



# Finance Act 2001

## 2001 CHAPTER 9

### PART 3

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

### CHAPTER 2

#### OTHER PROVISIONS

#### *Employment*

#### **57 Mileage allowances: exemptions and relief**

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) The consequential amendments in Part 2 of Schedule 12 to this Act have effect.

(4) This section has effect for the year 2002-03 and subsequent years of assessment.

#### **Textual Amendments**

**F1** S. 57(1)(2) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

#### **<sup>F2</sup>58 Mileage allowances: nil liability notices**

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*Status: Point in time view as at 21/07/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Chapter 2. (See end of Document for details)*

### Textual Amendments

- F2** S. 58 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

## 59 Employees' vehicles: withdrawal of capital allowances

- (1) In Chapter 3 of Part 2 of the Capital Allowances Act 2001 (c. 2) (plant and machinery: qualifying expenditure), for section 36 (restriction on qualifying expenditure in case of employment or office) substitute—

### “36 Restriction on qualifying expenditure in case of employment or office

- (1) Where the qualifying activity consists of an employment or office—
- (a) expenditure on the provision of a mechanically propelled road vehicle, or a cycle, is not qualifying expenditure, and
  - (b) other expenditure is qualifying expenditure only if the plant or machinery is necessarily provided for use in the performance of the duties of the employment or office.
- (2) In this section “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988.”.
- (2) Section 80 of that Act (vehicles provided for purposes of employment or office) is repealed.
- (3) The above amendments apply to expenditure incurred on or after 6th April 2002.
- (4) Where immediately before 6th April 2002—
- (a) expenditure incurred by an employee on the provision of a mechanically propelled road vehicle, or a cycle, was qualifying expenditure for the purposes of Part 2 of the Capital Allowances Act 2001 (c. 2) , and
  - (b) the employee is treated for the purposes of that Part as owning an asset as a result of that expenditure having been incurred,
- the employee shall be treated for the purposes of that Part of that Act as if he had ceased to own the asset at that time.
- (5) In subsection (4)—
- “employee” includes an office-holder; and
  - “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988 (c. 52).

## <sup>F3</sup>60 Exemption for works bus services: extension to minibuses

### Textual Amendments

- F3** Ss. 60-62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Status: Point in time view as at 21/07/2009.*

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### **F<sup>3</sup>61 Employee share ownership plans**

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#### **Textual Amendments**

- F3** Ss. 60-62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

#### *Enterprise incentives*

### **F<sup>3</sup>62 Enterprise management incentives**

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#### **Textual Amendments**

- F3** Ss. 60-62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

### **63 Enterprise investment scheme**

Schedule 15 to this Act (which makes amendments relating to the enterprise investment scheme) has effect.

### **64 Venture capital**

(1) Schedule 16 to this Act has effect.

(2) In that Schedule—

**F<sup>4</sup>**  
...

Part 2 makes amendments relating to the corporate venturing scheme.

#### **Textual Amendments**

- F4** Words in s. 64(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

#### *Capital allowances*

### **65 Energy-saving plant and machinery**

Schedule 17 to this Act (first-year allowances in respect of expenditure on energy-saving plant and machinery) has effect—

- (a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and
- (b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

*Status: Point in time view as at 21/07/2009.*

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## 66 Fixtures provided in connection with energy management services

- (1) Schedule 18 to this Act (fixtures provided in connection with provision of energy management services) has effect in relation to expenditure incurred on or after 1st April 2001.
- (2) The Schedule has effect—
  - (a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and
  - (b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

## 67 Conversion of parts of business premises into flats

Schedule 19 to this Act (capital allowances in respect of expenditure on the conversion of parts of business premises into flats) has effect in relation to expenditure incurred on or after the day on which this Act is passed.

## 68 Decommissioning of offshore oil infrastructure

Schedule 20 to this Act (capital allowances in respect of expenditure incurred on decommissioning offshore infrastructure) has effect.

## 69 Minor amendments

- (1) Schedule 21 (which makes minor amendments to the Capital Allowances Act 2001 (c. 2) ) has effect.
- (2) The amendments made by the Schedule have effect—
  - (a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and
  - (b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.

### *Other relieving provisions*

## 70 Relief for expenditure on remediation of contaminated land

<sup>F5</sup>(1) .....

<sup>F6</sup>(2) .....

- (3) Schedule 23 to this Act (which contains consequential amendments) has effect accordingly.

### **Textual Amendments**

**F5** S. 70(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 524, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F6** S. 70(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 524, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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## 71 Creative artists: relief for fluctuating profits

<sup>F7</sup>(1) .....

<sup>F7</sup>(2) .....

- (3) The following provisions of the Taxes Act 1988 are repealed—  
section 534 (relief for copyright payments etc.);  
section 535 (relief where copyright sold after ten years or more);  
section 537A (relief for payments in respect of designs);  
section 538 (relief for painters, sculptors and other artists).

The repeals have effect in relation to payments actually receivable on or after 6th April 2001.

- (4) Part 2 of Schedule 24 to this Act contains amendments consequential on the preceding provisions of this section.

### Textual Amendments

- F7** S. 71(1)(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

## 72 Expenditure on film production etc

In section 48(2)(a) of the Finance (No.2) Act 1997 (c. 58) (favourable tax treatment for certain expenditure on film production, etc. incurred before 2nd July 2002) for “2nd July 2002” substitute “2nd July 2005”.

## <sup>F8</sup>73 Deductions for business gifts: yearly limit

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### Textual Amendments

- F8** S. 73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### *Pension funds*

## <sup>F9</sup>74 Payments to employers out of pension funds

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### Textual Amendments

- F9** S. 74 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

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### *Limited liability partnerships*

## 75 Limited liability partnerships: general

<sup>F10</sup>(1) .....

(2) In the Taxation of Chargeable Gains Act 1992 (c. 12), for section 59A (limited liability partnerships) substitute—

### “59A Limited liability partnerships

- (1) Where a limited liability partnership carries on a trade or business with a view to profit—
  - (a) assets held by the limited liability partnership are treated for the purposes of tax in respect of chargeable gains as held by its members as partners, and
  - (b) any dealings by the limited liability partnership are treated for those purposes as dealings by its members in partnership (and not by the limited liability partnership as such);

and tax in respect of chargeable gains accruing to the members of the limited liability partnership on the disposal of any of its assets shall be assessed and charged on them separately.
- (2) For all purposes, except as otherwise provided, in the enactments relating to tax in respect of chargeable gains—
  - (a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,
  - (b) references to members of a partnership include members of such a limited liability partnership,
  - (c) references to a company do not include such a limited liability partnership, and
  - (d) references to members of a company do not include members of such a limited liability partnership.
- (3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade or business with a view to profit—
  - (a) if the cessation is only temporary, or
  - (b) during a period of winding up following a permanent cessation, provided—
    - (i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and
    - (ii) the period of winding up is not unreasonably prolonged, but subject to subsection (4) below.
- (4) Subsection (1) above ceases to apply in relation to a limited liability partnership—
  - (a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or

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- (b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above.
- (5) Where subsection (1) above ceases to apply in relation to a limited liability partnership with the effect that tax is assessed and charged—
  - (a) on the limited liability partnership (as a company) in respect of chargeable gains accruing on the disposal of any of its assets, and
  - (b) on the members in respect of chargeable gains accruing on the disposal of any of their capital interests in the limited liability partnership,it shall be assessed and charged on the limited liability partnership as if subsection (1) above had never applied in relation to it.
- (6) Neither the commencement of the application of subsection (1) above nor the cessation of its application in relation to a limited liability partnership shall be taken as giving rise to the disposal of any assets by it or any of its members.”.
- (3) In Chapter 2 of Part 5 of the Taxation of Chargeable Gains Act 1992 (c. 12) (relief for gifts of business assets), after section 169 insert—

#### **“169A Cessation of trade by limited liability partnership**

- (1) This section applies where section 59A(1) ceases to apply to a limited liability partnership.
- (2) A member of the partnership who immediately before the time at which section 59A(1) ceases to apply holds an asset, or an interest in an asset, acquired by him—
  - (a) on a disposal to members of a partnership, and
  - (b) for a consideration which is treated as reduced under section 165(4)(b) or 260(3)(b),shall be treated as if a chargeable gain equal to the amount of the reduction accrued to him immediately before that time.”
- (4) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (groups of companies: meaning of “company”), in paragraph (b) after “company” insert “(other than a limited liability partnership) ”.
- (5) Subsection (3) above shall be deemed to have come into force on 3rd May 2001 and applies where section 59A(1) of the Taxation of Chargeable Gains Act 1992 ceased or ceases to apply as mentioned in section 169A of that Act (as inserted by that subsection) on or after that date.
- (6) The other provisions of this section shall be deemed to have come into force on 6th April 2001.

#### **Textual Amendments**

**F10** S. 75(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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## 76 Limited liability partnerships: investment LLPs and property investment LLPs

- (1) Schedule 25 to this Act has effect with respect to limited liability partnerships whose business consists wholly or mainly in the making of investments.
- (2) The provisions of that Schedule shall be deemed to have come into force on 6th April 2001.

### *Chargeable gains*

#### <sup>F11</sup>77 Notional transfers within a group

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##### **Textual Amendments**

- F11** S. 77 omitted (with effect in accordance with Sch. 12 para. 5 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 12 para. 4(b)**

#### <sup>F12</sup>78 Taper relief: assets qualifying as business assets

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##### **Textual Amendments**

- F12** S. 78 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(d)(i)**

## 79 De-grouping charge: transitional relief

Schedule 29 to the Finance Act 2000 (chargeable gains: non-resident companies and groups etc) shall be deemed to have been enacted with the following paragraph added at the end of Part 3 (transitional provisions) after paragraph 46—

### 47 “De-grouping charge: deferral until company leaves new group

- (1) This paragraph has effect for the purposes of section 179 of the Taxation of Chargeable Gains Act 1992 as that section has effect in relation to assets acquired before 1st April 2000 (“old section 179”).
- (2) Where—
  - (a) a company would (apart from this paragraph) fall to be regarded for the purposes of old section 179 as ceasing to be a member of an old group at any time, but
  - (b) immediately before that time, it is also a member of a new group for the purposes of new section 179,

the company shall not be regarded for the purposes of old section 179 as ceasing to be a member of the old group unless or until it also ceases to be a member of the new group for the purposes of new section 179.



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- (3) Sub-paragraph (2) above does not prevent the company from being or becoming a member of another old group at any time.
- (4) Where a company ceases to be a member of a new group on any occasion, it shall not by virtue of sub-paragraph (2) above be treated for the purposes of old section 179 as if it had on that occasion ceased to be a member of the same old group more than once.
- (5) For the purposes of this paragraph—
  - (a) references to a company being a member of an old group are references to its being, for the purposes of old section 179, a member of a group of companies within the meaning given by old section 170;
  - (b) references to a company being a member of a new group are references to its being, for the purposes of new section 179, a member of a group of companies within the meaning given by new section 170; and
  - (c) references to a company ceasing to be a member of an old group or a new group shall be construed in accordance with paragraph (a) or (b) above, as the case may be.
- (6) Where, for the purposes of sub-paragraph (2)(b) above, a company is not a member of a new group by reason only that—
  - (a) the principal company of the old group is not the principal company of the new group, and
  - (b) the company in question is not an effective 51 per cent subsidiary of the principal company of the new group,subsection (3)(b) of new section 170 shall not apply in relation to the company for the purposes of this paragraph for so long as it remains an effective 51 per cent subsidiary of the company which was the principal company of the old group.
- (7) In this paragraph—
  - (a) “new section 179” means section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) as it has effect in relation to assets acquired on or after 1st April 2000;
  - (b) “new section 170” means section 170 of that Act, as amended by the main amendments;
  - (c) “old section 170” means section 170 of the Taxation of Chargeable Gains Act 1992, as it stands before the main amendments.
- (8) Expressions used in this paragraph and in section 170 of the Taxation of Chargeable Gains Act 1992 shall be construed in accordance with that section.”.

## **80 Attribution of gains of non-resident companies**

- (1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) is amended as follows.
- (2) In subsection (4) (no attribution if amount does not exceed one twentieth of gain) for “one twentieth” substitute “one tenth”.
- (3) In subsection (5) (gains to which the section does not apply) for paragraph (b) substitute—

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“(b) a chargeable gain accruing on the disposal of an asset used, and used only—

- (i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
- (ii) for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom.”.

(4) For subsection (5A) (credit for tax on attributed gain in relation to later distribution) substitute—

“(5A) Where—

- (a) an amount of tax is paid by a person in pursuance of subsection (2) above, and
- (b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) before the end of the period specified in subsection (5B) below,

the amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

- (a) the end of the period of account of the company in which the chargeable gain accrued, or
- (b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

In paragraph (a) above a “period of account” means a period for which the company makes up its accounts.”

(5) After subsection (10A) insert—

“(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

- (a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person’s interest as a participator in the company, and
- (b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of section 271(1)(b), (c), (d), (g) or (h) or (2).

In paragraph (a) above “assets of a pension scheme” means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.”.

(6) This section applies to chargeable gains accruing as mentioned in section 13(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Chapter 2. (See end of Document for details)*

*International matters*

**81 Double taxation relief**

Schedule 27 to this Act (double taxation relief) has effect.

**<sup>F13</sup>82 Controlled foreign companies: acceptable distribution policy**

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**Textual Amendments**

**F13** S. 82 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(g)** (with Sch. 16 paras. 7, 8)

*Miscellaneous*

**83 Life policies, life annuity contracts and capital redemption policies**

(1) Schedule 28 to this Act (which makes amendments relating to Chapter 2 of Part 13 of the Taxes Act 1988) has effect.

**<sup>F14</sup>(2)** .....

(3) The amendments made by Part 2 of that Schedule (which relate to the provision by insurers etc of information relating to chargeable events happening in connection with a policy or contract) have effect in relation to chargeable events happening on or after 6th April 2002.

**Textual Amendments**

**F14** S. 83(2) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(j)**

**84 Exclusion of deductions for deemed manufactured payments**

(1) Section 736B of the Taxes Act 1988 (deemed manufactured payments in case of stock lending arrangements) is amended as follows.

(2) In subsection (2) (application of provisions to deemed manufactured payments) after “shall apply” insert “, subject to subsection (2A) below, ”.

(3) After that subsection insert—

“(2A) The borrower is not entitled, by virtue of anything in Schedule 23A or any provision of regulations under that Schedule, or otherwise—

(a) to any deduction in computing profits or gains for the purposes of income tax or corporation tax, or

(b) to any deduction against total income or, as the case may be, total profits,

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in respect of any such deemed requirement or payment as is provided for by subsection (2) above.

Where the borrower is a company, an amount may not be surrendered by way of group relief if a deduction in respect of it is prohibited by this subsection.”

- (4) This section applies to payments treated under section 736B as made on or after 3rd October 2000.

**85 Deduction of tax: payments between companies etc**

<sup>F15</sup>(1) .....

- (2) In section 98 of the Taxes Management Act 1970 (c. 9) (penalties for failing to make, or making incorrectly, certain returns etc.), after subsection (4) insert—

“(4A) If—

- (a) a failure to comply with section 350(1) of, or Schedule 16 to, the principal Act arises from a person’s failure to deliver an account, or show the amount, of a payment, and
  - (b) the payment is within subsection (4B) below,
- subsection (1) above shall have effect as if for “£300” there were substituted “£3,000” and as if for “£60” there were substituted “£600”.

(4B) A payment is within this subsection if—

- (a) the payment is made by a company without an amount representing the income tax on the payment being deducted from the payment,
- (b) at the time the payment is made, the company—
  - (i) does not believe that either of the conditions specified in section 349B of the principal Act is satisfied, or
  - (ii) where it believes that either of those conditions is satisfied, could not reasonably so believe,
- (c) the payment is one from which tax is deductible under section 349 of the principal Act unless the company reasonably believes that one of those conditions is satisfied, and
- (d) neither of those conditions is satisfied at the time the payment is made.

(4C) In subsection (4B) above “company” includes a partnership of which any member is a company.”.

<sup>F16</sup>(3) .....

- (4) Subsections (1) to (3) apply to payments made on or after 1st April 2001.
- (5) Sections 247 and 248 of the Taxes Act 1988 (companies within a group may elect for section 349 not to apply to payments between them) shall cease to have effect.
- (6) Subsection (5) applies in relation to payments made after the day on which this Act is passed.

**Textual Amendments**

**F15** S. 85(1) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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**F16** S. 85(3) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## **86 Profits for purposes of small companies' relief**

- (1) Section 13 of the Taxes Act 1988 (small companies' relief) is amended in accordance with subsections (2) to (4).
- (2) In subsection (7) (profits of company for accounting period)—
  - (a) in paragraph (a), omit “resident in the United Kingdom”, and
  - (b) in paragraph (b), for “section 247(1A)” substitute “ subsection (7A) below ”.
- (3) After subsection (7) insert—

“(7A) A company falls within this subsection if—

  - (a) it is a 75 per cent subsidiary of any other company, or
  - (b) arrangements of any kind (whether in writing or not) are in existence by virtue of which it could become such a subsidiary.”.
  - (4) For subsection (8AA) (interpretation of subsection (7)) substitute—

“(8AA) Section 13ZA applies for the interpretation of subsection (7) above.”.
  - (5) After section 13 of the Taxes Act 1988 insert—

### **“13Z A Interpretation of section 13(7)**

- (1) In determining for the purposes of section 13(7) whether one body corporate is a 51 per cent subsidiary of another, that other shall be treated as not being the owner of any share capital—
  - (a) which it owns indirectly, and
  - (b) which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.
- (2) Notwithstanding that at any time a company (“the subsidiary company”) is a 51 per cent subsidiary of another company (“the parent company”) it shall not be treated at that time as such a subsidiary for the purposes of section 13(7) unless, additionally, at that time—
  - (a) the parent company would be beneficially entitled to more than 50 per cent of any profits available for distribution to equity holders of the subsidiary company, and
  - (b) the parent company would be beneficially entitled to more than 50 per cent of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.
- (3) For the purposes of section 13(7) and this section—
  - (a) “trading or holding company” means a trading company or a company the business of which consists wholly or mainly in the holding of shares or securities of trading companies that are its 90 per cent subsidiaries;
  - (b) “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

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- (c) a company is owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by companies of which none—
  - (i) beneficially owns less than 5 per cent of that capital,
  - (ii) would be beneficially entitled to less than 5 per cent of any profits available for distribution to equity holders of the company, or
  - (iii) would be beneficially entitled to less than 5 per cent of any assets of the company available for distribution to its equity holders on a winding up,
 and those companies are called the members of the consortium.

(4) Schedule 18 (equity holders and assets etc. available for distribution) applies for the purposes of subsections (2) and (3)(c) above as it applies for the purposes of section 413(7).”

(6) The amendments made by this section apply for the purposes of accounting periods ending on or after 1st April 2001.

**87 Tax deductions and credits: end of provisional repayment regime**

- (1) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 (provisional repayments in respect of tax borne by deduction and tax credits) shall cease to have effect as follows.
- (2) Those provisions shall not apply in relation to income tax borne by deduction from payments received after 30th September 2001.

<sup>F17</sup>(3) .....

<sup>F17</sup>(4) .....

(5) The provisions of section 438A of, and Schedule 19AB to, the Taxes Act 1988 shall not apply in relation to tax credits in respect of distributions made on or after 6th April 2004.

**Textual Amendments**  
**F17** S. 87(3)(4) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(9), **Sch. 27 Pt. 2(10)**

*General*

**88 Amendments to the machinery of self-assessment**

- (1) Schedule 29 to this Act (amendments to the machinery of self-assessment) has effect.
- (2) In that Schedule—
  - Part 1 makes provision about the amendment or correction of returns,
  - Part 2 makes provision about enquiries into returns,
  - Part 3 makes provision for the referral of questions to the Special Commissioners during an enquiry,
  - Part 4 makes provision about the procedure on completion of an enquiry, and

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Chapter 2. (See end of Document for details)*

Part 5 contains minor and consequential amendments.

- (3) Except as otherwise provided, the amendments in that Schedule have effect as from the passing of this Act in relation to returns—
- (a) whether made before or after the passing of this Act, and
  - (b) whether relating to periods before or after the passing of this Act.

## **89 Recovery proceedings: minor amendments**

- (1) In sections 66(1) and 67(1) of the Taxes Management Act 1970 (c. 9) (proceedings in county court or sheriff court to recover tax due and payable under an assessment), omit the words “under any assessment”.

This amendment applies in relation to proceedings begun after the passing of this Act.

- (2) For section 69 of the Taxes Management Act 1970 substitute—

### **“69 Recovery of penalty, surcharge or interest**

- (1) This section applies to—
- (a) penalties imposed under Part 2, 5A or 10 of this Act or Schedule 18 to the Finance Act 1998;
  - (b) surcharges imposed under Part 5A of this Act; and
  - (c) interest charged under any provision of this Act (or recoverable as if it were interest so charged).
- (2) An amount by way of penalty, surcharge or interest to which this section applies shall be treated for the purposes of the following provisions as if it were an amount of tax.
- (3) Those provisions are—
- (a) sections 61, 63 and 65 to 68 of this Act;
  - (b) section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court: restriction of set-off or counterclaim where proceedings, or set-off or counterclaim, relate to tax) and any rules of court imposing any such restriction;
  - (c) section 35(2)(b) of that Act as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland).”

This amendment applies—

- (a) to proceedings begun (or a counterclaim made) after the passing of this Act, and
  - (b) to a set-off first claimed after the passing of this Act.
- (3) <sup>F18</sup>...

This amendment applies to certificates tendered in evidence after the passing of this Act.

### **Textual Amendments**

**F18** S. 89(3) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 11\(e\)](#)

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2001, Chapter 2. (See end of Document for details)*

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## **90 Repayment supplements: claim for relief involving two or more years**

(1) Section 824 of the Taxes Act 1988 (repayment supplements) is amended as follows.

(2) After subsection (2B) insert—

“(2C) Subsection (1) above shall apply to a repayment made by the Board as a result of a claim for relief under—

- (a) paragraph 2 of Schedule 1B to the Management Act (carry back of loss relief),
- (b) paragraph 3 of that Schedule (relief for fluctuating profits of farming etc.), or
- (c) Schedule 4A to this Act (relief for fluctuating profits of creative artists etc.),

as if it were a repayment falling within that subsection.”.

(3) In subsection (3), after paragraph (aa) insert—

“(ab) if the repayment is a repayment as a result of a claim for relief under any of the provisions mentioned in subsection (2C) above, the relevant time is the 31st January next following the year that is the later year in relation to the claim;”.

(4) This section applies in relation to repayments made after the passing of this Act.

## **91 Power to revise excessive penalties**

(1) In section 100 of the Taxes Management Act 1970 (determination of penalties by officer of the Board), in subsection (6) (revision of penalty if amount of tax taken into account discovered to be excessive), after “a penalty under” insert “ section 93(2), (4) or (5) of this Act or ”.

(2) This section applies in relation to penalties determined at any time whether before or after the passing of this Act.



**Status:**

Point in time view as at 21/07/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2001, Chapter 2.