



# Scotland Act 2012

## 2012 CHAPTER 11

### PART 3 **U.K.**

#### FINANCE

##### *Scottish rate of income tax*

#### 25 **Scottish rate of income tax** **U.K.**

- (1) The 1998 Act is amended as follows.
- (2) Part 4 (power to vary income tax rate) is omitted.
- (3) In Part 4A (as inserted by section 23), after Chapter 1 insert—

#### “CHAPTER 2 **U.K.**

##### INCOME TAX

#### 80C **Power to set Scottish rate for Scottish taxpayers**

- (1) The Scottish Parliament may by resolution (a “Scottish rate resolution”) set the Scottish rate for the purpose of calculating the rates of income tax to be paid by Scottish taxpayers.
- (2) Section 6(2B) of the Income Tax Act 2007 provides for the calculation of those rates.
- (3) A Scottish rate resolution applies—
  - (a) for only one tax year, and
  - (b) for the whole of that year.
- (4) A Scottish rate resolution may specify only one rate.

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*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Cross Heading: Scottish rate of income tax. (See end of Document for details)*

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- (5) The Scottish rate must be a whole number or half a whole number.
- (6) A Scottish rate resolution—
  - (a) must specify the tax year for which it applies,
  - (b) must be made before the start of that tax year, and
  - (c) must not be made more than 12 months before the start of that year.
- (7) If a Scottish rate resolution is cancelled before the start of the tax year for which it is to apply—
  - (a) the Income Tax Acts have effect for that year as if the resolution had never been passed, and
  - (b) the resolution may be replaced by another Scottish rate resolution.
- (8) Standing orders must provide that only a member of the Scottish Government may move a motion for a Scottish rate resolution.

#### 80D **Scottish taxpayers**

- (1) In any tax year, a Scottish taxpayer is an individual (T)—
  - (a) who is resident in the UK for income tax purposes, and
  - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Scotland (see section 80E).
- (3) T meets condition B if—
  - (a) T does not have a close connection with any part of the UK other than Scotland (see section 80E), and
  - (b) T spends more days of that year in Scotland than in any other part of the UK (see section 80F).
- (4) T meets condition C if, for the whole or any part of the year, T is—
  - (a) a member of Parliament for a constituency in Scotland,
  - (b) a member of the European Parliament for Scotland, or
  - (c) a member of the Scottish Parliament.
- (5) In this Chapter “the UK” means the United Kingdom.

#### 80E **Close connection with Scotland or another part of the UK**

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
  - (a) subsection (2) (where T has only one place of residence in the UK), or
  - (b) subsection (3) (where T has 2 or more places of residence in the UK).
- (2) T has a close connection with a part of the UK if in that year—
  - (a) T has only one place of residence in the UK,
  - (b) that place of residence is in that part of the UK, and
  - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
  - (a) T has 2 or more places of residence in the UK,

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- (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
  - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) at least as much of the year as the times when T's main place of residence is in any one other part of the UK, and
  - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- (4) In this section “place” includes a place on board a vessel or other means of transport.

#### **80F Days spent in Scotland or another part of the UK**

- (1) T spends more days of a year in Scotland than in any other part of the UK if (and only if)—
- (a) the number of days in the year on which T is in Scotland at the end of the day  
equals or exceeds
  - (b) the number of days in the year on which T is in any other part of the UK at the end of the day.
- (2) But T is not to be treated as being in the UK at the end of a day if—
- (a) on that day T arrives in the UK as a passenger,
  - (b) T departs from the UK on the next day, and
  - (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

#### **80G Supplemental powers to modify enactments**

- (1) The Treasury may by order provide that subsections (2A) to (2C) of section 6 of the Income Tax Act 2007 are to be disapplied, or that their effect is to be modified, in relation to any enactment.
- (2) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection with—
- (a) the power of the Parliament to set a rate under section 80C;
  - (b) the making of a Scottish rate resolution;
  - (c) an order under subsection (1).
- (3) An order under subsection (2) may, in particular, provide that a Scottish rate resolution does not require any change in the amounts repayable or deductible under PAYE regulations between—
- (a) the beginning of the tax year for which the resolution has effect, and
  - (b) such date (falling after the date of the resolution) as may be specified in the order.
- (4) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.

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## 80H Reimbursement of expenses

The Scottish Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Scotland Act 2012 by the Minister or department.”

- (4) The repeal by subsection (2) of Part 4 of the 1998 Act has effect so that a tax-varying resolution may not be passed so as to relate to any tax year following such tax year as is appointed by the Treasury by order under this subsection (as the last year for which that Part is to have effect).
- (5) A Scottish rate resolution made under the provisions inserted by subsection (3) may not apply for a tax year preceding such tax year as is appointed by the Treasury by order under this subsection (as the first year for which those provisions are to have effect).
- (6) The tax year appointed under subsection (4) must precede the tax year appointed under subsection (5).
- (7) Schedule 2 (which contains other amendments relating to the power to set a Scottish rate of income tax) has effect.

### Commencement Information

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| <b>I1</b> | S. 25(1)-(6) in force at 1.7.2012, see s. 44(2)(b)(3)(a)(4)(a).  |
| <b>I2</b> | S. 25(2)(4) has effect (as regards the appointed tax year) as specified by <a href="#">The Scotland Act 2012, Section 25 (Appointed Years) Order 2015 (S.I. 2015/2000)</a> , <b>art. 2</b> |
| <b>I3</b> | S. 25(3)(5) has effect (as regards the appointed tax year) as specified by <a href="#">The Scotland Act 2012, Section 25 (Appointed Years) Order 2015 (S.I. 2015/2000)</a> , <b>art. 3</b> |

## <sup>F1</sup>26 Income tax for Scottish taxpayers **U.K.**

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### Textual Amendments

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| <b>F1</b> | S. 26 omitted (17.7.2014) by virtue of <a href="#">Finance Act 2014 (c. 26)</a> , <b>Sch. 38 para. 17(a)</b> |
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## 27 Definition of Scottish taxpayer for Scottish variable rate **U.K.**

- (1) In Part 4 of the 1998 Act (power to vary income tax rate), for subsections (1) to (6) of section 75 (Scottish taxpayers) substitute—
 

“Sections 80D to 80F (definition of Scottish taxpayer) apply for the purposes of this Part.”
- (2) This section ceases to have effect at the end of the last year for which Part 4 has effect (see section 25(2) and (4)).

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 2012, Cross Heading:  
Scottish rate of income tax.