

Status: Point in time view as at 12/08/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 37. (See end of Document for details)

SCHEDULES

SCHEDULE 37

Section 198.

BANKS

PART I

“BANK” RE-DEFINED FOR CERTAIN PURPOSES

- 1 (1) After section 840 of the Taxes Act 1988 there shall be inserted the following section—

“840A Banks.

- (1) In any provision in relation to which it is provided that “bank” has the meaning given by this section “bank” means—
- (a) the Bank of England;
 - (b) an institution authorised under the ^{M1}Banking Act 1987;
 - (c) a relevant European institution; or
 - (d) a relevant international organisation which is designated as a bank for the purposes of that provision by an order made by the Treasury.
- (2) For the purposes of subsection (1) above, an institution is a relevant European institution if—
- (a) it is a European authorised institution within the meaning of the ^{M2}Banking Co-ordination (Second Council Directive) Regulations 1992; and
 - (b) the requirements of paragraph 1 of Schedule 2 to those regulations have been complied with in relation to its establishment of a branch.
- (3) For the purposes of subsection (1) above, a relevant international organisation is an international organisation of which the United Kingdom is a member.”
- (2) In section 828 of the Taxes Act 1988 (regulations and orders), in subsection (4), for “or 791” there shall be substituted “ 791 or 840A(1)(d) ”.

Marginal Citations

M1 1987 c. 22.

M2 S.I. 1992/3218.

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PART II

AMENDMENTS OF THE TAXES ACT 1988

Provisions in which new meaning of “bank” applies

- 2 (1) The following subsection—
- “*(0)* In this section “bank” has the meaning given by section 840A.”,
- shall be inserted in the Taxes Act 1988 in accordance with sub-paragraph (2) below.
- (2) The subsection shall be inserted—
- (a) in section 234A (information relating to distributions), after subsection (8), as subsection (8A);
 - (b) in section 349 (payment of interest under deduction of tax, etc.), after subsection (3), as subsection (3AA);
 - (c) in section 745 (obligation to furnish information not to apply to banks), after subsection (5), as subsection (5A);
 - (d) in section 816 (obligation to disclose certain particulars to apply to banks), after subsection (3), as subsection (3A).
- (3) In Schedule 20 to the Taxes Act 1988 (charities: qualifying investments and loans), in paragraph 7 (certain deposits with banks to be qualifying investments), after sub-paragraph (2), there shall be inserted the following sub-paragraph—
- “*(3)* In this paragraph “bank” has the meaning given by section 840A.”
- (4) The provisions of paragraph 10 of that Schedule shall become sub-paragraph (1) of that paragraph and after that sub-paragraph there shall be inserted the following sub-paragraph—
- “*(2)* In this paragraph “bank” has the meaning given by section 840A.”

Related amendments

- 3 In section 349(3) of the Taxes Act 1988—
- (a) in paragraph (a), for the words from “in the United Kingdom” to the end there shall be substituted “on an advance from a bank, if at the time when the interest is paid the person beneficially entitled to the interest is within the charge to corporation tax as respects the interest”;
 - (b) in paragraph (b), for “such a bank in the ordinary course of that” there shall be substituted “a bank in the ordinary course of its”.
- 4 After subsection (3AA) of section 349 of the Taxes Act 1988 (inserted by paragraph 2 above) there shall be inserted the following subsection—
- “*(3AB)* An order under section 840A(1)(d) designating an organisation as a bank for the purposes of paragraph (a) of subsection (3) above may provide that that paragraph shall apply to the organisation as if the words from “if” to the end were omitted.”
- 5 In Schedule 20 to the ^{M3}Taxes Act 1988, in paragraphs 7(1) and 10, for “an institution authorised under the Banking Act 1987” there shall in each case be substituted “a bank”.

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Marginal Citations

M3 1987 c. 22.

Application

- 6 The amendments of the Taxes Act 1988 made by paragraphs 2 to 5 above apply as mentioned in paragraphs 7 to 10 below.
- 7 The amendment of section 234A applies in relation to payments made on or after the day on which this Act is passed.
- 8 (1) The amendment of subsection (3)(a) of section 349, and inserted subsection (3AA) of that section so far as it relates to subsection (3)(a), apply in accordance with sub-paragraphs (2) to (6) below.
- (2) The amendments do not apply in relation to interest payable before the day on which this Act is passed.
- (3) In the case of an institution which—
- (a) immediately before the day on which this Act is passed, is treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom, and
 - (b) on that day, falls within the definition of “bank” given by section 840A(1), the amendments apply in relation to interest payable on an advance made before that day as well as in relation to interest payable on an advance made on or after that day.
- (4) In the case of an institution which—
- (a) immediately before the day on which this Act is passed, is not treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom, and
 - (b) on that day, falls within the definition of “bank” given by section 840A(1), the amendments apply only in relation to interest payable on an advance made on or after that day.
- (5) Sub-paragraph (6) below applies in the case of an institution which—
- (a) immediately before the day on which this Act is passed, is treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom; and
 - (b) on that day does not fall within the definition of “bank” given by section 840A(1).
- (6) The amendments apply in relation to—
- (a) interest payable on an advance made on or after the day on which this Act is passed; and
 - (b) interest payable on an advance made before that day, if at the time when the interest is paid the person beneficially entitled to the interest is not within the charge to corporation tax as respects the interest.
- (7) The amendment of subsection (3)(b) of section 349, and inserted subsection (3AA) of that section so far as it relates to subsection (3)(b), apply in relation to interest paid on or after the day on which this Act is passed on an advance made on or after that day.

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- (8) In relation to interest paid on an advance made before the day on which this Act is passed, section 349(3)(b) shall have effect as if for the words “such a bank” there were substituted “ a bank carrying on a bona fide banking business in the United Kingdom ” (and section 349(3AA) shall be disregarded).
- 9 The amendments of sections 745 and 816 apply in relation to requirements imposed on or after the day on which this Act is passed.
- 10 The amendments of paragraphs 7 and 10 of Schedule 20 apply in relation to deposits made or, as the case may be, money placed on or after the day on which this Act is passed.

PART III

OTHER AMENDMENTS

Amendments of the Management Act

- 11 (1) The following subsection—
- “(0) In this section “bank” has the meaning given by section 840A of the principal Act.”,
- shall be inserted in the ^{M4}Taxes Management Act 1970 in accordance with subparagraph (2) below.
- (2) The subsection shall be inserted—
- in section 17 (returns from banks etc.), after subsection (1), as subsection (1A);
 - in section 18 (obligation to supply certain information not to apply to banks), after subsection (3), as subsection (3AA);
 - in section 24 (obligation to disclose certain particulars not to apply to banks), after subsection (3), as subsection (3A).
- (3) In section 17(1) of that Act, for “person carrying on the trade or business of banking” there shall be substituted “ such person who is a bank ”.
- (4) In section 18(3) of that Act for the words from “carrying on” to the end there shall be substituted “ in respect of any interest paid by the bank in the ordinary course of its business ”.
- (5) This paragraph applies as follows—
- the amendments of section 17 apply in relation to interest paid on or after the day on which this Act is passed; and
 - the amendments of sections 18 and 24 apply in relation to requirements imposed on or after the day on which this Act is passed.

Marginal Citations

M4 1970 c. 9.

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Amendments of the Inheritance Tax Act 1984

- 12 (1) In section 157 of the ^{M5}Inheritance Tax Act 1984 (non-residents' bank accounts), in subsection (5), for “the Bank of England, the Post Office or an authorised institution” there shall be substituted “ a bank or the Post Office ”.
- (2) After that subsection there shall be inserted the following subsection—
- “(6) In this section “bank” has the meaning given by section 840A of the Taxes Act 1988.”
- (3) This paragraph applies in relation to deaths occurring on or after the day on which this Act is passed.

Marginal Citations

M5 1984 c. 51.

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