



Finance Act 1988

1988 CHAPTER 39

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CAPITAL GAINS

Miscellaneous

108 Annual exempt amount for 1988-89.

For the year 1988-89 section 5 of the ^{M1}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

M1 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 ^{M2}Finance Act 1985 (amount available for relief to be a percentage of £125,000 varying with length of

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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.

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- (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”;

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- (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

M2 1985 c. 54.

111 Dependent relative’s residence.

- (1) Section 105 of the ^{M2}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

M3 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

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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 ^{M4}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 ^{M5}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 ^{M6}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

- M4** 1986 c. 53.
M5 1982 c. 39.
M6 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.”

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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 ^{M7}Finance (No. 2) Act 1987 of section 93 of the ^{M8}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 ^{M9}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 ^{M10}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

- M7** 1987 c. 51.
M8 1972 c. 41.
M9 1985 c. 6.
M10 S.I. 1986/1032 (N.I. 6).

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118 Amendments of Finance Act 1985 s.68.

(1) In relation to disposals on or after 6th April 1988 section 68 of the ^{M11}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

M11 1985 c. 54.

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