



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

##### *Income tax rates and allowances*

#### <sup>F1</sup>**30** Charge and rates of income tax for 1989-90.

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##### Textual Amendments

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### <sup>F1</sup>**31** Age allowance.

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##### Textual Amendments

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### <sup>F1</sup>**32** Operative date for PAYE.

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*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

### Textual Amendments

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## 33 Married couples.

- (1) Sections 257 to 257F and 265 of the <sup>M1</sup>Taxes Act 1988, as inserted for the year 1990-91 and subsequent years by the Finance Act 1988, shall be amended as follows.
- (2) In section 257(1) for “£2,605” there shall be substituted “£2,785”.
- (3) In section 257(2) for “£3,180” there shall be substituted “£3,400”.
- (4) In section 257(3)—
  - <sup>F2</sup>(a) .....
  - (b) for “£3,310” there shall be substituted “£3,540”.
- (5) In section 257(5)—
  - (a) for “£10,600” there shall be substituted “£11,400”, and
  - <sup>F3</sup>(b) .....
- [<sup>F4</sup>(6) In section 257A(1) for “£1,490” there shall be substituted “£1,590”.]
- (7) In section 257A(2) for “£1,855” there shall be substituted “£1,985”.
- (8) In section 257A(3)—
  - <sup>F5</sup>(a) .....
  - (b) for “£1,895” there shall be substituted “£2,025”.
- (9) In section 257A(5)—
  - (a) for “£10,600” there shall be substituted “£11,400”, and
  - <sup>F6</sup>(b) .....
- (10) In sections <sup>F7</sup>. . . [<sup>F8</sup>257D(8) and] 265(3) after paragraph (b) there shall be inserted “or  
 (c) on account of any payments to which section 593(2) or 639(3) applies,”.
- [<sup>F9</sup>(11) In section 257E(1)(b) for “80” there shall be substituted “75”.
- <sup>F9</sup>(12) In section 257E(2)(a) for “£3,180” there shall be substituted “£3,400”.
- <sup>F9</sup>(13) In section 257E(2)(b) for “£3,310” there shall be substituted “£3,540”.]

### Textual Amendments

- F2** S. 33(4)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)
- F3** S. 33(5)(b) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)
- F4** S. 33(6) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(3\)](#), note 2
- F5** S. 33(8)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)

- F6** S. 33(9)(b) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 1 para. 6(c)**
- F7** Words in s. 33(10) repealed (16.7.1992) by virtue of Finance (No. 2) Act 1992 (c. 48), ss. 20, 82, **Sch. 5 para. 10, Sch. 18 Pt. VII(1)**
- F8** Words in s. 33(10) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by virtue of 1999 c. 16, s. 139, **Sch. 20 Pt. III(3)**, note 2
- F9** S. 33(11)-(13) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(3)**, note 2

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

- C1** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 257** for 1989–1990 and see Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), 257–257F for 1990–1991

**Marginal Citations**

- M1** 1988 c. 39.

*Corporation tax rates etc.*

**34 Charge and rate of corporation tax for financial year 1989.**

Corporation tax shall be charged for the financial year 1989 at the rate of 35 per cent.

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

- C2** For earlier years see Table K, Vol. 1

**<sup>F10</sup>35 Corporation tax: small companies.**

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**Textual Amendments**

- F10** S. 35 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)

*Receipts basis etc.*

**<sup>F11</sup>36 Schedule E: revised Cases.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

**<sup>F11</sup>37 Schedule E: assessment on receipts basis.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**<sup>F11</sup>38 Schedule E: unpaid emoluments.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**<sup>F11</sup>39 Schedule E: unremitted emoluments.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**<sup>F11</sup>40 Schedule E: emoluments already paid.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**<sup>F11</sup>41 Schedule E: pensions etc.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

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

- C3** S. 41 extended (3.5.1994) by [1994 c. 9, s. 139\(3\)](#)

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

<sup>F11</sup> **42 Schedule E: supplementary.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

<sup>F12</sup> **43 Schedule D: computation**

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**Textual Amendments**

- F12** S. 43 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 339](#), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

<sup>F13</sup> **44 Companies with investment business and insurance companies: computation**

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**Textual Amendments**

- F13** S. 44 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 340](#), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

<sup>F14</sup> **45 PAYE: meaning of payment.**

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**Textual Amendments**

- F14** S. 45 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

*Interest*

**46 Relief for interest.**

For the year 1989-90 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

<sup>F15</sup> **47 Close company loans: business expansion scheme.**

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

#### Textual Amendments

**F15** S. 47 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

#### <sup>F16</sup> 48 Close company loans: material interest.

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#### Textual Amendments

**F16** S. 48 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

### *Benefits in kind*

#### 49 Car benefits.

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

#### “PART I

#### TABLES OF FLAT RATE CASH EQUIVALENTS

##### table A

#### CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND HAVING A CYLINDER CAPACITY

Cylinder capacity of car in cubic centimetres	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
1400 or less	£1,400	£950
More than 1400 but not more than 2000	£1,850	£1,250
More than 2000	£2,950	£1,950

##### table B

#### CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY

Original market value of car	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
Less than £6,000	£1,400	£950

£6,000 or more but less than £8,500	£1,850	£1,250
£8,500 or more but not more than £19,250	£2,950	£1,950

table B

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

Original market value of car	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£3,850	£2,600
More than £29,000	£6,150	£4,100”

(2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

F1750 Security assets and services.

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Textual Amendments

F17 Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

F1751 Assets used partly for security.

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Textual Amendments

F17 Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

F1752 Security: supplementary.

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Textual Amendments

F17 Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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### 53 Employees earning £8,500 or more and directors.

- <sup>F18</sup>(1) .....
- <sup>F18</sup>(2) .....
- <sup>F18</sup>(a) .....
- <sup>F18</sup>(b) .....
- <sup>F18</sup>(c) .....
- <sup>F18</sup>(d) .....
- <sup>F18</sup>(e) .....
- (f) the words “ employment to which Chapter II of Part V applies ” shall be substituted for the words from “director’s” to “section167)” in [<sup>F19</sup>section 418(3)(a)] of that Act;
- <sup>F18</sup>(g) .....

#### Textual Amendments

- F18** S. 53 repealed (except s. 53(2)(f) so far as relating to s. 418(3) of ICTA) (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))
- F19** Words in s. 53(2)(f) substituted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 159](#) (with [Sch. 7](#))

#### *Medical insurance*

### [<sup>F20</sup>54 Relief.

- (1) This section applies where—
- (a) on or after 6th April 1990 an individual makes a payment in respect of a premium under a contract of private medical insurance (whenever issued),
  - (b) the contract meets the requirement in subsection (2) below as to the person or persons insured,
  - (c) at the time the payment is made the contract is an eligible contract,
  - (d) the individual making the payment does not make it out of resources provided by another person for the purpose of enabling it to be made, and
  - (e) the individual making the payment is not entitled to claim any relief or deduction in respect of it under any other provision of the Tax Acts.
- (2) The requirement mentioned in subsection (1)(b) above is that the contract insures—
- (a) an individual who at the time the payment is made is aged 60 or over and resident in the United Kingdom,
  - (b) individuals each of whom at that time is aged 60 or over and resident in the United Kingdom, or
  - (c) two individuals who are married to each other at that time, at least one of whom is aged 60 or over at that time, and each of whom is resident in the United Kingdom at that time.

[ In a case where—  
<sup>F21</sup>(2A)



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- (a) a payment is made in respect of a premium under a contract at a time when the contract meets the requirement in subsection (2) above by virtue of paragraph (c) of that subsection, and
  - (b) a payment is made under the same contract at a time after one of the individuals has died and when the contract does not (apart from this subsection) meet the requirement in subsection (2) above by virtue only of the fact that the surviving spouse is not aged 60 or over at the time,

for the purposes of subsection (2) above in its application to the contract the surviving spouse shall be deemed to be aged 60 or over at the time mentioned in paragraph (b) above.]
- (3) If the payment is made by an individual who at the time it is made is resident in the United Kingdom (whether or not he is the individual or one of the individuals insured by the contract) [<sup>F22</sup>the individual shall be entitled to relief under this subsection in respect of the payment; and (except where subsections (4) to (6) below apply) relief under this subsection shall be given—
  - (a) in accordance with subsections (3A) to (3C) below, and
  - (b) only on a claim made for the purpose.]
- [ Where an individual is entitled to relief under subsection (3) above in respect of one <sup>F23</sup>(3A) or more payments made in a given year of assessment, the amount of his liability for that year of assessment to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—
  - (a) the amount found under subsection (3B) below, and
  - (b) the amount which reduces his liability to nil.
- (3B) The amount referred to in subsection (3A)(a) above is an amount found by—
  - (a) taking the amount of the payment referred to in subsection (3A) above or (as the case may be) the aggregate amount of the payments there referred to, and
  - (b) finding an amount equal to tax on the amount taken under paragraph (a) above at the basic rate for the year of assessment concerned.
- (3C) In determining for the purposes of subsection (3A) above the amount of incomers on whom he would be liable apart from this section, no account shall be taken of—
  - (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
  - (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;
  - (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
  - (d) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]
- (4) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (3) above shall be given in accordance with subsections (5) and (6) below.
- (5) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.
- (6) The person to whom the payment is made—

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- (a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
  - (b) may, on making a claim [<sup>F24</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
- (7) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
- (a) an individual who has made a payment in respect of a premium under a contract of private medical insurance shall cease to be and be treated as not having been entitled to relief under subsection (3) above; and
  - (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
- (8) Regulations under subsection (7) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
- (9) In this section—
- (a) references to a premium, in relation to a contract of insurance, are to any amount payable under the contract to the insurer, and
  - (b) references to an individual who is resident in the United Kingdom at anytime include references to an individual who is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.]

#### Textual Amendments

- F20** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F21** S. 54(2A) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 4(2)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 4(1)**
- F22** Words and paras. (a)(b) substituted for words in s. 54(3) (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(2)(4)**
- F23** S. 54(3A)-(3C) inserted (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(3)(4)**
- F24** Words in s. 54(6)(b) inserted (29.4.1996) by 1996 c. 8, s. 129(2)

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

- C4** S. 54 restricted (31.7.1997 with effect for the year 1997-1998 and subsequent years of assessment) by 1997 c. 58, s. 17(1)-(5) (with s. 3(3))
- C5** For regulations see S.I. 1989/2387 and S.I. 1989/2389 (in Part III Vol. 5 under "Private medical insurance")

#### [<sup>F25</sup>55 Eligible contracts.

- (1) This section has effect to determine whether a contract is at a particular time (the relevant time) an eligible contract for the purposes of section 54 above.
- (2) A contract is an eligible contract at the relevant time if—

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- (a) it was entered into by an insurer who at the time it was entered into was a qualifying insurer and was approved by the Board for the purposes of this section,
  - (b) the period of insurance under the contract does not exceed one year(commencing with the date it was entered into),
  - [ at the relevant time the contract satisfies the conditions set out in
  - <sup>F26</sup>(ba) subsection (2A) below,
  - (bb) the contract is not one in the case of which subsection (2D) below applies,]
  - (c) the contract is not connected with any other contract at the relevant time and has not been connected with any other contract at any time since it was entered into, [<sup>F27</sup>and]
  - (d) no benefit has been provided by virtue of the contract other than an approved benefit, [<sup>F28</sup>and
  - (e) the contract meets one or more of the three conditions set out below.]
- [ The conditions referred to in subsection (2)(ba) above are that—
- <sup>F29</sup>(2A) (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,
- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
- (c) the premium under the contract is reasonable, and
- (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (2B) In a case where—
- (a) at the relevant time the contract confers a material right, or more than one such right, but
- (b) the total cost to the insurer of providing benefits in pursuance of the material right or (as the case may be) in pursuance of all the material rights would not exceed the prescribed sum,
- the contract shall not thereby be regarded as failing to satisfy at the relevant time the condition set out in subsection (2A)(b) above.
- (2C) For the purposes of subsection (2B) above a material right is a right which—
- (a) is not a right such as is mentioned in subsection (2A)(a) above or such as is for the time being specified in regulations made under subsection (2A)(b) above, and
- (b) is not a right to a cash benefit.
- (2D) This subsection applies in the case of a contract (the main contract) if—
- (a) at least one other contract is entered into which is a contract (a collateral contract) under which a benefit is provided in consideration of the insured's entering into the main contract, and
- (b) the cost to the insurer of fulfilling his obligations under the collateral contract (or, if there is more than one collateral contract, of fulfilling his obligations under all of them) exceeds the prescribed sum.]

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*Changes to legislation: There are currently no known outstanding effects  
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[ The first condition is that the contract is certified by the Board under section 56 below  
<sup>F30</sup>(3) at the relevant time.

<sup>F30</sup>(4) The second condition is that, at the time the contract was entered into, it conformed with a standard form certified by the Board as a standard form of eligible contract.

<sup>F30</sup>(5) The third condition is that, at the time the contract was entered into, it conformed with a form varying from a standard form so certified in no other respect than by making additions—

- (a) which were (at the time the contract was entered into) certified by the Board as compatible with an eligible contract when made to that standard form, and
- (b) which (at that time) satisfied any conditions subject to which the additions were so certified.

<sup>F30</sup>(6) Where a contract is varied, and the relevant time falls after the time the variation takes effect, subsections (1) to (5) above shall have effect as if “entered into” read “varied” in each place where it occurs in subsections (4) and (5) above.]

(7) For the purposes of this section a contract is connected with another contract at any time if—

- (a) they are simultaneously in force at that time,
- (b) either of them was entered into with reference to the other, or with a view to enabling the other to be entered into on particular terms, or with a view to facilitating the other being entered into on particular terms, and
- (c) the terms on which either of them was entered into would have been significantly less favourable to the insured if the other had not been entered into.

(8) For the purposes of this section each of the following is a qualifying insurer—

- (a) an insurer lawfully carrying on in the United Kingdom business of any of the classes specified in Part I of Schedule 2 to the <sup>M2</sup>Insurance Companies Act 1982;
- (b) an insurer not carrying on business in the United Kingdom but carrying on business in another member State and being either a national of a member State or a company or partnership formed under the law of any part of the United Kingdom or another member State and having its registered office, central administration or principal place of business in a member State.

(9) For the purposes of this section a benefit is an approved benefit if it is provided in pursuance of a right of a description

- [ mentioned in subsection (2A)(a) above, or  
<sup>F31</sup>(a) (b) for the time being specified in regulations made under subsection (2A)(b) above.]

[ For the purposes of this section a benefit is also an approved benefit if it is not a cash  
<sup>F32</sup>(10) benefit and—

- (a) it is a single benefit provided otherwise than as mentioned in subsection (9) above and the cost to the insurer of providing it does not exceed the prescribed sum, or
- (b) it is one of a number of benefits provided otherwise than as mentioned in subsection (9) above and the total cost to the insurer of providing the benefits does not exceed the prescribed sum.

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- (11) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.
- (12) For the purposes of this section the prescribed sum is £30.
- (13) The Treasury may by order substitute for the sum for the time being specified in subsection (12) above such sum as may be specified in the order; and any such substitution shall have effect in relation to cases where the relevant time falls on or after such date as is specified in the order.]]

#### Textual Amendments

- F25** Ss. 54–57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F26** S. 55(2)(ba)(bb) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(2)**
- F27** Word in s. 55(2)(c) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(3)(a)**
- F28** S. 55(2)(e) and the word “and” immediately preceding it repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(3)(b)**, **Sch. 26 Pt. V(3)**, Note 2
- F29** S. 55(2A)–(2D) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(4)**
- F30** S. 55(3)–(6) repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(5)**, **Sch. 26 Pt. V(3)**, Note 2
- F31** Paras. (a)(b) substituted for words in s. 55(9) (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(6)**
- F32** S. 55(10)–(13) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(7)**

#### Marginal Citations

- M2** 1982 c.50.

### [<sup>F33</sup>56 Certification of contracts.

- (1) The Board shall certify a contract under this section if it satisfies the conditions set out in subsection (3) below; and the certification shall be expressed to take effect from the time the conditions are satisfied, and shall take effect accordingly.
- (2) The Board shall revoke a certification of a contract under this section if it comes to their notice that the contract has ceased to satisfy the conditions set out in subsection (3) below; and the revocation shall be expressed to take effect from the time the conditions ceased to be satisfied, and shall take effect accordingly.
- (3) The conditions referred to above are that—
- (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,

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- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
  - (c) the premium under the contract is in the Board's opinion reasonable, and
  - (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (4) The certification of a contract by the Board under this section shall cease to have effect if the contract is varied; but this is without prejudice to the application of the preceding provisions of this section to the contract as varied.
- (5) Where the Board refuse to certify a contract under this section, or they revoke a certification, an appeal may be made to the Special Commissioners by—
- (a) the insurer, or
  - (b) any person who (if the policy were certified) would be entitled to relief under section 54 above.
- (6) Where a contract is certified under this section, or a certification is revoked or otherwise ceases to have effect, any adjustments resulting from the certification or from its revocation or ceasing to have effect shall be made.
- (7) Subsection (6) above applies where a certification or revocation takes place on appeal as it applies in the case of any other certification or revocation.
- (8) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.]

#### Textual Amendments

**F33** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

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

**C6** For regulations see **S.I. 1989/2389** (in Part III Vol. 5 under "Private medical insurance")

### [<sup>F34</sup>57 Medical insurance: supplementary.

- (1) The Board may by regulations—
- (a) provide that a claim under section 54(3) or (6)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;
  - [<sup>F35</sup>(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;]
  - (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 54 above, for the giving by insurers in such circumstances as may be prescribed of certificates of payment in such form as may be prescribed to such persons as may be prescribed;
  - (c) provide that a person who provides (or has at any time provided) insurance under contracts of private medical insurance shall comply with any notice which is served on him by the Board and which requires him within a

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prescribed period to make available for the Board's inspection documents (of a prescribed kind) relating to such contracts;

- (d) provide that persons of such a description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about contracts of private medical insurance;
- (e) make provision with respect to the approval of insurers for the purposes of section 55 above and the withdrawal of approval for the purposes of that section;
- (f) make provision for and with respect to appeals against decisions of the Board with respect to the giving or withdrawal of approval of insurers for the purposes of section 55 above;
- (g) make provision with respect to the certification by the Board of standard forms of eligible contract and variations from standard forms of eligible contract certified by them;
- (h) make provision for and with respect to appeals against decisions of the Board with respect to the certification of standard forms of eligible contractor variations from standard forms of eligible contract certified by them;
- (i) provide that certification, or the revocation of a certification, under section 56 above shall be carried out in such form and manner as may be prescribed;
- (j) make provision with respect to appeals against decisions of the Board with respect to certification or the revocation of certification under section 56 above;
- (k) make provision generally as to administration in connection with sections 54 to 56 above.

<sup>F36</sup>(2) . . . . .

(3) The following provisions of the Taxes Management Act 1970, namely—

- <sup>F37</sup>[ (a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;
- (b) section 30 (tax repaid in error etc.) [<sup>F38</sup>apart from subsection (1B)],
- (c) [<sup>F39</sup>section 86] (interest), and
- (d) section 95 (incorrect return or accounts),

[<sup>F40</sup>shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 54(6)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]

<sup>F41</sup>[ In the application of section 86 of the Taxes Management Act 1970 by virtue of (3A) subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

- (a) in a case where the person falling within section 54(6) above has made any interim claim, within the meaning of regulations made under subsection (1) and section 54(4) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and
- (b) in any other case, is the later of the following dates, that is to say—
  - (i) 1st January in the year of assessment for which the assessment is made; or

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- (ii) the date of the making of the payment by the Board which gives rise to the assessment.]
- (4) In sections <sup>F42</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988 after paragraph (c) there shall be inserted
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies”.
- (5) In subsection (1) above—
  - “eligible contract” has the meaning given by section 55 above, and
  - “prescribed” means prescribed by or, in relation to form, under the regulations.]

**Textual Amendments**

**F34** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

**F35** S. 57(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. **129(3)**

**F36** S. 57(2) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 60(c)**

**F37** S. 57(3)(a) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(a)**

**F38** Words in s. 57(3)(b) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(b)**

**F39** Words in s. 57(3)(c) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(c)**

**F40** Words in s. 57(3) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(d)**

**F41** S. 57(3A) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(3)**

**F42** Words in s. 57(4) repealed (16.7.1992) by virtue of [Finance \(No. 2\) Act 1992 \(c. 48\)](#), ss. 20, 82, [Sch. 5 para. 10](#), **Sch. 18 Pt. VII(1)**

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

**C7** See [S.I. 1989/2387](#)

Charities

58 Payroll deduction scheme.

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £240 the deductions attracting relief) for “£240” there shall be substituted “£480”.
- (2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

<sup>F43</sup>59 .....



Textual Amendments

F43 S. 59 repealed (28.7.2000 with effect as mentioned in s. 41(9) of the amending Act) by 2000 c. 17, ss. 41(7), 156, Sch. 40 Pt. II(1), note 3

60 British Museum and Natural History Museum.

- F44(1) . . . . .
- F44(2) . . . . .
- F45(3) . . . . .
- F46(4) . . . . .

Textual Amendments

F44 S. 60(1)(2) 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)

F45 S. 60(3) repealed (1.5.1995 with effect as mentioned in s. 74(2), Sch. 29 Pt. VIII(8) of the amending Act) by 1995 c. 4, ss. 74(1), 162, Sch. 17 Pt. III para. 25, Sch. 29 Pt. VIII(8)

F46 S. 60(4) 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)

Profit-related pay, share schemes etc.

[F47 61 Profit-related pay.

Schedule 4 to this Act (which amends the provisions of the Taxes Act 1988 relating to profit-related pay) shall have effect.]

Textual Amendments

F47 S. 61 repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(3), notes 1, 2 of the amending Act) by 1997 c. 16, ss. 61(2)(3), 113, Sch. 18 Pt. VI(3)

F48 62 Savings-related share option schemes.

. . . . .

Textual Amendments

F48 S. 62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 8 Pt. 1 (with Sch. 7)

F49 63 Profit sharing schemes.

. . . . .

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#### Textual Amendments

**F49** S. 63 repealed(having effect for the year 1991-92 and subsequent years of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt.V** Note 6.

### <sup>F50</sup>**64 Share option and profit sharing schemes: shares of consortium member.**

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#### Textual Amendments

**F50** S. 64 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

### **65 Employee share schemes: material interest.**

In Schedule 9 to the Taxes Act 1988 the following paragraph shall be inserted after paragraph 39—

#### **Shares subject to an employee benefit trust**

- “40 (1) Where an individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (3) below applies in relation to him.
- (2) In this paragraph “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8.
- (3) This sub-paragraph applies in relation to an individual if at any time on or after 14th March 1989—
- (a) the individual, either on his own or with any one or more of his associates, or
  - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company.
- (4) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 shall apply for the purposes of this paragraph in relation to an individual as they apply for the purposes of that paragraph in relation to an employee.”

### <sup>F51</sup>**66 Priority share allocations for employees etc.**

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### Textual Amendments

- F51** S. 66 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

### *Employee share ownership trusts*

## 67 Tax relief.

- (1) This section applies where—
  - (a) a company expends a sum in making a payment by way of contribution to the trustees of a trust which is a qualifying employee share ownership trust at the time the sum is expended,
  - (b) at that time, the company or a company which it then controls has employees who are eligible to benefit under the terms of the trust deed,
  - (c) at that time the company is resident in the United Kingdom,
  - (d) before the expiry of the expenditure period the sum is expended by the trustees for one or more of the qualifying purposes, and
  - (e) before the end of the claim period a claim for relief under this section is made.
- (2) In such a case the sum—
  - (a) shall be deducted in computing for the purposes of Schedule D the [<sup>F52</sup>profits] of a trade carried on by the company,
  - [<sup>F53</sup>(b) if the company is an investment company, shall be treated as expenses of management, or
  - (c) if the company is a company in relation to which the I - E rules apply and the sum is referable, in accordance with Chapter 4 of Part 2 of the Finance Act 2012, to the company's basic life assurance and general annuity business, shall be treated for the purposes of section 76 of that Act as ordinary BLAGAB management expenses of the company.]
- (3) For the purposes of subsection (1)(b) above, the question whether one company is controlled by another shall be construed in accordance with section 840 of the Taxes Act 1988.
- (4) For the purposes of subsection (1)(d) above each of the following is a qualifying purpose—
  - (a) the acquisition of shares in the company which established the trust;
  - (b) the repayment of sums borrowed;
  - (c) the payment of interest on sums borrowed;
  - (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
  - (e) the meeting of expenses.
- (5) For the purposes of subsection (1)(d) above the expenditure period is the period of nine months beginning with the day following the end of the period of account in which the sum is charged as an expense of the company, or such longer period as the Board may allow by notice given to the company.

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- (6) For the purposes of subsection (1)(e) above the claim period is the period of two years beginning with the day following the end of the period of account in which the sum is charged as an expense of the company.
- (7) For the purposes of this section the trustees of an employee share ownership trust shall be taken to expend sums paid to them in the order in which the sums are received by them (irrespective of the number of companies making payments).

#### Textual Amendments

**F52** Words in s. 67(2)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3), **Sch. 7 para. 3**

**F53** S. 67(2)(b)(c) substituted for s. 67(2)(b) (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 48**

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

**C8** See Finance Act 1990 (c. 29) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**C9** S. 67 excluded (10.7.2003) by Finance Act 2003 (c. 14), **s. 142(1)**

## 68 Principal charges to tax.

- (1) This section applies where a chargeable event (within the meaning of section 69 below) occurs in relation to the trustees of an employee share ownership trust.
- (2) In such a case—
- (a) the trustees shall be treated as receiving, when the event occurs, [<sup>F54</sup>income of an amount that] is equal to the chargeable amount (within the meaning of section 70 below),
  - [<sup>F55</sup>(b) that income shall be chargeable to income tax for the year of assessment in which the event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [<sup>F56</sup>, and]
  - (bb) the trustees are liable for any tax so chargeable, ]<sup>F57</sup>...
  - <sup>F58</sup>(c) .....
- (3) If the whole or any part of the tax assessed on the trustees is not paid before the expiry of the period of six months beginning with the day on which the assessment becomes final and conclusive, a notice of liability to tax under this subsection may be served on a qualifying company and the tax or the part unpaid (as the case may be) shall be payable by the company on service of the notice.
- (4) Where a notice of liability is served under subsection (3) above—
- (a) any interest which is due on the tax or the part (as the case may be) and has not been paid by the trustees, and
  - (b) any interest accruing due on the tax or the part (as the case may be) after the date of service,
- shall be payable by the company.
- (5) Where a notice of liability is served under subsection (3) above and any amount payable by the company (whether on account of tax or interest) is not paid by the company before the expiry of the period of three months beginning with the date of

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service, the amount unpaid may be recovered from the trustees (without prejudice to the right to recover it instead from the company).

- (6) For the purposes of this section each of the following is a qualifying company—
- (a) the company which established the employee share ownership trust;
  - (b) any company falling within subsection (7) below.
- (7) A company falls within this subsection if, before it is sought to serve a notice of liability on it under subsection (3) above—
- (a) it has paid a sum to the trustees, and
  - (b) the sum has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.

#### Textual Amendments

- F54** Words in s. 68(2)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(a\)](#) (with [Sch. 2](#))
- F55** S. 68(2)(b)(ba)(bb) substituted for s. 68(2)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(b\)](#) (with [Sch. 2](#))
- F56** Word in s. 68(2)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(a\)\(7\)](#)
- F57** Words in s. 68(2)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(b\)\(7\), Sch. 26 Pt. 3\(15\)](#)
- F58** S. 68(2)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(2\)\(a\)\(5\), Sch. 26 Pt. 3\(15\)](#)

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

- C10** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

## 69 Chargeable events.

- (1) For the purposes of section 68 above each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
- (a) the transfer of securities by the trustees, if the transfer is not a qualifying transfer;
  - (b) the transfer of securities by the trustees to persons who are at the time of the transfer beneficiaries under the terms of the trust deed, if the terms on which the transfer is made are not qualifying terms;
  - (c) the retention of securities by the trustees at the expiry of the [<sup>F59</sup>qualifying period] beginning with the date on which they acquired them;
  - (d) the expenditure of a sum by the trustees for a purpose other than a qualifying purpose.
- [<sup>F60</sup>(e) where—
- (i) the trustees make a qualifying transfer within subsection (3AA) below for a consideration, and
  - (ii) they do not, during the period specified in subsection (5A) below, expend a sum of not less than the amount of that consideration for one or more qualifying purposes,
- the expiry of that period.]

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- (2) For the purposes of subsection (1)(a) above a transfer is a qualifying transfer if it is made to a person who at the time of the transfer is a beneficiary under the terms of the trust deed.
- (3) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is made to the trustees of a scheme which at the time of the transfer is a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988, and
  - (b) it is made for a consideration which is not less than the price the securities might reasonably be expected to fetch on a sale in the open market.
- [<sup>F61</sup>(3AA) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is a transfer of relevant shares made to the trustees of the plan trust of [<sup>F62</sup>a share incentive] plan,
  - (b) the plan is approved under [<sup>F63</sup>Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003] when the transfer is made, and
  - (c) the consideration (if any) for which the transfer is made does not exceed the market value of the shares.
- (3AB) For the purpose of determining whether a transfer by the trustees is a qualifying transfer within subsection (3AA) above, where on or after 21st March 2000—
- (a) the trustees transfer or dispose of part of a holding of shares (whether by way of a qualifying transfer or otherwise), and
  - (b) the holding includes any relevant shares,
- the relevant shares shall be treated as transferred or disposed of before any other shares included in that holding.
- For this purpose “holding” means any number of shares of the same class held by the trustees, growing or diminishing as shares of that class are acquired or disposed of.
- (3AC) For the purposes of subsections (3AA) and (3AB) above—
- “market value” has the same meaning as [<sup>F64</sup>it has for the purposes of the SIP code (see paragraph 92 of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003)]; and
  - “relevant shares” means—
    - (i) shares that are held by the trustees of the employee share ownership trust at midnight on 20th March 2000, and
    - (ii) shares purchased by those trustees with original funds after that time.
- (3AD) For the purposes of subsection (3AC) above—
- (a) “original funds” means any money held by the trustees of the employee share ownership trust in a bank or building society account at midnight on 20th March 2000, and
  - (b) any payment made by the trustees after that time (whether to acquire shares or otherwise) shall be treated as made out of original funds (and not out of money received after that time) until those funds are exhausted.]
- <sup>F65</sup>[(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992.]
- (4) For the purposes of subsection (1)(b) above a transfer of securities is made on qualifying terms if—

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- (a) all the securities transferred at the same time [<sup>F66</sup>other than those transferred on a transfer such as is mentioned in subsection (4ZA) below] are transferred on similar terms,
- (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed [<sup>F67</sup>by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act] when the transfer is made, and
- (c) securities are transferred to all such [<sup>F68</sup>persons] who have accepted.

[<sup>F69</sup>(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—

- (a) it is made to a person exercising a right to acquire shares, and
- (b) that right was obtained in accordance with the provisions of [<sup>F70</sup>an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of the Income Tax (Earnings and Pensions) Act 2003)]—
  - (i) which was established by, or by a company controlled by, the company which established the trust, and
  - (ii) which is approved under [<sup>F71</sup>Schedule 3 to that Act], and
- (c) that right is being exercised in accordance with the provisions of that scheme, and
- (d) the consideration for the transfer is payable to the trustees.]

[<sup>F72</sup>(4A) For the purposes of subsection (1)(c) above the qualifying period is—

- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
- (b) twenty years, in the case of other trusts;

and for this purpose a trust is established when the deed under which it is established is executed.]

(5) For the purposes of subsection (1)(d) [<sup>F73</sup>or (e)] above each of the following is a qualifying purpose—

- (a) the acquisition of shares in the company which established the trust;
- (b) the repayment of sums borrowed;
- (c) the payment of interest on sums borrowed;
- (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
- (e) the meeting of expenses.

[<sup>F74</sup>(5A) The period referred to in paragraph (e) of subsection (1) above is the period—

- (a) beginning with the qualifying transfer mentioned in that paragraph, and
- (b) ending nine months after the end of the period of account in which that qualifying transfer took place.

For this purpose the period of account means the period of account of the company that established the employee share ownership trust.]

(6) For the purposes of subsection (4) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.

(7) In ascertaining for the purposes of this section whether particular securities are retained, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later.

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- (8) For the purposes of this section trustees—
- (a) acquire securities when they become entitled to them (subject to the exceptions in subsection (9) below);
  - (b) transfer securities to another person when that other becomes entitled to them;
  - (c) retain securities if they remain entitled to them.
- (9) The exceptions are these—
- (a) if securities are issued to trustees in exchange in circumstances mentioned in section <sup>[F75]</sup>135(1) of the Taxation of Chargeable Gains Act 1992], they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged;
  - (b) if trustees become entitled to securities as a result of a reorganisation, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation” and “original shares” in accordance with section <sup>[F75]</sup>126] of that Act).
- (10) If trustees agree to take a transfer of securities, for the purposes of this section they shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (11) If trustees agree to transfer securities to another person, for the purposes of this section the other person shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (12) For the purposes of this section the following are securities—
- (a) shares;
  - (b) debentures.

#### Textual Amendments

- F59** Words in s. 69(1)(c) substituted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 6(2)**
- F60** S. 69(1)(e) inserted (28.7.2000) by 2000 c. 17, s. 55(2)
- F61** S. 69(3AA)-(3AD) inserted (28.7.2000) by 2000 c. 17, s. 55(3)
- F62** Words in s. 69(3AA)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 160(2)(a)** (with **Sch. 7**)
- F63** Words in s. 69(3AA)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 160(2)(b)** (with **Sch. 7**)
- F64** Words in s. 69(3AC) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 6 para. 160(3)** (with **Sch. 7**)
- F65** S. 69(3A) inserted (16.7.1992, the amending provision applying in relation to exchanges made on or after 1.1.1992) by **Finance (No. 2) Act 1992 (c. 48)**, s. 36(1)(2)
- F66** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(a)
- F67** Words in s. 69(4)(b) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(b)
- F68** Word in s. 69(4)(c) substituted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(c)
- F69** S. 69(4ZA) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(4)



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- F70** Words in s. 69(4ZA)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 160\(4\)\(a\)](#) (with Sch. 7)
- F71** Words in s. 69(4ZA)(b)(ii) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 160\(4\)\(b\)](#) (with Sch. 7)
- F72** S. 69(4A) inserted (3.5.1994) by [1994 c. 9, s. 102, Sch. 13 para. 6\(3\)](#)
- F73** Words in s. 69(5) inserted (28.7.2000) by [2000 c. 17, s. 55\(4\)](#)
- F74** S. 69(5A) inserted (28.7.2000) by [2000 c. 17, s. 55\(5\)](#)
- F75** Words in s. 69(9) substituted (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 19\(1\)](#) (with s. 60, 101(1), 171, 201(3))

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

- C11** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*
- C12** S. 69 modified (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 142\(2\)](#)
- C13** Definition employed for purposes of Finance Act 1990 (c. 29) s. 36—*roll-over relief where replacement asset owned*

**70 Chargeable amounts.**

- (1) This section has effect to determine the chargeable amount for the purposes of section 68 above.
- (2) If the chargeable event falls within section 69(1)(a), (b) or (c) above the following rules shall apply—
- (a) if the event constitutes a disposal of the securities by the trustees for the purposes of the [<sup>F76</sup>Taxation of Chargeable Gains Act 1992], the chargeable amount is an amount equal to the sums allowable under section [<sup>F76</sup>38(1)(a)] and (b) of that Act;
  - (b) if the event does not constitute such a disposal, the chargeable amount is an amount equal to the sums which would be so allowable had the trustees made a disposal of the securities for the purposes of that Act at the time the chargeable event occurs.
- (3) If the chargeable event falls within section 69(1)(d) above the chargeable amount is an amount equal to the sum concerned.
- [<sup>F77</sup>(4) If the chargeable event falls within section 69(1)(e) above the chargeable amount is an amount equal to—
- (a) the amount of the consideration received for the qualifying transfer mentioned in section 69(1)(e) above, less
  - (b) the amount of any expenditure by the trustees for a qualifying purpose during the period mentioned in section 69(5A) above.]

**Textual Amendments**

- F76** Words in s. 70(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 19\(2\)](#) (with ss. 60, 101(1), 201(3))
- F77** S. 70(4) inserted (28.7.2000) by [2000 c. 17, s. 55\(6\)](#)

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

**C14** See Finance Act 1990 (c. 29) ss.31–40—roll-over relief for disposal of assets to employee share ownership trusts

### **71 Further charges to tax: borrowing.**

- (1) This section applies where—
  - (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees of an employee share ownership trust,
  - (b) at the time the event occurs anything is outstanding in respect of the principal of an amount or amounts borrowed at any time by the trustees, and
  - (c) the chargeable event is one as regards which section 72(2)(b) below applies.
- (2) In the following provisions of this section—
  - (a) “the initial chargeable event” means the event referred to in subsection (1)(a) above, and
  - (b) “the total outstanding amount” means the total amount outstanding, at the time the initial chargeable event occurs, in respect of the principal of an amount or amounts borrowed at any time by the trustees.
- (3) If any of the total outstanding amount is repaid after the initial chargeable event occurs, a further chargeable event shall occur in relation to the trustees at the end of the year of assessment in which the repayment is made.
- (4) In such a case—
  - (a) the trustees shall be treated as receiving, when the further event occurs, [F78: income of an amount that] is equal to the chargeable amount,
  - [F79](b) that income shall be chargeable to income tax for the year of assessment at the end of which the further event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [F80, and]
  - (bb) the trustees are liable for any tax so chargeable, [F81 ...
  - [F82](c) .....
- (5) Subject to subsection (6) below, for the purposes of subsection (4) above the chargeable amount is an amount equal to the aggregate of the total outstanding amount repaid in the year of assessment.
- (6) In a case where section 72(2)(b) below had effect in the case of the initial chargeable event, for the purposes of subsection (4) above the chargeable amount is an amount equal to the smaller of—
  - (a) the aggregate of the total outstanding amount repaid in the year of assessment, and
  - (b) an amount found by applying the formula A-B-C.
- (7) For the purposes of subsection (6) above—
  - (a) A is the amount which would be the chargeable amount for the initial chargeable event apart from section 72(2) below,
  - (b) B is the chargeable amount for the initial chargeable event, and
  - (c) C is the amount (if any) found under subsection (8) below.

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- (8) If, before the further chargeable event occurs, one or more prior chargeable events have occurred in relation to the trustees by virtue of the prior repayment of any of the total outstanding amount found for the time the initial chargeable event occurs, the amount found under this subsection is an amount equal to the chargeable amount for the prior chargeable event or to the aggregate of the chargeable amounts for the prior chargeable events (as the case may be).
- (9) In a case where—
- (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees in circumstances mentioned in subsection (1) above,
  - (b) a sum falls to be included in the total outstanding amount found for the time the event occurs,
  - (c) another chargeable event (within the meaning of that section) occurs in relation to the trustees in circumstances mentioned in subsection (1) above, and
  - (d) the same sum or a part of it would (apart from this subsection) fall to be included in the total outstanding amount found for the time the event occurs,
- the sum or part (as the case may be) shall not be included in the total outstanding amount found for the time the other chargeable event occurs.
- (10) In ascertaining for the purposes of this section whether a repayment is in respect of a particular amount, amounts borrowed earlier shall be taken to be repaid before amounts borrowed later.
- (11) Subsections (3) to (7) of section 68 above shall apply where tax is assessed by virtue of this section as they apply where tax is assessed by virtue of that section.

#### Textual Amendments

- F78** Words in s. 71(4)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 408\(a\)](#) (with [Sch. 2](#))
- F79** S. 71(4)(b)(ba)(bb) substituted for s. 71(4)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 408\(b\)](#) (with [Sch. 2](#))
- F80** Word in s. 71(4)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(4\)\(a\)\(7\)](#)
- F81** Word in s. 71(4)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(4\)\(b\)\(7\), Sch. 26 Pt. 3\(15\)](#)
- F82** S. 71(4)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(2\)\(b\)\(5\), Sch. 26 Pt. 3\(15\)](#)

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

- C15** See [Finance Act 1990 \(c. 29\) ss.31–40—roll-over relief for disposal of assets to employee share ownership trusts](#)

## 72 Limit on chargeable amount.

- (1) For the purposes of this section each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
- (a) an event which is a chargeable event by virtue of section 69 above;
  - (b) an event which is a chargeable event by virtue of section 71 above.

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- (2) If a chargeable event (the event in question) occurs in relation to the trustees of an employee share ownership trust, the following rules shall apply—
  - (a) the amount which would (apart from this subsection) be the chargeable amount for the event in question shall be aggregated, for the purposes of paragraph (b) below, with the chargeable amounts for other chargeable events (if any) occurring in relation to the trustees before the event in question,
  - (b) if the amount which would (apart from this subsection) be the chargeable amount for the event in question (or the aggregate found under paragraph (a) above, if there is one) exceeds the deductible amount, the chargeable amount for the event in question shall be the amount it would be apart from this subsection less an amount equal to the excess, and
  - (c) section 70(2) and (3) and section 71(5) above shall have effect subject to paragraph (b) above.
- (3) For the purposes of subsection (2) above the deductible amount (as regards the event in question) is an amount equal to the total of the sums falling within subsection (4) below.
- (4) A sum falls within this subsection if it has been received by the trustees before the occurrence of the event in question and—
  - (a) it has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, before the occurrence of that event, or
  - (b) it would fall to be so deducted or treated if a claim for relief under section 67 above had been made immediately before the occurrence of that event.

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

**C16** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

## 73 Information.

- (1) An inspector may by notice in writing require a return to be made by the trustees of an employee share ownership trust if they have at any time received a sum which has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.
- (2) Where he requires such a return to be made the inspector shall specify the information to be contained in it.
- (3) The information which may be specified is information the inspector needs for the purposes of sections 68 to 72 above, and may include information about—
  - (a) sums received (including sums borrowed) by the trustees;
  - (b) expenditure incurred by them;
  - (c) assets acquired by them;
  - (d) transfers of assets made by them.
- (4) The information which may be required under subsection (3)(a) above may include the persons from whom the sums were received.
- (5) The information which may be required under subsection (3)(b) above may include the purpose of the expenditure and the persons receiving any sums.

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- (6) The information which may be specified under subsection (3)(c) above may include the persons from whom the assets were acquired and the consideration furnished by the trustees.
- (7) The information which may be included under subsection (3)(d) above may include the persons to whom assets were transferred and the consideration furnished by them.
- (8) In a case where a sum has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, the inspector shall send to the trustees to whom the payment was made a certificate stating—
- (a) that a sum has been so deducted or so treated, and
  - (b) what sum has been so deducted or so treated.
- (9) In the Table in section 98 of the <sup>M3</sup>Taxes Management Act 1970 (penalties for failure to comply with notices etc.) at the end of the first column there shall be inserted— “Section 73 of the Finance Act 1989”.

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

**C17** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

**Marginal Citations**

**M3** 1970 c. 9.

**74 Interpretation.**

Schedule 5 to this Act shall have effect to determine whether, for the purposes of sections 67 to 73 above, a trust is at a particular time—

- (a) an employee share ownership trust;
- (b) a qualifying employee share ownership trust.

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

**C18** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

*Pensions etc.*

<sup>F83</sup>**75 Retirement benefits schemes.**

.....

**Textual Amendments**

**F83** [Ss. 75-77](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

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**F83 76 Non-approved retirement benefits schemes.**

.....

**Textual Amendments**

**F83** Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F83 77 Personal pension schemes.**

.....

**Textual Amendments**

**F83** Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

*Unit trusts etc.*

**78, 79. .... F84**

**Textual Amendments**

**F84** Ss. 78, 79 repealed by Finance Act 1990 (c. 29, SIF 58), s.132, Sch. 19 Pt. IV Note

**F85 80 .....**

**Textual Amendments**

**F85** S. 80 repealed (31.7.1998) by 1998 c. 36, s. 165, Sch. 27 Pt. III(23)

**81 Offshore funds operating equalisation arrangements.**

- (1) In section 758 of the Taxes Act 1988 (offshore funds operating equalisation arrangements) in subsection (6) (reference to section 78 of the <sup>M4</sup> Capital Gains Tax Act 1979 not to include reference to it as applied by section 82) for the words “but not” there shall be substituted the words “and a reference to section 78”.
- (2) This section shall apply where a conversion of securities occurs on or after 14th March 1989; and “conversion of securities” here has the same meaning as in section 82 of the Capital Gains Tax Act 1979.

**Marginal Citations**

**M4** 1979 c. 14.

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)

## *Life assurance*

### <sup>F86</sup>**82 Calculation of profits: bonuses etc**

.....

#### **Textual Amendments**

**F86** S. 82 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 49](#)

### <sup>F87</sup>**82A Calculation of profits: policy holders' tax**

.....

#### **Textual Amendments**

**F87** S. 82A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 50](#)

### <sup>F88</sup>**82B Unappropriated surplus on valuation**

.....

#### **Textual Amendments**

**F88** S. 82B omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 51](#)

### <sup>F89</sup>**82C Relevant financial reinsurance contracts**

.....

#### **Textual Amendments**

**F89** S. 82C repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 9](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

### <sup>F90</sup>**82D. Treatment of profits: life assurance — adjustment consequent on change in Insurance Prudential Sourcebook**

.....

#### **Textual Amendments**

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

### <sup>F90</sup>**82E. Section 82D: treatment of transferors under insurance business transfer schemes**

.....

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#### Textual Amendments

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

### <sup>F90</sup>**82F. Section 82D: treatment of transferees under insurance business transfer schemes**

.....

#### Textual Amendments

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

### <sup>F92</sup>**83 Receipts to be [<sup>F91</sup>taken] into account.**

.....

#### Textual Amendments

**F91** Word in s. 83 heading substituted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 2\(10\)](#)

**F92** S. 83 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 53](#)

### <sup>F93</sup>**83XA Structural assets**

.....

#### Textual Amendments

**F93** S. 83XA omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 54](#)

### <sup>F94</sup>**83YA Changes in value of assets brought into account: non-profit companies**

.....

#### Textual Amendments

**F94** S. 83YA omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 55](#)

### <sup>F95</sup>**83YB Meaning of “appropriate line 51 amount” for purposes of s.83YA**

.....

#### Textual Amendments

**F95** S. 83YB omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 55](#)



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<sup>F96</sup>**83YCFAFTS: charge in relevant period of account**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

<sup>F96</sup>**83YDFAFTS: deduction in subsequent periods of account**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

<sup>F96</sup>**83YERegulations: apportionment and redefining “financial reinsurance arrangement”**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

<sup>F96</sup>**83YFFinancial reinsurance arrangements: further provision**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

<sup>F97</sup>**83ZAContingent loans**

.....

**Textual Amendments**

**F97** S. 83ZA omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 1\(4\)](#) (with [Sch. 17 para. 4\(4\)](#))

<sup>F98</sup>**83A Meaning of “brought into account”.**

.....

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**Textual Amendments**  
**F98** S. 83A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 57](#)

**<sup>F99</sup>83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988**  
.....

**Textual Amendments**  
**F99** S. 83B omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 58](#)

**<sup>F100</sup>83AA Amounts added to long term insurance fund of a company in excess of that company’s loss.**  
.....

**Textual Amendments**  
**F100** S. 83AA repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(b\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**<sup>F101</sup>83AB Treatment of surplus where there is a subsequent transfer of business from the company etc.**  
.....

**Textual Amendments**  
**F101** S. 83AB repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(c\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**84 Interpretation of sections 85 to 89 and further provisions about insurance companies.**

- <sup>F102</sup>(1)** .....
- <sup>F103</sup>(2)** .....
- <sup>F104</sup>(3)** .....
- <sup>F105</sup>(4)** .....
- <sup>F106</sup>(5)** .....
- <sup>F107</sup>(6)** .....

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#### Textual Amendments

- F102** S. 84(1) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)  
**F103** S. 84(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), [Sch. 27 Pt. 2\(10\)](#)  
**F104** S. 84(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), [Sch. 27 Pt. 2\(10\)](#)  
**F105** S. 84(4) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(a\)\(i\)](#)  
**F106** S. 84(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), [Sch. 27 Pt. 2\(10\)](#)  
**F107** S. 84(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), [Sch. 27 Pt. 2\(10\)](#)

### <sup>F108</sup>**85 Charge of certain receipts of basic life assurance business.**

.....

#### Textual Amendments

- F108** S. 85 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 59](#)

### <sup>F110</sup>**85A Excess adjusted [<sup>F109</sup>life assurance trade] profits**

.....

#### Textual Amendments

- F109** Words in s. 85A heading substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 349\(8\)](#) (with Sch. 2 Pts. 1, 2)  
**F110** S. 85A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 60](#)

### <sup>F111</sup>**86 Spreading of relief for acquisition expenses.**

.....

#### Textual Amendments

- F111** S. 86 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 61](#)

### <sup>F112</sup>**87 Management expenses.**

.....

#### Textual Amendments

- F112** S. 87 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(d), [Sch. 27 Pt. 2\(10\)](#)

### <sup>F114</sup>**88 Corporation tax: policy holders' [<sup>F113</sup>share] of profits.**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

**Textual Amendments**

**F113** Word in s. 88 heading substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 15(3)**

**F114** S. 88 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 62**

**F115 88A Lower corporation tax rate on certain insurance company profits.**

**Textual Amendments**

**F115** S. 88A repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 13(3)**, **Sch. 43 Pt. 3(12)**

**F116 89 Policy holders’ share of profits.**

**Textual Amendments**

**F116** S. 89 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 63**

**F117 89A Modification of sections 82 to 83A, 88 and 89 in relation to overseas life insurance companies.**

**Textual Amendments**

**F117** S. 89A repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), **reg. 1, Sch. Pt. 1**

**F118 90 Life policies etc. held by companies.**

**Textual Amendments**

**F118** S. 90 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 14 para. 17(a)**

**F119 90A Interpretation**

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)

#### Textual Amendments

**F119** S. 90A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(3\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

### Underwriters

#### <sup>F120</sup>**91 Premiums trust funds: stock lending.**

.....

#### Textual Amendments

**F120** S. 91 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

#### **92 Regulations about underwriters etc.**

<sup>F121</sup>(1) .....

<sup>F121</sup>(2) .....

<sup>F122</sup>(3) .....

<sup>F123</sup>(4) .....

<sup>F123</sup>(5) .....

<sup>F123</sup>(6) .....

<sup>F123</sup>(7) .....

#### Textual Amendments

**F121** S. 92(1)(2) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

**F122** S. 92(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

**F123** S. 92(4)-(7) repealed (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34](#), s. 213, [Sch. 23 Pt. III\(12\)](#) Note 5

### Securities

#### <sup>F124</sup>**93** .....

#### Textual Amendments

**F124** S. 93 repealed (29.4.1996 with effect as mentioned in [s. 105\(1\)](#) of the amending Act) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#), note

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for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

<sup>F125</sup>94 .....

#### Textual Amendments

**F125** S. 94 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3), note

<sup>F126</sup>95 .....

#### Textual Amendments

**F126** S. 95 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3), note

### 96 Securities: miscellaneous.

<sup>F127</sup>(1) .....

<sup>F128</sup>(2) .....

<sup>F129</sup>(3) .....

<sup>F130</sup>(4) .....

#### Textual Amendments

**F127** S. 96(1) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

**F128** S. 96(2) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 3 Pt. 1 (with Sch. 2)

**F129** S. 96(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 12 (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F130** S. 96(4) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

### *Groups of companies*

#### [<sup>F131</sup>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.]

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)

### Textual Amendments

**F131** **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

## [<sup>F132</sup>98 Restriction on set-off of ACT.

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

### “ 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;

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- (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.
- (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

**F132** 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

**F133** 99 .....

#### Textual Amendments

**F133** 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



*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I. (See end of Document for details)

**F134 100 Change in ownership of company.**

.....

**Textual Amendments**

**F134** 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](#))

**F135 101 Treatment of convertible shares or securities for purposes relating to group relief etc.**

.....

**Textual Amendments**

**F135** 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](#))

**F136 102 Surrender of company tax refund etc. within group.**

.....

**Textual Amendments**

**F136** 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](#))

*Close companies*

**103 Repeal of apportionment provisions.**

- (1) Except as provided by subsection (2) below, Chapter III of Part XI of the Taxes Act 1988 (apportionment of undistributed income etc. of close companies) shall not have effect in relation to accounting periods beginning after 31st March 1989.
- (2) Section 427(4) of the Taxes Act 1988 (which gives relief to an individual where income apportioned to him in an earlier accounting period of a close company is included in a distribution received by him in a later accounting period), and section 427(5) of, and Part I of Schedule 19 to, that Act so far as they relate to section 427(4), shall continue to have effect in any case where the subsequent distribution referred to in section 427(4) is made before 1st April 1992.

**F137 104 Meaning of “close company”.**

.....

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 for the Finance Act 1989, CHAPTER I. (See end of Document for details)*

#### Textual Amendments

**F137** S. 104 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](#))

### <sup>F138</sup>**105 Small companies' rate not available to certain close companies.**

.....

#### Textual Amendments

**F138** S. 105 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](#))

### [<sup>F139</sup>**106 Restriction on payment of tax credits.**

- (1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) in subsection (3) after the words “made and” there shall be inserted the words “subject to subsections (3A) to (3D) below” and after that subsection there shall be inserted—

“(3A) Subject to subsection (3B) below, where it appears to the inspector that, in any accounting period of a company at the end of which it is a close investment-holding company—

- (a) arrangements relating to the distribution of the profits of the company exist or have existed the main purpose of which or one of the main purposes of which is to enable payments, or payments of a greater amount, to be made to any one or more individuals under subsection (3) above in respect of such an excess as is mentioned in that subsection, and
- (b) by virtue of those arrangements, any eligible person—
  - (i) receives a qualifying distribution consisting of a payment made by the company on the redemption, repayment or purchase of its own shares, or
  - (ii) receives any other qualifying distribution in respect of shares in or securities of the company, where the amount or value of the distribution is greater than might in all the circumstances have been expected but for the arrangements,

the entitlement of the eligible person to have paid to him under subsection (3) above all or part of a tax credit in respect of any distribution made by the company in the period shall be restricted to such extent as appears to the inspector to be just and reasonable.

- (3B) Subsection (3A) above does not apply in relation to a tax credit in respect of a dividend paid by a company in any accounting period in respect of its ordinary share capital if—

- (a) throughout the period, the company's ordinary share capital consisted of only one class of shares, and
- (b) no person waived his entitlement to any dividend which would have become payable by the company in the period or failed to receive any

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dividend which had become due and payable to him by the company in the period.

(3C) In subsection (3A) above—

“arrangements” means arrangements of any kind whether in writing or not,

“close investment-holding company” has the meaning given by section 13A, and

“eligible person”, in relation to a qualifying distribution, means an individual resident in the United Kingdom who would (apart from subsection (3A) above) be entitled to have paid to him under subsection (3) above all or part of a tax credit in respect of the distribution.

(3D) In determining under subsection (3) above whether a person is entitled to have any excess of tax credit paid to him in a case where subsection (3A) above applies, tax credits shall be set against income tax in the order that results in the greatest payment in respect of the excess.”

(2) This section shall have effect in relation to distributions made by companies in accounting periods beginning after 31st March 1989.]

#### Textual Amendments

**F139** S. 106 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, Sch. 8 Pt. II(9), note 3

### 107 Close companies: consequential amendments.

Schedule 12 to this Act (in which Part I contains administrative provisions relating to close companies and Part II makes amendments connected with section 103 above) shall have effect.

*Settlements etc.*

**F140** 108 .....

#### Textual Amendments

**F140** S. 108 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(8), note

### 109 Settlements where settlor retains interest in settled property.

**F141** (1) .....

**F141** (2) .....

**F141** (3) .....

**F142** (4) .....

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### Textual Amendments

- F141** S. 109(1)-(3) repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note
- F142** S. 109(4) repealed (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005** (c. 5), s. 883(1), **Sch. 3** (with **Sch. 2**)

## <sup>F143</sup>**110 Residence of trustees.**

.....

### Textual Amendments

- F143** S. 110 repealed (with effect in relation to payments made on or after 6.4.2006) by **Finance Act 2006** (c. 25), **Sch. 13 para. 28(2)(c)(5)**, **Sch. 26 Pt. 3(15)**

## **111 Residence of personal representatives.**

<sup>F144</sup>(1) .....

<sup>F144</sup>(2) .....

<sup>F144</sup>(3) .....

(4) In section 824(9) of the Taxes Act 1988 (repayment supplements), for the words from “or, in” to “section 701)” there shall be substituted the words “or personal representatives (within the meaning of section 111 of the Finance Act 1989)”.

(5) <sup>F145</sup>... this section shall apply for the year 1989-90 and subsequent years of assessment.

<sup>F146</sup>(6) .....

<sup>F146</sup>(7) .....

<sup>F146</sup>(8) .....

### Textual Amendments

- F144** S. 111(1)-(3) repealed (6.4.2007) by **Income Tax Act 2007** (c. 3), s. 1034(1), **Sch. 1 para. 280(a)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F145** Words in s. 111(5) repealed (6.4.2007) by **Income Tax Act 2007** (c. 3), s. 1034(1), **Sch. 1 para. 280(b)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F146** S. 111(6)-(8) repealed (6.4.2007) by **Income Tax Act 2007** (c. 3), s. 1034(1), **Sch. 1 para. 280(a)**, **Sch. 3 Pt. 1** (with **Sch. 2**)

## *Miscellaneous*

## <sup>F147</sup>**112 Security: trades etc.**

.....

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#### Textual Amendments

**F147** S. 112 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 410](#), [Sch. 3](#) (with [Sch. 2](#))

### <sup>F148</sup>**113 Security: trades etc. (supplementary).**

.....

#### Textual Amendments

**F148** S. 113 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 410](#), [Sch. 3](#) (with [Sch. 2](#))

### <sup>F149F150</sup>**114 Relief for pre-trading expenditure.**

.....

#### Textual Amendments

**F149** S. 114 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**F150** S. 114 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

### <sup>F151</sup>**115 Double taxation: tax credits.**

.....

#### Textual Amendments

**F151** S. 115 omitted (with effect in accordance with [Sch. 1 para. 73](#) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 54\(a\)](#)

### <sup>F152</sup>**116 .....**

#### Textual Amendments

**F152** S. 116 repealed (29.4.1996 with effect as mentioned in [s. 105\(1\)](#) of the amending Act) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#), note

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1989, CHAPTER I.