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Corporation Tax Act 2009

2009 CHAPTER 4

PART 16 U.K.

COMPANIES WITH INVESTMENT BUSINESS

CHAPTER 1 U.K.

INTRODUCTION

^{F1}1217 Overview of Part U.K.

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Textual Amendments

F1 S. 1217 renumbered as s. 1218A (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), Sch. 18 paras. 21(1)(a), 22; [S.I. 2013/1817](#), art. 2(2)

^{F2}1218 “Company with investment business” and “investment business” U.K.

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Textual Amendments

F2 S. 1218 renumbered as s. 1218B (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), Sch. 18 paras. 21(1)(b), 22; [S.I. 2013/1817](#), art. 2(2)

^{F3}1218A Overview of Part U.K.

(1) This Part contains special rules for companies with investment business.

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- (2) Chapters 2 and 3 provide relief for certain expenses of a company with investment business that are not relieved elsewhere.
- (3) Chapter 4 contains some restrictions on the relief.
- (4) There are provisions imposing liability to corporation tax in—
 - (a) section 1229 (claw back of relief), and
 - (b) Chapter 5 (companies with investment business: receipts).

Textual Amendments

- F3** S. 1217 renumbered as s. 1218A (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), Sch. 18 paras. 21(1)(a), 22; [S.I. 2013/1817](#), art. 2(2)

[^{F4}1218B] Overview of Part **U.K.**

- (1) In this Part “company with investment business” means a company whose business consists wholly or partly of making investments.
- (2) But a credit union is not a company with investment business for the purposes of this Part.
- (3) References in this Part to a company's investment business are to be construed in accordance with section 1219(2). But this subsection does not affect the interpretation of the expression “company with investment business”.

Textual Amendments

- F4** S. 1218 renumbered as s. 1218B (with effect in accordance with [Sch. 18 para. 23](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), Sch. 18 paras. 21(1)(b), 22; [S.I. 2013/1817](#), **art. 2(2)**

CHAPTER 2 **U.K.**

MANAGEMENT EXPENSES

Relief for expenses of management

1219 Expenses of management of a company's investment business **U.K.**

- [^{F5}(1) In calculating the corporation tax to which a company with investment business is liable for an accounting period, expenses of management of the company's investment business which are referable to that period are allowed as a deduction from the company's total profits.
- (1A) A deduction under subsection (1) is to be made before any other deduction at Step 2 in section 4(2) of CTA 2010 (deductions from total profits).]
- (2) For the purposes of this section expenses of management are expenses of management of a company's investment business so far as—

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- (a) they are in respect of so much of the company's investment business as consists of making investments, and
 - (b) the investments concerned are not held for an unallowable purpose during the accounting period to which the expenses are referable.
- (3) But—
- (a) no deduction is allowed under this section for expenses of a capital nature, and
 - (b) no deduction is allowed under this section for expenses so far as they are otherwise deductible from total profits, or in calculating any component of total profits.
- There is an exception to paragraph (a) in section 1221(1).
- (4) Any apportionment needed for the purposes of subsection (2) must be made on a just and reasonable basis.
- (5) The amount deductible under subsection (1) may be reduced under section 1222.

Textual Amendments

F5 S. 1219(1)(1A) substituted for s. 1219(1) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 683** (with Sch. 2)

Modifications etc. (not altering text)

C1 S. 1219 restricted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), **ss. 303, 1184(1)** (with Sch. 2)

1220 Meaning of “unallowable purpose” **U.K.**

- (1) For the purposes of section 1219, investments are held for an unallowable purpose during an accounting period so far as they are held during the period—
- (a) for a purpose that is not a business or other commercial purpose of the company, or
 - (b) for the purpose of activities in respect of which the company is not within the charge to corporation tax.
- (2) For the purposes of subsection (1)(a) investments are not held for a business or other commercial purpose if they are held directly or indirectly in consequence of, or otherwise in connection with, any arrangements for securing a tax advantage.
- (3) In subsection (2) “arrangements for securing a tax advantage” means arrangements the main purpose, or one of the main purposes, of which is to secure—
- (a) the allowance of a deduction (or increased deduction) under section 1219, or
 - (b) any other tax advantage.
- (4) Any apportionment needed for the purposes of subsection (1) must be made on a just and reasonable basis.
- (5) In this section—
- (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
 - (b) “tax advantage” has the meaning given by ^{F6}section 1139 of CTA 2010].

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Textual Amendments

- F6** Words in s. 1220(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 684](#) (with [Sch. 2](#))

1221 Amounts treated as expenses of management **U.K.**

- (1) Section 1219(3)(a) (no deduction allowed for expenses of a capital nature) does not apply to amounts that are treated as expenses of management under—
- (a) Chapter 3 (amounts treated as expenses of management),
 - (b) section 985(3) (share incentive plans: how relief is given),
 - (c) section 999(4) (deduction for costs of setting up SAYE option scheme or CSOP scheme),
 - (d) section 1000(3) (deduction for costs of setting up employee share ownership trust),
 - (e) section 1013(3) (employee share acquisitions: relief if shares acquired by employee or other person),
 - (f) section 1021(3) (employee share acquisitions: relief if employee or other person acquires option to obtain shares),
 - ^{F7}(g)
 - (h) section 196 of FA 2004 (employers' contributions to pension schemes), [^{F8}or
 - (i) section 791(4) of CTA 2010 (treatment of payer of manufactured overseas dividend),]
- or any other provision of the Corporation Tax Acts.
- (2) Amounts that are treated as expenses of management under any provision listed in subsection (3) are deductible under section 1219 as if they were expenses of management of the company's investment business.
- (3) The provisions are—
- (a) section 999(4) (deduction for costs of setting up SAYE option scheme or CSOP scheme),
 - (b) section 1000(3) (deduction for costs of setting up employee share ownership trust),
 - (c) section 1233 (excess capital allowances),
 - (d) section 1235 (employees seconded to charities and educational establishments),
 - (e) section 1236 (payroll deduction schemes),
 - (f) section 1237 (counselling and other outplacement services),
 - (g) section 1238 (retraining courses),
 - (h) section 1239 (redundancy payments and approved contractual payments),
 - (i) section 1242 (additional payments),
 - (j) section 1245 (payments to Export Credits Guarantee Department).

Textual Amendments

- F7** S. 1221(1)(g) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 685\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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F8 S. 1221(1)(i) and word inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 685(b)** (with Sch. 2)

1222 Income from a source not charged to tax **U.K.**

- (1) This section applies to a UK resident company if—
 - (a) income arises to the company from a source not charged to tax,
 - (b) the company has the source in the course of carrying on its investment business, and
 - (c) the income is not franked investment income.
- (2) This section applies to a non-UK resident company if—
 - (a) income arises to the company from a source not charged to tax,
 - (b) the company has the source in the course of carrying on its investment business through a permanent establishment in the United Kingdom,
 - (c) the source is property or rights used by, or held by or for, that establishment, and
 - (d) the income is not franked investment income.
- (3) The amount of that income is deducted from the amount (if any) that would otherwise be deductible under section 1219 for the accounting period in which the income arises.

1223 Carrying forward expenses of management and other amounts **U.K.**

- (1) This section applies if, in an accounting period of a company with investment business, any amount falling within subsection (2) cannot be deducted in full because the profits from which the amount is deductible are insufficient.
- (2) The amounts are—
 - (a) expenses of management deductible under section 1219,
 - (b) [^{F9}qualifying charitable donations made] in the accounting period, so far as [^{F10}they are made] for the purposes of the company's investment business, and
 - (c) amounts brought forward to the period under this section.
- (3) The excess is treated for the purposes of section 1219 as expenses of management deductible for the next accounting period.
- ^{F11}(4)
- (5) See also [^{F12}section 63 of CTA 2010 (which is about unused losses made in a UK property business)].

Textual Amendments

- F9** Words in s. 1223(2)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 686(2)(a)** (with Sch. 2)
- F10** Words in s. 1223(2)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 686(2)(b)** (with Sch. 2)
- F11** S. 1223(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 686(3), Sch. 3 Pt. 1** (with Sch. 2)

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F12 Words in s. 1223(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 686(4)** (with Sch. 2)

[^{F13}1223A Exception for basic life assurance and general annuity business U.K.]

- (1) Sections 1219 to 1223 do not apply in relation to an accounting period of an insurance company with investment business so far as the business consists of basic life assurance and general annuity business.
- (2) See instead the rules set out in Chapter 3 of Part 2 of FA 2012.]

Textual Amendments

F13 S. 1223A inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 207**

Accounting period to which expenses are referable

1224 Accounting period to which expenses are referable U.K.

- (1) Sections 1225 to 1227 explain which is the accounting period to which expenses of management are referable.
- (2) But those sections do not affect any provision—
 - (a) in Chapter 3, or
 - (b) elsewhere in the Corporation Tax Acts,
 which provides for amounts to be treated as expenses of management referable to an accounting period.

1225 Accounts conforming with GAAP U.K.

- (1) If—
 - (a) expenses of management are debited in accounts drawn up by a company for a period of account,
 - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, and
 - (c) the period of account coincides with an accounting period,
 the expenses of management are referable to that accounting period.
- (2) If—
 - (a) expenses of management are debited in accounts drawn up by a company for a period of account, and
 - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, but
 - (c) the period of account does not coincide with an accounting period,
 the expenses of management are apportioned between any accounting periods that fall within the period of account (and are referable to accounting periods so far as they are apportioned to them).

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- (3) An apportionment under subsection (2) must be made in accordance with [F14 section 1172 of CTA 2010] (time basis) or, if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

Textual Amendments

- F14** Words in s. 1225(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 687** (with Sch. 2)

1226 Accounts not conforming with GAAP **U.K.**

- (1) Subsection (2) applies if—
- (a) a company incurs expenses of management, and
 - (b) the company draws up accounts for a particular period of account, and
 - (c) the expenses of management would have been debited in those accounts if they had been treated in those accounts in accordance with generally accepted accounting practice, but
 - (d) they are not debited in those accounts in accordance with generally accepted accounting practice.
- (2) The expenses of management are referable to the accounting period to which they would have been referable under section 1225(1) or (2) if they had been debited in those accounts in accordance with generally accepted accounting practice.

1227 Accounts not drawn up **U.K.**

- (1) If—
- (a) a company does not draw up accounts, or does not draw them up for a particular period, and
 - (b) as a result, expenses of management are not referable to an accounting period under section 1225 or 1226,

take the following steps to determine the accounting period to which they are referable.

- (2) The steps are—

Step 1

Assume that for each accounting period of the company that does not coincide with, or fall within, any period of account there is a period of account that coincides with it.

Step 2

If it would be in accordance with UK generally accepted accounting practice to debit the expenses of management, or any part of them, in accounts drawn up by the company for that deemed period of account, assume that they are so debited.

Step 3

Making those assumptions, apply section 1225(1).

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Claw back of relief

1228 Credits that reverse debits **U.K.**

For the purposes of sections 1229 and 1230, a credit reverses the whole or part of a debit in any case where the credit falls to be made because—

- (a) the sum represented in whole or in part by the debit is paid and then wholly or partly repaid, or
- (b) the sum represented by the debit is never paid.

1229 Claw back of relief **U.K.**

(1) This section applies if—

- (a) a credit is brought into account by a company in a period of account (“the period of the credit”),
- (b) the credit reverses (in whole or in part) a debit brought into account in a previous period of account of the company,
- (c) the debit (or part of it) represents expenses of management deductible under section 1219 for an accounting period which ends before, or at the same time as, the period of the credit, and
- (d) the expenses of management are not expenses brought forward to that period under section 1223.

For cases involving an absence of accounts see also section 1231.

- (2) The reversal amount (see section 1230) is dealt with in accordance with subsection (3) or (5).
- (3) If the period of the credit coincides with an accounting period of the company—
 - (a) the reversal amount is, as far as possible, applied in reducing (but not below nil) the company's expenses of management belonging to that period, and
 - (b) if not all of the amount can be applied in that way, the remainder is to be treated as a receipt of the company chargeable for that period under the charge to corporation tax on income.
- (4) For the purposes of subsection (3), the expenses of management belonging to a period are the expenses of management that are deductible for that period, excluding any amounts brought forward under section 1223.
- (5) If the period of the credit does not coincide with an accounting period of the company—
 - (a) the reversal amount is apportioned between any accounting periods that fall within the period of the credit, and
 - (b) paragraphs (a) and (b) of subsection (3) are applied to any amount that is apportioned to an accounting period.
- (6) An apportionment under subsection (5) must be made in accordance with [F15]section 1172 of CTA 2010] (time basis) or, if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

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Textual Amendments

F15 Words in s. 1229(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 688** (with Sch. 2)

1230 Meaning of “reversal amount” **U.K.**

- (1) This section gives the meaning of “reversal amount” for the purposes of this Part.
- (2) If a credit reverses the whole or part of a debit, the reversal amount is found as follows.

Step 1

Take however much of the credit reverses the debit.

Step 2

Reduce that (if applicable) to however much of the credit reverses the part of the debit that represents expenses of management deductible under section 1219.

Step 3

Reduce that (if applicable) to exclude any part of the credit that represents sums otherwise taken into account in calculating for corporation tax purposes the profits and losses of the company for the relevant accounting period or an earlier accounting period.

- (3) In this section “relevant accounting period” means the latest accounting period of the company that falls wholly or partly within the period of the credit (see section 1229(1)(a)).

1231 Absence of accounts **U.K.**

- (1) This section sets out how section 1229 operates if a company has an accounting period that neither coincides with nor falls within any period of account.
- (2) Section 1229 operates as if—
 - (a) there were a period of account of the company that coincides with that accounting period, and
 - (b) in calculating for accounting purposes the company's profits and losses for that period of account, amounts were brought into account in accordance with UK generally accepted accounting practice.
- (3) The references in section 1251(3)(b) (car^{F16}... hire) to credits and debits include credits and debits that are deemed to be made by virtue of this section.

Textual Amendments

F16 Words in s. 1231(3) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 11 para. 56**

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CHAPTER 3 **U.K.**

AMOUNTS TREATED AS EXPENSES OF MANAGEMENT

Preliminary

1232 Chapter applies to amounts not otherwise relieved **U.K.**

The following provisions of this Chapter treat amounts as expenses of management only so far as the amounts—

- (a) would not otherwise be treated as expenses of management for the purposes of Chapter 2, and
- (b) are not otherwise deductible from total profits, or in calculating any component of total profits.

Excess capital allowances

1233 Excess capital allowances **U.K.**

- (1) This section applies if a company with investment business is entitled to allowances by virtue of section 15(1)(g) of CAA 2001 (qualifying activities include managing investments).
- (2) So far as effect cannot be given to the allowances under section 253(2) of CAA 2001, the allowances are treated for the purposes of Chapter 2—
 - (a) as expenses of management, and
 - (b) as referable to the accounting period for which the company is entitled to the allowances.

Payments for restrictive undertakings

1234 Payments for restrictive undertakings **U.K.**

- (1) This section applies if a payment—
 - (a) is treated as earnings of an employee by virtue of section 225 of ITEPA 2003 (payments for restrictive undertakings), and
 - (b) is made, or treated as made for the purposes of section 226 of that Act (valuable consideration given for restrictive undertakings), by a company with investment business.
- (2) The payment is treated for the purposes of Chapter 2 as expenses of management.

Modifications etc. (not altering text)

- C2** S. 1234 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012](#) (c. 14), s. **81(2)(3)(7)** (with s. 147, Sch. 17)

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Seconded employees

1235 Employees seconded to charities and educational establishments **U.K.**

- (1) This section applies if a company carrying on a business that consists wholly or partly of making investments (“the employer”) makes the services of a person employed for the purposes of the business available to—
 - (a) a charity, or
 - (b) an educational establishment,on a basis that is stated and intended to be temporary.
- (2) Expenses of the employer that are attributable to the employee's employment during the period of the secondment are treated for the purposes of Chapter 2 as expenses of management.
- (3) In this section—
 - “educational establishment” has the same meaning as in section 70, and
 - “the period of the secondment” means the period for which the employee's services are made available to the charity or educational establishment.

Modifications etc. (not altering text)

- C3** S. 1235 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012](#) (c. 14), s. 81(2)(3)(7) (with s. 147, Sch. 17)

Contributions to agents' expenses

1236 Payroll deduction schemes **U.K.**

- (1) This section applies if—
 - (a) a company with investment business (“the employer”) is liable to make payments to an individual,
 - (b) income tax falls to be deducted from those payments as a result of PAYE regulations, and
 - (c) the employer withholds sums from those payments in accordance with an approved scheme and pays the sums to an approved agent.
- (2) Expenses falling within subsection (3) are treated for the purposes of Chapter 2 as expenses of management.
- (3) Expenses fall within this subsection if they are incurred by the employer in making a payment to the agent for expenses which—
 - (a) have been incurred, or
 - (b) are to be incurred,by the agent in connection with the agent's functions under the scheme.
- (4) In this section “approved agent” and “approved scheme” have the same meaning as in section 714 of ITEPA 2003.

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Counselling and retraining expenses

1237 Counselling and other outplacement services U.K.

- (1) This section applies if—
 - (a) a company with investment business (“the employer”) incurs counselling expenses,
 - (b) the expenses are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer, and
 - (c) the relevant conditions are met.
- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.
- (3) In this section “counselling expenses” means expenses incurred—
 - (a) in the provision of services to the employee in connection with the cessation of the office or employment,
 - (b) in the payment or reimbursement of fees for such provision, or
 - (c) in the payment or reimbursement of travelling expenses in connection with such provision.
- (4) In this section “the relevant conditions” means—
 - (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (employment income exemptions: counselling and other outplacement services), and
 - (b) in the case of travel expenses, condition E for those purposes.

Modifications etc. (not altering text)

- C4** [S. 1237](#) applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012](#) (c. 14), [s. 81\(2\)\(3\)\(7\)](#) (with s. 147, Sch. 17)

1238 Retraining courses U.K.

- (1) This section applies if—
 - (a) a company with investment business (“the employer”) incurs retraining course expenses,
 - (b) they are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer, and
 - (c) the relevant conditions are met.
- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.
- (3) In this section—

“retraining course expenses” means expenses incurred in the payment or reimbursement of retraining course expenses within the meaning given by section 311(2) of ITEPA 2003, and

“the relevant conditions” means—

 - (a) the conditions in subsections (3) and (4) of section 311 of ITEPA 2003 (employment income exemptions: retraining courses), and
 - (b) in the case of travel expenses, the conditions in subsection (5) of that section.

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- (4) If—
- (a) an employer's liability to corporation tax for an accounting period is determined on the assumption that a deduction for expenditure is allowed by virtue of this section, and
 - (b) the deduction would not otherwise have been allowed,
- subsections (2) to (6) of section 75 (retraining courses: recovery of tax) apply.

Modifications etc. (not altering text)

- C5** Ss. 1238-1242 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(2\)\(3\)\(7\)](#) (with [s. 147](#), [Sch. 17](#))
- C6** S. 1238(1)-(3) applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(2\)\(3\)\(7\)](#) (with [s. 147](#), [Sch. 17](#))

Redundancy payments etc

1239 Redundancy payments and approved contractual payments **U.K.**

- (1) Sections 1240 to 1242 apply if—
- (a) a company with investment business (“the employer”) makes a redundancy payment or an approved contractual payment to another person (“the employee”),
 - (b) the payment is in respect of the employee's employment wholly in the employer's investment business or partly in the employer's investment business and partly in one or more other capacities, and
 - (c) expenses of management of the business are deductible under section 1219.
- (2) For the purposes of this section and sections 1240 to 1243 “redundancy payment” means a redundancy payment payable under—
- (a) Part 11 of the Employment Rights Act 1996 (c. 18), or
 - (b) Part 12 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (3) For the purposes of this section and those sections—
- “contractual payment” means a payment which, under an agreement, an employer is liable to make to an employee on the termination of the employee's contract of employment, and
- a contractual payment is “approved” if, in respect of that agreement, an order is in force under—
- (a) section 157 of the Employment Rights Act 1996, or
 - (b) Article 192 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).

Modifications etc. (not altering text)

- C5** Ss. 1238-1242 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(2\)\(3\)\(7\)](#) (with [s. 147](#), [Sch. 17](#))

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1240 Payments in respect of employment wholly in employer's business **U.K.**

- (1) This section applies if the payment is in respect of the employee's employment wholly in the employer's investment business.
- (2) The amount of the payment is treated for the purposes of Chapter 2 as expenses of management.
- (3) The deduction allowable by virtue of this section for an approved contractual payment must not exceed the amount which would have been due to the employee if a redundancy payment had been payable.
- (4) If the payment is referable (see sections 1224 to 1227) to an accounting period beginning after the business has permanently ceased to be carried on, it is treated as referable to the last accounting period in which the business was carried on.

Modifications etc. (not altering text)

- C5** Ss. 1238-1242 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), s. 81(2)(3)(7) (with s. 147, Sch. 17)

1241 Payments in respect of employment in more than one capacity **U.K.**

- (1) This section applies if the payment is in respect of the employee's employment with the employer—
 - (a) partly in the employer's investment business, and
 - (b) partly in one or more other capacities.
- (2) The amount of the redundancy payment, or the amount which would have been due if a redundancy payment had been payable, is to be apportioned on a just and reasonable basis between—
 - (a) the employment in the investment business, and
 - (b) the employment in the other capacities.
- (3) The part of the payment apportioned to the employment in the investment business is treated as a payment in respect of the employee's employment wholly in the investment business for the purposes of section 1240.

Modifications etc. (not altering text)

- C5** Ss. 1238-1242 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), s. 81(2)(3)(7) (with s. 147, Sch. 17)

1242 Additional payments **U.K.**

- (1) This section applies if the employer's business, or part of it, ceases (permanently) to be carried on and the employer makes a payment to the employee in addition to—
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- (2) If—

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- (a) the additional payment would not otherwise be deductible under section 1219, but
 - (b) that is only because the business, or the part of the business, has ceased to be carried on,
- the additional payment is deductible under section 1219 as expenses of management.
- (3) The deduction under this section is limited to 3 times the amount of—
- (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.
- (4) If the payment is referable to an accounting period beginning after the business or the part of the business has ceased to be carried on, it is treated as referable to the last accounting period in which the business, or the part concerned, was carried on.

Modifications etc. (not altering text)

C5 Ss. 1238-1242 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(2\)\(3\)\(7\)](#) (with [s. 147, Sch. 17](#))

1243 Payments made by the Government **U.K.**

- (1) This section applies if—
- (a) a redundancy payment or an approved contractual payment is payable by a company with investment business (“the employer”),
 - (b) a payment to which subsection (2) applies is made in respect of the payment, and
 - (c) expenses of management of the business are deductible under section 1219.
- (2) This subsection applies to—
- (a) payments made by the Secretary of State under section 167 of the Employment Rights Act 1996 (c. 18), and
 - (b) payments made by the Department for Employment and Learning under Article 202 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).
- (3) So far as the employer reimburses the Secretary of State or Department for the payment, sections 1240 to 1242 apply as if the payment were—
- (a) a redundancy payment, or
 - (b) an approved contractual payment,
- made by the employer.

Modifications etc. (not altering text)

C7 [S. 1243](#) applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(2\)\(3\)\(7\)](#) (with [s. 147, Sch. 17](#))

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Contributions to local enterprise organisations or urban regeneration companies

1244 Contributions to local enterprise organisations or urban regeneration companies **U.K.**

- (1) This section applies if a company with investment business (“the contributor”) incurs expenses in making a contribution (whether in cash or in kind)—
 - (a) to a local enterprise organisation, or
 - (b) to an urban regeneration company.
- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.
- (3) But if, in connection with the making of the contribution, the contributor or a connected person—
 - (a) receives a disqualifying benefit of any kind, or
 - (b) is entitled to receive such a benefit,
 the amount of the deduction allowed for the expenses under section 1219 by virtue of this section is restricted to the amount of the expenses less the value of the benefit.
- (4) For this purpose it does not matter whether a person receives, or is entitled to receive, the benefit—
 - (a) from the local enterprise organisation or urban regeneration company concerned, or
 - (b) from anyone else.
- (5) In this section “disqualifying benefit” means a benefit the expenses of obtaining which, if incurred by the contributor directly in a transaction at arm’s length, would not be deductible as expenses of management under section 1219.
- (6) Sections 83 (meaning of “local enterprise organisation”) and 86 (meaning of “urban regeneration company”) apply for the purposes of this section as they apply for the purposes of section 82.

Modifications etc. (not altering text)

- C8** S. 1244 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), s. 81(2)(3)(7) (with s. 147, Sch. 17)

Export Credits Guarantee Department

1245 Payments to Export Credits Guarantee Department **U.K.**

- (1) This section applies if—
 - (a) a sum is payable by a company with investment business to the Export Credits Guarantee Department, and
 - (b) the sum is payable under an agreement entered into as a result of arrangements made under section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or with a view to entering into such an agreement.
- (2) The sum is treated for the purposes of Chapter 2 as expenses of management.

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Levies under FISMA 2000

1246 Levies under FISMA 2000 **U.K.**

- (1) Sums—
 - (a) spent by a company with investment business in paying a levy, or
 - (b) paid by a company with investment business as a result of an award of costs under costs rules,are treated for the purposes of Chapter 2 as expenses of management.
- (2) In this section “costs rules” has the meaning given by section 92(2).
- (3) In this section “levy” has the meaning given by section 92(3).

CHAPTER 4 **U.K.**

RULES RESTRICTING DEDUCTIONS

1247 Introduction **U.K.**

- (1) This Chapter contains provisions that restrict the deduction of expenses of management under section 1219.
- (2) Other provisions that prohibit or restrict the deduction of expenses of management under section 1219 include—
 - (a) section 1290 (employee benefit contributions),
 - (b) section 1298 (business entertainment and gifts),
 - (c) section 1302 (social security contributions),
 - (d) section 1303 (penalties, interest and VAT surcharges),
 - (e) section 1304 (crime-related payments),
 - (f) section 200 of FA 2004 (no other relief for employers in connection with contributions),
 - (g) section 246 of FA 2004 (restriction of deduction for non-contributory provision).
- (3) See also section 196A of FA 2004 (employers' contributions: power to restrict relief).

1248 Expenses in connection with arrangements for securing a tax advantage **U.K.**

- (1) No deduction is allowed under section 1219 for any particular expenses of management if any part of those expenses is incurred directly or indirectly in consequence of, or otherwise in connection with, any arrangements for securing a tax advantage.
- (2) In subsection (1) “arrangements for securing a tax advantage” means arrangements the main purpose, or one of the main purposes, of which is to secure—
 - (a) the allowance of a deduction (or increased deduction) under section 1219, or
 - (b) any other tax advantage.
- (3) Subsection (1) does not apply if, as a result of ^[F17]section 799 of CTA 2010] (manufactured payments under arrangements having an unallowable purpose), the

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company incurring the expenses is not entitled to a relevant tax relief in respect of, or referable to, the whole or any part of the expenses.

(4) The reference in subsection (1) to expenses of management includes amounts treated by any provision as deductible under section 1219.

(5) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

“relevant tax relief” has the same meaning as in [^{F18}section 799(3) of CTA 2010], and

“tax advantage” has the meaning given by [^{F19}section 1139 of CTA 2010].

Textual Amendments

F17 Words in s. 1248(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 689(a)** (with Sch. 2)

F18 Words in s. 1248(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 689(b)(i)** (with Sch. 2)

F19 Words in s. 1248(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 689(b)(ii)** (with Sch. 2)

1249 Unpaid remuneration **U.K.**

(1) This section applies if—

- (a) an amount is charged in respect of employees' remuneration in the accounts for a period of a company with investment business,
- (b) the amount would apart from this section be deductible under section 1219 as expenses of management, and
- (c) the remuneration is not paid before the end of the period of 9 months immediately following the end of the period of account.

(2) If the remuneration is paid after the end of that period of 9 months, the deduction for it is allowed for the period of account in which it is paid (and not in accordance with the timing rule in section 1219(1)).

(3) No deduction is allowed for the remuneration under section 1219 if it is not paid.

Modifications etc. (not altering text)

C9 S. 1249(1)(2) applied (with effect in accordance with s. 148 of the amending Act) by Finance Act 2012 (c. 14), s. 82(2)(5) (with s. 147, Sch. 17)

C10 S. 1249(1)(3) applied (with effect in accordance with s. 148 of the amending Act) by Finance Act 2012 (c. 14), s. 82(3)(5) (with s. 147, Sch. 17)

1250 Unpaid remuneration: supplementary **U.K.**

(1) For the purposes of section 1249 an amount charged in the accounts in respect of employees' remuneration includes an amount for which provision is made in the accounts with a view to its becoming employees' remuneration.

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- (2) For the purposes of section 1249 it does not matter whether an amount is charged for—
 - (a) particular employments, or
 - (b) employments generally.
- (3) If the profits of the company are calculated before the end of the 9 month period mentioned in section 1249(1)(c)—
 - (a) it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
 - (b) if the remuneration is subsequently paid before the end of that period, nothing in this subsection prevents the calculation being revised and any tax return being amended accordingly.
- (4) For the purposes of this section and section 1249 remuneration is paid when it—
 - (a) is treated as received by an employee for the purposes of ITEPA 2003 by section 18 or 19 of that Act (receipt of money and non-money earnings), or
 - (b) would be so treated if it were not exempt income.
- (5) In this section and section 1249—

“employee” includes an office-holder and “employment” therefore includes an office, and

“remuneration” means an amount which is or is treated as earnings for the purposes of Parts 2 to 7 of ITEPA 2003.

1251 ^{F20}Car ... hire **U.K.**

- (1) Subsection (2) applies if, in calculating the total profits of a company with investment business, a deduction is allowed under section 1219 for expenses incurred on the hiring of a car ^{F21}which is not—
 - (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.]
- (2) The amount of the deduction which would otherwise be allowable is reduced by ^{F22}15%].
- (3) Subsection (4) applies if a deduction for expenses is reduced as a result of subsection (2) ^{F23}(including as applied by section 82(4) of FA 2012), or a corresponding provision, and—
 - (a) subsequently—
 - (i) there is a rebate (however described) of the hire charges, or
 - (ii) a debt in respect of any of the hire charges is released otherwise than as part of a statutory insolvency agreement, and
 - (b) a credit representing the rebate, or the amount released, reverses (in whole or in part) a debit representing the expenses.
- (4) In applying subsection (2) of section 1230 (calculation of the reversal amount for the purposes of the claw back rules)—
 - (a) take the amount given by Step 1,
 - (b) ^{F24}reduce that amount by 15%] (instead of applying Step 2), and

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- (c) apply Step 3 to the amount given by paragraph (b).
- (5) In this section “corresponding provision” means—
- (a) section 56(2) (car^{F25}... hire: trade profits and property income), [F26 or]
 - (b) section 48(2) of ITTOIA 2005 (car^{F27}... hire: trade profits and property income),^{F28}...
 - (c)
- ^{F29}(6)
- (7) Sections 57 (meaning of “car^{F30}...” and other expressions) and [F31 58A (short-term hiring in and long-term hiring out)] apply for the purposes of this section as they apply for the purposes of section 56.
- [F32(8) For the purposes of section 58B of this Act and section 50B of ITTOIA 2005 (connected persons: application of restrictions), this section is to be treated as if it were part of section 56 of this Act.]

Textual Amendments

- F20** Words in s. 1251 heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(9\)](#)
- F21** Words in s. 1251(1) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(2\)](#)
- F22** Figure in s. 1251(2) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(3\)](#)
- F23** Words in s. 1251(3) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 208\(2\)](#)
- F24** Words in s. 1251(4)(b) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(4\)](#)
- F25** Words in s. 1251(5)(a) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(5\)](#)
- F26** Word in s. 1251(5)(a) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 208\(3\)\(a\)](#)
- F27** Words in s. 1251(5)(b) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(5\)](#)
- F28** S. 1251(5)(c) and word immediately preceding it omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 208\(3\)\(b\)](#)
- F29** S. 1251(6) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(6\)](#)
- F30** Words in s. 1251(7) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(7\)\(a\)](#)
- F31** Words in s. 1251(7) substituted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(7\)\(b\)](#)
- F32** S. 1251(8) inserted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 57\(8\)](#)

Modifications etc. (not altering text)

- C11** S. 1251(1)(2) applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 82\(4\)\(5\)](#) (with s. 147, [Sch. 17](#))

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CHAPTER 5 U.K.

COMPANIES WITH INVESTMENT BUSINESS: RECEIPTS

1252 Industrial development grants U.K.

- (1) If a company with investment business receives a payment by way of a grant under—
 - (a) section 7 or 8 of the Industrial Development Act 1982 (c. 52), or
 - (b) Article 7, 9 or 30 of the Industrial Development (Northern Ireland) Order 1982 (S.I. 1982/1083 (N.I. 15)),the payment is to be treated as an amount to which the charge to corporation tax on income applies.
- (2) Subsection (1) does not apply if—
 - (a) the grant is designated as made towards the cost of specified capital expenditure,
 - (b) the grant is designated as compensation for the loss of capital assets, or
 - (c) the grant is for all or part of a corporation tax liability (including one that has already been met).
- (3) Tax is not charged under this section if the payment is taken into account (under another provision) in calculating profits for corporation tax purposes.

1253 Contributions to local enterprise organisations or urban regeneration companies: disqualifying benefits U.K.

- (1) This section applies if—
 - (a) a deduction has been made under section 1219 by virtue of section 1244 (contributions to local enterprise agencies or urban regeneration companies: expenses of management), and
 - (b) the contributor or a connected person receives a disqualifying benefit that is in any way attributable to the contribution.
- (2) The contributor is to be treated as receiving, when the benefit is received, an amount—
 - (a) which is equal to the value of the benefit (so far as not brought into account in determining the amount of the deduction), and
 - (b) to which the charge to corporation tax on income applies.
- (3) In this section “disqualifying benefit” has the same meaning as in section 1244.

Modifications etc. (not altering text)

C12 S. 1253 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 81\(6\)](#) (with [s. 147](#), [Sch. 17](#))

1254 Repayments under FISMA 2000 U.K.

- (1) If as a result of a repayment provision a payment—
 - (a) is made to a company with an investment business, and
 - (b) is not brought into account as a receipt of a trade under section 104, or as a receipt of a property business as a result of section 210,

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the payment is to be treated as an amount to which the charge to corporation tax on income applies.

- (2) In this section “repayment provision” means—
- (a) any provision made by virtue of section 136(7) or 214(1)(e) of FISMA 2000, or
 - (b) any provision made by scheme rules for fees to be refunded in specified circumstances.
- (3) In this section “scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to FISMA 2000.

CHAPTER 6 U.K.

SUPPLEMENTARY

1255 **Meaning of some accounting terms** U.K.

- (1) Any reference in sections 1225 to 1227 to expenses of management being debited in accounts is to those expenses being brought into account as a debit in—
- (a) the company's profit and loss account or income statement, or
 - (b) a statement of total recognised gains and losses, statement of changes in equity or other statement of items brought into account in calculating the company's profits and losses for accounting purposes.
- (2) In section 1229(1) “brought into account” means brought into account in—
- (a) the company's profit and loss account or income statement, or
 - (b) a statement of total recognised gains and losses, statement of changes in equity or other statement of items brought into account in calculating the company's profits and losses for accounting purposes.
- (3) In this Part—
- “credit” means an amount which for accounting purposes increases or creates a profit, or reduces a loss, for a period of account, and
- “debit” means an amount which for accounting purposes reduces a profit, or increases or creates a loss, for a period of account.

Status:

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Changes to legislation:

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