



Finance Act 2012

2012 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 5

MISCELLANEOUS

Enterprise incentives

38 Seed enterprise investment scheme

Schedule 6 contains provision for and in connection with the seed enterprise investment scheme (including provision for re-investment relief under TCGA 1992).

39 Enterprise investment scheme

Schedule 7 contains provision about the enterprise investment scheme (including provision about deferral relief under Schedule 5B to TCGA 1992).

40 Venture capital trusts

Schedule 8 contains provision about venture capital trusts.

Capital allowances

41 Plant and machinery: restricting exception for manufacturers and suppliers

- (1) In section 230 of CAA 2001 (exception for manufacturers and suppliers), in subsection (1), for “restrictions in sections 217 and 218 do” substitute “restriction in section 218 does”.

Status: This is the original version (as it was originally enacted).

- (2) The amendment made by subsection (1) has effect in relation to expenditure of B's that is incurred on or after 12 August 2011 (regardless of when the relevant transaction was entered into).
- (3) But, in relation to any such expenditure that is incurred before the next amendment date, the restriction in section 217 of CAA 2001 does not apply (despite subsection (1)) if B can show that the condition in subsection (4) is met.
- (4) The condition is that, had the amendments made by paragraphs 1 to 7 of Schedule 9 had effect in relation to the expenditure, the restriction in section 217 would not have applied.
- (5) "The next amendment date" means the date defined in paragraph 9 of Schedule 9 as the start date.

42 Plant and machinery allowances: anti-avoidance

Schedule 9 contains provision to counter abuse of Part 2 of CAA 2001.

43 Plant and machinery allowances: fixtures

Schedule 10 contains provision about plant and machinery allowances in respect of fixtures.

44 Expenditure on plant and machinery for use in designated assisted areas

Schedule 11 contains provision about first-year allowances in respect of expenditure on plant and machinery for use in designated assisted areas.

45 Allowances for energy-saving plant and machinery

- (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 45A (expenditure on energy-saving plant or machinery), after subsection (1) insert—
 - “(1A) This section is subject to section 45AA (payments under Energy Act 2008 schemes).”
- (3) After that section insert—

“45AA Section 45A exclusion: payments under Energy Act 2008 schemes

- (1) Expenditure incurred on or after the relevant date on plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45A if—
 - (a) a payment is made, or another incentive is given, under a scheme established by virtue of section 41 of the Energy Act 2008 (feed-in tariffs) in respect of electricity generated by the plant or machinery, or
 - (b) a payment is made, or another incentive is given, under a scheme established by regulations under section 100 of that Act (renewable heat incentives) in respect of heat generated, or gas or fuel produced, by the plant or machinery.

- (2) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (3) If a person who has made a tax return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (4) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (5) Except as provided by subsection (6), the relevant date is—
 - (a) for corporation tax purposes, 1 April 2012, and
 - (b) for income tax purposes, 6 April 2012.
- (6) In the case of expenditure incurred on a combined heat and power system, the relevant date in relation to subsection (1)(b) is—
 - (a) for corporation tax purposes, 1 April 2014, and
 - (b) for income tax purposes, 6 April 2014.”
- (4) In section 104A (special rate expenditure)—
 - (a) in subsection (1), omit the “and” after paragraph (e), and after paragraph (f) insert “, and
 - (g) expenditure incurred on or after the third relevant date on the provision of solar panels.”, and
 - (b) after subsection (3) insert—
 - “(3A) The third relevant date is—
 - (a) for corporation tax purposes, 1 April 2012, and
 - (b) for income tax purposes, 6 April 2012.”

46 Plant and machinery: long funding leases

- (1) Section 70E of CAA 2001 (disposal events and disposal values) is amended as follows.
- (2) In subsection (2A), for the definition of “R” substitute—
 - “R is the sum of—
 - (a) any relevant rebate (see subsections (2F) and (2G)), and
 - (b) any other relevant lease-related payment (see subsections (2FA) and (2G)).”
- (3) After subsection (2F) insert—
 - “(2FA) Relevant lease-related payment” means any payment which—
 - (a) is payable at any time for the benefit (directly or indirectly) of the lessee or a person connected with the lessee,
 - (b) is connected with the long funding lease, or with any arrangement connected with that lease, and
 - (c) is not—
 - (i) an initial payment or any other payment made to the lessor by the lessee under the lease,

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- (ii) a payment made to the lessor by the lessee under a guarantee of any residual amount (as defined in section 70YE),
- (iii) an initial payment or any other payment made under a relevant superior lease to the person who is the lessor under that lease by the person who is the lessee under that lease, or
- (iv) a payment to the seller of the proceeds of a sale of the plant or machinery to which subsection (2FC) applies,

if, and to the extent that, the payment is not otherwise brought into account for tax purposes as income or a disposal receipt by the person for whom the benefit is payable (or would not be if that person were within the charge to tax).

(2FB) For the purposes of subsection (2FA)—

“payment” includes the provision of any benefit, the assumption of any liability and any other transfer of money’s worth (and “payable” is to be construed accordingly);

“relevant superior lease” means any lease of the plant or machinery to which the long funding lease mentioned in subsection (1)(a) is inferior.

(2FC) This subsection applies to a sale of the plant or machinery if—

- (a) a person has entered into a relevant transaction with another person in respect of the plant or machinery for the purposes of Chapter 17 of this Part (see section 213) and the sale is within section 213(1)(a),
- (b) the plant or machinery is within section 216(1)(b) (sale and lease back), and
- (c) the conditions in section 227(2) are met.”

(4) For subsection (2G) substitute—

“(2G) In the case of a lease that is not a transaction at arm’s length, “relevant rebate” and “relevant lease-related payment” include any amount that would reasonably be expected to have fallen within subsection (2F) or, as the case may be, (2FA) if the lease had been such a transaction.”

(5) The amendments made by this section have effect in relation to cases where the relevant event occurs on or after 21 March 2012.

Foreign income and gains

47 Foreign income and gains

Schedule 12 contains provision about the taxation of foreign income and gains.

Pensions

48 Employer asset-backed pension contributions etc

Schedule 13 contains—

- (a) provision relating to employers who pay contributions under registered pension schemes and arrangements for which their contributions are used (directly or indirectly), and
- (b) provision amending Chapter 5B of Part 13 of ITA 2007 and Chapter 2 of Part 16 of CTA 2010 (finance arrangements).

Charitable giving etc

49 Gifts to the nation

Schedule 14 contains provision for a person's tax liability to be reduced in return for giving pre-eminent property to the nation.

50 Gift aid: giving through self-assessment return

- (1) Section 429 of ITA 2007 (gift aid: giving through self-assessment return) is repealed.
- (2) The following repeals are made in consequence of subsection (1)—
 - (a) in section 426 of ITA 2007 (election by donor: gift treated as made in previous tax year), omit subsection (8),
 - (b) in section 538 of that Act (requirement to make claim), omit subsection (3),
 - (c) in section 133 of FA 2008 (set-off etc where right to be paid a sum has been transferred), in subsection (8)(a), omit the words from “except” to the end,
 - (d) in section 472 of CTA 2010 (gifts qualifying for gift aid relief: corporation tax liability and exemption), omit subsection (5), and
 - (e) in section 475 of that Act (gifts qualifying for gift aid relief: income tax treated as paid and exemption), omit subsection (7).
- (3) Accordingly, the following provisions are also repealed—
 - (a) section 130(9) of FA 2008, and
 - (b) paragraph 3(4) of Schedule 8 to FA 2010.
- (4) The repeals made by this section are treated as having come into force on 6 April 2012.

51 Relief for gift aid and other income of charities etc

Schedule 15 contains provision about relief in respect of gifts qualifying for gift aid relief and other income of charities and other bodies.

52 Meaning of “community amateur sports club”

- (1) In section 658 of CTA 2010 (meaning of “community amateur sports club”), for subsection (1) substitute—
 - “(1) A club is entitled to be registered as a community amateur sports club if conditions A and B are met.
 - (1A) Condition A is that the club is, and is required by its constitution to be, a club which—
 - (a) is open to the whole community (see section 659),
 - (b) is organised on an amateur basis (see section 660), and

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- (c) has as its main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports (see section 661).
- (1B) Condition B is that the club meets—
 - (a) the location condition (see section 661A), and
 - (b) the management condition (see section 661B)."
- (2) In consequence of the amendment made by subsection (1), omit paragraph 31 of Schedule 6 to FA 2010.
- (3) The amendments made by this section are treated as having come into force on 6 April 2010.

Other provisions

53 Site restoration payments

- (1) In section 168 of ITTOIA 2005 (site restoration payments), at the beginning of subsection (2) insert "Subject to subsection (3A),".
- (2) For subsection (3) of that section substitute—
 - "(3) The deduction is allowed—
 - (a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or
 - (b) (in any other case) for the period of account in which the payment is made.
 - (3A) But no deduction is allowed if the payment arises from arrangements—
 - (a) to which the person carrying on the trade is a party, and
 - (b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section."
- (3) At the end of that section insert—
 - "(7) Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."
- (4) In section 145 of CTA 2009 (site restoration payments), at the beginning of subsection (2) insert "Subject to subsection (3A),".
- (5) For subsection (3) of that section substitute—
 - "(3) The deduction is allowed—
 - (a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or
 - (b) (in any other case) for the period of account in which the payment is made.
 - (3A) But no deduction is allowed if the payment arises from arrangements—
 - (a) to which the company carrying on the trade is a party, and

- (b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section.”
- (6) At the end of that section insert—
 - “(7) Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (7) The amendments made by this section have effect in relation to any site restoration payment made on or after 21 March 2012, other than a payment made pursuant to an unconditional obligation in a contract made before 21 March 2012.
- (8) An unconditional obligation is an obligation which may not be varied or extinguished by the exercise of a right (whether or not under the contract).

54 Changes of accounting policy

- (1) In section 227 of ITTOIA 2005 (adjustment on change of accounting basis: income tax)—
 - (a) in subsection (3)(a) for “relevant change of accounting approach” substitute “change of accounting policy”, and
 - (b) for subsection (4) substitute—
 - “(4) A “change of accounting policy” includes, in particular—
 - (a) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards, and
 - (b) a change from using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards to using UK generally accepted accounting practice.”
- (2) In section 180 of CTA 2009 (adjustment on change of accounting basis: corporation tax)—
 - (a) in subsection (3)(a) for “relevant change of accounting approach” substitute “change of accounting policy”, and
 - (b) for subsection (4) substitute—
 - “(4) A “change of accounting policy” includes, in particular—
 - (a) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards, and
 - (b) a change from using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards to using UK generally accepted accounting practice.”
- (3) Corresponding amendments are to be treated as having been made in section 64 of FA 2002.
- (4) In consequence of the amendment made by subsection (1)(b), omit paragraph 2 of Schedule 6 to F(No.2)A 2005.

Status: This is the original version (as it was originally enacted).

- (5) The amendments made by this section have effect in relation to a change of basis if the new basis—
- (a) is adopted for a period of account which begins on or after 1 January 2012, or
 - (b) is adopted for a period of account which begins before 1 January 2012 and the adoption is in consequence of the issue, revocation, amendment or recognition of, or withdrawal of recognition from, an accounting standard by an accounting body on or after 1 January 2012.
- (6) In this section—
- “accounting body” means the International Accounting Standards Board, the Accounting Standards Board, or a successor body to either of those Boards;
 - “accounting standard” includes any statement of practice, guidance or other similar document.