



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Interest: general

55 Relief for interest

For the year 1993-94 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.

56 Interest relief: substitution of security

The following sections shall be inserted after section 357 of the Taxes Act 1988—

“357A Substitution of security

- (1) Subject to subsection (9) below, this section applies where—
 - (a) on or after 16th March 1993 a person purchases an estate or interest in land or the property in a caravan or house-boat (the new estate, interest or property), and
 - (b) a security substitution arrangement takes effect on or after that date in connection with the purchase.
- (2) Subsection (3) below applies where—
 - (a) the arrangement mentioned in subsection (1) above relates to one existing loan only, and

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- (b) no other security substitution arrangement takes effect at the same time in connection with the purchase of the new estate, interest or property.
- (3) As regards interest paid on the loan after the time the new estate, interest or property became security for the loan, the loan shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—
 - (a) it had been made at that time, and
 - (b) so much of it as was then outstanding and did not exceed the relevant amount had been used at that time to defray money applied in purchasing the new estate, interest or property.
- (4) Subsection (5) below applies where either—
 - (a) the arrangement mentioned in subsection (1) above relates to two or more existing loans, or
 - (b) two or more security substitution arrangements take effect at the same time in connection with the purchase of the new estate, interest or property.
- (5) As regards interest paid on the loans after the time the new estate, interest or property became security for the loans, the loans shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—
 - (a) they had been made at that time, and
 - (b) they had been used at that time to defray money applied in purchasing the new estate, interest or property;

but in any case where at that time the aggregate of the amounts of the loans outstanding exceeded the relevant amount, the loans shall be treated as mentioned in paragraph (b) above only to the extent that the aggregate did not exceed the relevant amount.
- (6) For the purposes of this section the relevant amount is—
 - (a) where there is no loan falling within subsection (7) below, an amount equal to the purchase price of the new estate, interest or property;
 - (b) where there is one loan falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the amount of that loan;
 - (c) where there are two or more loans falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the total of the amounts of those loans.
- (7) A loan falls within this subsection if—
 - (a) it is at the relevant time, or was before the relevant time, actually used to any extent to defray money applied in purchasing the new estate, interest or property, or
 - (b) by virtue of an earlier security substitution arrangement, it is treated to any extent as if before the relevant time it had been used to defray money so applied;

but a loan does not fall within this subsection unless interest on the loan is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

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- (8) For the purposes of subsection (7) above the relevant time is the time when under the arrangement mentioned in subsection (1) above the new estate, interest or property becomes security for the existing loan or loans.
- (9) This section does not apply in relation to a security substitution arrangement if, as regards the new estate, interest or property—
- (a) there is at least one loan falling within subsection (7) above, and
 - (b) the amount of that loan or (if there is more than one) the total of the amounts of those loans is the same as the purchase price of the new estate, interest or property.
- (10) For the purposes of subsections (6) and (9) above the amount of a loan is its amount when made, except that where—
- (a) a loan falls within subsection (7) above by virtue of the fact that it is or was partly used to defray money applied in purchasing the new estate, interest or property, or
 - (b) a loan falls within that subsection by virtue of the fact that it is treated as if it had been partly so used,
- the amount of the loan shall be taken for the purposes of subsections (6) and (9) above to be the amount of the part so used or (as the case may be) treated as so used.

357B Treatment of loans following security substitution

- (1) This section applies where—
- (a) by virtue of section 357A a loan is treated to any extent as having been used at a particular time to defray money applied in purchasing the new estate, interest or property,
 - (b) after that time a loan (a new loan) is actually used to any extent to defray money applied in purchasing the new estate, interest or property, and
 - (c) interest on the new loan is (or would be apart from this section) eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).
- (2) Subject to subsection (4) below, as regards interest paid on the new loan after the time it is used as mentioned in subsection (1)(b) above (the material time), such part of the loan as was actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the amount of that part does not exceed the applicable amount.
- (3) Subsection (4) below applies in a case where—
- (a) two or more new loans are simultaneously used to any extent as mentioned in subsection (1)(b) above, and
 - (b) interest on each of them is or would be eligible for relief as mentioned in subsection (1)(c) above.
- (4) As regards interest paid on the new loans after the material time, such parts of the loans as were actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the aggregate of the amounts of those parts does not exceed the applicable amount.

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- (5) For the purposes of this section the applicable amount is the difference between—
- (a) the purchase price of the new estate, interest or property, and
 - (b) the amount of any relevant loan or, if there is more than one, the total amounts of the relevant loans.
- (6) For the purposes of subsection (5) above a relevant loan is a loan which—
- (a) before the material time was actually used to any extent to defray money applied in purchasing the new estate, interest or property, or
 - (b) by virtue of section 357A, is treated to any extent as if before the material time it had been used to defray money so applied;
- but a loan is not a relevant loan unless interest on it is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).
- (7) For the purposes of subsection (5) above the amount of a relevant loan is its amount when made, except that where—
- (a) a loan is a relevant loan by virtue of the fact that it was partly used to defray money applied in purchasing the new estate, interest or property, or
 - (b) a loan is a relevant loan by virtue of the fact that it is treated as if it had been partly so used,
- the amount of the loan shall be taken for the purposes of that subsection to be the amount of the part so used or (as the case may be) treated as so used.

357C Substitution of security: supplemental

- (1) An arrangement is a security substitution arrangement for the purposes of section 357A if—
- (a) under the arrangement the new estate, interest or property becomes security for an existing loan or existing loans,
 - (b) under the arrangement an estate or interest in land, or the property in a caravan or house-boat, ceases to be security for the loan or loans,
 - (c) the estate, interest or property mentioned in paragraph (b) above was not absorbed into, or given up to obtain, the new estate, interest or property,
 - (d) the loan or (as the case may be) at least one of the loans is a qualifying loan, and
 - (e) the circumstances are such that, had the loan or loans been used to defray money applied in purchasing the new estate, interest or property, interest on the loan or (as the case may be) on each of the loans would have been eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).
- (2) For the purposes of subsection (1) above a loan is a qualifying loan if, immediately before the arrangement took effect, interest on the loan was eligible for relief under section 353 by virtue of section 355(1)(a) or section 356(1).
- (3) In a case where—
- (a) paragraphs (a) to (d) of subsection (1) above apply in relation to an arrangement,

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- (b) the arrangement relates to two or more loans, and
 - (c) one or more of the loans is not a qualifying loan for the purposes of subsection (1) above,
any loan which is not a qualifying loan shall be ignored in applying subsection (1)(e) above.
- (4) Where a security substitution arrangement relates to two or more loans and one or more of them is not a qualifying loan for the purposes of subsection (1) above, any loan which is not a qualifying loan—
- (a) shall be left out of account in determining for the purposes of section 357A the number of existing loans to which the arrangement relates;
 - (b) shall not be treated as mentioned in section 357A(3) or (5);
 - (c) shall be left out of account in calculating for the purposes of section 357A(5) the aggregate of the amounts of the loans outstanding at the time the new estate, interest or property became security for them.
- (5) Subsection (6) below applies where—
- (a) the purchase mentioned in subsection (1) of section 357A is made jointly by the person mentioned in that subsection (the relevant person) and another person or other persons, and
 - (b) any of the money applied in the purchase is attributable to the relevant person and not to the other person or, as the case may be, attributable to the relevant person and not to all the other persons.
- (6) In relation to the relevant person—
- (a) the references in sections 357A and 357B to the new estate, interest or property shall be treated as references to his share of the new estate, interest or property, and
 - (b) the references in sections 357A and 357B to the purchase price of the new estate, interest or property shall be treated as references to so much of the money applied in purchasing the estate, interest or property as is attributable to him.
- (7) In determining for the purposes of this section and sections 357A and 357B whether interest is, was or would have been eligible for relief under section 353, section 353(2) shall be disregarded.”

57 Temporary relief for interest payments

- (1) In section 355 of the Taxes Act 1988 (conditions of relief on interest on loans to buy land), after subsection (1) there shall be inserted the following subsections—

“(1A) Where, in the case of any loan—

- (a) the condition specified in subsection (1)(a) above would not (apart from this subsection) be fulfilled with respect to any land, caravan or house-boat by reason of its having ceased at any time to be used by a particular person as his only or main residence; and
- (b) the borrower’s intention at that time was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of that land, caravan or house-boat,

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that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to that land, caravan or house-boat (as well as with respect to any other land, caravan or house-boat with respect to which it is in fact fulfilled) from that time until the end of that period or (if sooner) the abandonment by the borrower of his intention to dispose of the land, caravan or house-boat in question.

(1B) Where—

- (a) subsection (1A) above has effect in the case of any loan (“the first loan”) so that the condition specified in subsection (1)(a) above is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and
- (b) there is another loan raised by the borrower to defray money to be applied as mentioned in section 354(1) with a view to the use of any other land, caravan or house-boat as the borrower’s only or main residence,

interest on the other loan shall be treated as eligible for relief to the same extent (if any) as if no interest were payable on the first loan.”

(2) In subsection (2) of that section (extension of 12 month period in subsection (1)), after “subsection (1)” there shall be inserted “or (1A)”.

(3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

“(1A) Where, in the case of any loan—

- (a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and
- (b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case.”

(4) In consequence of subsections (1) to (3) above, that Act shall have effect with the following amendments—

- (a) in section 354(1), for “to (6)” there shall be substituted “to (4)”;
- (b) sections 354(5) and (6), 356D(9), 357(4) and 371 (second loans) shall cease to have effect;
- (c) in section 370(1), for “371” there shall be substituted “372”;
- (d) in section 370(6), after paragraph (b) there shall be inserted—

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- “and section 355(1A) shall have effect as if after the word “used” in paragraph (a) there were inserted the words “wholly or to a substantial extent”.”;
- (e) in section 370(7), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) subsections (1A) and (1B) of that section shall have effect as if—
- (i) after the word “used” in paragraph (a) of subsection (1A) there were inserted the words “wholly or partly”;
 - (ii) for the words “subsection (1)(a)”, wherever they occur, there were substituted the words “subsection (1)”;
 - (iii) for the words “land, caravan or house-boat”, wherever they occur without being immediately preceded by the word “other”, there were substituted the word “dwelling”; and
 - (iv) for the words “other land, caravan or house-boat”, wherever they occur, there were substituted the words “land, caravan or house-boat”; and”.
- (5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).
- (6) Where this section applies by virtue of subsection (5) above in a case where the condition specified in section 355(1)(a) or 365(1)(d) of the Taxes Act 1988 ceased to be fulfilled before 16th March 1993, the power of the Board by virtue of this section to extend the period specified in section 355(1A) or 365(1A) of that Act—
- (a) shall be exercisable in any case in relation to that period irrespective of when that period began in that case; and
 - (b) in so far as it is exercisable in relation to the period specified in section 355(1A) of that Act where an equivalent period has been extended in any case under section 354(6) or 371(2) or (3) of that Act, shall be deemed to have been exercised so that (subject to any further extensions) the period in question ends when that equivalent period would have ended.
- (7) In any case where—
- (a) section 355(1A) of the Taxes Act 1988 has effect in the case of any loan so that the condition specified in section 355(1)(a) of that Act is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and
 - (b) apart from the provisions of this section, section 27(3) or (4) of the Finance Act 1991 would have had effect in relation to any interest on that loan, or would have so had effect if any extension of the period which applies for the purposes of section 355(1A) of the Taxes Act 1988 were treated as an equivalent extension of the period which applied for the purposes of section 354(5) or 371(1) of that Act,
- the amendments made by section 27(1) and (2) of that Act of 1991 shall not apply in relation to that interest.

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58 Overclaims in respect of deductions of mortgage interest

- (1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

“(7) The following provisions of the Management Act, namely—

- (a) section 29(3)(c) (excessive relief),
- (b) section 30 (tax repaid in error etc.),
- (c) section 88 (interest), and
- (d) section 95 (incorrect return or accounts),

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) 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 a relief which was not due.”

- (2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

59 Interest payments to persons not ordinarily resident in UK

In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted “or” and after that paragraph there shall be inserted the following paragraph—

“(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1).”

60 Certain interest not allowed as a deduction

- (1) This section applies where—

- (a) a qualifying company becomes subject to a qualifying debt, and
- (b) the interest payable exceeds a commercial return on the capital repayable, expressing that capital in the settlement currency of the debt.

- (2) In computing the corporation tax chargeable for an accounting period of the company, so much of the excess interest as is paid in the accounting period shall not be allowed as a deduction against the total profits for the period (if it would be allowed apart from this section).

- (3) In this section—

“qualifying company” has the meaning given by section 152 below;
“qualifying debt” has the meaning given by section 153(10) below;
“settlement currency”, in relation to a debt, shall be construed in accordance with section 161 below.

- (4) This section applies where the company becomes subject to the debt (whether as the original debtor or otherwise) on or after the day which is its commencement day for the purposes of section 165 below.