



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Insurance, insurance companies and friendly societies

86 Life policies etc.

Schedule 14 to this Act (which makes provision in relation to the taxation of life policies etc under Chapter II of Part XIII of the Taxes Act 1988) shall have effect.

87 Non-resident insurance companies: tax representatives.

After section 552 of the Taxes Act 1988 (duty of insurers to provide certain information) there shall be inserted—

“552A Tax representatives.

- (1) This section has effect for the purpose of securing that, where it applies to an overseas insurer, another person is the overseas insurer’s tax representative.
- (2) In this section “overseas insurer” means a person who is not resident in the United Kingdom who carries on a business which consists of or includes the effecting and carrying out of—
 - (a) policies of life insurance;
 - (b) contracts for life annuities; or
 - (c) capital redemption policies.

Status: Point in time view as at 19/07/2013.

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- (3) This section applies to an overseas insurer—
- (a) if the condition in subsection (4) below is satisfied on the designated day; or
 - (b) where that condition is not satisfied on that day, if it has subsequently become satisfied.
- (4) The condition mentioned in subsection (3) above is that—
- (a) there are in force relevant insurances the obligations under which are obligations of the overseas insurer in question or of an overseas insurer connected with him; and
 - (b) the total amount or value of the gross premiums paid under those relevant insurances is £1 million or more.
- (5) In this section “relevant insurance” means any policy of life insurance, contract for a life annuity or capital redemption policy in relation to which this Chapter has effect and in the case of which—
- (a) the holder is resident in the United Kingdom;
 - (b) the obligations of the insurer are obligations of a person not resident in the United Kingdom; and
 - (c) those obligations are not attributable to a branch or agency of that person’s in the United Kingdom.
- (6) Before the expiration of the period of three months following the day on which this section first applies to an overseas insurer, the overseas insurer must nominate to the Board a person to be his tax representative.
- (7) A person shall not be a tax representative unless—
- (a) if he is an individual, he is resident in the United Kingdom and has a fixed place of residence there, or
 - (b) if he is not an individual, he has a business establishment in the United Kingdom,
- and, in either case, he satisfies such other requirements (if any) as are prescribed in regulations made for the purpose by the Board.
- (8) A person shall not be an overseas insurer’s tax representative unless—
- (a) his nomination by the overseas insurer has been approved by the Board; or
 - (b) he has been appointed by the Board.
- (9) The Board may by regulations make provision supplementing this section; and the provision that may be made by any such regulations includes provision with respect to—
- (a) the making of a nomination by an overseas insurer of a person to be his tax representative;
 - (b) the information which is to be provided in connection with such a nomination;
 - (c) the form in which such a nomination is to be made;
 - (d) the powers and duties of the Board in relation to such a nomination;
 - (e) the procedure for approving, or refusing to approve, such a nomination, and any time limits applicable to doing so;

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- (f) the termination, by the overseas insurer or the Board, of a person's appointment as a tax representative;
 - (g) the appointment by the Board of a person as the tax representative of an overseas insurer (including the circumstances in which such an appointment may be made);
 - (h) the nomination by the overseas insurer, or the appointment by the Board, of a person to be the tax representative of an overseas insurer in place of a person ceasing to be his tax representative;
 - (j) circumstances in which an overseas insurer to whom this section applies may, with the Board's agreement, be released (subject to any conditions imposed by the Board) from the requirement that there must be a tax representative;
 - (k) appeals to the Special Commissioners against decisions of the Board under this section or regulations under it.
- (10) The provision that may be made by regulations under subsection (9) above also includes provision for or in connection with the making of other arrangements between the Board and an overseas insurer for the purpose of securing the discharge by or on behalf of the overseas insurer of the relevant duties, within the meaning of section 552B.
- (11) Section 839 (connected persons) applies for the purposes of this section.
- (12) In this section—
- “the designated day” means such day as the Board may specify for the purpose in regulations;
 - “tax representative” means a tax representative under this section.

552B Duties of overseas insurers' tax representatives.

- (1) It shall be the duty of an overseas insurer's tax representative to secure (where appropriate by acting on the overseas insurer's behalf) that the relevant duties are discharged by or on behalf of the overseas insurer.
- (2) For the purposes of this section “the relevant duties” are—
- (a) the duties imposed by section 552,
 - (b) any duties imposed by regulations made under subsection (4A)(a) of that section, and
 - (c) any duties imposed by regulations made under subsection (4A)(b) of that section by virtue of subsection (4B) of that section,
- so far as relating to relevant insurances under which the overseas insurer in question has any obligations.
- (3) An overseas insurer's tax representative shall be personally liable—
- (a) in respect of any failure to secure the discharge of the relevant duties, and
 - (b) in respect of anything done for purposes connected with acting on the overseas insurer's behalf,
- as if the relevant duties were imposed jointly and severally on the tax representative and the overseas insurer.

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- (4) In the application of this section in relation to any particular tax representative, it is immaterial whether any particular relevant duty arose before or after his appointment.
- (5) This section has effect in relation to relevant duties relating to chargeable events happening on or after the day by which section 552A(6) requires the nomination of the overseas insurer's first tax representative to be made.
- (6) Expressions used in this section and in section 552A have the same meaning in this section as they have in that section."

F188 Overseas life assurance business.

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Textual Amendments

- F1** S. 88 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

F289 Personal portfolio bonds.

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Textual Amendments

- F2** S. 89 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

90 Distributions to friendly societies.

- (1) The repeal by section 30(4) of the ^{M1}Finance (No. 2) Act 1997 of section 231(2) of the Taxes Act 1988 (payment of tax credit to a company resident in the UK) shall not have effect in relation to any distribution made to a friendly society before 6th April 2004 which is—
 - (a) a distribution to a friendly society all of whose profits are exempt from corporation tax by virtue of section 460(1) of the Taxes Act 1988 (life or endowment business of friendly society); or
 - (b) a distribution not falling within paragraph (a) above in relation to which exemption is given under section 460(1) of that Act.
- (2) In relation to any distribution falling within paragraph (a) or (b) of subsection (1) above—
 - (a) paragraph 3 of Schedule 4 to the ^{M2}Finance (No. 2) Act 1997 (which, from 6th April 1999, repeals certain provisions about claims for tax credits for accounting periods to which self-assessment applies) shall have effect as if the reference in sub-paragraph (2) of that paragraph to 6th April 1999 were a reference to 6th April 2004; and
 - (b) paragraph 2 of that Schedule (which repeals certain provisions about claims for tax credits for earlier periods) shall have no effect.

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^{F3}(3)

(4) Schedule 8 to the ^{M3}Finance (No. 2) Act 1997 (repeals), so far as it relates to any repeal referred to in the preceding provisions of this section, shall have effect subject to those provisions.

Textual Amendments

F3 S. 90(3) repealed (11.5.2001) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(12)**

Marginal Citations

M1 1997 c. 58.

M2 1997 c. 58.

M3 1997 c. 58.

^{F4}**91** **Provisional repayments in connection with pension business.**

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Textual Amendments

F4 S. 91 repealed (11.5.2001 with effect as mentioned in s. 87 of the amending Act) by 2001 c. 9, ss. 87, 110, **Sch. 33 Pt. II(12)** Note

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