



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 11

#### CHARITABLE COMPANIES ETC

#### CHAPTER 1

##### INTRODUCTION

#### **466 Overview of Part**

- (1) This Part makes provision about some gifts and payments made to charitable companies, including provision applying the charge to corporation tax on income and conferring exemptions (see sections 471 to 474).
- (2) This Part also provides for some of the income of charitable companies and others to be exempt from corporation tax (see sections 475 to 477 and Chapter 3).
- (3) In the case of a charitable company which has a non-exempt amount for an accounting period (see section 493), the exemptions under this Part are subject to restrictions (see section 492).
- (4) The non-exempt amount for an accounting period depends on the charitable company's attributable income and gains for the period and its non-charitable expenditure for the period (see sections 493 and 496 to 517).
- (5) See also Schedule 19 to FA 2008, which contains provision for transitional payments to charitable companies and certain other bodies in respect of gifts made in the tax years 2008-09 to 2010-11.

#### **<sup>F1</sup>467 Meaning of “charitable company”**

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*Status: Point in time view as at 24/02/2022.*

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#### Textual Amendments

- F1** S. 467 omitted (with effect in accordance with art. 21 of the commencing S.I.) by virtue of [Finance Act 2010 \(c. 13\)](#), [Sch. 6 paras. 27\(4\), 34\(2\)](#); S.I. 2012/736, art. 21

### 468 Meaning of “eligible body”

Each of the following is an eligible body for the purposes of this Part—

- (a) the Trustees of the National Heritage Memorial Fund,
- (b) the Historic Buildings and Monuments Commission for England,
- (c) the Trustees of the British Museum, [<sup>F2</sup>and]
- (d) the Trustees of the Natural History Museum, <sup>F3</sup>...
- <sup>F3</sup>(e) .....

#### Textual Amendments

- F2** Word in s. 468 inserted (1.4.2012) by [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), [Sch.](#)
- F3** S. 468(e) and word omitted (1.4.2012) by virtue of [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), [Sch.](#)

### 469 Conditions for qualifying as a scientific research association

- (1) For the purposes of this Part a body qualifies as a scientific research association for an accounting period if—
  - (a) it is an association (see subsection (5)(a)), and
  - (b) it meets conditions A and B with respect to the accounting period.
- (2) Condition A is that the body has as its object the undertaking of research and development which may lead to or facilitate an extension of any class or classes of trade.
- (3) Condition B is that the memorandum of association or other similar instrument regulating the body's functions precludes the direct or indirect payment or transfer to any of its members of any of its income or property by way of dividend, gift, division, bonus or otherwise by way of profit.
- (4) For the purposes of compliance with condition B it is not necessary that the memorandum of association or other similar instrument regulating the body's functions should prevent the payment to its members of—
  - (a) reasonable remuneration for goods, labour or power supplied, or for services provided,
  - (b) reasonable interest for money lent, or
  - (c) reasonable rent for premises.
- (5) The Treasury may by regulations—
  - (a) make provision specifying what is to be treated as being, or as not being, an association for the purposes of subsection (1)(a), or
  - (b) prescribe circumstances in which a body is to be treated as not meeting condition A or B with respect to an accounting period.

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- (6) The Treasury may by regulations make provision specifying for the purposes of condition A—
- (a) circumstances in which a body is to be treated as having, or as not having, the undertaking of research and development as its object,
  - (b) circumstances in which the undertaking of research and development is to be treated as being, or as not being, capable of leading to or facilitating an extension of a class of trade, or
  - (c) what is to be treated as being, or as not being, a class of trade.

#### **470 Meaning of “research and development” in section 469**

- (1) Section 1138 (meaning of “research and development”) applies for the purposes of section 469(2).
- (2) Regulations under section 1006(3) of ITA 2007 (power to prescribe activities which are, or are not, research and development), as that section applies by virtue of section 1138(3), may make provision for the purposes of section 469(2) which is additional to, or different from, the provision made for other purposes under section 1006(3).

## **CHAPTER 2**

### **GIFTS AND OTHER PAYMENTS**

#### *Gifts and other payments to charitable companies*

#### **471 Gifts qualifying for gift aid relief: income tax treated as paid**

- (1) This section applies if a gift is made to a charitable company by an individual and the gift is a qualifying donation for the purposes of Chapter 2 of Part 8 of ITA 2007 (gift aid).
- (2) The charitable company is treated as receiving, under deduction of income tax at the basic rate for the tax year in which the gift is made, a gift of an amount equal to the grossed up amount of the gift.
- (3) References in this section to the grossed up amount of the gift are to the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.
- (4) The income tax treated as deducted is treated as income tax paid by the charitable company.

#### **472 Gifts qualifying for gift aid relief: corporation tax liability and exemption**

- (1) If a charitable company receives a gift from an individual and the gift is a qualifying donation for the purposes of Chapter 2 of Part 8 of ITA 2007 (gift aid), the grossed up amount of the gift is treated as an amount in respect of which the company is chargeable to corporation tax, under the charge to corporation tax on income.
- (2) But the grossed up amount of the gift is not taken into account in calculating total profits so far as that grossed up amount is applied to charitable purposes only.

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- (3) References in this section to the grossed up amount of a gift are to the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.
- (4) The exemption under subsection (2) requires a claim.
- <sup>F4</sup>(5) . . . . .

**Textual Amendments**

**F4** S. 472(5) omitted (retrospective to 6.4.2012) by virtue of [Finance Act 2012 \(c. 14\), s. 50\(2\)\(d\)\(4\)](#)

**[<sup>F5</sup>472A Gifts under payroll deduction schemes: corporation tax liability and exemption**

- (1) If a charitable company receives a gift from an individual and the gift is a donation for the purposes of Part 12 of ITEPA 2003 (payroll giving), the gift is treated as an amount in respect of which the charitable company is chargeable to corporation tax, under the charge to corporation tax on income.
- (2) But the gift is not taken into account in calculating total profits so far as it is applied to charitable purposes only.
- (3) The exemption under subsection (2) requires a claim.]

**Textual Amendments**

**F5** S. 472A inserted (with effect in accordance with Sch. 8 para. 8(1)(2) of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 8 para. 1\(2\)](#)

**473 Gifts of money from companies: corporation tax liability and exemption**

- (1) If a charitable company receives a gift of a sum of money from a company which is not a charity, the gift is treated as an amount in respect of which the charitable company is chargeable to corporation tax, under the charge to corporation tax on income.
- (2) But the gift is not taken into account in calculating total profits so far as it is applied to charitable purposes only.
- (3) The exemption under subsection (2) requires a claim.

**474 Payments from other charities: corporation tax liability and exemption**

- (1) Subsection (2) applies if a charitable company receives from another charity a payment which—
- (a) is not made for full consideration in money or money's worth,
  - (b) is not chargeable to corporation tax apart from this section, and
  - (c) is not of a description which (on a claim) would be exempt from corporation tax under any of the exemptions conferred by this Part.
- (2) The payment is treated as an amount in respect of which the charitable company is chargeable to corporation tax, under the charge to corporation tax on income.

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- (3) But the payment is not taken into account in calculating total profits so far as it is applied to charitable purposes only.
- (4) In the case of a payment to which section 494 of ITA 2007 (discretionary payments by trustees) applies, the references in subsections (2) and (3) to the payment are to be read as references to the grossed up amount of the discretionary payment within the meaning of that section.
- (5) The exemption under subsection (3) requires a claim.

#### *Gifts to eligible bodies*

### **475 Gifts qualifying for gift aid relief: income tax treated as paid and exemption**

- (1) This section applies if a gift is made to an eligible body by an individual and the gift is a qualifying donation for the purposes of Chapter 2 of Part 8 of ITA 2007 (gift aid).
- (2) The eligible body is treated as receiving, under deduction of income tax at the basic rate for the tax year in which the gift is made, a gift of an amount equal to the grossed up amount of the gift.
- (3) References in this section to the grossed up amount of the gift are to the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.
- (4) The income tax treated as deducted is treated as income tax paid by the eligible body.
- (5) The grossed up amount of the gift is not taken into account in calculating total profits.
- (6) The exemption under subsection (5) requires a claim.
- <sup>F6</sup>(7) .....
- (8) In the case of an eligible body which is a charitable company, this section applies instead of sections 471 and 472.

#### **Textual Amendments**

**F6** S. 475(7) omitted (retrospective to 6.4.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), s. 50(2)(e)(4)

### **476 Gifts of money from companies: exemption**

- (1) If an eligible body receives a gift of a sum of money from a company, the gift is not taken into account in calculating total profits.
- (2) The exemption under subsection (1) requires a claim.
- (3) In the case of an eligible body which is a charitable company, this section applies instead of section 473.

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### *Gifts to scientific research associations*

#### **477 Gifts of money from companies: exemption**

- (1) A gift of a sum of money that a body receives from a company is not taken into account in calculating total profits if the body receiving the gift qualifies as a scientific research association for the relevant accounting period.
- (2) The exemption under subsection (1) requires a claim.
- (3) In subsection (1) “the relevant accounting period” means the accounting period for which the exemption is to be claimed.
- (4) In the case of a body which qualifies as a scientific research association and is also a charitable company, this section applies instead of section 473.

#### *[<sup>F7</sup>Claims*

##### **Textual Amendments**

**F7** S. 477A and cross-heading inserted (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 7](#)

#### **477A Claims in relation to gift aid relief**

[ This section applies to claims for repayment of income tax treated as having been paid <sup>F8</sup>(A1) by virtue of—

- (a) section 471 (gifts qualifying for gift aid relief: charitable companies), or
- (b) section 475 (gifts qualifying for gift aid relief: eligible bodies).]
- (1) This section [<sup>F9</sup>also] applies to claims for amounts to be exempt from tax by virtue of—
  - (a) section 472 (gifts qualifying for gift aid relief: charitable companies), or
  - (b) section 475 (gifts qualifying for gift aid relief: eligible bodies).
- (2) A claim to which this section applies may be made—
  - (a) to an officer of Revenue and Customs, or
  - (b) where the claimant is a company, by being included in the claimant's company tax return.
- (3) In this section—
  - “ free-standing claim ” means a claim made as mentioned in subsection (2) (a), and
  - “ tax return claim ” means a claim made as mentioned in subsection (2)(b).
- (4) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—
  - (a) limiting the number of free-standing claims that may be made by a person in a tax year, or
  - (b) requiring a claim for an amount below an amount specified in the regulations to be made as a tax return claim.
- (5) The regulations may make different provision for different cases or purposes.]

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#### Textual Amendments

- F8** S. 477A(A1) inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 3\(2\), 17\(1\)](#)
- F9** Word in s. 477A(1) inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15 paras. 3\(3\), 17\(1\)](#)

## CHAPTER 3

### OTHER EXEMPTIONS

#### *Exemptions*

#### **478 Exemption for profits etc of charitable trades**

- (1) The income mentioned in subsection (2) is not taken into account in calculating total profits if the condition in subsection (3) is met.
- (2) The income referred to in subsection (1) is—
  - (a) profits of a charitable trade carried on by a charitable company, and
  - (b) post-cessation receipts arising from a charitable trade carried on by a charitable company which are received by the company or to which it is entitled.
- (3) The condition is that the profits are, or (as the case may be) the post-cessation receipt is, applied to the purposes of the charitable company only.
- (4) In this section “post-cessation receipt” means an amount that is a post-cessation receipt for the purposes of Part 3 of CTA 2009 (see sections 190 to 195 of that Act).
- (5) The exemption under subsection (1) requires a claim.

#### **479 Meaning of “charitable trade”**

- (1) For the purposes of this Part a trade carried on by a charitable company is a charitable trade if—
  - (a) the trade is exercised in the course of carrying out a primary purpose of the charitable company, or
  - (b) the work in connection with the trade is mainly carried out by beneficiaries of the charitable company.
- (2) For the purposes of subsection (1)(a), if a trade is exercised partly in the course of carrying out a primary purpose of the charitable company and partly otherwise, each part is to be treated as a separate trade.
- (3) For the purposes of subsection (1)(b), if work in connection with a trade is carried out partly but not mainly by beneficiaries, the part in connection with which work is carried out by beneficiaries and the other part are to be treated as separate trades.
- (4) If different parts of a trade are treated as separate trades under subsection (2) or (3), a just and reasonable apportionment is to be made for that purpose of—

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- (a) expenses and receipts of the trade, and
- (b) any amounts which are post-cessation receipts arising from the trade for the purposes of Part 3 of CTA 2009.

#### **480 Exemption for profits of small-scale trades**

- (1) The income mentioned in subsection (2) is not taken into account in calculating total profits if conditions A and B are met.
- (2) The income referred to in subsection (1) is—
  - (a) the profits of a trade carried on by a charitable company, and
  - (b) post-cessation receipts arising from a trade carried on by a charitable company which are received by the company or to which it is entitled.
- (3) Subsection (1) does not apply in respect of—
  - (a) profits of a trade that are, apart from this section, exempt from corporation tax chargeable under Part 3 of CTA 2009, or
  - (b) post-cessation receipts that are, apart from this section, exempt from corporation tax chargeable under Chapter 15 of Part 3 of CTA 2009.
- (4) Condition A is—
  - (a) in the case of the profits of a trade, that the profits are profits of an accounting period in relation to which the condition specified in section 482 (condition as to trading and miscellaneous incoming resources) is met, and
  - (b) in the case of a post-cessation receipt, that it is received in such an accounting period.
- (5) Condition B is that the profits are, or (as the case may be) the receipt is, applied to the purposes of the charitable company only.
- (6) The exemption under subsection (1) requires a claim.
- (7) In this section “post-cessation receipt” means an amount that is a post-cessation receipt for the purposes of Part 3 of CTA 2009 (see sections 190 to 195 of that Act).

#### **481 Exemption from charges under provisions to which section 1173 applies**

- (1) Any income or gains of a charitable company that is or are chargeable to corporation tax under or by virtue of any provision to which section 1173 applies is not or are not taken into account in calculating total profits if conditions A and B are met.
- (2) Subsection (1) does not apply in respect of any income or gains that is or are chargeable to corporation tax by virtue of any of—
  - <sup>F10</sup>(a) .....
  - (b) section 1086(2) (chargeable payments connected with exempt distributions), and
  - (c) any other enactment specified in an order made by the Treasury.
- (3) Subsection (1) does not apply in respect of any income that is, or gains that are, apart from this section, exempt from corporation tax chargeable under or by virtue of any provision to which section 1173 applies.



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- (4) Condition A is that the income is, or the gains are, for an accounting period in relation to which the condition specified in section 482 (condition as to trading and miscellaneous incoming resources) is met.
- (5) Condition B is that the income is, or the gains are, applied to the purposes of the charitable company only.
- (6) The exemption under subsection (1) requires a claim.

#### Textual Amendments

**F10** S. 481(2)(a) omitted (with effect in accordance with s. 81 of the amending Act and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 39(1)(2)) by virtue of [Finance Act 2016 \(c. 24\)](#), s. [77\(3\)](#)

#### Modifications etc. (not altering text)

**C1** Ss. 481, 482 modified (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 16 para. 6\(6\)](#)

## 482 Condition as to trading and miscellaneous incoming resources

- (1) The condition in this section is met in relation to an accounting period if—
  - (a) the sum of the charitable company's trading incoming resources and miscellaneous incoming resources for the accounting period does not exceed the requisite limit for the period, or
  - (b) the charitable company had, at the beginning of the period, a reasonable expectation that it would not do so.
- (2) The charitable company's “trading incoming resources” for the accounting period are—
  - (a) the incoming resources which are required to be taken into account in calculating the profits of, or losses made in, the period for any non-exempt trade carried on by the company, and
  - (b) the incoming resources which are post-cessation receipts arising from such a trade.“Post-cessation receipt” has the meaning given by section 480(7).
- (3) For the purposes of subsection (2) a trade is a “non-exempt trade” if any profits of the trade would not, apart from section 480, be exempt from corporation tax chargeable under Part 3 of CTA 2009.
- (4) The charitable company's “miscellaneous incoming resources” for the accounting period are the incoming resources which are required to be taken into account in calculating non-exempt miscellaneous income or non-exempt miscellaneous losses for the period.
- (5) In subsection (4)—

“non-exempt miscellaneous income” means income or gains chargeable to corporation tax under or by virtue of any provision to which section 1173 applies that is not, or are not, apart from section 480 or 481, exempt from corporation tax chargeable under or by virtue of that provision, and

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“non-exempt miscellaneous losses” means losses arising from a transaction which is of such a nature that if income or gains had arisen from it the income would have been non-exempt miscellaneous income.

- (6) The requisite limit—
- (a) is 25% of the charitable company's total incoming resources for the accounting period, but
  - (b) must not be less than [<sup>F11</sup>£8,000 ]or more than [<sup>F12</sup>£80,000.]
- (7) If the accounting period is shorter than 12 months, the amounts of [<sup>F13</sup>£8,000 ]and [<sup>F14</sup>£80,000 ]mentioned in subsection (6)(b) are proportionately reduced.

#### Textual Amendments

- F11** S. 482(6)(b) sum substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 41\(4\)\(a\)](#)
- F12** S. 482(6)(b) sum substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 41\(4\)\(b\)](#)
- F13** S. 482(7) sum substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 41\(5\)\(a\)](#)
- F14** S. 482(7) sum substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 41\(5\)\(b\)](#)

#### Modifications etc. (not altering text)

- C1** Ss. 481, 482 modified (22.7.2020) by [Finance Act 2020 \(c. 14\), Sch. 16 para. 6\(6\)](#)

### 483 Exemption for profits from fund-raising events

- (1) The profits of a trade carried on by a charitable company are not taken into account in calculating total profits so far as they—
  - (a) arise from an event that is VAT-exempt in relation to the company, and
  - (b) are applied to charitable purposes or transferred to a charity.
- (2) The profits of a trade carried on by a body to which subsection (3) applies are not taken into account in calculating total profits so far as they—
  - (a) arise from an event that is VAT-exempt in relation to the body, and
  - (b) are applied to charitable purposes or transferred to a charity.
- (3) This subsection applies to any voluntary organisation that is a qualifying body for the purposes of Group 12 of Schedule 9 to the Value Added Tax Act 1994 (fund-raising events by charities and other qualifying bodies).
- (4) The exemptions under this section require a claim.
- (5) For the purposes of this section an event is VAT-exempt in relation to a person if the supply of goods and services by that person in connection with the event would be exempt from value added tax under Group 12 of Schedule 9 to the Value Added Tax Act 1994.

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#### **484 Exemption for profits from lotteries**

- (1) The profits accruing to a charitable company from a lottery are not taken into account in calculating total profits if conditions A and B are met.
- (2) Condition A is that—
  - (a) the lottery is an exempt lottery within the meaning of the Gambling Act 2005 by virtue of Part 1 or 4 of Schedule 11 to that Act,
  - (b) the lottery is promoted in accordance with a lottery operating licence within the meaning of Part 5 of the Gambling Act 2005, or
  - (c) the lottery is promoted and conducted in accordance with Article 133 or 135 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)).
- (3) Condition B is that the profits are applied to the purposes of the charitable company only.
- (4) The exemption under subsection (1) requires a claim.

#### **485 Exemption for property income etc**

- (1) Income which is chargeable to corporation tax under Part 3 of CTA 2009 (trading income) as a result of section 287 of that Act is not taken into account in calculating total profits so far as—
  - (a) it arises in respect of rents or other receipts from an estate, interest or right in or over land, and
  - (b) the estate, interest or right is vested in any person for charitable purposes.
- (2) Income which is chargeable to corporation tax under Part 4 of CTA 2009 (property income) is not taken into account in calculating total profits so far as—
  - (a) it arises in respect of an estate, interest or right in or over land, and
  - (b) the estate, interest or right is vested in any person for charitable purposes.
- (3) Distributions to which section 548 (Real Estate Investment Trusts: distributions) applies and which are chargeable to corporation tax under Part 4 of CTA 2009 are not taken into account in calculating total profits so far as they arise in respect of shares vested in any person for charitable purposes.
- (4) Subsections (1) to (3) apply so far as the income is applied to charitable purposes only.
- (5) The exemptions under this section require a claim.

#### **486 Exemption for investment income and non-trading profits from loan relationships**

- (1) The income mentioned in subsection (2) is not taken into account in calculating total profits if—
  - (a) it is income of a charitable company, or
  - (b) it is required, under an Act (including an Act of the Scottish Parliament), court judgment, charter, trust deed or will, to be applied to charitable purposes only.
- (2) The income referred to in subsection (1) is—
  - (a) profits which are charged to tax under section 299 of CTA 2009 (non-trading profits from loan relationships),

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- (b) a dividend or other distribution of a company, and
  - (c) income treated for the purposes of [<sup>F15</sup>regulation 15 of the Unauthorised Unit Trusts (Tax) Regulations 2013 as received by a unit holder from an exempt unauthorised unit trust.]
- (3) Subsection (1) applies, in relation to the income mentioned in subsection (2)(b), only so far as the income falls within, and is dealt with under, Part 9A of CTA 2009 (see section 931W of that Act as to provisions given priority over Part 9A).
- (4) Subsection (1) applies, in relation to the income mentioned in subsection (2)(c), only so far as the income falls within, and is dealt with under, [<sup>F16</sup>regulation 15 of the Unauthorised Unit Trusts (Tax) Regulations 2013 (see regulation 17 of those regulations as to provisions given priority over that regulation).]
- (5) Subsection (1) applies so far as the income is applied to charitable purposes only.
- (6) The exemption under subsection (1) requires a claim.

#### Textual Amendments

- F15** Words in s. 486(2)(c) substituted (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **39(3)(a)** (with reg. 32)
- F16** Words in s. 486(4) substituted (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **39(3)(b)** (with reg. 32)

#### 487 Exemption for public revenue dividends

- (1) Public revenue dividends on securities which are in the name of trustees are not taken into account in calculating total profits so far as the dividends are applicable and applied only for the repair of—
- (a) a cathedral, college, church or chapel, or
  - (b) a building used only for the purposes of divine worship.
- (2) In this section “public revenue dividends” means—
- (a) income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland, or
  - (b) income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom.
- (3) The exemption under subsection (1) requires a claim.

#### 488 Exemption for certain miscellaneous income

- (1) The income mentioned in subsection (3) is not taken into account in calculating total profits if—
- (a) it is income of a charitable company, or
  - (b) it is required, under an Act (including an Act of the Scottish Parliament), court judgment, charter, trust deed or will, to be applied to charitable purposes only.
- (2) Subsection (1) applies so far as the income is applied to charitable purposes only.
- (3) The income referred to in subsection (1) is—
- (a) non-trading gains on intangible fixed assets,

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- (b) annual payments charged to tax under Chapter 7 of Part 10 of CTA 2009, and
  - (c) qualifying income from intangible fixed assets.
- (4) The exemption under subsection (1) requires a claim.
- (5) In this section—
- “intangible fixed asset” has the same meaning as in Part 8 of CTA 2009 (see section 713 of that Act),
  - “non-trading credit” has the meaning given by section 301 of CTA 2009,
  - “non-trading gain” has the meaning given by section 751 of CTA 2009,
  - “pre-FA 2002 asset” has the meaning given by sections 881 and 892 to 895 of CTA 2009, and
  - “qualifying income from intangible fixed assets” means income which—
    - (a) is in respect of intangible fixed assets which are pre-FA 2002 assets,
    - (b) is of a kind which, if the intangible fixed assets were not pre-FA 2002 assets, would fall to be brought into account under Chapter 6 of Part 8 of CTA 2009 as non-trading credits, and
    - (c) does not fall within subsection (3)(a) or (b).

#### **489 Exemption for income from estates in administration**

- (1) If a charitable company is liable for any corporation tax charged under section 934 of CTA 2009 (charge to tax on estate income), the estate income is not taken into account in calculating total profits.
- (2) Subsection (1) applies so far as the estate income is applied to the purposes of the charitable company only.
- (3) The exemption under subsection (1) requires a claim.
- (4) In this section “estate income” has the same meaning as in Chapter 3 of Part 10 of CTA 2009 (see section 934 of that Act).

#### *Application of exemptions to certain bodies*

#### **490 Eligible bodies**

- (1) The provisions mentioned in subsection (3) apply in relation to an eligible body as they apply in relation to a charitable company.
- (2) But in relation to an eligible body those provisions have effect as if the whole income of the body were applied to charitable purposes.
- (3) The provisions referred to in subsection (1) are—
  - (a) sections 478 and 479 (profits of charitable trades),
  - (b) section 483 (profits from fund-raising events),
  - (c) section 484 (profits from lotteries),
  - (d) section 485 (property income etc),
  - (e) section 486 (investment income etc),
  - (f) section 488 (certain miscellaneous income), and
  - (g) section 489 (income from estates in administration).

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## 491 Scientific research associations

- (1) The provisions mentioned in subsection (3) (which confer exemptions) apply in relation to a body which qualifies as a scientific research association for the relevant accounting period as they apply in relation to a charitable company.
- (2) But in relation to such a body those provisions have effect as if the whole income of the body were applied to charitable purposes.
- (3) The provisions referred to in subsection (1) are—
  - (a) sections 478 and 479 (profits of charitable trades),
  - (b) section 483 (profits from fund-raising events),
  - (c) section 484 (profits from lotteries),
  - (d) section 485 (property income etc),
  - (e) section 486 (investment income etc),
  - (f) section 488 (certain miscellaneous income), and
  - (g) section 489 (income from estates in administration).
- (4) In subsection (1) “the relevant accounting period” means the accounting period for which the exemption in question is to be claimed.

### *[<sup>F17</sup>Claims*

#### Textual Amendments

**F17** S. 491A and cross-heading inserted (retrospective to 8.4.2010) by [Finance Act 2012 \(c. 14\)](#), [Sch. 15](#) paras. 4, 17(1)

## 491A Claims in relation to certain reliefs

- (1) Subsections (2) to (5) of section 477A (claims in relation to gift aid relief) apply to—
  - (a) claims for amounts to be exempt from tax by virtue of a provision listed in subsection (2), and
  - (b) claims for repayment of income tax deducted at source from income which is exempt from tax by virtue of such a provision,
 as they apply to claims to which that section applies.
- (2) The provisions are—
  - (a) section 486 (investment income and non-trading profits from loan relationships),
  - (b) section 487 (public revenue dividends),
  - (c) section 488 (certain miscellaneous income), and
  - (d) section 489 (income from estates in administration).]

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## CHAPTER 4

### RESTRICTIONS ON EXEMPTIONS

#### *Restrictions on exemptions*

#### **492 Restrictions on exemptions**

- (1) This section applies if a charitable company has a non-exempt amount for an accounting period (see section 493).
- (2) The exemptions mentioned in subsection (3) do not apply, and are treated as never having applied, to so much of any income of the charitable company for the accounting period as is attributed under section 494 to the non-exempt amount.
- (3) Those exemptions are—
  - (a) the exemptions under this Part, and
  - (b) the exemption under regulation 31(1) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (exemption from corporation tax in respect of certain offshore income gains).
- (4) Section 256(4) of TCGA 1992 contains corresponding restrictions which apply in relation to section 256(1) of that Act (gains accruing to charities not to be chargeable gains).

#### **493 The non-exempt amount**

- (1) A charitable company has a non-exempt amount for an accounting period if it has—
  - (a) non-charitable expenditure for the period (amount A), and
  - (b) attributable income and gains for the period (amount B).
- (2) The non-exempt amount for the accounting period is—
  - (a) amount A, or
  - (b) if less, amount B.
- (3) For the purposes of this Part—
  - (a) a charitable company's "attributable income" for an accounting period is the charitable company's income for the period that is exempt from corporation tax as a result of any of the exemptions mentioned in section 492(3),
  - (b) a charitable company's "attributable gains" for an accounting period are any gains accruing to the charitable company in the period that as a result of section 256(1) of TCGA 1992 are not chargeable gains, and
  - (c) a charitable company's "attributable income and gains" for an accounting period is the sum of its attributable income for the period and its attributable gains for the period.
- (4) In applying subsection (3)(a) ignore any restrictions on the exemptions under this Part which result from section 492(2).
- (5) In applying subsection (3)(b) ignore any restriction on the exemption under section 256(1) of TCGA 1992 which results from section 256(4) of that Act.

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#### **494 Attributing income to the non-exempt amount**

- (1) This section applies if a charitable company has a non-exempt amount for an accounting period.
- (2) Attributable income of the charitable company for the accounting period may be attributed to the non-exempt amount but only so far as the non-exempt amount has not been used up.
- (3) The non-exempt amount can be used up (in whole or in part) by—
  - (a) attributable income being attributed to it under this section, or
  - (b) attributable gains being attributed to it under section 256C of TCGA 1992.
- (4) The whole of the non-exempt amount must be used up by—
  - (a) attributable income being attributed to the whole of it under this section,
  - (b) attributable gains being attributed to the whole of it under section 256C of TCGA 1992, or
  - (c) a combination of attributable income being attributed to some of it under this section and attributable gains being attributed to the rest of it under section 256C of TCGA 1992.

#### **495 How income is attributed to the non-exempt amount**

- (1) This section is about the ways in which attributable income can be attributed to a non-exempt amount under section 494.
- (2) The charitable company may specify the attributable income that is to be attributed to the non-exempt amount.
- (3) A specification under subsection (2) is made by notice to an officer of Revenue and Customs.
- (4) Subsection (6) applies if—
  - (a) an officer of Revenue and Customs requires a charitable company to make a specification under this section, and
  - (b) the charitable company has not given notice under subsection (3) of the specification before the end of the required period.
- (5) The required period is 30 days beginning with the day on which the officer made the requirement.
- (6) An officer of Revenue and Customs may determine the attributable income that is to be attributed to the non-exempt amount.

#### *Non-charitable expenditure*

#### **496 Meaning of “non-charitable expenditure”**

- (1) For the purposes of this Part a charitable company's non-charitable expenditure for an accounting period is—
  - (a) any loss made in the accounting period in a trade carried on by the charitable company unless—
    - (i) the trade is a charitable trade, or



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- (ii) the trade is not a charitable trade but profits of the trade arising in the period would be exempt from corporation tax as a result of one of the exemptions in section 480, 483 or 484,
- (b) any loss made in the accounting period in a trade, or in a UK property business or an overseas property business, carried on by the charitable company, if—
  - (i) the loss relates to land, and
  - (ii) profits of the trade, or income of the business, generated from the land in the period would not be exempt from corporation tax as a result of the exemptions in section 485,
- (c) any loss made in the accounting period in a miscellaneous transaction entered into by the charitable company otherwise than in the course of carrying out a charitable purpose,
- (d) any expenditure incurred by the charitable company in the accounting period which is not incurred for charitable purposes only and is not required to be taken into account in calculating—
  - (i) the profits of, or losses made in, any trade, UK property business or overseas property business carried on by the charitable company, or
  - (ii) the profit or loss made in any miscellaneous transaction entered into by the charitable company,
- <sup>F18</sup>(e) .....
- <sup>F18</sup>(f) .....
- (g) the amount of any of the charitable company's funds that is invested in the accounting period in an investment which is not an approved charitable investment (see section 511), and
- (h) any amount lent in the accounting period by the charitable company, if the loan is neither an investment nor an approved charitable loan (see section 514).

But anything which falls within more than one of the above paragraphs counts as non-charitable expenditure only once.

- (2) An amount may also be non-charitable expenditure for an accounting period as a result of section 515 (excess expenditure treated as non-charitable expenditure of earlier periods).
- (3) This section needs to be read with—
  - section 479 (meaning of “charitable trade”),
  - sections 497 to 501 (supplementary provision in relation to this section, in particular in relation to subsection (1)(d), (g) and (h)),
  - sections 502 to 510 (transactions with substantial donors),
  - section 511 (approved charitable investments), and
  - section 514 (approved charitable loans).

#### Textual Amendments

**F18** S. 496(1)(e)(f) omitted (with effect in accordance with Sch. 3 para. 27 of the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 3 para. 22

### 497 Section 496: supplementary

- (1) This section applies for the purposes of section 496.

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- (2) A transaction is a miscellaneous transaction if it is of such a nature that, if income or gains had arisen from it (ignoring section 481 (exemption from charges under provisions to which section 1173 applies)), it would have been charged to corporation tax under or by virtue of any provision to which section 1173 applies.
- (3) For rules about the calculation of losses, see—
  - (a) section 47 of CTA 2009 (losses of a trade calculated on same basis as profits),
  - (b) section 210 of that Act (which applies section 47 of that Act, so that losses of a UK property business or overseas property business are calculated on the same basis as profits), and
  - (c) section 1306 of that Act (losses from miscellaneous transactions calculated on same basis as miscellaneous income).

#### **498 Section 496(1)(d): meaning of expenditure**

- (1) For the purposes of section 496(1)(d) “expenditure” includes expenditure of a capital nature.
- (2) None of the following is “expenditure” for those purposes—
  - (a) the investment of any of the charitable company's funds,
  - (b) the making of a loan by the charitable company, or
  - (c) the repayment by the charitable company of the whole or a part of a loan made to it.

#### **499 Section 496(1)(d): accounting period in which certain expenditure treated as incurred**

- (1) This section applies for the purposes of section 496(1)(d).
- (2) Subsection (3) applies to expenditure which is referable to commitments (whether or not of a contractual nature) that the charitable company has entered into before or during an accounting period.
- (3) The expenditure is treated as incurred in the accounting period if, had the charitable company been required to draw up accounts that met the requirements mentioned in subsection (4), the expenditure would have been required to be taken into account in preparing those accounts.
- (4) The requirements referred to in subsection (3) are—
  - (a) that the accounts are drawn up for the accounting period, and
  - (b) that UK generally accepted accounting practice applies with respect to them.

#### **500 Section 496(1)(d): payment to body outside the UK**

A payment made, or to be made, to a body situated outside the United Kingdom is non-charitable expenditure under section 496(1)(d) if—

- (a) it is incurred for charitable purposes only, but
- (b) the charitable company has not taken such steps as [<sup>F19</sup>the Commissioners for Her Majesty's Revenue and Customs consider] are reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

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#### Textual Amendments

- F19** Words in s. 500(b) inserted (with effect in accordance with Sch. 8 para. 8(3)(4) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 2\(2\)](#)

### 501 Section 496(1)(g) and (h): investments and loans

- (1) Subsection (2) applies if in an accounting period a charitable company—
- (a) realises the whole or part of an investment which was made in the period and is not an approved charitable investment (see section 511), or
  - (b) is repaid the whole or part of a loan which was made in the period and is neither an investment nor an approved charitable loan (see section 514).
- (2) Any further investment or lending in the accounting period of the sum realised or repaid, so far as it does not exceed the sum originally invested or lent, is not non-charitable expenditure as a result of section 496(1)(g) or (h).

#### *Substantial donor transactions*

### <sup>F20</sup>502 Transactions with substantial donors

#### Textual Amendments

- F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### <sup>F20</sup>503 Meaning of “relievable gift”

#### Textual Amendments

- F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### <sup>F20</sup>504 Non-charitable expenditure in substantial donor transactions

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#### Textual Amendments

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### **<sup>F20</sup>505 Adjustment if section 504(1) and (2) applied to single transaction**

.....

#### Textual Amendments

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### **<sup>F20</sup>506 Section 504: certain payments and benefits to be ignored**

.....

#### Textual Amendments

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### **<sup>F20</sup>507 Transactions: exceptions**

.....

#### Textual Amendments

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 9](#))

### **<sup>F20</sup>508 Donors: exceptions**

.....

#### Textual Amendments

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 23](#) (with [Sch. 3 para. 30](#)) (as modified (S.) (1.4.2012) by [The Housing](#)

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(Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2012 (S.I. 2012/700), art. 1(3), **Sch. para. 9**

## **F20 509 Connected charities**

.....

### **Textual Amendments**

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 23** (with Sch. 3 para. 30) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 9**)

## **F20 510 Substantial donor transactions: supplementary**

.....

### **Textual Amendments**

**F20** Ss. 502-510 repealed (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 23** (with Sch. 3 para. 30) (as modified (S.) (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 9**)

### *Approved charitable investments and loans*

## **511 Approved charitable investments**

An investment is an approved charitable investment for the purposes of section 496 (meaning of “non-charitable expenditure”) if it is an investment of any of the following types.

### *Type 1*

An investment to which section 512 applies.

### *Type 2*

An investment in a common investment fund established under—

- (a) section 22 of the Charities Act 1960,
- (b) section 24 of the Charities Act 1993,
- (bb) [<sup>F21</sup>section 96 of the Charities Act 2011, or]
- (c) section 25 of the Charities Act (Northern Ireland) 1964.

### *Type 3*

An investment in a common deposit fund established under—

- (a) section 22A of the Charities Act 1960, <sup>F22</sup>...
- (b) section 25 of the Charities Act 1993. [<sup>F23</sup>or
- (c) section 100 of the Charities Act 2011.]

### *Type 4*

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An investment in a fund which—

- (a) is similar to a fund mentioned in relation to Type 2 or 3, and
- (b) is established for the exclusive benefit of charities by or under a provision relating to any particular charities or class of charities contained in an Act (including an Act of the Scottish Parliament).

*Type 5*

An interest in land, other than an interest held as security for a debt.

*Type 6*

Any of the following issued by Her Majesty's Government in the United Kingdom—

- (a) bills,
- (b) Certificates of Tax Deposit,
- (c) Savings Certificates, and
- (d) Tax Reserve Certificates.

*Type 7*

Northern Ireland Treasury Bills.

*Type 8*

Units in a unit trust scheme (as defined in section 237(1) of FISMA 2000) or in a recognised scheme (as defined in section 237(3) of FISMA 2000).“Units” is defined in section 237(2) of FISMA 2000.

*Type 9*

A deposit with a bank (as defined in section 1120)—

- (a) in respect of which interest is payable at a commercial rate, and
- (b) which is not made as part of an arrangement under which a loan is made by the bank to some other person.

*Type 10*

A deposit with—

- (a) the National Savings Bank,
- (b) a building society, or
- (c) a credit institution which operates on mutual principles and which is authorised by an appropriate governmental body in the territory in which the deposit is taken.

*Type 11*

Certificates of deposit (including uncertificated eligible debt security units as defined in section 986(3) of ITA 2007).

*Type 12*

A loan or other investment as to which an officer of Revenue and Customs is satisfied, on a claim, that it is made for the benefit of the charitable company and not for the avoidance of tax (whether by the company or any other person).

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#### Textual Amendments

- F21** Words in s. 511 substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 142\(2\)](#) (with s. 20(2), Sch. 8)
- F22** Word in s. 511 repealed (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 142\(3\), Sch. 10](#) (with s. 20(2), Sch. 8)
- F23** Words in s. 511 inserted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 142\(3\)](#) (with s. 20(2), Sch. 8)

## 512 Securities which are approved charitable investments

- (1) The investments to which this section applies are investments in securities—
- issued or guaranteed by [<sup>F24</sup>Her Majesty’s Government in the United Kingdom or by] the government of a member State of the European Union,
  - issued or guaranteed by the government or a governmental body of any territory or part of a territory,
  - issued by an international entity listed in the Annex to Council Directive [2003/48/EC](#) (directive on taxation of interest payments),
  - issued by an entity meeting the four criteria set out at the end of that Annex,
  - issued by a building society,
  - issued by a credit institution which operates on mutual principles and which is authorised by an appropriate governmental body in the territory in which the securities are issued,
  - issued by an open-ended investment company,
  - issued by a company and listed on a recognised stock exchange, or
  - issued by a company but not listed on a recognised stock exchange.
- (2) Subsection (1) is subject to section 513.
- (3) In this section and in section 513—
- “debentures” includes—
- debenture stock and bonds (whether constituting a charge on assets or not), and
  - loan stock or notes,
- “open-ended investment company” is to be read in accordance with sections 613 and 615,
- “securities” includes shares and debentures, and
- “shares” includes stocks.

#### Textual Amendments

- F24** Words in s. 512(1)(a) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 17\(7\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

## 513 Conditions to be met for some securities

- (1) Section 512 does not apply to an investment by virtue of subsection (1)(b), (c) or (d) of that section unless—

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- (a) condition A is met in relation to the securities, and
- (b) if the securities are shares or debenture stock, condition B is met in relation to the securities.

But see subsection (3) of this section.

- (2) In the case of an investment in securities issued by a company which is incorporated, section 512 does not apply to the investment by virtue of subsection (1)(i) of that section unless—
- (a) condition A is met in relation to the securities,
  - (b) if the securities are shares or debenture stock, condition B is met in relation to the securities, and
  - (c) condition C is met in relation to the company.

But see subsection (3) of this section.

- (3) Conditions A and B need not be met if the securities are traded or quoted on a money market supervised by the government or a governmental body of any territory or part of a territory.

- (4) Condition A is that the securities are traded or quoted on—
- (a) a recognised investment exchange (as defined in section 285(1) of FISMA 2000), or
  - (b) an investment exchange which constitutes the principal or only market established in a territory on which securities admitted to official listing are dealt in or traded.

- (5) Condition B is that—
- (a) the securities are fully paid up,
  - (b) the terms of the issue of the securities require them to be fully paid up within the period of 9 months beginning with the day after the day on which they are issued, or
  - (c) the securities are shares issued with no nominal value.

- (6) Condition C is that—
- (a) throughout the last business day before the investment day, the company has total issued and paid up share capital of at least £1,000,000 (or the equivalent of £1,000,000 in some other currency), and
  - (b) in each of the 5 years immediately before the calendar year in which the investment day falls, the company paid a dividend on all the shares issued by the company (excluding any shares issued after the dividend was declared and any shares which by their terms of issue did not rank for dividend for that year).

- (7) For the purposes of the words in brackets in subsection (6)(a) use the exchange rate prevailing in the United Kingdom at the close of business on the last business day before the investment day.

- (8) For the purposes of subsection (6)(b) a company formed—
- (a) to take over the business of another company or other companies, or
  - (b) to acquire the securities of, or control of, another company or other companies,
- is treated as having paid a dividend in any year in which a dividend has been paid by the other company or all of the other companies (as the case may be).



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*Status: Point in time view as at 24/02/2022.*

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- (9) It is irrelevant that the company is formed for other purposes in addition to those mentioned in paragraph (a) or (b) of subsection (8).
- (10) In this section—
- “business day” means, in relation to an investment, a business day in the place where the investment is made, and
  - “the investment day” means, in relation to an investment, the day on which the investment is made.

#### **514 Approved charitable loans**

- (1) A loan is an approved charitable loan for the purposes of section 496 (meaning of “non-charitable expenditure”) if it meets conditions A and B.
- (2) Condition A is that the loan is not made by way of investment.
- (3) Condition B is that either—
- (a) the loan is made to another charity for charitable purposes only,
  - (b) it is made to a beneficiary of the charitable company in the course of carrying out the purposes of the charitable company,
  - (c) it consists of money placed on current account with a bank otherwise than as part of an arrangement under which a loan is made by a bank to some other person, or
  - (d) an officer of Revenue and Customs is satisfied, on a claim, that the loan is made for the benefit of the charitable company and not for the avoidance of tax (whether by the charitable company or by some other person).
- (4) In this section “bank” has the meaning given by section 1120.

*Carry back of excess non-charitable expenditure*

#### **515 Excess expenditure treated as non-charitable expenditure of earlier periods**

- (1) This section applies if a charitable company's non-charitable expenditure for an accounting period exceeds its available income and gains for the period.
- (2) The excess is the charitable company's “excess expenditure” for the accounting period.
- (3) The charitable company's excess expenditure for the accounting period is treated for the purposes of this Part as non-charitable expenditure for earlier accounting periods so far as it can be attributed to earlier accounting periods under section 516.
- (4) For the purposes of this Part a charitable company's “available income and gains” for an accounting period is the sum of—
- (a) the amount in respect of which the charitable company is chargeable for the period under the charge to corporation tax on income after giving effect to any exemption under this Part,
  - (b) any chargeable gains accruing to the charitable company in the period,
  - (c) the charitable company's attributable income and gains for the period (see section 493), and
  - (d) any non-taxable sums received by the charitable company in the period.

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- (5) In subsection (4) “non-taxable sums” means donations, legacies and other sums of a similar nature which, ignoring exemptions from corporation tax under this Part and under section 256 of TCGA 1992, are not liable to corporation tax.
- (6) Any restrictions on the exemptions under this Part which result from sections 492(2) and 494 are to be ignored in calculating the amount mentioned in subsection (4)(a).
- (7) Any restriction on the exemption under section 256(1) of TCGA 1992 which results from section 256(4) of that Act is to be ignored in calculating the amount of any chargeable gains to be taken into account in accordance with subsection (4)(b).

## **516 Rules for attributing excess expenditure to earlier periods**

- (1) The rules in this section apply for attributing a charitable company's excess expenditure for an accounting period to earlier accounting periods under section 515.
- (2) The excess expenditure for an accounting period may be attributed to an earlier accounting period if—
  - (a) the earlier period ends not more than 6 years before the end of the period in question, and
  - (b) the charitable company's available income and gains for the earlier period exceed its non-charitable expenditure for the earlier period.
- (3) If the conditions in subsection (2) are met in the case of more than one earlier accounting period, the excess expenditure is to be attributed to a later accounting period in priority to an earlier accounting period.
- (4) The amount of excess expenditure that is to be attributed to an earlier accounting period must not be greater than the amount by which the charitable company's available income and gains for the earlier period exceed its non-charitable expenditure for the earlier period.
- (5) For the purposes of subsections (2)(b) and (4) the charitable company's non-charitable expenditure for the earlier accounting period includes any excess expenditure attributed to the earlier period as a result of a previous operation of this section, but ignores the attribution in question.

## **517 Adjustments in consequence of section 515**

Such adjustments must be made (whether by way of the making of assessments or otherwise) as may be required in consequence of section 515.

**Status:**

Point in time view as at 24/02/2022.

**Changes to legislation:**

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