



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Corporation tax: currency

92 The basic rule: sterling to be used

Where a company carries on a trade, the profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to any regulations under section 93 or 94 below.

93 Currency other than sterling for trades

- (1) Regulations may provide that where a company carries on a trade the basic profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such currency (other than sterling) as is found in accordance with prescribed rules, in a case where—
 - (a) prescribed conditions are fulfilled, and
 - (b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.
- (2) For the purposes of this section the basic profits or losses of a trade for an accounting period are all the profits or losses of the trade for the period, but leaving out of account—
 - (a) any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the

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- Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges);
- (b) any amount mentioned in section 142(4) below and treated as received in respect of the trade and in respect of the period.
- (3) Subsections (4) and (5) below apply where the basic profits or losses of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling.
- (4) The amount of the basic profits or losses shall be treated for the purposes of corporation tax as the sterling equivalent of their amount expressed in the other currency.
- (5) The profits or losses of the trade for the period shall for the purposes of corporation tax be found by taking the amount of the basic profits or losses found in sterling under subsection (4) above and then—
- (a) taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990, and
- (b) taking account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the trade and in respect of the period.
- (6) For the purposes of subsection (4) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—
- (a) such rate of exchange as is found under prescribed rules, or
- (b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

94 Parts of trades

- (1) Regulations may make provision under this section as regards a case where in an accounting period—
- (a) a company carries on part of a trade in the United Kingdom, and carries on a different part of the trade through an overseas branch or different parts through different overseas branches, or
- (b) a company carries on different parts of a trade through different overseas branches;
- and “overseas branch” means a branch outside the United Kingdom.
- (2) Regulations may provide that the basic profits or losses of different parts of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such different currencies as are found in accordance with prescribed rules, in a case where—
- (a) prescribed conditions are fulfilled, and
- (b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.
- (3) The regulations must be so framed that—
- (a) one currency is used for each part;
- (b) at least two currencies are used;
- (c) subject to paragraph (b) above, the same currency may be used for more than one part;

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- (d) if no election is made as regards a particular part, sterling is to be used for that part.
- (4) For the purposes of this section the basic profits or losses of part of a trade for an accounting period are all the profits or losses of the part for the period; but this is subject to subsections (5) and (6) below.
- (5) No account shall be taken of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges).
- (6) Where the basic profits or losses of the part of the trade for the period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling, no account shall be taken of any amount mentioned in section 142(4) below and treated as received in respect of the part of the trade and in respect of the period.
- (7) Where the basic profits or losses of different parts of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in two or more different currencies, subsections (8) to (10) below have effect for finding the profits or losses of the trade for the period for the purposes of corporation tax.
- (8) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in a currency other than sterling—
- (a) find the sterling equivalent of their amount expressed in the other currency, then
 - (b) take account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the part and in respect of the period, then
 - (c) call the result the accountable profits or losses of the part for the period.
- (9) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in sterling, take those profits or losses and call them the accountable profits or losses of the part for the period.
- (10) The profits or losses of the trade for the period for the purposes of corporation tax shall then be found by—
- (a) taking account of the accountable profits or losses of the different parts for the period, and
 - (b) then taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990.
- (11) For the purposes of subsection (8) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—
- (a) such rate of exchange as is found under prescribed rules, or
 - (b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

95 Currency to be used: supplementary

- (1) Regulations under section 93 or 94 above may include—
- (a) provision that an election may in prescribed circumstances have effect from a time before it is made;

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- (b) provision that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (c) below);
 - (c) provision that prescribed conditions shall be treated as not having been fulfilled if the inspector notifies the company that he is not satisfied that they are fulfilled;
 - (d) provision for an appeal from the inspector's notification;
- and any provision under paragraph (c) above may allow a notification to be made after the accounting period ends.
- (2) The power to make regulations under section 93 or 94 above shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
 - (3) In sections 93 and 94 above "prescribed" means prescribed by regulations made under the section concerned.
 - (4) Where as regards a trade and for an accounting period—
 - (a) an election is made under regulations made under section 93 above, or
 - (b) an election is made under regulations made under section 94 above,
 no election may be made as regards the trade for the period under regulations made under the other section.
 - (5) For the purposes of sections 93 and 94 above the ecu shall be regarded as a currency other than sterling; and the reference here to the ecu is to the European currency unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.
 - (6) Sections 92 to 94 above apply in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.

96 Foreign companies: trading currency

- (1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—
 - “4A (1) Sub-paragraph (2) below applies where—
 - (a) the company carries on a trade, and
 - (b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.
 - (2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.
 - (3) References in this paragraph to the accounts of a company—
 - (a) are to the accounts which the company is required by the law of its home State to keep, or
 - (b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed

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and registered under the Companies Act 1985 are required by that Act to keep;

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

- (4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993.”
- (2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.