



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Groups of companies

[^{F1}97 Set-off of ACT where companies remain in the same group.

- (1) In section 240 of the Taxes Act 1988 (set-off of company's ACT against subsidiary's liability to corporation tax) at the end of subsection (5) (set-off not to be made against subsidiary's liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company) there shall be added the words "unless throughout that period or part both companies were subsidiaries of a third company".
- (2) This section shall have effect in relation to accounting periods ending on or after 14th March 1989.]

Textual Amendments

- F1** S. 97 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2), note

[^{F2}98 Restriction on set-off of ACT.

- (1) After section 245 of the Taxes Act 1988 there shall be inserted—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Groups of companies. (See end of Document for details)

“ Restriction on application of section 240 in certain circumstances.

- (1) This section applies if—
- (a) there is a change in the ownership of a company (“the relevant company”);
 - (b) by virtue of section 240 the relevant company is treated as having paid an amount of advance corporation tax in respect of a distribution made by it at any time before the change; and
 - (c) within the period of six years beginning three years before the change, there is a major change in the nature or conduct of a trade or business of the company which is for the purposes of section 240 the surrendering company in relation to that amount.
- (2) No advance corporation tax which the relevant company is treated by virtue of section 240 as having paid in respect of a distribution made by it in an accounting period beginning before the change of ownership shall be treated under section 239(4) as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (3) Subsections (4) and (5) of section 245 shall apply also for the purposes of this section and as if the reference in subsection (4) of section 245 to the period of three years mentioned in subsection (1)(a) of that section were a reference to the period mentioned in subsection (1)(c) above.
- (4) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.

Restriction on set-off where asset transferred after change in ownership of company.

- (1) Subsection (4) below applies if—
- (a) there is a change in the ownership of a company (“the relevant company”);
 - (b) any advance corporation tax paid by the relevant company in respect of distributions made by it in an accounting period beginning before the change is treated under section 239(4) as paid by it in respect of distributions made by it in an accounting period ending after the change;
 - (c) after the change the relevant company acquires an asset from another company in such circumstances that section 273(1) of the Taxes Act 1970 applies to the acquisition; and
 - (d) a chargeable gain accrues to the relevant company on the disposal of the asset within the period of three years beginning with the change of ownership.
- (2) Subsection (1)(b) above shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Groups of companies. (See end of Document for details)

- (3) For the purposes of subsection (1)(d) above an asset acquired by the relevant company as mentioned in subsection (1)(c) above shall be treated as the same as an asset owned at a later time by that company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.
- (4) In relation to the accounting period in which the chargeable gain accrues to the relevant company (“the relevant period”), section 239 shall have effect as if the limit imposed by subsection (2) of that section on the amount of advance corporation tax to be set against the relevant company’s liability to corporation tax were reduced by whichever is the lesser of—
- (a) the amount of advance corporation tax that would have been payable (apart from section 241) in respect of a distribution made at the end of the relevant period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the chargeable gain, and
 - (b) the amount of surplus advance corporation tax in relation to the accounting period which by virtue of subsection (2) above is treated for the purposes of subsection (1)(b) above as ending with the change of ownership.
- (5) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.”
- (2) This section shall have effect where the change in the ownership of the relevant company occurs on or after 14th March 1989.]

Textual Amendments

F2 S. 98 repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by [1998 c. 36, s. 165, Sch. 27 Pt. III\(2\)](#), note

F399

Textual Amendments

F3 S. 99 repealed (11.5.2001 with application as mentioned in [Sch. 33 Pt. 2\(10\)](#) of the amending Act) by [2001 c. 9, s. 110, Sch. 33 Pt. 2\(10\)](#), note

F4100 **Change in ownership of company.**

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Textual Amendments

F4 S. 100 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Groups of companies. (See end of Document for details)

F⁵101 Treatment of convertible shares or securities for purposes relating to group relief etc.

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Textual Amendments

F5 S. 101 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F⁶102 Surrender of company tax refund etc. within group.

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Textual Amendments

F6 S. 102 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 215](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1989, Cross Heading:
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