 42 Pt. 2\(6\)](#)

**Modifications etc. (not altering text)**

**C20** S. 92 modified (27.7.1999) by [1999 c. 16, s. 65\(9\)](#)

<sup>F57</sup>**92A Convertible securities etc: debtor relationships**

.....

**Textual Amendments**

**F57** S. 92A repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 10, [Sch. 42 Pt. 2\(6\)](#)

<sup>F58</sup>**93 Relationships linked to the value of chargeable assets.**

.....

**Textual Amendments**

**F58** S. 93 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

<sup>F59</sup>**93A Relationships linked to the value of chargeable assets: guaranteed returns**

.....

**Textual Amendments**

**F59** S. 93A repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

<sup>F60</sup>**93B Loan relationships ceasing to be within section 93**

.....

**Textual Amendments**

**F60** S. 93B repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 11, [Sch. 42 Pt. 2\(6\)](#)

**94 Indexed gilt-edged securities.**

[<sup>F61</sup>[<sup>F62</sup>(1) In the case of a loan relationship represented by an index-linked gilt-edged security—

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- (a) the amounts to be brought into account for the purposes of this Chapter must be determined using fair value accounting, and
  - (b) the following adjustment shall be made in computing those amounts.
- (2) The adjustment shall be made wherever—
- (a) those amounts fall to be determined by reference to the value of the security at two different times, and
  - (b) there is a change in the retail prices index between those times.
- (3) The adjustment is made to the carrying value of the security at the earlier time and is to increase or, as the case may be, reduce it by the same percentage as the percentage increase or reduction in the retail prices index between the earlier and the later time.]
- (4) The Treasury may, in relation to any description of index-linked gilt-edged securities, by order provide that—
- (a) there are to be no adjustments under this section; or
  - (b) that an adjustment specified in the order (instead of the adjustment specified in subsection (3) above) is to be the adjustment for which this section provides.
- (5) An order under subsection (4) above—
- (a) shall not have effect in relation to any gilt-edged security issued before the making of the order; but
  - (b) may make different provision for different descriptions of securities.
- (6) For the purposes of this section the percentage increase or reduction in the retail prices index between any two times shall be determined by reference to the difference between—
- (a) that index for the month in which the earlier time falls; and
  - (b) that index for the month in which the later time falls
- [<sup>F63</sup>except that where the earlier time falls at the beginning of an accounting period which begins with the first day of a month, the index for the previous month shall be used for the purposes of paragraph (a) above.]
- (7) In this section “index-linked gilt-edged securities” means any gilt-edged securities the amounts of the payments under which are determined wholly or partly by reference to the retail prices index.]

#### Textual Amendments

- F61** S. 94 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 12](#), [Sch. 42 Pt. 2\(6\)](#)
- F62** S. 94(1)-(3) substituted for s. 94(1)-(3A) (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 27\(3\)](#)
- F63** Words in s. 94(6) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 12\(3\)](#)

#### Modifications etc. (not altering text)

- C21** S. 94 restored (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 27\(1\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

## **[<sup>F64</sup>94A Loan relationships with embedded derivatives**

- (1) This section applies where a company [<sup>F65</sup>in accordance with generally accepted accounting practice treats] the rights and liabilities under a loan relationship to which it is party (whether as debtor or creditor) as divided between—
- (a) rights and liabilities under a loan relationship (the “host contract”), and
  - (b) rights and liabilities under one or more derivative financial instruments or equity instruments (“embedded derivatives”).
- (2) The company shall be treated—
- (a) for the purposes of this Chapter as party to a loan relationship whose rights and liabilities consist only of the rights and liabilities of the host contract, and
  - (b) for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts) as—
    - (i) party to a relevant contract within the meaning of that Schedule whose rights and liabilities consist only of those of the embedded derivative, or
    - (ii) if there is more than one embedded derivative, party to relevant contracts within the meaning of that Schedule each of whose rights and liabilities consist only of those of one of the embedded derivatives.
- (3) Each relevant contract to which the company is treated as party under subsection (2)(b) shall be treated for the purposes of that Schedule as an option, a future or a contract for differences according to whether the rights and liabilities of the embedded derivative would be of that character if contained in a separate contract.]

### **Textual Amendments**

- F64** S. 94A inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 13](#)
- F65** Words in s. 94A(1) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 28\(2\)](#)

## **<sup>F66</sup>95 Gilt strips.**

### **Textual Amendments**

- F66** Word in s. 95(1) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 14](#)

## **96 Special rules for certain other gilts.**

- (1) This section applies as respects any loan relationship of a company if—
- (a) it is represented by a security of any of the following descriptions—
    - (i) 3½% Funding Stock 1999-2004; or
    - (ii) 5½% Treasury Stock 2008-2012;
- and

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- (b) it is one to which the company is a party otherwise than in the course of activities that form an integral part of a trade carried on by the company.
- (2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a loan relationship to which this section applies shall be confined to amounts relating to interest.

<sup>F67</sup>(3) .....

**Textual Amendments**  
**F67** S. 96(3) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004](#) (c. 12), Sch. 10 para. 15, [Sch. 42 Pt. 2\(6\)](#)

**97 Manufactured interest.**

- (1) [<sup>F68</sup>For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—]
  - (a) any amount (“manufactured interest”) is payable by or on behalf of, or to, [<sup>F69</sup>the company] under any contract or arrangements relating to the transfer of an asset representing a loan relationship; and
  - (b) that amount is, or (when paid) will fall to be treated as, representative of interest under [<sup>F70</sup>that loan relationship] (“the real interest”).

[<sup>F71</sup>and references to a relationship to which this section applies, and to a company’s being party to such a relationship, shall be construed accordingly]

- [<sup>F72</sup>(2) Where a company has a relationship to which this section applies—
  - (a) this Chapter shall have effect in relation to the company and the manufactured interest under the relationship—
    - (i) as it would have effect if the manufactured interest were interest payable on a loan by, or (as the case may be) to, the company and were accordingly interest under a loan relationship to which the company is a party, and
    - (ii) where that company is the company to which the manufactured interest is payable, as if that relationship were the one under which the real interest is payable, <sup>F73</sup>...

<sup>F74</sup>(b) .....

and, subject to [<sup>F75</sup>paragraph (a)(ii)] above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.]

- [<sup>F76</sup>(2A) Where a company—
  - (a) has a relationship to which this section applies, but
  - (b) enters into a related transaction in respect of the right to receive manufactured interest,

then, for the purpose of bringing credits into account by virtue of subsection (2) above in respect of that or any other related transaction, the company shall continue to be treated as having a relationship to which this section applies even though the manufactured interest is not payable to the company.]

<sup>F77</sup>(3) .....



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<sup>F77</sup>(3A) .....

(4) Where section [<sup>F78</sup>736B(2) or] 737A(5) of the Taxes Act 1988 (deemed manufactured payments) has effect in relation to a transaction relating to an asset representing a loan relationship so as, for the purposes of [<sup>F79</sup>section 737 of, or] Schedule 23A to, that Act, to deem there to have been a payment representative of interest under that relationship, this section shall apply as it would have applied if such a representative payment had in fact been made.

[<sup>F80</sup>(4A) Where, for the purposes of section 736B of the Taxes Act 1988, a company is the borrower under a stock lending arrangement, then (pursuant to subsection (2A) of that section (which precludes deductions or group relief for the borrower)) no debits are to be brought into account for the purposes of this Chapter by that company in respect of the deemed representative payment under that section which is treated under subsection (4) above as if it had in fact been made.]

[<sup>F81</sup>(5) This section does not apply where the manufactured interest is treated by virtue of paragraph 5(2)(c) or (4)(c) of Schedule 23A to the Taxes Act 1988 (manufactured interest passing through the market) as not being income of the person who receives it.]

#### Textual Amendments

- F68** Words in s. 97(1) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(2\)\(a\)](#)
- F69** Words in s. 97(1)(a) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(2\)\(b\)](#)
- F70** Words in s. 97(1)(b) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(2\)\(c\)](#)
- F71** Words in s. 97(1) added (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(2\)\(d\)](#)
- F72** S. 97(2) substituted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(3\)](#)
- F73** Word in s. 97(2) repealed (with effect in accordance with Sch. 11 Pt. 2(8) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 11 Pt. 2\(8\)](#)
- F74** S. 97(2)(b) repealed (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 11\(2\)\(a\)](#), [Sch. 11 Pt. 2\(8\)](#)
- F75** Words in s. 97(2) substituted (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 11\(2\)\(b\)](#)
- F76** S. 97(2A) inserted (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 11\(3\)](#)
- F77** S. 97(3)(3A) repealed (with effect in accordance with Sch. 7 para. 11(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 11\(4\)](#), [Sch. 11 Pt. 2\(8\)](#)
- F78** Words in s. 97(4) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(5\)](#)
- F79** Words in s. 97(4) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Notes 4, 6 of the amending Act) by [1997 c. 16](#), s. 113, [Sch. 18 Pt. VI\(10\)](#)
- F80** S. 97(4A) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 13\(6\)](#)
- F81** S. 97(5) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Notes 3, 4, 6 of the amending Act) by [1997 c. 16](#), s. 113, [Sch. 18 Pt. VI\(10\)](#)

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## 98 Collective investment schemes.

The provisions of this Chapter have effect subject to the provisions of Schedule 10 to this Act (which makes special provision in relation to certain collective investment schemes).

## 99 Insurance companies.

The preceding provisions of this Chapter have effect subject to Schedule 11 to this Act (which makes special provision in relation to certain insurance companies and in relation to corporate members of Lloyd's).

### *Miscellaneous other provisions*

#### <sup>[F83]</sup>100 <sup>[F82]</sup>Money debts etc not arising from the lending of money

(1) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—

- (a) the company stands, or has stood, in the position of a creditor or debtor as respects a money debt;
- (b) the money debt is not one which arose from a transaction for the lending of money (so that, in consequence of section 81(1)(b) above, there is no loan relationship); and
- (c) the money debt is one—
  - (i) on which interest is payable to or by the company; or
  - (ii) in relation to which exchange gains or losses arise to the company; <sup>[F84]</sup>or
  - (iii) in respect of which a payment would fall to be brought into account for the purposes of corporation tax as a receipt of a trade, Schedule A business or overseas property business carried on by the company, and in relation to which an impairment loss (or a credit in respect of the reversal of an impairment loss) arises to the company; <sup>[F85]</sup>or
  - (iv) as respects which the conditions in subsection (1A) below (discount etc) are satisfied;]

and references to a relationship to which this section applies, and to a company's being party to such a relationship, shall be construed accordingly.

<sup>[F86]</sup>(1A) The conditions mentioned in subsection (1)(c)(iv) above are that—

- (a) the company stands in the position of creditor in relation to the money debt;
- (b) the money debt is one from which a discount (whether of an income or capital nature) arises to the company;
- (c) the discount does not fall to be brought into account under section 50 of the Finance Act 2005 by virtue of section 47 of that Act (alternative finance return);
- (d) if the money debt is some or all of the consideration payable for a disposal of property, the money debt (on the assumption that it will be paid in full) does not fall to be brought into account for the purposes of corporation tax as a trading receipt of the company;
- (e) if the money debt is some or all of the consideration payable for a disposal of property, the property in question is not any of the following—

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- (i) an asset representing a loan relationship;
- (ii) a derivative contract.]

(2) Where a company has a relationship to which this section applies—

- [<sup>F87</sup>(a) this Chapter has effect in relation to the [<sup>F88</sup>matters mentioned in subsection (1)(c)(i) to (iii) above or subsection (2ZA) below] as it has effect in relation to such matters arising under or in relation to a loan relationship, but
- (b) the only credits or debits to be brought into account for the purposes of this Chapter in respect of the relationship are those relating to those matters;]

and, subject to paragraph above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.

[<sup>F89</sup>(2ZA) The matters are—

- (a) in the case of a money debt falling within subsection (1)(c)(i) above, profits (but not losses) arising to the company from any related transaction in respect of the right to receive interest;
- (b) in the case of a money debt falling within subsection (1)(c)(iv) above, each of the following—
  - (i) the discount arising to the company from the money debt;
  - (ii) profits (but not losses) arising to the company from any related transaction;
  - (iii) any impairment arising to the company in respect of the discount;
  - (iv) any reversal of any such impairment.

(2ZB) Where a company—

- (a) has a relationship to which this section applies by virtue of subsection (1)(c)(i) above, but
- (b) enters into a related transaction in respect of the right to receive interest,

then, for the purpose of bringing credits into account by virtue of subsection (2ZA)(a) above in respect of that or any other related transaction, the company shall continue to be treated as having a relationship to which this section so applies even though the interest is not payable to the company.]

[<sup>F90</sup>(2A) Where—

- (a) a company has a relationship to which section 730BB of the Taxes Act 1988 applies (exchange gains and losses on sale and repurchase of securities),
- (b) in the case of that relationship the circumstances mentioned in section 730A(1)(b) of that Act are such as to give rise to a money debt, and
- (c) the company stands, or has stood, in the position of a creditor or debtor as respects that money debt,

the company shall not be regarded for the purposes of the Corporation Tax Acts as having, by reason of that money debt, a relationship to which this section applies, so far as relating to exchange gains and losses.]

(3) References in this section to interest payable on a money debt include a reference to any amount which, in pursuance of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), falls to be treated as—

- (a) interest on a money debt; or
- (b) interest on an amount which is treated as a money debt;

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and references in the other provisions of this section to a money debt accordingly include a reference to the amount on which that amount so falls to be treated as interest.

[<sup>F91</sup>(3A) For the purposes of this section, a discount shall, in particular, be taken to arise from a money debt in any case where—

- (a) there is a disposal of property for a consideration some or all of which is money that falls to be paid after the sale;
- (b) the amount or value of the whole consideration exceeds what the purchaser would have paid for the property if he had been required to pay in full at the time of the disposal; and
- (c) some or all of the excess can reasonably be regarded as representing a return on an investment of money at interest (and, accordingly, as being a discount arising from the money debt).

(3B) The credits to be brought into account for the purposes of this Chapter in respect of a discount arising from a money debt must be determined using an amortised cost basis of accounting (see section 103).]

<sup>F92</sup>(4) .....

<sup>F92</sup>(5) .....

<sup>F92</sup>(6) .....

(7) Any debits or credits which—

- (a) relate to interest payable under the Tax Acts, and
- (b) fall to be brought into account by virtue of this section in relation to any company,

are to be treated as non-trading debits or credits.

<sup>F93</sup>(8) .....

(9) No exchange gains or losses shall be taken to arise for the purposes of this section if the money debt in question—

- (a) is an amount of tax,
- (b) is an amount of tax payable under the law of a territory outside the United Kingdom, or
- (c) is an amount which would, but for any statutory provision or rule of law to the contrary other than section 74(1)(f) or (g) of the Taxes Act 1988, be deductible as an expense in computing profits in accordance with Case I of Schedule D or as an expense of management within section 75 of the Taxes Act 1988, [<sup>F94</sup>or expenses payable falling to be brought into account in Step 1 of section 76(7) of that Act]

except to the extent that, in the case of a money debt falling within paragraph (b) above, a reduction in respect of the tax there mentioned falls to be made under section 811 of the Taxes Act 1988 (double taxation relief: deduction for foreign tax where no credit allowable).

(10) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed to a company—

- (a) any currency held by the company;
- (b) in the case of a company carrying on insurance business, any deferred acquisition costs, within the meaning of Assets item G.II in the Balance

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Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985 (form and content of accounts of insurance companies and groups) as read with note (17) of the Notes on the Balance Sheet Format (which follow immediately after that format).

- (11) For the purposes of this section so far as relating to exchange gains and losses, each of the following shall be treated as a money debt owed by a company—
- (a) any provision made by the company for the purposes of its statutory accounts in respect of a liability to which the company may become subject;
  - (b) in the case of a company carrying on insurance business—
    - (i) any provision made by the company for unearned premiums, within the meaning of Liabilities item C.1 in the Balance Sheet Format set out after paragraph 9 of Schedule 9A to the Companies Act 1985, as read with note (20) of the Notes on the Balance Sheet Format (which follow immediately after that format);
    - (ii) any provision for unexpired risks, as defined in paragraph 81(1) of that Schedule.
- (12) A provision does not fall within paragraph (a) of subsection (11) above unless—
- (a) the duty to settle the liability in question would (if the company were to become subject to it) be owed for the purposes of a trade, a Schedule A business or an overseas property business (within the meaning of section 70A of the Taxes Act 1988); and
  - (b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade, Schedule A business or overseas property business for corporation tax purposes.

<sup>F95</sup>(13) . . . . .

- [<sup>F96</sup>(14) This section does not apply to a debt in respect of which profits, gains or losses (if any) fall to be brought into account under—
- (a) Schedule 26 to the Finance Act 2002 (derivative contracts), or
  - (b) Schedule 29 to that Act (gains and losses from intangible fixed assets).]]

#### Textual Amendments

- F82** S. 100 heading substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 9\(2\)](#)
- F83** S. 100 substituted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 79(2), [Sch. 23 Pt. 1 para. 6](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F84** S. 100(1)(c)(iii) and word inserted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 9\(3\)](#)
- F85** S. 100(1)(c)(iv) and word inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 12\(2\)](#)
- F86** S. 100(1A) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 12\(3\)](#)
- F87** S. 100(2)(a)(b) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 9\(4\)](#)
- F88** Words in s. 100(2)(a) substituted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 12\(4\)](#)
- F89** S. 100(2ZA)(2ZB) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 12\(5\)](#)
- F90** S. 100(2A) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 14](#)
- F91** S. 100(3A)(3B) inserted (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 12\(6\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

- F92** S. 100(4)-(6) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 12(7), **Sch. 11 Pt. 2(8)**
- F93** S. 100(8) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 12(7), **Sch. 11 Pt. 2(8)**
- F94** Words in s. 100(9)(c) added (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 49**
- F95** S. 100(13) repealed (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 12(8), **Sch. 11 Pt. 2(8)**
- F96** S. 100(14) added (7.4.2005) by Finance Act 2005 (c. 7), **Sch. 4 para. 9(5)**

**Modifications etc. (not altering text)**

- C22** S. 100(2) modified (with effect in accordance with Sch. 7 para. 12(9)-(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 12(11)**

**101 Financial instruments.**

- (1) [<sup>F97</sup>Schedule 26 to the Finance Act 2002 (provisions relating to derivative contracts)] shall not apply to any profit or loss which, [<sup>F98</sup>in accordance with that Schedule], accrues to a company for any accounting period on [<sup>F99</sup>a derivative contract] by virtue of which the company is a party to any loan relationship if—
- (a) an amount representing that profit or loss, or
  - (b) an amount representing the profit or loss accruing to that company on that contract,
- is brought into account for that period for the purposes of this Chapter.

[<sup>F100</sup>(1A) This section does not apply where section 94A above applies (treatment of embedded derivatives).]

- (2) <sup>F101</sup> .....
- (3) <sup>F101</sup> .....
- (4) <sup>F101</sup> .....
- (5) <sup>F101</sup> .....
- (6) <sup>F101</sup> .....

**Textual Amendments**

- F97** Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 27 para. 19(2)(a)**
- F98** Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 27 para. 19(2)(b)**
- F99** Words in s. 101(1) substituted (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 27 para. 19(2)(c)**
- F100** S. 101(1A) inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 16**
- F101** S. 101(2)-(6) repealed (24.7.2002 with effect as mentioned in s. 83(3)(4) of the repealing Act) by Finance Act 2002 (c. 23), ss. 83(1), 141, **Sch. 27 para. 19(3), Sch. 40 Pt. 3(13)**

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

## <sup>F102</sup>102 Discounted securities: income tax provisions.

### Textual Amendments

**F102** S. 102 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 487, [Sch. 3](#) (with [Sch. 2](#))

### *Supplemental*

## 103 Interpretation of Chapter.

(1) In this Chapter—

<sup>F103</sup>

...  
[<sup>F104</sup>“amortised cost basis of accounting”, in relation to a loan relationship of a company, means a basis of accounting under which an asset or liability representing the loan relationship is shown in the company’s accounts at cost adjusted for cumulative amortisation and any impairment, repayment or release;]

“creditor relationship”, in relation to a company, means any loan relationship of that company in the case of which it stands in the position of a creditor as respects the debt in question;

“debt” includes a debt the amount of which falls to be ascertained by reference to matters which vary from time to time;

“debtor relationship”, in relation to a company, means any loan relationship of that company in the case of which it stands in the position of a debtor as respects the debt in question;

[<sup>F105</sup> “derivative contract” has the same meaning as in Schedule 26 to the Finance Act 2002;]

[<sup>F106</sup>“exchange gain” and “exchange loss” shall be construed in accordance with subsections (1A) [<sup>F107</sup>, (1AA)] and (1B) below;]

[<sup>F104</sup>“fair value”, in relation to a loan relationship of a company, means the amount which, at the time as at which the value falls to be determined, is the amount that the company would obtain from or, as the case may be, would have to pay to an independent person for—

- (a) the transfer of all the company’s rights under the relationship in respect of amounts which at that time are not yet due and payable, and
- (b) the release of all the company’s liabilities under the relationship in respect of amounts which at that time are not yet due and payable;

“fair value accounting” means a basis of accounting under which assets or liabilities are shown in the company’s balance sheet at their fair value;]

“gilt-edged securities” means any securities which—

- (a) are gilt-edged securities for the purposes of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992; or
- (b) will be such securities on the making of any order under paragraph 1 of Schedule 9 to that Act the making of which is anticipated in the prospectus under which they are issued;

[<sup>F104</sup>“impairment” includes uncollectability;]

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1996, Part IV. (See end of Document for details)*

[<sup>F104</sup>“impairment loss” means a debit in respect of the impairment of a financial asset;]

“an independent person” means a knowledgeable and willing party dealing at arm’s length;

“international organisation” means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members;

“loan” includes any advance of money, and cognate expressions shall be construed accordingly;

“money” shall be construed in accordance with section 81(6) above and subsection (5) below;

“money debt” shall be construed in accordance with section 81(2) above;

“non-trading credit” and “non-trading debit” shall be construed in accordance with section 82(3) above;

[<sup>F108</sup>“related transaction” shall be construed in accordance with section 84 above (see subsections (5) and (6) of that section);]

“retail prices index” has the same meaning as it has, by virtue of section 833(2) of the Taxes Act 1988, in the Income Tax Acts;

“share”, in relation to a company, means any share in the company under which an entitlement to receive distributions may arise [<sup>F109</sup>but does not include a share in a building society].

<sup>F110</sup>  
...

[<sup>F111</sup>(1A) References in this Chapter to exchange gains or exchange losses, in the case of any company, are references respectively to—

- (a) profits or gains, or
- (b) losses,

which arise as a result of comparing at different times the expression in one currency of the whole or some part of the valuation put by the company in another currency on an asset or liability of the company.

If the result of such a comparison is that neither an exchange gain nor an exchange loss arises, then for the purposes of this Chapter an exchange gain of nil shall be taken to arise in the case of that comparison.

[<sup>F112</sup>(1AA) The Treasury may make provision by regulations as to the manner in which—

- (a) exchange gains or losses, and
- (b) any other profits or gains or losses,

are to be calculated for the purposes of subsection (1A) in a case where fair value accounting is used by the company.

Any such regulations may be made so as to apply to periods of account beginning before the regulations are made, but not earlier than the beginning of the calendar year in which they are made.]

(1B) Any reference in this Chapter to an exchange gain or loss from a loan relationship of a company is a reference to an exchange gain or loss arising to a company in relation to an asset or liability representing a loan relationship of the company.]

(2) For the purposes of this Chapter a company shall be taken to be a party to a creditor relationship for the purposes of a trade carried on by that company only if it is a party to that relationship in the course of activities forming an integral part of that trade.



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- (3) For the purposes of this Chapter, and of so much of any other enactment as contains provision by reference to which amounts fall to be brought into account for the purposes of this Chapter, activities carried on by a company in the course of—
- (a) any mutual trading, or
  - (b) any mutual insurance or other mutual business which is not life assurance business (within the meaning of Chapter I of Part XII of the Taxes Act 1988),
- shall be deemed not to constitute the whole or any part of a trade.
- [<sup>F113</sup>(3A) For the purposes of this Chapter, a commercial rate of interest, in the case of a company and any asset, is—
- (a) a rate (“the simple commercial rate”) that is reasonably comparable to the rate that the company could obtain by placing on deposit the money it invested in the asset, or
  - (b) in any case where—
    - (i) the likely rate of increase in the value of the asset is in question, and
    - (ii) that likely rate is a lower rate than the simple commercial rate, and
    - (iii) the difference is a result of an expectation that the company would also obtain a tax advantage as a result of investing in the asset,that lower rate.
- (3B) In subsection (3A) above, “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.]
- (4) If, in any proceedings, any question arises whether a person is an international organisation for the purposes of any provision of this Chapter, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.
- <sup>F114</sup>(5) .....
- [<sup>F115</sup>(6) Where—
- (a) a company ceases to be a party to a loan relationship in an accounting period (the “cessation period”),
  - (b) profits, gains or losses arise to the company from the loan relationship or a related transaction in that accounting period, and
  - (c) the credits or debits brought into account for the purposes of this Chapter for that accounting period do not include credits or debits which represent the whole of those profits, gains or losses,
- credits or debits in respect of so much of those profits, gains or losses as are not represented by credits or debits brought into account for the cessation period shall continue to be brought into account under this Chapter over one or more subsequent accounting periods (“post-cessation periods”) as in the case of a loan relationship to which the company is a party in those periods, and subsections (7) and (8) below shall apply.
- (7) In any case falling within subsection (6) above, any question—
- (a) whether, in a post-cessation period, the company is to any extent a party to the loan relationship—
    - (i) for the purposes of a trade carried on by it, or
    - (ii) for any other particular purpose or purposes, or

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- (b) whether, in a post-cessation period, the loan relationship is to any extent referable to a particular business, or a particular class, category or description of business, carried on by the company,
- shall be determined by reference to the circumstances immediately before the company ceased to be a party to the loan relationship instead of the circumstances in the post-cessation period.
- (8) In any case falling within subsection (6) above, any question—
- (a) whether the loan relationship has to any extent a particular purpose in a post-cessation period, or
- (b) whether there is a connection between the company and any other person for a post-cessation period,
- shall be determined by reference to the circumstances in the cessation period instead of the circumstances in the post-cessation period.]

#### Textual Amendments

- F103** Words in s. 103(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 17\(2\)\(a\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F104** Words in s. 103(1) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 17\(2\)\(b\)](#)
- F105** In s. 103(1) definition of "derivative contract" inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 15](#)
- F106** In s. 103(1) definitions of "exchange gain" and "exchange loss" inserted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 79(2), [Sch. 23 Pt. 1 para. 7\(2\)](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F107** Word in s. 103(1) inserted (retrospective to 7.4.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 6 para. 4\(4\)\(6\)](#)
- F108** In s. 103(1) definition of "related transaction" inserted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 79(2), [Sch. 23 Pt. 1 para. 7\(2\)](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F109** In s. 103(1) words in definition of "share" inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 14](#)
- F110** Words in s. 103(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 17\(2\)\(c\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F111** S. 103(1A)(1B) inserted (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 79(2), [Sch. 23 Pt. 1 para. 7\(3\)](#) (with [Sch. 23 Pt. 3 para. 25](#))
- F112** S. 103(1AA) substituted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 6 para. 10](#)
- F113** S. 103(3A)(3B) inserted (with effect in accordance with Sch. 7 para. 13(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 7 para. 13\(1\)](#)
- F114** S. 103(5) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 17\(3\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F115** S. 103(6)-(8) inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 82(1), [Sch. 25 Pt. 1 para. 16](#)

#### Marginal Citations

- M2** 1992 c. 12.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

#### **104 Minor and consequential amendments.**

Schedule 14 to this Act (which, for the purposes of both corporation tax and income tax, makes certain minor and consequential amendments in connection with the provisions of this Chapter) shall have effect.

#### **105 Commencement and transitional provisions.**

- (1) Subject to Schedule 15 to this Act, this Chapter has effect—
  - (a) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996; and
  - (b) so far as it makes provision for the purposes of income tax, in relation to the year 1996-97 and subsequent years of assessment.
- (2) Schedule 15 to this Act (which contains transitional provisions and savings in connection with the coming into force of this Chapter) shall have effect.

### **CHAPTER III**

#### **PROVISIONS RELATING TO THE SCHEDULE E CHARGE**

#### **<sup>F116</sup>106 Living accommodation provided for employees.**

.....

##### **Textual Amendments**

**F116** Ss. 106-110 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](#))

#### **<sup>F116</sup>107 Beneficial loans.**

.....

##### **Textual Amendments**

**F116** Ss. 106-110 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](#))

#### **<sup>F116</sup>108 Incidental benefits for holders of certain offices etc.**

.....

##### **Textual Amendments**

**F116** Ss. 106-110 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](#))

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

**F116 109 Charitable donations: payroll deduction schemes.**

.....

**Textual Amendments**

**F116** Ss. 106-110 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](#))

**F116 110 PAYE settlement agreements.**

.....

**Textual Amendments**

**F116** Ss. 106-110 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](#))

**CHAPTER IV**

SHARE OPTIONS, PROFIT SHARING AND EMPLOYEE SHARE OWNERSHIP

*Share options*

**111 Amount or value of consideration for option.**

(1) Section 149A of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 (consideration for grant of option under approved share option schemes not to be deemed to be equal to market value of option) shall be amended as follows.

<sup>F117</sup>(2) .....

(3) In subsection (2) (grantor to be treated as if the amount or value of the consideration was its actual amount or value) for “The grantor of the option” there shall be substituted “ Both the grantor of the option and the person to whom the option is granted ”.

(4) Subsection (4) (section not to affect treatment under that Act of person to whom option granted) shall cease to have effect.

<sup>F118</sup>(5) .....

(6) This section has effect in relation to any right to acquire shares in a body corporate obtained on or after 28th November 1995 by an individual by reason of his office or employment as a director or employee of a body corporate.

**Textual Amendments**

**F117** [S. 111\(2\)](#) repealed (with effect in accordance with [Sch. 11 Pt. 2\(5\)](#) Note of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 11 Pt. 2\(5\)](#)

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

**F118** S. 111(5) repealed (with effect in accordance with Sch. 11 Pt. 2(5) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(5)**

**Marginal Citations**

**M3** 1992 c. 12.

**112 Release and replacement.**

- (1) After section 237 of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 there shall be inserted—

**“237A Share option schemes: release and replacement of options.**

- (1) This section applies in any case where a right to acquire shares in a body corporate (“the old right”) which was obtained by an individual by reason of his office or employment as a director or employee of that or any other body corporate is released in whole or in part for a consideration which consists of or includes the grant to that individual of another right (“the new right”) to acquire shares in that or any other body corporate.
- (2) As respects the person to whom the new right is granted—
- (a) without prejudice to subsection (1) above, the new right shall not be regarded for the purposes of capital gains tax as consideration for the release of the old right;
  - (b) the amount or value of the consideration given by him or on his behalf for the acquisition of the new right shall be taken for the purposes of section 38(1) to be the amount or value of the consideration given by him or on his behalf for the old right; and
  - (c) any consideration paid for the acquisition of the new right shall be taken to be expenditure falling within section 38(1)(b).
- (3) As respects the grantor of the new right, in determining for the purposes of this Act the amount or value of the consideration received for the new right, the release of the old right shall be disregarded.”
- (2) Section 238(4) of that Act (which provides that the release of an option under an approved share option scheme in exchange for another option, in connection with a company take-over, is not to involve a disposal, and which is superseded by subsection (1) above) shall cease to have effect.
- (3) This section has effect in relation to transactions effected on or after 28th November 1995.

**Marginal Citations**

**M4** 1992 c. 12.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

### *Savings-related share option schemes*

#### **<sup>F119</sup> 113 Exercise of rights by employees of non-participating companies.**

.....

##### **Textual Amendments**

**F119** Ss. 113-115 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](#))

### *Other share option schemes*

#### **<sup>F119</sup> 114 Requirements to be satisfied by approved schemes.**

.....

##### **Textual Amendments**

**F119** Ss. 113-115 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](#))

#### **<sup>F119</sup> 115 Transitional provisions.**

.....

##### **Textual Amendments**

**F119** Ss. 113-115 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](#))

### *Profit sharing schemes*

#### **116 The release date.**

- (1) In section 187(2) of the Taxes Act 1988 (interpretation of sections 185 and 186 of, and Schedules 9 and 10 to, that Act) in the definition of “release date” (the fifth anniversary of the date on which shares were appropriated to a participant in a profit sharing scheme) for “fifth” there shall be substituted “third”.
- (2) The amendment made by subsection (1) above shall have effect in relation to shares of a participant in a profit sharing scheme if the third anniversary of the appropriation of the shares to the participant occurs on or after the day on which this Act is passed.
- (3) If the third anniversary of the appropriation of any shares to a participant in a profit sharing scheme has occurred, but the fifth anniversary of their appropriation to him has not occurred, before the passing of this Act, then, in the application of sections 186 and 187 of, and Schedules 9 and 10 to, the Taxes Act 1988 in relation to those shares, the release date shall be the day on which this Act is passed.

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*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

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### **117 The appropriate percentage.**

(1) In Schedule 10 to the Taxes Act 1988 (further provisions relating to profit sharing schemes) for paragraph 3 (the appropriate percentage) there shall be substituted—

“3 (1) For the purposes of any of the relevant provisions charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of his shares, the “appropriate percentage” in relation to those shares is 100 per cent., unless sub-paragraph (2) below applies.

(2) Where the individual—

(a) ceases to be a director or employee of the grantor or, in the case of a group scheme, a participating company as mentioned in paragraph 2(a) above, or

(b) reaches the relevant age,  
before the event occurs, the “appropriate percentage” is 50 per cent., unless paragraph 6(4) below applies.”

(2) In section 187(8) of that Act (determination of certain values and percentages where shares are appropriated to a participant at different times) paragraph (b) (which relates to the appropriate percentage), and the word “and” immediately preceding it, shall cease to have effect.

(3) Subsections (1) and (2) above have effect in relation to the occurrence, on or after the day on which this Act is passed, of events by reason of whose occurrence any provision of section 186 or 187 of, or Schedule 9 or 10 to, the Taxes Act 1988 charges an individual to income tax under Schedule E.

### **118 The appropriate allowance.**

(1) In section 186(12) of the Taxes Act 1988 (determination of the appropriate allowance for the purposes of the charge to tax on capital receipts by a participant in an approved profit sharing scheme)—

(a) for “£100” there shall be substituted “ £60 ”; and

(b) for “five years” there shall be substituted “ three years ”.

(2) Subsection (1) above has effect for the year 1997-98 and subsequent years of assessment.

### *Employee share ownership trusts*

### **119 Removal of requirement for at least one year’s service.**

(1) In Schedule 5 to the <sup>M5</sup>Finance Act 1989 (employee share ownership trusts) in paragraph 4(5)(a) (for a trust to be a qualifying ESOT, its beneficiaries must have been employees or directors of the company for at least one year) the words “not less than one year and” shall cease to have effect.

(2) This section applies to trusts established on or after the day on which this Act is passed.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

### Marginal Citations

M5 1989 c. 26.

## 120 Grant and exercise of share options.

- (1) In Schedule 5 to the <sup>M6</sup>Finance Act 1989 (employee share ownership trusts), in paragraph 4 (the trust deed must contain provision as to the beneficiaries) after sub-paragraph (2) there shall be inserted—

“(2A) The trust deed may provide that a person is a beneficiary at a given time if at that time he is eligible to participate in a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—

- (a) which was established by a company within the founding company’s group, and
- (b) which is approved under that Schedule.

(2B) Where a trust deed contains a rule conforming with sub-paragraph (2A) above it must provide that the only powers and duties which the trustees may exercise in relation to persons who are beneficiaries by virtue only of that rule are those which may be exercised in accordance with the provisions of a scheme such as is mentioned in that sub-paragraph.”

- (2) In consequence of the amendment made by subsection (1) above, section 69 of, and Schedule 5 to, the <sup>M7</sup>Finance Act 1989 (which respectively make provision about chargeable events in relation to the trustees of qualifying employee share ownership trusts and the requirements to be satisfied by such trusts) shall be amended in accordance with the following provisions of this section.

- (3) In subsection (4) of that section (meaning of “qualifying terms” for the purposes of the provision that the transfer of securities to beneficiaries is a chargeable event if it is not on qualifying terms)—

- (a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after “time” there shall be inserted “ other than those transferred on a transfer such as is mentioned in subsection (4ZA) below ”;
- (b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries), after “trust deed” there shall be inserted “ by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act ”; and
- (c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for “beneficiaries” there shall be substituted “ persons ”.

- (4) After subsection (4) of that section there shall be inserted—

“(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—

- (a) it is made to a person exercising a right to acquire shares, and
- (b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—



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- (i) which was established by, or by a company controlled by, the company which established the trust, and
    - (ii) which is approved under that Schedule, and
  - (c) that right is being exercised in accordance with the provisions of that scheme, and
  - (d) the consideration for the transfer is payable to the trustees.”
- (5) In sub-paragraph (4) of paragraph 4 of that Schedule (trust deed may provide for charity to be beneficiary if there are no beneficiaries falling within a rule conforming with sub-paragraph (2) or (3)) after “sub-paragraph (2)” there shall be inserted “, (2A)”.
- (6) In sub-paragraph (7) of that paragraph (trust deed must not provide for a person to be a beneficiary unless he falls within a rule conforming with sub-paragraph (2), (3) or (4)) after “sub-paragraph (2)” there shall be inserted “, (2A)”.
- (7) In sub-paragraph (8) of that paragraph (trust deed must provide that person with material interest in founding company cannot be a beneficiary) after “at a particular time (the relevant time)” there shall be inserted “ by virtue of a rule which conforms with sub-paragraph (2), (3) or (4) above ”.
- (8) In paragraph 5(2) of that Schedule (trust deed must be so expressed that it is apparent that the general functions of the trustees are as mentioned in paragraphs (a) to (e)) after paragraph (c) there shall be inserted—
- “(cc) to grant rights to acquire shares to persons who are beneficiaries under the terms of the trust deed;”.
- (9) In paragraph 9 of that Schedule (trust deed must provide that transfers of securities to beneficiaries must be on qualifying terms and within the qualifying period) in sub-paragraph (2) (meaning of qualifying terms)—
- (a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after “time” there shall be inserted “ other than those transferred on a transfer such as is mentioned in sub-paragraph (2ZA) below ”;
  - (b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries) after “trust deed” there shall be inserted “ by virtue of a rule which conforms with paragraph 4(2), (3) or (4) above ”; and
  - (c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for “beneficiaries” there shall be substituted “ persons ”.
- (10) After sub-paragraph (2) of that paragraph there shall be inserted—
- “(2ZA) For the purposes of sub-paragraph (1) above a transfer of securities is also made on qualifying terms if—
- (a) it is made to a person exercising a right to acquire shares, and
  - (b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—
    - (i) which was established by, or by a company controlled by, the founding company, and
    - (ii) which is approved under that Schedule, and

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- (c) that right is being exercised in accordance with the provisions of that scheme, and
  - (d) the consideration for the transfer is payable to the trustees.”
- (11) In paragraph 10 of that Schedule (trust deed must not contain features not essential or reasonably incidental to purposes mentioned in that paragraph)—
- (a) after “acquiring sums and securities,” there shall be inserted “ granting rights to acquire shares to persons who are eligible to participate in savings-related share option schemes approved under Schedule 9 to the Taxes Act 1988, transferring shares to such persons, ”; and
  - <sup>F120</sup>(b) .....
- (12) This section has effect in relation to trusts established on or after the day on which this Act is passed.

**Textual Amendments**

**F120** S. 120(11)(b) 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](#))

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**Marginal Citations**

**M6** 1989 c. 26.  
**M7** 1989 c. 26.

**CHAPTER V**

SELF ASSESSMENT, GENERAL MANAGEMENT ETC.

*General*

**121 Returns and self assessment.**

- (1) In subsection (1) of section 8 of the <sup>M8</sup>Taxes Management Act 1970 (personal return), and in subsection (1) of section 8A of that Act (trustee’s return), after the words “year of assessment,” there shall be inserted the words “ and the amount payable by him by way of income tax for that year, ”.
- (2) In subsection (1A) of each of those sections, the words from “and the amounts referred to” to the end shall cease to have effect.
- (3) After that subsection of each of those sections there shall be inserted the following subsection—
  - “(1AA) For the purposes of subsection (1) above—
  - (a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and
  - (b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the

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aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies.”

- (4) For subsection (1) of section 9 of that Act (returns to include self-assessment) there shall be substituted the following subsection—

“(1) Subject to subsection (2) below, every return under section 8 or 8A of this Act shall include a self-assessment, that is to say—

- (a) an assessment of the amounts in which, on the basis of the information contained in the return and taking into account any relief or allowance a claim for which is included in the return, the person making the return is chargeable to income tax and capital gains tax for the year of assessment; and
- (b) an assessment of the amount payable by him by way of income tax, that is to say, the difference between the amount in which he is assessed to income tax under paragraph (a) above and the aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies.”

- [<sup>F121</sup>(5) In subsection (1)(b) of section 11AA of that Act (return of profits to include self-assessment), for the words “, allowance or repayment of tax” there shall be substituted the words “ or allowance ”.]

- (6) In subsection (1)(a) of section 12AA of that Act (partnership return), after the words “so chargeable” there shall be inserted the words “ and the amount payable by way of income tax by each such partner ”.

- (7) For subsection (1A) of that section there shall be substituted the following subsection—

“(1A) For the purposes of subsection (1) above—

- (a) the amount in which a partner is chargeable to income tax or corporation tax is a net amount, that is to say, an amount which takes into account any relief or allowance for which a claim is made; and
- (b) the amount payable by a partner by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies.”

- (8) This section and sections 122, 123, 125 to 127 and 141 below—

- (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 <sup>M9</sup>Finance Act 1994.

#### Textual Amendments

**F121** S. 121(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)

#### Marginal Citations

**M8** 1970 c. 9.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1996, Part IV. (See end of Document for details)*

**M9** 1994 c. 9.

## 122 Notional tax deductions and payments.

- (1) At the end of subsection (1) of section 9 of the <sup>M10</sup>Taxes Management Act 1970 (as substituted by section 121(4) above) there shall be inserted the words “ but nothing in this subsection shall enable a self-assessment to show as repayable any income tax treated as deducted or paid by virtue of section 233(1), 246D(1), 249(4), 421(1), 547(5) or 599A(5) of the principal Act. ”
- (2) At the end of subsection (1) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the words “ but nothing in this subsection shall require the repayment of any income tax treated as deducted or paid by virtue of section 233(1), 246D(1), 249(4), 421(1), 547(5) or 599A(5) of the principal Act. ”
- <sup>F122</sup>(3) .....
- <sup>F122</sup>(4) .....
- <sup>F122</sup>(5) .....
- (6) In subsection (1)(b) of section 421 of that Act (taxation of borrower when loan released), for the words “no assessment shall be made on him in respect of” there shall be substituted the words “ he shall not be liable to pay ”.
- (7) The following shall cease to have effect, namely—
- <sup>F123</sup>(a) .....
- (b) in subsection (6) of section 599A of that Act (charge to tax: payments out of surplus funds), the words from “subject” to “and”; and
- (c) subsection (7) of that section.

### Textual Amendments

**F122** S. 122(3)-(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**F123** S. 122(7)(a) 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

**M10** 1970 c. 9.

## 123 Liability of partners.

- (1) In subsection (2) of section 12AA of the <sup>M11</sup>Taxes Management Act 1970 (partnership return) after the words “with the notice” there shall be inserted the words “ or a successor of his ”.
- (2) In subsection (3) of that section after the words “the partner” there shall be inserted the words “ or a successor of his ”.
- (3) In subsection (7)(a) of that section, the words “any part of” shall cease to have effect.
- (4) At the end of that section there shall be inserted the following subsections—

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- “(11) In this Act “successor”, in relation to a person who is required to make and deliver, or has made and delivered, a return in pursuance of a notice under subsection (2) or (3) above, but is no longer available, means—
- (a) where a partner is for the time being nominated for the purposes of this subsection by a majority of the relevant partners, that partner; and
  - (b) where no partner is for the time being so nominated, such partner as—
    - (i) in the case of a notice under subsection (2) above, is identified in accordance with rules given with that notice; or
    - (ii) in the case of a notice under subsection (3) above, is nominated for the purposes of this subsection by an officer of the Board;
- and “predecessor” and “successor”, in relation to a person so nominated or identified, shall be construed accordingly.
- (12) For the purposes of subsection (11) above a nomination under paragraph (a) of that subsection, and a revocation of such a nomination, shall not have effect in relation to any time before notice of the nomination or revocation is given to an officer of the Board.
- (13) In this section “relevant partner” means a person who was a partner at any time during the period for which the return was made or is required, or the personal representatives of such a person.”
- (5) In subsection (1) of section 12AB of that Act (partnership return to include partnership statement)—
- (a) in paragraph (a), for the words “each period of account ending within the period in respect of which the return is made” there shall be substituted the words “ the period in respect of which the return is made and each period of account ending within that period ”;
  - (b) in sub-paragraph (i) of that paragraph, for the words “that period” there shall be substituted the words “ the period in question ”;
  - (c) after that sub-paragraph there shall be inserted the following sub-paragraph—
    - “(ia) the amount of the consideration which, on that basis, has accrued to the partnership in respect of each disposal of partnership property during that period.”;
- and
- (d) in paragraph (b), after the words “such period” there shall be inserted the words “ as is mentioned in paragraph (a) above ” and after the word “loss,” there shall be inserted the word “ consideration, ”.
- <sup>F124</sup>(6) .....
- <sup>F124</sup>(7) .....
- (8) In subsection (1)(b) of section 93A of that Act (failure to make partnership return), after the word “he” there shall be inserted the words “ or a successor of his ”.
- (9) In subsections (3) and (4) of that section, after the words “the representative partner” there shall be inserted the words “ or a successor of his ”.
- (10) In subsection (6) of that section—

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- (a) after the words “the representative partner” there shall be inserted the words “ or a successor of his ”; and
  - (b) after the words “that partner”, in both places where they occur, there shall be inserted the words “ or successor ”.
- (11) In subsection (7) of that section, for the words “the representative partner had a reasonable excuse for not delivering the return” there shall be substituted the words “ the person for the time being required to deliver the return (whether the representative partner or a successor of his) had a reasonable excuse for not delivering it ”.
- (12) In subsection (1)(a)(ii) of section 95A of that Act (incorrect partnership return or accounts), for the words “such a return” there shall be substituted the words “ a return of such a kind ”.
- (13) In subsection (3) of that section—
- (a) after the words “the representative partner” there shall be inserted the words “ or a successor of his ”; and
  - (b) after the words “that partner”, in both places where they occur, there shall be inserted the words “ or successor ”.
- (14) In subsection (1) of section 118 of that Act (interpretation), for the definition of “successor” there shall be substituted the following definition—
- ““successor”, in relation to a person who is required to make and deliver, or has made and delivered, a return under section 12AA of this Act, and “predecessor” and “successor”, in relation to the successor of such a person, shall be construed in accordance with section 12AA(11) of this Act;”.

#### **Textual Amendments**

**F124** *S. 123(6)(7)* repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2(13), Note of the amending Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 2(13)**

#### **Marginal Citations**

**M11** 1970 c. 9.

## **124 Retention of original records.**

- (1) The <sup>M12</sup>Taxes Management Act 1970, as it has effect—
- (a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and
  - (b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M13</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions),
- shall be amended in accordance with the following provisions of this section.
- (2) In section 12B (records to be kept for purposes of returns) in subsection (4) (which permits the duty to preserve records to be discharged by the preservation of the information contained in them, and provides for the admissibility in evidence of copy documents) at the beginning there shall be inserted the words “ Except in the case of records falling within subsection (4A) below, ”.

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(3) After that subsection there shall be inserted—

“(4A) The records which fall within this subsection are—

- (a) any statement in writing such as is mentioned in—
  - (i) subsection (1) of section 234 of the principal Act (amount of qualifying distribution and tax credit), or
  - (ii) subsection (1) of section 352 of that Act (gross amount, tax deducted, and actual amount paid, in certain cases where payments are made under deduction of tax),which is furnished by the company or person there mentioned, whether after the making of a request or otherwise;
- (b) any certificate or other record (however described) which is required by regulations under section 566(1) of the principal Act to be given to a sub-contractor (within the meaning of Chapter IV of Part XIII of that Act) on the making of a payment to which section 559 of that Act (deductions on account of tax) applies;
- (c) any such record as may be requisite for making a correct and complete claim in respect of, or otherwise requisite for making a correct and complete return so far as relating to, an amount of tax—
  - (i) which has been paid under the laws of a territory outside the United Kingdom, or
  - (ii) which would have been payable under the law of such a territory but for a relief to which section 788(5) of the principal Act (relief for promoting development and relief contemplated by double taxation arrangements) applies.”

(4) In subsection (5) of that section (penalty for failure to comply with section 12B(1) or (2A)) for “Subject to subsection (5A)” there shall be substituted “ Subject to subsections (5A) and (5B) ”.

(5) After subsection (5A) of that section there shall be inserted—

“(5B) Subsection (5) above also does not apply where—

- (a) the records which the person fails to keep or preserve are records falling within paragraph (a) of subsection (4A) above; and
- (b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him.”

(6) In Schedule 1A (claims etc not included in returns) in paragraph 2A (keeping and preserving of records) in sub-paragraph (3) (which makes corresponding provision to section 12B(4)) at the beginning there shall be inserted “ Except in the case of records falling within section 12B(4A) of this Act, ”.

(7) In sub-paragraph (4) of that paragraph (penalty for failure to comply with paragraph 2A(1)) at the beginning there shall be inserted “ Subject to sub-paragraph (5) below, ”.

(8) After that sub-paragraph there shall be inserted—

“(5) Sub-paragraph (4) above does not apply where—

- (a) the records which the person fails to keep or preserve are records falling within paragraph (a) of section 12B(4A) of this Act; and

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- (b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him.”
- (9) The amendments made by this section shall not have effect in relation to—
- (a) any time before this Act is passed, or
  - (b) any records which a person fails to preserve before this Act is passed.

#### **Marginal Citations**

**M12** 1970 c. 9.

**M13** 1994 c. 9.

### **125 Determination of tax where no return delivered.**

- (1) For subsection (1) of section 28C of the <sup>M14</sup>Taxes Management Act 1970 (determination of tax where no return delivered) there shall be substituted the following subsections—

“(1) This section applies where—

- (a) a notice has been given to any person under section 8 or 8A of this Act (the relevant section), and
- (b) the required return is not delivered on or before the filing date.

(1A) An officer of the Board may make a determination of the following amounts, to the best of his information and belief, namely—

- (a) the amounts in which the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment; and
- (b) the amount which is payable by him by way of income tax for that year;

and subsection (1AA) of section 8 or, as the case may be, section 8A of this Act applies for the purposes of this subsection as it applies for the purposes of subsection (1) of that section.”

- (2) In subsection (3) of that section the words “or 11AA” shall cease to have effect.
- (3) In subsection (6) of that section for the words “, section 8A(1A) or, as the case may be, section 11(4)” there shall be substituted the words “ or, as the case may be, section 8A(1A) ”.
- (4) After subsection (5) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the following subsection—
- “(5A) Where a determination under section 28C of this Act which has effect as a person’s self-assessment is superseded by his self-assessment under section 9 of this Act, any amount of tax which is payable or repayable by virtue of the supersession shall be payable or (as the case may be) repayable on or before the day given by subsection (3) or (4) above.”



*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

**Marginal Citations**

M14 1970 c. 9.

**126 PAYE regulations.**

(1) After subsection (9) of section 59A of the Taxes Management Act 1970 (payments on account of income tax) there shall be inserted the following subsection—

“(10) Regulations under section 203 of the principal Act (PAYE) may provide that, for the purpose of determining the amount of any such excess as is mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under that section.”

(2) After subsection (7) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the following subsection—

“(8) Regulations under section 203 of the principal Act (PAYE) may provide that, for the purpose of determining the amount of the difference mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under that section.”

**127 Repayment postponed pending completion of enquiries.**

After subsection (4) of section 59B of the <sup>M15</sup>Taxes Management Act 1970 (payment of income tax and capital gains tax) there shall be inserted the following subsection—

“(4A) Where in the case of a repayment the return on the basis of which the person’s self-assessment was made under section 9 of this Act is enquired into by an officer of the Board—

- (a) nothing in subsection (3) or (4) above shall require the repayment to be made before the day on which, by virtue of section 28A(5) of this Act, the officer’s enquiries are treated as completed; but
- (b) the officer may at any time before that day make the repayment, on a provisional basis, to such extent as he thinks fit.”

**Marginal Citations**

M15 1970 c. 9.

**128 Claims for reliefs involving two or more years.**

(1) In section 42 of the Taxes Management Act 1970 (procedure for making claims etc.)—

- (a) subsections (3A) and (3B) (which are superseded by subsection (2) below) shall cease to have effect;
- (b) in subsection (7)(a), the words “534, 535, 537A, 538” shall cease to have effect; and
- (c) after subsection (11) there shall be inserted the following subsection—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

“(11A) Schedule 1B to this Act shall have effect as respects certain claims for relief involving two or more years of assessment.”

(2) After Schedule 1A to that Act there shall be inserted, as Schedule 1B, the provisions set out in Schedule 17 to this Act (claims for reliefs involving two or more years).

<sup>F125</sup>(3) .....

<sup>F125</sup>(4) .....

<sup>F126</sup>(5) .....

<sup>F126</sup>(6) .....

<sup>F126</sup>(7) .....

<sup>F126</sup>(8) .....

<sup>F126</sup>(9) .....

<sup>F126</sup>(10) .....

<sup>F126</sup>(11) This section (except subsections (1)(b) and (6) above) and Schedule 17 to this Act have effect as respects claims made (or deemed to be made) in relation to the year 1996-97 or later years of assessment.

(12) Subsection (1)(b) above has effect as respects claims made in relation to the year 1997-98 or later years of assessment.

**Textual Amendments**

**F125** S. 128(3)(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

**F126** S. 128(5)-(10) repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2(6), Note of the amending Act) by [2001 c. 9, s. 110, Sch. 33 Pt. 2\(6\)](#)

**129 Claims for medical insurance and vocational training relief.**

(1) Nothing in section 42 of the <sup>M16</sup>Taxes Management Act 1970 (procedure for making claims etc.), or Schedule 1A to that Act (claims etc. not included in returns), shall apply in relation to—

[<sup>F127</sup>(a) any claim under subsection (6)(b) of section 54 (medical insurance relief) of the <sup>M17</sup>Finance Act 1989 (“the 1989 Act”); or]

[<sup>F128</sup>(b) any claim under subsection (5)(b) of section 32 (vocational training relief) of the <sup>M18</sup>Finance Act 1991 (“the 1991 Act”).]

(2) In [<sup>F129</sup>section 54(6)(b) of the 1989 Act and][<sup>F130</sup>section 32(5)(b) of the 1991 Act], after the words “on making a claim” there shall be inserted the words “ in accordance with regulations ”.

[<sup>F131</sup>(3) In section 57(1) of the 1989 Act (medical insurance relief: supplementary), after paragraph (a) there shall be inserted the following paragraph—]

“(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;”.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

[<sup>F132</sup>(4) In section 33(1) of the 1991 Act (vocational training relief: supplementary), after paragraph (a) there shall be inserted the following paragraph—

“(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 32(5)(b) above;”.]

[<sup>F131</sup>(5) Subsection (1)(a) above shall not apply in relation to claims made before the coming into force of regulations made by virtue of section 57(1)(aa) of the 1989 Act.]

[<sup>F132</sup>(6) Subsection (1)(b) above shall not apply in relation to claims made before the coming into force of regulations made by virtue of section 33(1)(aa) of the 1991 Act.]

#### Textual Amendments

**F127** S. 129(1)(a) repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(2), Note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)**

**F128** S. 129(1)(b) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(15), Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(15)**

**F129** Words in s. 129(2) repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(2), Note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)**

**F130** Words in s. 129(2) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(15), Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(15)**

**F131** S. 129(3)(5) repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(2), Note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)**

**F132** S. 129(4)(6) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(15), Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(15)**

#### Marginal Citations

**M16** 1970 c. 9.

**M17** 1989 c. 26.

**M18** 1991 c. 31.

### 130 Procedure for giving notices.

(1) Section 42 of, and Schedule 1A to, the Taxes Management Act 1970, as they have effect—

- (a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and
- (b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M19</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions),

shall be amended in accordance with the following provisions of this section.

(2) In subsection (7) of section 42 (which contains a list of provisions, claims under which must be made in accordance with subsection (6)) the following words shall cease to have effect, that is to say—

- (a) in paragraph (a), “62A,” and “401,”; and
- (b) in paragraph (c), “30,” “33,” “48, 49,” and “124A,”.

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*Changes to legislation: There are currently no known outstanding effects  
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- (3) In subsection (10) of that section (section 42 to apply in relation to elections and notices as it applies in relation to claims) the words “and notices” shall cease to have effect.
- (4) In subsection (11) of that section (Schedule 1A to apply as respects any claim, election or notice made otherwise than in a return under section 8 etc) for the words “, election or notice” there shall be substituted “ or election ”.
- (5) In paragraph 1 of Schedule 1A (claims etc. not included in returns), in the definition of “claim”, for the words “means a claim, election or notice” there shall be substituted “ means a claim or election ”.

**Marginal Citations**

**M19** 1994 c. 9.

**131 Interest on overdue tax.**

- (1) Section 110 of the <sup>M20</sup>Finance Act 1995 (interest on overdue tax) shall be deemed to have been enacted with the insertion after subsection (3) of the following subsection—
  - “(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.”
- (2) In subsection (3) of section 86 of the <sup>M21</sup>Taxes Management Act 1970 (which was substituted by the said section 110), for the words “section 93” there shall be substituted the words “ section 92 ”.
- (3) In Schedule 19 to the <sup>M22</sup>Finance Act 1994, paragraph 23 (which is superseded by the said section 110) shall cease to have effect.

**Marginal Citations**

**M20** 1995 c. 4.

**M21** 1970 c. 9.

**M22** 1994 c. 9.

**132 Overdue tax and excessive payments by the Board.**

Schedule 18 to this Act (which amends enactments relating to overdue tax or excessive payments by the Board) shall have effect.

**133 Claims and enquiries.**

Schedule 19 to this Act (which, for purposes connected with self-assessment, further amends provisions relating to claims and enquiries) shall have effect.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

### 134 Discretions exercisable by the Board etc.

- (1) Schedule 20 to this Act (which in connection with self-assessment modifies enactments by virtue of which a decision or other action affecting an assessment may be or is required to be taken by the Board, or one of their officers, before the making of the assessment) shall have effect.
- (2) Subject to subsection (3) below, the amendments made by that Schedule shall have effect—
  - (a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).
- (3) Paragraphs 22 and 23 of that Schedule shall have effect in relation to shares issued on or after 6th April 1996.

### 135 Time limits for claims etc.

- (1) Schedule 21 to this Act (which in connection with self-assessment modifies enactments which impose time limits on the making of claims, elections, adjustments and assessments and the giving of notices, and enactments which provide for the giving of notice to the inspector) shall have effect.
- (2) Subject to subsections (3) to (5) below, the amendments made by that Schedule shall have effect—
  - (a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M23</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

<sup>F133</sup>(3) .....

<sup>F133</sup>(4) .....

<sup>F133</sup>(5) .....

#### Textual Amendments

**F133** S. 135(3)-(5) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

#### Marginal Citations

**M23** 1994 c. 9.

### 136 Appeals.

Schedule 22 to this Act (which makes provision, in connection with self-assessment, about appeals) shall have effect.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

### *Companies*

#### **137 Schedules 13 and 16 to the Taxes Act 1988.**

- (1) Schedule 23 to this Act shall have effect.
- (2) The amendments made by that Schedule shall have effect as respects return periods ending on or after the appointed day for the purposes of Chapter III of Part IV of the <sup>M24</sup>Finance Act 1994.
- (3) In subsection (2) above “return period” means—
  - (a) so far as relating to Schedule 13 to the Taxes Act 1988, a period for which a return is required to be made under paragraph 1 of that Schedule; and
  - (b) so far as relating to Schedule 16 to that Act, a period for which a return is required to be made under paragraph 2 of that Schedule.

#### **Marginal Citations**

**M24** 1994 c. 9.

#### **138 Accounting periods.**

Schedule 24 to this Act (which makes provision, in connection with self-assessment, in relation to accounting periods) shall have effect.

#### **[139 Surrenders of advance corporation tax.**

Schedule 25 to this Act (which makes provision, in connection with self-assessment, about surrenders of advance corporation tax) shall have effect.]

#### **Modifications etc. (not altering text)**

**C23** *S. 139* repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(2), Note of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**

### *Chargeable gains*

#### **140 Transfer of company’s assets to investment trust.**

- (1) In section 101 of the <sup>M25</sup>Taxation of Chargeable Gains Act 1992 (transfer of company’s assets to investment trust) after subsection (1) there shall be inserted—
 

“(1A) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the end of the last accounting period to end before the beginning of the accounting period mentioned in that subsection.”
- (2) This section shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M26</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

#### Marginal Citations

M25 1992 c. 12.

M26 1994 c. 9.

### 141 Roll-over relief.

- (1) In subsection (4) of section 152 of the Taxation of Chargeable Gains Act 1992 (roll-over relief)—
  - (a) after the word “making” there shall be inserted the words “ or amending ”; and
  - (b) after the word “assessments”, in the second place where it occurs, there shall be inserted the words “ or amendments ”.
- (2) After section 153 of that Act there shall be inserted the following section—

#### “153A Provisional application of sections 152 and 153.

- (1) This section applies where a person carrying on a trade who for a consideration disposes of, or of his interest in, any assets (“the old assets”) declares, in his return for the chargeable period in which the disposal takes place—
  - (a) that the whole or any specified part of the consideration will be applied in the acquisition of, or of an interest in, other assets (“the new assets”) which on the acquisition will be taken into use, and used only, for the purposes of the trade;
  - (b) that the acquisition will take place as mentioned in subsection (3) of section 152; and
  - (c) that the new assets will be within the classes listed in section 155.
- (2) Until the declaration ceases to have effect, section 152 or, as the case may be, section 153 shall apply as if the acquisition had taken place and the person had made a claim under that section.
- (3) The declaration shall cease to have effect as follows—
  - (a) if and to the extent that it is withdrawn before the relevant day, or is superseded before that day by a valid claim made under section 152 or 153, on the day on which it is so withdrawn or superseded; and
  - (b) if and to the extent that it is not so withdrawn or superseded, on the relevant day.
- (4) On the declaration ceasing to have effect in whole or in part, all necessary adjustments—
  - (a) shall be made by making or amending assessments or by repayment or discharge of tax; and
  - (b) shall be so made notwithstanding any limitation on the time within which assessments or amendments may be made.
- (5) In this section “the relevant day” means—
  - (a) in relation to capital gains tax, the third anniversary of the 31st January next following the year of assessment in which the disposal of, or of the interest in, the old assets took place;

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- (b) in relation to corporation tax, the fourth anniversary of the last day of the accounting period in which that disposal took place.
- (6) Subsections (6), (8), (10) and (11) of section 152 shall apply for the purposes of this section as they apply for the purposes of that section.”
- (3) In section 175 of that Act (replacement of business assets by members of a group)—
  - (a) in subsections (2A) and (2B), after the words “Section 152” there shall be inserted the words “ or 153 ”; and
  - (b) in subsection (2C), for the words “Section 152 shall not” there shall be substituted the words “ Neither section 152 nor section 153 shall ”.
- (4) In section 246 of that Act (time of disposal or acquisition), the words from “or, if earlier” to the end shall cease to have effect.
- (5) In subsection (5)(b) of section 247 of that Act (roll-over relief on compulsory acquisition), for the words “subsection (3)” there shall be substituted the words “ subsections (3) and (4) ”.
- (6) After that section there shall be inserted the following section—

**“247A Provisional application of section 247.**

- (1) This section applies where a person who disposes of land (“the old land”) to an authority exercising or having compulsory powers declares, in his return for the chargeable period in which the disposal takes place—
  - (a) that the whole or any specified part of the consideration for the disposal will be applied in the acquisition of other land (“the new land”);
  - (b) that the acquisition will take place as mentioned in subsection (3) of section 152; and
  - (c) that the new land will not be land excluded from section 247(1)(c) by section 248.
- (2) Until the declaration ceases to have effect, section 247 shall apply as if the acquisition had taken place and the person had made a claim under that section.
- (3) For the purposes of this section, subsections (3) to (5) of section 153A shall apply as if the reference to section 152 or 153 were a reference to section 247 and the reference to the old assets were a reference to the old land.
- (4) In this section “land” and “authority exercising or having compulsory powers” have the same meaning as in section 247.”

**142 Premiums for leases.**

- (1) Paragraph 3 of Schedule 8 to the <sup>M27</sup>Taxation of Chargeable Gains Act 1992 (premiums for leases) shall be amended as follows.
- (2) In sub-paragraph (2), for the words “for the period” to the end there shall be substituted the words “, being a premium which—
  - (a) is due when the sum is payable by the tenant; and



*Status: Point in time view as at 03/04/2006.*

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- (b) where the sum is payable in lieu of rent, is in respect of the period in relation to which the sum is payable.”
- (3) In sub-paragraph (3), for the words “for the period” to the end there shall be substituted the words “, being a premium which—
  - (a) is due when the sum is payable by the tenant; and
  - (b) is in respect of the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.”
- (4) For sub-paragraphs (4) to (6) there shall be substituted the following sub-paragraphs—
  - “(4) Where under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, that shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium shall be regarded—
    - (a) in the case of a premium deemed to have been received for the surrender of a lease, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of the disposal by the landlord of his interest in the lease; and
    - (b) in any other case, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of a further part disposal of the freehold or other asset out of which the lease is granted.
  - (5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed 50 years, this Schedule shall apply—
    - (a) as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sublease covered by the period in respect of which the premium is deemed to have been paid; and
    - (b) as if that consideration were expenditure incurred by the sublessee and attributable to that part of the sublease under section 38(1)(b).”
- (5) This section has effect as respects sums payable on or after 6th April 1996.

**Marginal Citations**

M27 1992 c. 12.

**CHAPTER VI**

MISCELLANEOUS PROVISIONS

*Reliefs*

<sup>F134</sup>143 Annual payments under certain insurance policies.

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*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

#### Textual Amendments

**F134** S. 143 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

#### [<sup>F135</sup>144 Vocational training.

- (1) Section 32 of the <sup>M28</sup>Finance Act 1991 (vocational training relief) shall be amended in accordance with the following provisions of this section.
- (2) In subsection (1) (application of section) for paragraph (ca) (individual has attained school leaving age etc at time of paying for the course) there shall be substituted—
- “(ca) at the time the payment is made, the individual—
- (i) in a case where the qualifying course of vocational training is such a course by virtue only of paragraph (b) of subsection (10) below, has attained the age of thirty, or
- (ii) in any other case, has attained school-leaving age and, if under the age of nineteen, is not a person who is being provided with full-time education at a school.”
- (3) For subsection (10) (meaning of “qualifying course of vocational training”) there shall be substituted—
- “(10) In this section “qualifying course of vocational training” means—
- (a) any programme of activity capable of counting towards a qualification—
- (i) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications; or
- (ii) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council; or
- (b) any course of training which—
- (i) satisfies the conditions set out in the paragraphs of section 589(1) of the Taxes Act 1988 (qualifying courses of training etc),
- (ii) requires participation on a full-time or substantially full-time basis, and
- (iii) extends for a period which consists of or includes four consecutive weeks,
- but treating any time devoted to study in connection with the course as time devoted to the practical application of skills or knowledge.”
- (4) This section applies to payments made on or after 6th May 1996.]

#### Textual Amendments

**F135** S. 144 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(15), Note of the amending Act) by [1999 c. 16](#), s. 139, [Sch. 20 Pt. III\(15\)](#)

#### Marginal Citations

**M28** [1991 c. 31](#).

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*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

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#### **145 Personal reliefs for non-resident EEA nationals.**

- (1) In section 278(2)(a) of the Taxes Act 1988 (exclusion of non-residents from entitlement to personal reliefs not to apply to Commonwealth citizens or citizens of the Republic of Ireland), for “a citizen of the Republic of Ireland” there shall be substituted “an EEA national”.
- (2) After subsection (8) of that section (claims to be made to the Board) there shall be added the following subsection—
  - “(9) In this section “EEA national” means a national of any State, other than the United Kingdom, which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.”
- (3) This section has effect for the year 1996-97 and subsequent years of assessment.

#### **146 Exemptions for charities.**

- (1) Section 505(1) of the Taxes Act 1988 (exemptions for charities) shall be amended as follows.
- (2) For paragraph (a) (rents etc.) there shall be substituted the following paragraph—
  - “(a) exemption from tax under Schedules A and D in respect of any profits or gains arising in respect of rents or other receipts from an estate, interest or right in or over any land (whether situated in the United Kingdom or elsewhere) to the extent that the profits or gains—
    - (i) arise in respect of rents or receipts from an estate, interest or right vested in any person for charitable purposes; and
    - (ii) are applied to charitable purposes only;”.
- (3) For sub-paragraph (ii) of paragraph (c) (yearly interest and annual payments) there shall be substituted the following sub-paragraphs—
  - “(ii) from tax under Case III of Schedule D,
  - (iia) from tax under Case IV or V of Schedule D in respect of income equivalent to income chargeable under Case III of that Schedule but arising from securities or other possessions outside the United Kingdom,
  - (iib) from tax under Case V of Schedule D in respect of income consisting in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable to tax under Schedule F if the company were so resident, and”.
- (4) In paragraph (e) (trading profits), after “by a charity” there shall be inserted “(whether in the United Kingdom or elsewhere)”.
- (5) This section has effect—
  - (a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996.

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*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1996, Part IV. (See end of Document for details)*

#### 147 Withdrawal of relief for Class 4 contributions.

- (1) In section 617 of the Taxes Act 1988 (social security benefits and contributions), subsection (5) (relief for Class 4 contributions) shall cease to have effect.
- (2) In consequence of the provision made by subsection (1) above, in paragraph 3(2) of Schedule 2 to—
  - (a) the <sup>M29</sup>Social Security Contributions and Benefits Act 1992, and
  - (b) the <sup>M30</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 the words “ (e) section 617(5) (relief for Class 4 contributions); ” shall be omitted.
- (3) This section shall have effect in relation to the year 1996-97 and subsequent years of assessment.

#### Marginal Citations

**M29** 1992 c. 4.

**M30** 1992 c. 7.

#### 148 Mis-sold personal pensions etc.

- (1) Income tax shall not be chargeable on any payment falling within subsection (3) or (5) below.
- (2) Receipt of a payment falling within subsection (3) below shall not be regarded for the purposes of capital gains tax as the disposal of an asset.
- (3) A payment falls within this subsection if it is a capital sum by way of compensation for loss suffered, or reasonably likely to be suffered, by a person in a case where that person, or some other person, acting in reliance on bad investment advice at least some of which was given during the period beginning with 29th April 1988 and ending with 30th June 1994,—
  - (a) has, while eligible, or reasonably likely to become eligible, to be a member of an occupational pension scheme, instead become a member of a personal pension scheme or entered into a retirement annuity contract;
  - (b) has ceased to be a member of, or to pay contributions to, an occupational pension scheme and has instead become a member of a personal pension scheme or entered into a retirement annuity contract;
  - (c) has transferred to a personal pension scheme accrued rights of his under an occupational pension scheme; or
  - (d) has ceased to be a member of an occupational pension scheme and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity contract.
- (4) A payment chargeable to income tax apart from subsection (1) above may nevertheless be regarded as a capital sum for the purpose of determining whether it falls within subsection (3) above.
- (5) A payment falls within this subsection if and to the extent that it is a payment of interest, on the whole or any part of a capital sum such as is mentioned in subsection (3) above, for a period ending on or before the earliest date on which a determination

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(whether or not subsequently varied on an appeal or in any other proceedings) of the amount of the particular capital sum in question is made, whether by agreement or by a decision of—

- (a) a court, tribunal or commissioner,
- (b) an arbitrator or (in Scotland) arbiter, or
- (c) any other person appointed for the purpose.

(6) In this section—

“bad investment advice” means investment advice in respect of which an action against the person who gave it has been, or may be, brought—

- (a) in or for negligence;
- (b) for breach of contract;
- (c) by reason of a breach of a fiduciary obligation; or
- (d) [<sup>F136</sup>by reason of a contravention which is actionable—
  - (i) under section 62 of the Financial Services Act 1986; or
  - (ii) under section 150 of the Financial Services and Markets Act 2000;]

[<sup>F137</sup>“investment advice”—

- (a) in relation to a time before 1st December 2001, means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986; and
- (b) in relation to a time on or after that date, means advice such as is mentioned in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;]

“occupational pension scheme” means—

- (a) a scheme approved, or being considered for approval, under Chapter I of Part XIV of the Taxes Act 1988 (retirement benefit schemes);
- (b) a relevant statutory scheme, as defined in section 611A(1) of that Act; or
- (c) a fund to which section 608 of that Act applies (superannuation funds approved before 6th April 1980 etc);

“personal pension scheme” has the meaning given by section 630(1) of the Taxes Act 1988;

“relevant benefits” has the meaning given by section 612(1) of the Taxes Act 1988;

“retirement annuity contract” means a contract made before 1st July 1988 and approved by the Board under or by virtue of any provision of Chapter III of Part XIV of the Taxes Act 1988.

(7) This section shall have effect, and be taken always to have had effect, in relation to any payment falling within subsection (3) or (5) above, whether made before or after the passing of this Act.

#### Textual Amendments

**F136** S. 148(6): para. (d) in the definition of “bad investment advice” substituted (1.12.2001) by [S.I. 2001/3629, art. 93\(2\)](#)

**F137** S. 148(6): definition of “investment advice” substituted (1.12.2001) by [S.I. 2001/3629, art. 93\(3\)](#)

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*Changes to legislation: There are currently no known outstanding effects  
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**[<sup>F138</sup>149 Annual payments in residuary cases.**

- (1) Section 347A of the Taxes Act 1988 (annual payments not a charge on the income of a payer) shall apply to any payment made on or after 6th April 1996—
- (a) in pursuance of any obligation which falls within section 36(4)(a) of the <sup>M31</sup>Finance Act 1988 (existing obligations under certain court orders), and
  - (b) for the benefit, maintenance or education of a person (whether or not the person to whom the payment is made) who attained the age of 21 before 6th April 1994,
- as if that obligation were not an existing obligation within the definition contained in section 36(4) of the Finance Act 1988.
- (2) Subsection (1) above does not apply to any payment to which section 38 of the Finance Act 1988 (treatment of certain maintenance payments under existing obligations) applies.]

**Textual Amendments**

**F138** S. 149 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(6), Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(6)**

**Marginal Citations**

**M31** 1988 c. 39.

**[<sup>F139</sup>150 Income tax exemption for periodical payments of damages and compensation for personal injury.**

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**Textual Amendments**

**F139** S. 150 repealed (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5)**, s. 883(1), **Sch. 3** (with Sch. 2)

*Taxation of benefits*

**151 Benefits under pilot schemes.**

- (1) The Treasury may by order make provision for the Income Tax Acts to have effect in relation to any amount of benefit payable by virtue of a Government pilot scheme as if it was, as they think fit, either—
- (a) wholly or partly exempt from income tax and, accordingly, to be disregarded in computing the amount of any receipts brought into account for income tax purposes; or
  - (b) to the extent specified in the order, to be brought into account for the purposes of income tax as income of a description so specified or as a receipt of a description so specified.
- (2) The Treasury may by order provide for any amount of benefit payable by virtue of a Government pilot scheme to be left out of account, to the extent specified in the order,

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in the determination for the purposes of [<sup>F140</sup>section 532 of the Capital Allowances Act (exclusion of expenditure met by contributions)] of how far any expenditure has been or is to be met directly or indirectly by the Crown or by an authority or person other than the person actually incurring it.

- (3) In this section “Government pilot scheme” means any arrangements (whether or not contained in a scheme) which—
- (a) are made, under any enactment or otherwise, by the Secretary of State or any Northern Ireland department;
  - (b) make provision for or about the payment of amounts of benefit either—
    - (i) for purposes that are similar to those for which any social security or comparable benefit is payable; or
    - (ii) for purposes connected with the carrying out of any functions of the Secretary of State or any such department in relation to employment or training for employment;
  - (c) are arrangements relating to a temporary experimental period; and
  - (d) are made wholly or partly for the purpose of facilitating a decision as to whether, or to what extent, it is desirable for provision to be made on a permanent basis for or in relation to any benefit.
- (4) In subsection (3)(b) above the reference to making provision for or about the payment of amounts of benefit for purposes that are similar to those for which any social security or comparable benefit is payable shall include a reference to making provision by virtue of which there is a modification of the conditions of entitlement to, or the conditions for the payment of, an existing social security or comparable benefit.
- (5) An order under this section may—
- (a) make different provision for different cases, and
  - (b) contain such incidental, supplemental, consequential and transitional provision (including provision modifying provision made by or under the Income Tax Acts) as the Treasury may think fit.
- (6) In this section “benefit” includes any allowance, grant or other amount the whole or any part of which is payable directly or indirectly out of public funds.
- (7) The power to make an order under this section—
- (a) shall be exercisable for the year 1996-97 and subsequent years of assessment; and
  - (b) so far as exercisable for the year 1996-97, shall be exercisable in relation to benefits, allowances and other amounts paid at times on or after 6th April 1996 but before the making of the order.
- (8) The Treasury shall not make an order under this section containing any such provision as is mentioned in subsection (1)(b) above unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.

#### Textual Amendments

**F140** Words in s. 151(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 95

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**F141 152 Jobfinder’s grant.**

.....

**Textual Amendments**

**F141** S. 152 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](#))

*Investments*

**153 Foreign income dividends.**

Schedule 27 to this Act (which makes provision relating to foreign income dividends) shall have effect.

**154 FOTRA securities.**

- (1) The modifications which, under section 60 of the <sup>M32</sup>Finance Act 1940, may be made for the purposes of any issue of securities to the conditions about tax exemption specified in section 22 of the <sup>M33</sup>Finance (No. 2) Act 1931 shall include a modification by virtue of which the tax exemption contained in any condition of the issue applies, as respects capital, irrespective of where the person with the beneficial ownership of the securities is domiciled.
- (2) Subject to subsections [<sup>F142</sup>(3) and] (5) below, nothing in the Tax Acts shall impose any charge to tax on any person in respect of so much of any profits or gains arising from a FOTRA security, or from any loan relationship represented by a FOTRA security, as is expressed to be exempt from tax in the tax exemption condition applying to that security. [<sup>F143</sup>This does not apply to any charge to income tax (but see sections 714 and 715 of the Income Tax (Trading and Other Income) Act 2005 for exemptions from income tax charges).]
- (3) Exemption from tax shall not be conferred by virtue of subsection (2) above in relation to any security unless the requirements imposed as respects that exemption by the conditions with which the security is issued (including any requirement as to the making of a claim) are complied with.

<sup>F144</sup>(4) .....

- (5) Nothing in this section shall entitle any person to any repayment of tax which he has not claimed within the time limit which would be applicable under the Tax Acts (apart from this section) to a claim for the repayment of that tax.
- (6) A person with the beneficial ownership of a FOTRA security who would, by virtue of this section, be exempt from tax in respect of some or all of the profits and gains arising from that security, or from any loan relationship represented by it, shall not be entitled for the purposes of <sup>F145</sup>... corporation tax to bring into account any amount—
  - (a) in respect of changes in the value of that security;
  - (b) as expenses or disbursements incurred in, or in connection with, the holding of the security or any transaction relating to the security; or



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- (c) as a debit given, in respect of any loan relationship represented by that security, by any provision of Chapter II of this Part of this Act in respect of such a relationship.
- (7) Schedule 28 to this Act (which contains amendments consequential on the provisions of this section) shall have effect.
- (8) References in this section to a FOTRA security are references to—
- (a) any security issued with such a condition about exemption from taxation as is authorised in relation to its issue by virtue of section 22 of the <sup>M34</sup>Finance (No. 2) Act 1931; or
  - (b) any 3½% War Loan 1952 Or After which was issued with a condition authorised by virtue of section 47 of the <sup>M35</sup>Finance (No. 2) Act 1915;
- and references, in relation to such a security, to the tax exemption condition shall be construed accordingly.
- (9) This section and Schedule 28 to this Act shall have effect—
- (a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and
  - (b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.

#### Textual Amendments

- F142** Words in s. 154(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 488\(2\)\(a\)](#) (with Sch. 2)
- F143** Words in s. 154(2) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 488\(2\)\(b\)](#) (with Sch. 2)
- F144** S. 154(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 488\(3\), Sch. 3](#) (with Sch. 2)
- F145** Words in s. 154(6) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 488\(4\), Sch. 3](#) (with Sch. 2)

#### Marginal Citations

- M32** 1940 c. 29.  
**M33** 1931 c. 49.  
**M34** 1931 c. 49.  
**M35** 1915 c. 89.

## 155 Directions for payment without deduction of tax.

After section 51 of the Taxes Act 1988 there shall be inserted the following section—

### “51AA Commencement of direction under section 50 or 51.

A direction under section 50 or 51 that any security shall be deemed to have been issued subject to the condition that the interest thereon shall be paid without deduction of tax may provide that the direction is to have effect in relation only to payments of interest made on or after such date as may be specified in the direction.”

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects  
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**156 Paying and collecting agents etc.**

Schedule 29 to this Act (which amends the rules relating to paying and collecting agents) shall have effect.

**157 Stock lending fees.**

- (1) After section 129A of the Taxes Act 1988 (interest on cash collateral paid in connection with stock lending arrangements) there shall be inserted the following section—

**“129B Stock lending fees.**

- (1) The income which, as income deriving from investments of a description specified in any of the relevant provisions, is eligible for relief from tax by virtue of that provision shall be taken to include any relevant stock lending fee.
- (2) For the purposes of this section the relevant provisions are sections 592(2), 608(2)(a), 613(4), 614(3), 620(6) and 643(2).
- (3) In this section “relevant stock lending fee”, in relation to investments of any description, means any amount, in the nature of a fee, which is payable in connection with an approved stock lending arrangement relating to investments which, but for any transfer under the arrangement, would be investments of that description.
- (4) In this section “approved stock lending arrangement” has the same meaning as in Schedule 5A.”
- (2) This section has effect in relation to any arrangements entered into on or after 2nd January 1996.

**158 Transfers on death under the accrued income scheme.**

- (1) In section 710(5) of the Taxes Act 1988 (meaning of “transfer” in sections 711 to 728), after “or otherwise” there shall be inserted “, but—
- (a) does not include the vesting of securities in a person’s personal representatives on his death; and”.
- (2) Subsection (1) of section 721 of that Act (transfer of securities on death) shall cease to have effect.
- (3) For subsection (2) of that section (transfers by personal representatives to legatees) there shall be substituted—
- “(2) Where—
- (a) an individual who is entitled to securities dies, and
- (b) in the interest period in which the individual died, the securities are transferred by his personal representatives to a legatee,
- section 713 shall not apply to the transfer.”
- (4) Subsection (4) of that section (interest period treated as ending with death) shall cease to have effect.
- (5) This section has effect as respects deaths on or after 6th April 1996.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

## 159 Manufactured payments, repos, etc.

- (1) Sections 729, 737A(2)(b) and 786(4) of the Taxes Act 1988 (provisions applying to sale and repurchase agreements) shall cease to have effect except in relation to cases where the initial agreement to sell or transfer the securities or other property was made before the appointed day.

[<sup>F146</sup>(2) In section 737 of that Act—

- (a) in subsection (5) (manufactured dividends paid to UK residents by non-residents), for the words from “a person resident in the United Kingdom” to “the United Kingdom recipient shall” there shall be substituted “ a United Kingdom recipient, that recipient shall ”; and
- (b) after that subsection there shall be inserted the following subsection—

“(5AAA) For the purposes of subsection (5) above a person who receives a manufactured dividend is a United Kingdom recipient if—

- (a) he is resident in the United Kingdom; or
- (b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom.”

[<sup>F146</sup>(3) In section 737C of that Act (deemed manufactured payments), the following subsection shall be inserted after subsection (11A) in relation to cases where the initial agreement to sell the securities is made on or after the appointed day, that is to say—

“(11B) The preceding provisions of this section shall have effect in cases where paragraph 2, 3 or 4 of Schedule 23A would apply by virtue of section 737A(5) but for paragraph 5 of that Schedule as they have effect in a case where the paragraph in question is not disapplied by paragraph 5; and where—

- (a) the gross amount of the deemed manufactured interest, or
- (b) the gross amount of the deemed manufactured overseas dividend,

falls to be calculated in such a case under subsection (8) or (11) above, it shall be so calculated by reference to the provisions of paragraph 3 or 4 of Schedule 23A that would have applied but for paragraph 5 of that Schedule.”]

- (4) In sub-paragraph (3) of paragraph 4 of Schedule 23A to that Act (manufactured overseas dividends paid to UK residents by non-residents), for the words from “a person resident in the United Kingdom” to “the United Kingdom recipient shall” there shall be substituted “ a United Kingdom recipient, that recipient shall ”.

(5) After that sub-paragraph there shall be inserted the following sub-paragraphs—

“(3A) For the purposes of sub-paragraph (3) above a person who receives a manufactured overseas dividend is a United Kingdom recipient if—

- (a) he is resident in the United Kingdom; or
- (b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom.

(3B) Dividend manufacturing regulations may make provision, in relation to cases falling within sub-paragraph (3) above, for the amount of tax required under that sub-paragraph to be taken to be reduced, to such extent and for such purposes as may be determined under the regulations, by reference to amounts of overseas tax charged on, or in respect of—

- (a) the making of the manufactured overseas dividend; or

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- (b) the overseas dividend of which the manufactured overseas dividend is representative.”
- (6) In sub-paragraph (7) of paragraph 4 of that Schedule (regulations for off-setting), for the words from “against” to “and account” in the words after paragraph (b) there shall be substituted “ in accordance with the regulations and to the prescribed extent, amounts falling within paragraph (a) of sub-paragraph (7AA) below against the sums falling within paragraph (b) of that sub-paragraph, and to account ”; and after that sub-paragraph there shall be inserted the following sub-paragraph—
- “(7AA) Those amounts and sums are—
- (a) amounts of overseas tax in respect of overseas dividends received by him in that chargeable period, amounts of overseas tax charged on, or in respect of, the making of manufactured overseas dividends so received by him and amounts deducted under sub-paragraph (2) above from any such manufactured overseas dividends; and
- (b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period.”
- (7) In sub-paragraph (1) of paragraph 8 of that Schedule (power to modify provisions of Schedule)—
- (a) before the “or” at the end of paragraph (a) there shall be inserted—
- “(aa) such persons who receive, or become entitled to receive, manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed,”
- [<sup>F147</sup>and
- (b) in the words after paragraph (b), for “paragraph 2, 3 or 4 above” there shall be substituted “ paragraphs 2 to 5 above ”.]
- (8) After sub-paragraph (1) of paragraph 8 of that Schedule there shall be inserted the following sub-paragraph—
- “(1A) Dividend manufacturing regulations may provide, in relation to prescribed cases where a person makes or receives the payment of any amount representative of an overseas dividend, or is treated for any purposes of this Schedule or such regulations as a person making or receiving such a payment—
- (a) for any entitlement of that person to claim relief under Part XVIII to be extinguished or reduced to such extent as may be found under the regulations; and
- (b) for the adjustment, by reference to any provision having effect under the law of a territory outside the United Kingdom, of any amount falling to be taken, for any prescribed purposes of the Tax Acts or the 1992 Act, to be the amount paid or payable by or to any person in respect of any sale, repurchase or other transfer of the overseas securities to which the payment relates.”
- (9) Subsections (2), (4) and (5) above have effect—
- (a) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996; and

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- (b) for the purposes of income tax, in relation to the year 1996-97 and subsequent years of assessment.
- (10) In this section “the appointed day” means such day as the Treasury may by order appoint, and different days may be appointed under this subsection for different purposes.

#### **Textual Amendments**

- F146** S. 159(2)(3) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Note 1) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**
- F147** S. 159(7)(b) and the preceding word “and” repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(10), Note 1) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**

#### **160 Investments in housing.**

Schedule 30 to this Act (which makes provision conferring relief from corporation tax on companies that invest in housing) shall have effect.

#### **161 Venture capital trusts: control of companies etc.**

- (1) Schedule 28B to the Taxes Act 1988 (venture capital trusts: meaning of qualifying holdings) shall have effect, and be deemed always to have had effect, subject to the amendments in subsections (2) and (3) below.
- (2) In paragraph 9 (requirements as to subsidiaries etc. of the relevant company), the following shall be omitted—
- in sub-paragraph (1), the words “subject to sub-paragraph (2) below”; and
  - sub-paragraph (2).
- (3) In paragraph 13 (interpretation), for sub-paragraphs (2) and (3) (“connected” and “control” to be construed in accordance with sections 839 and 416(2) to (6)) there shall be substituted the following sub-paragraphs—
- “(2) For the purposes of paragraphs 5(2) and 9 above, the question whether a person controls a company shall be determined in accordance with subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) below.
- (3) The modification is that, in determining whether a person controls a company, there shall be disregarded—
- his or any other person’s possession of, or entitlement to acquire, relevant fixed-rate preference shares of the company; and
  - his or any other person’s possession of, or entitlement to acquire, rights as a loan creditor of the company.
- (4) Section 839 shall apply for the purposes of this Schedule, but as if the reference in subsection (8) to section 416 were a reference to subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) above.
- (5) For the purposes of sub-paragraph (3) above—
- relevant fixed-rate preference shares are fixed-rate preference shares that do not for the time being carry voting rights; and

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- (b) “fixed-rate preference shares” has the same meaning as in section 95.”

*Insurance policies*

**162 Qualifying life insurance policies: certification.**

- (1) Section 55 of the <sup>M36</sup>Finance Act 1995 (removal of certification requirements for qualifying policies with respect to any time on or after 5th May 1996 etc) shall have effect—
  - (a) with the substitution for “5th May 1996”, wherever occurring, of “the appointed date”; and
  - (b) with the addition of the following subsection after subsection (8)—
    - “(9) In this section “the appointed date” means such date as may be specified for the purpose in an order made by the Board.”
- (2) In Schedule 15 to the Taxes Act 1988 (qualifying policies) paragraphs 24(2A) and 25(2) shall have effect with the substitution for “5th May 1996” of “ the appointed date for the purposes of section 55 of the Finance Act 1995 (removal of certification requirements) ”.

**Marginal Citations**  
M36 1995 c. 4.

*Insurance companies*

**163 Life assurance business losses.**

Schedule 31 to this Act, which makes provision about losses arising to insurance companies in the carrying on of life assurance business, shall have effect.

**164 Limits on relief for expenses.**

- <sup>F148</sup>(1) .....
- <sup>F149</sup>(2) .....

- (3) In paragraph 5 of Schedule 19AC to the Taxes Act 1988 (modification of section 76)—
  - [<sup>F150</sup>(a) in sub-paragraph (1), in the subsection (6B) treated as inserted in section 76, for “their” there shall be substituted “ its ” and the words “ and subsections (2) and (3)(b) above ” shall be omitted; and]
  - (b) after that sub-paragraph there shall be inserted the following sub-paragraph—
    - “(1A) In section 76 references to franked investment income shall be treated as being references to UK distribution income within the meaning of paragraph 5B of this Schedule.”
- (4) In section 56(4) of the Taxes Act 1988 (which contains a reference to the computation required by section 76(2) of that Act), for “by” there shall be substituted “ for the purposes of ”.

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- (5) Subject to subsection (6) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

<sup>F151</sup>(6) .....

#### Textual Amendments

**F148** S. 164(1) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(3\)](#)

**F149** S. 164(2) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(3\)](#)

**F150** S. 164(2)(b)(3)(a) repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(6), Note) by [1997](#) c. 58, s. 52, [Sch. 8 Pt. II\(6\)](#)

**F151** S. 164(6) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(3\)](#)

### 165 Annual payments under insurance policies: deductions.

- (1) In section 337 of the Taxes Act 1988 (deductions in computing income), the following subsections shall be inserted after subsection (2)—

“(2A) In computing any profits or losses of a company in accordance with the provisions of this Act applicable to Case I of Schedule D, subsection (2)(b) above shall not prevent the deduction of any annuity or other annual payment which is payable by a company wholly or partly in satisfaction of any claim under an insurance policy in relation to which the company is the insurer.

(2B) The reference in subsection (2A) above to an annuity payable wholly or partly in satisfaction of a claim under an insurance policy shall be taken, in relation to an insurance company (within the meaning of Chapter I of Part XII), to include a reference to every annuity payable by that company; and the references in sections 338(2) and 434B(2) to an annuity paid wholly or partly as mentioned in subsection (2A) above shall be construed accordingly.”

- (2) In section 338(2) of that Act, in the words after paragraph (b) (payments which are not charges on income), after “corporation tax” there shall be inserted “ nor any annuity or other annual payment which (without being so deductible) is paid wholly or partly as mentioned in section 337(2A) ”.

[<sup>F152</sup>(3) In section 434B of that Act (treatment of interest and annuities in the case of insurance companies), subsection (1) shall cease to have effect; and in subsection (2), for the words from the beginning to “mentioned in subsection (1) above” there shall be substituted—

“(2) Nothing in section 337(2A) or 338(2) shall be construed as preventing any annuity or other annual payment which is paid wholly or partly as mentioned in section 337(2A)”.]

- (4) Subject to subsection (5) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

- (5) In relation to any accounting period beginning on or after 1st January 1996 but ending before 1st April 1996, this section shall have effect as if any reference in provisions inserted by this section to an annuity payable or paid by an insurance company

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included a reference to any such interest as was mentioned in section 434B(1) of the Taxes Act 1988 before its repeal by virtue of this section.

#### Textual Amendments

**F152** s. 165(3) repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(6), Note) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(6)

#### 166 Equalisation reserves.

Schedule 32 to this Act (which makes provision about the tax treatment of equalisation reserves maintained by insurance companies) shall have effect.

#### 167 Industrial assurance business.

- (1) In section 432 of the Taxes Act 1988, subsection (2) (industrial assurance business treated as separate business for the purposes of Chapter I of Part XII) shall cease to have effect.
- (2) In section 432A(2) of the Taxes Act 1988, for paragraphs (d) and (e) (different categories of basic life assurance and general annuity business, including and not including industrial assurance business), there shall be substituted the following paragraph—
  - “(d) basic life assurance and general annuity business; and”.
- (3) In section 86 of the <sup>M37</sup>Finance Act 1989 (spreading of relief for acquisition expenses) —
  - (a) in subsection (1)(a), for “in respect of industrial life assurance business carried on by the company” there shall be substituted “ for persons who collect premiums from house to house ”; and
  - (b) in subsection (2), for “in respect of industrial life assurance business” there shall be substituted “ for persons who collect premiums from house to house ”.
- (4) In section 832 of the Taxes Act 1988 (interpretation), in the definition of “industrial assurance business” for “has” there shall be substituted “ means any such business carried on before the day appointed for the coming into force of section 167(4) of the Finance Act 1996 as was industrial assurance business within ”.
- (5) In Schedule 14 to the Taxes Act 1988 (ancillary provisions about relief in respect of life assurance premiums), in paragraph 8, at the beginning of sub-paragraph (4) (policy which is varied so as to increase benefits, etc. to be treated as issued after 13th March 1984) there shall be inserted “ Subject to sub-paragraph (8) below, ”.
- (6) After sub-paragraph (7) of that paragraph there shall be inserted the following sub-paragraph—
  - “(8) Sub-paragraph (4) above does not apply in the case of a variation so as to increase the benefits secured, if the variation is made—
    - (a) on or after such day as the Board may by order appoint, and
    - (b) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method.”



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- (7) In Schedule 15 to the Taxes Act 1988 (qualifying policies)—
- (a) in paragraph 1(6) (calculation of amount included in premiums of whole life and term insurances in respect of their payment otherwise than annually), for “and if the policy is issued in the course of an industrial assurance business,” there shall be substituted “and if the policy provides for payment otherwise than annually without providing for the amount of the premiums if they are paid annually, ”; and
  - (b) in paragraph 2(2) (the equivalent calculation for endowment assurances), for “issued in the course of an industrial assurance business” there shall be substituted “that provides for the payment of premiums otherwise than annually without providing for the amount of the premiums if they are paid annually, ”.
- (8) After paragraph 8 of that Schedule there shall be inserted the following paragraph—
- “8A (1) Paragraphs 7 and 8 above shall have effect in relation to any policy issued on or after the appointed day as if the references to the issue of a policy in the course of an industrial assurance business were references to the issue of a policy by any company in a case in which—
- (a) the company, before that day and in the course of such a business, issued any policy which was a qualifying policy by virtue of either of those paragraphs; and
  - (b) the policies which on 28th November 1995 were being offered by the company as available to be issued included policies of the same description as the policy issued on or after the appointed day.
- (2) In this paragraph “the appointed day” means such day as the Board may by order appoint.”
- (9) In paragraph 18(3) of that Schedule (certain variations of a policy not to affect whether policy is a qualifying policy), after paragraph (b) there shall be inserted “or
- (c) any variation so as to increase the benefits secured or reduce the premiums payable which is effected—
    - (i) on or after such day as the Board may by order appoint, and
    - (ii) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method.”
- (10) Subsections (1) to (3) above have effect in relation to accounting periods beginning on or after 1st January 1996.
- (11) Subsection (4) above shall come into force on such day as the Board may by order appoint.
- (12) Subsection (7) above shall have effect in relation to policies issued on or after such day as the Board may by order appoint.

**Subordinate Legislation Made**

**P1** [S. 167\(11\)\(12\)](#) power fully exercised: 1.12.2001 appointed by [S.I. 2001/3643](#), **art. 2(a)**

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### Marginal Citations

M37 1989 c. 26.

## 168 Capital redemption business.

- (1) For subsection (3) of section 458 of the Taxes Act 1988 (meaning of capital redemption business) there shall be substituted the following subsection—

“(3) In this section “capital redemption business” means any business in so far as it—

- (a) is insurance business for the purposes of the <sup>M38</sup>Insurance Companies Act 1982, but not life assurance business; and
  - (b) consists in effecting on the basis of actuarial calculations, and carrying out, contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.”
- (2) Schedule 33 to this Act (which makes provision for the application of the I minus E basis of charging tax to companies carrying on capital redemption business) shall have effect.
- (3) In Chapter I of Part XII of the Taxes Act 1988, after section 458 (capital redemption business) there shall be inserted the following section—

### “458A Capital redemption business: power to apply life assurance provisions.

- (1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.
- (2) Regulations under this section may provide that the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.
- (3) Regulations under this section may—
  - (a) make different provision for different cases;
  - (b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and
  - (c) include retrospective provision.
- (4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—
  - (a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and
  - (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.

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- (5) In this section “capital redemption business” has the same meaning as in section 458.”
- (4) In section 539(3) of that Act, in the definition of “capital redemption policy” for “insurance” there shall be substituted “contract”.
- (5) In section 553(10) of that Act, in paragraph (a) of the definition of “new offshore capital redemption policy”, for “an insurance” there shall be substituted “a contract”.
- (6) Subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M39</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions), and subsections (4) and (5) above shall have effect as respects contracts effected on or after that day.

**Marginal Citations**

**M38** 1982 c. 50.

**M39** 1994 c. 9.

<sup>F153</sup>169 .....

**Textual Amendments**

**F153** S. 169 repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2(12), Note of the amending Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 2(12)**

<sup>F154</sup>170 **Time for amending and enquiring into returns.**

- (1) After section 11AB of the <sup>M40</sup>Taxes Management Act 1970 there shall be inserted the following sections—

**“ Modifications of sections 11AA and 11AB in relation to non-annual accounting of general insurance business.**

- (1) This section applies in any case where a company carrying on insurance business in any period delivers a return for that period under section 11 of this Act which is based wholly or partly on accounts which the company is required or permitted to draw up using the method described in paragraph 52 of Schedule 9A to the <sup>M41</sup>Companies Act 1985 (accounting for general insurance business on a non-annual basis).
- (2) Where this section applies, section 11AA(2) of this Act shall have effect as if after paragraph (b) there were added “and
- (c1) where a company has delivered a return which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, then, at any time before the end of the period of twelve months beginning with the date on which any particular technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the <sup>M42</sup>Companies Act 1985 is replaced as described

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in sub-paragraph (4) of that paragraph, the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to the return—

- (i) which arise from the replacement of that technical provision, and
- (ii) which the company has notified to such an officer.”

(3) Where this section applies, section 11AB of this Act shall have effect—

- (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c1)”; and
- (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
- (“ in the case of a return (whenever delivered) which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, is whichever of the following periods ends the later, that is to say—

- (i) the period of two years beginning with the date (or, if there is more than one such date, the latest date) on which any technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the Companies Act 1985 is replaced as mentioned in sub-paragraph (4) of that paragraph; or

- (ii) the period ending with the quarter day next following the first anniversary of the day on which the return was delivered; and

- (b1) in the case of an amendment of such a return—

- (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or

- (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.

#### **Modifications of sections 11AA and 11AB for insurance companies with non-annual actuarial investigations.**

(1) This section applies in any case where a return under section 11 of this Act is delivered by an insurance company which is permitted by an order under section 68 of the <sup>M43</sup>Insurance Companies Act 1982 to cause investigations to be made into its financial condition less frequently than is required by section 18 of that Act.

(2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added “and

- (c2) where a company falling within section 11AD(1) of this Act has delivered a return for any period, then, at any time before the end of the period of twelve months beginning with the date as at which the relevant investigation is carried out, that is to say—

- (i) if the return is for a period as at the end of which there is carried out an investigation under section 18 of the <sup>M44</sup>Insurance Companies Act 1982 into the financial condition of the company, that investigation, or

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- (ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period, the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the company has notified to such an officer.”
- (3) Where this section applies, section 11AB of this Act shall have effect—
- (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c2)”; and
- (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
- (“ in the case of a return delivered at any time by a company falling within section 11AD(1) of this Act, is the period of two years beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c2) of this Act, is carried out; and
- (b2) in the case of an amendment of such a return—
- (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or
- (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.

**Modifications of sections 11AA and 11AB for friendly societies with non-annual actuarial investigations.**

- (1) This section applies in any case where a return under section 11 of this Act is delivered by a friendly society which is required by section 47 of the <sup>M45</sup>Friendly Societies Act 1992 to cause an investigation to be made into its financial condition at least once in every period of three years.
- (2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added “and
- (c3) where a friendly society falling within section 11AE(1) of this Act has delivered a return for any period, then, at any time before the end of the period of fifteen months beginning with the date as at which the relevant investigation is carried out, that is to say—
- (i) if the return is for a period as at the end of which there is carried out an investigation under section 47 of the <sup>M46</sup>Friendly Societies Act 1992 into the financial condition of the society, that investigation, or
- (ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the society as at the end of a subsequent period, the society may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the society has notified to such an officer.”
- (3) Where this section applies, section 11AB of this Act shall have effect—

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- (a) as if in subsection (1)(b) after “subsection (2)(b)” there were inserted “or (c3)”; and
  - (b) as if in subsection (2) for the words from “is” to the end of paragraph (b) there were substituted—
  - (“ in the case of a return delivered at any time by a friendly society falling within section 11AE(1) of this Act, is the period of twenty seven months beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c3) of this Act, is carried out; and
  - (b3) in the case of an amendment of such a return—
    - (i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or
    - (ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;”.
- (2) The amendment made by subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M47</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).]

#### **Textual Amendments**

**F154** S. 170 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

#### **Marginal Citations**

**M40** 1970 c. 9.  
**M41** 1985 c. 6.  
**M42** 1985 c. 6.  
**M43** 1982 c. 50.  
**M44** 1982 c. 50.  
**M45** 1992 c. 40.  
**M46** 1992 c. 40.  
**M47** 1994 c. 9.

### *Friendly societies*

#### **171 Life or endowment business.**

- (1) In section 466 of the Taxes Act 1988 (interpretation of Chapter II of Part XII) for subsection (1) (meaning of “life or endowment business”) there shall be substituted—
- “(1) In this Chapter “life or endowment business” means, subject to subsections (1A) and (1B) below,—
- (a) any business within Class I, II or III of Head A of Schedule 2 to the <sup>M48</sup>Friendly Societies Act 1992;
  - (b) pension business;
  - (c) any other life assurance business;
  - (d) any business within Class IV of Head A of that Schedule, if—

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- (i) the contract is one made before 1st September 1996; or
  - (ii) the contract is one made on or after 1st September 1996 and the effecting and carrying out of the contract also constitutes business within Class I, II or III of Head A of that Schedule.
- (1A) Life or endowment business does not include the issue, in respect of a contract made before 1st September 1996, of a policy affording provision for sickness or other infirmity (whether bodily or mental), unless—
  - (a) the policy also affords assurance for a gross sum independent of sickness or other infirmity;
  - (b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
  - (c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.
- (1B) Life or endowment business does not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.”
- (2) In subsection (2) of that section (other definitions) there shall be inserted at the appropriate places—
  - “(a) “insurance company” shall be construed in accordance with section 431;”;
  - “(b) “long term business” shall be construed in accordance with section 431;”.
- (3) In section 266 of that Act (life assurance premium relief) in subsection (6) (deduction from total income where relief given for part of certain payments to friendly societies) after paragraph (b) there shall be inserted “and
  - (c) the insurance or contract is not excluded by subsection (6A) below,”.
- (4) After that subsection there shall be inserted—
  - “(6A) For the purposes of subsection (6)(c) above, an insurance or contract is excluded by this subsection if it is made on or after 1st September 1996 and affords provision for sickness or other infirmity (whether bodily or mental), unless—
    - (a) it also affords assurance for a gross sum independent of sickness or other infirmity;
    - (b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
    - (c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.”
- (5) In section 463(1) of that Act (Corporation Tax Acts to apply to friendly societies’ life or endowment business as they apply to insurance companies’ mutual life assurance business) after “mutual life assurance business” there shall be inserted “ (or other long term business) ”.
- (6) The amendment made by subsection (5) above shall have effect in relation to accounting periods ending on or after 1st September 1996.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part IV. (See end of Document for details)*

### Marginal Citations

M48 1992 c. 40.

## *Personal pension schemes*

### 172 Return of contributions on or after death of member.

- (1) In section 633(1) of the Taxes Act 1988 (Board not to approve a personal pension scheme which makes provision for any benefit other than those specified in paragraphs (a) to (e)) in paragraph (e) (payment on or after the death of a member of a lump sum satisfying the conditions in section 637A) for the words following “a lump sum” there shall be substituted “with respect to which the conditions in section 637A (return of contributions) are satisfied”.
- (2) For section 637A of that Act (return of contributions on or after death of member) there shall be substituted—

#### **“637A Return of contributions on or after death of member.**

- (1) The lump sum payable under the arrangements in question (or, where two or more lump sums are so payable, those lump sums taken together) must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for—
  - (a) any income withdrawals, and
  - (b) any purchases of annuities such as are mentioned in section 636.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum (or lump sums) may represent the sale or redemption price of the units.

- (2) A lump sum must be payable only if, in the case of the arrangements in question,—
  - (a) no such annuity as is mentioned in section 634 has been purchased by the member;
  - (b) no such annuity as is mentioned in section 636 has been purchased in respect of the relevant interest; and
  - (c) no election in accordance with subsection (5)(a) of section 636 has been made in respect of the relevant interest.
- (3) Where the member’s death occurs after the date which is his pension date in relation to the arrangements in question, a lump sum must not be payable more than two years after the death unless, in the case of that lump sum, the person entitled to such an annuity as is mentioned in section 636 in respect of the relevant interest—
  - (a) has elected in accordance with section 636A to defer the purchase of an annuity; and
  - (b) has died during the period of deferral.
- (4) In this section “the relevant interest” means the interest, under the arrangements in question, of the person to whom or at whose direction the



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payment in question is made, except where there are two or more such interests, in which case it means that one of them in respect of which the payment is made.

(5) Where, under the arrangements in question, there is a succession of interests, any reference in subsection (2) or (3) above to the relevant interest includes a reference to any interest (other than that of the member) in relation to which the relevant interest is a successive interest.”

(3) This section—

- (a) has effect in relation to approvals, of schemes or amendments, given under Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) after the passing of this Act; and
- (b) does not affect any approval previously given.

#### *Participants in close companies*

### **173 Loans to participators etc.**

(1) Section 419 of the Taxes Act 1988 (loans to participators etc.) shall be amended in accordance with subsections (2) to (4) below.

(2) For subsection (3) (time when tax becomes due) there shall be substituted the following subsection—

“(3) Tax due by virtue of this section in relation to any loan or advance shall be due and payable on the day following the expiry of nine months from the end of the accounting period in which the loan or advance was made.”

(3) After subsection (4) (relief in respect of repayment) there shall be inserted the following subsection—

“(4A) Where the repayment of the whole or any part of a loan or advance occurs on or after the day on which tax by virtue of this section becomes due in relation to that loan or advance, relief in respect of the repayment shall not be given under subsection (4) above at any time before the expiry of nine months from the end of the accounting period in which the repayment occurred.”

(4) In subsection (6) (application to loans and advances to certain companies who are participators etc.), the words “ and to a company not resident in the United Kingdom ” shall be omitted.

(5) In section 826(4) of that Act (interest on repayment of tax by virtue of section 419), for paragraph (a) there shall be substituted the following paragraph—

“(a) the date when the entitlement to relief in respect of the repayment accrued, that is to say—

- (i) where the repayment of the loan or advance (or part thereof) occurred on or after the day mentioned in section 419(4A), the date nine months after the end of that accounting period; and

- (ii) in any other case, the date nine months after the end of the accounting period in which the loan or advance was made;

or”.

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- (6) This section has effect in relation to any loan or advance made in an accounting period ending on or after 31st March 1996.

**174 Attribution of gains to participators in non-resident companies.**

- (1) Section 13 of the <sup>M49</sup>Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) shall be amended in accordance with subsections (2) to (9) below.
- (2) In subsection (2) (persons subject to charge on gain to company), for “holds shares” there shall be substituted “ is a participator ”.
- (3) For subsections (3) and (4) (part of gain attributed to person subject to charge) there shall be substituted the following subsections—
- “(3) That part shall be equal to the proportion of the gain that corresponds to the extent of the participator’s interest as a participator in the company.
- (4) Subsection (2) above shall not apply in the case of any participator in the company to which the gain accrues where the aggregate amount falling under that subsection to be apportioned to him and to persons connected with him does not exceed one twentieth of the gain.”
- (4) In subsection (5), paragraph (a) (section not to apply where gain distributed within two years) shall be omitted; and after that subsection there shall be inserted the following subsection—
- “(5A) Where—
- (a) any amount of capital gains tax is paid by a person in pursuance of subsection (2) above, and
- (b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) within 2 years from the time when the chargeable gain accrued to the company,
- that amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax in respect of the distribution or (in the case of a distribution falling to be treated as a disposal on which a chargeable gain accrues to that person) to any capital gains tax in respect of the distribution.”
- (5) In subsection (7) (deduction of tax paid in computing gain on shares in the company)—
- (a) for “not reimbursed by the company)” there shall be inserted “ neither reimbursed by the company nor applied under subsection (5A) above for reducing any liability to tax) ”; and
- (b) for “the shares by reference to which the tax was paid” there shall be substituted “ any asset representing his interest as a participator in the company. ”
- (6) After subsection (7) there shall be inserted the following subsection—
- “(7A) In ascertaining for the purposes of subsection (5A) or (7) above the amount of capital gains tax or income tax chargeable on any person for any year on or in respect of any chargeable gain or distribution—

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- (a) any such distribution as is mentioned in subsection (5A)(b) above and falls to be treated as income of that person for that year shall be regarded as forming the highest part of the income on which he is chargeable to tax for the year;
  - (b) any gain accruing in that year on the disposal by that person of any asset representing his interest as a participator in the company shall be regarded as forming the highest part of the gains on which he is chargeable to tax for that year;
  - (c) where any such distribution as is mentioned in subsection (5A)(b) above falls to be treated as a disposal on which a gain accrues on which that person is so chargeable, that gain shall be regarded as forming the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (b) above; and
  - (d) any gain treated as accruing to that person in that year by virtue of subsection (2) above shall be regarded as the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (c) above.”
- (7) In subsection (9) (cases where person charged is a company)—
- (a) for “the person owning any of the shares in the company” there shall be substituted “ a person who is a participator in the company ”; and
  - (b) for the words from “to the shares” onwards there shall be substituted “ to the participating company’s interest as a participator in the company to which the gain accrues shall be further apportioned among the participators in the participating company according to the extent of their respective interests as participators, and subsection (2) above shall apply to them accordingly in relation to the amounts further apportioned, and so on through any number of companies. ”
- (8) In subsection (10) (application to trustees), for “owning shares in the company” there shall be substituted “ who are participators in the company, or in any company amongst the participators in which the gain is apportioned under subsection (9) above, ”.
- (9) After subsection (11) there shall be inserted the following subsections—
- “(12) In this section “participator”, in relation to a company, has the meaning given by section 417(1) of the Taxes Act for the purposes of Part XI of that Act (close companies).
- (13) In this section—
- (a) references to a person’s interest as a participator in a company are references to the interest in the company which is represented by all the factors by reference to which he falls to be treated as such a participator; and
  - (b) references to the extent of such an interest are references to the proportion of the interests as participators of all the participators in the company (including any who are not resident or ordinarily resident in the United Kingdom) which on a just and reasonable apportionment is represented by that interest.
- (14) For the purposes of this section, where—

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- (a) the interest of any person in a company is wholly or partly represented by an interest which he has under any settlement (“his beneficial interest”), and
- (b) his beneficial interest is the factor, or one of the factors, by reference to which that person would be treated (apart from this subsection) as having an interest as a participator in that company,

the interest as a participator in that company which would be that person’s shall be deemed, to the extent that it is represented by his beneficial interest, to be an interest of the trustees of the settlement (and not of that person), and references in this section, in relation to a company, to a participator shall be construed accordingly.

- (15) Any appeal under section 31 of the Management Act involving any question as to the extent for the purposes of this section of a person’s interest as a participator in a company shall be to the Special Commissioners.”

- (10) In paragraph 1(3) of Schedule 5 to the <sup>M50</sup>Taxation of Chargeable Gains Act 1992 (application of section 86 to section 13 gains)—

- (a) in paragraph (a), for “hold shares in a company which originate” there shall be substituted “ are participators in a company in respect of property which originates ”;
- (b) in paragraph (b), for “the shares” there shall be substituted “ so much of their interest as participators as arises from that property ”; and
- (c) at the end there shall be added—

“Subsections (12) and (13) of section 13 shall apply for the purposes of this sub-paragraph as they apply for the purposes of that section.”

- (11) This section applies to gains accruing on or after 28th November 1995.

#### **Marginal Citations**

**M49** 1992 c. 12.

**M50** 1992 c. 12.

### *Cancellation of tax advantages*

#### **175 Transactions in certain securities.**

- (1) In section 704 of the Taxes Act 1988 (which relates to the cancellation of tax advantages and specifies the circumstances mentioned in section 703(1)) in paragraph D(2)(b) (companies which do not satisfy the conditions there specified with respect to their shares or stocks) for “are authorised to be dealt in on the Stock Exchange, and are so dealt in (regularly or from time to time)” there shall be substituted “ are listed in the Official List of the Stock Exchange, and are dealt in on the Stock Exchange regularly or from time to time ”.

- [<sup>F155</sup>(2) The reference in paragraph D(2)(b) of section 704 of the Taxes Act 1988 to being listed in the Official List of the Stock Exchange and being dealt in on the Stock Exchange regularly or from time to time shall be taken to include a reference to being dealt in on the Unlisted Securities Market regularly or from time to time, but this subsection is subject to subsection (3) below.

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- <sup>F155</sup>(3) Subsection (2) above—
- (a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall not have effect where the relevant transaction takes place after the date on which the Unlisted Securities Market closes;
  - (b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act (which relate to bonus issues following, and other matters to be treated or not treated as, repayment of share capital) shall not have effect—
    - (i) in the case of section 210(3), in relation to share capital issued after that date; or
    - (ii) in the case of section 211(2), in relation to distributions made after that date.]
- (4) [<sup>F156</sup>Except as provided by subsection (3) above,]this section—
- (a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall have effect where the relevant transaction takes place after the passing of this Act; and
  - (b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act, shall have effect—
    - (i) in the case of section 210(3), in relation to share capital issued after the passing of this Act; or
    - (ii) in the case of section 211(2), in relation to distributions made after the passing of this Act.
- (5) In this section “the relevant transaction” means—
- (a) the transaction in securities mentioned in paragraph (b) of section 703(1) of the Taxes Act 1988, or
  - (b) the first of the two or more such transactions mentioned in that paragraph, as the case may be.

#### **Textual Amendments**

**F155** S. 175(2)(3) repealed (with effect as mentioned in Sch. 41 Pt. V(31), Note in the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(31)**

**F156** Words in s. 175(4) repealed (with effect as mentioned in Sch. 41 Pt. V(31), Note in the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(31)**

#### *Chargeable gains: reliefs*

#### <sup>F157</sup>**176 Retirement relief: age limits.**

- (1) In each of sections 163 and 164 of, and paragraph 5 of Schedule 6 to, the <sup>M51</sup>Taxation of Chargeable Gains Act 1992 (retirement relief), for “the age of 55”, wherever occurring, there shall be substituted “ the age of 50 ”.
- (2) The amendments made by this section shall apply in relation to disposals on or after 28th November 1995.]

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects  
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**Textual Amendments**

**F157** S. 176 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(31), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(31)

**Marginal Citations**

**M51** 1992 c. 12.

**177 Reinvestment relief on disposal of qualifying corporate bond.**

Section 164A of the Taxation of Chargeable Gains Act 1992 (re-investment relief) shall have effect, and be deemed always to have had effect, as if the following subsections were inserted after subsection (2)—

“(2A) Where the chargeable gain referred to in subsection (1)(a) above is one which (apart from this section) would be deemed to accrue by virtue of section 116(10) (b)—

- (a) any reduction falling to be made by virtue of subsection (2)(a) above shall be treated as one made in the consideration mentioned in section 116(10)(a), instead of in the consideration for the disposal of the asset disposed of; but
- (b) if the disposal on which that gain is deemed to accrue is a disposal of only part of the new asset, it shall be assumed, for the purpose only of making a reduction affecting the amount of that gain—
  - (i) that the disposal is a disposal of the whole of a new asset,
  - (ii) that the gain accruing on that disposal relates to an old asset consisting in the corresponding part of what was in fact the old asset, and
  - (iii) that the corresponding part of the consideration deemed to be given for what was in fact the old asset is taken to be the consideration by reference to which the amount of that gain is computed;

and in this subsection “new asset” and “old asset” have the same meanings as in section 116.

(2B) Where a chargeable gain accrues in accordance with subsection (12) of section 116, this Chapter shall have effect—

- (a) as if that gain were a gain accruing on the disposal of an asset; and
- (b) in relation to that deemed disposal, as if references in this Chapter to the consideration for the disposal were references to the sum of money falling, apart from this Chapter, to be used in computing the gain accruing under that subsection.”

*Special cases*

**F158 178 Sub-contractors in the construction industry.**

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**Textual Amendments**

**F158** S. 178 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004](#) (c. 12), [Sch. 42 Pt. 2\(7\)](#)

**F159** **179** .....

**Textual Amendments**

**F159** S. 179 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2, s. 580, Sch. 4](#)

**F160** **180** .....

**Textual Amendments**

**F160** S. 180 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by [2001 c. 2, s. 580, Sch. 4](#)

**181 Overseas petroleum.**

(1) In subsection (1) of section 196 of the <sup>M52</sup>Taxation of Chargeable Gains Act 1992 (interpretation of sections 194 and 195), for “licence” there shall be substituted “ UK licence ”.

(2) After subsection (1) of section 196 of that Act there shall be inserted the following subsection—

“(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—

(a) no development has actually taken place in any part of the licensed area; and

(b) no condition for the carrying out of development anywhere in that area has been satisfied—

(i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or

(ii) by the approval or service on the licensee, by any such authorities, of any programme of development.”;

and in subsection (2) of that section for “subsection (1) above” there shall be substituted “ subsections (1) and (1A) above ”.

(3) For subsection (5) of section 196 of that Act there shall be substituted the following subsections—

“(5) In sections 194 and 195 and this section—

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“foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

“interest” in relation to a licence, includes, where there is an agreement which—

- (a) relates to oil from the whole or any part of the licensed area, and
- (b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

“licence” means any UK licence or foreign oil concession;

“licensed area” (subject to subsection (4) above)—

- (a) in relation to a UK licence, has the same meaning as in Part I of the <sup>M53</sup>Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the area to which the concession applies;

“licensee”—

- (a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

“oil”—

- (a) except in relation to a UK licence, means any petroleum (within the meaning of the <sup>M54</sup>Petroleum (Production) Act 1934); and
- (b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“overseas petroleum” means any oil that exists in its natural condition at a place to which neither the <sup>M55</sup>Petroleum (Production) Act 1934 nor the <sup>M56</sup>Petroleum (Production) Act (Northern Ireland) 1964 applies; and

“UK licence” means a licence within the meaning of Part I of the <sup>M57</sup>Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.”

(4) Subsections (1) to (3) above shall have effect in relation to any disposal on or after 13th September 1995 and subsection (3) shall also have effect, and be deemed always to have had effect, for the construction of section 195 of the <sup>M58</sup>Taxation of Chargeable Gains Act 1992 in its application to disposals before that date.

(5) Where enactments re-enacted in the <sup>M59</sup>Taxation of Chargeable Gains Act 1992 apply, instead of that Act, in the case of any disposal before 13th September 1995, this section shall have effect as if it required amendments equivalent to those made by subsection (3) above to have effect, and be deemed always to have had effect, for the construction of any enactment corresponding to section 195 of that Act.

#### **Marginal Citations**

**M52** 1992 c. 12.

**M53** 1975 c. 22.



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*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: There are currently no known outstanding effects  
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<b>M54</b>	1934 c. 36.
<b>M55</b>	1934 c. 36.
<b>M56</b>	1964 c. 28 (N.I.).
<b>M57</b>	1975 c. 22.
<b>M58</b>	1992 c. 12.
<b>M59</b>	1992 c. 12.

## **182 Controlled foreign companies.**

Schedule 36 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988) shall have effect in relation to accounting periods of a controlled foreign company, within the meaning of that Chapter, beginning on or after 28th November 1995.

**Status:**

Point in time view as at 03/04/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1996, Part IV.