Finance Act 1988

1988 CHAPTER 39

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CAPITAL GAINS

Re-basing to 1982

96 Assets held on 31st March 1982.

(1) This section applies to a disposal on or after 6th April 1988 of an asset which was held on 31st March 1982 by the person making the disposal.

(2) Subject to the following provisions of this section, in computing for the purpose of capital gains tax the gain or loss accruing on the disposal it shall be assumed that the asset was on 31st March 1982 sold by the person making the disposal, and immediately re-acquired by him, at its market value on that date.

(3) Subject to subsection (5) below, subsection (2) above shall not apply to a disposal—

(a) where a gain would accrue on the disposal to the person making the disposal if that subsection did apply, and either a smaller gain or a loss would so accrue if it did not,

(b) where a loss would so accrue if that subsection did apply, and either a smaller loss or a gain would accrue if it did not,

(c) where, either on the facts of the case or by virtue of Schedule 5 to the [M1]Capital Gains Tax Act 1979, neither a gain nor a loss would accrue if that subsection did not apply, or

(d) where neither a gain nor a loss would accrue by virtue of any of the specified enactments.

(4) Where in the case of a disposal of an asset—

(a) the effect of subsection (2) above would be to substitute a loss for a gain or a gain for a loss, but

(b) the application of subsection (2) is excluded by subsection (3),

it shall be assumed in relation to the disposal that the asset was acquired by the person making the disposal for a consideration such that, on the disposal, neither a gain nor a loss accrues to him.

(5) If a person so elects, disposals made by him (including any made by him before the election) shall fall outside subsection (3) above (so that subsection (2) above is not excluded by that subsection).

(6) An election by a person under subsection (5) above shall be irrevocable and shall be made by notice in writing to the inspector at any time before 6th April 1990 or at any time during the period beginning with the day of the first relevant disposal and ending—

(a) two years after the end of the year of assessment or accounting period in which the disposal is made, or

(b) at such later time as the Board may allow;

and "the first relevant disposal" means the first disposal to which this section applies which is made by the person making the election.

(7) An election made by a person under subsection (5) above in one capacity does not cover disposals made by him in another capacity.

(8) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under subsection (5) above.

(9) Schedule 8 to this Act (which contains provisions supplementary to this section) shall have effect; and in subsection (3)(d) above "specified enactments" means the enactments specified in paragraph 1(3) of that Schedule.

Modifications etc. (not altering text)

C1 S. 96 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, **Sch. 2 para.13**

C2 S. 96(5) modified by Finance Act 1990 (c. 29, SIF 63:2), **s. 63(4)**.

Marginal Citations

M1 1979 c. 14.

97 Deferred charges on gains before 31st March 1982.

Schedule 9 to this Act (which provides for the reduction of a deferred charge to tax where the charge is wholly or partly attributable to an increase in the value of an asset before 31st March 1982) shall have effect.

Modifications etc. (not altering text)

C3 S. 97 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, **Sch. 2 para.13**

Unification of rates of tax on income and capital gains

98 Rates of capital gains tax.

(1) Subject to the provisions of this section and sections 99 and 100 below, the rate of capital gains tax in respect of gains accruing to a person in a year of assessment shall be equivalent to the basic rate of income tax for the year.

(2) If income tax is chargeable at the higher rate in respect of any part of the income of an individual for a year of assessment, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the higher rate.

(3) If no income tax is chargeable at the higher rate in respect of the income of an individual for a year of assessment, but the amount on which he is chargeable to capital gains tax exceeds the unused part of his basic rate band, the rate of capital gains tax on the excess shall be equivalent to the higher rate of income tax for the year.

(4) The reference in subsection (3) above to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).

99 Husband and wife.

(1) Where —

(a) gains accrue to a woman in a year of assessment during which she is a married woman living with her husband, and

(b) if her chargeable amount were added to, and constituted the highest part of, her husband's chargeable amount for the year, capital gains tax would be chargeable on it or any part of it at a rate equivalent to the higher rate of income tax for the year,

the rate of capital gains tax on her chargeable amount or that part of it shall be equivalent to the higher rate.

(2) For the purposes of this section a person's chargeable amount for a year of assessment is the amount on which he is (or would apart from section 45 of the [M2]Capital Gains Tax Act 1979 be) chargeable to capital gains tax for the year.

(3) In relation to a year of assessment for which an application under section 45(2) of the Capital Gains Tax Act 1979 (separate assessment) has effect, the amounts of tax payable by the husband and by the wife shall be determined by—

(a) aggregating the amounts that would be payable by each of them apart from this subsection, and

(b) dividing that aggregate between them in proportion to their chargeable amounts for the year.

(4) This section shall apply in relation to a part of a year of assessment, being a part beginning with 6th April, as it applies in relation to a whole year (except that references to a husband's chargeable amount are references to his chargeable amount for the whole year).

(5) This section shall have effect for the years 1988-89 and 1989-90 only.

Marginal Citations
M2 1979 c. 14.

100 Accumulation and discretionary settlements.

(1) The rate of capital gains tax in respect of gains accruing to trustees of an accumulation or discretionary settlement in a year of assessment shall be equivalent to the sum of the basic and additional rates of income tax for the year.

(2) For the purposes of subsection (1) above a trust is an accumulation or discretionary settlement where—

(a) all or any part of the income arising to the trustees in the year of assessment is income to which section 686 of the Taxes Act 1988 (liability to income tax at the additional rate) applies, or

(b) all the income arising to the trustees in the year of assessment is treated as the income of the settlor, but that section would apply to it if it were not so treated, or

(c) all the income arising to the trustees in the year of assessment is applied in defraying expenses of the trustees in that year, but that section would apply to it if it were not so applied, or

(d) no income arises to the trustees in the year of assessment, but that section would apply if there were income arising to the trustees and none of it were treated as the income of the settlor or applied as mentioned in paragraph (c) above.

101 Underwriters.

In subsection (2) of section 142 of the [M3]Capital Gains Tax Act 1979 (which provides for capital gains tax to be assessed and charged on the trustees of premiums trust funds of underwriters) for the words "subsection (3)" there shall be substituted the words "subsections (2A) and (3)"; and after subsection (2) there shall be inserted—

"(2A) Tax assessed by virtue of subsection (2) above for a year of assessment shall be assessed at a rate equivalent to the basic rate of income tax for the year; and if an assessment to tax at a higher rate is subsequently made on an underwriting member in respect of the same gains, an appropriate credit shall be given for the tax assessed on the trustees."

Marginal Citations
M3 1979 c. 14.

102 Other special cases.

(1) References in section 98 above to income tax chargeable at the higher rate include references to tax chargeable by virtue of section 683(1) or 684(1) of the Taxes Act 1988 (settlements) in respect of excess liability (that is, liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any higher rate); and where for any year of assessment income is treated by virtue of

either of those provisions as the income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, it shall also be treated as his income for the purposes of section 98(4) above.

(2) Where for any year of assessment—

F1(a) . . . . . .

(b) by virtue of section 549(2) of that Act (gains under life policy or life annuity contract) a deduction of an amount is made from a person's total income for those purposes,

(c) by virtue of section 683(1) or 684(1) of that Act an amount of a person's income is treated as not being his income for those purposes, or

(d) by virtue of section 699(1) of that Act (income accruing before death) the residuary income of an estate is treated as reduced so as to reduce a person's income by any amount for the purposes of excess liability,

section 98(4) above shall have effect as if his income for the year were reduced by that amount.

(3) Where by virtue of section 547(1)(a) of that Act (gains from insurance policies etc.) a person's total income for a year of assessment is deemed to include any amount or amounts—

(a) section 98(4) above shall have effect as if his total income included not the whole of the amount or amounts concerned but only the appropriate fraction within the meaning of section 550(3), and

(b) if relief is given under section 550 of that Act and the calculation required by section 550(2)(b) does not involve the higher rate of income tax, section 98(2) and (3) above shall have effect as if no income tax were chargeable at the higher rate in respect of his income.

(4) Nothing in subsection (1) above shall be taken to reduce, and nothing in subsections (2) and (3) above shall be taken to increase, the amount of the deduction which a person is entitled to make from his total income by virtue of any provision of Chapter 1 of Part VII of the Taxes Act 1988 which limits any allowance by reference to the level of his total income.

Textual Amendments

F1 S. 102(2)(a) repealed*(for accounting periods beginning after 31.03.1989)* by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. V** Note 6.

103 Commencement of sections 98 to 102.

Subject to section 99(5) above, sections 98 to 102 above shall have effect for the year 1988-89 and subsequent years of assessment.

Married couples

104 Married couples.

(1) In the M4Capital Gains Tax Act 1979 —

(a) section 4(2) (losses of one spouse deductible from gains of other),

(b) section 45 (assessment and charge of wife's gains on husband), and

(c) paragraphs 2 and 3 of Schedule 1 (special rules for annual exemption in case of married couple),

shall cease to have effect.

(2) Subsection (1) above shall have effect in relation to the year 1990-91 and subsequent years of assessment.

(3) Where—

(a) a claim under section 13 of the Capital Gains Tax Act 1979 (enforced delay in remitting gains from disposals of foreign assets) is made by a man in respect of chargeable gains accruing to his wife before 6th April 1990, and

(b) by virtue of that section the amount of the gains falls to be assessed to capital gains tax as if it were an amount of gains accruing in the year 1990-91 or a subsequent year of assessment,

it shall be assessed not on the claimant (or his personal representatives) but on the person to whom the gains accrued (or her personal representatives).

Marginal Citations

M4 1979 c. 14.

Company migration

105 Deemed disposal of assets on company ceasing to be resident in U.K.

(1) This section and section 107 below apply to a company if, at any time ("the relevant time"), the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.

(2) The company shall be deemed for all purposes of the [M5]Capital Gains Tax Act 1979—

(a) to have disposed of all its assets, other than assets excepted from this subsection by subsection (4) below, immediately before the relevant time; and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and

(b) acquires the new assets, or its interest in those assets, after that time,

unless the new assets are excepted from this subsection by subsection (4) below.

(4) If at any time after the relevant time the company carries on a trade in the United Kingdom through a branch or agency—

(a) any assets which, immediately after the relevant time, are situated in the United Kingdom and are used in or for the purposes of the trade, or are used or held for the purposes of the branch or agency, shall be excepted from subsection (2) above; and

(b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (3) above;

and references in this subsection to assets situated in the United Kingdom include references to exploration or exploitation assets and to exploration or exploitation rights.

(5) In this section—

"branch or agency" has the same meaning as in the Capital Gains Tax Act 1979;

"designated area", "exploration or exploitation activities" and "exploration or exploitation rights" have the same meanings as in section 38 of the [M6]Finance Act 1973;

"exploration or exploitation assets" means assets used or intended for use in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;

"the old assets" and "the new assets" have the same meanings as in section 115 of the 1979 Act;

"Treasury consent" means a consent under section 765 of the Taxes Act 1988 or section 482 of the Taxes Act 1970 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section;

and a company shall not be regarded for the purposes of this section as ceasing to be resident in the United Kingdom by reason only that it ceases to exist.

(6) In section 765 of the Taxes Act 1988 and section 482 of the Taxes Act 1970, in subsection (1), paragraphs (a) and (b) shall cease to have effect and in paragraph (c) for the words "so resident" there shall be substituted the words "resident in the United Kingdom"; but nothing in this subsection shall affect the operation of either section in relation to—

(a) an application for a Treasury consent made before the date of the coming into force of this section; or

(b) such a consent granted on an application so made.

(7) This section and sections 106 and 107 below shall be deemed to have come into force on 15th March 1988.

Marginal Citations

M5 1979 c. 14.

M6 1973 c. 51.

106 Deemed disposal of assets on company ceasing to be liable to U.K. tax.

(1) This section and section 107 below apply to a company if, at any time ("the relevant time"), the company, while continuing to be resident in the United Kingdom, becomes a company which falls to be regarded for the purposes of any double taxation relief arrangements—

(a) as resident in a territory outside the United Kingdom; and

(b) as not liable in the United Kingdom to tax on gains arising on disposals of assets of descriptions specified in the arrangements ("prescribed assets").

(2) The company shall be deemed for all purposes of the [M7]Capital Gains Tax Act 1979—

(a) to have disposed of all its prescribed assets immediately before the relevant time; and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the new assets are prescribed assets and the company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and

(b) acquires the new assets, or its interest in those assets, after that time.

(4) In this section—

"double taxation relief arrangements" means arrangements having effect by virtue of section 497 of the Taxes Act 1970 or section 788 of the Taxes Act 1988 (as extended, in either case, to capital gains tax by section 10 of the Capital Gains Tax Act 1979);

"the old assets" and "the new assets" have the same meanings as in section 115 of the 1979 Act.

Marginal Citations

M7 1979 c. 14.

107 Postponement of charge on deemed disposal.

(1) If—

(a) immediately after the relevant time, a company to which this section applies by virtue of section 105 or 106 above ("the company") is a 75 per cent. subsidiary of another company ("the principal company") which is resident in the United Kingdom; and

(b) the principal company and the company so elect, by notice in writing given to the inspector within two years after that time,

the Capital Gains Tax Act 1979 shall have effect in accordance with the following provisions.

(2) Any allowable losses accruing to the company on a deemed disposal of foreign assets shall be set off against the chargeable gains so accruing and—

(a) that disposal shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses; and

(b) the whole of that gain shall be treated as not accruing to the company on that disposal but an equivalent amount ("the postponed gain") shall be brought into account in accordance with subsections (3) and (4) below.

(3) If at any time within six years after the relevant time the company disposes of any assets ("relevant assets") the chargeable gains on which were taken into account in arriving at the postponed gain, there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole or the appropriate proportion of the postponed gain so far as not already taken into account under this subsection or subsection (4) below.

In this subsection "the appropriate proportion" means the proportion which the chargeable gain taken into account in arriving at the postponed gain in respect of the part of the relevant assets disposed of bears to the aggregate of the chargeable gains so

taken into account in respect of the relevant assets held immediately before the time of the disposal.

(4) If at any time after the relevant time—

(a) the company ceases to be a 75 per cent. subsidiary of the principal company on the disposal by the principal company of ordinary shares of the company;

(b) after the company has ceased to be such a subsidiary otherwise than on such a disposal, the principal company disposes of such shares; or

(c) the principal company ceases to be resident in the United Kingdom,

there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole of the postponed gain so far as not already taken into account under this subsection or subsection (3) above.

(5) If at any time—

(a) the company has allowable losses which have not been allowed as a deduction from chargeable gains; and

(b) a chargeable gain accrues to the principal company under subsection (3) or (4) above,

then, if and to the extent that the principal company and the company so elect by notice in writing given to the inspector within two years after that time, those losses shall be allowed as a deduction from that gain.

(6) In this section—

"deemed disposal" means a disposal which, by virtue of section 105(2) or, as the case may be, section 106(2) above, is deemed to have been made;

"foreign assets" means any assets of the company which, immediately after the relevant time, are situated outside the United Kingdom and are used in or for the purposes of a trade carried on outside the United Kingdom;

"ordinary share" means a share in the ordinary share capital of the company;

"the relevant time" has the meaning given by section 105(1) or, as the case may be, section 106(1) above.

(7) For the purposes of this section a company is a 75 per cent. subsidiary of another company if and so long as not less than 75 per cent. of its ordinary share capital is owned directly by that other company.

Miscellaneous

108 Annual exempt amount for 1988-89.

For the year 1988-89 section 5 of the [M8]Capital Gains Tax Act 1979 (annual exempt amount) shall have effect as if the amount specified in subsection (1A) were £5,000; and accordingly subsection (1B) of that section (indexation) shall not apply for that year.

Marginal Citations

M8 1979 c. 14.

109 Gains arising from certain settled property.

Schedule 10 to this Act (taxation of gains arising from settled property in which the settlor or his spouse has an interest) shall have effect.

110 Retirement relief.

(1) In sub-paragraph (1) of paragraph 13 of Schedule 20 to the [M9]Finance Act 1985 (amount available for relief to be a percentage of £125,000 varying with length of qualifying period) for the words "a percentage of £125,000" there shall be substituted the words "an amount equal to the aggregate of—

(a) so much of the gains qualifying for relief as do not exceed the appropriate percentage of £125,000; and

(b) one half of so much of those gains as exceed the appropriate percentage of £125,000 but do not exceed that percentage of £500,000;

and for the purposes of this sub-paragraph "the appropriate percentage" is a percentage ".

(2) After that sub-paragraph there shall be inserted—

"(1A) In sub-paragraph (1) above "the gains qualifying for relief" means, in relation to any qualifying disposal, so much of the gains accruing on that disposal (aggregated under paragraph 6, 7(1)(a) or 8(1)(a) above) as would, by virtue of this Schedule, not be chargeable gains if—

(a) sub-paragraph (1) above had specified as the amount available for relief a fixed sum in excess of those aggregate gains; and

(b) paragraphs 14 to 16 below were disregarded."

(3) In paragraph 15 of that Schedule (limit on relief available on later disposal where relief given on earlier disposal) in sub-paragraph (2) (definition of later and earlier disposals) for the words "In sub-paragraph (3) below" there shall be substituted the words "In the following provisions of this paragraph".

(4) In sub-paragraph (3)(a) of that paragraph, for the words "if the qualifying period appropriate to that disposal" there shall be substituted—

"(i) if the gains qualifying for relief on that disposal were increased by the amount of the underlying gains relieved on the earlier disposal (or the aggregate amount of the underlying gains relieved on all the earlier disposals, as the case may be); and

(ii) if the qualifying period appropriate to the later disposal"

(5) After sub-paragraph (3) of that paragraph there shall be inserted—

"(3A) Where there is only one earlier disposal, or where there are two or more such disposals but none of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above—

(a) if the earlier disposal took place on or after 6th April 1988, the amount of the underlying gains relieved on that disposal is the aggregate of—

(i) so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13(1)(a) above, not chargeable gains; and

(ii) twice the amount of so much of those gains as were, by virtue of paragraph 13(1)(b) above, not chargeable gains; and

(b) if the earlier disposal took place before 6th April 1988, the amount of the underlying gains relieved on that disposal (or on each such disposal) is so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13 above, not chargeable gains.

(3B) Where there are two or more earlier disposals and at least one of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above, the aggregate amount of the underlying gains relieved on all those disposals shall be determined as follows—

(a) it shall be assumed for the purposes of paragraph (b) below—

(i) that the amount which resulted from the calculation under sub-paragraph (3)(a) above on the last of those disposals ("the last disposal") was the amount of the gains qualifying for relief on that disposal which were, by virtue of this Schedule, not chargeable gains (the "gains actually relieved");

(ii) that the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) was that period as extended in accordance with sub-paragraph (3)(a)(ii) above; and

(iii) that the last disposal was the only earlier disposal;

(b) there shall then be ascertained in accordance with paragraph 13(1) above (but on the assumptions in paragraph (a) above)—

(i) how much of the gains actually relieved would, by virtue of paragraph 13(1)(a) above, not have been chargeable gains; and

(ii) how much of those gains would, by virtue of paragraph 13(1)(b) above, not have been chargeable gains; and

(c) the aggregate amount of the underlying gains relieved on all the earlier disposals is the sum of—

(i) the amount ascertained under paragraph (b)(i) above; and

(ii) twice the amount ascertained under paragraph (b)(ii) above.

(3C) In this paragraph "the gains qualifying for relief" has the meaning given by paragraph 13(1A) above."

(6) In sub-paragraph (4) of that paragraph (cases where relief on earlier disposal given under certain former enactments) for the words from the beginning of paragraph (b) to "the qualifying period appropriate to the disposal is" there shall be substituted the words—

"(b) for the purpose of determining the limit in sub-paragraph (3) above where the earlier disposal (or any of the earlier disposals) was a disposal in respect of which relief was given under either of those sections—

(i) the underlying gains relieved on that disposal shall (subject to sub-paragraph (3B) above) be taken to be gains of an amount equal to the relief given under the section in question in respect of that disposal; and

(ii) the reference in sub-paragraph (3)(a)(ii) above to the qualifying period appropriate to the earlier disposal shall be construed in accordance with paragraph (c) below;

(c) for the purpose mentioned in paragraph (b) above, that reference shall, as respects the earlier disposal in question, be taken to be"

(7) In paragraph 16 of that Schedule (aggregation of spouse's interest in the business)—

(a) in sub-paragraph (3), for the words "whichever is the lower of the two limits" there shall be substituted the words "the limit";

(b) in sub-paragraph (4), for the words "limits" and "are" there shall be substituted the words "limit" and "is" (respectively) and paragraph (a) shall be omitted; and

(c) sub-paragraph (5) shall be omitted.

(8) This section shall have effect with respect to qualifying disposals (within the meaning of that Schedule) occurring on or after 6th April 1988.

Marginal Citations

M9 1985 c. 54.

111 Dependent relative's residence.

(1) Section 105 of the [M10]Capital Gains Tax Act 1979 shall not apply to disposals on or after 6th April 1988.

(2) Subsection (1) above shall not have effect where, on 5th April 1988 or at any earlier time during the period of ownership of the individual making the disposal, the dwelling-house or part in question was the sole residence (provided rent-free and without any other consideration) of a dependent relative of his.

(3) If in a case within subsection (2) above the dwelling-house or part ceases, whether before 6th April 1988 or later, to be the sole residence (provided as mentioned above) of the dependent relative, any subsequent period of residence beginning on or after that date by that or any other dependent relative shall be disregarded for the purposes of section 105(2) of the Capital Gains Tax Act 1979.

Marginal Citations

M10 1979 c. 14.

112 Roll-over relief.

(1) In section 118 of the Capital Gains Tax Act 1979 (classes of assets for the purposes of roll-over relief)—

(a) after Class 2 there shall be inserted—

"(Class Satellites, space stations and spacecraft (including launch vehicles).", 2A) and

(b) after Class 3 there shall be inserted—

"(Class 4) Milk quotas (that is, rights to sell dairy produce without being liable to pay milk levy or to deliver dairy produce without being liable to pay a contribution to milk levy) and potato quotas (that is, rights to produce potatoes without being liable to pay more than the ordinary contribution to the Potato Marketing Board's fund)."

(2) Subsection (1)(a) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 28th July 1987; and subsection (1)(b) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 30th October 1987.

113 Indexation: building societies etc.

(1) The provisions specified in subsection (2) below (which provide for an indexation allowance on the disposal of assets) shall not apply in the case of—

(a) shares in a building society within the meaning of the [M11]Building Societies Act 1986, or

(b) shares in a registered industrial and provident society as defined in section 486 of the Taxes Act 1988.

(2) The provisions referred to in subsection (1) above are—

(a) in the [M12]Finance Act 1982, sections 86(4) and 87 and, in Schedule 13, paragraphs 1 to 7, 8(2)(c) and 10(3); and

(b) in the [M13]Finance Act 1985, section 68(4) to (8) and, in Schedule 19, paragraphs 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23.

(3) This section shall apply to disposals on or after 4th July 1987.

Marginal Citations

M11 1986 c. 53.
M12 1982 c. 39.
M13 1985 c. 54.

114 Indexation: groups and associated companies.

Schedule 11 to this Act (which makes provision removing or restricting indexation allowance in the case of certain disposals by companies of debts or shares) shall have effect.

115 Transfers within a group.

(1) In section 273 of the Taxes Act 1970 (which treats certain intra-group transactions as producing neither a gain nor a loss) after subsection (2) there shall be inserted—

"(2A) Subsection (1) above shall not apply to a transaction treated by virtue of sections 78 and 85 of the Capital Gains Tax Act 1979 as not involving a disposal by the company first mentioned in that subsection."

(2) This section shall apply to transactions on or after 15th March 1988.

116 Personal equity plans.

The following subsection shall be inserted after subsection (2) of section 149D of the Capital Gains Tax Act 1979—

"(2A) Regulations under this section may include provision securing that losses are disregarded for the purposes of capital gains tax where they accrue on the disposal of investments on or after 18th January 1988."

117 Definition of "investment trust".

(1) In section 842 of the Taxes Act 1988 (definition of "investment trust")—

(a) before paragraph (a) of subsection (1) there shall be inserted—

"(aa) that the company is resident in the United Kingdom; and"

(b) for paragraph (c) of that subsection there shall be substituted—

"(c) that the shares making up the company's ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on the Stock Exchange; and"; and

(c) after that subsection there shall be inserted—

"(1A) For the purposes of paragraph (b) of subsection (1) above and the other provisions of this section having effect in relation to that paragraph—

(a) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company; and

(b) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money;

and for the purposes of this subsection "group" means a company and all companies which are its 51 per cent. subsidiaries."

(2) The repeal by the [M14]Finance (No. 2) Act 1987 of section 93 of the [M15]Finance Act 1972 shall be treated as not having extended to subsection (6) of that section (amendment of definition of "investment trust" in section 359 of the Taxes Act 1970).

(3) For section 266(4) of the [M16]Companies Act 1985 there shall be substituted—

"(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of subsection (2)(b) above as for those of subsection (1)(b) of that section.";and for Article 274(4) of the [M17]

Companies (Northern Ireland) Order 1986 there shall be substituted—

"(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of paragraph (2)(b) as for those of subsection (1)(b) of that section."

(4) Subsections (1) and (3) above shall have effect for companies' accounting periods ending after 5th April 1988 and subsection (2) above shall have effect for companies' accounting periods ending on or before that date.

Marginal Citations

M14 1987 c. 51.
M15 1972 c. 41.
M16 1985 c. 6.
M17 S.I. 1986/1032 (N.I. 6).

118 Amendments of Finance Act 1985 s.68.

(1) In relation to disposals on or after 6th April 1988 section 68 of the [M18]Finance Act 1985 (indexation allowance) shall have effect subject to the following amendments.

(2) The following subsection shall be inserted after subsection (5)—

"(5A) If under subsection (4) above it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately re-acquired by him, sections 34 and 39 of the Capital Gains Tax Act 1979 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in re-acquiring the asset on 31st March 1982."

(3) In subsection (7) for the words from "section 267" to "1983" there shall be substituted "any of the enactments specified in subsection (7A) below".

(4) The following subsection shall be inserted after that subsection—

"(7A) The enactments mentioned in subsection (7) above are—

(a) sections 44, 56, 123A, 146(3), 147(4), 148 and 149A of the Capital Gains Tax Act 1979;

(b) sections 267, 273, 340(7), 342, 342A, 342B, 343(5) and 352(7) of the Income and Corporation Taxes Act 1970;

(c) section 148 of the Finance Act 1982;

(d) section 7 of the Finance (No.2) Act 1983;

(e) paragraph 2 of Schedule 2 to the Trustee Savings Banks Act 1985;

(f) section 486(8) of the Taxes Act; and

(g) paragraph 4 of Schedule 12 to the Finance Act 1988."

Marginal Citations

M18 1985 c. 54.

Status:
Point in time view as at 01/02/1991.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 1988, chapter IV.