



Finance (No. 2) Act 1997

1997 CHAPTER 58

PART I

THE WINDFALL TAX

1 Charge to windfall tax.

- (1) Every company which, on 2nd July 1997, was benefitting from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation shall be charged with a tax (to be known as the “windfall tax”) on the amount of that windfall.
- (2) Windfall tax shall be charged at the rate of 23 per cent.
- (3) Schedule 1 to this Act (which sets out how to quantify the windfall from which a company was benefitting on 2nd July 1997) shall have effect.

2 The companies benefitting from windfalls.

- (1) For the purposes of this Part a company in existence on 2nd July 1997 was benefitting on that date from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation if—
 - (a) that company, or a company of which it was on that date a demerged successor, had before that date been privatised by means of a flotation;
 - (b) there had, before that flotation, been a statutory transfer of property, rights and liabilities from a public corporation to the floated company or to a company which, at the time of the flotation, was a subsidiary undertaking of the floated company; and
 - (c) at the time of the flotation, the floated company was carrying on an undertaking whose privatisation involved the imposition of economic regulation.
- (2) For the purposes of this Part a company was privatised by means of a flotation if—

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Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (a) an offer of shares in that company was at any time made to the public in the United Kingdom;
 - (b) the shares which were the subject-matter of the offer were publicly-owned at the time of the offer;
 - (c) the offer was or included an offer of shares for disposal at a fixed price; and
 - (d) shares in that company were first admitted to listing on the Official List of the Stock Exchange in pursuance of an application made in connection with the offer.
- (3) In this Part references, in relation to a company privatised by means of a flotation, to the time of the company's flotation are references to the time when shares in the floated company were first admitted to listing on the Official List of the Stock Exchange.
- (4) For the purposes of this Part a company in existence on 2nd July 1997 ("the relevant company") was on that date a demerged successor of a company privatised by means of a flotation if—
- (a) after the flotation of the floated company but before 2nd July 1997, there had been a statutory transfer of property, rights and liabilities from the floated company to a company ("the transferee company") which was a subsidiary undertaking of the floated company at the time of the transfer;
 - (b) the transferee company was not a subsidiary undertaking of the floated company on 2nd July 1997 but was, on that date, a subsidiary undertaking of the relevant company; and
 - (c) before 2nd July 1997 shares in the relevant company had been admitted to listing on the Official List of the Stock Exchange in pursuance of an application made in connection with the transaction, or series of transactions, by virtue of which the transferee company ceased to be a subsidiary undertaking of the floated company.
- (5) For the purposes of this section a company was, at the time of its flotation, carrying on an undertaking whose privatisation involved the imposition of economic regulation if that company, or a company which at that time was a subsidiary undertaking of that company, was at that time—
- (a) a public telecommunications operator, within the meaning of the ^{M1}Telecommunications Act 1984;
 - (b) an airport operator in relation to an airport subject to economic regulation under Part IV of the ^{M2}Airports Act 1986;
 - (c) the holder of an authorisation granted under section 7 of the ^{M3}Gas Act 1986, as originally enacted (public gas suppliers);
 - (d) the holder of an appointment under section 11 of the ^{M4}Water Act 1989 as the water undertaker for any area of England and Wales;
 - (e) the holder of a licence granted under section 6 of the ^{M5}Electricity Act 1989 or Article 10 of the ^{M6}Electricity (Northern Ireland) Order 1992 (licences authorising generation, transmission and supply of electricity); or
 - (f) a company authorised by a licence under section 8 of the ^{M7}Railways Act 1993 to be the operator of a railway asset.
- (6) In subsection (5) above "airport operator" has the ^{M8}same meaning as in the Airports Act 1986.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

Marginal Citations

- M1** 1984 c. 12.
- M2** 1986 c. 31.
- M3** 1986 c. 44.
- M4** 1989 c. 15.
- M5** 1989 c. 29.
- M6** S.I. 1992/231 (N.I. 1).
- M7** 1993 c. 43.
- M8** 1986 c. 31.

3 Administration of the windfall tax etc.

- (1) The windfall tax shall be under the care and management of the Commissioners of Inland Revenue.
- (2) Schedule 2 to this Act (which makes provision with respect to the management and collection of the windfall tax) shall have effect.
- (3) Subject to paragraph 19(5) of Schedule 8 to the Taxes Act 1988 (which is the provision about profit-related pay schemes that is amended by section 4 below), nothing in this Act or the Tax Acts shall have the effect of allowing or requiring any amount of windfall tax to be deducted in computing income, profits or losses for any of the purposes of the Tax Acts.

4 The windfall tax and profit-related pay.

- (1) In paragraph 19 of Schedule 8 to the Taxes Act 1988 (ascertainment of profits for the purposes of profit-related pay schemes)—
 - (a) in sub-paragraph (5)(b), after “1985” there shall be inserted “ or section 3(3) of the Finance (No. 2) Act 1997 ”; and
 - (b) after paragraph (ff) of sub-paragraph (6) there shall be inserted the following paragraph—

“(fg) windfall tax charged under Part I of the Finance (No. 2) Act 1997;”.
- (2) Subsection (1) above has effect in relation to the preparation, for the purposes of any scheme, of a profit and loss account for any period ending on or after 2nd July 1997.
- (3) Subsection (1) above shall not have effect in relation to an existing scheme unless, before the end of the period of six months beginning with the day on which this Act is passed, the scheme is altered, with effect for all periods ending on or after 2nd July 1997, to take account of that subsection.
- (4) Provision made, in compliance with paragraph 20(1) of Schedule 8 to the Taxes Act 1988 (consistency in preparation of accounts), by any existing scheme that is altered to take account of subsection (1) above shall not prevent a profit and loss account from being prepared in accordance with the alteration.
- (5) An alteration of an existing scheme to take account of subsection (1) above shall be treated as being within section 177B of the Taxes Act 1988 (alterations which are registrable and which, when registered, cannot give rise to the Board’s power of cancellation).

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- (6) In this section “existing scheme” means a scheme which at any time in the period beginning with 2nd July 1997 and ending immediately before the day on which this Act is passed was a registered scheme under Chapter III of Part V of the Taxes Act 1988.
- (7) The preceding provisions of this section shall cease to have effect, in accordance with the notes to Part VI(3) of Schedule 18 to the ^{M9}Finance Act 1997, as if they were included in the repeal of Schedule 8 to the Taxes Act 1988.

Marginal Citations

M9 1997 c. 16.

5 Interpretation of Part I.

- (1) In this Part—

“company” means a company within the meaning of the ^{M10}Companies Act 1985 or the ^{M11}Companies (Northern Ireland) Order 1986;

“fixed price”, in relation to any offer of publicly-owned shares in a company, means—

- (a) a price set out in the offer; or
- (b) a price subsequently fixed by a Minister of the Crown in a case in which the amount of a first instalment of the price was fixed by the offer;

“the floated company”, in relation to the privatisation of a company by means of a flotation, means the company so privatised;

“public corporation”, in relation to a statutory transfer, means any body corporate in existence at the time of the transfer which—

- (a) had been established by or in accordance with the provisions of any enactment; and
- (b) had a membership consisting of, or including, persons appointed as members by a Minister of the Crown;

“publicly-owned”, in relation to any shares, means held by—

- (a) a Minister of the Crown or the Treasury; or
- (b) a nominee for a Minister of the Crown or for the Treasury;

“share” includes any right to require the issue of a share;

“statutory transfer” means a transfer under a transferring enactment or by or in accordance with a statutory scheme;

“subsidiary undertaking”—

- (a) except in relation to a company formed and registered in Northern Ireland, means a subsidiary undertaking within the meaning of Part VII of the Companies Act 1985; and
- (b) in relation to a company so formed and registered, means a subsidiary undertaking within the meaning of Part VIII of the Companies (Northern Ireland) Order 1986.

- (2) In this section—

“enactment” means an enactment contained in a public general Act or any provision of Northern Ireland legislation;

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“Minister of the Crown” includes a Northern Ireland department or the head of such a department;

“statutory scheme” means any scheme which—

- (a) has been made in exercise of any power or duty conferred or imposed by any enactment;
- (b) contains provision for the division of property, rights and liabilities between different persons, or for the transfer of property, rights and liabilities to a company; and
- (c) would not have taken effect or come into force but for having been approved by a Minister of the Crown;

“transferring enactment” means an enactment under which property, rights and liabilities of a person specified in the enactment became, by virtue of that enactment, the property, rights or liabilities of a company nominated under that enactment.

(3) In subsection (2) above the reference, in relation to a scheme, to its having been approved by a Minister of the Crown includes a reference to its having been made by a Minister of the Crown.

(4) The reference in subsection (1) above to Part VII of the ^{M12}Companies Act 1985 shall be construed, in relation to times in relation to which that Part had effect without the amendments made by the ^{M13}Companies Act 1989, as if those amendments did have effect in relation to those times.

Marginal Citations

- M10** 1985 c. 6.
- M11** S.I. 1986/1032 (N.I. 6).
- M12** 1985 c. 6.
- M13** 1989 c. 40.

PART II

VALUE ADDED TAX AND EXCISE DUTIES

Value Added Tax

F16

Textual Amendments

- F1** S. 6 repealed (11.5.2001 with effect in accordance with s. 99(7) of the amending Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 3(1)**, note 2

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Alcoholic liquor duties

7 Rate of duty on spirits.

- (1) In section 5 of the ^{M14}Alcoholic Liquor Duties Act 1979 (spirits), for “£18.99” there shall be substituted “ £19.56 ”.
- (2) This section shall come into force on 1st January 1998.

Marginal Citations

M14 1979 c. 4.

8 Rate of duty on beer.

- (1) In section 36(1) of the Alcoholic Liquor Duties Act 1979 (beer), for “£10.82” there shall be substituted “ £11.14 ”.
- (2) This section shall come into force on 1st January 1998.

9 Rates of duty on wine and made-wine.

- (1) For the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine) there shall be substituted—
“Table of Rates of Duty on Wine and Made-Wine

PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 4 per cent.	44.58
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	61.30
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	144.65
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 8.5 per cent.	201.50
Sparkling wine or sparkling made-wine of a strength exceeding 8.5 per cent. or of a strength exceeding 8.5 per cent. but not exceeding 15 per cent.	206.66

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Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	192.86
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PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per litre of alcohol in the wine or made-wine</i>
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.56”

(2) This section shall come into force on 1st January 1998.

10 Rates of duty on cider.

(1) In section 62 of the Alcoholic Liquor Duties Act 1979 (cider), for subsection (1A) there shall be substituted—

“(1A) The rates at which the duty shall be charged are—

- (a) £37.54 per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent.;
- (b) £36.74 per hectolitre in the case of cider of a strength exceeding 7.5 per cent. which is not sparkling cider; and
- (c) £24.49 per hectolitre in any other the case.”

(2) This section shall come into force on 1st January 1998.

Hydrocarbon oil duties

11 Rates of hydrocarbon oil duties etc.

(1) In relation to times before the coming into force of section 7(2) and (3) of the ^{M15}Finance Act 1997 (which makes amendments specifying separate rates of duty for light oil, for ultra low sulphur diesel and for heavy oil which is not ultra low sulphur diesel), section 6(1) of the ^{M16}Hydrocarbon Oil Duties Act 1979 (“the 1979 Act”) shall have effect as follows—

- (a) for “£0.4168” (rate of duty on light oil) there shall be substituted “ £0.4510 ”; and
- (b) for “£0.3686” (rate of duty on heavy oil) there shall be substituted “ £0.4028 ”.

(2) In relation to times after the coming into force of section 7(2) and (3) of the Finance Act 1997, section 6(1A) of the 1979 Act (which is inserted by section 7(3) of the Finance Act 1997) shall have effect as follows—

- (a) in paragraph (a) (rate of duty on light oil), for “£0.4168” there shall be substituted “ £0.4510 ”;
- (b) in paragraph (b) (rate of duty on ultra low sulphur diesel), for “£0.3586” there shall be substituted “ £0.3928 ”; and

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- (c) in paragraph (c) (rate of duty on heavy oil that is not ultra low sulphur diesel), for “£0.3686” there shall be substituted “ £0.4028 ”.
- (3) In section 11(1) of the 1979 Act (rebate on heavy oil), for “£0.0194” (fuel oil) and “£0.0250” (gas oil) there shall be substituted “ £0.0200 ” and “ £0.0258 ”, respectively.
- (4) In section 14(1) of the 1979 Act (rebate on light oil for use as furnace fuel), for “£0.0194” there shall be substituted “ £0.0200 ”.
- (5) This section shall be deemed to have come into force at 6 o’clock in the evening of 2nd July 1997.

Commencement Information

II For the commencement date and time of S. 11 see 11(5)

Marginal Citations

M15 1997 c. 16.

M16 1979 c. 5.

Tobacco products duty

12 Rates of tobacco products duty.

- (1) For the Table of rates of duty in Schedule 1 to the ^{M17}Tobacco Products Duty Act 1979 there shall be substituted—

“ TABLE

1. Cigarettes...	An amount equal to 21 per cent. of the retail price plus £72.06 per thousand cigarettes.
2. Cigars...	£105.86 per kilogram.
3. Hand-rolling tobacco...	£87.74 per kilogram.
4. Other smoking tobacco and chewing tobacco...	£46.55 per kilogram.”

- (2) This section shall come into force on 1st December 1997.

Marginal Citations

M17 1979 c. 7.

Vehicle excise and registration

13 Rates of vehicle excise duty.

- (1) In Schedule 1 to the ^{M18}Vehicle Excise and Registration Act 1994 (annual rates of duty) in paragraph 1(2) (the general rate), for “£145” there shall be substituted “ £150 ”.

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Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

(2) For the table in paragraph 9(1) of that Schedule (rates of duty for rigid goods vehicles) there shall be substituted the following table—

“Revenue weight of vehicle		Rate		
(1) Exceeding	(2) Not Exceeding	(3) Two axle vehicle	(4) Three axle vehicle	(5) Four or more axle vehicle
kgs	kgs	£	£	£
3,500	7,500	160	160	160
7,500	12,000	300	300	300
12,000	13,000	470	490	350
13,000	14,000	650	490	350
14,000	15,000	840	490	350
15,000	17,000	1,320	490	350
17,000	19,000	1,320	850	350
19,000	21,000	1,320	1,020	350
21,000	23,000	1,320	1,470	510
23,000	25,000	1,320	2,230	830
25,000	27,000	1,320	2,340	1,470
27,000	29,000	1,320	2,340	2,320
29,000	31,000	1,320	2,340	3,360
31,000	44,000	1,320	2,340	4,400”

(3) For the table in paragraph 11(1) of that Schedule (rates of duty for tractive units) there shall be substituted the following table—

“Revenue weight of tractive unit		Rate for tractive unit with two axles			Rate for tractive unit with three or more axles		
(1) Exceeding	(2) Not exceeding	(3) Any no. of semi-trailer axles	(4) 2 or more semi-trailer axles	(5) 3 or more semi-trailer axles	(6) Any no. of semi-trailer axles	(7) 2 or more semi-trailer axles	(8) 3 or more semi-trailer axles
kgs	kgs	£	£	£	£	£	£
3,500	7,500	160	160	160	160	160	160
7,500	12,000	300	300	300	300	300	300
12,000	16,000	460	460	460	460	460	460
16,000	20,000	520	460	460	460	460	460
20,000	23,000	810	460	460	460	460	460

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23,000	26,000	1,190	590	460	590	460	460
26,000	28,000	1,190	1,130	460	1,130	460	460
28,000	31,000	1,740	1,740	1,090	1,740	660	460
31,000	33,000	2,530	2,530	1,740	2,530	1,000	460
33,000	34,000	5,170	5,170	1,740	2,530	1,470	570
34,000	36,000	5,170	5,170	2,840	2,530	2,100	860
36,000	38,000	5,170	5,170	3,210	2,820	2,820	1,280
38,000	44,000	5,170	5,170	3,210	2,820	2,820	1,280”

(4) This section applies in relation to licences taken out after 15th November 1997.

Marginal Citations

M18 1994 c. 22.

14 Payments where vehicle information transmitted electronically.

(1) In section 7 of the Vehicle Excise and Registration Act 1994 (issue of vehicle licences), in subsection (3B) (conditions that may be imposed in place of requirement to make a declaration), after “include” there shall be inserted “ (a) ” and at the end there shall be inserted “; and

(b) a condition requiring such payments as may be specified by the Secretary of State to be made to him in respect of—

(i) steps taken by him for facilitating compliance by any person with any condition falling within paragraph (a); and

(ii) in such circumstances as may be so specified, the processing of applications for vehicle licences where particulars are transmitted in accordance with that paragraph.”

(2) Subsection (1) above applies to applications made on or after the day on which this Act is passed.

(3) In section 22 of the ^{M19}Vehicle Excise and Registration Act 1994, after subsection (2) (regulations about registration and identification of exempt vehicles, etc.) there shall be inserted the following subsections—

“(2A) Regulations under subsection (2) may, in particular—

(a) require a person applying for a nil licence—

(i) to make such a declaration, and

(ii) to furnish such particulars,

(whether or not with respect to the vehicle for which the licence is to be taken out) as may be prescribed by the regulations, and

(b) provide for any requirement to make such a declaration not to apply in such circumstances as may be so prescribed.

(2B) The circumstances which may be prescribed by the regulations by virtue of subsection (2A)(b) include where a person applying for a nil licence agrees

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to comply with such conditions as may be specified in relation to him by the Secretary of State.

- (2C) The conditions which may be specified by virtue of subsection (2B) include—
- (a) a condition that particulars for the time being prescribed by the regulations by virtue of subsection (2A)(a) are furnished by being transmitted to the Secretary of State by such electronic means as he may specify; and
 - (b) a condition such as is mentioned in section 7(3B)(b) (treating the references to paragraph (a) of subsection (3B) as references to paragraph (a) of this subsection)."

Marginal Citations

M19 1994 c. 22.

PART III

INCOME TAX AND CORPORATION TAX

Reliefs for interest and private medical insurance

[^{F2}15 Mortgage interest payments.

- (1) In section 353 of the Taxes Act 1988 (general provision for relief for interest payments), in subsection (1G) (amount of relief for interest on loans to buy land, etc.), for paragraph (a) there shall be substituted—
 - “(a) in relation to so much of any interest as is eligible for relief under this section by virtue of section 354, means 10 per cent; and”.
- (2) In section 369 of that Act (deduction at source of mortgage interest relief), in subsection (1A) (percentage of interest deductible), for paragraph (a) there shall be substituted—
 - “(a) in relation to so much of any payment of relevant loan interest as is not a payment in relation to which paragraph (b) below has effect, means 10 per cent; and”.
- (3) Subsection (1) above has effect in relation to any payment of interest (whenever falling due) made in the year 1998-99 or any subsequent year of assessment; and subsection (2) above has effect in relation to any payment of interest which becomes due in the year 1998-99 or any subsequent year of assessment.]

Textual Amendments

F2 S. 15 repealed (27.7.1999 with effect as mentioned in s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. III(7) Note 4

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16 Limit on relief for interest for 1998-99.

For the year 1998-99 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.

17 Withdrawal of relief on medical insurance premiums.

- (1) Subject to subsections (2) and (3) below, relief under section 54 of the ^{M20}Finance Act 1989 (medical insurance) shall not be given in respect of any payment where either—
 - (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997; or
 - (b) the payment is received by the insurer on or after 6th April 1999.
- (2) Subsection (1) above shall not affect the giving of relief in respect of a payment received by an insurer before 6th April 1999 where—
 - (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997 but before 1st August 1997;
 - (b) the contract is one entered into in pursuance of a written proposal received by or on behalf of the insurer before 2nd July 1997;
 - (c) the contract is not a contract entered into by way of the renewal of an earlier contract; and
 - (d) if the payment is not itself a payment received before 1st August 1997, the insurer had before 1st August 1997 received an earlier payment in respect of a premium under the contract in question.
- (3) Subsection (1) above shall not affect the giving of relief in respect of a payment received by an insurer before 6th April 1999 where—
 - (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997 but before 1st August 1997;
 - (b) that contract is one entered into by way of the renewal of an earlier contract;
 - (c) the period of insurance under the earlier contract ended before 2nd July 1997; and
 - (d) if the payment is not itself a payment received before 1st August 1997, the insurer had before 1st August 1997 received an earlier payment in respect of a premium under the renewal contract.
- (4) For the purposes of the preceding provisions of this section a contract shall be taken to have been entered into by way of the renewal of an earlier contract only if—
 - (a) it was entered into by way of the renewal of a contract which was an eligible contract for the purposes of section 54 of the ^{M21}Finance Act 1989 when that earlier contract was entered into;
 - (b) the insurer under the earlier contract and the insurer under the contract by which it has been renewed are the same; and
 - (c) the period of insurance under the earlier contract ended immediately before the beginning of the period of insurance under the contract by which it has been renewed.
- (5) This section has effect for the year 1997-98 and subsequent years of assessment.

Marginal Citations

M20 1989 c. 26.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

M21 1989 c. 26.

Corporation tax

18 Rates for financial year 1997.

- (1) The rate at which corporation tax is charged for the financial year 1997 shall be, and shall be deemed always to have been, 31 per cent. (and not 33 per cent. as provided by section 58 of the ^{M22}Finance Act 1997).
- (2) The small companies' rate for that year shall be, and shall be deemed always to have been, 21 per cent. (and not 23 per cent. as provided by section 59(a) of that Act).
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

Marginal Citations

M22 1997 c. 16.

Distributions, tax credits etc on and after 2nd July 1997

[^{F3}19 Pension funds no longer entitled to payment of tax credits.

- (1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions)—
 - (a) in subsection (2) (payment of tax credits to companies resident in the United Kingdom) for “Subject to section 241(5)” there shall be substituted “ Subject to sections 231A and 241(5) ”; and
 - (b) at the beginning of subsection (3) (claims by other persons to set tax credits against income tax liability and to receive payment of any excess of tax credit over that liability) there shall be inserted “ Subject to section 231A, ”.
- (2) After section 231 of the Taxes Act 1988 there shall be inserted—

“ Restrictions on the use of tax credits by pension funds.

- (1) No claim shall be made under section 231(2) for payment of the amount of a tax credit if or to the extent that the qualifying distribution to which the credit relates is income of a pension fund.
- (2) In the case of any pension fund, for any year of assessment the aggregate amount of the tax credits in respect of which claims are made under section 231(3) must not exceed the aggregate amount of the tax credits in respect of the qualifying distributions comprised in the income of the pension fund and brought into charge to tax.
- (3) Accordingly, no payment shall be made under section 231(3) in respect of so much of the excess there mentioned as is referable to a tax credit in respect of a qualifying distribution if or to the extent that the qualifying distribution is income of a pension fund.

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(4) In this section—

“income”, in relation to a pension fund, means income derived from investments or deposits held for the purposes of the pension fund;

“pension fund” means any scheme, fund or other arrangements established and maintained (whether in the United Kingdom or elsewhere) for the purpose of providing pensions, retirement annuities, allowances, lump sums, gratuities or other superannuation benefits (with or without subsidiary benefits);

“scheme” includes any deed, agreement or series of agreements.

(5) For convenience of identification only, the schemes, funds or other arrangements which are “pension funds” for the purposes of this section by virtue of the definition of that expression in subsection (4) above include, in particular, those whose income is, in whole or in part, exempt, or eligible for exemption, from tax under or by virtue of any of the following provisions—

- (a) section 512(2);
- (b) section 592(2);
- (c) section 608(2)(a);
- (d) section 613(4);
- (e) section 614(2), (3), (4) or (5);
- (f) section 620(6);
- (g) section 643(2).

(6) The preceding provisions of this section do not have effect in relation to—

- (a) claims made in respect of tax credits to which entitlement arises by virtue of section 232(3); or
- (b) claims made by virtue of arrangements having effect under section 788.”

(3) This section has effect in relation to qualifying distributions made on or after 2nd July 1997.]

Textual Amendments

- F3** S. 19 repealed (with effect in relation to distributions made on or after 6.4.1999) by [1997 c. 58, s. 52, Sch. 8 Pt. II\(9\)](#) Note 3 (with s. 3(3))

20 Losses etc not to be set against surplus franked investment income.

- (1) No claim shall be made under section 242 or 243 of the Taxes Act 1988 (set off of losses etc against surplus of franked investment income) for any accounting period beginning on or after 2nd July 1997; and section 244(1) of that Act shall cease to have effect accordingly.
- (2) Sections 242(5) and (6) and 243(4) of the Taxes Act 1988 (restoration of loss etc in later accounting period for which there is a surplus of franked payments) shall not have effect where the later accounting period mentioned in section 242(5)(b) begins on or after 2nd July 1997.

Status: Point in time view as at 07/04/2005.

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- (3) No amount shall be deducted under paragraph (a), or carried forward and deducted under paragraph (b), of section 244(2) (deduction of tax credit paid from ACT subsequently available for set off or surrender) for any accounting period beginning on or after 2nd July 1997.
- (4) For the purposes of sections 242 and 243 of the Taxes Act 1988, if—
 - (a) a company has a surplus of franked investment income for an accounting period beginning before 2nd July 1997 and ending on or after that date, and
 - (b) that surplus exceeds the surplus of franked investment income which the company would have had for that accounting period had it ended on 1st July 1997,the surplus shall be treated as reduced by the excess.
- (5) Sections 242 to 244 of the Taxes Act 1988 cease to have effect in consequence of, and in accordance with, the foregoing provisions of this section.
- (6) In section 237(4) of the Taxes Act 1988 (bonus issue and related tax credit not to be franked investment income for the purposes of sections 241 and 244) for “sections 241 and 244” there shall be substituted “ section 241 ”.
- (7) Subsection (6) above has effect in accordance with subsection (5) above.

21 Estates in administration: distributions to which s.233(1) applies.

- (1) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended as follows.
- (2) In subsection (1) (which defines “a relevant amount” by reference to an amount which is or would be paid out of sums to which paragraphs (a) and (b) apply) after paragraph (b) there shall be inserted—

“or out of any sums included in the aggregate income of the estate of the deceased which fall within subsection (1A) below.”
- (3) After subsection (1) there shall be inserted—

“(1A) A sum falls within this subsection if it is a sum in respect of a distribution to which section 233(1) applies.

(1B) Any reference in this Part to a sum to which subsection (1)(a) and (b) above applies includes a reference to a sum falling within subsection (1A) above which is included in the aggregate income of the estate of the deceased.”
- (4) In subsection (4) (rate at which sums are assumed to bear tax) after paragraph (b) there shall be inserted “; and
 - (c) in the case of sums falling within subsection (1A) above, at the lower rate.”
- (5) This section has effect in relation to amounts which a person is deemed by virtue of Part XVI of the Taxes Act 1988 (estates in the course of administration) to receive, or to have a right to receive, on or after 2nd July 1997.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

22 Lloyd’s underwriters.

- (1) In section 171 of the ^{M23}Finance Act 1993 (taxation of profits, and allowance of losses, of non-corporate members) after subsection (2A) there shall be inserted—

“(2B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a member’s premiums trust fund.”

- (2) In section 219 of the ^{M24}Finance Act 1994 (taxation of profits of corporate members) at the beginning of subsection (3) there shall be inserted “ Subject to subsection (4A) below, ”.

- (3) In subsection (4) of that section (subsection (2) applies in relation to distributions and associated tax credits notwithstanding section 11(2)(a) or 208 of the Taxes Act 1988)

- (a) for “dividends or other distributions of a company resident in the United Kingdom” there shall be substituted “ UK distributions ”; and
(b) the words “(and any associated tax credits)” shall cease to have effect.

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

“(4A) Notwithstanding anything in section 11(2)(a) or 208 of the Taxes Act 1988, UK distributions in respect of any assets of a corporate member which are mentioned in paragraph (a) or (b) of subsection (3) above—

- (a) shall be taken into account in computing profits of the corporate member for tax purposes; and
(b) shall be so taken into account under Case I of Schedule D (and not under any other Schedule or any other Case of Schedule D).

(4B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a corporate member’s premiums trust fund.

(4C) In this section “UK distributions” means dividends or other distributions of a company resident in the United Kingdom.”

^{F4}(5)

- (6) In section 231(1) of the Taxes Act 1988 (recipient of distribution made by UK resident company entitled to tax credit subject to sections 247 and 441A) after “441A,” there shall be inserted “ section 171(2B) of the Finance Act 1993 and section 219(4B) of the Finance Act 1994, ”.

- (7) This section has effect in relation to distributions made on or after 2nd July 1997.

Textual Amendments

- F4** S. 22(5) 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

- M23** 1993 c. 34.
M24 1994 c. 9.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

23 Insurance companies and friendly societies.

Schedule 3 to this Act (which makes provision in relation to insurance companies and friendly societies) shall have effect.

Distributions, tax credits etc: avoidance

24 Taxation of dealers in respect of distributions etc.

(1) Section 95 of the Taxes Act 1988 (taxation of dealers in respect of certain qualifying distributions etc) shall be amended in accordance with subsections (2) to (9) below.

(2) For subsection (1) (qualifying distributions to which Schedule 7 to the ^{M25}Finance Act 1997 applies which are received by a dealer, and payments made by a dealer which are representative of such distributions, to be taken into account in computing profits of the dealer) there shall be substituted—

“(1) Where a dealer—

(a) receives a relevant distribution, that is to say—

(i) any distribution which is made by a company resident in the United Kingdom (“a UK distribution”), or

(ii) any payment which is representative of a UK distribution, or

(b) makes any payment which is representative of a UK distribution,

the distribution or, as the case may be, the payment shall be taken into account in computing the profits of the dealer which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.”

(3) In subsection (1A) (provisions consequential on subsection (1) where dealer receives qualifying distribution to which Schedule 7 to the Finance Act 1997 applies)—

(a) in the words preceding paragraph (a), for “qualifying distribution to which Schedule 7 to the Finance Act 1997 applies” there shall be substituted “relevant distribution”;

(b) paragraph (b) (distribution not to be treated for the purposes of sections 246D and 246F as a FID received by the dealer) shall cease to have effect;

(c) in paragraph (c), for “sections 208 and 234(1)” there shall be substituted “section 208”;

(d) paragraph (d) (which disapplies paragraph 2A(2) of Schedule 23A to the Taxes Act 1988 which is repealed by this section) shall be omitted; and

^{F5}(e)

(4) Subsection (1B) (which relates to the application of section 732 and which becomes unnecessary in consequence of the amendments made to that section by section 26 below) shall cease to have effect.

(5) In subsection (2) (meaning of “dealer”)—

(a) the word “qualifying” shall be omitted in both places where it occurs; and

(b) in paragraph (a), after “shares” there shall be inserted “ or stock ”.

(6) After subsection (2) there shall be inserted—

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

“(2A) The reference in subsection (2) above to the profits of a person does not include the profits of that person in respect of insurance business or any category of insurance business.”

(7) Subsection (4) (which makes special provision in relation to preference shares) shall cease to have effect.

(8) Subsection (5) (definitions) shall be omitted.

(9) For the sidenote there shall be substituted “ Taxation of dealers in respect of distributions etc. ”

^{F6}(10)

(11) In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (1), the words “but subject to section 95(1A)(c)” shall be omitted.

(12) In section 246D(1) of the Taxes Act 1988 (individuals entitled to FIDs treated as receiving grossed-up amount) after “that individual shall be treated” there shall be inserted “ (except for the purposes of section 95(1)) ”.

(13) In Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) paragraph 2A(2) (which provides that if the dividend manufacturer is a company not resident in the UK no amount shall be deductible in the case of that company in respect of the manufactured dividend) shall be omitted (and accordingly paragraph 2(3)(c) of that Schedule has effect instead).

(14) In Schedule 7 to the ^{M26}Finance Act 1997 (special treatment for certain distributions) in paragraph 2 (distributions treated as FIDs) in sub-paragraph (3)—

(a) paragraph (a) (subjection to section 95(1A)(b)) shall be omitted; and

(b) in paragraph (b) (subjection to section 247(5B) to (5D)) for “of that Act” there shall be substituted “ of the Taxes Act 1988 ”.

(15) This section has effect in relation to—

(a) any distribution made on or after 2nd July 1997; and

(b) any payment which is representative of such a distribution.

Textual Amendments

F5 S. 24(3)(e) repealed (10.7.2003) (with effect in accordance with the Note to [Sch. 43 Pt. 3\(6\)](#) to the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(6\)](#)

F6 S. 24(10) 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

M25 1997 c. 16.

M26 1997 c. 16.

25 Repeal of s.95(5) of the Taxes Act 1988: consequential amendments.

(1) In section 246A(9) of the Taxes Act 1988 (which provides that “fixed-rate preference shares” shall be construed in accordance with section 95(5)) for “section 95(5)” there shall be substituted “ paragraph 13(6) of Schedule 28B ”.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (2) In Schedule 28B to the Taxes Act 1988 (venture capital trusts) paragraph 13 (general interpretation) shall be amended in accordance with subsections (3) and (4) below.
- (3) In sub-paragraph (5), paragraph (b) (which provides that “fixed-rate preference shares” has the same meaning as in section 95), and the word “and” immediately preceding that paragraph, shall be omitted.
- (4) After sub-paragraph (5) there shall be inserted—
 - “(6) In this paragraph “fixed-rate preference shares” means shares which—
 - (a) were issued wholly for new consideration;
 - (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
 - (c) do not carry any right to dividends other than dividends which—
 - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
 - (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued;and in paragraph (a) above “new consideration” has the meaning given by section 254.”
- (5) In Schedule 7 to the ^{M27}Finance Act 1997 (special treatment for certain distributions) paragraph 5 (fixed-rate preference shares) shall be amended in accordance with subsections (6) and (7) below.
- (6) In sub-paragraph (2) (which defines “fixed-rate preference shares” by reference to section 95 of the Taxes Act 1988)—
 - (a) in paragraph (a) for “section 95 of” there shall be substituted “ paragraph 13 of Schedule 28B to ”; and
 - (b) in paragraph (b) for “section 95(5)(c)(i) of that Act” there shall be substituted “ paragraph 13(6)(c)(i) of that Schedule ”.
- (7) After sub-paragraph (2) there shall be inserted—
 - “(3) For the purposes of sub-paragraph (2) above, any reference in paragraph 13(6) of Schedule 28B to shares shall be taken as a reference to shares within the meaning of this Schedule.”
- (8) This section has effect on and after 2nd July 1997.

Marginal Citations

M27 1997 c. 16.

26 Purchase and sale of securities.

- (1) Section 732 of the Taxes Act 1988 (dealers in securities) shall be amended as follows.
- (2) After subsection (1) (dealers in securities: reduction for tax purposes of price paid by the appropriate amount in respect of interest) there shall be inserted—

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“(1A) Subsection (1) above shall not apply if the interest receivable by the first buyer falls to be taken into account by virtue of section 95(1) in computing profits of his which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.”

- (3) Subsections (2) and (2A) (exceptions from subsection (1) for certain market makers, recognised clearing houses and members of recognised investment exchanges) shall cease to have effect.
- (4) In subsection (4) (exception from subsection (1) for overseas securities bought on a stock exchange outside the United Kingdom if conditions as to computation of profits and non-allowance of credit for foreign tax are satisfied) the words “on a stock exchange outside the United Kingdom” shall be omitted.
- (5) For the definition of “overseas securities” in subsection (4) there shall be substituted—
- “In this subsection “overseas securities” means securities issued—
- (a) by a government or public or local authority of a territory outside the United Kingdom; or
 - (b) by any other body of persons not resident in the United Kingdom.”
- (6) Subsections (5) and (5A) (exceptions from subsection (1) for Eurobonds bought by dealers and for rights in a unit trust scheme where first buyer sells as manager) shall cease to have effect.
- (7) Subsections (6) and (7) (definitions for the purposes of subsections (2) and (2A)) shall cease to have effect.
- (8) This section has effect where, for the purposes of section 731(2) of the Taxes Act 1988, the interest receivable by the first buyer is paid on or after 2nd July 1997.

27 **Payments to companies under section 687 of the Taxes Act 1988.**

- (1) After section 687 of the Taxes Act 1988 (payments under discretionary trusts) there shall be inserted—

“687A Payments to companies under section 687.

- (1) This section applies where—
- (a) trustees make a payment to a company;
 - (b) section 687 applies to the payment; and
 - (c) the company is chargeable to corporation tax and does not fall within subsection (2) below.
- (2) A company falls within this subsection if it is—
- (a) a charity, as defined in section 506(1);
 - (b) a body mentioned in section 507 (heritage bodies); or
 - (c) an Association of a description specified in section 508 (scientific research organisations).
- (3) Where this section applies—
- (a) none of the following provisions, namely—
 - (i) section 7(2),

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (ii) section 11(3),
 - (iii) paragraph 5(1) of Schedule 16,
- shall apply in the case of the payment;
- (b) the payment shall be left out of account in calculating the profits of the company for the purposes of corporation tax; and
 - (c) no repayment shall be made of the amount treated under section 687(2) as income tax paid by the company in the case of the payment.
- (4) If the company is not resident in the United Kingdom, this section applies only in relation to so much (if any) of the payment as is comprised in the company's chargeable profits for the purposes of corporation tax.”
- (2) This section has effect in relation to payments made by trustees to companies on or after 2nd July 1997.

28 Arrangements to pass on value of tax credit.

- (1) After section 231A of the Taxes Act 1988 (which is inserted by section 19 of this Act) there shall be inserted—

“231B Consequences of certain arrangements to pass on the value of a tax credit.

- (1) This section applies in any case where—
- (a) a person (“A”) is entitled to a tax credit in respect of a qualifying distribution;
 - (b) arrangements subsist such that another person (“B”) obtains, whether directly or indirectly, a payment representing any of the value of the tax credit;
 - (c) the arrangements (whether or not made directly between A and B) were entered into for an unallowable purpose; and
 - (d) the condition in subsection (2) below is satisfied.
- (2) The condition is that if B had been the person entitled to the tax credit and the qualifying distribution to which it relates, and had received the distribution when it was made, then—
- (a) B would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
 - (b) if B is a company, B could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.
- (3) This section does not apply if and to the extent that any other provision of the Tax Acts has the effect of cancelling or reducing the tax advantage which would otherwise be obtained by virtue of the arrangements.
- (4) Where this section applies—
- (a) no claim shall be made under section 231(2) for payment of the amount of the tax credit;

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

- (b) no claim shall be made under section 231(3) or 441A(7) in respect of the tax credit;
 - (c) the income consisting of the distribution in respect of which A is entitled to the tax credit shall not be regarded for the purposes of section 241 as franked investment income; and
 - (d) no claim shall be made under section 35 of the Finance (No. 2) Act 1997 (transitional relief) for payment of an amount determined by reference to that distribution.
- (5) For the purposes of this section, the question whether any arrangements were entered into for an “unallowable purpose” shall be determined in accordance with subsections (6) and (7) below.
- (6) Arrangements are entered into for an unallowable purpose if the purposes for which at least one person is a party to the arrangements include a purpose which is not amongst the business or other commercial purposes of that person.
- (7) Where one of the purposes for which a person enters into any arrangements is the purpose of securing that that person or another obtains a tax advantage, that purpose shall be regarded as a business or other commercial purpose of the person only if it is neither the main purpose, nor one of the main purposes, for which the person enters into the arrangements.
- (8) Any reference in this section to a person obtaining a tax advantage includes a reference to a person obtaining a payment representing any of the value of a tax credit in circumstances where, had the person obtaining the payment been entitled to the tax credit and the qualifying distribution to which it relates, that person—
- (a) would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
 - (b) if that person is a company, could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.
- (9) If an amount representing any of the value of a tax credit to which a person is entitled is applied at the direction of, or otherwise in favour of, some other person (whether by way of set off or otherwise), the case shall be treated for the purposes of this section as one where that other person obtains a payment representing any of the value of the tax credit.
- (10) In determining for the purposes of subsections (2)(b) and (8)(b) b above whether a company could have used the income consisting of the distribution in question to frank a distribution of the company, the company shall be taken to use its actual franked investment income to frank distributions before using the income consisting of the distribution in question.
- (11) References in this section to using franked investment income to frank a distribution of a company have the same meaning as in Chapter V of Part VI.
- (12) In this section—

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“arrangements” means arrangements of any kind, whether in writing or not (and includes a series of arrangements, whether or not between the same parties);

“business or other commercial purposes” includes the efficient management of investments;

“franked investment income” has the same meaning as in Chapter V of Part VI and references to income consisting of a distribution shall be construed accordingly;

“tax advantage” has the same meaning as in Chapter I of Part XVII.”

(2) This section has effect in relation to distributions made on or after 2nd July 1997.

29 Unauthorised unit trusts.

(1) Where a qualifying distribution—

- (a) is made on or after 2nd July 1997 but before 6th April 1999 by a company resident in the United Kingdom, and
- (b) falls to be regarded by virtue of subsection (2) of section 469 of the Taxes Act 1988 (unit trusts other than authorised unit trusts) as income of the trustees of a unit trust scheme to which that section applies, and
- (c) is not a foreign income dividend and does not fall to be regarded by virtue of any provision of the Tax Acts apart from this section as a foreign income dividend arising to the trustees,

the trustees shall be treated for all purposes of the Tax Acts (apart from this section) as if the qualifying distribution were a foreign income dividend.

(2) Subsection (1) above shall not apply—

- (a) if the unit trust scheme is a common investment fund established under section 42 of the ^{M28}Administration of Justice Act 1982; or
- (b) if, apart from section 469(2) of the Taxes Act 1988, the whole of the qualifying distribution would fall to be regarded as income of section 505 bodies.

(3) In this section—

“foreign income dividend” shall be construed in accordance with Chapter VA of Part VI of the Taxes Act 1988;

“section 505 body” means—

- (a) a charity, as defined in section 506(1) of the Taxes Act 1988;
- (b) a body mentioned in section 507 of that Act (heritage bodies); or
- (c) an Association of a description specified in section 508 of that Act (scientific research organisations).

Marginal Citations

M28 1982 c. 53.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

Distributions, tax credits etc in and after 1999-00

30 Tax credits.

- (1) Section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) shall be amended in accordance with subsections (2) to (7) below.
- (2) In subsection (1) (recipient of certain distributions to be entitled to tax credit equal to proportion of distribution corresponding to rate of ACT in force)—
 - ^{F7}(a)
 - (b) for “the rate of advance corporation tax in force for the financial year in which” there shall be substituted “ the tax credit fraction in force when ”.
- (3) After subsection (1) there shall be inserted—

“(1A) The tax credit fraction is one-ninth.”
- (4) Subsection (2) (payment of tax credit to company resident in UK) shall cease to have effect.
- (5) In subsection (3) (which includes provision for payment of excess of tax credit over income tax liability to person not being a company resident in the UK)—
 - ^{F8}(a)
 - (b) the words “and subject to subsections (3A) and (3D) below where the credit exceeds that income tax, to have the excess paid to him” shall cease to have effect.
- ^{F9}(6)
- (7) In consequence of subsection (5) above, subsections (3A) to (3D) shall cease to have effect.
- (8) Section 231A of the Taxes Act 1988 (which is superseded by the foregoing provisions of this section) shall cease to have effect.
- (9) The amendments made by subsections (5) and (6) above [^{F10}and rewritten in section 397(3) of the Income Tax (Trading and Other Income) Act 2005] do not affect the entitlement of a person who is not resident in the United Kingdom to payment in respect of a tax credit by virtue of arrangements having effect under section 788 of the Taxes Act 1988 (relief by agreement with other countries).
- (10) Where—
 - (a) arrangements having effect by virtue of section 788 of the Taxes Act 1988 confer on a person not resident in the United Kingdom the right to a tax credit under [^{F11}section 397 of the Income Tax (Trading and Other Income) Act 2005] in respect of a dividend of a company resident in the United Kingdom, and
 - (b) the arrangements contain provision for permitting—
 - (i) tax to be charged or deducted, or
 - (ii) a reduction in the amount of the tax credit that is paid to be made, by reference to the aggregate of the dividend and the tax credit, and
 - (c) the amount of that tax or that reduction exceeds the amount of the tax credit, that provision shall only have the effect of reducing to nil the amount of the payment to which the person is entitled in respect of the tax credit.

Status: Point in time view as at 07/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997. (See end of Document for details)

(11) This section has effect in relation to distributions made on or after 6th April 1999.

Textual Amendments

- F7** S. 30(2)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))
- F8** S. 30(5)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))
- F9** S. 30(6) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))
- F10** Words in s. 30(9) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 496\(a\)](#) (with [Sch. 2](#))
- F11** Words in s. 30(10)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 496\(b\)](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

- C1** S. 30 modified (31.7.1998 with effect as mentioned in [s. 76\(1\)](#) of the amending Act) by [1998 c. 36, s. 76\(1\)\(2\)](#)
- C2** S. 30(4) excluded (*temp.* from 6.4.1999 to 6.4.2004) by [S.I. 1998/1871, reg. 4\(1\)](#)
- C3** S. 30(4) restricted (31.7.1998) by [1998 c. 36, s. 90\(1\)](#)
- C4** S. 30(4): Power to modify conferred (31.7.1998) by [1988 c. 1, s. 33B](#) (as inserted (31.7.1998) by [1998 c. 36, s. 77\(1\)](#))

31 Rates of tax applicable to Schedule F income etc.

- (1) Section 1A of the Taxes Act 1988 (application of lower rate to income from savings and distributions) shall be amended in accordance with subsections (2) to (4) below.
- (2) In subsection (1) (certain savings and distribution income to be charged at the lower rate to the exclusion of basic rate) for “lower rate” there shall be substituted “rate applicable in accordance with subsection (1A) below”.
- (3) After subsection (1) there shall be inserted—
- “(1A) The rate applicable in accordance with this subsection is—
- (a) in the case of income chargeable under Schedule F, the Schedule F ordinary rate;
 - (b) in the case of equivalent foreign income falling within subsection (3) (b) below and chargeable under Case V of Schedule D, the Schedule F ordinary rate; and
 - (c) in the case of any other income, the lower rate.”
- (4) For subsection (5) (income to which section 1A applies to be treated as the highest part of a person’s income) there shall be substituted—
- “(5) For the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts—
- (a) so much of any person’s income as comprises income to which this section applies shall be treated as the highest part of his income; and
 - (b) so much of that part as consists of—
 - (i) income chargeable under Schedule F (if any), and

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(ii) equivalent foreign income falling within subsection (3)(b) above and chargeable under Case V of Schedule D (if any), shall be treated as the highest part of that part.”

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

“1B Rates of tax applicable to Schedule F income etc.

- (1) In the case of so much of an individual’s income which consists of—
- (a) income chargeable under Schedule F (if any), and
 - (b) equivalent foreign income falling within section 1A(3)(b) and chargeable under Case V of Schedule D (if any),
- as is income falling within section 1(2)(b), income tax shall, by virtue of this subsection, be charged at the Schedule F upper rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(b).
- (2) In relation to any year of assessment for which income tax is charged—
- (a) the Schedule F ordinary rate is 10 per cent., and
 - (b) the Schedule F upper rate is 32.5 per cent.,
- or, in either case, such other rate as Parliament may determine.”

(6) This section has effect in relation to distributions made on or after 6th April 1999.

32 Trusts.

- (1) Section 686 of the Taxes Act 1988 (income arising to trustees which is to be chargeable at the rate applicable to trusts) shall be amended as follows.
- (2) In subsection (1) (income to which the section applies to be chargeable at the rate applicable to trusts instead of at the basic rate or, in accordance with section 1A, the lower rate)—
- (a) for “at the rate applicable to trusts” there shall be substituted “ at the rate applicable in accordance with subsection (1AA) below ”; and
 - (b) after “at the lower rate” there shall be inserted “ or the Schedule F ordinary rate ”.
- (3) After subsection (1) there shall be inserted—
- “(1AA) The rate applicable in accordance with this subsection is—
- (a) in the case of so much of any income to which this section applies as is Schedule F type income, the Schedule F trust rate; and
 - (b) in the case of any other income to which this section applies, the rate applicable to trusts.”

(4) In subsection (1A) (the rate applicable to trusts etc) for the words from the beginning to “Parliament may determine” there shall be substituted—

“(1A) In relation to any year of assessment for which income tax is charged—

 - (a) the Schedule F trust rate shall be 25 per cent., and
 - (b) the rate applicable to trusts shall be 34 per cent.,

or, in either case, such other rate as Parliament may determine.”

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- (5) In subsection (1A), so as to make the words following “as Parliament may determine” into a separate paragraph, for the words “and, for the purposes of assessments” there shall be substituted—

“For the purposes of assessments

.”

- (6) In subsection (2AA) (income treated by s.689B as applied in defraying trustees’ expenses to be taxed at the rate that would apply apart from s.686, instead of the rate applicable to trusts) after “instead of the rate applicable to trusts” there shall be inserted “ or the Schedule F trust rate (as the case may be) ”.

- (7) Before subsection (6) there shall be inserted—

“(5A) In this section “Schedule F type income”, in relation to trustees, means—

- (a) income chargeable under Schedule F;
- (b) income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D;
- (c) a qualifying distribution whose amount or value is determined in accordance with section 233(1A);
- (d) a non-qualifying distribution, within the meaning of section 233(1B);
- (e) income treated as arising to the trustees by virtue of section 249(6)(b);
- (f) income treated as received by the trustees by virtue of section 421(1)(a);
- (g) any amount which, by virtue of section 686A, is treated for the purposes of the Tax Acts as if it were income to which this section applies.”

- (8) For the sidenote there shall be substituted “ Accumulation and discretionary trusts: special rates of tax. ”

- (9) After section 686 of the Taxes Act 1988 there shall be inserted—

“686A Certain distributions to be treated as income to which section 686 applies.

- (1) This section applies where—
 - (a) a qualifying distribution is made to trustees;
 - (b) the trustees are not the trustees of a unit trust scheme; and
 - (c) the qualifying distribution falls within subsection (2) below.
- (2) A qualifying distribution falls within this subsection if it is a payment made by a company—
 - (a) on the redemption, repayment or purchase of its own shares; or
 - (b) on the purchase of rights to acquire its own shares.
- (3) The relevant part of the distribution shall be treated for the purposes of the Tax Acts as if it were income to which section 686 applies.
- (4) In subsection (3) above the reference to the relevant part of the distribution is a reference to so much (if any) of the distribution as—

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- (a) is not income falling within paragraph (a) of section 686(2);
 - (b) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;
 - (c) is not income arising under a trust established for charitable purposes; and
 - (d) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c).
- (5) Subsection (6) of section 686 shall apply for the purposes of this section as it applies for the purposes of that section.”
- (10) The amendment made by subsection (5) above has effect on and after 6th April 1999.
- (11) The other amendments made by this section have effect in relation to distributions made on or after 6th April 1999.

33 Estates of deceased persons in administration.

- (1) For section 698A of the Taxes Act 1988 (taxation at the lower rate of the income of beneficiaries) there shall be substituted—

“698A Taxation of income of beneficiaries at lower rate or at rates applicable to Schedule F income.

- (1) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the lower rate, section 1A shall have effect as if that income were income to which that section applies otherwise than by virtue of the income being income chargeable under Schedule F.
 - (2) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the Schedule F ordinary rate, that income shall be treated as if it were income chargeable under Schedule F.
 - (3) Subsections (1) and (2) above shall not apply to income paid indirectly through a trustee and treated by virtue of section 698(3) as having borne income tax at the lower rate or the Schedule F ordinary rate; but, subject to section 686(1), section 1A shall have effect as if the payment made to the trustee were income of the trustee—
 - (a) to which section 1A applies by virtue of the income being chargeable under Schedule F, in the case of income treated as having borne tax at the Schedule F ordinary rate; and
 - (b) to which section 1A applies otherwise than by virtue of the income being chargeable under Schedule F, in any other case.”
- (2) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended in accordance with subsections (3) to (6) below.
- (3) In subsection (1A) (which is inserted by section 21 of this Act and describes sums to which subsection (1)(a) and (b) of s.699A is deemed to apply) after “if it is a sum in respect of” there shall be inserted—
- “(a) a distribution chargeable under Schedule F; or

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(b)”.

- (4) In subsection (2) (determination whether any amount is a relevant amount) in paragraph (b) (application of the assumption in section 701(3A)(b)) for “assumption” there shall be substituted “ assumptions ”.
- (5) In subsection (4) (rate at which sums are assumed to bear tax) in paragraphs (a) and (c) for “lower rate” there shall be substituted “ Schedule F ordinary rate ”.
- (6) In subsection (6) (income represented by a relevant amount to be treated as not brought into charge to tax for the purposes of ss.348 and 349(1)) at the end there shall be added “ except to the extent that the relevant amount is or would be paid out of sums in respect of a distribution chargeable under Schedule F ”.
- (7) In section 701 of the Taxes Act 1988 (interpretation of Part XVI) subsection (3A) (which defines the “applicable rate” as basic rate or lower rate, according to the rate at which the income of the residue out of which the payment to the beneficiary is made bears tax) shall be amended in accordance with subsections (8) and (9) below.
- (8) For the words “or the lower rate”, in both places where they occur, there shall be substituted “ , the lower rate or the Schedule F ordinary rate ”.
- (9) In paragraph (b) (assumption that payments are made out of income bearing tax at the basic rate before income bearing tax at the lower rate)—
 - (a) after “it shall be assumed” there shall be inserted “ (i) ”;
 - (b) after “lower rate” there shall be inserted “ or the Schedule F ordinary rate ”;
 - and
 - (c) at the end of the paragraph there shall be added “; and
 - (ii) that payments are to be made out of income bearing tax at the lower rate before they are made out of income bearing tax at the Schedule F ordinary rate.”
- (10) The amendment made by subsection (3) above has effect in relation to distributions made on or after 6th April 1999.
- (11) The amendments made by subsections (1) and (4) to (9) above have effect for the year 1999-00 and subsequent years of assessment.

34 Tax credits and taxation of distributions: miscellaneous provisions.

Schedule 4 to this Act (which contains provisions relating to tax credits and the taxation of distributions) shall have effect.

35 Transitional relief for charities etc.

- (1) In any case where—
 - (a) a qualifying distribution is made on or after 6th April 1999 and before 6th April 2004 by a company resident in the United Kingdom, and
 - (b) the recipient of the distribution is a section 505 body, and
 - (c) if the section 505 body falls within neither paragraph (b) nor paragraph (c) of subsection (3) below, entitlement to exemption from tax by virtue of subsection (1)(c)(iii) of section 505 of the Taxes Act 1988 (charities) in respect of the distribution is not prevented by anything in that section,

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the section 505 body, on a claim made under this section to the Board, shall be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

- (2) The amount referred to in subsection (1) above is an amount equal to—
 - (a) 21 per cent of the amount or value of the distribution if the distribution is made on or after 6th April 1999 and before 6th April 2000;
 - (b) 17 per cent of that amount or value if the distribution is made on or after 6th April 2000 and before 6th April 2001;
 - (c) 13 per cent of that amount or value if the distribution is made on or after 6th April 2001 and before 6th April 2002;
 - (d) 8 per cent of that amount or value if the distribution is made on or after 6th April 2002 and before 6th April 2003;
 - (e) 4 per cent of that amount or value if the distribution is made on or after 6th April 2003 and before 6th April 2004.
- (3) For the purposes of this section each of the following is a section 505 body—
 - (a) any charity (as defined in section 506(1) of the Taxes Act 1988);
 - (b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
 - (c) any Association of a description specified in section 508 of that Act (scientific research organisations).
- (4) Schedule 5 to this Act shall have effect to remove or restrict entitlement to payment under this section in certain circumstances.
- (5) For the purposes of Chapter I of Part XVII of the Taxes Act 1988 (cancellation of tax advantages) payment of an amount under this section shall be treated as repayment of tax.
- (6) Any entitlement of a section 505 body to a payment under subsection (1) above shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the distribution in question of section 703 of the Taxes Act 1988 (cancellation of tax advantages), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.
- (7) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.
- (8) An appeal may be brought against any decision of the Board under this section or under Schedule 5 to this Act by giving written notice to the Board within thirty days of receipt of written notice of the decision.
- (9) An appeal under this section shall lie to the Special Commissioners, and the provisions of the ^{M29}Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.
- (10) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc of ACT or tax credit) as a payment of tax credit.

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Marginal Citations

M29 1970 c. 9.

36 Foreign income dividends.

- (1) No election shall be made under section 246A of the Taxes Act 1988 (election for dividend to be treated as foreign income dividend) in respect of any distributions made on or after 6th April 1999.
- (2) No amount shall be shown as available for distribution as foreign income dividends in the distribution accounts of an authorised unit trust for a distribution period the distribution date for which falls on or after 6th April 1999.
- (3) No distribution made on or after 6th April 1999 shall be treated as a foreign income dividend by virtue of paragraph 2(1) of Schedule 7 to the ^{M30}Finance Act 1997 (Tax Acts to have effect as if qualifying distributions to which Schedule 7 applies were foreign income dividends).
- (4) Schedule 6 to this Act (which makes provision for and in connection with the repeal of provisions relating to foreign income dividends) shall have effect.
- (5) In subsection (2) above, “distribution accounts”, “distribution date” and “distribution period” shall be construed in accordance with section 468H of the Taxes Act 1988 (interpretation of sections 468I to 468R of that Act).

Marginal Citations

M30 1997 c. 16.

Gilt-edged securities

37 Interest to be paid gross.

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In section 50 (Treasury direction for payment of public revenue dividends without deduction of tax), before subsection (1) there shall be inserted the following subsection—

“(A1) The interest on registered gilt-edged securities (whenever issued and whatever the terms on which they were issued) shall be paid without deduction of income tax.”
- (3) In that section—
 - (a) in subsection (1), after “following securities” there shall be inserted “ in so far as they are not gilt-edged securities ”;
 - (b) in subsection (2), after “by virtue of” there shall be inserted “ subsection (A1) above or of ”;
 - (c) in subsection (3), for “to which subsection (1) above applied” there shall be substituted “ the interest on which is to be paid without deduction of income tax ”; and

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- (d) in subsections (4) and (5), for the words “two months”, in each place where they occur, there shall be substituted “one month”.
- (4) In subsection (7) of that section, after “requires” there shall be inserted the following definition—
- ““gilt-edged securities” means any securities which—
- (a) are gilt-edged securities for the purposes of the 1992 Act; 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 were issued.”
- (5) Section 51A (interest on gilt-edged securities held under authorised arrangements to be paid without deduction of tax) shall cease to have effect.
- ^{F12}(6)
- (7) In [^{F13}section 722A(5), and in paragraph 3A(2)(a) of Schedule 23A, (which] define “gilt-edged securities” by reference to section 51A of the Taxes Act 1988), for “51A” there shall be substituted, in each case, “50”.
- (8) Subject to subsections (9) to (13) below, this section has effect in relation to payments of interest falling due on or after 6th April 1998.
- (9) Subsection (3)(d) above has effect in relation to applications made and notices given at any time on or after the day on which this Act is passed.
- (10) Where—
- (a) any person holds any gilt-edged securities in relation to which a direction was given under section 50(1) of the Taxes Act 1988 at any time before 6th April 1998, and
 - (b) that person at any time before that date made an application under section 50(2) of that Act with respect to those securities,
- that application (unless withdrawn) shall have effect in relation to any interest on those securities to which section 50(A1) of that Act applies as it previously had effect in relation to any interest on those securities to which that direction applied.
- (11) [^{F14}Section 50] of the Taxes Act 1988 shall have effect in relation to any gilt-edged securities issued before 6th April 1998 which—
- (a) are securities the interest on which, if paid immediately before that date, would have fallen to be paid after deduction of income tax, and
 - (b) are registered within the meaning of section 50 of that Act but are not securities in relation to which any direction under section 50 of that Act was given before that date,
- as if the appropriate person had so made an application under section 50(2) of that Act as to enable that application to take effect in relation to payments of interest made on or after that date.
- (12) In subsection (11) above “the appropriate person” means—
- (a) in the case of securities transferred before 6th April 1998 but after the time when the balance was struck for a dividend on them falling due on or after that date, the person who held the securities at the time when the balance was so struck;

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- (b) in any other case, the person holding the securities in question immediately before 6th April 1998.
- (13) Section 50(5) of the Taxes Act 1988 shall have effect in relation to an application treated as made by virtue of subsection (11) above as if a notice withdrawing that application was capable of being given at any time on or after the passing of this Act.

Textual Amendments

- F12** S. 37(6) repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(3) Note of the amending Act) by 1998 c. 36, ss. 37(3), 165, Sch. 27 Pt. III(3) Note; S.I. 1999/619, art. 2
- F13** Words in s. 37(7) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 497 (with Sch. 2)
- F14** Words in s. 37(11) substituted (28.7.2000 with effect as mentioned in s. 111(6)(a) of the amending Act) by 2000 c. 17, s. 111(5)

[^{F15}38 Paying and collecting agents.

- (1) Chapter VIIA of Part IV of the Taxes Act 1988 (paying and collecting agents) shall be amended as follows.
- (2) Section 118A (interpretation of Chapter) shall become subsection (1) of that section and, in paragraph (k) of that subsection (meaning of “international organisation”), for “has the meaning given by section 51A(8)” there shall be substituted “ means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members ”.
- (3) After that subsection there shall be inserted the following subsection—
- “(2) If, in any proceedings, any question arises whether a person is an international organisation for the purposes 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.”
- (4) In section 118D(4) (payments of interest payable without deduction of tax not to be chargeable payments), after “by virtue of” there shall be inserted “ section 50(A1) or of”.
- (5) In subsection (3) of section 118G (United Kingdom public revenue dividends excluded from being chargeable payments)—
- (a) paragraphs (b) and (d) to (f) shall be omitted; and
- (b) for paragraph (c) there shall be substituted the following paragraph—
- “(ca) they are payable in respect of a FOTRA security (within the meaning of section 154 of the ^{M31}Finance Act 1996) which—
- (i) is not registered (within the meaning of section 50 of this Act); and
- (ii) is, for the time being, beneficially owned by a person who is not ordinarily resident in the United Kingdom.”
- (6) In section 118G(7), for paragraphs (a) and (b) there shall be substituted “ foreign dividends on foreign holdings held by a nominee approved for the purposes of this subsection ”.

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(7) Section 118G(8) and (10) shall cease to have effect.

(8) This section has effect in relation to payments falling due on or after 6th April 1998.]

Textual Amendments

F15 S. 38 repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. II(17) Note of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(17)**

Marginal Citations

M31 1996 c. 8.

Relief for losses etc

39 Carry-back of trading losses.

(1) Section 393A of the Taxes Act 1988 (set-off of trading losses against profits of previous three years) shall be amended in accordance with subsections (2) to (6) below.

(2) In subsection (2) (three year carry-back period), for “is the period of three years” there shall be substituted “is (subject to subsection (2A) below) the period of twelve months”.

(3) After that subsection there shall be inserted the following subsections—

“(2A) This section shall have effect in relation to any loss to which this subsection applies as if, in subsection (2) above, the words “three years” were substituted for the words “twelve months”.

(2B) Where a company ceases to carry on a trade at any time, subsection (2A) above applies to the following—

- (a) the whole of any loss incurred in that trade by that company in an accounting period beginning twelve months or less before that time; and
- (b) the part of any loss incurred in that trade by that company in an accounting period ending, but not beginning, in that twelve months which is proportionate to the part of that accounting period falling within those twelve months.

(2C) Where—

- (a) a loss is incurred by a company in a ring fence trade carried on by that company, and
- (b) the accounting period in which the loss is incurred is an accounting period for which an allowance under section 62A of the 1990 Act (demolition costs relating to offshore machinery or plant) is made to that company,

subsection (2A) above applies to so much of the amount of that loss not falling within subsection (2B) above as does not exceed the amount of that allowance.”

(4) In subsection (7) (application of section 393(9))—

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- (a) at the beginning there shall be inserted “ Subject to subsection (7A) below,
”; and
 - (b) for “the accounting period in which the cessation occurs” there shall be substituted “ an accounting period ending with the cessation, or ending at any time in the twelve months immediately preceding the cessation, ”.
- (5) After that subsection there shall be inserted the following subsection—
- “(7A) For the purposes of this section where—
- (a) subsection (7) above has effect for computing the loss for any accounting period, and
 - (b) that accounting period is one beginning before the beginning of the twelve months mentioned in that subsection,
the part of that loss that is not the part falling within subsection (2B)(b) above shall be treated as reduced (without any corresponding increase in the part of the loss that does fall within subsection (2B)(b) above) by an amount equal to so much of the aggregate of the charges on income treated as expenses by virtue of subsection (7) above as is proportionate to the part of the accounting period that does not fall within those twelve months.”
- (6) After subsection (11) there shall be inserted the following subsection—
- “(12) In this section “ring fence trade” has the same meaning as in section 62A of the 1990 Act.”
- (7) In section 343 of that Act (company reconstructions without a change of ownership), the following subsection shall be inserted after subsection (4)—
- “(4A) Subsection (2A) of section 393A shall not apply to any loss which (but for this subsection) would fall within subsection (2B) of that section by virtue of the predecessor’s ceasing to carry on the trade, and subsection (7) of that section shall not apply for the computation of any such loss.”
- (8) Subject to subsection (9) below, this section applies to any loss incurred in an accounting period ending on or after 2nd July 1997.
- (9) Where a loss in any trade is incurred by a company in an accounting period ending on or after 2nd July 1997 but beginning before that date, section 393A of the Taxes Act 1988 shall have effect as if subsection (2A) of that section applied to the pre-commencement part of any amount of that loss to which that subsection would not apply apart from this subsection.
- (10) In subsection (9) above “the pre-commencement part”, in relation to the amount of the whole or any part of a loss in an accounting period, means the part of that amount which, on an apportionment in accordance with subsection (11) or, as the case may be, (12) below, is attributable to the part of that accounting period falling before 2nd July 1997.
- (11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the accounting period falling before 2nd July 1997 and the remainder of that accounting period.
- (12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable in relation to any person, the

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apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

40 Carry-back of loan relationship deficits.

- (1) Chapter II of Part IV of the ^{M32}Finance Act 1996 (loan relationships) shall be amended as follows.
- (2) In paragraph 3(7) of Schedule 8 (permitted period of three years for carry-back of deficits), for “three years” and “three year” there shall be substituted, in each case, “twelve months”.
- (3) In sub-paragraph (3) of paragraph 4 of Schedule 11 (carry-back of deficit by insurance companies)—
 - (a) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) carried back to accounting periods falling wholly or partly within the period of twelve months immediately preceding the deficit period; and”;
 - (b) in paragraph (b), for “those periods” there shall be substituted “ up to three such periods ”.
- (4) In sub-paragraph (5) of that paragraph (mechanism for carry-back in the case of insurance companies), for “the three accounting periods preceding the deficit period” there shall be substituted “ accounting periods falling wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above ”.
- (5) In sub-paragraph (8) of that paragraph (which defines the set-off periods), in each of paragraphs (b) and (c), for “immediately preceding” there shall be substituted “ (if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above and immediately precedes ”.
- (6) In sub-paragraph (9) of that paragraph (adjusted amount of a company’s eligible profit), after “is” there shall be inserted “ (subject to sub-paragraph (9A) below) ”; and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(9A) Where a set-off period falls only partly within the period of twelve months mentioned in sub-paragraph (3)(a) above, the adjusted amount of a company’s eligible profit for that period shall be taken to be confined to the part of the amount computed under sub-paragraph (9) above which is proportionate to the part of the set-off period that falls within that period of twelve months.”
- (7) Subject to subsection (8) below, this section has effect in relation to any deficit for a deficit period ending on or after 2nd July 1997.
- (8) Paragraph 3 of Schedule 8 to the ^{M33}Finance Act 1996 shall have effect in relation to any deficit for a deficit period beginning before but ending on or after 2nd July 1997 as if the permitted period in relation to the pre-commencement part of the deficit were the period beginning with 1st April 1996 and ending immediately before the beginning of the deficit period.
- (9) Where for the purposes of paragraph 23 of Schedule 15 to the Finance Act 1996 (transitional provision in connection with the carrying back of exchange losses) there is a relievable amount for an accounting period ending on or after 2nd July 1997, that paragraph shall have effect, except in relation to any pre-commencement part of

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that amount, as if, in section 131(10)(b) of the ^{M34}Finance Act 1993 (the permitted period) as applied by that paragraph, the words “twelve months” were substituted for the words “three years”.

- (10) In this section “pre-commencement part”, in relation to the deficit for any deficit period or the relievable amount for any accounting period, means the part (if any) of that deficit or relievable amount which, on an apportionment in accordance with subsection (11) or, as the case may be, (12) below, is attributable to such part (if any) of that period as falls before 2nd July 1997.
- (11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the deficit period or, as the case may be, accounting period falling before 2nd July 1997 and the remainder of that period.
- (12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable in relation to any person, the apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

Marginal Citations

M32 1996 c. 8.

M33 1996 c. 8.

M34 1993 c. 34.

41 Restrictions on group relief.

Schedule 7 to this Act (which imposes new restrictions on the giving of group relief) shall have effect.

Capital allowances for small and medium-sized businesses

^{F16}**42**

Textual Amendments

F16 S. 42 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

^{F17}**43**

Textual Amendments

F17 S. 43 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, Sch. 4

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Capital allowances and finance leases

F1844

Textual Amendments
F18 S. 44 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F1945

Textual Amendments
F19 S. 45 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F2046

Textual Amendments
F20 S. 46 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F2147

Textual Amendments
F21 S. 47 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

Films

48 Relief for expenditure on production and acquisition.

(1) Subject to subsection (4) below, section 42 of the ^{M35}Finance (No. 2) Act 1992 shall have effect in relation to any expenditure to which this section applies as if the following subsection were substituted for subsections (4) and (5) (which for any period limit relief for film production and acquisition expenditure to a third, or a proportionately reduced fraction, of the relievable expenditure)—

“(4) The amount deducted for a relevant period under subsection (1) above shall not exceed so much of the total expenditure incurred by the claimant [^{F22}on the production or acquisition of the original master version of the film concerned,] as has not already been deducted by virtue of [^{F23}section 40B or] 41 above or

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this section [^{F24}or by virtue of any provision of Chapter 9 of Part 2 of ITTOIA 2005].”

(2) [^{F25}This] section applies to so much of any expenditure falling within paragraphs (a) and (b) of section 42(1) of the Finance (No. 2) Act 1992 as is expenditure in relation to which each of the following conditions is satisfied, that is to say—

(a) the expenditure is expenditure incurred on or after 2nd July 1997 and [^{F26}, if it is expenditure to which section 42(3) of that Act applies, before 1st October 2007];

[^{F27}(aa) the first day of principal photography in relation to the film concerned is before 1st April 2006;]

(b) the film concerned is a film with a total production expenditure of £15 million or less; and

(c) the film concerned is a film completed on or after 2nd July 1997 [^{F28}but before 1st January 2007].

^{F29}(3)

^{F30}(4)

^{F30}(5)

[^{F31}(6) In this section “total production expenditure” on a film, in relation to a claim for relief under section 42 of the Finance (No.2) Act 1992, means (subject to subsections (6A) and (7) below) the total of all expenditure incurred on the production of the original master version of the film, including expenditure incurred before 2nd July 1997 and whether or not incurred by the claimant.]

[^{F32}(6A) For the purposes of this section [^{F33}the expenditure incurred on the production of the original master version of] a film shall be taken not to include any amount that at the time the film is completed—

(a) has not been paid, and

(b) is not the subject of an unconditional obligation to pay within four months after the date of completion.]

(7) For the purposes of this section where—

(a) any part of the expenditure incurred by any person on the production of [^{F34}the original master version of] a film is incurred under or by virtue of any transaction directly or indirectly between that person and a person connected with him, and

(b) that part of that expenditure might have been expected to have been of a greater amount (“the arm’s length amount”) if the transaction had been between independent persons dealing at arm’s length,

that part of that expenditure shall be deemed, for the purpose of determining the amount of the total production expenditure on the film, to have been expenditure of an amount equal to the arm’s length amount.

[^{F35}(7A) In this section—

“film” has the meaning given by section 43 of the Finance (No. 2) Act 1992;

“original master version” is to be construed in accordance with that section.]

(8) Subsection (3) of section 43 of the Finance (No. 2) Act 1992 (time of completion of a film) shall apply for the purposes of this section as it applies for the purposes of

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sections 41 and 42 of that Act, but with the omission of paragraph (b) (completion on incurring acquisition expenditure) and the word “or” immediately preceding it.

[^{F36}(9) Subsections (1) to (5) of section 5 of the Capital Allowances Act 2001 (when capital expenditure is incurred) apply for determining when for the purposes of this section any expenditure is incurred as they apply for determining when for the purposes of that Act any capital expenditure is incurred, but as if, in subsection (6) of that section, “at an earlier time” were substituted for “in an earlier chargeable period”.]

(10) Section 839 of the Taxes Act 1988 (meaning of “connected person”) applies for the purposes of this section.

(11) This section applies for the making of a deduction for any relevant period ending on or after 2nd July 1997.

Textual Amendments

- F22** Words in s. 48(1) substituted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 paras. 26\(2\), 31\(3\)](#)
- F23** Words in S. 48(1) 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. 99\(1\)](#)
- F24** Words in s. 48(1) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 498](#) (with [Sch. 2](#))
- F25** Word in s. 48(2) substituted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 para. 10\(1\)\(a\)\(2\)](#) (with [Sch. 3 para. 10\(3\)\(4\)](#))
- F26** Words in s. 48(2)(a) substituted (7.4.2005) (with effect in accordance with [s. 58\(5\)](#) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 58\(1\)\(a\)](#)
- F27** S. 48(2)(aa) inserted (7.4.2005) (with effect in accordance with [s. 58\(5\)](#) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 58\(1\)\(b\)](#)
- F28** Words in s. 48(2)(c) inserted (7.4.2005) (with effect in accordance with [s. 58\(5\)](#) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 58\(1\)\(c\)](#)
- F29** S. 48(3) repealed (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 para. 10\(1\)\(b\)\(2\), Sch. 11 Pt. 2\(3\)](#) (with [Sch. 3 para. 10\(3\)\(4\)](#))
- F30** S. 48(4)(5) repealed (2.12.2004 retrospective) by [Finance Act 2005 \(c. 7\), Sch. 3 para. 10\(1\)\(c\)\(2\), Sch. 11 Pt. 2\(3\)](#) (with [Sch. 3 para. 10\(3\)\(4\)](#))
- F31** S. 48(6) substituted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 paras. 26\(3\), 31\(3\)](#)
- F32** S. 48(6A) inserted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 100\(3\)](#) (with application as mentioned in [s. 100\(4\)](#))
- F33** Words in s. 48(6A) substituted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 paras. 26\(4\), 31\(3\)](#)
- F34** Words in s. 48(7)(a) inserted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 paras. 26\(5\), 31\(3\)](#)
- F35** S. 48(7A) inserted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\), Sch. 3 paras. 26\(6\), 31\(3\)](#)
- F36** S. 48(9) 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. 99\(2\)](#)

Modifications etc. (not altering text)

- C5** S. 48 restricted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 99\(1\)\(d\)\(2\)\(6\)](#) (with application as mentioned in [s. 99\(3\)-\(6\)](#))
- C6** S. 48 restricted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 101\(1\)\(2\)](#) (with application as mentioned in [s. 101\(3\)](#))
- C7** S. 48(2)(a): power to amend conferred (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 58\(4\)](#)
- C8** S. 48(2)(aa): power to amend conferred (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 58\(4\)](#)

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C9 S. 48(2)(c): power to amend conferred (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 58\(4\)](#)

Marginal Citations

M35 1992 c. 48.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Stamp duty

[^{F37}49] **Stamp duty on conveyance or transfer on sale.**

- (1) Section 55 of the ^{M36}Finance Act 1963 and section 4 of the ^{M37}Finance Act Northern Ireland) 1963 (both of which provide for rates of stamp duty on conveyance and transfer on sale) shall each be amended in accordance with the provisions of subsections (2) to (4) below.
- (2) Subject to the modification mentioned in subsection (5) below, in subsection (1) (which specifies rates of stamp duty), for paragraphs (b) and (c) there shall be substituted—
 - “(b) where paragraph (a) above does not apply and—
 - (i) the amount or value of the consideration does not exceed £500, and
 - (ii) the instrument is certified as described in section 34(4) of the ^{M38}Finance Act 1958 at £250,000,the rate of 50p for every £50 or part of £50 of the consideration;
 - (c) where paragraph (a) above does not apply and—
 - (i) the amount or value of the consideration exceeds £500 but does not exceed £250,000, and
 - (ii) the instrument is certified as described in section 34(4) of the Finance Act 1958 at £250,000,the rate of £1 for every £100 or part of £100 of the consideration;
 - (d) where paragraphs (a) to (c) above do not apply and—
 - (i) the amount or value of the consideration does not exceed £500,000, and
 - (ii) the instrument is certified as described in section 34(4) of the Finance Act 1958 at £500,000,the rate of £1.50p for every £100 or part of £100 of the consideration; and
 - (e) in any other case the rate of £2 for every £100 or part of £100 of the consideration;”.
- (3) In subsection (1A) (disregard of paragraph (a) to paragraph (c) of subsection (1) in relation to conveyances or transfers of stock or marketable securities) for “paragraph (c)” there shall be substituted “ paragraph (e) ”.
- (4) In subsection (2) (disregard of paragraph (a) for the purposes of leases where consideration includes rent which exceeds £600 a year)—

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- (a) after the words “shall have effect as if” there shall be inserted “ (a) ”, and
(b) after the word “omitted” there shall be inserted—

“and

- (b) in paragraph (d) for the words “paragraphs (a) to (c)” there were substituted the words “paragraphs (b) and (c)”.”

- (5) In section 4 of the ^{M39}Finance Act Northern Ireland) 1963, for the words “section 34(4) of the ^{M40}Finance Act 1958”, wherever they occur, there shall be substituted the words “ section 7(4) of the ^{M41}Finance Act Northern Ireland) 1958 ”.
- (6) This section shall apply to instruments executed on or after 8th July 1997, except where the instrument in question is executed in pursuance of a contract made on or before 2nd July 1997.
- (7) This section shall be deemed to have come into force on 8th July 1997.]

Textual Amendments

F37 S. 49 repealed (27.7.1999 with effect as mentioned in [Sch. 20 Pt. V\(2\)](#) of the amending Act) by 1999 c. 16, s. 139, [Sch. 20 Pt. V\(5\)](#), Notes 1, 2

Marginal Citations

M36 1963 c. 25.
M37 1963 c. 22 (N.I.).
M38 1958 c. 56.
M39 1963 c. 22 (N.I.).
M40 1958 c. 56.
M41 1958 c. 14 (N.I.).

Provisional collection of taxes

50 Statutory effect of resolutions etc.

- (1) In section 1(3) of the ^{M42}Provisional Collection of Taxes Act 1968 (period for which resolution has statutory effect), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) in the case of a resolution passed in February or March in any year, one expiring with 5th August in the same calendar year; and”.

^{F38}(2)

- (3) Subsection (1) above applies in relation to resolutions passed after the day on which this Act is passed.

Textual Amendments

F38 S. 50(2) 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. 3](#), [Sch. 27 Pt. III\(2\)](#) Note

Marginal Citations

M42 1968 c. 2.

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Supplemental

51 Interpretation.

In this Act “the Taxes Act 1988” means the ^{M43} Income and Corporation Taxes Act 1988.

Marginal Citations

M43 1998 c.1.

52 Repeals.

- (1) The enactments mentioned in Schedule 8 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

53 Short title.

This Act may be cited as the Finance (No. 2) Act 1997.

Status:

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Changes to legislation:

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