



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART IV

#### PROVISIONS RELATING TO THE SCHEDULE D CHARGE

#### CHAPTER I

##### SUPPLEMENTARY CHARGING PROVISIONS

#### **53 Farming and other commercial occupation of land (except woodlands).**

- (1) <sup>M1</sup>All farming and market gardening in the United Kingdom shall be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the [<sup>F1</sup>profits] thereof shall be charged to [<sup>F2</sup>corporation] tax under Case I of Schedule D accordingly.
  - (2) All the farming carried on by any particular [<sup>F3</sup>company or partnership] shall be treated as one trade [<sup>F4</sup>for corporation tax purposes].
  - (3) <sup>M2</sup>Subject to subsection (4) below, the occupation of land in the United Kingdom for any purpose other than farming or market gardening shall, if the land is managed on a commercial basis and with a view to the realisation of profits, be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the [<sup>F5</sup>profits] thereof shall be charged to [<sup>F6</sup>corporation] tax under Case I of Schedule D accordingly.
- [<sup>F7</sup>(4) Subsection (3) above shall not apply in relation to the occupation of land which comprises woodlands or is being prepared for use for forestry purposes.]
- [<sup>F8</sup>(5) The preceding provisions of this section do not apply in relation to—
- (a) farming or market gardening by an insurance company on land which is an asset of the company's long-term insurance fund, or
  - (b) the occupation by an insurance company of land which is such an asset for a purpose other than farming or market gardening.]

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### Textual Amendments

- F1** Words in s. 53(1)(3) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F2** Word in s. 53(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 32(2) (with Sch. 2)
- F3** Words in s. 53(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 32(3)(a) (with Sch. 2)
- F4** Words in s. 53(2) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 32(3)(b) (with Sch. 2)
- F5** Words in s. 53(1)(3) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F6** Words in s. 53(3) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 32(4) (with Sch. 2)
- F7** 1988(F) Sch.6 para.6(7),into force on 6April 1988subject to certain provisios. Previously “(4) Subsection (3) above shall not affect the taxation of woodlands which are managed on a commercial basis and with a view to the realisation of profits”.
- F8** S. 53(5) inserted (with effect in accordance with Sch. 17 para. 28(4) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 28(1)

### Marginal Citations

- M1** SOURCE-1970 s. 110(1), (2)
- M2** SOURCE-1970 s. 110(3)

## <sup>F9</sup>54 Woodlands managed on a commercial basis.

.....

### Textual Amendments

- F9** S. 54 repealed (15.3.1988) by Finance Act 1988 (c. 39), Sch. 14 Pt. 5, Note 2

## 55 Mines, quarries and other concerns.

- (1) [<sup>F10</sup>profits] arising out of land in the case of any concern specified in subsection (2) below shall be charged to [<sup>F11</sup>corporation] tax under Case I of Schedule D.
- (2) The concerns are—
- (a) mines and quarries (including gravel pits, sand pits and brickfields);
  - (b) ironworks, gasworks, salt springs or works, alum mines or works (not being mines falling within the preceding paragraph) and waterworks and streams of water;
  - (c) canals, inland navigation, docks and drains or levels;
  - (d) fishings;
  - (e) rights of markets and fairs, tolls, bridges and ferries;
  - (f) railways and other ways;
  - (g) other concerns of the like nature as any of the concerns specified in paragraphs (b) to (e) above.

[<sup>F12</sup>(3) Subsection (1) does not apply in relation to any concern carried on by an insurance company on land which is an asset of the company's long-term insurance fund.]

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### Textual Amendments

- F10** Word in s. 55(1) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F11** Word in s. 55(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 33 (with Sch. 2)
- F12** S. 55(3) inserted (with effect in accordance with Sch. 17 para. 28(4) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 28(2)

## 56 Transactions in deposits with and without certificates or in debts.

- (1) <sup>M3M4</sup>Subsection (2) below applies to the following rights—
  - (a) the right to receive the amount, with or without interest, stated in a certificate of deposit;
  - (b) the right to receive an amount payable with interest—
    - (i) in a transaction in which no certificate of deposit or security is issued, and
    - (ii) which is payable by a bank or similar institution or a person regularly engaging in similar transactions;and the right to receive that interest.
- (2) <sup>M5</sup>Profits or gains arising to a [<sup>F13</sup>company] from the disposal of a right to which this subsection applies or, except so far as it is a right to receive interest, from the exercise of any such right (whether by the person to whom the certificate was issued or by some other person, or, as the case may be, by the person who acquired the right in the transaction referred to in subsection (1) above or by some person acquiring it directly or indirectly from that person), shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to [<sup>F14</sup>corporation tax] under Case VI of Schedule D.
- (3) <sup>M6</sup>Subsection (2) above [<sup>F15</sup>and section 551 of ITTOIA 2005 (charge to income tax on profits from disposal of deposit rights) do] not apply in the case of the disposal or exercise of a right to receive an amount stated in a certificate of deposit or interest on such an amount—
  - (a) if the [<sup>F16</sup>company] disposing of the right acquired it before 7th March 1973;
  - (b) to any profits or gains arising to a fund or scheme in the case of which provision is made by section [<sup>F17</sup>613(4) or 614(2) or (3) or section 186 of the Finance Act 2004] for exempting the whole or part of its income from income tax;
  - (c) in so far as they are applied to charitable purposes only, to any profits or gains arising to a [<sup>F18</sup>charitable company] within the meaning of section 506.

- [<sup>F19</sup>(3A) <sup>F20</sup>.....
- (3B) <sup>F20</sup>.....
- (3C) <sup>F20</sup>.....
- (3D) <sup>F20</sup>.....]
- (4) <sup>F21</sup>.....

[<sup>F22</sup>(4A) This section and section 56A shall not apply for the purposes of corporation tax except in relation to rights in existence before 1st April 1996.

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(4B) For the purposes of corporation tax, where any profits or gains arising from the disposal or exercise of a right in existence before 1st April 1996 are, or (if there were any) would be, chargeable under this section, nothing in Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall require any amount relating to that disposal, or to the exercise of that right, to be brought into account for the purposes of that Chapter.]

(5)<sup>M7</sup> In this section—

“certificate of deposit” means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable; and

“security” has the same meaning as in section [F23]132 of the 1992 Act].

#### Textual Amendments

- F13** Word in s. 56(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 34\(2\)\(a\)](#) (with [Sch. 2](#))
- F14** Words in s. 56(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 34\(2\)\(b\)](#) (with [Sch. 2](#))
- F15** Words in s. 56(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 34\(3\)\(a\)](#) (with [Sch. 2](#))
- F16** Word in s. 56(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 34\(3\)\(b\)](#) (with [Sch. 2](#))
- F17** Words in s. 56(3)(b) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 35 para. 4](#) (with [Sch. 36](#))
- F18** Words in s. 56(3)(c) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 9](#) (with [Sch. 2](#))
- F19** [S. 56\(3A\)-\(3D\)](#) inserted (27.7.1993) by 1993 c. 34, s. 170, [Sch. 18 para. 2](#)
- F20** [S. 56\(3A\)-\(3D\)](#) repealed (with effect in accordance with s. 79(3) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#), Note
- F21** [S. 56\(4\)](#) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 24\(1\)](#)
- F22** [S. 56\(4A\)\(4B\)](#) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 104, [Sch. 14 para. 6](#) (with [Sch. 15](#))
- F23** Words in s. 56(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 14\(3\)](#) (with ss. 60, 101(1), 171, 201(3)).

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

- C1** See s.608—*exemption for certain superannuation funds.*
- C2** [S. 56\(2\)](#) modified (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458, [Sch. 10 para. 6](#) (with [Sch. 10 para. 10](#)); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3-7 (as amended by [S.I. 2003/333](#), [art. 14](#)))

#### Marginal Citations

- M3** SOURCE-1973 s. 26(1)
- M4** SOURCE-1974 s. 30(1)
- M5** SOURCE-1973 s. 26(1); 1974 s. 30(1)
- M6** SOURCE-1973 s. 26(1)(a)(b); 1975 (No. 2) s. 50(1)
- M7** SOURCE-1973 s. 26(4); 1974 s. 30(2), (1); 1968 s. 55(3); 1979(C) Sch. 7

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**[<sup>F24</sup>56A Disposal or exercise of rights in pursuance of deposits.**

- (1) This section applies where there is an arrangement under which—
- (a) there is a right to receive an amount (with or without interest)  
in pursuance of a deposit of money,
  - (b) when the right comes into existence there is no certificate of deposit in respect of the right, and
  - (c) the person for the time being entitled to the right is entitled to call for the issue of a certificate of deposit in respect of the right.
- (2) In such a case—
- (a) the right shall be treated as not falling within section 56(1)(b), and
  - (b) if there is a disposal or exercise of the right before such time (if any) as a certificate of deposit is issued in respect of it, section 56(2) shall apply to it by virtue of this paragraph.
- (3) In the application of section 56 by virtue of this section—
- (a) subsection (2) shall have effect as if the words from “(whether” to “person)” read “(whether by the person originally entitled to the right or by some other person)”, and
  - (b) subsection (3) shall have effect as if the words “stated in a certificate of deposit” read “under an arrangement”.
- (4) In this section “certificate of deposit” has the meaning given by section 56(5).]

**Textual Amendments**

**F24** S. 56A inserted (with application in relation to arrangements made after 16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 34, Sch. 8 paras.1, 6.

**57 Deep discount securities.**

<sup>F25</sup> .....

**Textual Amendments**

**F25** S. 57 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(3\)](#), Note

**58 Foreign pensions.**

<sup>F26</sup> .....

**Textual Amendments**

**F26** S. 58 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 8, [Sch. 8 Pt. 1](#) (with Sch. 7)

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## 59 Persons chargeable.

- (1) <sup>F27</sup> .....
- (2) <sup>F27</sup> .....
- (3) Where, in accordance with [<sup>F28</sup>section 12 of ITTOIA 2005], income tax is charged <sup>F29</sup> . . . on the profits of markets or fairs, or on tolls, fisheries or any other annual or casual profits not distrainable, the owner or occupier or receiver of the profits thereof shall be answerable for the tax so charged, and may retain and deduct the same out of any such profits.
- (4) [<sup>F30</sup>Subsection (3)] above shall not apply for the purposes of corporation tax.

### Textual Amendments

- F27** S. 59(1)(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 35\(2\)](#), **Sch. 3** (with [Sch. 2](#))
- F28** Words in s. 59(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 35\(3\)\(a\)](#) (with [Sch. 2](#))
- F29** Words in s. 59(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 35\(3\)\(b\)](#), **Sch. 3** (with [Sch. 2](#))
- F30** Words in s. 59(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 35\(4\)](#) (with [Sch. 2](#))

## CHAPTER II

### INCOME TAX: BASIS OF ASSESSMENT ETC.

#### *Cases I and II*

## 60 Assessment on current year basis.

<sup>F31</sup> .....

### Textual Amendments

- F31** [Ss. 60-63A](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 36](#), **Sch. 3** (with [Sch. 2](#))

## 61 Basis of assessment at commencement.

<sup>F32</sup> .....

### Textual Amendments

- F32** [Ss. 60-63A](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 36](#), **Sch. 3** (with [Sch. 2](#))

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## 62 Change of basis period.

F33 .....

### Textual Amendments

**F33** Ss. 60-63A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 36, **Sch. 3** (with Sch. 2)

## [<sup>F34</sup>62A Conditions for such a change.

F35 .....]

### Textual Amendments

**F34** S. 62A inserted (with effect in accordance with s. 218 of the amending Act) by Finance Act 1994 (c. 9), s. 203 (with Sch. 20)

**F35** Ss. 60-63A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 36, **Sch. 3** (with Sch. 2)

## 63 Basis of assessment on discontinuance.

F36 .....

### Textual Amendments

**F36** Ss. 60-63A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 36, **Sch. 3** (with Sch. 2)

## [<sup>F37</sup>63A Overlap profits and overlap losses.

F38 .....]

### Textual Amendments

**F37** S. 63A inserted (with effect in accordance with s. 218 of the amending Act) by Finance Act 1994 (c. 9), s. 205 (with Sch. 20)

**F38** Ss. 60-63A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 36, **Sch. 3** (with Sch. 2)

*Cases III, IV and V*

## 64 Case III assessments.

F39 .....

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### Textual Amendments

- F39** S. 64 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 37, Sch. 3](#) (with Sch. 2)

## 65 Cases IV and V assessments: general.

**F40** .....

### Textual Amendments

- F40** S. 65 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 38, Sch. 3](#) (with Sch. 2)

## [<sup>F41</sup>65A Case V income from land outside UK: income tax.

**F42** .....]

### Textual Amendments

- F41** S. 65A inserted (with effect in accordance with s. 41(5)-(10) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 41\(2\)](#)
- F42** S. 65A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 39, Sch. 3](#) (with Sch. 2)

## 66 Special rules for fresh income.

**F43** .....

### Textual Amendments

- F43** S. 66 repealed (with effect in accordance with s. 218(1) of the repealing Act) by [Finance Act 1994 \(c. 9\), ss. 207\(4\), 258, Sch. 26 Pt. 5\(24\)](#), Note 7 (with Sch. 20)

## 67 Special rules where source of income disposed of or yield ceases.

**F44** .....

### Textual Amendments

- F44** S. 67 repealed (with effect in accordance with s. 218(1) of the repealing Act) by [Finance Act 1994 \(c. 9\), ss. 207\(4\), 258, Sch. 26 Pt. 5\(24\)](#), Note 7 (with Sch. 20)

## 68 Special rules where property etc. situated in Republic of Ireland.

**F45** .....



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**Textual Amendments**

- F45** S. 68 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 40, Sch. 3](#) (with Sch. 2)

[<sup>F46</sup> **68A Share incentive plans: application of section 68B**

F47 .....

**Textual Amendments**

- F46** Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 10](#) (with Sch. 7)
- F47** Ss. 68A-68C repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 41, Sch. 3](#) (with Sch. 2)

**68B Share incentive plans: cash dividends and dividend shares**

F48 .....

**Textual Amendments**

- F46** Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 10](#) (with Sch. 7)
- F48** Ss. 68A-68C repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 41, Sch. 3](#) (with Sch. 2)

**68C Share incentive plans: interpretation**

F49 .....]

**Textual Amendments**

- F46** Ss. 68A-68C inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 10](#) (with Sch. 7)
- F49** Ss. 68A-68C repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 41, Sch. 3](#) (with Sch. 2)

*Case VI*

**69 Case VI assessments.**

F50 .....

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#### Textual Amendments

- F50** S. 69 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 42, Sch. 3](#) (with [Sch. 2](#))

## CHAPTER III

### CORPORATION TAX: BASIS OF ASSESSMENT ETC

#### 70 Basis of assessment etc.

- (1) <sup>M8</sup>In accordance with sections 6 to 12 and 337 to 344, for the purposes of corporation tax for any accounting period income shall be computed under Cases I to VI of Schedule D on the full amount of the profits or gains or income arising in the period (whether or not received in or transmitted to the United Kingdom), without any other deduction than is authorised by the Corporation Tax Acts.
- (2) <sup>M9</sup>Where a company is chargeable to corporation tax in respect of a trade or vocation under Case V of Schedule D, the income from the trade or vocation shall be computed in accordance with the rules applicable to Case I of Schedule D.
- (3) [<sup>F51M10</sup>Cases III and VI] of Schedule D shall for the purposes of corporation tax extend to companies not resident in the United Kingdom, so far as those companies are chargeable to tax on income of descriptions which, in the case of companies resident in the United Kingdom, fall within those Cases (but without prejudice to any provision of the Tax Acts specially exempting non-residents from tax on any particular description of income).

#### Textual Amendments

- F51** Words in [s. 70\(3\)](#) substituted (with effect in accordance with [s. 105\(1\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 14 para. 7](#) (with [Sch. 15](#))

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

- C3** [S. 70](#) excluded (with application in accordance with [s. 65\(1\)\(3\)\(4\)](#) of the excluding Act) by [Finance Act 2002 \(c. 23\), s. 65\(2\)\(a\)](#)

#### Marginal Citations

- M8** SOURCE-1970 s. 129(1)  
**M9** SOURCE-1970 s. 129(4)  
**M10** SOURCE-1970 s. 129(5)

#### [<sup>F52</sup>70A Case V income from land outside UK: corporation tax.

- (1) This section applies where a company is chargeable to corporation tax under Case V of Schedule D in respect of income which—
  - (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
  - (b) is not income to which [section 70\(2\)](#) applies (income from a trade or vocation).

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- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
  - (a) the land in question were in the United Kingdom, or
  - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular company or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.

Those rules apply separately in relation to—

  - (a) an overseas property business, and
  - (b) any actual Schedule A business of the company chargeable, as if each were the only Schedule A business carried on by that company.
- (6) Sections 503 and 504 of this Act <sup>F53</sup> . . . do not apply to the profits or losses of an overseas property business.
- (7) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.]

**Textual Amendments**

- F52** S. 70A inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998](#) (c. 36), s. 38(1), **Sch. 5 para. 25** (with Sch. 5 para. 73)
- F53** Words in S. 70A(6) repealed (with effect in accordance with s. 579(1) of the repealing Act) by [Capital Allowances Act 2001](#) (c. 2), ss. 578, 580, Sch. 2 para. 14, **Sch. 4** (with Sch. 3)

**CHAPTER IV**

PROVISIONS SUPPLEMENTARY TO CHAPTERS II AND III

**71 Computation of income tax where no profits in year of assessment.**

<sup>F54</sup> . . . . .

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#### Textual Amendments

- F54** S. 71 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 43, Sch. 3](#) (with Sch. 2)

## 72 Apportionments etc. for purposes of Cases I, II and VI.

- (1) <sup>M11</sup>Where in the case of any profits or gains chargeable [<sup>F55</sup>to corporation tax] under Case I, II or VI of Schedule D it is necessary in order to arrive for the purposes of <sup>F56</sup> . . . corporation tax at the profits or gains or losses of any <sup>F56</sup> . . . accounting period or other period, to divide and apportion to specific periods the profits or gains or losses for any period for which the accounts have been made up, or to aggregate any such profits, gains or losses or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation.
- (2) <sup>M12</sup>Any apportionment under this section shall be made in proportion to the number of [<sup>F57</sup>days] in the respective periods.

#### Textual Amendments

- F55** Words in s. 72(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 44\(a\)](#) (with Sch. 2)
- F56** Words in s. 72(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 44\(b\), Sch. 3](#) (with Sch. 2)
- F57** Word in s. 72(2) substituted (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 121](#)

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

- C4** See S.I. 1987 No. 530 (in Part III Vol. 5) regn. 16—*payments attributable to non-resident entertainers and sportsmen.*

#### Marginal Citations

- M11** SOURCE-1970 ss. 127(1), 129(2)  
**M12** SOURCE-1970 s. 127(2), 527(4)

## 73 Single assessments for purposes of Cases III, IV and V.

<sup>F58</sup> . . . . .

#### Textual Amendments

- F58** S. 73 repealed (with effect in accordance with s. 103(7) of the repealing Act) by [Finance Act 1995 \(c. 4\), ss. 115\(09\), 162, Sch. 29 Pt. 8\(14\)](#), Note 2

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## CHAPTER V

### COMPUTATIONAL PROVISIONS

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

- C5 See—1979(C) s.122—election to take capital gain or loss into account when asset appropriated to stock in trade. 1989 ss.67-74—employee share ownership trusts. [Banking Act 1987 \(c.22\)](#) s.66—contributions to the Deposit Protection Fund.

#### Deductions

#### 74 General rules as to deductions not allowable.

- [<sup>F59</sup>(1)] <sup>M13</sup>Subject to the provisions of [<sup>F60</sup>the Corporation Tax Acts], in computing the amount of the [<sup>F61</sup>profits] to be charged [<sup>F62</sup>to corporation tax] under Case I or Case II of Schedule D, no sum shall be deducted in respect of—
- (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade [<sup>F63</sup>or profession];
  - (b) <sup>F64</sup> . . . . .
  - (c) the rent of the whole or any part of any dwelling-house or domestic offices, except any such part as is used for the purposes of the trade [<sup>F63</sup>or profession], and where any such part is so used, the sum so deducted shall not, unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for that dwelling-house or those offices;
  - (d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade [<sup>F63</sup>or profession], beyond the sum actually expended for those purposes;
  - [<sup>F65</sup>(da) any expenditure to which section 33A(3) of the Capital Allowances Act (expenditure on provision or replacement of integral features) applies;]
  - (e) any loss not connected with or arising out of the trade [<sup>F63</sup>or profession];
  - (f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade [<sup>F63</sup>or profession], but so that this paragraph shall not be treated as disallowing the deduction of any interest;
  - (g) any capital employed in improvements of premises occupied for the purposes of the trade [<sup>F63</sup>or profession];
  - (h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;
  - [<sup>F66</sup>(j) <sup>F67</sup> . . . . .]
  - (k) any average loss beyond the actual amount of loss after adjustment;
  - (l) any sum recoverable under an insurance or contract of indemnity;
  - (m) any annuity or other annual payment (other than interest) payable out of the [<sup>F68</sup>profits];
  - (n) <sup>F69</sup> . . . . .
  - [<sup>F70</sup>(o) <sup>F64</sup> . . . . .]
  - (p) <sup>M14</sup>any royalty or other sum paid in respect of the user of a patent;

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(q) <sup>F71</sup> .....

[<sup>F72</sup>(2) <sup>F73</sup> .....] ]

### Textual Amendments

- F59** S. 74 renumbered as s. 74(1) (3.5.1994) by virtue of [Finance Act 1994 \(c. 9\)](#), s. [144\(2\)](#)
- F60** Words in s. 74(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 45\(a\)](#) (with [Sch. 2](#))
- F61** Words in s. 74(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. [46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F62** Words in s. 74(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 45\(b\)](#) (with [Sch. 2](#))
- F63** Words in s. 74(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 45\(c\)](#) (with [Sch. 2](#))
- F64** S. 74(1)(b)(o) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 45\(d\)\(f\)](#), [Sch. 3](#) (with [Sch. 2](#))
- F65** S. 74(1)(da) inserted (with effect in accordance with s. 73(6) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. [73\(3\)](#)
- F66** S. 74(1)(j) substituted (with effect in accordance with s. 144(6) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. [144\(1\)](#)
- F67** S. 74(1)(j) repealed (with effect in accordance with s. 80(3)(4) of the repealing Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 1](#), [Sch. 11 Pt. 2\(5\)](#), Note
- F68** Words in s. 74(1)(m) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. [46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F69** S. 74(1)(n) repealed (with effect in accordance with s. 37 of the repealing Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#), Note
- F70** S. 74(1)(o) substituted (with effect in accordance with s. 81(6) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 9 para. 1](#)
- F71** S. 74(1)(q) repealed (with effect in accordance with [Sch. 18 Pt. 6\(2\)](#) Note of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(2\)](#)
- F72** S. 74(2) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#) {s. 144(2)}
- F73** S. 74(2) repealed (with effect in accordance with s. 80(3)(4) of the repealing Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 1](#), [Sch. 11 Pt. 2\(5\)](#), Note

### Modifications etc. (not altering text)

- C6** S. 74 excluded (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), s. [159\(4\)](#) (with [Sch. 18 paras. 1\(3\), 2\(3\)\(4\), 3\(3\)](#))
- C7** S. 74 excluded (with effect in accordance with s. 105(1) of the excluding Act) by [Finance Act 1996 \(c. 8\)](#), s. [82\(7\)](#) (with [ss. 98, 99](#), [Schs. 10, 11, 15](#))
- C8** S. 74 excluded (with effect in accordance with s. 83(3) of the excluding Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 26 Para. 14\(4\)](#) (with [Sch. 28](#))
- C9** See 1989 ss.112-113—*expenditure on security on or after 6April 1989.*
- C10** S. 74(1)(a) extended (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), [regs. 1, 5](#)
- C11** S. 74(1)(m)(p) restricted (with effect in accordance with [Sch. 29 Pt. 14](#) of the affecting Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 29 para. 8\(3\)](#) (with [Sch. 29 para. 8\(4\)](#))

### Marginal Citations

- M13** SOURCE-1970 s. 130(a)–(m); 1987 [Sch. 15 para. 2\(9\)](#)
- M14** SOURCE-1970 s. 130(n), (o)

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## [<sup>F74</sup>75 Expenses of management: companies with investment business

- (1) In computing for the purposes of corporation tax the total profits for an accounting period of a company with investment business (see section 130) a deduction is to be allowed for any expenses of management of the company's investment business (see subsection (4) below) which are referable to that accounting period in accordance with section 75A.

That is subject to the following provisions of this section.

- (2) A deduction is not to be allowed under subsection (1) above for any expenses to the extent that those expenses are deductible in computing profits apart from this section.

[<sup>F75</sup>(2A) A deduction is not to be allowed under that subsection 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 the main purpose, or one of the main purposes, of which is to secure the allowance of a deduction (or increased deduction) under that subsection or any other tax advantage.

- (2B) Subsection (2A) above does not apply if, as a result of paragraph 7A of Schedule 23A (manufactured payments under arrangements having an unallowable purpose), the company incurring the expenses is not entitled to a relevant tax relief (within the meaning of that paragraph) in respect of, or referable to, the whole or any part of the expenses.

- (2C) The reference in subsection (2A) above to expenses of management includes amounts treated by any provision as deductible under this section.]

- (3) Expenses of a capital nature are not expenses of management for the purposes of this section except to the extent that they fall to be treated as expenses of management for those purposes by virtue of—

- (a) subsection (7) below (capital allowances), or
- (b) any provision of the Tax Acts, other than this section.

- (4) For the purposes of this section, expenses of management are “expenses of management of the company's investment business” to the extent that—

- (a) the expenses are in respect of so much of the company's business as consists in the making of investments, and
- (b) the investments concerned are not held by the company for an unallowable purpose during the accounting period (see subsection (5) below),

and references in this section to the company's investment business shall be construed accordingly.

- (5) For the purposes of subsection (4)(b) above, investments are held by a company for an unallowable purpose during an accounting period to the extent that 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.

[<sup>F76</sup>(5A) For the purposes of subsection (5)(a) above 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 the main purpose, or one of the main



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purposes, of which is to secure the allowance of a deduction (or increased deduction) under subsection (1) above or any other tax advantage.]

(6) For the purposes of subsection (1) above, there shall be deducted from the amount that would, apart from this subsection, be deductible under that subsection the amount of any income derived from a source not charged to tax—

- (a) which the company has in the course of carrying on its investment business, and
- (b) which, in a case where the company is not resident in the United Kingdom,—
  - (i) the company has in the course of carrying on that business through a permanent establishment in the United Kingdom, and
  - (ii) is such property or rights as are mentioned in section 11(2A)(b), but which is not franked investment income.

(7) For the purposes of this section, there shall be added to a company's expenses of management referable to any accounting period the amount of any allowances falling to be made to the company for that period by virtue of section 15(1)(g) of the Capital Allowances Act (plant and machinery allowances) so far as effect cannot be given to them under section 253(2) of that Act.

(8) Subsection (9) below applies in any case where, in an accounting period of a company with investment business, the sum of—

- (a) the expenses of management deductible under subsection (1) above, and
- (b) any charges on income paid in the accounting period, to the extent that they are paid for the purposes of so much of the company's business as consists in the making of investments,

exceeds the amount of the profits from which those expenses and charges are deductible.

(9) In any such case—

- (a) the excess shall be carried forward to the succeeding accounting period; and
- (b) the amount so carried forward to the succeeding accounting period shall be treated for the purposes of this section (including any further application of this subsection) as if it were expenses of management deductible for that accounting period.

(10) Any apportionment falling to be made for the purposes of this section shall be made on a just and reasonable basis.

[<sup>F77</sup>(11) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and  
 “tax advantage” has the meaning given by section 840ZA.]]

#### Textual Amendments

**F74** S. 75 substituted (with effect in accordance with ss. 42, 43 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 38\(1\)\(5\)](#)

**F75** S. 75(2A)-(2C) inserted (with effect in accordance with [s. 28\(5\)\(6\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 28\(2\)](#)

**F76** S. 75(5A) inserted (with effect in accordance with [s. 28\(5\)\(6\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 28\(3\)](#)



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**F77** S. 75(11) inserted (with effect in accordance with s. 28(5)(6) of the amending Act) by Finance Act 2007 (c. 11), s. 28(4)

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

**C12** S. 75 modified (with effect in accordance with s. 70(1) of the modifying Act) by Finance Act 2001 (c. 9), Sch. 22 para. 27 (with Sch. 22 para. 32)

**C13** S. 75 modified (6.4.2006) by Finance Act 2004 (c. 12), ss. 196(3), 199(2)(b), 200(b), 246(2)(b)(3)(b), 284(1) (with Sch. 36)

**C14** S. 75 modified by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), reg. 69Z24A(4)(b) (as inserted (1.1.2009 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), 27)

**C15** S. 75(1) modified (22.7.2004) by Finance Act 2004 (c. 12), s. 43(5)

[<sup>F78</sup>75A Accounting period to which expenses of management are referable

- (1) This section has effect for the purpose of determining the accounting period to which expenses of management are referable for the purposes of section 75(1).
- (2) Where—
  - (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.
- (3) Where—
  - (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,subsection (4) below applies.
- (4) Where this subsection applies, the expenses of management—
  - (a) shall be apportioned between any accounting periods that fall within the period of account, and
  - (b) are referable to an accounting period to the extent that they are so apportioned to it.
- (5) An apportionment under subsection (4) above shall be in accordance with section 834(4) (time basis) unless it appears that that method would work unreasonably or unjustly, in which case such other method shall be used as appears just and reasonable.
- (6) Where—
  - (a) expenses of management are not referable to an accounting period by virtue of subsections (2) to (5) above, but
  - (b) accounts are drawn up by the company for a period of account, and

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- (c) if the expenses of management had been treated in those accounts in accordance with generally accepted accounting practice, they would fall to be debited in those accounts,
- the expenses of management are referable to the accounting period to which they would have been referable in accordance with subsections (2) to (5) above if they had been so debited in those accounts.
- (7) Where expenses of management are not referable to an accounting period by virtue of subsections (2) to (6) above, they are referable to the accounting period to which they would be referable in accordance with subsections (2) to (5) above on the assumptions in subsection (8) below.
- (8) Those assumptions are—
- (a) that for each accounting period that does not coincide with, or fall within, any period of account, there is a period of account that coincides with that accounting period, and
  - (b) that so much of the expenses of management as would fall to be debited in accordance with generally accepted accounting practice in accounts drawn up by the company for any such deemed period of account are so debited.
- (9) This section is without prejudice to any other provision of the Corporation Tax Acts which provides for amounts to be treated for the purposes of section 75 as expenses of management referable to an accounting period.
- (10) Any reference in this section to expenses of management being debited in accounts is a reference to those expenses being brought into account, in accordance with generally accepted accounting practice, as a debit—
- (a) in the company’s profit and loss account [<sup>F79</sup>or income statement], or
  - (b) in a statement of total recognised gains and losses [<sup>F80</sup>, statement of changes in equity] or other statement of items brought into account in computing the company’s profits and losses for accounting purposes.

For this purpose “debit” means an amount which for accounting purposes reduces a profit, or increases a loss, for a period of account.]

#### Textual Amendments

- F78** S. 75A inserted (with effect in accordance with ss. 42, 43 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 39](#)
- F79** Words in s. 75A(10)(a) inserted (with effect in accordance with s. 80(4) of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 22\(a\)](#)
- F80** Words in s. 75A(10)(b) inserted (with effect in accordance with s. 80(4) of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 22\(b\)](#)

#### [<sup>F81</sup>75B Amounts reversing expenses of management deducted: charge to tax

- (1) This section applies in any case where the following conditions are satisfied—
- (a) a credit is brought into account by a company in a period of account (the “reversal period”) which ends on or after the commencement date,
  - (b) the credit reverses (in whole or in part) a debit brought into account in a previous period of account of the company (whenever ending),

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- (c) the debit (in whole or in part) represents expenses of management deductible under section 75(1) for an accounting period of the company (“the period of deductibility”),
  - (d) the expenses of management were so deductible for that period otherwise than by virtue of section 75(9) (carry forward of unrelieved excess),
  - (e) the period of deductibility ends before, or at the same time as, the reversal period,
  - (f) the reversal period does not coincide with an accounting period beginning before the commencement date.
- (2) In any such case, subsection (4) or (5) below (as the case may be) shall apply in relation to the reversal amount.
- (3) In this section “the reversal amount” means so much of the credit as—
- (a) reverses so much of the debit as represents the expenses of management, and
  - (b) does not represent sums otherwise taken into account in determining for the purposes of corporation tax the profits and losses of the company for the relevant accounting period or any earlier accounting period.
- For this purpose the relevant accounting period is the latest accounting period of the company that falls wholly or partly within the reversal period.
- (4) If the reversal period coincides with an accounting period of the company beginning on or after the commencement date, the reversal amount shall be dealt with for that period in accordance with subsection (7) below.
- (5) If the reversal period does not coincide with an accounting period of the company—
- (a) the reversal amount shall be apportioned between any accounting periods that fall within the reversal period, and
  - (b) any amount so apportioned to an accounting period beginning on or after the commencement date shall be dealt with for that period in accordance with subsection (7) below.
- (6) An apportionment under subsection (5) above shall be in accordance with section 834(4) (time basis) unless it appears that that method would work unreasonably or unjustly, in which case such other method shall be used as appears just and reasonable.
- (7) Where an amount falls to be dealt with in accordance with this subsection for an accounting period—
- (a) it shall, so far as possible, be applied in reducing or further reducing (but not below nil) the company’s expenses of management deductible for that period otherwise than by virtue of section 75(9) (carry forward of unrelieved excess), and
  - (b) so much of the amount as cannot be so applied shall be regarded as income of the company chargeable under Case VI of Schedule D for that accounting period.
- (8) In subsection (1) above “brought into account”, in relation to a period of account of a company, means brought into account in accordance with generally accepted accounting practice in determining, for accounting purposes, profit and loss for that period of account.

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- (9) If (apart from this subsection) an accounting period does not coincide with, or fall within, any period of account, it shall be assumed for the purposes of this section that there is a period of account of the company that coincides with that accounting period.
- (10) It shall be assumed for the purposes of this section that, in determining for accounting purposes profit and loss for any period of account of any company, amounts fall to be brought into account in accordance with generally accepted accounting practice.
- (11) For the purposes of this section a credit reverses a debit in whole or in part in any case where the sum represented in whole or in part by the debit is paid and then in whole or in part repaid (as well as in a case where the sum represented by the debit is never paid).
- (12) In this section—
- “the commencement date” means 1st April 2004;
  - “credit” means an amount which for accounting purposes increases or creates a profit, or reduces a loss, for a period of account;
  - “debit” means an amount which for accounting purposes reduces a profit, or increases or creates a loss, for a period of account.]

#### Textual Amendments

**F81** S. 75B inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 45(1) (with s. 45(2)(3))

#### [<sup>F82</sup>76 Expenses of insurance companies

- (1) In computing for the purposes of corporation tax the profits for any accounting period of a company—
- (a) which carries on life assurance business, and
  - (b) which is [<sup>F83</sup>charged to tax in respect of that business under the I minus E basis],
- section 75 is not to apply in computing the profits of that business, but a deduction for expenses payable (the “expenses deduction”) is to be allowed in accordance with the following provisions of this section.
- <sup>F84</sup> .....
- (2) The expenses deduction is to be made from so much of the income and gains of the accounting period referable to basic life assurance and general annuity business as remains after any deduction falling to be made by virtue of paragraph 4(2) of Schedule 11 to the Finance Act 1996 (non-trading deficits on loan relationships).
- (3) For the purposes of this section “expenses payable” means expenses brought into account in line 12, 22 or 25 of Form 40 (the revenue account) in the periodical return of the company for a period of account, but does not include any of the amounts falling within subsection (4), (5) or (6) below.
- (4) The amounts falling within this subsection are the following—
- (a) reinsurance premiums,
  - (b) refunds of premiums,
  - (c) profit commissions and profit participations (however described),

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- (d) expenses or other amounts payable, to the extent that the company's purpose in incurring the liability to make the payment is not a business or other commercial purpose of the company.

For the purposes of paragraph (d) above, it is not one of the business or commercial purposes of a company to incur a liability to pay an amount of commission or other expenses which exceeds the amount which it could reasonably be expected to pay if the company were charged to tax under Case I of Schedule D in respect of its life assurance business.

- (5) The amounts falling within this subsection are any amounts payable in connection with a policy or contract to—
  - (a) a policy holder or annuitant under the policy or contract (except where the policy holder is an insurance company),
  - (b) any other person who is entitled to receive benefits under the policy or contract,
  - (c) any person acting on behalf of a person falling within paragraph (a) or (b) above,
  - (d) the personal representatives of a deceased person who fell within paragraphs (a) to (c) above.
- (6) The amounts falling within this subsection are expenses of a capital nature.

But this subsection does not apply in the case of an amount which, by virtue of any provision of the Tax Acts other than this section, falls to be treated for the purposes of this section as expenses payable which fall to be brought into account at Step 1 in subsection (7) below (the reference to Step 1 being express in the provision).

- (7) The amount of the expenses deduction for an accounting period is found by taking the following steps—

*Step 1*

Find so much of the expenses payable as are—

- (a) attributable to basic life assurance and general annuity business (see subsection (8) below), and
- (b) referable to the accounting period (see subsection (9) below).

*Step 2*

Reduce each of the amounts found at Step 1 by excluding so much of the amount as is—

- (a) deductible in computing income for the purposes of Schedule A,
- (b) deductible by virtue of section 85(2B) of the Finance Act 1989,<sup>F85</sup> . . .
- (c) deductible by virtue of section 121(3) in computing income from the letting of rights to work minerals in the United Kingdom, [<sup>F86</sup>or
- (d) required to be deducted by subsection (9A) below.]

*Step 3*

Find the amounts (so far as not included at Step 1) which fall to be treated for the purposes of this section as expenses payable for the accounting period by virtue of any of the following provisions—

- section 432AB(3) (Schedule A loss or an overseas property business loss referable to basic life assurance and general annuity business);
- section 437(1A) (relief for income element of new annuities);

<sup>F87</sup> . . . . .

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paragraph 16(1) of Schedule 7 to the Finance Act 1991 (transitional relief for old annuities);

paragraph 4(4)(b) of Schedule 11 to the Finance Act 1996 (carried forward non-trading deficit on loan relationships produced by separate computation for basic life assurance and general annuity business);

section 256(2)(a) of the Capital Allowances Act (capital allowances on plant and machinery used in the management of life assurance business);

paragraph 23 of Schedule 22 to the Finance Act 2001 (150% relief in respect of the remediation expenditure on contaminated land owned by a company carrying on life assurance business and acquired to be a management asset);

paragraph 13(2) of Schedule 12 to the Finance Act 2002 (125% of relevant expenditure on R&D in the case of a life assurance company);

<sup>F87</sup>  
 . . . . .

paragraph 36(3) of Schedule 29 to the Finance Act 2002 (relief for non-trading loss on intangible fixed assets).

*Step 4*

Give effect to the provisions specified in Step 3 by adding together—

- (a) so much of the amounts found at Step 1 as remains after making any reductions at Step 2, and
- (b) the amounts found at Step 3,

and then deduct the amount of any reversal (wherever brought into account) of an expense included at Step 1 in a previous period,

to give Subtotal 1.

*Step 5*

If the whole or any part of a loss arising to the company in respect of its life assurance business in the accounting period is set off under section 393A or 403(1)

—

- (a) find the amount (“amount L”) that is equal to so much of the loss as, in the aggregate, is so set off,
- (b) find the [<sup>F88</sup> amount (“amount S”)] by which any losses for that period under section [<sup>F89</sup>436A] fall to be reduced under section 434A(2)(b),
- (c) from amount L deduct amount S, to give the adjusted loss deduction,

then reduce Subtotal 1 by deducting from it the adjusted loss deduction, to give Subtotal 2.

*Step 6*

Give effect to subsection (6) of section 86 of the Finance Act 1989 (spreading of acquisition expenses) by—

- (a) finding the amount that is equal to six-sevenths of the adjusted amount of the acquisition expenses (within the meaning of that section) for the accounting period, and
- (b) deducting that amount from Subtotal 2,

to give Subtotal 3.

*Step 7*

Add together the following amounts—

- (a) Subtotal 3, and
- (b) any amounts carried forward to the accounting period under subsection (12) or (13) below (unrelieved excesses from earlier accounting periods),

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to give Subtotal 4.

*Step 8*

Give effect to subsections (8) and (9) of section 86 of the Finance Act 1989 (fraction of adjusted amount of acquisition expenses for earlier accounting periods) by adding together—

- (a) Subtotal 4, and
- (b) any amounts which are to be relieved under this section by virtue of those subsections,

to give the [<sup>F90</sup>expenses] deduction.

*Step 9*

<sup>F91</sup> .....

*Step 10: the amount of the expenses deduction*

<sup>F91</sup> .....

- (8) For the purposes of Step 1, the expenses that are attributable to basic life assurance and general annuity business are the expenses which are attributable to that business in accordance with proper internal accounting practice.

In this subsection “proper internal accounting practice” means the practice of insurance companies in allocating all the expenses of the company to particular categories of business in accordance with any applicable requirements of—

- (a) generally accepted accounting practice,<sup>F92</sup> . . .
- (b) the Prudential Sourcebook (Insurers)<sup>F93</sup>, or
- (c) the [<sup>F94</sup>Insurance Prudential Sourcebook].]

- (9) The following rules have effect for determining for the purposes of Step 1 the expenses that are referable to an accounting period.

*Rule A*

Where a period of account coincides with an accounting period, the expenses brought into account for the period of account are the expenses referable to the accounting period.

*Rule B*

Where—

- (a) two or more accounting periods fall within the same period of account, and
- (b) that period of account is longer than 12 months,

section 834(4) (apportionment on time basis) is to apply.

*Rule C*

In any other case where two or more accounting periods fall within the same period of account, the expenses referable to any of those accounting periods are the expenses that would have been referable to that accounting period if—

- (a) the accounting period had coincided with a period of account, and
- (b) a separate periodical return had been made for that period of account,

and section 834(4) (apportionment on time basis) is not to apply.

*Rule D*

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Rules A to C are subject to any provision of the Corporation Tax Acts which provides for an amount to be treated as expenses payable for, or referable to, a particular period.

[<sup>F95</sup>(9A) The amount required to be deducted at paragraph (d) of Step 2 is the total of the amounts (if any) arrived at under subsection (9C) below in relation to the fronting reinsurance contracts (if any) made by the company.

(9B) A fronting reinsurance contract is a contract of reinsurance forming part of a fronting reinsurance arrangement; and a fronting reinsurance arrangement is an arrangement under which the company—

- (a) enters into a contract constituting term assurance with a person, and
- (b) reinsures all, or substantially all, of the liabilities under that contract with a reinsurer which—
  - (i) does not meet the BLAGAB group reinsurance conditions in paragraph 1(3) of Schedule 19ABA to this Act, and
  - (ii) is connected with that person or with a person entitled to commission from the company in respect of the contract.

(9C) The amount referred to in subsection (9A) above in relation to any fronting reinsurance contract made by the company is the relevant reinsurance fraction of so much of the amount found at Step 1 as relates to policies and contracts which are relevant reinsured policies and contracts in relation to the fronting reinsurance contract.

(9D) For the purposes of subsection (9C) above “the relevant reinsurance fraction” is—

$$\frac{RL}{TL}$$

where—

RL is so much of TL as is reinsured under the fronting reinsurance contract, and

TL is the amount of the total liabilities under the relevant reinsured policies and contracts at the end of the accounting period.

(9E) For the purposes of subsections (9B) and (9C) above policies and contracts are relevant reinsured policies and contracts in relation to a fronting reinsurance contract if—

- (a) they are attributable to the company's basic life assurance and general annuity business, and
- (b) any or all of the risks under them are reinsured under the fronting reinsurance contract.]

(10) <sup>F96</sup> .....

(11) <sup>F96</sup> .....

(12) Where for any accounting period—

- (a) the amount of the expenses deduction (see [<sup>F97</sup>Step 8]), exceeds
- (b) the amount from which that deduction is to be made (see subsection (2) above),



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the excess is to be carried forward to the next accounting period [<sup>F98</sup> for which the company is charged to tax in respect of its life assurance business under the I minus E basis] and brought into account for that period in accordance with Step 7.

[<sup>F99</sup>(13) Where for any accounting period excess adjusted Case I profits are charged to tax under section 85A of the Finance Act 1989, an amount equal to the profits is to be carried forward to the next accounting period for which the company is charged to tax in respect of its life assurance business under the I minus E basis and brought into account for that period in accordance with Step 7.]

(14) <sup>F100</sup> .....

(15) In this section—

<sup>F101</sup> .....

“expenses payable” has the meaning given by subsection (3) above;

<sup>F102</sup> ..... ]

#### Textual Amendments

- F82** S. 76 substituted (with effect in accordance with ss. 42, 44 of the amending Act) by [Finance Act 2004 \(c. 12\), s. 40](#)
- F83** Words in s. 76(1)(b) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 8 para. 2\(2\)](#) (with [Sch. 8 Pt. 2](#))
- F84** Words in s. 76(1) repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 3\(2\), Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))
- F85** Word in s. 76(7) Step 2 omitted (with effect in accordance with [Sch. 17 para. 5\(4\)-\(7\)](#) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), Sch. 17 para. 5\(2\)](#)
- F86** S. 76(7) Step 2 para. (d) and preceding word inserted (with effect in accordance with [Sch. 17 para. 5\(4\)-\(7\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 17 para. 5\(2\)](#)
- F87** S. 76(7): entries in Step 3 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 16\(3\)\(a\), Sch. 27 Pt. 2\(10\)](#), Note
- F88** Words in s. 76(7) Step 5 substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 3\(3\)\(a\)](#) (with [Sch. 7 Pt. 2](#))
- F89** Words in s. 76(7) Step 5 substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 3\(3\)\(b\)](#) (with [Sch. 7 Pt. 2](#))
- F90** Word in s. 76(7) Step 8 substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 8 para. 2\(3\)\(a\)](#) (with [Sch. 8 Pt. 2](#))
- F91** S. 76(7) Steps 9, 10 repealed (with effect in accordance with s. 39(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 8 para. 2\(3\)\(b\), Sch. 27 Pt. 2\(8\)](#), Note (with [Sch. 8 Pt. 2](#))
- F92** Word in s. 76(8) repealed (with effect in accordance with [Sch. 11 Pt. 2\(10\) Note 1](#) of the repealing Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 11 Pt. 2\(10\)](#)
- F93** Words in s. 76(8) inserted (with effect in accordance with [Sch. 9 para. 1\(3\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 9 para. 1\(2\)](#)
- F94** Words in s. 76(8) substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\), arts. 1\(1\), 3](#)
- F95** S. 76(9A)-(9E) inserted (with effect in accordance with [Sch. 17 para. 5\(4\)-\(7\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 17 para. 5\(3\)](#)
- F96** S. 76(10)(11) repealed (with effect in accordance with s. 39(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 8 para. 2\(4\), Sch. 27 Pt. 2\(8\)](#), Note (with [Sch. 8 Pt. 2](#))
- F97** Words in s. 76(12)(a) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 8 para. 2\(5\)\(a\)](#) (with [Sch. 8 Pt. 2](#))

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- F98** Words in s. 76(12) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 2(5)(b)** (with Sch. 8 Pt. 2)
- F99** S. 76(13) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 2(6)** (with Sch. 8 Pt. 2)
- F100** S. 76(14) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 3(4)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F101** S. 76(15): definition of "capital redemption business" repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 3(5)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F102** Words in s. 76(15) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 14(2)(b)**, **Sch. 27 Pt. 2(10)**, Note

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

- C16** S. 76 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 5** (as amended: (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2007/2134, **regs. 1(1), 5**; (12.8.2008 with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2008/1937, **regs. 1(1), 3**)
- C17** S. 76 modified (6.4.2006) by Finance Act 2004 (c. 12), **ss. 196(4)**, 199(2)(c)(5), 246(3)(b), 284(1) (with Sch. 36)
- C18** S. 76 modified by Capital Allowances Act 2001 (c. 2), **Sch. A1 para. 22(2)** (as inserted (with effect in accordance with Sch. 25 para. 9 of the 2008 amending Act) by Finance Act 2008 (c. 9), **Sch. 25 para. 5**)
- C19** S. 76 modified by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), **reg. 69Z24A(4)(c)** (as inserted (1.1.2009 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), **regs. 1(1), 27**)
- C20** S. 76(7) modified (6.4.2006) by Finance Act 2004 (c. 12), **ss. 200(c)**, 246(2)(c), 284(1) (with Sch. 36)

### 76A Levies and repayments under the Financial Services and Markets Act 2000.

- (1) In computing the amount of the profits to be charged [<sup>F103</sup>to corporation tax] under Case I of Schedule D arising from a trade carried on by an authorised person (other than an investment company)—
- (a) to the extent that it would not be deductible apart from this section, any sum expended by the authorised person in paying a levy may be deducted as an allowable expense;
  - (b) any payment which is made to the authorised person as a result of a repayment provision is to be treated as a trading receipt.

[<sup>F104</sup>(2) "Levy" means—

- (a) a payment required under rules made under section 136(2) of the Financial Services and Markets Act 2000 ("the Act of 2000");
- (b) a levy imposed under the Financial Services Compensation Scheme;
- (c) a payment required under rules made under section 234 of the Act of 2000;
- (d) a payment required under scheme rules in accordance with paragraph 15(1) of Schedule 17 to the Act of 2000;
- (e) a payment required in accordance with the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000 other than an award which is not an award of costs under cost rules.]

[<sup>F105</sup>(3) "Repayment provision" means—

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- (a) any provision made by virtue of section 136(7) or 214(1)(e) of the Act of 2000;
  - (b) any provision by scheme rules for fees to be refunded in specified circumstances.]
- (4) “Authorised person” has the same meaning as in the Act of 2000.
- [<sup>F106</sup>(5) “Scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to the Act of 2000.
- (6) “Costs rules” means—
- (a) rules made under section 230 of the Act of 2000;
  - (b) provision relating to costs contained in the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000.]

#### Textual Amendments

- F103** Words in s. 76A(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 46](#) (with Sch. 2)
- F104** S. 76A(2) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 16\(3\)](#)
- F105** S. 76A(3) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 16\(4\)](#)
- F106** S. 76A(5)(6) added (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 16\(5\)](#)

#### **76B Levies and repayments under the Financial Services and Markets Act 2000: investment companies.**

- (1) For the purposes of section 75 any sums paid by [<sup>F107</sup>a company with investment business]—
- (a) by way of a levy, or
  - (b) as a result of an award of costs under costs rules,
- shall be treated as part of its expenses of management.
- (2) [<sup>F108</sup>For the purposes of corporation tax,] if a payment is made to [<sup>F109</sup>a company with investment business] as a result of a repayment provision, the company shall be charged to tax under Case VI of Schedule D on the amount of that payment.
- (3) “Levy” has the meaning given in section [<sup>F110</sup>76A(2)].
- [<sup>F111</sup>(4) “Costs rules” has the meaning given in section 76A(6).]
- (5) “Repayment provision” has the meaning given in section 76A(3).

#### Textual Amendments

- F107** Words in s. 76B(1) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 6 para. 1\(2\)](#)
- F108** Words in s. 76B(2) inserted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 6 para. 1\(3\)\(a\)](#)

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- F109** Words in s. 76B(2) substituted (with effect in accordance with ss. 42-44 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 6 para. 1(3)(b)**
- F110** Words in s. 76B(3) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 16(7)**
- F111** S. 76B(4) substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 16(8)**

**77 Incidental costs of obtaining loan finance.**

**F112** .....

**Textual Amendments**

**F112** S.77 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 47, Sch. 3** (with Sch. 2)

**78 Discounted bills of exchange.**

**F113** .....

**Textual Amendments**

**F113** S. 78 repealed with saving (with effect in accordance with s. 105(1) of the repealing Act) by **Finance Act 1996 (c. 8), Sch. 14 para. 10, Sch. 41 Pt. 5(3)**, Note (with Sch. 15)

**79 Contributions to local enterprise agencies.**

- (1) <sup>M15</sup>Notwithstanding anything in section 74, but subject to the provisions of this section, where a [<sup>F114</sup>company] carrying on a [<sup>F115</sup>trade or profession] makes any contribution (whether in cash or in kind) to an approved local enterprise agency, any expenditure incurred by [<sup>F116</sup>the company] in making the contribution may be deducted as an expense in computing the [<sup>F117</sup>profits] of the [<sup>F115</sup>trade or profession] for the purposes of [<sup>F118</sup>corporation] tax if it would not otherwise be so deductible.
- (2) Where any such contribution is made by [<sup>F119</sup>a company with investment business] any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- [<sup>F120</sup>(2A) Where any such contribution is made by a company in relation to which section 76 applies (expenses of insurance companies) any expenditure allowable as a deduction under subsection (1) above shall for the purposes of that section be treated as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section.]
- (3) Subsection (1) above does not apply in relation to a contribution made by [<sup>F121</sup>any company if either the company or any person connected with the company] receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the agency concerned or from any other person.

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- (4) In this section “approved local enterprise agency” means a body approved by the Secretary of State for the purposes of this section; but he shall not so approve a body unless he is satisfied that—
- (a) its sole objective is the promotion or encouragement of industrial and commercial activity or enterprise in a particular area in the United Kingdom with particular reference to encouraging the formation and development of small businesses; or
  - (b) one of its principal objectives is that set out in paragraph (a) above and it maintains or is about to maintain a fund separate from its other funds which is or is to be applied solely in pursuance of that objective;
- and where the Secretary of State approves a body by virtue of paragraph (b) above, the approval shall specify the fund concerned and, in relation to a body so approved, any reference in this section to a contribution is a reference to a contribution which is made wholly to or for the purposes of that fund.
- (5) <sup>M16</sup>A body may be approved under subsection (4) above whether or not it is a body corporate or a body of trustees or any other association or organisation and whether or not it is described as a local enterprise agency.
- (6) A body may not be approved under subsection (4) above unless it is precluded, by virtue of any enactment, contractual obligation, memorandum or otherwise, from making any direct or indirect payment or transfer to any of its members, or to any person charged with the control and direction of its affairs, of any of its income or profit by way of dividend, gift, division, bonus or otherwise howsoever by way of profit.
- (7) For the purposes of subsection (6) above, the payment—
- (a) of reasonable remuneration for goods, labour or power supplied or for services rendered, or
  - (b) of reasonable interest for money lent, or
  - (c) of reasonable rent for any premises,
- does not constitute a payment or transfer which is required to be so precluded.
- (8) <sup>M17</sup>Any approval given by the Secretary of State may be made conditional upon compliance with such requirements as to accounts, provision of information and other matters as he considers appropriate; and if it appears to the Secretary of State that—
- (a) an approved local enterprise agency is not complying with any such requirement, or
  - (b) one or other of the conditions for his approval contained in subsection (4) above or the precondition for his approval in subsection (6) above has ceased to be fulfilled with respect to an approved local enterprise agency,
- he shall by notice withdraw his approval from the body concerned with effect from such date as he may specify in the notice (which may be a date earlier than the date on which the notice is given).
- (9) In any case where—
- (a) a contribution has been made [<sup>F122</sup>by a company] to an approved local enterprise agency in respect of which relief has been given under subsection (1) above, and
  - (b) any benefit received in any [<sup>F123</sup>accounting period] by [<sup>F124</sup>the company or any person connected with the company] is in any way attributable to that contribution,

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[<sup>F125</sup>the company shall] in respect of that [<sup>F123</sup>accounting period] be charged to [<sup>F126</sup>corporation] tax under Case I or Case II of Schedule D or, if [<sup>F127</sup>the company] is not chargeable to [<sup>F126</sup>corporation] tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(10) Section 839 applies for the purposes of subsections (3) and (9) above.

(11) This section applies to contributions made on or after 1st April 1982 <sup>F128</sup> . . . .

### Textual Amendments

- F114** Word in s. 79(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(2\)\(a\)](#) (with Sch. 2)
- F115** Words in s. 79(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(2\)\(b\)](#) (with Sch. 2)
- F116** Words in s. 79(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(2\)\(c\)](#) (with Sch. 2)
- F117** Words in s. 79(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F118** Word in s. 79(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(2\)\(d\)](#) (with Sch. 2)
- F119** Words in s. 79(2) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 3(2)
- F120** [S. 79\(2A\)](#) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 3(3)
- F121** Words in s. 79(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(3\)](#) (with Sch. 2)
- F122** Words in s. 79(9) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(a\)](#) (with Sch. 2)
- F123** Words in s. 79(9) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(b\)](#) (with Sch. 2)
- F124** Words in s. 79(9) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(c\)](#) (with Sch. 2)
- F125** Words in s. 79(9) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(d\)](#) (with Sch. 2)
- F126** Words in s. 79(9) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(e\)](#) (with Sch. 2)
- F127** Words in s. 79(9) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 48\(4\)\(f\)](#) (with Sch. 2)
- F128** Words in s. 79(11) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), s. 88, [Sch. 40 Pt. 2\(9\)](#)

### Modifications etc. (not altering text)

- C21** [S. 79](#): functions transferred (1.7.1999 immediately after the coming into force of [Scotland Act 1998 \(c. 46\)](#), [s. 53](#)) by The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), arts. 1(2), 2, [Sch. 1](#)
- C22** [S. 79\(4\)\(8\)](#): functions transferred (1.7.1999) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), arts. 1(1), 2, [Sch. 1](#) (with art. 7)

### Marginal Citations

- M15** SOURCE-1982 s. 48(1)–(4)
- M16** SOURCE-1982 s. 48(5)



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**M17** SOURCE-1982 s. 48(6)–(9)

**[<sup>F129</sup>79A Contributions to training and enterprise councils and local enterprise companies.**

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a [<sup>F130</sup>company] carrying on a [<sup>F131</sup>trade or profession] makes any contribution (whether in cash or in kind) to a training and enterprise council, [<sup>F132</sup>business link organisation] or a local enterprise company, any expenditure incurred by [<sup>F133</sup>the company] in making the contribution may be deducted as an expense in computing the [<sup>F134</sup>profits] of the [<sup>F131</sup>trade or profession] for the purposes of [<sup>F135</sup>corporation] tax if it would not otherwise be so deductible.
- (2) Where any such contribution is made by [<sup>F136</sup>a company with investment business] any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.

[<sup>F137</sup>(2A) Where any such contribution is made by a company in relation to which section 76 applies (expenses of insurance companies) any expenditure allowable as a deduction under subsection (1) above shall for the purposes of that section be treated as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section.]

- (3) Subsection (1) above does not apply in relation to a contribution made by [<sup>F138</sup>any company if either the company or any person connected with the company] receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the council, [<sup>F139</sup>organisation] or company concerned or from any other person.

(4) In any case where—

- (a) relief has been given under subsection (1) above in respect of a contribution [<sup>F140</sup>made by a company], and
- (b) any benefit received in any [<sup>F141</sup>accounting period] by [<sup>F142</sup>the company or any person connected with the company] is in any way attributable to that contribution,

[<sup>F143</sup>the company shall] in respect of that [<sup>F141</sup>accounting period] be charged to [<sup>F144</sup>corporation] tax under Case I or Case II of Schedule D, or if [<sup>F145</sup>the company] is not chargeable to [<sup>F144</sup>corporation] tax under either of those Cases for that period under Case VI of Schedule D, on an amount equal to the value of that benefit.

(5) In this section—

- [<sup>F146</sup>(aa) “business link organisation” means any person authorised by or on behalf of the Secretary of State to use a service mark (within the meaning of the Trade Marks (Amendment) Act 1984) designated by the Secretary of State for the purposes of this paragraph]
- (a) “training and enterprise council” means a body with which the Secretary of State has made an agreement (not being one which has terminated) under which it is agreed that the body shall carry out the functions of a training and enterprise council, and
  - (b) “local enterprise company” means a company with which an agreement (not being one which has terminated) under which it is agreed that the company shall carry out the functions of a local enterprise company has been made by [<sup>F147</sup> . . . Scottish Enterprise or Highlands and Islands Enterprise.

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- (6) Section 839 applies for the purposes of subsections (3) and (4) above.
- (7) This section applies to contributions made on or after 1st April 1990 <sup>F148</sup>or, in the case of a contribution to a business link organisation, 30th November 1993<sup>F149</sup> . . . .]

#### Textual Amendments

- F129** 1990 s.76.
- F130** Word in s. 79A(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(2\)\(a\)](#) (with Sch. 2)
- F131** Words in s. 79A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(2\)\(b\)](#) (with Sch. 2)
- F132** Words in s. 79A(1) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 145\(3\)](#)
- F133** Words in s. 79A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(2\)\(c\)](#) (with Sch. 2)
- F134** Words in s. 79A(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1
- F135** Word in s. 79A(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(2\)\(d\)](#) (with Sch. 2)
- F136** Words in s. 79A(2) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para 3(2)
- F137** [S. 79A\(2A\)](#) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 3(3)
- F138** Words in s. 79A(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(3\)](#) (with Sch. 2)
- F139** Word in s. 79A(3) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 145\(3\)](#)
- F140** Words in s. 79A(4)(a) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(a\)](#) (with Sch. 2)
- F141** Words in s. 79A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(b\)](#) (with Sch. 2)
- F142** Words in s. 79A(4)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(c\)](#) (with Sch. 2)
- F143** Words in s. 79A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(d\)](#) (with Sch. 2)
- F144** Words in s. 79A(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(e\)](#) (with Sch. 2)
- F145** Words in s. 79A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 49\(4\)\(f\)](#) (with Sch. 2)
- F146** [S. 79A\(5\)\(aa\)](#) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 145\(4\)](#)
- F147** Words in s. 79A(5)(b) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\), Sch. 40 Pt. 2\(9\)](#)
- F148** Words in s. 79A(7) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 145\(5\)](#)
- F149** Words in s. 79A(7) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\), s. 88, Sch. 40 Pt. 2\(9\)](#)

## 79B Contributions to urban regeneration companies

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a <sup>F150</sup>company] carrying on a <sup>F151</sup>trade or profession] makes any contribution (whether in cash or in kind) to a designated urban regeneration company, any expenditure incurred by <sup>F152</sup>the company] in making the contribution may be deducted



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- as an expense in computing the profits of the [<sup>F151</sup>trade or profession][<sup>F153</sup>for the purposes of corporation tax] if it would not otherwise be so deductible.
- (2) Where any such contribution is made by [<sup>F154</sup>a company with investment business], any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- [<sup>F155</sup>(2A) Where any such contribution is made by a company in relation to which section 76 applies (expenses of insurance companies) any expenditure allowable as a deduction under subsection (1) above shall for the purposes of that section be treated as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section.]
- (3) Subsection (1) above does not apply in relation to a contribution made by [<sup>F156</sup>any company if either the company or any person connected with the company] receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the urban regeneration company concerned or from any other person.
- (4) In any case where—
- (a) relief has been given under subsection (1) above in respect of a contribution [<sup>F157</sup>made by a company], and
  - (b) any benefit received in any [<sup>F158</sup>accounting period] by [<sup>F159</sup>the company or any person connected with the company] is in any way attributable to that contribution,
- [<sup>F160</sup>the company shall] in respect of that [<sup>F158</sup>accounting period] be charged to [<sup>F161</sup>corporation] tax under Case I or Case II of Schedule D or, if [<sup>F162</sup>the company] is not chargeable to [<sup>F161</sup>corporation] tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
- (5) In this section “urban regeneration company” means any body of persons (whether corporate or unincorporate) which the Treasury by order designates as an urban regeneration company for the purposes of this section.
- (6) The Treasury may only make an order under subsection (5) above designating a body as an urban regeneration company for the purposes of this section if they consider that each of the criteria in subsection (7) below is satisfied in the case of the body.
- (7) The criteria are that—
- (a) the sole or main function of the body is to co-ordinate the regeneration of a specific urban area in the United Kingdom;
  - (b) the body is expected to seek to perform that function by creating a plan for the development of that area and endeavouring to secure that the plan is carried into effect;
  - (c) in co-ordinating the regeneration of that area, the body is expected to work together with some or all of the public or local authorities which exercise functions in relation to the whole or part of that area.
- (8) An order under subsection (5) above may be framed so as to take effect on a date earlier than the making of the order, but not earlier than—
- (a) 1st April 2003, in the case of the first order under that subsection, or
  - (b) three months before the date on which the order is made, in the case of any subsequent order.

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(9) Section 839 (connected persons) applies for the purposes of this section.

(10) This section applies to contributions made on or after 1st April 2003.

#### Textual Amendments

- F150** Word in s. 79B(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(2\)\(a\)](#) (with Sch. 2)
- F151** Words in s. 79B(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(2\)\(b\)](#) (with Sch. 2)
- F152** Words in s. 79B(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(2\)\(c\)](#) (with Sch. 2)
- F153** Words in s. 79B(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(2\)\(d\)](#) (with Sch. 2)
- F154** Words in s. 79B(2) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 3(2)
- F155** [S. 79B\(2A\)](#) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 3(3)
- F156** Words in s. 79B(3) inserted (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(3\)](#) (with Sch. 2)
- F157** Words in s. 79B(4)(a) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(a\)](#) (with Sch. 2)
- F158** Words in s. 79B(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(b\)](#) (with Sch. 2)
- F159** Words in s. 79B(4)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(c\)](#) (with Sch. 2)
- F160** Words in s. 79B(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(d\)](#) (with Sch. 2)
- F161** Words in s. 79B(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(e\)](#) (with Sch. 2)
- F162** Words in s. 79B(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 50\(4\)\(f\)](#) (with Sch. 2)

## 80 Expenses connected with foreign trades etc.

F163 .....

#### Textual Amendments

- F163** [S. 80-82](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 51-53, Sch. 3](#) (with Sch. 2)

## 81 Travel between trades etc.

F164 .....

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### Textual Amendments

**F164** S. 80-82 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 51-53](#), [Sch. 3](#) (with [Sch. 2](#))

## 82 Interest paid to non-residents.

**F165** .....

### Textual Amendments

**F165** S. 80-82 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 51-53](#), [Sch. 3](#) (with [Sch. 2](#))

## 82A Expenditure on research and development.

- (1) Notwithstanding anything in section 74, where a [<sup>F166</sup>company] carrying on a trade incurs expenditure not of a capital nature on research and development—
  - (a) related to that trade, and
  - (b) directly undertaken [<sup>F167</sup>by the company or on the company's behalf],the expenditure incurred may be deducted as an expense in computing the profits of the trade for the purposes of [<sup>F168</sup>corporation] tax.
- (2) For this purpose expenditure on research and development does not include expenditure incurred in the acquisition of rights in, or arising out of, research and development.  
  
Subject to that, it includes all expenditure incurred in carrying out, or providing facilities for carrying out, research and development.
- (3) The reference in subsection (1) above to research and development related to a trade includes—
  - (a) research and development which may lead to or facilitate an extension of that trade;
  - (b) research and development of a medical nature which has a special relation to the welfare of workers employed in that trade.
- (4) The same expenditure may not be taken into account under this section in relation to more than one trade.
- (5) In this section “research and development” has the meaning given by section 837A and includes oil and gas exploration and appraisal.

### Textual Amendments

- F166** Word in s. 82A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 54\(a\)](#) (with [Sch. 2](#))
- F167** Words in s. 82A(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 54\(b\)](#) (with [Sch. 2](#))
- F168** Word in s. 82A(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 54\(c\)](#) (with [Sch. 2](#))

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

- C23** S. 82A modified (1.1.2005 with effect in accordance with art. 2 of the commencing S.I.) by [Finance Act 2004 \(c. 12\)](#), [s. 53\(2\)](#); S.I. 2004/3268, [art. 2](#)

### **82B Payments to research associations, universities etc.**

- (1) Notwithstanding anything in section 74, where a [<sup>F169</sup>company] carrying on a trade—
- [<sup>F170</sup>(a) pays any sum to an Association in the case of which exemption may be claimed under section 508 and which has as its object the undertaking of research and development which may lead to or facilitate an extension of the class of trade to which the trade carried on by the company belongs, or
- (b) pays any sum to be used for scientific research related to that class of trade] to any such university, college research institute or other similar institution as is for the time being approved for the purposes of this section by the Secretary of State,

the sum paid may be deducted as an expense in computing the profits of the trade for the purposes of [<sup>F171</sup>corporation] tax.

- (2) In this section “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.
- (3) The reference in [<sup>F172</sup>subsection (1)(b) above] to scientific research related to a class of trade includes—
- (a) scientific research which may lead to or facilitate an extension of trades of that class;
- (b) scientific research of a medical nature which has a special relation to the welfare of workers employed in trades of that class.
- (4) If a question arises under this section whether, or to what extent, any activities constitute or constituted scientific research, the Board shall refer the question for decision to the Secretary of State.

The decision of the Secretary of State is final.

- (5) The same expenditure may not be taken into account under this section in relation to more than one trade.

#### **Textual Amendments**

- F169** Word in s. 82B(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 55\(a\)](#) (with [Sch. 2](#))
- F170** Words in s. 82B(1) substituted (with effect in accordance with s. 15(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 15\(2\)](#)
- F171** Word in s. 82B(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 55\(c\)](#) (with [Sch. 2](#))
- F172** Words in s. 82B(3) substituted (with effect in accordance with s. 15(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 15\(3\)](#)

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### 83 Patent fees etc. and expenses.

<sup>M18</sup>Notwithstanding anything in section 74, in computing the [<sup>F173</sup>profits] of a trade [<sup>F174</sup>for the purposes of corporation tax] there may be deducted as expenses any fees paid or expenses incurred—

- (a) in obtaining for the purposes of the trade the grant of a patent, an extension of the term of a patent, the registration of a design or trade mark, [<sup>F175</sup>an extension of the period for which the right in a registered design subsists] or the renewal of registration of a trade mark, or
- (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

F176

#### Textual Amendments

- F173 Words in s. 83 substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F174 Words in s. 83 inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 56 (with Sch. 2)
- F175 Sch.7 para.36(2) Copyright, Designs and Patents Act 1988 (c.48)—in force on 1 August 1989. (Commencement order—S.I. 1989 No.816—not reproduced.) Previously “the extension of the period of copyright in a design”.
- F176 Words in s. 83 repealed (31.10.1994) by Trade Marks Act 1994 (c. 26), s. 109(1), Sch. 5; S.I. 1994/2550, art. 2

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

- C24 S. 83(a) modified (31.10.1994) by Trade Marks Act 1994 (c. 26), s. 109(1), Sch. 4 para. 1(1)(2); S.I. 1994/2550, art. 2

#### Marginal Citations

- M18 SOURCE-1970 s. 132

### 83A Gifts in kind to charities etc.

- (1) This section applies where [<sup>F177</sup>a company carrying on a trade or profession] gives an article falling within subsection (2) below to—
  - (a) a charity within the meaning of section 506, or
  - (b) a body listed in section 507(1).
- (2) An article falls within this subsection if—
  - (a) it is an article manufactured, or of a class or description sold, by [<sup>F178</sup>the company in the course of its trade]; <sup>F179</sup> . . .
  - (b) <sup>F179</sup> . . . . .
- (3) Subject to subsection (4) below, where this section applies in the case of the gift of an article—
  - (a) no amount shall be required, in consequence of the [<sup>F180</sup>the company's] disposal of that article from trading stock, to be brought into account for [<sup>F181</sup>corporation tax purposes] as a trading receipt of [<sup>F182</sup>the company]; <sup>F179</sup> . . .
  - (b) <sup>F179</sup> . . . . .

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(4) In any case where—

- (a) relief is given under subsection (3) above [<sup>F183</sup>or section 63(2) of the Capital Allowances Act] in respect of the gift of an article [<sup>F184</sup>made by a company], and
- (b) any benefit received in any [<sup>F185</sup>accounting period] by [<sup>F186</sup>the company or any person connected with the company] is in any way attributable to the making of that gift,

[<sup>F187</sup>the company shall] in respect of that [<sup>F185</sup>accounting period] be charged to [<sup>F188</sup>corporation] tax under Case I or Case II of Schedule D or, if [<sup>F189</sup>the company] is not chargeable to [<sup>F188</sup>corporation] tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) Section 839 applies for the purposes of this section.

#### Textual Amendments

- F177** Words in s. 83A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(2)* (with Sch. 2)
- F178** Words in s. 83A(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(3)* (with Sch. 2)
- F179** S. 83A(2)(b)(3)(b) and preceding words repealed (with effect in accordance with s. 579 of the repealing Act) by *Capital Allowances Act 2001 (c. 2), Sch. 2 para. 16(1)(2), Sch. 4*
- F180** Words in s. 83A(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(4)(a)* (with Sch. 2)
- F181** Words in s. 83A(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(4)(b)* (with Sch. 2)
- F182** Words in s. 83A(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(4)(c)* (with Sch. 2)
- F183** Words in s. 83A(4)(a) inserted (with effect in accordance with s. 579 of the amending Act) by *Capital Allowances Act 2001 (c. 2), Sch. 2 para. 16(3)*
- F184** Words in s. 83A(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(a)* (with Sch. 2)
- F185** Words in s. 83A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(b)* (with Sch. 2)
- F186** Words in s. 83A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(c)* (with Sch. 2)
- F187** Words in s. 83A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(d)* (with Sch. 2)
- F188** Words in s. 83A(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(e)* (with Sch. 2)
- F189** Words in s. 83A(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 57(5)(f)* (with Sch. 2)

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

- C25** S. 83A modified (with effect in accordance with s. 58(4) of the modifying Act) by *Finance Act 2002 (c. 23), Sch. 18 para. 9(3)(a)*

#### [84] <sup>F190</sup>Gifts to educational establishments.

- (1) This section applies where [<sup>F191</sup>a company carrying on a trade or profession] (“the donor”) makes a gift for the purposes of a designated educational establishment of—

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- (a) an article manufactured, or of a class or description sold, by the donor in the course of [F192:its trade] which qualifies as [F193:plant or machinery] in the hands of the educational establishment; F194 . . .
  - (b) F194 . . . . .
- (2) For the purposes of this section, an article “[F195:qualifies as plant or machinery] in the hands of an educational establishment” if, and only if, it is an article such that—
- (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
  - (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and
  - (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of [F196:Part 2 of the Capital Allowances Act as plant or machinery] provided by the body for the purposes of that trade.

- (3) Where this section applies—
- (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for [F197:corporation tax purposes], no amount shall be required to be brought into account as a trading receipt of the donor in consequence of [F198:its disposal] of that article from trading stock; F194 . . .
  - (b) F194 . . . . .

but this subsection shall not apply unless, within [F199:the period specified in subsection (3A) below], the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

[ The period mentioned in subsection (3) above is [F201:the period of two years beginning F200(3A) at the end of the accounting period in which the gift is made.]

(3B) F202 . . . . .]

- (4) In any case where—
- (a) relief is given under subsection (3) above [F203:or section 63(2) of the Capital Allowances Act] in respect of the gift of an article [F204:made by the donor], and
  - (b) any benefit received in any [F205:accounting period] by the donor or any person connected with [F206:the donor] is in any way attributable to the making of that gift,

the donor shall in respect of that [F205:accounting period] be charged to [F207:corporation] tax under Case I or Case II of Schedule D or, if [F208:the donor] is not chargeable to [F207:corporation] tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

- (5) In this section “designated educational establishment” means any educational establishment designated, or of a category designated,—
- (a) as respects Great Britain, in regulations made by the Secretary of State; or
  - (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;

and any such regulations may make different provision for different areas.



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- (6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—
- (a) in the case of an establishment in Great Britain, to the Secretary of State, or
  - (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.]

#### Textual Amendments

- F190** S. 84 substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 68(1)(2)
- F191** Words in s. 84(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(2)(a) (with Sch. 2)
- F192** Words in s. 84(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(2)(b) (with Sch. 2)
- F193** Words in s. 84(1)(a) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 17(1)(a)
- F194** S. 84(1)(b)(3)(b) and preceding words repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 17(1)(b)(3), {Sch. 4}
- F195** Words in s. 84(2) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 17(2)(a)
- F196** Words in s. 84(2) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 17(2)(b)
- F197** Words in s. 84(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(3)(a) (with Sch. 2)
- F198** Words in s. 84(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(3)(b) (with Sch. 2)
- F199** Words in s. 84(3) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 21 para. 2(2)
- F200** S. 84(3A)(3B) inserted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 21 para. 2(3)
- F201** S. 84(3A): by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(4) it is provided that "In subsection (3A) for "above is--" to the end substitute "the period of two years beginning at the end of the accounting period in which the gift is made."" (in force 6.4.2005 with effect in accordance with s. 883(1) of the amending Act) (with Sch. 2)
- F202** S. 84(3B) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 58(5), Sch. 3 (with Sch. 2)
- F203** Words in s. 84(4)(a) inserted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 17(4)



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- F204** Words in s. 84(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 58(6)(a)** (with Sch. 2)
- F205** Words in s. 84(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 58(6)(b)** (with Sch. 2)
- F206** Words in s. 84(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 58(6)(c)** (with Sch. 2)
- F207** Words in s. 84(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 58(6)(d)** (with Sch. 2)
- F208** Words in s. 84(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 58(6)(e)** (with Sch. 2)

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

- C26** S. 84: functions transferred (1.7.1999 immediately after the coming into force of Scotland Act 1998 (c. 46), s. 53) by The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), arts. 1(2), 2, **Sch. 1**

**[<sup>F209</sup>84A Costs of establishing share option or profit sharing schemes: relief.**

- (1) Subsection (2) below applies where—
- (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or
  - (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.
- (2) In such a case the expenditure—
- (a) shall be deducted in computing for the purposes of Schedule D [<sup>F210</sup>or Part 2 of ITTOIA 2005] the [<sup>F211</sup>profits] of a trade carried on by the company, or
  - [<sup>F212</sup>(b) if the company is one with investment business, shall be treated as expenses of management deductible under section 75 to the extent that it otherwise would not be, or
  - (c) if the company is one in relation to which section 76 applies, shall be treated for the purposes of that section as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section to the extent that it otherwise would not be.]
- (3) In a case where—
- (a) subsection (2) above applies, and
  - (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,
- [<sup>F213</sup>for the purpose of applying subsection (2) above the expenditure shall be treated in accordance with subsection (3ZA) below.]

- [ Where this subsection applies—
- <sup>F214</sup>(3ZA) (a) in applying subsection (2)(a) above, the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in subsection (3)(b) above),
- (b) in applying subsection (2)(b) or (c) above, the expenditure shall be treated as referable to the accounting period in which the approval is given.]

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- [ In this section, “share option scheme” means—
- <sup>F215</sup>(3A) (a) an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)), or
- (b) a CSOP scheme within the meaning of the CSOP code (see section 521(4) of that Act (approved CSOP schemes)).]
- (4) References in this section to approving are to approving under Schedule 9 [<sup>F216</sup>to this Act or under Schedule 3 or 4 to ITEPA 2003 (approved SAYE option schemes and approved CSOP schemes)].
- (5) This section applies where the expenditure is incurred on or after 1st April 1991.]

#### Textual Amendments

- F209** S. 84A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 42
- F210** Words in s. 84A(2)(a) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 59 (with Sch. 2)
- F211** Words in s. 84A(2)(a) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F212** S. 84A(2)(b)(c) substituted for s. 84A(2)(b) (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 4(2)
- F213** Words in s. 84A(3) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 4(3)
- F214** S. 84A(3ZA) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 4(4)
- F215** S. 84A(3A) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 11(2) (with Sch. 7)
- F216** Words in s. 84A(4) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 11(3) (with Sch. 7)

## 85 Payments to trustees of approved profit sharing schemes.

- (1) <sup>M19</sup>Any sum expended in making a payment to the trustees of an approved profit sharing scheme by a company which is in relation to that scheme the grantor or a participating company—
- (a) shall be deducted in computing for the purposes of Schedule D the [<sup>F217</sup>profits] of a trade carried on by that company; or
- [<sup>F218</sup>(b) if that company is a company with investment business, shall be treated as expenses of management deductible under section 75, or
- (c) if that company is one in relation to which section 76 applies, shall be treated as expenses payable for the purposes of that section,]
- if, and only if, one of the conditions in subsection (2) below is fulfilled.
- (2) The conditions referred to in subsection (1) above are—
- (a) that before the expiry of the relevant period the sum in question is applied by the trustees in the acquisition of shares for appropriation to individuals who are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment; and

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- (b) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.
- (3) For the purposes of subsection (2)(a) above “the relevant period” means the period of nine months beginning on the day following the end of the period of account in which the sum in question is charged as an expense of the company incurring the expenditure or such longer period as the Board may allow by notice given to that company.
- (4) For the purposes of this section, the trustees of an approved profit sharing scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.
- (5) In this section—  
“approved profit sharing scheme” means a profit sharing scheme approved under Schedule 9; and  
“the grantor” and “participating company” have the meaning given by paragraph 1(3) and (4) of that Schedule.

#### Textual Amendments

**F217** Words in s. 85(1)(a) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1

**F218** S. 85(1)(b)(c) substituted for s. 85(1)(b) (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 5(2)

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

**C27** S. 85 amended (28.7.2000) by [Finance Act 2000 \(c. 17\), s. 50](#)

#### Marginal Citations

**M19** SOURCE-1978 s. 60

### [85A <sup>F219</sup>Costs of establishing employee share ownership trusts: relief.

- (1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.
- (2) In such a case the expenditure—  
(a) shall be deducted in computing for the purposes of Schedule D the [<sup>F220</sup>profits] of a trade carried on by the company,<sup>F221</sup> . . .  
<sup>F222</sup>(b) if the company is a company with investment business, shall be treated as expenses of management deductible under section 75 to the extent that it otherwise would not be, or  
(c) if the company is one in relation to which section 76 applies, shall be treated for the purposes of that section as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section to the extent that it otherwise would not be.]
- (3) In a case where—  
(a) subsection (2) above applies, and  
(b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

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[<sup>F223</sup> for the purpose of applying subsection (2) above, the expenditure shall be treated in accordance with subsection(3A) below.]

[ Where this subsection applies—

- <sup>F224</sup>(3A) (a) in applying subsection (2)(a) above, the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in subsection (3)(b) above),
- (b) in applying subsection (2)(b) or (c) above, the expenditure shall be treated as referable to the accounting period in which the trust is established.]

(4) In this section “qualifying employee share ownership trust” shall be construed in accordance with Schedule 5 to the Finance Act 1989.

(5) For the purposes of this section the trust is established when the deed under which it is established is executed.

(6) This section applies where the expenditure is incurred on or after 1st April 1991.]

#### Textual Amendments

**F219** S. 85A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 43

**F220** Words in s. 85A(2)(a) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a)(b), Sch. 7 para. 10

**F221** Word in s. 85A(2)(a) omitted (28.9.2004 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 6(2)(a)

**F222** S. 85A(2)(b)(c) substituted for s. 85A(2)(b) (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 6(2)(b)

**F223** Words in s. 85A(3) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 6(3)

**F224** S. 85A(3A) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 6(4)

#### 85B Approved share incentive plans

Schedule 4AA (which provides for deductions relating to approved share incentive plans) shall have effect.

#### 86 Employees seconded to charities and educational establishments.

- (1) [<sup>F225M20</sup> If a company (“the employer”) carrying on a trade, profession or business for the purposes of which it] employs a person (“the employee”) makes available to a charity, on a basis which is expressed and intended to be of a temporary nature, the services of the employee then, [<sup>F226</sup> notwithstanding anything in section 74, 75 or 76, any expenditure incurred] by the employer which is attributable to the employment of that employee shall continue to be deductible in the manner and to the like extent as if, during the time that his services are so made available to the charity, they continued to be available for the purposes of the employer’s trade, business [<sup>F227</sup> or profession].

(2) In subsection (1) above—

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“charity” has the same meaning as in section 506;

[<sup>F228</sup>“deductible” means—

- (a) deductible as an expense in computing the profits of the employer to be charged [<sup>F229</sup>to corporation tax] under Case I or II of Schedule D,
- (b) deductible as expenses of management for the purposes of section 75, or
- (c) falling to be brought into account in accordance with section 76 as expenses payable which fall to be brought into account at Step 1 in subsection (7) of that section,

as the case may be.]

- (3) With respect to expenditure attributable to the employment of a person on or after 26th November 1986 <sup>F230</sup>. . . , this section shall have effect as if the references to a charity included references to any of the following bodies, that is to say—

- [<sup>F231</sup>(a) in England and Wales, any body falling within subsection (4) below;
- (b) in Scotland, any body falling within subsection (5) below;
- (c) in Northern Ireland, any body falling within subsection (6) below; and]
- (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education for Northern Ireland.

- [<sup>F232</sup>(4) A body falls within this subsection if it is—

- (a) a local education authority;
- (b) an educational institution maintained or otherwise supported by such an authority (including a grant-maintained school or a grant-maintained special school within the meaning of the Education Act 1996);
- (c) an independent school, within the meaning of the Education Act 1996, whose registration under section 465 of that Act is final; or
- (d) an institution within the further education sector, or the higher education sector, within the meaning of the Further and Higher Education Act 1992.

- (5) A body falls within this subsection if it is—

- (a) an education authority;
- (b) an educational establishment managed by such an authority within the meaning of the Education (Scotland) Act 1980 (“the 1980 Act”);
- (c) a public or grant-aided school within the meaning of the 1980 Act;
- (d) a self-governing school within the meaning of the Self-Governing Schools etc. (Scotland) Act 1989;
- (e) an independent school within the meaning of the 1980 Act;
- (f) a central institution within the meaning of the 1980 Act;
- (g) an institution within the higher education sector within the meaning of section 56(2) of the Further and Higher Education (Scotland) Act 1992; or
- (h) a college of further education within the meaning of section 36(1) of that Act.

- (6) A body falls within this subsection if it is—

- (a) an education or library board within the meaning of the Education and Libraries (Northern Ireland) Order 1986;
- (b) a college of education or a controlled, maintained, grant-maintained integrated, controlled integrated, voluntary or independent school within the meaning of that Order; or

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- (c) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997.]

#### Textual Amendments

- F225** Words in s. 86(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 60\(2\)\(a\)](#) (with Sch. 2)
- F226** Words in s. 86(1) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 7(2)
- F227** Words in s. 86(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 60\(2\)\(b\)](#) (with Sch. 2)
- F228** S. 86(2): definition of "deductible" substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 7(3)
- F229** S. 86(2): words in definition of "deductible" inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 60\(3\)](#) (with Sch. 2)
- F230** Words in s. 86(3) repealed (retrospectively) by [Finance Act 1999 \(c. 16\), s. 58\(2\)\(5\), Sch. 20 Pt. 3\(14\)](#), Note
- F231** S. 86(3)(a)-(c) substituted (with effect in accordance with s. 58(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 58\(3\)](#)
- F232** S. 86(4)-(6) inserted (with effect in accordance with s. 58(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 58\(4\)](#)

#### Marginal Citations

- M20** SOURCE-1983 s. 28; 1984 s. 33; 1987 s. 34

### [<sup>F233</sup>86A Charitable donations: contributions to agent's expenses.

(1) This section applies where—

- (a) [<sup>F234</sup>a company] (the employer) is liable to make to any individual payments from which income tax falls to be deducted [<sup>F235</sup>under PAYE regulations], and
- (b) the employer withholds sums from those payments in accordance with [<sup>F236</sup>an approved scheme and pays the sums to an approved agent].

[ In subsection (1)(b) “approved scheme” and “approved agent” have the same meaning <sup>F237</sup>(1A) as in section 714 of ITEPA 2003.]

(2) Any relevant expenditure incurred by the employer on or after 16th March 1993—

- (a) shall be deducted in computing for the purposes of Schedule D the [<sup>F238</sup>profits] of a trade [<sup>F239</sup>or profession] carried on by the employer, or
- [<sup>F240</sup>(b) if the employer is a company with investment business, shall be treated as expenses of management deductible under section 75.]

(3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme.]

#### Textual Amendments

- F233** S. 86A inserted (27.7.1993) by [1993 c. 34, s.69](#)



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- F234** Words in s. 86A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 61(a)** (with Sch. 2)
- F235** Words in s. 86A(1)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 13(2)** (with Sch. 7)
- F236** Words in s. 86A(1)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 13(3)** (with Sch. 7)
- F237** S. 86A(1A) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 13(4)** (with Sch. 7)
- F238** Words in s. 86A(2)(a) substituted (31.7.1998) by Finance Act 1998 (c. 36), **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F239** Words in s. 86A(2)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 61(b)** (with Sch. 2)
- F240** S. 86A(2)(b) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 8(2)

## 87 Taxable premiums etc.

- (1) <sup>M21</sup>This section applies where in relation to any land used in connection with a [<sup>F241</sup>trade or profession]—
- [<sup>F242</sup>(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, <sup>F243</sup> . . .
- (b) any amount would fall to be so treated but for the operation of section 37(2) or (3);]
- [<sup>F244</sup>(c) any amount falls to be treated as a receipt of a UK property business by virtue of any of sections 277 to 282 of ITTOIA 2005 (receipts in respect of lease premiums, sums payable instead of rent, for surrender of lease and for variation or waiver of term of lease and assignments), or
- (d) any amount would fall to be so treated but for the operation of the rule in section 288 of that Act (the additional calculation rule),]
- and that amount is referred to below [<sup>F245</sup>and in section 87A] as “the amount chargeable”.
- (2) <sup>M22</sup>Subject to subsections (3) to (8) below, where—
- (a) during any part of the relevant period the land in relation to which the amount chargeable arose is occupied by [<sup>F246</sup>a company which is] for the time being entitled to the lease as respects which it arose, and
- (b) that occupation is for the purposes of a [<sup>F247</sup>trade or profession] carried on by [<sup>F248</sup>the company],
- [<sup>F249</sup>the company] shall be treated, in computing the [<sup>F250</sup>profits] of the [<sup>F247</sup>trade or profession] chargeable to [<sup>F251</sup>corporation tax] under Case I or II of Schedule D, as paying in respect of that land rent for the period (in addition to any actual rent), becoming due from day to day, of an amount which bears to the amount chargeable the same proportion as that part of the relevant period bears to the whole.
- (3) As respects any period during which a part only of the land in relation to which the amount chargeable arose is occupied as mentioned in subsection (2) above, that subsection shall apply as if the whole were so occupied, but the amount chargeable shall be treated as reduced by so much thereof as, on a just apportionment, is attributable to the remainder of the land.



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- (4) <sup>M23</sup>Where a [<sup>F252</sup>company], although not in occupation of the land or any part of the land, deals with [<sup>F253</sup>the company's] interest in the land or that part as property employed for the purposes of a [<sup>F254</sup>trade or profession] carried on by [<sup>F255</sup>the company], subsections (2) and (3) above shall apply as if the land or part were occupied by [<sup>F255</sup>the company] for those purposes.
- (5) <sup>M24</sup>Where section 37(2) and (3) has effect in relation to a lease granted out of the interest referred to in subsection (4) above, subsections (5) and (6) of that section shall apply for modifying the operation of subsections (2) and (3) above as they apply for modifying the operation of subsection (4) of that section.
- (6) <sup>M25</sup>In computing [<sup>F250</sup>profits] chargeable under Case I or II of Schedule D for any [<sup>F256</sup>accounting period], rent shall not by virtue of subsection (4) above be treated as paid by a [<sup>F257</sup>company] for any period in respect of land in so far as rent treated under section 37(4) as paid by [<sup>F258</sup>the company] for that period in respect of the land has in any previous [<sup>F256</sup>accounting period] been deducted, or falls in that [<sup>F256</sup>accounting period] to be deducted under Part II.
- (7) <sup>M26</sup>Where, in respect of expenditure on the acquisition of [<sup>F259</sup>the company's] interest in the land in relation to which the amount chargeable arose, a [<sup>F260</sup>company] has become entitled to an allowance under [<sup>F261</sup>Part 5 of the Capital Allowances Act in respect of expenditure falling within section 403 (mineral asset expenditure)] for any [<sup>F262</sup>accounting period], then—
- (a) if the allowance is in respect of the whole of the expenditure, no deduction shall be allowed [<sup>F263</sup>the company] under this section for that or any subsequent [<sup>F262</sup>accounting period]; or
  - (b) if the allowance is in respect of part only of the expenditure (“the allowable part”), a deduction allowed [<sup>F263</sup>the company] under this section for that or any subsequent [<sup>F262</sup>accounting period] shall be the fraction—

$$\frac{A - B}{A}$$

of the amount which apart from this subsection would fall to be deducted, where—

A is the whole of the expenditure, and

B is the allowable part of the expenditure;

<sup>F264</sup> .....

- (8) Where the amount chargeable arose under section 34(2) [<sup>F265</sup>or under section 277 of ITTOIA 2005 by virtue of section 278 of that Act (amount treated as lease premium where work required)] by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, this section shall apply as if the obligation had not included the carrying out of that work and the amount chargeable had been calculated accordingly.
- (9) <sup>M27</sup>In this section “the relevant period” means—
- (a) where the amount chargeable arose under section 34, the period treated in computing that amount as the duration of the lease;

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- (b) where the amount chargeable arose under section 35, the period treated in computing that amount as the duration of the lease remaining at the date of the assignment;
  - [<sup>F266</sup>(c) where the amount chargeable arose under Chapter 4 of Part 3 of ITTOIA 2005 (profits of property businesses: lease premiums etc.), its receipt period (within the meaning of that Chapter (see section 288(6)).]
- [<sup>F267</sup>(9A) In the application of this section and section 87A to Scotland—
- (a) the reference to a lease being granted out of the interest referred to in subsection (4) above is to the grant of a sublease of land subject to that interest, and
  - (b) references to the lease so granted are to be construed as references to the sublease.]
- (10) <sup>F268</sup> .....

#### Textual Amendments

- F241** Words in s. 87(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(2)(a)** (with Sch. 2)
- F242** S. 87(1)(a)(b) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by *Finance Act 1998 (c. 36)*, **Sch. 5 para. 34** (with Sch. 5 para. 73)
- F243** Word at the end of s. 87(1)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(2)(b)**, **Sch. 3** (with Sch. 2)
- F244** S. 87(1)(c)(d) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(2)(c)** (with Sch. 2)
- F245** Words in s. 87(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(2)(d)** (with Sch. 2)
- F246** Words in s. 87(2)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(3)(a)** (with Sch. 2)
- F247** Words in s. 87(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(3)(b)** (with Sch. 2)
- F248** Words in s. 87(2)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(3)(c)** (with Sch. 2)
- F249** Words in s. 87(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(3)(d)** (with Sch. 2)
- F250** Words in s. 87(2)(6) substituted (31.7.1998) by *Finance Act 1998 (c. 36)*, **s. 46(3)(a)(b)**, **Sch. 7 para. 1**
- F251** Words in s. 87(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(3)(e)** (with Sch. 2)
- F252** Word in s. 87(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(4)(a)** (with Sch. 2)
- F253** Words in s. 87(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(4)(b)** (with Sch. 2)
- F254** Words in s. 87(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(4)(c)** (with Sch. 2)
- F255** Words in s. 87(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(4)(d)** (with Sch. 2)
- F256** Words in s. 87(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(5)(a)** (with Sch. 2)
- F257** Word in s. 87(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 62(5)(b)** (with Sch. 2)

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- F258** Words in s. 87(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(5\)\(c\)](#) (with Sch. 2)
- F259** Words in s. 87(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(6\)\(a\)](#) (with Sch. 2)
- F260** Word in s. 87(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(6\)\(b\)](#) (with Sch. 2)
- F261** Words in s. 87(7) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 18](#)
- F262** Words in s. 87(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(6\)\(c\)](#) (with Sch. 2)
- F263** Words in s. 87(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(6\)\(d\)](#) (with Sch. 2)
- F264** *Words repealed by 1990(C) s.164(4) and Sch.2. See 1989 edition for these provisions.*
- F265** Words in s. 87(8) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(7\)](#) (with Sch. 2)
- F266** S. 87(9)(c) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(8\)](#) (with Sch. 2)
- F267** S. 87(9A) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 62\(9\)](#) (with Sch. 2)
- F268** S. 87(10) repealed (with effect in accordance with s. 38(2)(3) of the repealing Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. 3\(4\)](#), Note

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

- C28** *See—1976(D) Sch.6 para.4(4)—no account to be taken of any deduction of realised development value. 1976(D) repealed by 1985 ss.93, 98(6) and Sch.27 Part X from 19 March 1985. 1990(C) s.111—reduction of qualifying expenditure for premium relief.*
- C29** S. 87 excluded (19.9.1994) by [Coal Industry Act 1994 \(c. 21\), s. 68\(4\), Sch. 4 para. 15\(2\)](#) (with s. 40(7)); S. I. 1994/2189, [art. 2, Sch.](#)
- C30** S. 87 excluded (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\), Sch. 3 para. 9\(2\)](#)
- C31** S. 87 excluded (24.7.1996) by [Broadcasting Act 1996 \(c. 55\), s. 149\(1\)\(f\), Sch 7 para. 21\(2\)](#) (with s. 43(6))
- C32** S. 87(1) modified (with effect in accordance with s. 39(4)(5) of the modifying act) by [Finance Act 1995 \(c. 4\), Sch. 6 para. 14\(1\)](#)

#### Marginal Citations

- M21** SOURCE-1970 s. 134(1); 1978 s. 32
- M22** SOURCE-1970 s. 134(2), (3); 1978 s. 32
- M23** SOURCE-1970 s. 134(4)
- M24** SOURCE-1970 s. 134(4)(a)
- M25** SOURCE-1970 s. 134(4)(b)
- M26** SOURCE-1970 s. 134(5), (6); 1986 Sch. 13 para. 26
- M27** SOURCE-1970 s. 134(1)(i), (ii)

### 87A Section 87(2) and (3) and reductions in receipts under ITTOIA 2005

(1) This section applies if—

- (a) a lease has been granted out of the interest referred to in section 87(4),
- (b) in calculating the amount that falls to be treated as a receipt of a UK property business under Chapter 4 of Part 3 of ITTOIA 2005 in respect of the lease, there is a reduction under section 288 of that Act by reference to a taxed receipt, and

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- (c) the taxed receipt is the amount chargeable for the purposes of section 87.
- (2) Section 37A (section 37(4) and reductions in receipts under ITTOIA 2005) shall apply for modifying the operation of section 87(2) and (3) as it applies for modifying the operation of section 37(4).
- (3) In this section the following expressions have the same meaning as in Chapter 4 of Part 3 of ITTOIA 2005—
  - “reduction under section 288 by reference to a taxed receipt” (see section 290(6) of that Act), and
  - “taxed receipt” (see section 287(4) of that Act).

## 88 Payments to Export Credit Guarantee Department.

<sup>M28</sup>Any sums paid by [<sup>F269</sup>a company] to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the <sup>M29</sup>Export Guarantees and Overseas Investment Act 1978, or with a view to entering into such an agreement, shall be included—

- (a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the [<sup>F270</sup>profits] of any [<sup>F271</sup>trade or profession carried on by that company]; or
- [<sup>F272</sup>(b) [<sup>F273</sup>if that company] is a company with investment business, in the expenses of management that are deductible under section 75 in computing the company’s profits for the purpose of corporation tax;]

whether or not they would fall to be so included apart from this section.

### Textual Amendments

- F269** Words in s. 88 substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 64(a)** (with Sch. 2)
- F270** Words in s. 88(a) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F271** Words in s. 88(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 64(b)** (with Sch. 2)
- F272** [S. 88\(b\)](#) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para. 9(2)
- F273** Words in s. 88(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 64(c)** (with Sch. 2)

### Marginal Citations

- M28** SOURCE-1972 s. 124(1)
- M29** 1978 c. 18.

## [<sup>F274</sup>88A Debts of overseas governments etc.

<sup>F275</sup> .....

### Textual Amendments

- F274** [Ss. 88A-88C](#) inserted by [Finance Act 1990 \(c. 29\)](#), **s. 74**

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**F275** Ss. 88A-88C repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

**[<sup>F276</sup>88B Section 88A debts: restriction on deductions under section 74(j).**

<sup>F277</sup> .....]

**Textual Amendments**

**F276** Ss. 88A-88C inserted by [Finance Act 1990 \(c. 29\)](#), [s. 74](#)

**F277** Ss. 88A-88C repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

**[<sup>F278</sup>88C Section 88A debts: restriction on other deductions.**

<sup>F279</sup> .....]

**Textual Amendments**

**F278** Ss. 88A-88C inserted by [Finance Act 1990 \(c. 29\)](#), [s. 74](#)

**F279** Ss. 88A-88C repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

**88D Restriction of deductions in respect of certain debts**

- (1) This section applies to debts to which the following provisions do not apply—
  - (a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships, etc);
  - (b) Schedule 26 to the Finance Act 2002 (derivative contracts);
  - (c) Schedule 29 to that Act (intangible fixed assets).
- (2) In calculating the profits of a company's trade for the purposes of corporation tax, no deduction is allowed in respect of a debt owed to the company, except—
  - (a) by way of impairment loss, or
  - (b) to the extent that the debt is released wholly and exclusively for the purposes of that trade as part of a statutory insolvency arrangement.
- (3) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.
- (4) In this section “trade” has the meaning given by section 6(4).

**[<sup>F280</sup>89 Debts proving to be irrecoverable after discontinuance etc**

- (1) This section applies if—
  - (a) section 337(1) applies to treat a trade as discontinued by reason of any event, or
  - (b) a person permanently ceases to carry on a trade or profession, and a company carries on the trade or profession after that event or cessation.



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- (2) In computing for corporation tax purposes the profits of the trade or profession in any period after the event or cessation, there may be deducted a sum equal to any amount proved during that period to be irrecoverable in respect of any debts—
- (a) which were credited in computing for tax purposes the profits for any period before the event or cessation, and
  - (b) in respect of which the benefit was assigned to the company carrying on the trade or profession after the event or cessation.
- (3) Subsection (2) applies only so far as the total amount proved to be irrecoverable in respect of the debts exceeds any [<sup>F281</sup>relevant deduction in respect of them] in a computation for any period before the event or cessation.
- [<sup>F282</sup>(4) In this section “debt” includes an obligation or liability that falls to be discharged otherwise than by the payment of money.
- The references to a debt being irrecoverable shall be read accordingly.
- (5) For the purposes of this section “relevant deduction”, in relation to a debt, means a deduction made for tax purposes in respect of an impairment loss or release.]]

#### Textual Amendments

- F280** S. 89 substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 65](#) (with [Sch. 2](#))
- F281** Words in s. 89(3) substituted (with effect in accordance with s. 80(3)(4) of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 3\(3\)\(a\)](#)
- F282** S. 89(4)(5) added (with effect in accordance with s. 80(3)(4) of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 3\(3\)\(b\)](#)

## 90 Additional payments to redundant employees.

- [<sup>F283</sup>(1) Where a payment is made by way of addition to a redundancy payment or to the corresponding amount of any other employer’s payment and the additional payment would be—
- (a) allowable as a deduction in computing for the purposes of Schedule D the profits or losses of a trade [<sup>F284</sup>or profession],
  - (b) deductible under section 75 as expenses of management of a business, or
  - (c) regarded as expenses payable for the purposes of section 76,

but for the permanent discontinuance of the trade, [<sup>F285</sup>profession or business], the additional payment shall, subject to subsection (2) below, be so allowable, deductible or regarded notwithstanding that discontinuance.

If the additional payment—

- (i) is made after discontinuance, or
- (ii) is for the purposes of section 75 or 76 referable to an accounting period beginning after the discontinuance,

it shall be treated as made, or (as the case may be) as referable to the accounting period ending, on the last day on which the trade, [<sup>F285</sup>profession or business] was carried on.]

- [<sup>F286</sup>(1A) To the extent that the additional payment would, apart from this subsection, be regarded as expenses payable for the purposes of Step 5 in subsection (7) of section 76,

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- it shall not be so regarded for the purposes of that subsection (or of subsection (1) above so far as relating to that section).]
- (2) Subsection (1) above applies to an additional payment only so far as it does not exceed three times the amount of the redundancy payment or of the corresponding amount of the other employer's payment.
  - (3) In this section references to the permanent discontinuance of a trade, [<sup>F287</sup>profession or business] include references to any occasion on which it is treated as permanently discontinued by virtue of section <sup>F288</sup> . . . 337(1).
  - (4) In this section references to a redundancy payment or to the corresponding amount of an employer's payment shall be construed as in sections 579 and 580.

#### Textual Amendments

- F283** S. 90(1) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 10(2)
- F284** Words in s. 90(1)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 66(2)(a)** (with Sch. 2)
- F285** Words in s. 90(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 66(2)(b)** (with Sch. 2)
- F286** S. 90(1A) inserted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), Sch. para. 10(3)
- F287** Words in s. 90(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 66(3)(a)** (with Sch. 2)
- F288** Words in s. 90(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 66(3)(b), **Sch. 3** (with Sch. 2)

## 91 Cemeteries.

- (1) <sup>M30</sup>In computing [<sup>F289</sup>for corporation tax purposes] the [<sup>F290</sup>profits] or losses for any period of a trade which consists of or includes the carrying on of a cemetery, there shall be allowed as a deduction—
  - (a) any capital expenditure incurred by [<sup>F291</sup>the company] engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments, and
  - (b) the appropriate fraction of the residue at the end of that period of the relevant capital expenditure.
- (2) <sup>M31</sup>Subject to subsection (3) below, the relevant capital expenditure is capital expenditure incurred for the purposes of the trade in question by [<sup>F292</sup>the company] engaged in carrying it on, being—
  - (a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full; and
  - (b) expenditure incurred in providing land taken up by any such building or structure, and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full.
- (3) Relevant capital expenditure—



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- (a) does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) above applies in the case of the trade in question; and
- (b) of other expenditure incurred before that time, includes only the fraction—

$$\frac{A}{A + B}$$

where—

A is the number of grave-spaces which at that time were or could have been made available in the cemetery for sale, and

B is the number already sold.

- (4)<sup>M32</sup>For the purposes of this section—
  - (a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—
    - (i) any amount allowed in respect of that expenditure under subsection (1)(b) above [<sup>F293</sup>, or under section 170(2)(b) of ITTOIA 2005 (relief for income tax purposes)] in computing [<sup>F294</sup>for tax purposes] the [<sup>F290</sup>profits] or losses of the trade for any previous period, and
    - (ii) if, after the beginning of the first period to which subsection (1) above applies in the case of a trade and before the end of the period mentioned at the beginning of this subsection, any asset representing that expenditure is sold or destroyed, the net proceeds of sale or, as the case may be, any insurance money or other compensation of any description received by [<sup>F295</sup>the company] carrying on the trade in respect of the destruction and any money received by [<sup>F296</sup>it] for the remains of the asset; and
  - (b) the appropriate fraction of the residue of any expenditure at the end of any period is—

$$\frac{A}{A + B}$$

where—

A is the number of grave-spaces in the cemetery sold in the period, and

B is the number of grave-spaces which at the end of the period are or could be made available in the cemetery for sale.

- (5) Where in any chargeable period there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to [<sup>F297</sup>the company carrying on the trade after the change] shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed—
  - (a) as if [<sup>F298</sup>the company] had at all times been engaged in carrying on the trade;

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- (b) as if everything done to or by any of [<sup>F299</sup>its] predecessors in carrying on the trade had been done to or by [<sup>F300</sup>it]; and
- (c) without regard to the price paid on any sale on the occasion of any such change.

[<sup>F301</sup>(6) No expenditure shall be taken into account—

- (a) under both paragraphs (a) and (b) of subsection (1) above, or
- (b) under both subsection (1)(a) above and section 170(2)(b) of ITTOIA 2005 or under both subsection (1)(b) above and section 170(2)(a) of ITTOIA 2005, whether for the same or different periods.]

(7) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and, in connection therewith, the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—

- (a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots, and
- (b) references to grave-spaces shall be taken as references to memorial garden plots, and
- (c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.

(8) In this section—

- (a) references to the sale of land include references to the sale of a right of interment in land, and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment;
- (b) references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or a memorial garden; and
- (c) the reference in subsection (4)(a)(ii) to subsection (1) above includes a reference to section 141 of the 1970 Act and section 22 of the <sup>M33</sup>Finance Act 1952 (which made similar provision to that made by this section).

[<sup>F302</sup>(9) Section 532 of the Capital Allowances Act (general rule excluding contributions) shall apply for the purposes of this section as it applies for the purposes of that Act.]

#### Textual Amendments

- F289** Words in s. 91(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 67(2)(a)** (with Sch. 2)
- F290** Words in s. 91(1)(4)(a)(i) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F291** Words in s. 91(1)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 67(2)(b)** (with Sch. 2)
- F292** Words in s. 91(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 67(3)** (with Sch. 2)
- F293** Words in s. 91(4)(a)(i) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 67(4)(a)** (with Sch. 2)
- F294** Words in s. 91(4)(a)(i) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 67(4)(b)** (with Sch. 2)

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- F295** Words in s. 91(4)(a)(ii) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(5)(a)** (with Sch. 2)
- F296** Word in s. 91(4)(a)(ii) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(5)(b)** (with Sch. 2)
- F297** Words in s. 91(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(6)(a)** (with Sch. 2)
- F298** Words in s. 91(5)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(6)(b)** (with Sch. 2)
- F299** Word in s. 91(5)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(6)(c)** (with Sch. 2)
- F300** Word in s. 91(5)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(6)(d)** (with Sch. 2)
- F301** S. 91(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 67(7)** (with Sch. 2)
- F302** S. 91(9) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 19**

#### Marginal Citations

- M30** SOURCE-1970 s. 141(1)  
**M31** SOURCE-1970 s. 141(2)  
**M32** SOURCE-1970 s. 141(3)–(8)  
**M33** 1952 c. 33.

#### [<sup>F303</sup>91A Waste disposal: restoration payments.

- (1) This section applies where on or after 6th April 1989 a [<sup>F304</sup>company] makes a site restoration payment in the course of carrying on a trade.
- (2) Subject to subsection (3) below, for the purposes of <sup>F305</sup> . . . corporation tax the payment shall be allowed as a deduction in computing the [<sup>F306</sup>profits] of the trade for the period of account in which the payment is made.
- (3) Subsection (2) above shall not apply to so much of the payment as—
  - (a) represents expenditure which has been allowed as a deduction in computing the [<sup>F306</sup>profits] of the trade for any period of account preceding the period of account in which the payment is made, or
  - (b) represents capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.
- (4) For the purposes of this section a site restoration payment is a payment made—
  - (a) in connection with the restoration of a site or part of a site, and
  - (b) in order to comply with any condition of a relevant licence, or any condition imposed on the grant of planning permission to use the site for the carrying out of waste disposal activities, or [<sup>F307</sup>any relevant obligation].
- (5) For the purposes of this section waste disposal activities are the collection, treatment, conversion and final depositing of waste materials, or any of those activities.
- (6) For the purposes of this section a relevant licence is—
  - (a) a disposal licence under Part I of the <sup>M34</sup>Control of Pollution Act 1974 or Part II of the <sup>M35</sup>Pollution Control and Local Government (Northern Ireland) Order 1978, or

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- (b) a waste management licence under Part II of the Environmental Protection Act 1990 or any corresponding provision for the time being in force in Northern Ireland, <sup>F308</sup> or
- <sup>F309</sup> (ba) [ a permit under regulations under section 2 of the Pollution Prevention and Control Act 1999, <sup>F310</sup> or a permit under regulations under Article 4 of the Environment (Northern Ireland) Order 2002,] or
- <sup>F311</sup> (ba) [ a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999, <sup>F310</sup> or a permit under regulations under Article 4 of the Environment (Northern Ireland) Order 2002,] or
- (c) any authorisation under the <sup>M36</sup>Radioactive Substances Act 1960 or the <sup>M37</sup>Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the <sup>M38</sup>Nuclear Installations Act 1965.]
- [ For the purposes of this section a relevant obligation is—
- <sup>F312</sup> (7) (a) an obligation arising under an agreement made under—
- (i) section 106 of the <sup>M39</sup>Town and Country Planning Act 1990, as originally enacted;
- (ii) <sup>F313</sup>section 75 of the Town and Country Planning (Scotland) Act 1997];
- (b) a planning obligation entered into under section 106 of the Act of 1990, as substituted by section 12 of the <sup>M40</sup>Planning and Compensation Act 1991, or under section 299A of the Act of 1990;
- (c) an obligation arising under or under an agreement made under any provision—
- (i) corresponding to section 106 of the <sup>M39</sup>Town and Country Planning Act 1990, as originally enacted or as substituted by the Act of 1991 or to section 299A of the Act of 1990; and
- (ii) for the time being in force in Northern Ireland.]
- (8) <sup>F314</sup>.....]

#### Textual Amendments

- F303** Ss. 91A, 91B inserted by Finance Act 1990 (c. 29), s. 78.
- F304** Word in s. 91A(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 68(a) (with Sch. 2)
- F305** Words in s. 91A(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 68(b), Sch. 3 (with Sch. 2)
- F306** Words in s. 91A(2)(3)(a) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F307** Words in s. 91A(4)(b) substituted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1, 2), s. 83(a); S.I. 1991/2272, art. 3(2)
- F308** S. 91A(6)(c) and the word “or” immediately preceding it inserted (27.7.1993 with effect in relation to any case where the trade in question is begun after 31.3.1993) by 1993 c. 34, s. 110(1)(3)
- F309** S. 91A(6)(ba) inserted (E.W.) (1.8.2000) by The Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973), Sch. 10 para. 1 (with reg. 5)
- F310** Words in s. 91A(6)(ba) inserted (31.3.2003) by The Pollution Prevention and Control Regulations (Northern Ireland) 2003 (S.R. 2003/46), reg. 1, Sch. 11 para. 3
- F311** S. 91A(6)(ba) inserted (S.) (28.9.2000) by The Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323), Sch. 10 para. 2 (with reg. 34)

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- F312** S. 91A(7) substituted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1, 2), s. 83(b); S.I. 1991/2272, art. 3(2)
- F313** Words in s. 91A(7) substituted (S.) (27.5.1997) by Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), s. 6(2), Sch. 2 para. 41
- F314** S. 91A(8) repealed (24.7.2002) by Finance Act 2002 (c. 23), Sch. 40 Pt. 3(16)

#### Marginal Citations

- M34** 1974 c. 40.  
**M35** S.I. 1978/1049 (N.I.19).  
**M36** 1960 c. 34.  
**M37** 1993 c. 12.  
**M38** 1965 c. 57.  
**M39** 1990 c. 8.  
**M40** 1991 c. 34.

### 91B Waste disposal: preparation expenditure.

- (1) This section applies where a [<sup>F315</sup>company]—
- incurs, in the course of carrying on a trade, site preparation expenditure in relation to a waste disposal site (the site in question),
  - holds, at the time the [<sup>F315</sup>company] first deposits waste materials on the site in question, a relevant licence which is then in force,
  - makes a claim for relief under this section in such form as the Board may direct, and
  - submits such plans and other documents (if any) as the Board may require;
- and it is immaterial whether the expenditure is incurred before or after the coming into force of this section.
- (2) In computing the [<sup>F316</sup>profits] of the trade for a period of account ending after 5th April 1989, the allowable amount shall be allowed as a deduction for the purposes of <sup>F317</sup> . . . corporation tax.
- (3) In relation to a period of account (the period in question) the allowable amount shall be determined in accordance with the formula—

$$\left( A - B \right) \times \frac{C}{C + D}$$

- (4) A is the site preparation expenditure incurred by the [<sup>F318</sup>company] at any time before the beginning of, or during, the period in question—
- in relation to the site in question, and
  - in the course of carrying on the trade;
- but this subsection is subject to subsections (5) and (9) below.
- (5) A does not include any expenditure—
- which has been allowed as a deduction in computing [<sup>F319</sup>for the purposes of corporation tax or income tax] the [<sup>F316</sup>profits] of the trade for any period of account preceding the period in question, or

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- (b) which constitutes capital expenditure in respect of which an allowance has been, or may be, made [<sup>F320</sup>for the purposes of corporation tax or income tax] under the enactments relating to capital allowances.
- (6) B is an amount equal to any amount allowed as a deduction under this section [<sup>F321</sup>or section 165 of ITTOIA 2005 (relief for income tax purposes)], if allowed—
- (a) in computing the [<sup>F316</sup>profits] of the trade for any period of account preceding the period in question, and
- (b) as regards expenditure incurred in relation to the site in question;
- and if different amounts have been so allowed as regards different periods, B is the aggregate of them.
- (7) C is the volume of waste materials deposited on the site in question during the period in question; but if the period is one beginning before 6th April 1989 C shall be reduced by the volume of any waste materials deposited on the site during the period but before that date.
- (8) D is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs at the end of the period in question.
- (9) Where any of the expenditure which would be included in A (apart from this subsection) was incurred before 6th April 1989, A shall be reduced by an amount determined in accordance with the formula—

$$E \times \frac{F}{F + G}$$

- (10) For the purposes of subsection (9) above—
- (a) E is so much of the initial expenditure (that is, the expenditure which would be included in A apart from subsection (9) above) as was incurred before 6th April 1989,
- (b) F is the volume of waste materials deposited on the site in question before 6th April 1989, and
- (c) G is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs immediately before 6th April 1989.
- [<sup>F322</sup>(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a [<sup>F323</sup>company] about to carry it on shall be treated as if it had been incurred by that [<sup>F323</sup>company] on the first day on which [<sup>F324</sup>it] does carry it on and in the course of doing so.]
- (11) For the purposes of this section—
- (a) a waste disposal site is a site used (or to be used) for the disposal of waste materials by their deposit on the site,
- (b) in relation to such a site, site preparation expenditure is expenditure on preparing the site for the deposit of waste materials (and may include expenditure on earthworks),
- (c) in relation to such a site, “capacity” means capacity expressed in volume,
- (d) “relevant licence” has the same meaning as in section 91A, <sup>F325</sup> . . .
- (e) <sup>F325</sup> . . . . .



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### Textual Amendments

- F315** Words in s. 91B(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(a)** (with Sch. 2)
- F316** Words in s. 91B(2)(5)(a)(6)(a) substituted (31.7.1998) by Finance Act 1998 (c. 36), **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F317** Words in s. 91B(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 69(b), **Sch. 3** (with Sch. 2)
- F318** Word in s. 91B(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(c)** (with Sch. 2)
- F319** Words in s. 91B(5)(a) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(d)** (with Sch. 2)
- F320** Words in s. 91B(5)(b) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(e)** (with Sch. 2)
- F321** Words in s. 91B(6) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(f)** (with Sch. 2)
- F322** S. 91B(10A) inserted (27.7.1993 with effect in relation to any case where the trade in question is begun after 31.3.1993) by 1993 c. 34, **s. 110(2)(3)**
- F323** Words in s. 91B(10A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(g)** (with Sch. 2)
- F324** Word in s. 91B(10A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 69(g)** (with Sch. 2)
- F325** S. 91B(11)(e) and preceding word repealed (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 40 Pt. 3(16)**

### 91BA Waste disposal: entitlement of successor to allowances.

- (1) This section applies where—
- (a) site preparation expenditure has been incurred in relation to a waste disposal site,
  - (b) that expenditure was incurred by a person in the course of carrying on a trade, and
  - (c) on or after 21st March 2000—
    - (i) that person (“the predecessor”) ceases to carry on that trade, or ceases to carry it on so far as it relates to that site, and
    - (ii) another person [<sup>F326</sup>that is a company] (“the successor”) begins to carry on that trade, or to carry on in the course of a trade the activities formerly carried on by the predecessor in relation to that site.
- (2) If the conditions specified in the following provisions of this section are met, then, for the purposes of section 91B above—
- (a) the trade carried on by the successor shall be treated as the same trade as that carried on by the predecessor, and
  - (b) allowances shall be made to the successor (and not to the predecessor) as if everything done to or by the predecessor had been done to or by the successor.
- (3) The first condition is that the whole of the site in question is transferred to the successor.

Provided the successor holds an estate or interest in the whole of the site, it need not be the same as that held by the predecessor.



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- (4) The second condition is that the successor, at the time [<sup>F327</sup>it] first deposits waste material at the site, holds a relevant licence in respect of the site which is then in force.
- (5) Expressions used in this section have the same meaning as in section 91B.

#### Textual Amendments

- F326** Words in s. 91BA(1)(c)(ii) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 70\(a\)](#) (with [Sch. 2](#))
- F327** Word in s. 91BA(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 70\(b\)](#) (with [Sch. 2](#))

### 91C Mineral exploration and access.

Where—

- (a) a [<sup>F328</sup>company] carrying on a trade incurs expenditure on mineral exploration and access as defined in [<sup>F329</sup>section 396(1) of the Capital Allowances Act] in an area or group of sands in which the presence of mineral deposits in commercial quantities has already been established, and
- (b) if the presence in that area or group of sands of mineral deposits in commercial quantities had not already been established, that expenditure would not have been allowed to be deducted in computing the [<sup>F330</sup>profits] of the trade for the purposes of [<sup>F331</sup>corporation tax],

that expenditure shall not be so deducted.

#### Textual Amendments

- F328** Word in s. 91C(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 71](#) (with [Sch. 2](#))
- F329** Words in s. 91C(a) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 20](#)
- F330** Word in s. 91C(b) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F331** Words in s. 91C(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 71](#) (with [Sch. 2](#))

VALID FROM 01/04/2009

### *[<sup>F332</sup>Payments for restrictive undertakings*

#### Textual Amendments

- F332** [S. 76ZA](#) and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 31](#) (with [Sch. 2 Pts. 1, 2](#))

### 76ZA Payments for restrictive undertakings

- (1) This section applies if a payment—

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- (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 in relation to which section 76 applies.
- (2) The payment is treated as expenses payable which fall to be brought into account at Step 1 in section 76(7), so far as it otherwise would not be.]

VALID FROM 01/04/2009

### *]<sup>F333</sup>Seconded employees*

#### **Textual Amendments**

**F333** S. 76ZB and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 32 (with Sch. 2 Pts. 1, 2)

#### **76ZB Employees seconded to charities and educational establishments**

- (1) This section applies if a company to which section 76 applies makes the services of a person employed for the purposes of the company's life assurance 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 as expenses payable which fall to be brought into account at Step 1 in section 76(7).
- (3) In this section—
- “educational establishment” has the same meaning as in section 70 of CTA 2009, and
  - “the period of the secondment” means the period for which the employee's services are made available to the charity or educational establishment.]

VALID FROM 01/04/2009

### *]<sup>F334</sup>Counselling and retraining expenses*

#### **Textual Amendments**

**F334** S. 76ZC and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 33 (with Sch. 2 Pts. 1, 2)

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## **76ZC Counselling and other outplacement services**

- (1) This section applies if—
  - (a) a company carrying on life assurance 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 brought into account under section 76 as expenses payable (so far as they otherwise would not be).
- (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.

## **[<sup>F335</sup>76ZIRetraining courses**

- (1) This section applies if—
  - (a) a company carrying on life assurance business (“the employer”) incurs training 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 brought into account under section 76 as expenses payable (so far as they otherwise would not be).
- (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.]

### **Textual Amendments**

**F335** S. 76ZD inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 34 (with Sch. 2 Pts. 1, 2)

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**[<sup>F336</sup>76ZRetraining courses: recovery of tax]**

- (1) This section applies if—
  - (a) an employer's liability to corporation tax for an accounting period is determined on the assumption that it is entitled by virtue of section 76ZD to bring an amount into account in determining the amount of a deduction to be made under section 76, and
  - (b) without section 76ZD the employer would not have been so entitled.
- (2) If, subsequently—
  - (a) the condition in section 311(4)(a) of ITEPA 2003 is not met because of the employee's failure to begin the course within the period of one year after ceasing to be employed, or
  - (b) the condition in section 311(4)(b) of ITEPA 2003 is not met because of the employee's continued employment or re-employment,an assessment of an amount or further amount of corporation tax due as a result of the condition not being met may be made under paragraph 41 of Schedule 18 to FA 1998.
- (3) Such an assessment must be made before the end of the period of 6 years immediately following the end of the accounting period in which the failure to meet the condition occurred.
- (4) If subsection (2) applies, the employer must give an officer of Revenue and Customs a notice containing particulars of—
  - (a) the employee's failure to begin the course,
  - (b) the employee's continued employment, or
  - (c) the employee's re-employment,within 60 days of coming to know of it.
- (5) If an officer of Revenue and Customs has reason to believe that the employer has failed to give such a notice, the officer may by notice require the employer to provide such information as the officer may reasonably require for the purposes of this section about—
  - (a) the failure to begin the course,
  - (b) the continued employment, or
  - (c) the re-employment.
- (6) A notice under subsection (5) may specify a time (not less than 60 days) within which the required information must be provided.]

**Textual Amendments**

**F336** S. 76ZE inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 35** (with Sch. 2 Pts. 1, 2)

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

**C33** S. 76ZE applied (with modifications) (1.4.2009 with effect in accordance with s. 1329(1) of the affecting Act) by Corporation Tax Act 2009 (c. 4), **Sch. 2 para. 139(3)(4)** (with Sch. 2 Pts. 1, 2)

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### *[<sup>F337</sup> Redundancy payments etc*

#### **Textual Amendments**

**F337** S. 76ZF and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 36 (with Sch. 2 Pts. 1, 2)

#### **76ZF Redundancy payments and approved contractual payments**

- (1) Sections 76ZG to 76ZI apply if—
  - (a) a company to which section 76 applies (“the employer”) makes a redundancy payment or an approved contractual payment to another person (“the employee”), and
  - (b) the payment is in respect of the employee's employment wholly in the employer's life assurance business or partly in the employer's life assurance business and partly in one or more other capacities.
- (2) For the purposes of this section and sections 76ZG to 76ZH “redundancy payment” means a redundancy payment payable under—
  - (a) Part 11 of the Employment Rights Act 1996, or
  - (b) Part 12 of the Employment Rights (Northern Ireland) Order 1996.
- (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.

#### **[<sup>F338</sup> 76ZG Payments in respect of employment wholly in employer's business**

- (1) This section applies if the payment is in respect of the employee's employment wholly in the employer's life assurance business.
- (2) The payment is treated as expenses payable which fall to be brought into account at Step 1 in section 76(7), so far as it otherwise would not be.
- (3) The amount brought into account 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 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.]

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### Textual Amendments

**F338** S. 76ZG inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 37** (with Sch. 2 Pts. 1, 2)

### <sup>F339</sup>76ZP Payments in respect of employment in more than one capacity

- (1) This section applies if the payment is in respect of the employee's employment with the employer—
  - (a) partly in the employer's life assurance 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 life assurance business, and
  - (b) the employment in the other capacities.
- (3) The part of the payment apportioned to the employment in the life assurance business is treated as a payment in respect of the employee's employment wholly in the life assurance business for the purposes of section 76ZG.]

### Textual Amendments

**F339** S. 76ZH inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 38** (with Sch. 2 Pts. 1, 2)

### <sup>F340</sup>76ZI Additional payments

- (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—
  - (a) the additional payment would not otherwise be regarded as expenses payable for the purposes of section 76, but
  - (b) that is only because the business, or the part of the business, has ceased to be carried on,the additional payment is regarded as expenses payable for the purposes of section 76.
- (3) So far as the additional payment would, apart from this subsection, be regarded as expenses payable for the purposes of Step 5 in subsection (7) of section 76, it is not to be so regarded for the purposes of that subsection (or of subsection (2) above so far as relating to section 76).
- (4) The amount treated under this section as expenses payable for the purposes of section 76 is limited to 3 times the amount of—
  - (a) the redundancy payment, or

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(b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.

(5) 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.]

#### Textual Amendments

**F340** S. 76ZI inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 39** (with Sch. 2 Pts. 1, 2)

#### [<sup>F341</sup>76Z. Payments by the Government]

(1) This section applies if—

- (a) a redundancy payment or an approved contractual payment is payable by a company to which section 76 applies (“the employer”), and
- (b) a payment to which subsection (2) applies is made in respect of the payment.

(2) This subsection applies to—

- (a) payments made by the Secretary of State under section 167 of the Employment Rights Act 1996, and
- (b) payments made by the Department for Employment and Learning under Article 202 of the Employment Rights (Northern Ireland) Order 1996.

(3) So far as the employer reimburses the Secretary of State or Department for the payment, sections 76ZG to 76ZI apply as if the payment were—

- (a) a redundancy payment, or
- (b) an approved contractual payment,  
made by the employer.]

#### Textual Amendments

**F341** S. 76ZJ inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 40** (with Sch. 2 Pts. 1, 2)

VALID FROM 01/04/2009

#### [<sup>F342</sup>Contributions to local enterprise organisations or urban regeneration companies

#### Textual Amendments

**F342** S. 76ZK and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 41** (with Sch. 2 Pts. 1, 2)



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## **76ZK Contributions to local enterprise organisations or urban regeneration companies**

- (1) This section applies if a company to which section 76 applies (“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 section 76 as expenses payable which fall to be brought into account at Step 1 in section 76(7).
- (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 treated in accordance with subsection (2) 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) Subsection (6) applies if—
  - (a) an amount has been brought into account in accordance with subsection (2), and
  - (b) the contributor or a connected person receives a disqualifying benefit that is in any way attributable to the contribution.
- (6) 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.
- (7) 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 expenses payable for the purposes of section 76,

“local enterprise organisation” has the meaning given by section 83 of CTA 2009,

“urban regeneration company” has the meaning given by section 86 of CTA 2009.
- (8) Section 839 (“connected person”) applies for the purposes of subsections (3) and (5).]

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VALID FROM 01/04/2009

## *[<sup>F343</sup>Unpaid remuneration*

### Textual Amendments

**F343** S. 76ZL and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 42** (with Sch. 2 Pts. 1, 2)

### **76ZL Unpaid remuneration**

- (1) This section applies if—
  - (a) an amount is charged in respect of employees' remuneration in the accounts for a period of a company to which section 76 applies,
  - (b) the amount would apart from this section be brought into account under section 76 as expenses payable, 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 amount is brought into account for the period of account in which it is paid.
- (3) But—
  - (a) subsection (2) is subject to section 86 of FA 1989 (spreading of relief for acquisition expenses), and
  - (b) in interpreting that section the remuneration is treated as expenses payable which fall to be included at Step 1 in section 76(7) for the period of account in which the remuneration is paid.
- (4) The amount is not brought into account under section 76 as expenses payable if it is not paid.

### **[<sup>F344</sup>76ZM Unpaid remuneration: supplementary]**

- (1) For the purposes of section 76ZL 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.
- (2) For the purposes of section 76ZL 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 76ZL(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

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- (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 76ZL 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 76ZL—
- “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.]

#### Textual Amendments

**F344** S. 76ZM inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 43** (with Sch. 2 Pts. 1, 2)

VALID FROM 01/04/2009

#### [<sup>F345</sup>Car or motor cycle hire]

#### Textual Amendments

**F345** S. 76ZN and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 44** (with Sch. 2 Pts. 1, 2)

#### [<sup>F346</sup>76ZNCar or motor cycle hire

- (1) Subsection (2) applies if—
- (a) in calculating the corporation tax to which a company is liable for an accounting period, an amount representing expenses incurred on the hiring of a car or motor cycle can be brought into account under section 76 as expenses payable,
- (b) the car or motor cycle is not a qualifying hire car or motor cycle, and
- (c) the retail price of the car or motor cycle when new exceeds £12,000.
- (2) The amount that would otherwise be capable of being brought into account as expenses payable is reduced by multiplying the amount by the fraction—

$$\frac{\pounds 12,000 + RP}{2 \times RP}$$

where RP is the retail price of the car or motor cycle when new.

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- (3) Subsection (4) applies if an amount is reduced as a result of subsection (2), 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) an amount is brought into account in respect of the rebate or release.
- (4) For the purposes of subsection (3)(b) an amount is brought into account in respect of a rebate of hire charges or the release of a debt if—
- (a) the amount of a reversal representing the rebate or release falls to be deducted under Step 4 in section 76(7), or
  - (b) (in the case of a rebate of hire charges) an amount representing the rebate is chargeable under section 85(1) of the Finance Act 1989 (c. 26).
- (5) The amount that would otherwise be deductible as mentioned in subsection (4)(a) or chargeable as mentioned in subsection (4)(b) is reduced by multiplying it by the fraction set out in subsection (2).
- (6) In this section “corresponding provision” means—
- (a) section 56(2) of CTA 2009 (car or motor cycle hire: trade profits and property income),
  - (b) section 1251(2) of CTA 2009 (car or motor cycle hire: companies with investment business), and
  - (c) section 48(2) of ITTOIA 2005 (car or motor cycle hire: trade profits and property income).
- (7) The power under section 74(4) of CAA 2001 to increase or further increase the sums of money specified in Chapter 8 of Part 2 of CAA 2001 includes the power to increase or further increase the sum of money specified in subsection (1)(c) or (2).
- (8) In this section “car or motor cycle” and “qualifying hire car or motor cycle” have the meanings given by section 57 of CTA 2009.]

#### Textual Amendments

**F346** S. 76ZN and cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 44](#) (with [Sch. 2 Pts. 1, 2](#))

#### <sup>F347</sup>**76ZO Hiring cars (but not motor cycles) with low CO<sub>2</sub> emissions before 1 April 2013**

- (1) Section 76ZN does not apply to expenses incurred on the hiring of a car with low CO<sub>2</sub> emissions, or an electrically-propelled car, if—
- (a) the car was first registered on or after 17 April 2002, and
  - (b) the period of hire begins before 1 April 2013 under a contract entered into before that date.
- (2) For this purpose—
- “car with low CO<sub>2</sub> emissions” has the meaning given by section 45D of CAA 2001, and
- “electrically-propelled car” has the meaning given by that section.]

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### Textual Amendments

**F347** S. 76ZO inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 45** (with Sch. 2 Pts. 1, 2)

*Treatment of regional development and other grants and debts released etc.*

## 92 Regional development grants.

- (1) <sup>M41</sup>A regional development grant which, apart from this subsection, would be taken into account as a receipt in computing the profits of a trade, profession or vocation which are chargeable under Case I or II of Schedule D, shall not be taken into account as a receipt in computing those profits.
- (2) <sup>M42</sup>A regional development grant which is made to an investment company—
  - (a) shall not be taken into account as a receipt in computing its profits under Case VI of Schedule D; and
  - (b) shall not be deducted, by virtue of section 75(2), from the amount treated as expenses of management.
- (3) In this section “regional development grant” means a payment by way of grant under Part II of the <sup>M43</sup>Industrial Development Act 1982.

### Marginal Citations

**M41** SOURCE-1984 s. 54(1), (4)  
**M42** SOURCE-1984 s. 54(2), (3)  
**M43** 1982 c. 52.

## 93 Other grants under Industrial Development Act 1982 etc.

- (1) <sup>M44</sup>A payment to which this section applies which is made to a [<sup>F348</sup>company] carrying on a trade the profits of which are chargeable [<sup>F349</sup>to corporation tax] under Case I of Schedule D shall be taken into account as a receipt in computing those profits; and any such payment which is made to [<sup>F350</sup>a company with investment business] shall be taken into account as a receipt in computing its profits under Case VI of Schedule D.
- (2) <sup>M45</sup>This section applies to any payment which would not, apart from this section, be taken into account as mentioned in subsection (1) above, being a payment by way of a grant under—
  - (a) section 7 or 8 of the Industrial Development Act 1982 or section 7 or 8 of the <sup>M46</sup>Industry Act 1972; or
  - (b) section 1 of the <sup>M47</sup>Industries Development Act (Northern Ireland) 1966 or section 4 of the <sup>M48</sup>Industries Development Act (Northern Ireland) 1971; or
  - (c) <sup>M49</sup>any of Articles 7, 9 and 30 of the <sup>M50</sup>Industrial Development (Northern Ireland) Order 1982;

other than a grant designated as made towards the cost of specified capital expenditure or as made by way of compensation for the loss of capital assets and other than a grant falling within subsection (3) below.

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- (3) <sup>M51</sup>A payment by way of grant which is made—
- (a) under Article 7 of the Order referred to in subsection (2)(c) above, and
  - (b) in respect of a liability for corporation tax (including a liability which has already been met),
- shall not be taken into account as mentioned in subsection (1) above, whether by virtue of this section or otherwise.

#### Textual Amendments

- F348** Word in s. 93(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 72\(a\)](#) (with Sch. 2)
- F349** Words in s. 93(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 72\(b\)](#) (with Sch. 2)
- F350** Words in s. 93(1) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 ([S.I. 2004/2310](#)), art. 1(2), Sch. para 11(2)

#### Marginal Citations

- M44** SOURCE-1980 s. 42(1)
- M45** SOURCE-1980 s. 42(2)
- M46** 1972 c. 63.
- M47** 1966 c. 36 (N.I.).
- M48** 1971 c. 22 (N.I.).
- M49** SOURCE-1980 s. 42(2); 1984 s. 55(1)
- M50** [S.I. 1982/1083 \(N.I. 15\)](#).
- M51** SOURCE-1980 s. 42(3); 1984 s. 55(2)

## 94 Debts deducted and subsequently released.

[<sup>F351</sup>(1)] <sup>M52</sup>Where, in computing for [<sup>F352</sup>corporation tax purposes] the [<sup>F353</sup>profits] of a [<sup>F354</sup>trade or profession], a deduction has been allowed for any debt incurred for the purposes of the [<sup>F354</sup>trade or profession], then, if the whole or any part of the debt is thereafter released [<sup>F355</sup>otherwise than as part of a [<sup>F356</sup>statutory insolvency arrangement]], the amount released shall be treated as a receipt of the [<sup>F354</sup>trade or profession] arising in the period in which the release is effected.

(2) <sup>F357</sup> .....

#### Textual Amendments

- F351** S. 94 renumbered as s. 94(1) (3.5.1994) by virtue of [Finance Act 1994 \(c. 9\), s. 144\(4\)](#)
- F352** Words in s. 94(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 73\(a\)](#) (with Sch. 2)
- F353** Words in s. 94(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1
- F354** Words in s. 94(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 73\(b\)](#) (with Sch. 2)
- F355** Words in s. 94(1) inserted (with effect in accordance with s. 144(7) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 144\(3\)\(a\)](#)
- F356** Words in s. 94(1) substituted (with effect in accordance with s. 80(3)(4) of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 4 para. 4\(2\)](#)

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**F357** S. 94(2) repealed (with effect in accordance with s. 80(3)(4) of the repealing Act) by Finance Act 2005 (c. 7), Sch. 4 para. 4(3), Sch. 11 Pt. 2(5), Note

**Marginal Citations**

**M52** SOURCE-1970 s. 136

**95** [<sup>F358</sup>**Taxation of dealers in respect of distributions etc.**]

[<sup>F359</sup>[<sup>F360</sup>(1) Where a dealer—

- (a) receives a relevant distribution, that is to say—
  - (i) any distribution which is made by a company resident in the United Kingdom (“a UK distribution”), or
  - (ii) any payment which is representative of a UK distribution, or
- (b) makes any payment which is representative of a UK distribution, the distribution or, as the case may be, the payment shall be taken into account in computing the profits of the dealer which are chargeable to [<sup>F361</sup>corporation tax] in accordance with the provisions of this Act applicable to Case I or II of Schedule D.]

(1A) Accordingly, where a dealer receives a [<sup>F362</sup>relevant distribution]—

- (a) <sup>F363</sup> .....
- (b) <sup>F364</sup> .....
- (c) [<sup>F365</sup>section 208] shall not apply to that distribution; and
- (d) <sup>F366</sup> .....
- [<sup>F367</sup>(e) <sup>F368</sup> .....

(1B) <sup>F369</sup> .....

[<sup>F370</sup>(1C) The application of subsection (1) above in relation to a payment made by a dealer is subject to paragraph 7A of Schedule 23A (manufactured payments under arrangements having an unallowable purpose).]

(2) For the purposes of this section a person is a dealer in relation to any <sup>F371</sup> . . . distribution if—

- (a) were there a sale by that person of the shares [<sup>F372</sup>or stock] in respect of which the distribution is made, and
- (b) the circumstances of that sale were such that the price would not fall to be treated as a <sup>F371</sup> . . . distribution,

the price would be taken into account in computing the profits of that person which are chargeable to [<sup>F373</sup>corporation tax] in accordance with the provisions of this Act applicable to Case I or II of Schedule D.]

[<sup>F374</sup>(2A) The reference in subsection (2) above to the profits of a person does not include the profits of that person in respect of insurance business or any category of insurance business.]

(4) <sup>F375</sup> .....

(5) <sup>F375</sup> .....



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### Textual Amendments

- F358** S. 95 sidenote substituted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(9\)](#)
- F359** S. 95(1)(1A)(1B)(2) substituted for s. 95(1)-(3) (with effect in accordance with [Sch. 7 para. 8\(3\)](#) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 7 para. 8\(1\)](#)
- F360** S. 95(1) substituted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(2\)](#)
- F361** Words in s. 95(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 74\(2\)](#) (with [Sch. 2](#))
- F362** Words in s. 95(1A) substituted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(3\)\(a\)](#)
- F363** S. 95(1A)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 74\(3\), Sch. 3](#) (with [Sch. 2](#))
- F364** S. 95(1A)(b) repealed (with effect in accordance with s. 24(15) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(3\)\(b\), Sch. 8 Pt. 2\(8\)](#), Note 1
- F365** Words in s. 95(1A)(c) substituted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(3\)\(c\)](#)
- F366** S. 95(1A)(d) repealed (with effect in accordance with s. 24(15) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(3\)\(d\), Sch. 8 pt. 2\(8\)](#), Note 1
- F367** S. 95(1A)(e) inserted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(3\)\(e\)](#)
- F368** S. 95(1A)(e) repealed (with effect in accordance with [Sch. 43 Pt. 3\(6\)](#) Note of the repealing Act) by [Finance Act 2003 \(c. 14\), Sch. 43 Pt. 3\(6\)](#)
- F369** S. 95(1B) repealed (with effect in accordance with s. 24(15) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(4\), Sch. 8 Pt. 2\(8\)](#), Note 1
- F370** S. 95(1C) inserted (2.7.2004) by [Finance Act 2004 \(c. 12\), s. 137\(2\)\(6\)](#)
- F371** Words in s. 95(2) repealed (with effect in accordance with s. 24(15) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(5\)\(a\), Sch. 8 Pt. 2\(8\)](#), Note 1
- F372** Words in s. 95(2)(a) inserted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(5\)\(b\)](#)
- F373** Words in s. 95(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 74\(4\)](#) (with [Sch. 2](#))
- F374** S. 95(2A) inserted (with effect in accordance with s. 24(15) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(6\)](#)
- F375** S. 95(4)(5) repealed (with effect in accordance with s. 24(15) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 24\(7\)\(8\)](#). {[Sch. 8 Pt. 2\(8\)](#)}

### [<sup>F376</sup>95ZA] Taxation of UK distributions received by insurance companies

- (1) If the total amount of relevant distributions received by a company in an accounting period exceeds £50,000, those distributions are to be taken into account in calculating for corporation tax purposes the profits of the company in that period (and accordingly section 208 does not apply in relation to those distributions).
- (2) A company (“company A”) receives a “relevant distribution” if—
  - (a) it receives a distribution made by a company resident in the United Kingdom (“company B”),
  - (b) the value of the shares or stock in respect of which the distribution is made (“the holding”) is materially reduced by reason of the distribution,

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- (c) a profit on the sale of the holding (to anyone other than company B) would be taken into account in calculating company A's profits in respect of relevant insurance business, and
  - (d) either—
    - (i) the holding amounts to, or is an ingredient in a holding amounting to, 10% of all holdings of the same class in company B, or
    - (ii) the period between the acquisition by company A of the holding and that company first taking steps to dispose of the holding does not exceed 30 days.
- (3) In this section “relevant insurance business” means any kind of insurance business other than life assurance business.
- (4) Section 177(7) of TCGA 1992 (provision supplementing provision corresponding to subsection (2)(d)(i) above) applies for the purposes of subsection (2)(d)(i).
- (5) Section 731(4) below (interpretation of “taking steps to dispose of securities”) applies for the purposes of subsection (2)(d)(ii) as if the reference to the securities were to the holding.]

**Textual Amendments**

**F376** S. 95ZA inserted (with effect in accordance with Sch. 17 para. 16(2) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 16(1)

*Special provisions*

[<sup>F377</sup>**95A Creative artists: relief for fluctuating profits**

F378 .....]

**Textual Amendments**

**F377** S. 95A inserted (11.5.2001) by Finance Act 2001 (c. 9), s. 71(1)  
**F378** S. 95A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 75, Sch. 3 (with Sch. 2)

**96 Farming and market gardening: relief for fluctuating profits.**

F379 .....

**Textual Amendments**

**F379** S. 96 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 76, Sch. 3 (with Sch. 2)

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## 97 Treatment of farm animals etc.

<sup>M53</sup>Schedule 5 shall have effect with respect to the treatment, in computing [<sup>F380</sup>profits] for the purposes of Case I of Schedule D, of animals and other living creatures kept for the purposes of farming or any other trade.

### Textual Amendments

**F380** Words in s. 97 substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1

### Marginal Citations

**M53** SOURCE-1970 s. 139

## [<sup>F381</sup>98 Tied premises: receipts and expenses treated as those of trade.

- (1) This section applies [<sup>F382</sup>for corporation tax purposes] where [<sup>F383</sup>a company (“the trader”)]—
  - (a) carries on a trade,
  - (b) in the course of the trade supplies, or is concerned in the supply of, goods sold or used on premises occupied by [<sup>F384</sup>a person other than the trader],
  - (c) has an estate or interest in those premises, and
  - (d) deals with that estate or interest as property employed for the purposes of the trade.
- (2) Where this section applies the receipts and expenses in connection with the premises that would otherwise fall to be brought into account in computing the profits of a Schedule A business carried on by the trader shall instead be brought into account in computing the profits of the trade.
- (3) Any necessary apportionment shall be made on a just and reasonable basis of receipts or expenses—
  - (a) which do not relate only to the premises concerned, or
  - (b) where the conditions in subsection (1) are met only in relation to part of the premises.
- (4) This section applies to premises outside the United Kingdom as if the premises were in the United Kingdom.]

### Textual Amendments

**F381** S. 98 substituted (17.3.1998) by Finance Act 1998 (c. 36), s. 41(1)(3) (with s. 41(4)-(7))

**F382** Words in s. 98(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 77(a) (with Sch. 2)

**F383** Words in s. 98(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 77(b) (with Sch. 2)

**F384** Words in s. 98(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 77(c) (with Sch. 2)

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## 99 Dealers in land.

- (1) <sup>M54</sup>In computing for [<sup>F385</sup>corporation tax purposes] the [<sup>F386</sup>profits] of a trade of dealing in land, there shall be disregarded—
  - (a) so much of the cost of woodlands in the United Kingdom purchased in the course of the trade as is attributable to trees or saleable underwood growing on the land; and
  - (b) where any amount has been disregarded under paragraph (a) above and, on a subsequent sale of the woodlands in the course of the trade, all or any of the trees or underwood to which the amount disregarded was attributable are still growing on the land, so much of the price for the land as is equal to the amount so disregarded in respect of those trees or underwood.
- (2) <sup>M55</sup>In computing the [<sup>F386</sup>profits] of a trade of dealing in land, any trading receipt falling within subsection (1), (4) or (5) of section 34 or section 35 or 36 shall be treated as reduced by the amount on which [<sup>F387</sup>corporation tax] is chargeable by virtue of that section.
- (3) Where, on a claim being made under subsection (2)(b) of section 36, the amount on which [<sup>F388</sup>corporation tax] was chargeable by virtue of that section is treated as reduced, subsection (2) above shall be deemed to have applied to the amount as reduced, and any such adjustment of liability to [<sup>F388</sup>corporation tax] shall be made (for all relevant [<sup>F389</sup>accounting periods]) whether by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to [<sup>F388</sup>corporation tax] for the [<sup>F390</sup>accounting period] in which that claim is made.
- (4) <sup>M56</sup>Subsection (1) above shall not apply where the purchase mentioned in paragraph (a) of that subsection was made under a contract entered into before 1st May 1963.

### Textual Amendments

- F385** Words in s. 99(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 78(2)** (with Sch. 2)
- F386** Words in s. 99(1)(2) substituted (31.7.1998) by *Finance Act 1998 (c. 36)*, **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F387** Words in s. 99(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 78(3)** (with Sch. 2)
- F388** Words in s. 99(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 78(4)(a)** (with Sch. 2)
- F389** Words in s. 99(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 78(4)(b)** (with Sch. 2)
- F390** Words in s. 99(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 78(4)(c)** (with Sch. 2)

### Marginal Citations

- M54** SOURCE-1970 s. 142(1)  
**M55** SOURCE-1970 s. 142(2), (4)  
**M56** SOURCE-1970 s. 142(2), (4)

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## CHAPTER VI

### DISCONTINUANCE <sup>F391</sup> . . .

#### Textual Amendments

**F391** Words in Pt. 4 Ch. 6 heading repealed (with application in accordance with Sch. 27 Pt. 3(6) Note of the repealing Act) by Finance Act 1998 (c. 36), Sch. 27 Pt. 3(6)

#### *Valuation of trading stock etc.*

#### **100 Valuation of trading stock at discontinuance of trade.**

(1) <sup>M57</sup>In computing for [<sup>F392</sup>any corporation tax purpose] the [<sup>F393</sup>profits] of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance shall be valued as follows—

(a) if—

(i) the stock is sold or transferred for valuable consideration to a person who carries on, or intends to carry on, a trade in the United Kingdom, and

(ii) the cost of the stock may be deducted by the purchaser as an expense in computing for any tax purpose the [<sup>F393</sup>profits] of that trade,

the value of the stock shall be taken to be the amount [<sup>F394</sup>determined in accordance with subsections (1A) to (1C) below; and]

(b) if the stock does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.

<sup>F395</sup>(1ZA) This section does not apply in relation to any trading stock if paragraph 1(2) of Schedule 28AA (provision not at arm's length) has effect in relation to any provision made or imposed in relation to that stock and having effect in connection with the discontinuance of the trade.]

<sup>F396</sup>(1A) Subject to subsections (1B) and (1C) below and to paragraph 2 of Schedule 12 to the <sup>M58</sup>Finance Act 1988 (gilt-edged securities and other financial trading stock), the value of any trading stock falling to be valued under paragraph (a) of subsection (1) above shall be taken—

(a) except where the person to whom it is sold or transferred is connected with [<sup>F397</sup>the company which] makes the sale or transfer, to be the amount (“the price actually received for it”) which is in fact realised on the sale or, as the case may be, which is in fact the value of the consideration given for the transfer; and

(b) if [<sup>F398</sup>that person and that company] are connected with each other, to be what would have been the price actually received for it had the sale or transfer been a transaction between independent persons dealing at arm's length.

(1B) In a case falling within subsection (1)(a) above—

(a) <sup>F399</sup> . . . . .

(b) stock sold in circumstances in which the amount realised on the sale would be taken to be an amount determined in accordance with paragraph 5 of

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Schedule 5 shall be taken to have the value so determined, instead of the value for which subsection (1A)(a) or (b) above provides.

(1C) If—

- (a) trading stock is sold or transferred to a person in circumstances where paragraph (b) of subsection (1A) above would apply (apart from this subsection) for determining the value of the stock so sold or transferred,
- (b) the amount which would be taken in accordance with that paragraph to be the value of all of the stock sold or transferred to that person is more than the acquisition value of that stock and also more than the price actually received for it, and
- (c) both parties to the sale or transfer, by notice signed by them and sent to the inspector no later than two years after the end of the [<sup>F400</sup>accounting period] in which the trade is discontinued, elect that this subsection shall apply,

then the stock sold or transferred to that person shall be taken to have a value equal to whichever is the greater (taking all the stock so sold or transferred together) of its acquisition value and the price actually received for it or, in a case where they are the same, to either of them.

(1D) In subsection (1C) above “acquisition value”, in relation to any trading stock, means the amount which, in computing for any [<sup>F401</sup>corporation] tax purposes the [<sup>F393</sup>profits] of the discontinued trade, would have been deductible as representing the acquisition value of that stock if—

- (a) the stock had, immediately before the discontinuance, been sold in the course of the trade for a price equal to whatever would be its value in accordance with subsection (1A)(b) above; and
- (b) the period for which those [<sup>F393</sup>profits] were to be computed began immediately before the sale.

(1E) [<sup>F402</sup>Where the value of the trading stock is determined in accordance with subsections (1A) to (1C) above, or sections 176 to 178 of ITTOIA 2005 or section 127 of that Act (by virtue of section 175(3)) (corresponding provisions for income tax purposes),] the amount to be brought into account as the value of that stock in computing [<sup>F393</sup>profits] of the discontinued trade shall also be taken, for the purpose of making [<sup>F403</sup>for corporation tax purposes] any deduction in computing the [<sup>F393</sup>profits] of any trade carried on by the purchaser, to be the cost of that stock to the purchaser.

(1F) For the purposes of this section two persons are connected with each other if—

- (a) they are connected with each other within the meaning of section 839;
- (b) one of them is a partnership and the other has a right to a share in the partnership;
- (c) one of them is a body corporate and the other has control over that body;
- (d) both of them are partnerships and some other person has a right to a share in each of them; or
- (e) both of them are bodies corporate or one of them is a partnership and the other is a body corporate and, in either case, some other person has control over both of them;

and in this subsection the references to a right to a share in a partnership are references to a right to a share of the assets or income of the partnership and “control” has the meaning given by section 840.



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- (1G) In this section “purchaser”, in relation to a transfer otherwise than by sale, means the person to whom the transfer is made.]
- (2)<sup>M59</sup> For the purposes of this section “trading stock”, in relation to any trade—
- (a) means property of any description, whether real or personal, being either—
    - (i) property such as is sold in the ordinary course of the trade, or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or
    - (ii) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in sub-paragraph (i) above; and
  - (b) includes also any services, article or material which would, if the trade were a profession<sup>F404</sup> . . . , be treated, for the purposes of section 101, as work in progress of the profession<sup>F404</sup> . . . , and references to the sale or transfer of trading stock shall be construed accordingly.
- [<sup>F405</sup>(3) Where trading stock falling to be valued under paragraph (a) of subsection (1) above is sold or transferred together with other assets, so much of the amount realised on the sale or, as the case may be, of the value of the consideration given for the transfer as on a just and reasonable apportionment is properly attributable to each asset shall be treated for the purposes of this section as the amount realised on the sale or, as the case may be, the value of the consideration given for the transfer, of that asset.]

#### Textual Amendments

- F392** Words in s. 100(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(2)** (with Sch. 2)
- F393** Words in s. 100(1)(1D)(1E) substituted (31.7.1998) by *Finance Act 1998 (c. 36)*, **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F394** Words in s. 100(1)(a) substituted (with application in accordance with s. 140(2) of the amending Act) by *Finance Act 1995 (c. 4)*, **s. 140(1)**
- F395** S. 100(1ZA) inserted (with effect in accordance with s. 37 of the amending Act) by *Finance Act 2004 (c. 12)*, **Sch. 5 para. 2(2)**
- F396** S. 100(1A)-(1G) inserted (with application in accordance with s. 140(2) of the amending Act) by *Finance Act 1995 (c. 4)*, by {s. 140(1)}
- F397** Words in s. 100(1A)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(3)(a)** (with Sch. 2)
- F398** Words in s. 100(1A)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(3)(b)** (with Sch. 2)
- F399** S. 100(1B)(a) repealed (24.7.2002) by *Finance Act 2002 (c. 23)*, s. 105(1), **Sch. 40 Pt. 3(17)**
- F400** Words in s. 100(1C)(c) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(4)** (with Sch. 2)
- F401** Word in s. 100(1D) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(5)** (with Sch. 2)
- F402** Words in s. 100(1E) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(6)(a)** (with Sch. 2)
- F403** Words in s. 100(1E) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 79(6)(b)** (with Sch. 2)
- F404** Words in s. 100(2)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 79(7), **Sch. 3** (with Sch. 2)
- F405** S. 100(3) inserted (with application in accordance with s. 106(2) of the amending Act) by *Finance Act 2002 (c. 23)*, **s. 106(1)**



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

- C34** S. 100 excluded (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 10 para. 11\(3\); S.I. 2003/120, art. 2, Sch.](#) (with arts. 3-7 (as amended by [S.I. 2003/333, art. 14](#)))
- C35** See—1988(F) Sch.12 para.2—*building societies converting to companies*. [Trustee Savings Bank Act 1985 \(c.58\) s.5](#) and Sch.2 para.6(1)—*this provision not to apply to the discontinuance of an existing bank under the TSB Act 1985.*

**Marginal Citations**

- M57** Source—1970 s.137(1)  
**M58** 1988 c. 39.  
**M59** Source—1970 s.137(4)

**101 Valuation of work in progress at discontinuance of profession or vocation.**

- (1) <sup>M60</sup>Where, in computing for [<sup>F406</sup>any corporation tax purpose] the [<sup>F407</sup>profits] of a profession <sup>F408</sup> . . . which has been discontinued, a valuation is taken of the work of the profession <sup>F408</sup> . . . in progress at the discontinuance, that work shall be valued as follows—
- (a) if—
- (i) the work is transferred for money or any other valuable consideration to a person who carries on, or intends to carry on, a profession <sup>F408</sup> . . . in the United Kingdom, and
- (ii) the cost of the work may be deducted by that person as an expense in computing for any tax purpose the [<sup>F407</sup>profits] of that profession <sup>F408</sup> . . . ,
- the value of the work shall be taken to be the amount paid or other consideration given for the transfer; and
- (b) if the work does not fall to be valued under paragraph (a) above, its value shall be taken to be the amount which would have been paid for a transfer of the work on the date of the discontinuance as between parties at arm's length.
- (2) <sup>M61</sup>Where a profession <sup>F409</sup> . . . is discontinued, and the [<sup>F410</sup>company by which] it was carried on immediately before the discontinuance so elects by notice sent to the inspector at any time within [<sup>F411</sup>the period specified in subsection (2A) below]—
- (a) the amount (if any) by which the value of the work in progress at the discontinuance (as ascertained under subsection (1) above) exceeds the actual cost of the work shall not be brought into account in computing the [<sup>F407</sup>profits] of the period immediately before the discontinuance; but
- (b) the amount by which any sums received for the transfer of the work exceed the actual cost of the work shall be included in the sums chargeable to tax by virtue of section 103 as if it were a sum to which that section applies received after the discontinuance.
- [<sup>F412</sup>(2A) The period mentioned in subsection (2) above is—
- (a) <sup>F413</sup> . . . . .
- (b) <sup>F414</sup> . . . the period of two years beginning at the end of the accounting period in which the profession <sup>F414</sup> . . . is discontinued.]
- (3) <sup>M62</sup>References in this section to work in progress at the discontinuance of a profession <sup>F415</sup> . . . shall be construed as references to—

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- (a) any services performed in the ordinary course of the profession <sup>F415</sup> . . . , the performance of which was wholly or partly completed at the time of the discontinuance and for which it would be reasonable to expect that a charge would have been made on their completion if the profession <sup>F415</sup> . . . had not been discontinued; and
- (b) any article produced, and any such material as is used, in the performance of any such services,

and references in this section to the transfer of work in progress shall include references to the transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.

#### Textual Amendments

- F406** Words in s. 101(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 80(2)(a)** (with Sch. 2)
- F407** Words in s. 101(1)(2)(a) substituted (31.7.1998) by *Finance Act 1998 (c. 36)*, **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F408** Words in s. 101(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 80(2)(b), **Sch. 3** (with Sch. 2)
- F409** Words in s. 101(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 80(3), **Sch. 3** (with Sch. 2)
- F410** Words in s. 101(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 80(3)** (with Sch. 2)
- F411** Words in s. 101(2) substituted (with effect in accordance with s. 135(2) of the amending Act) by *Finance Act 1996 (c. 8)*, **Sch. 21 para. 3(2)**
- F412** S. 101(2A) inserted (with effect in accordance with s. 135(2) of the amending Act) by *Finance Act 1996 (c. 8)*, **Sch. 21 para. 3(3)**
- F413** S. 101(2A)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 80(4)(a), **Sch. 3** (with Sch. 2)
- F414** Words in s. 101(2A)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 80(4)(b), **Sch. 3** (with Sch. 2)
- F415** Words in s. 101(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, Sch. 1 para. 80(5), **Sch. 3** (with Sch. 2)

#### Marginal Citations

- M60** Source—1970 s.138(1)  
**M61** Source—1970 s.138(3)  
**M62** Source—1970 s.138(5)

## 102 Provisions supplementary to sections 100 and 101.

- (1) <sup>M63</sup> Any question arising under section 100(1)(a) or 101(1)(a) shall be determined as follows, for the purpose of computing for any tax purpose the [<sup>F416</sup>profits] of both the trades or, as the case may be, the professions <sup>F417</sup> . . . concerned—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to [<sup>F418</sup>each of the persons whose [<sup>F419</sup>trade or profession] is one of those] concerned, the question shall be determined by those Commissioners unless all parties concerned agree that it shall be determined by the Special Commissioners;

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- (b) in any other case, the question shall be determined by the Special Commissioners; and
  - (c) the General or Special Commissioners shall determine the question in like manner as an appeal.
- (2) <sup>M64</sup>Where, by virtue of section <sup>F420</sup>. . . 337(1), a [<sup>F421</sup>trade or profession] is treated as having been permanently discontinued for the purpose of computing [<sup>F422</sup>corporation] tax, it shall also be so treated for the purposes of sections 100 and 101<sup>F420</sup> . . .

#### Textual Amendments

- F416** Words in s. 102(1) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a)(b), Sch. 7 para. 1
- F417** Words in s. 102(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 81(2)(a), Sch. 3 (with Sch. 2)
- F418** Words in s. 102(1)(a) substituted (with effect in accordance with Sch. 22 para. 12 of the amending Act) by Finance Act 1996 (c. 8), Sch. 22 para. 11
- F419** Words in s. 102(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 81(2)(b) (with Sch. 2)
- F420** Words in s. 102(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 81(3)(a)(d), Sch. 3 (with Sch. 2)
- F421** Words in s. 102(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 81(3)(b) (with Sch. 2)
- F422** Word in s. 102(2) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 81(3)(c) (with Sch. 2)

#### Marginal Citations

- M63** Source—1970 s.137(2), 138(2)
- M64** Source—1970 s.137(3), 138(4)

### Case VI charges on receipts

#### 103 Receipts after discontinuance: earnings basis charge and related charge affecting conventional basis.

- <sup>M65</sup>(1) Where any trade, profession or vocation [<sup>F423</sup>carried on wholly or partly in the United Kingdom] the [<sup>F424</sup>profits] of which are chargeable to tax <sup>F425</sup>. . . has been permanently discontinued, [<sup>F426</sup>corporation tax shall be charged under Case VI of Schedule D] in respect of any sums to which this section applies which are received after the discontinuance.
- (2) Subject to subsection (3) below, this section applies to the following sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax)—
- (a) where the [<sup>F424</sup>profits] for that period were computed by reference to earnings, all such sums in so far as their value was not brought into account in computing the [<sup>F424</sup>profits] for any period before the discontinuance, and
  - (b) where those [<sup>F424</sup>profits] were computed on a conventional basis (that is to say, were computed otherwise than by reference to earnings), any sums which, if those [<sup>F424</sup>profits] had been computed by reference to earnings, would not have been brought into the computation for any period before the discontinuance

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because the date on which they became due, or the date on which the amount due in respect thereof was ascertained, fell after the discontinuance.

- (3) This section does not apply to any of the following sums—
  - (a) sums received by a [<sup>F427</sup>company] beneficially entitled thereto [<sup>F428</sup>which is not resident in the United Kingdom, or by a person acting on [<sup>F429</sup>its behalf, which represent income arising directly or indirectly from a country or territory outside the United Kingdom, or
  - (b) <sup>F430</sup> . . . . .
  - [<sup>F431</sup>(bb) <sup>F430</sup> . . . . .]
  - (c) sums realised by the transfer of trading stock belonging to a trade at the discontinuance of the trade, or by the transfer of the work of a profession or vocation in progress at its discontinuance.
  - <sup>F432</sup> . . . . .

- (4) Where—
  - (a) in computing for tax purposes the [<sup>F424</sup>profits] of a trade, profession or vocation a deduction has been allowed for any debt incurred for the purposes of the trade, profession or vocation, and
  - (b) the whole or any part of that debt is thereafter released [<sup>F433</sup>otherwise than as part of a [<sup>F434</sup>statutory insolvency arrangement]], and
  - (c) the trade, profession or vocation has been permanently discontinued at or after the end of the period for which the deduction was allowed and before the release was effected,

subsections (1) to (3) above shall apply as if the amount released were a sum received after the discontinuance.

[<sup>F435</sup>(4A) <sup>F436</sup> . . . . .]

- (5) For the purposes of this section the value of any sum received in payment of a debt shall be treated as not brought into account in the computation of the [<sup>F424</sup>profits] of a trade, profession or vocation to the extent that [<sup>F437</sup>a deduction has been made for tax purposes in respect of an impairment loss or a release of liability].

**Textual Amendments**

**F423** Words in s. 103(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(a\)](#) (with Sch. 2)

**F424** Words in s. 103(1)(2)(a)(b)(4)(a)(5) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1

**F425** Words in s. 103(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(b\)](#), [Sch. 3](#) (with Sch. 2)

**F426** Words in s. 103(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(2\)\(c\)](#) (with Sch. 2)

**F427** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(a\)\(i\)](#) (with Sch. 2)

**F428** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 82\(3\)\(a\)\(ii\)](#) (with Sch. 2)

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- F429** Word in s. 103(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 82(3)(a)(iii)** (with Sch. 2)
- F430** S. 103(3)(b)(bb) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 82(3)(b)**, **Sch. 3** (with Sch. 2)
- F431** Sch.7 para.36(3) Copyright Designs and Patents Act 1988 (c.48) in force on 1 August 1989. (Commencement order—S.I. 1989 No.816—not reproduced).
- F432** Words in s. 103(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 82(3)(c)**, **Sch. 3** (with Sch. 2)
- F433** Words in s. 103(4)(b) inserted (with effect in accordance with s. 144(7) of the amending Act) by Finance Act 1994 (c. 9), **s. 144(3)(b)**
- F434** Words in s. 103(4)(b) substituted (with effect in accordance with s. 80(3)(4) of the amending Act) by Finance Act 2005 (c. 7), **Sch. 4 para. 5(2)**
- F435** S. 103(4A) inserted (3.5.1994) by Finance Act 1994 (c. 9), **s. 144(5)**
- F436** S. 103(4A) repealed (with effect in accordance with s. 80(3)(4) of the repealing Act) by Finance Act 2005 (c. 7), **Sch. 4 para. 5(3)**, **Sch. 11 Pt. 2(5)**, Note
- F437** Words in s. 103(5) substituted (with effect in accordance with s. 80(3)(4) of the amending Act) by Finance Act 2005 (c. 7), **Sch. 4 para. 5(5)**

**Marginal Citations**

**M65** Source—1970 s.143; 1983 s.27(b)

**104 Conventional basis: general charge on receipts after discontinuance**<sup>F438</sup> . . . .

- (1)<sup>M66</sup> Where any trade, profession or vocation [<sup>F439</sup>carried on wholly or partly in the United Kingdom] the [<sup>F440</sup>profits] of which are chargeable to tax<sup>F441</sup> . . . has been permanently discontinued, and the [<sup>F440</sup>profits] for any period before the discontinuance were computed on a conventional basis, [<sup>F442</sup>corporation tax shall be charged under Case VI of Schedule D] in respect of any sums to which this subsection applies which are received on or after the discontinuance.
- (2) Subject to subsection (3) below, subsection (1) above applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance, not being sums otherwise chargeable to tax, in so far as the amount or value of the sums was not brought into account in computing the [<sup>F440</sup>profits] for any period before the discontinuance.
- (3) In subsection (2) above the reference to sums otherwise chargeable to tax includes any sums which (disregarding this section) are chargeable to [<sup>F443</sup>corporation tax] under section 103 or to which that section would have applied but for subsection (3)(a)<sup>F444</sup> . . . of that section.
- (4)<sup>F445</sup> . . . . .
- (5)<sup>F445</sup> . . . . .
- (6)<sup>M67</sup> It is hereby declared that where work in progress at the discontinuance of a profession or vocation, or the responsibility for its completion, is transferred, the sums to which subsection (1) above applies include any sums received by way of consideration for the transfer, and any sums received by way of realisation by the transferee, on behalf of the transferor, of the work in progress transferred.
- (7)<sup>F445</sup> . . . . .



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### Textual Amendments

- F438** Words in s. 104 sidenote repealed (with effect in accordance with Sch. 27 Pt. 3(6) Note of the repealing act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. 3(6)**
- F439** Words in s. 104(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(2)(a)** (with Sch. 2)
- F440** Words in s. 104(1)(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **s. 46(3)(a)(b)**, Sch. 7 para. 1
- F441** Words in s. 104(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 83(2)(b), **Sch. 3** (with Sch. 2)
- F442** Words in s. 104(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(2)(c)** (with Sch. 2)
- F443** Words in s. 104(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 83(3)(a)** (with Sch. 2)
- F444** Words in s. 104(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 83(3)(b), **Sch. 3** (with Sch. 2)
- F445** S. 104(4)(5)(7) repealed (with application in accordance with Sch. 27 Pt. 3(6) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. 3(6)**

### Marginal Citations

- M66** Source—1970 s.144(1)  
**M67** Source—1970 s.144(3), (4)

## 105 Allowable deductions.

- <sup>M68</sup>(1) In computing the charge to [<sup>F446</sup>corporation tax] in respect of sums received by any [<sup>F447</sup>company] which are chargeable to [<sup>F446</sup>corporation tax] by virtue of section 103 or 104(1) (including amounts treated as sums received by [<sup>F448</sup>it] by virtue of section 103(4)), there shall be deducted from the amount which, apart from this subsection, would be chargeable to [<sup>F446</sup>corporation tax]—
- (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing for tax purposes the [<sup>F449</sup>profits] of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those [<sup>F449</sup>profits] as so computed, and
  - (b) any capital allowance to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given by way of relief before the discontinuance.
- (2) No amount shall be deducted under subsection (1) above if that amount has been allowed under any other provision of the Tax Acts <sup>F450</sup> . . . .
- (3) No amount shall be deducted more than once under subsection (1) above; and—
- (a) any expense or debit shall be apportioned between a sum chargeable under section 103 and a sum chargeable under section 104(1) in such manner as may be just;
  - (b) as between sums chargeable, whether under section 103 or 104(1), for one [<sup>F451</sup>accounting period] and sums so charged for a subsequent [<sup>F451</sup>accounting period], any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier [<sup>F451</sup>accounting period];

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(c) subject to paragraph (b) above, as between sums chargeable for any [<sup>F451</sup>accounting period] under section 103 and sums so chargeable under section 104(1), any deduction in respect of a loss or capital allowance shall be made against the last-mentioned sums rather than the first-mentioned; but, in the case of a loss which is to be allowed after the discontinuance, not so as to authorise its deduction from any sum chargeable for a [<sup>F451</sup>accounting period] preceding that in which the loss is incurred.

(4) <sup>F452</sup> .....

**Textual Amendments**

- F446** Words in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 84\(2\)\(a\)](#) (with [Sch. 2](#))
- F447** Word in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 84\(2\)\(b\)](#) (with [Sch. 2](#))
- F448** Word in s. 105(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 84\(2\)\(c\)](#) (with [Sch. 2](#))
- F449** Words in s. 105(1)(a)(4) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)
- F450** Words in s. 105(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 10](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F451** Words in s. 105(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 84\(3\)](#) (with [Sch. 2](#))
- F452** [S. 105\(4\)](#) repealed (with application in accordance with [Sch. 27 Pt. 3\(6\)](#) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(6\)](#)

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

- C36** [S. 105](#) modified by [Capital Allowances Act 1990 \(c. 1\)](#), [s. 15A](#) (as inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 201](#), [Sch. 39 para. 1\(2\)](#))

**Marginal Citations**

- M68** Source—1970 s.145

**106 Application of charges where rights to payments transferred.**

<sup>M69</sup>(1) Subject to subsection (2) below, in the case of a transfer for value of the right to receive any sum to which section 103, 104(1) or 104(4) applies, any [<sup>F453</sup>corporation tax] chargeable by virtue of either of those sections shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in this Chapter, except section 101(2), to sums received shall be construed accordingly.

(2) Where a trade, profession or vocation is treated as permanently discontinued by reason of a change in the persons carrying it on, and the right to receive any sum to which section 103 or 104(1) applies is or was transferred at the time of the change to [<sup>F454</sup>the company carrying on the trade,] profession or vocation after the change, [<sup>F455</sup>corporation tax] shall not be charged by virtue of either of those sections, but any sum received by [<sup>F456</sup>that company] by virtue of the transfer shall be treated for [<sup>F457</sup>corporation tax purposes] as a receipt to be brought into the computation of the [<sup>F458</sup>profits] of the trade, profession or vocation in the period in which it is received.



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### Textual Amendments

- F453** Words in s. 106(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 85\(2\)](#) (with Sch. 2)
- F454** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 85\(3\)\(a\)](#) (with Sch. 2)
- F455** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 85\(3\)\(b\)](#) (with Sch. 2)
- F456** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 85\(3\)\(c\)](#) (with Sch. 2)
- F457** Words in s. 106(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 85\(3\)\(d\)](#) (with Sch. 2)
- F458** Word in s. 106(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)\(b\)](#), Sch. 7 para. 1

### Marginal Citations

- M69** Source—1970 s.147

## *Reliefs*

### 107 Treatment of receipts as earned income.

**F459** .....

### Textual Amendments

- F459** [S. 107](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 86, [Sch. 3](#) (with Sch. 2)

### 108 Election for carry-back.

**F460** .....

### Textual Amendments

- F460** [S. 108](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 87, [Sch. 3](#) (with Sch. 2)

### 109 Charge under section 104: relief for individuals born before 6th April 1917.

**F461** .....

### Textual Amendments

- F461** [S. 109](#) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 88, [Sch. 3](#) (with Sch. 2)

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### *[<sup>F462</sup> Relief for post-cessation expenditure*

#### **Textual Amendments**

**F462** S. 109A and preceding cross-heading inserted (with effect in accordance with s. 90(7) of the amending Act) by Finance Act 1995 (c. 4), s. 90(1)

### **109A Relief for post-cessation expenditure.**

<sup>F463</sup> . . . . .]

#### **Textual Amendments**

**F463** S. 109A repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 11, Sch. 3 Pt. 1 (with Sch. 2)

### *Supplemental*

### **110 Interpretation etc.**

- (1) <sup>M70</sup>The following provisions have effect for the purposes of [<sup>F464</sup>sections 103 to 106].
- [<sup>F465</sup>(1A) In the case of a trade carried on by a person other than a company or a profession or vocation within the charge to income tax carried on by any person, any reference to the permanent discontinuance of a trade, profession or vocation includes a reference to—
- (a) a person permanently ceasing to carry on a trade, profession or vocation, or
  - (b) in relation to a trade or profession carried on by a person in partnership with other persons, the occurrence of an event treated under section 246(4) of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as a person permanently ceasing to carry on a trade or profession.
- (1B) In the case of a trade carried on by a company, any reference to the permanent discontinuance of a trade includes a reference to the occurrence of an event treated under section 337(1) below as a discontinuance or treated under section 18 of ITTOIA 2005 (companies beginning or ceasing to carry on trade) as the company permanently ceasing to carry on the trade.
- (1C) In the case of a UK property business carried on by a person other than a company, any reference to the permanent discontinuance of a UK property business includes a reference to—
- (a) a person permanently ceasing to carry on a UK property business, or
  - (b) in relation to a UK property business carried on by a person in partnership with other persons, the occurrence of an event treated under section 353(3) of ITTOIA 2005 (basic meaning of “post-cessation receipt”) as a person permanently ceasing to carry on a UK property business.
- (1D) In the case of a UK property business carried on by a company, any reference to the permanent discontinuance of a UK property business includes a reference to the occurrence of an event treated under section 362 of ITTOIA 2005 (companies beginning or ceasing to be within the charge to income tax) as the company permanently ceasing to carry on the business.]

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- (3) <sup>M71</sup>The [<sup>F466</sup>profits] of a trade, profession or vocation in any period shall be treated as computed by reference to earnings where all credits and liabilities accruing during that period as a consequence of its being carried on are brought into account in computing those [<sup>F466</sup>profits] for tax purposes, and not otherwise, and “earnings basis” shall be construed accordingly.
- (4) “Conventional basis” has the meaning given by section 103(2), so that [<sup>F466</sup>profits] are computed on a conventional basis if computed otherwise than by reference to earnings.
- (5) There is a change from a conventional basis to the earnings basis at the end of a period the [<sup>F466</sup>profits] of which were computed on a conventional basis if the [<sup>F466</sup>profits] of the next succeeding period are computed by reference to earnings; and, if the [<sup>F466</sup>profits] of two successive periods are computed on different conventional bases, a change of conventional basis occurs at the end of the earlier period.
- (6) In sections 103 and 104—
- (a) “trading stock” has the meaning given by section 100(2);
  - (b) references to work in progress at the discontinuance of a profession or vocation, and to the transfer of work in progress, are to be construed in accordance with section 101(3); and
  - (c) the reference to work in progress at the time of a change of basis is also to be construed in accordance with section 101(3), substituting therein for this purpose references to the change of basis for references to the discontinuance.

#### Textual Amendments

- F464** Words in s. 110(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 12](#) (with [Sch. 2](#))
- F465** [S. 110\(1A\)-\(1D\)](#) substituted for s. 110(2) (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 90](#) (with [Sch. 2](#))
- F466** Words in s. 110(3)(4)(5) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)\(b\)](#), [Sch. 7 para. 1](#)

#### Marginal Citations

- M70** Source—1970 s.151(1)
- M71** Source—1970 s.151(2)-(5)

### *[<sup>F467</sup>[<sup>F468</sup> Change of residence]*

#### Textual Amendments

- F467** [S. 110A](#) and preceding cross-heading inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 124\(1\)](#)
- F468** [S. 110A](#) and preceding cross-heading repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 91](#), [Sch. 3](#) (with [Sch. 2](#))

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## 110A Change of residence.

F469 .....]

### Textual Amendments

**F469** S. 110A and preceding cross-heading repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 91, Sch. 3](#) (with [Sch. 2](#))

## CHAPTER VII

### PARTNERSHIPS AND SUCCESSIONS

#### General

## [<sup>F470</sup> 111 Treatment of partnerships.

- (1) Where a trade or profession is carried on by persons in partnership, the partnership shall not, unless the contrary intention appears, be treated for [<sup>F471</sup> corporation tax purposes] as an entity which is separate and distinct from those persons.
- (2) <sup>F472</sup> .....
- (3) <sup>F472</sup> .....
- (4) <sup>F472</sup> .....
- (5) <sup>F472</sup> .....
- (6) <sup>F472</sup> .....
- (7) <sup>F472</sup> .....
- (8) <sup>F472</sup> .....
- (9) <sup>F472</sup> .....
- (10) <sup>F472</sup> .....
- (11) <sup>F472</sup> .....
- (12) <sup>F472</sup> .....
- (13) <sup>F472</sup> .....]

### Textual Amendments

**F470** S. 111 substituted (with effect in accordance with s. 215(4)(5) of the 1994 amending Act) by [Finance Act 1994 \(c. 9\), s. 215\(1\)](#) (as amended (retrospectively) by [Finance Act 1995 c. 4, s. 117\(1\)\(a\)\(2\)\(4\)](#)) (with [Sch. 20](#))

**F471** Words in [s. 111\(1\)](#) substituted (6.4.2005 with effect in accordance with [s. 883\(1\)](#) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 92\(2\)](#) (with [Sch. 2](#))

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**F472** S. 111(2)-(13) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 92\(3\), Sch. 3 \(with Sch. 2\)](#)

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

- C37** S. 111 modified (1.5.1995) by Finance Act 1995 c. 4, [s. 125\(1\)](#)
- C38** S. 111 excluded (subsection (1) excepted) (with application in accordance with s. 44 of the excluding act) by [Finance Act 1998 \(c. 36\), s. 46\(1\)\(2\), Sch. 6 para. 6\(6\)](#)
- C39** S. 111 excluded (subsection (1) excepted) (with effect in accordance with s. 64 and Sch. 22 paras. 16-18 of the excluding Act) by [Finance Act 2002 \(c. 23\), Sch. 22 para. 13\(6\)](#)

**112 Partnerships controlled abroad.**

**F473** .....

**Textual Amendments**

**F473** S. 112 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 93, Sch. 3 \(with Sch. 2\)](#)

**113 Effect, for income tax, of change in ownership of trade, profession or vocation.**

**F474** .....

**Textual Amendments**

**F474** S. 113 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 94, Sch. 3 \(with Sch. 2\)](#)

*Partnerships involving companies*

**114 Special rules for computing profits and losses.**

- (1) <sup>M72</sup>So long as a trade [<sup>F475</sup>profession or business] is carried on by persons in partnership, and any of those persons is a company, the profits and losses (including terminal losses) of the trade [<sup>F475</sup>profession or business] shall be computed for the purposes of corporation tax in like manner, and by reference to the like accounting periods, as if the partnership were a company [<sup>F476</sup>and, subject to section 115(4), as if that company were resident in the United Kingdom], and without regard to any change in the persons carrying on the trade [<sup>F475</sup>profession or business], except that—
  - (a) references to distributions shall not apply; and
  - (b) subject to section 116(5), no deduction or addition shall be made for charges on income, or for capital allowances and charges, nor in any accounting period for losses incurred in any other period nor for any expenditure to which section 401(1) applies; and
  - (c) a change in the persons engaged in carrying on the trade [<sup>F475</sup>profession or business] shall be treated as the transfer of the trade [<sup>F475</sup>profession or business] to a different company if there continues to be a company so engaged after the change, but not a company that was so engaged before the change.

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- (2) <sup>M73</sup> A company’s share in the profits or loss of any accounting period of the partnership, or in any matter excluded from the computation by subsection (1)(b) above, shall be determined according to the interests of the partners during that period, and corporation tax shall be chargeable as if that share derived from a trade [<sup>F475</sup> profession or business] carried on by the company alone in its corresponding accounting period or periods; and the company shall be assessed and charged to tax for its corresponding accounting period or periods accordingly.

In this subsection “corresponding accounting period or periods” means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.

- (3) <sup>F477</sup> .....  
 (4) <sup>F478</sup> .....

**Textual Amendments**

- F475** Words in s. 114(1)-(3) inserted (with effect in accordance with s. 215(4)(5) of the amending Act) by Finance Act 1994 (c. 9), s. 215(2) (as s. 215(5) of that Act is modified (1.5.1995) by 1995 c. 4, s. 125(1)) (with Sch. 20)  
**F476** Words in s. 114(1) inserted (with effect in accordance with s. 125(1) of the amending Act) by Finance Act 1995 (c. 4), s. 125(4)  
**F477** S. 114(3) repealed (with effect in accordance with Finance Act 1994 (c. 9), s. 218(1)) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(15), Note 1  
**F478** S. 114(4) repealed (with effect in accordance with s. 215(4)(5) of the repealing Act) by Finance Act 1994 (c. 9), s. 215(3)(a), Sch. 26 Pt. 5(24), Note 4(a) (as s. 215(5) of that Act is modified (1.5.1995) by 1995 c. 4, s. 125(1)) (with Sch. 20)

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

- C40** S. 114(1) modified (3.5.1994) by Finance Act 1994 (c. 9), s. 172(4)-(6)

**Marginal Citations**

- M72** Source—1970 s.155(1); 1973 s.31(5); 1980 s.39(3)  
**M73** Source—1970 s.155(2); 1972 s.107(2)

**115 Provisions supplementary to section 114.**

- (1) <sup>F479</sup> .....  
 (2) <sup>F479</sup> .....  
 (3) <sup>F479</sup> .....

[<sup>F480</sup>(4) So long as a trade, profession or business is carried on by persons in partnership and any of those persons is a company which is not resident in the United Kingdom, section 114 shall have effect in relation to that company as if—

- (a) the reference in subsection (1) to a company resident in the United Kingdom were a reference to a company that is not so resident; and  
 (b) in subsection (2), after “carried on” there were inserted “in the United Kingdom through a [<sup>F481</sup>permanent establishment]”.

[<sup>F482</sup>(5) Subsections (5A) and (5B) apply if—

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- (a) a company resident in the United Kingdom (“the resident partner”) is a member of a partnership which resides outside the United Kingdom or which carries on any trade, profession or business the control and management of which is situated outside the United Kingdom, and
  - (b) by virtue of any arrangements falling within section 788 (“the arrangements”) any of the income or capital gains of the partnership is relieved from corporation tax in the United Kingdom.
- (5A) The arrangements do not affect any liability to corporation tax in respect of the resident partner's share of any income or capital gains of the partnership (and section 114 has effect accordingly).
- (5B) If the resident partner's share of the income of the partnership consists of or includes a share in a qualifying distribution made by a company resident in the United Kingdom, the resident partner (and not the partnership) is, despite the arrangements, entitled to the share of the tax credit in respect of the distribution which corresponds to the partner's share of the distribution (and section 114 has effect accordingly).]]
- [<sup>F483</sup>(5C) For the purposes of subsections (5) to (5B) the members of a partnership include any company which is entitled to a share of income or capital gains of the partnership.]
- (6) <sup>F479</sup> .....
- (7) For the purposes of this section and section 114 “profits” shall not be taken as including chargeable gains.

#### Textual Amendments

- F479** S. 115(1)-(3)(6) repealed (with effect in accordance with s. 215(4)(5) of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), s. 215(3)(b), [Sch. 26 Pt. 5\(24\)](#), Note 4(a) (as s. 215(5) of that Act is modified (1.5.1995) by [1995 c. 4](#), s. 125(1)) (with Sch. 20)
- F480** S. 115(4)(5) substituted (with effect in accordance with s. 125(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 125(5)
- F481** Words in s. 115(4)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), s. 153(1)(a)
- F482** S. 115(5)-(5B) substituted for s. 115(5) (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 95\(2\)](#) (with Sch. 2)
- F483** S. 115(5C) inserted (retrospectively) by [Finance Act 2008 \(c. 9\)](#), s. 58(1)(4)

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

- C41** S. 115(5) modified (with retrospective effect) by [Finance Act 2008 \(c. 9\)](#), s. 58(5)(6)(b)

## 116 Arrangements for transferring relief.

<sup>M74</sup>(1) The provisions of subsection (2) below shall apply in relation to a company (“the partner company”) which is a member of a partnership carrying on a trade if arrangements are in existence (whether as part of the terms of the partnership or otherwise) whereby—

- (a) in respect of the whole or any part of the value of, or of any portion of, the partner company's share in the profits or loss of any accounting period of the partnership, another member of the partnership or any person connected



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- with another member of the partnership receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth; or
- (b) in respect of the whole or any part of the cost of, or of any portion of, the partner company's share in the loss of any accounting period of the partnership, the partner company or any person connected with that company receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth, other than a payment in respect of group relief to the partner company by a company which is a member of the same group as the partner company for the purposes of group relief.
- (2) In any case where the provisions of this subsection apply in relation to the partner company—
- (a) the company's share in the loss of the relevant accounting period of the partnership and its share in any charges on income, within the meaning of section 338, paid by the partnership in that accounting period shall not be available for set-off for the purposes of corporation tax except against its share in the profits of the trade carried on by the partnership; and
  - (b) except in accordance with paragraph (a) above, no trading losses shall be available for set-off for the purposes of corporation tax against the company's share in the profits of the relevant accounting period of the partnership; and
  - (c) except in accordance with paragraphs (a) and (b) above, no amount which, apart from this subsection, would be available for relief against profits shall be available for set-off for the purposes of corporation tax against so much of the company's total profits as consists of its share in the profits of the relevant accounting period of the partnership; and
  - (d) <sup>F484</sup> .....
- (3) In subsection (2) above "relevant accounting period of the partnership" means any accounting period of the partnership in which any such arrangements as are specified in subsection (1) above are in existence or to which any such arrangements apply.
- (4) If a company is a member of a partnership and [<sup>F485</sup>corporation] tax in respect of any profits of the partnership is chargeable under Case VI of Schedule D, this section shall apply in relation to the company's share in the profits or loss of the partnership as if—
- (a) the profits or loss to which the company's share is attributable were the profits of, or the loss incurred in, a trade carried on by the partnership; and
  - [<sup>F486</sup>(b) any allowance to be given effect under Part 2 of the Capital Allowances Act in respect of a special leasing of plant or machinery were an allowance to be given effect in calculating the profits of that trade.]
- (5) For the purposes of this section, subsection (2) of section 114 shall have effect for determining a company's share in the profits or loss of any accounting period of a partnership as if, in subsection (1)(b) of that section, the words " or for capital allowances and charges " were omitted.
- (6) In this section "arrangements" means arrangements of any kind whether in writing or not.
- (7) Section 839 shall apply for the purposes of this section.

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#### Textual Amendments

- F484** S. 116(2)(d) repealed (with effect in accordance with Sch. 3 para. 10(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 10(2), **Sch. 27 Pt. 3(2)**, Note
- F485** Word in s. 116(4) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 96** (with Sch. 2)
- F486** S. 116(4)(b) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 21**

#### Marginal Citations

- M74** Source—1973 s.31(1)-(5), (9), 32(6)

### *Limited partners*

## 117 Restriction on relief: individuals.

**F487** .....

#### Textual Amendments

- F487** S. 117 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 13, **Sch. 3 Pt. 1** (with Sch. 2)

## 118 Restriction on relief: companies.

- (1) <sup>M75</sup>An amount which may be given <sup>F488</sup> . . . under section 338, [<sup>F489</sup>393A(1)] or [<sup>F490</sup>403] below <sup>F491</sup> . . . —
- (a) in respect of a loss incurred by a company in a trade, or of charges paid by a company in connection with the carrying on of a trade, in a relevant accounting period; <sup>F492</sup> . . .
- (b) <sup>F492</sup> .....
- may be given <sup>F488</sup> . . . to that company (“the partner company”) otherwise than against [<sup>F493</sup>profits] arising from the trade, or to another company, only to the extent that the amount given <sup>F488</sup> . . . or (as the case may be) the aggregate amount does not exceed the relevant sum.
- (2) <sup>M76</sup>In this section—
- [<sup>F494</sup>“limited partner” means—
- (a) a company which is carrying on a trade as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907;
- (b) a company which—
- (i) is carrying on a trade as a general partner in a partnership;
- (ii) is not entitled to take part in the management of the trade; and
- (iii) is entitled to have its liabilities, or its liabilities beyond a certain limit, for debts or obligations incurred for the purposes of the trade discharged or reimbursed by some other person; or
- (c) a company which carries on a trade jointly with others and which, under the law of any territory outside the United Kingdom—

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- (i) is not entitled to take part in the management of the trade; and
- (ii) is not liable beyond a certain limit for debts or obligations incurred for the purposes of the trade;]

“relevant accounting period” means an accounting period of the partner company at any time during which it carried on the trade as a limited partner

<sup>F495</sup> . . . ;

“the aggregate amount” means the aggregate of any amounts given <sup>F496</sup> . . . to the partner company or another company at any time under section 338, [<sup>F497</sup>393A(1)] or [<sup>F490</sup>403] below <sup>F498</sup> . . . —

- (a) in respect of a loss incurred by the partner company in the trade, or of charges paid by it in connection with carrying it on, in any relevant accounting period; <sup>F499</sup> . . .

- (b) <sup>F499</sup> . . . . .

<sup>F500</sup> “the relevant sum” means the amount of the partner company’s contribution . . . to the trade as at the appropriate time; and

“the appropriate time” is the end of the relevant accounting period in which the loss is incurred or the charges paid or for which the allowance falls to be made (except that where the partner company ceased to carry on the trade during that accounting period it is the time when it so ceased).

[<sup>F501</sup>(3) A partner company's contribution to a trade at any time is the aggregate of—

- (a) the amount which the partner company has contributed to the trade as capital and has not, directly or indirectly, drawn out or received back (other than anything which it is or may be entitled so to draw out or receive back at any time when it carries on the trade as a limited partner or which it is or may be entitled to require another person to reimburse to it), and
- (b) the amount of any profits of the trade to which the partner company is entitled but which it has not received in money or money's worth.]

#### Textual Amendments

- F488** Words in s. 118(1) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(1\)\(a\), Sch. 4](#)
- F489** Words in s. 118(1) substituted by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 73\(3\)-\(5\), Sch. 15 para. 4\(a\)](#)(in relation to losses incurred in accounting periods ending on or after 1.4.1991)
- F490** Words in s. 118(1)(2) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 5 para. 35](#)
- F491** Words in s. 118(1) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(1\)\(b\), Sch. 4](#)
- F492** S. 118(1)(b) and preceding word repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(1\)\(c\), Sch. 4](#)
- F493** Words in s. 118(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\)\(b\), Sch. 7 para. 1](#)
- F494** S. 118(2): definition of "limited partner" inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 14\(2\)](#) (with Sch.. 2)
- F495** Words in s. 118(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 14\(3\), Sch. 3 Pt. 1](#) (with Sch. 2)
- F496** Words in s. 118(2) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(2\)\(a\)](#) {Sch. 4} (with Sch. 2 para. 23(3))
- F497** Words in s. 118(2) substituted by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 73\(3\)-\(5\), Sch. 15 para. 4\(b\)](#)(in relation to losses incurred in accounting periods ending on or after 1.4.1991)

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- F498** Words in s. 118(2)(b) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(2\)\(b\), Sch. 4 \(with Sch. 2 para. 23\(3\)\)](#)
- F499** S. 118(2)(b) and preceding word repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 23\(2\)\(c\), Sch. 4 \(with Sch. 2 para. 23\(3\)\)](#)
- F500** Words in s. 118(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 14\(4\), Sch. 3 Pt. 1 \(with Sch. 2\)](#)
- F501** S. 118(3) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 14\(5\) \(with Sch. 2\)](#)

#### Marginal Citations

- M75** Source—1985 Sch.12 3(1)-(3)  
**M76** Source—1985 Sch.12 3(4), 1, 4

### *<sup>F502</sup>Limited liability partnerships*

#### Textual Amendments

- F502** [Ss. 118ZA-118ZD](#) and preceding cross-heading inserted (6.4.2001) by [Limited Liability Partnerships Act 2000 \(c. 12\), ss. 10\(1\), 19\(1\); S.I. 2000/3316, art. 2](#)

#### **118ZA Treatment of limited liability partnerships.**

<sup>F503</sup>(1) For <sup>F504</sup>[corporation tax purposes], where a limited liability partnership carries on a trade, profession or other business with a view to profit—

- (a) all the activities of the partnership are treated as carried on in partnership by its members (and not by the partnership as such),
- (b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities is treated as done by, to or in relation to the members as partners, and
- (c) the property of the partnership is treated as held by the members as partnership property.

References in this subsection to the activities of the limited liability partnership are to anything that it does, whether or not in the course of carrying on a trade, profession or other business with a view to profit.

(2) For all purposes, except as otherwise provided, in <sup>F505</sup>[the Corporation Tax Acts]—

- (a) references to a partnership include a limited liability partnership in relation to which subsection (1) above applies,
- (b) references to members of a partnership include members of such a limited liability partnership,
- (c) references to a company do not include such a limited liability partnership, and
- (d) references to members of a company do not include members of such a limited liability partnership.

(3) Subsection (1) above continues to apply in relation to a limited liability partnership which no longer carries on any trade, profession or other business with a view to profit—

- (a) if the cessation is only temporary, or
- (b) during a period of winding up following a permanent cessation, provided—

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- (i) the winding up is not for reasons connected in whole or in part with the avoidance of tax, and
  - (ii) the period of winding up is not unreasonably prolonged,
- but subject to subsection (4) below.
- (4) Subsection (1) above ceases to apply in relation to a limited liability partnership—
- (a) on the appointment of a liquidator or (if earlier) the making of a winding-up order by the court, or
  - (b) on the occurrence of any event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) above.]

#### Textual Amendments

- F503** S. 118ZA substituted (retrospective to 6.4.2001) by Finance Act 2001 (c. 9), s. 75(1)(6)
- F504** Words in s. 118ZA(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 97(a) (with Sch. 2)
- F505** Words in s. 118ZA(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 97(b) (with Sch. 2)

#### <sup>F506</sup>118ZB Restriction on relief: companies

Section 118 has effect in relation to a member of a limited liability partnership as in relation to a limited partner, but subject to sections 118ZC and 118ZD.]

#### Textual Amendments

- F506** S. 118ZB substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 15 (with Sch. 2)

#### 118ZC Member's contribution to trade.

- (1) Subsection (3) of [<sup>F507</sup>section 118] does not have effect in relation to a member of a limited liability partnership.
- (2) But, for the purposes of <sup>F508</sup>. . . section 118, such a member's contribution to a trade at any time ("the relevant time") is the greater of—
- (a) the amount subscribed by [<sup>F509</sup>it], and
  - (b) the amount of [<sup>F510</sup>its] liability on a winding up.
- (3) The amount subscribed by a member of a limited liability partnership is the amount which [<sup>F511</sup>it] has contributed to the limited liability partnership as capital, less so much of that amount (if any) as—
- (a) [<sup>F511</sup>it] has previously, directly or indirectly, drawn out or received back,
  - (b) [<sup>F511</sup>it] so draws out or receives back during the period of five years beginning with the relevant time,
  - (c) [<sup>F511</sup>it] is or may be entitled so to draw out or receive back at any time when [<sup>F512</sup>it] is a member of the limited liability partnership, or
  - (d) [<sup>F511</sup>it] is or may be entitled to require another person to reimburse to [<sup>F512</sup>it].

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- (4) The amount of the liability of a member of a limited liability partnership on a winding up is the amount which—
- (a) [<sup>F513</sup>it] is liable to contribute to the assets of the limited liability partnership in the event of [<sup>F514</sup>the partnership's] being wound up, and
  - (b) [<sup>F513</sup>it] remains liable so to contribute for the period of at least five years beginning with the relevant time (or until [<sup>F515</sup>the partnership] is wound up, if that happens before the end of that period).

[<sup>F516</sup>(5) <sup>F517</sup>.....]

#### Textual Amendments

- F507** Words in s. 118ZC(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(2)** (with Sch. 2)
- F508** Words in s. 118ZC(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(3)(a), Sch. 3 Pt. 1** (with Sch. 2)
- F509** Word in s. 118ZC(2)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(3)(b)** (with Sch. 2)
- F510** Word in s. 118ZC(2)(b) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(3)(c)** (with Sch. 2)
- F511** Words in s. 118ZC(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(4)(a)** (with Sch. 2)
- F512** Word in s. 118ZC(3)(d) substituted (with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(4)(b)** (with Sch. 2)
- F513** Words in s. 118ZC(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(5)(a)** (with Sch. 2)
- F514** Words in s. 118ZC(4)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(5)(b)** (with Sch. 2)
- F515** Words in s. 118ZC(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(5)(c)** (with Sch. 2)
- F516** S. 118ZC(5) inserted (retrospective to 2.12.2004) by **Finance Act 2005 (c. 7), s. 73(3)(5)**
- F517** S. 118ZC(5) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 16(6), Sch. 3 Pt. 1** (with Sch. 2)

#### 118ZD Carry forward of unrelieved losses.

- (1) Where amounts relating to a trade carried on by a member of a limited liability partnership are, in any one or more [<sup>F518</sup>accounting periods], prevented from being given or allowed by section <sup>F519</sup>118 as it applies otherwise than by virtue of this section ([<sup>F520</sup>the member's] “total unrelieved loss”), subsection (2) applies in each subsequent [<sup>F521</sup>accounting period] in which—
- (a) [<sup>F522</sup>the member] carries on the trade as a member of the limited liability partnership, and
  - (b) any of [<sup>F520</sup>the member's] total unrelieved loss remains outstanding.
- (2) [<sup>F523</sup>Sections 393A(1) and 403 (and section 118 as it applies] in relation to those sections) shall have effect in the subsequent [<sup>F524</sup>accounting period] as if—
- (a) any loss sustained or incurred by the member in the trade in that [<sup>F524</sup>accounting period] were increased by an amount equal to so much of [<sup>F525</sup>the member's] total unrelieved loss as remains outstanding in that period, or



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- (b) (if no loss is so sustained or incurred) a loss of that amount were so sustained or incurred.
- (3) To ascertain whether any (and, if so, how much) of a member's total unrelieved loss remains outstanding in the subsequent [<sup>F526</sup>accounting period], deduct from the amount of [<sup>F527</sup>the member's] total unrelieved loss the aggregate of—
- (a) any relief given under any provision of [<sup>F528</sup>the Corporation Tax Acts] (otherwise than as a result of subsection (2)) in respect of [<sup>F527</sup>the member's] total unrelieved loss in that or any previous [<sup>F526</sup>accounting period], and
  - (b) any amount given or allowed in respect of [<sup>F527</sup>the member's] total unrelieved loss as a result of subsection (2) in any previous [<sup>F526</sup>accounting period] (or which would have been so given or allowed had a claim been made).]

#### Textual Amendments

- F518** Words in s. 118ZD(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(2\)\(a\)](#) (with [Sch. 2](#))
- F519** Words in s. 118ZD(1) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(2\)\(b\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F520** Words in s. 118ZD(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(2\)\(c\)](#) (with [Sch. 2](#))
- F521** Words in s. 118ZD(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(2\)\(d\)](#) (with [Sch. 2](#))
- F522** Words in s. 118ZD(1)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(2\)\(e\)](#) (with [Sch. 2](#))
- F523** Words in s. 118ZD(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(3\)\(a\)](#) (with [Sch. 2](#))
- F524** Words in s. 118ZD(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(3\)\(b\)](#) (with [Sch. 2](#))
- F525** Words in s. 118ZD(2)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(3\)\(c\)](#) (with [Sch. 2](#))
- F526** Words in s. 118ZD(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(4\)\(a\)](#) (with [Sch. 2](#))
- F527** Words in s. 118ZD(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(4\)\(b\)](#) (with [Sch. 2](#))
- F528** Words in s. 118ZD(3)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 17\(4\)\(c\)](#) (with [Sch. 2](#))

*[<sup>F529</sup>Non-active general partners and non-active members of limited liability partnerships*

#### Textual Amendments

- F529** Ss. 118ZE-118ZK and preceding cross-heading inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 124\(1\)](#)

### 118ZE Restriction on relief for non-active partners

F530

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#### Textual Amendments

**F530** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 18](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 118ZF Meaning of “the aggregate amount”

F531 .....

#### Textual Amendments

**F531** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 18](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 118ZG “The individual’s contribution to the trade”

F532 .....

#### Textual Amendments

**F532** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 18](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 118ZH “A significant amount of time”

F533 .....

#### Textual Amendments

**F533** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 18](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 118ZI Carry forward of unrelieved losses of non-active partners

F534 .....

#### Textual Amendments

**F534** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 18](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 18ZJ Commencement: the first restricted year

F535 .....

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**Textual Amendments**

**F535** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 18, **Sch. 3 Pt. 1** (with Sch. 2)

**118ZK Transitional provision for years after the first restricted year**

**F536** .....]

**Textual Amendments**

**F536** Ss. 118ZE-118ZK repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 18, **Sch. 3 Pt. 1** (with Sch. 2)

*[<sup>F537</sup>Partnerships exploiting films*

**Textual Amendments**

**F537** Ss. 118ZL, 118ZM and preceding cross-heading inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 125

**118ZL Partnerships exploiting films**

**F538** .....

**Textual Amendments**

**F538** Ss. 118ZL, 118ZM repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 19, **Sch. 3 Pt. 1** (with Sch. 2)

**118ZM Partnerships exploiting films: supplementary**

**F539** .....]

**Textual Amendments**

**F539** Ss. 118ZL, 118ZM repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 19, **Sch. 3 Pt. 1** (with Sch. 2)

*[<sup>F540</sup>Partners: meaning of “contribution to the trade”*

**Textual Amendments**

**F540** Ss. 118ZN, 118ZO and preceding cross-heading inserted (retrospective to 2.12.2004) by Finance Act 2005 (c. 7), s. 73(1)(5)

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## 118ZN Partners: meaning of “contribution to the trade”

F541 .....

### Textual Amendments

**F541** Ss. 118ZN, 118ZO repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 20](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## 118ZO Meaning of “relevant loss” in section 118ZN

F542 .....]

### Textual Amendments

**F542** Ss. 118ZN, 118ZO repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 20](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## [<sup>F543</sup><sup>F544</sup>CHAPTER VIIA

### PAYING AND COLLECTING AGENTS]

### Textual Amendments

**F543** [Pt. 4 Ch. 7A](#) (ss. 118A-118K) inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [Sch. 29 para. 1](#)  
**F544** [Pt. 4 Ch. 7A](#) (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [s. 111\(1\)](#), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118A Definitions.

F545 .....

### Textual Amendments

**F545** [Pt. 4 Ch. 7A](#) (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [s. 111\(1\)](#), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118B Paying agents.

F546 .....

### Textual Amendments

**F546** [Pt. 4 Ch. 7A](#) (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [s. 111\(1\)](#), [Sch. 40 Pt. 2\(17\)](#), Note 1

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## 118C Collecting agents.

F547 .....

### Textual Amendments

**F547 Pt. 4 Ch. 7A** (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 111(1), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118D Chargeable payments and chargeable receipts.

F548 .....

### Textual Amendments

**F548 Pt. 4 Ch. 7A** (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 111(1), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118E Deduction of tax from chargeable payments and chargeable receipts.

F549 .....

### Textual Amendments

**F549 Pt. 4 Ch. 7A** (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 111(1), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118F Accounting for tax on chargeable payments and chargeable receipts.

F550 .....

### Textual Amendments

**F550 Pt. 4 Ch. 7A** (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 111(1), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118G Relevant securities of eligible persons.

F551 .....

### Textual Amendments

**F551 Pt. 4 Ch. 7A** (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 111(1), [Sch. 40 Pt. 2\(17\)](#), Note 1

## 118H Relevant securities of eligible persons: administration.

F552 .....

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**Textual Amendments**  
**F552** Pt. 4 Ch. 7A (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(1), Sch. 40 Pt. 2(17), Note 1

**118I Deduction of tax at reduced rate.**

F553 .....

**Textual Amendments**  
**F553** Pt. 4 Ch. 7A (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(1), Sch. 40 Pt. 2(17), Note 1

**118J Prevention of double accounting.**

F554 .....

**Textual Amendments**  
**F554** Pt. 4 Ch. 7A (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(1), Sch. 40 Pt. 2(17), Note 1

**118K Regulations.**

F555 .....]

**Textual Amendments**  
**F555** Pt. 4 Ch. 7A (ss. 118A-118K) repealed (with effect in accordance with s. 111(6)(a) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(1), Sch. 40 Pt. 2(17), Note 1

**CHAPTER VIII**

MISCELLANEOUS AND SUPPLEMENTAL

**119 Rent etc. payable in connection with mines, quarries and similar concerns.**

- <sup>M77</sup>(1) Where rent is payable in respect of any land or easement, and either—
- (a) the land or easement is used, occupied or enjoyed in connection with any of the concerns specified in section 55(2); or
  - (b) the lease or other agreement under which the rent is payable provides for the recoupment of the rent by way of reduction of royalties or payments of a similar nature in the event of the land or easement being so used, occupied or enjoyed,

the rent shall, subject to section 122 [<sup>F556</sup>and section 201 of the 1992 Act], be charged to [<sup>F557</sup>corporation] tax under Schedule D, <sup>F558</sup> . . . .



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- (2) Where the rent is rendered in produce of the concern, it shall, <sup>F559</sup> . . . , be charged under Case III of Schedule D, and the value of the produce so rendered shall be taken to be the amount of the profits or income arising therefrom.
- (3) For the purposes of this section—  
“easement” includes any right, privilege or benefit in, over or derived from land; and  
“rent” includes a rent service, rentcharge, fee farm rent <sup>F560</sup> . . . or other rent, toll, duty, royalty or annual or periodical payment in the nature of rent, whether payable in money or money’s worth or otherwise.

#### Textual Amendments

- F556** Words in s. 119(1) inserted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(4)** (with ss. 60, 101(1), 171, 201(3)).
- F557** Word in s. 119(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 103** (with Sch. 2)
- F558** Words in s. 119(1) repealed (with effect in accordance with s. 145(3), Sch. 29 Pt. 8(22) Note of the repealing Act) by Finance Act 1995 (c. 4), s. 145(1), **Sch. 29 Pt. 8(22)**
- F559** Words in s. 119(2) repealed (with effect in accordance with Sch. 29 Pt. 8(22) Note of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(22)**
- F560** Word in s. 119(3) repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act (asp 5), ss. 71, 77(2), Sch. 12 para. 50(3), {Sch. 13 Pt. 1}; S.S.I. 2003/456, **art. 2**

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

- C42** S. 119(1) excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 201(2), 289** (with ss. 60, 101(1), 171, 201(3)).

#### Marginal Citations

- M77** Source—1970 s.156

### 120 Rent etc. payable in respect of electric line wayleaves.

<sup>M78</sup>(1) [<sup>F561</sup>Subject to subsection (1A) below,] where rent is payable in respect of any easement enjoyed in the United Kingdom in connection with any electric, telegraphic or telephonic wire or cable (not being such an easement as is mentioned in section 119(1)), the rent shall be charged to [<sup>F562</sup>corporation] tax under Schedule D <sup>F563</sup> . . . .

[<sup>F564</sup>(1A) If—

- (a) the profits and gains arising to any person for any [<sup>F565</sup>accounting period] include both rent in respect of any such easement as is mentioned in subsection (1) above and amounts which are charged to [<sup>F566</sup>corporation] tax under Schedule A, and
- (b) some or all of the land to which the easement relates is included in the land by reference to which the amounts charged under Schedule A arise,
- then, for that period, that rent shall be charged to [<sup>F566</sup>corporation] tax under Schedule A, instead of being charged under Schedule D.]

(2) <sup>F567</sup> . . . . .

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- (3) <sup>F567</sup> .....
- (4) <sup>F567</sup> .....
- (5) In this section—
  - (a) “easement” and “rent” have the same meanings as in section 119;
  - (b) the reference to easements enjoyed in connection with any electric, telegraphic or telephonic wire or cable includes (without prejudice to the generality of that expression) references to easements enjoyed in connection with any pole or pylon supporting any such wire or cable, or with any apparatus (including any transformer) used in connection with any such wire or cable; <sup>F568</sup> . . .
  - (c) <sup>F568</sup> .....

**Textual Amendments**

**F561** Words in s. 120(1) inserted (with effect in accordance with s. 60(5) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 60\(2\)\(a\)](#)

**F562** Word in s. 120(1) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 104\(a\)](#) (with Sch. 2)

**F563** Words in s. 120(1) repealed (with effect in accordance with s. 60(5), Sch. 18 Pt. 6(2) Note of the repealing Act) by [Finance Act 1997 \(c. 16\), s. 60\(2\)\(b\), Sch. 18 Pt. 6\(2\)](#)

**F564** S. 120(1A) inserted (with effect in accordance with s. 60(5) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 60\(3\)](#)

**F565** Words in s. 120(1A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 104\(b\)](#) (with Sch. 2)

**F566** Words in s. 120(1A) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 104\(c\)](#) (with Sch. 2)

**F567** S. 120(2)-(4) repealed (with effect in accordance with s. 60(5), Sch. 18 Pt. 6(2) Note of the repealing Act) by [Finance Act 1997 \(c. 16\), s. 60\(4\), Sch. 18 Pt. 6\(2\)](#)

**F568** S. 120(5)(c) and preceding word repealed (with effect in accordance with s. 60(5), Sch. 18 Pt. 6(2) Note of the repealing Act) by [Finance Act 1997, \(c. 16\), s. 60\(5\), {Sch. 18 Pt. 6\(2\)}](#)

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**Marginal Citations**

**M78** Source—1970 s.157

**121 Management expenses of owner of mineral rights.**

[<sup>F569M79</sup>(1) <sup>F570</sup> .....

- (3) In computing for the purposes of corporation tax the income of a company for any accounting period from the letting of rights to work minerals in the United Kingdom, there may be deducted any sums disbursed by the company wholly, exclusively and necessarily as expenses of management or supervision of those minerals in that period.

**Textual Amendments**

**F569** S. 121(1) substituted for s. 121(1)(2) (with effect in accordance with s.145(3) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 145\(2\)](#)

**F570** S. 121(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 105, Sch. 3](#) (with Sch. 2)

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### Marginal Citations

M79 Source—1970 s.158(1), (2)

## 122 Relief in respect of mineral royalties.

(1) <sup>M80</sup>Subject to the following provisions of this section, [<sup>F571</sup>a company resident in the United Kingdom which in any] accounting period is entitled to receive any mineral royalties under a mineral lease or agreement shall be treated—

(a) <sup>F572</sup>. . . for the purposes of corporation tax on profits exclusive of chargeable gains, as if the total of the mineral royalties receivable by [<sup>F573</sup>it] under that lease or agreement in that <sup>F572</sup>. . . period and any management expenses available for set-off against those royalties in that <sup>F572</sup>. . . period were each reduced by one-half; <sup>F574</sup>. . .

<sup>F574</sup>(b) . . . . .

and this section shall have effect notwithstanding any provision of section 119(1) making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D <sup>F575</sup>. . . .

(2) <sup>M81</sup>For the purposes of subsection (1)(a) above, “management expenses available for set-off” against royalties means—

(a) where section 121 applies in respect of the royalties, any sum <sup>F576</sup>. . . deductible from those royalties under [<sup>F577</sup>subsection (3)] of that section in computing the income of a company for the purposes of corporation tax; and

(b) if the royalties are chargeable to tax under Schedule A, any sums deductible under Part II as payments made in respect of management of the property concerned;

and if neither paragraph (a) nor paragraph (b) above applies, the reference in subsection (1)(a) above to management expenses available for set-off shall be disregarded.

(3) <sup>F578</sup> . . . . .

(4) <sup>F579</sup> . . . . .

(5) In this section references to mineral royalties refer only to royalties receivable on or after 6th April 1970, and the expression “mineral royalties” means so much of any rents, tolls, royalties and other periodical payments in the nature of rent payable under a mineral lease or agreement as relates to the winning and working of minerals; and the Board may by regulations—

(a) provide whether, and to what extent, payments made under a mineral lease or agreement and relating both to the winning and working of minerals and to other matters are to be treated as mineral royalties; and

(b) provide for treating the whole of such payments as mineral royalties in cases where the extent to which they relate to matters other than the winning and working of minerals is small.

(6) In this section—

“minerals” means all minerals and substances in or under land which are ordinarily worked for removal by underground or surface working but excluding water, peat, top-soil and vegetation; and

“mineral lease or agreement” means—

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- (a) a lease, profit à prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom;
  - (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom; and
  - (c) a grant of a right under section 1 of the <sup>M82</sup>Mines (Working Facilities and Support) Act 1966, other than an ancillary right within the meaning of that Act.
- (7) In the application of this section to Northern Ireland—
- (a) references to mineral royalties include references to periodical payments—
    - (i) of compensation under section 29 or 35 of the <sup>M83</sup>Mineral Development Act (Northern Ireland) 1969 (“the 1969 Act”) or under section 4 of the <sup>M84</sup>Petroleum (Production) Act (Northern Ireland) 1964 (“the 1964 Act”); and
    - (ii) made as mentioned in section 37 of the 1969 Act or under section 55(4)(b) of that Act or under section 11 of the 1964 Act (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the <sup>M85</sup>Irish Land Act 1903); and
  - (b) in its application to any such payments as are mentioned in paragraph (a) above, references to the mineral lease or agreement under which mineral royalties are payable shall be construed as references to the enactment under which the payments are made.

<sup>F578</sup>(8) .....

#### Textual Amendments

- F571** Words in s. 122(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(2)(a)** (with Sch. 2)
- F572** Words in s. 122(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(2)(b)(d)**, **Sch. 3** (with Sch. 2)
- F573** Word in s. 122(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(2)(c)** (with Sch. 2)
- F574** S. 122(1)(b) and the word "and" immediately preceding it repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by *Taxation of Chargeable Gains Act 1992 (c. 12)*, ss. 289, 290, **Sch. 12** (with ss. 60, 101(1), 171, 201(3), Sch. 11 paras. 20, 22, 26(2), 27).
- F575** Words in s. 122(1) repealed (1.5.1995 with effect in accordance with Note to Sch. 29 Pt. 8(22) of the amending act) by *Finance Act 1995 (c. 4)*, **Sch. 29 Pt. 8(22)**
- F576** Words in s. 122(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(3)(a)**, **Sch. 3** (with Sch. 2)
- F577** Words in s. 122(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(3)(b)** (with Sch. 2)
- F578** S. 122(3)(8) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by *Taxation of Chargeable Gains Act 1992 (c. 12)*, ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 171, 201(3), Sch. 11 paras. 20, 22, 26(2), 27).
- F579** S. 122(4) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 106(4)**, **Sch. 3** (with Sch. 2)

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

**C43** For regulations see Part III Vol.5.

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**C44** S. 122(5)-(7) applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 203(1), 289** (with ss. 60, 101(1), 171, 201(3)).

#### Marginal Citations

**M80** Source—1970(F) s.29(1), (3); 1971 Sch.9 4  
**M81** Source—1970(F) s.29(2)  
**M82** 1966 c. 4.  
**M83** 1969 c. 35 (N.I.).  
**M84** 1964 c. 28 (N.I.).  
**M85** 1903 c. 37.

### 123 Foreign dividends.

<sup>F580</sup> .....

#### Textual Amendments

**F580** S. 123 repealed (with effect in accordance with Sch. 7 para. 32 of the repealing Act) by Finance Act 1996 (c. 8), Sch. 7 para. 13, **Sch. 41 Pt. 5(2)**, Note (with Sch. 7 paras. 33-35)

### 124 Interest on quoted Eurobonds.

<sup>F581</sup> .....

#### Textual Amendments

**F581** S. 124 repealed (with effect in accordance with s. 111(6)(b) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(2), **Sch. 40 Pt. 2(17)**, Note 2

### 125 [<sup>F582</sup>Annual payments for dividends or non-taxable consideration]

<sup>M86</sup>(1) Any payment to which this subsection applies <sup>F583</sup> . . . shall not be allowed as a deduction in computing the income [<sup>F584</sup>of the company by which] it is made <sup>F585</sup> . . . .

(2) Subject to the following provisions of this section, subsection (1) above applies to any payment which—

[<sup>F586</sup>(a) is not interest but is—

- (i) an annuity or other annual payment charged with income tax under Part 5 of ITTOIA 2005 otherwise than as relevant foreign income; or
- (ii) an annuity or other annual payment charged with corporation tax under Case III of Schedule D; and]

[<sup>F587</sup>(b) is made under a liability incurred for consideration in money or money's worth all or any of which—

- (i) consists of, or of the right to receive, a dividend, or
- (ii) is not required to be brought into account in computing for the purposes of <sup>F588</sup> . . . corporation tax the income of the person making the payment.]

(3) Subsection (1) above does not apply to—

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- (a) any payment which in the hands of the recipient is income falling within [F589 section 627(1) or (2)(a) of ITTOIA 2005];
  - (b) any payment made to an individual under a liability incurred in consideration of his surrendering, assigning or releasing an interest in settled property to or in favour of a person having a subsequent interest; [F590 or]
  - (c) any annuity granted in the ordinary course of a business of granting annuities; F591 . . .
  - (d) F591 .....
- (4) In the application of this section to Scotland the references in subsection (3) above to settled property shall be construed as references to property held in trust.
- (5) Subsection (1) above applies to a payment made after 5th April 1988 irrespective of when the liability to make it was incurred.

**Textual Amendments**

**F582** S. 125 title substituted (retrospective to 2.12.2004) by virtue of [Finance Act 2005 \(c. 7\), s. 91\(3\)](#)

**F583** Words in s. 125(1) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 21\(2\)\(a\), Sch. 3 Pt. 1](#) (with Sch. 2)

**F584** Words in s. 125(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 21\(2\)\(b\)](#) (with Sch. 2)

**F585** Words in s. 125(1) repealed (with effect in accordance with s. 38(7)(13) of the repealing Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 11 Pt. 2\(7\)](#), Note

**F586** S. 125(2)(a) and word substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 107\(2\)](#) (with Sch. 2)

**F587** S. 125(2)(b) substituted (with retrospective effect in accordance with s. 91(7) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 91\(2\)](#)

**F588** Words in s. 125(2)(b) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 21\(3\), Sch. 3 Pt. 1](#) (with Sch. 2)

**F589** Words in s. 125(3)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 107\(3\)](#) (with Sch. 2)

**F590** Word in s. 125(3) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 21\(4\)\(a\)](#) (with Sch. 2)

**F591** S. 125(3)(d) and preceding word repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 21\(4\)\(b\), Sch. 3 Pt. 1](#) (with Sch. 2)

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

**C45** See 1989 s.59—*rights of admission disregarded in the case of certain covenanted subscriptions.*

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**Marginal Citations**

**M86** Source—1977 s.48

**126 Treasury securities issued at a discount.**

F592 .....

**Textual Amendments**

**F592** Ss. 126, 126A repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996, Sch. 41 Pt. 5\(3\)](#), Note

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## 126A Charge to tax on appropriation of securities and bonds.

F593 .....

### Textual Amendments

**F593** Ss. 126, 126A repealed (with effect in accordance with s. 105(1) of the repealing Act) by Finance Act 1996, Sch. 41 Pt. 5(3), Note

## 127 Enterprise allowance.

F594 .....

### Textual Amendments

**F594** S. 127 repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 108, Sch. 3 (with Sch. 2)

## [<sup>F595</sup>127AFutures and options: transactions with guaranteed returns.

F596 .....]

### Textual Amendments

**F595** S. 127A inserted (with effect in accordance with s. 80(6) of the amending Act) by Finance Act 1997 (c. 16), s. 80(1)

**F596** S. 127A repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 109, Sch. 3 (with Sch. 2)

## 128 Commodity and financial futures etc.: losses and gains. <sup>M87</sup>

[<sup>F597</sup>(1) <sup>F598</sup> .....]

[<sup>F599</sup>(2) For the purposes of corporation tax, any gain arising to any company in the course of dealing in financial futures or in qualifying options, which apart from this subsection would constitute profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, shall not be chargeable to tax under Case V or VI of Schedule D.]

[<sup>F600</sup>(3)] In this section “commodity or financial futures” and “qualifying options” have the same meaning as in section [<sup>F601</sup>143 of the 1992 Act], and the reference to a gain arising in the course of dealing in commodity or financial futures includes any gain which is regarded as arising in the course of such dealing by virtue of subsection [<sup>F601</sup>(3)] of that section.

### Textual Amendments

**F597** Words in s. 128 renumbered as s. 128(1) (with effect in accordance with s. 83(3) of the amending Act) by virtue of Finance Act 2002 (c. 23), Sch. 27 para. 3(1)(a) (with Sch. 28)

**F598** S. 128(1) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 110, Sch. 3 (with Sch. 2)



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<p><b>F599</b> S. 128(2) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), <b>Sch. 27 para. 3(2)</b> (with Sch. 28)</p> <p><b>F600</b> Words in s. 128 renumbered as s. 128(3) (with effect in accordance with s. 83(3) of the amending Act) by virtue of Finance Act 2002 (c. 23), <b>Sch. 27 para. 3(3)</b> (with Sch. 28)</p> <p><b>F601</b> Words in s. 128 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, <b>Sch. 10 para. 14(7)</b> (with ss. 60, 101(1), 171, 201(3)).</p> <hr style="border-top: 1px dotted black;"/> <p><b>Marginal Citations</b></p> <p><b>M87</b> Source—1985 s.72(1), (2); 1987 (No.2) s.81(1)</p>
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**129 Stock lending.**

**F602** .....

<hr style="border-top: 1px dotted black;"/> <p><b>Textual Amendments</b></p> <p><b>F602</b> Ss. 129, 129A repealed (with effect in accordance with Sch. 10 para. 7(1) of the repealing Act) by Finance Act 1997 (c. 16), Sch. 10 para. 1, <b>Sch. 18 Pt. 6(10)</b>, Note 1; S.I. 1997/991, <b>art. 2</b></p>
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**[<sup>F603</sup>129A Stock lending: interest on cash collateral.**

**F604** .....]

<hr style="border-top: 1px dotted black;"/> <p><b>Textual Amendments</b></p> <p><b>F603</b> S. 129A inserted (with application in accordance with s. 85(3) of the amending Act) by Finance Act 1995 (c. 4), <b>s. 85(1)</b></p> <p><b>F604</b> Ss. 129, 129A repealed (with effect in accordance with Sch. 10 para. 7(1) of the repealing Act) by Finance Act 1997 (c. 16), Sch. 10 para. 1, <b>Sch. 18 Pt. 6(10)</b>, Note 1; S.I. 1997/991, <b>art. 2</b></p>
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**[<sup>F605</sup>129B Stock lending fees.**

- (1) The income which, as income deriving from investments of a description specified in any of the relevant provisions, is eligible for relief from tax by virtue of that provision shall be taken to include any relevant stock lending fee.
- (2) For the purposes of this section the relevant provisions are [<sup>F606</sup>sections 613(4) and 614(3) and section 186 of the Finance Act 2004].
- (3) In this section “relevant stock lending fee”, in relation to investments of any description, means any amount, in the nature of a fee, which is payable in connection with [<sup>F607</sup>any] stock lending arrangement relating to investments which, but for any transfer under the arrangement, would be investments of that description.

[<sup>F608</sup>(4) In this section “stock lending arrangement” has the same meaning as in section 263B of the 1992 Act.]

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#### Textual Amendments

- F605** S. 129B inserted (with effect in accordance with s. 157(2) of the amending Act) by Finance Act 1996 (c. 8), s. 157(1)
- F606** Words in s. 129B(2) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 6 (with Sch. 36)
- F607** Word in s. 129B(3) substituted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by Finance Act 1997 (c. 16), Sch. 10 para. 2(1); S.I. 1997/991, art. 2
- F608** S. 129B(4) substituted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by Finance Act 1997 (c. 16), Sch. 10 para. 2(2); S.I. 1997/991, art. 2

### 130 [F609 Meaning of “company with investment business” and “investment company” in Part 4]

<sup>M88</sup>In this Part of this Act [F610—

“company with investment business” means any company whose business consists wholly or partly in the making of investments;]

“investment company”, means any company whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom, but includes any savings bank or other bank for savings except any which, for the purposes of the <sup>M89</sup>Trustee Savings Bank Act 1985, is a successor or a further successor to a trustee savings bank.

#### Textual Amendments

- F609** S. 130 sidenote substituted (with effect in accordance with ss. 38(5), 42, 43 of the amending Act) by virtue of Finance Act 2004 (c. 12), s. 38(4)
- F610** S. 130: definition of “company with investment business” inserted (with effect in accordance with ss. 38(5), 42, 43 of the amending Act) by Finance Act 2004 (c. 12), s. 38(3)

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

- C46** See—1988 s.338(6)—definition applied for purposes of s.338(3) (charges).1988 s.576(5)—definition applied for purposes of ss.573 to 576 (losses on unquoted shares in trading companies).Trustee Savings Banks Act 1985 (c.58) s.5and Sch.2 para.6(6).

#### Marginal Citations

- M88** Source—1970 s.304(5); 1980 Sch.11
- M89** 1985 c. 58.

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