



# Finance Act 1993

## 1993 CHAPTER 34

### PART II

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

### CHAPTER I

#### GENERAL

##### *Taxation of distributions etc.*

#### 77 Application of lower rate

- (1) In Chapter I of Part VI of the Taxes Act 1988 (taxation of company distributions), before section 208 there shall be inserted the following section—

##### **“207A Application of lower rate to company distributions**

- (1) Subject to section 686, so much of any person’s total income in any year of assessment as—

- (a) comprises income which is chargeable under Schedule F; and
- (b) in the case of an individual, is not income falling within section 1(2)(b),

shall by virtue of this section be charged for that year at the lower rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(aa) and (a).

- (2) So much of any person’s income as comprises income chargeable under Schedule F shall be treated for the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts as the highest part of his income.

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- (3) Subsection (2) above shall have effect subject to section 833(3) but shall otherwise have effect notwithstanding any provision requiring income of any description to be treated for the purposes of the Income Tax Acts (other than section 550) as the highest part of a person's income."
- (2) The section 207A inserted in the Taxes Act 1988 by subsection (1) above shall apply, as it applies to income chargeable under Schedule F, to any income which—
- (a) is chargeable to income tax under Case V of Schedule D;
  - (b) is such that, being a dividend or other distribution of a company not resident in the United Kingdom, it would be chargeable under Schedule F if the company were so resident; and
  - (c) is not such that tax is chargeable by virtue of section 65(5)(b) of that Act on the full amount of the actual sums received in the United Kingdom.
- (3) In section 249 of that Act (issues of share capital treated as income)—
- (a) in subsection (4)—
    - (i) for the words "basic rate", in each place where they occur, there shall be substituted "lower rate"; and
    - (ii) in paragraph (c), for "which is not chargeable at the lower rate and" there shall be substituted "to which (without prejudice to paragraph (a) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but shall be treated";

and
  - (b) in subsection (6)(b), for "basic rate" there shall be substituted "lower rate".
- (4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—
- (a) in paragraph (a), after "tax" there shall be inserted "at the lower rate";
  - (b) in paragraph (b), for "basic rate" there shall be substituted "lower rate"; and
  - (c) in paragraph (c), for the words from "which is not" to "that paragraph" there shall be substituted "to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection".
- (5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

## **78 Rate of advance corporation tax and tax credits**

- (1) In subsection (3) of section 14 of the Taxes Act 1988 (fraction for the purposes of advance corporation tax), in the words after the formula, for "is the percentage at which income tax at the basic rate" there shall be substituted "for the financial year 1993 is 22.5 and for any subsequent financial year is the percentage at which income tax at the lower rate".
- (2) Subsection (1) above shall have effect, subject to section 246(6) of that Act and the following provisions of this section, in relation to the financial year 1993 and subsequent financial years.
- (3) Subject to the following provisions of this section, the Tax Acts shall have effect in the case of any distribution in relation to which the rate of advance corporation tax is calculated by reference to the figure fixed by virtue of subsection (1) above for the

financial year 1993 as if the amount of the tax credit to which the recipient of the distribution is entitled were to be calculated under section 231(1) of the Taxes Act 1988 on the basis of a rate of advance corporation tax calculated for that financial year by reference to the lower rate for the year 1993-94, rather than by reference to the figure fixed by virtue of subsection (1) above.

- (4) Subject to the following provisions of this section—
- (a) subsection (3) above shall not apply in relation to the determination of the amount of any tax credit which under section 238(1) of the Taxes Act 1988 is to be aggregated with the amount or value of any distribution for the purpose of calculating the amount of any franked investment income; but
  - (b) references in any enactment to the payment of a tax credit comprised in any franked investment income, or to the payment of a tax credit in respect of any such income, shall have effect, in relation to any franked investment income the amount of which is calculated in accordance with paragraph (a) above, as references to the payment of the amount of that credit as determined in accordance with subsection (3) above.
- (5) Subsections (6) to (11) below shall have effect for the purposes of references in the Tax Acts to franked investment income so far as those references relate to income consisting of distributions in the case of which there is a difference by virtue of subsections (3) and (4) above between—
- (a) the amount of the tax credits determined in respect of the distributions in accordance with subsection (3) above; and
  - (b) the amount of those tax credits so far as they are comprised for the purposes of section 238(1) of the Taxes Act 1988 in that franked investment income.
- (6) Subject to the following provisions of this section, in sections 13(7), 236(5), 434, 438, 458, 490 and 802 of, and paragraph 1(8) of Schedule 19AB to, the Taxes Act 1988 (references to the profits of small companies, exempt funds, mutual businesses and certain insurance businesses), and in section 89 of the Finance Act 1989 (policyholders' share of profits), references to franked investment income shall be construed as references to franked investment income calculated using tax credits of amounts determined in accordance with subsection (3) above, instead of as references to franked investment income calculated in accordance with subsection (4)(a) above.
- (7) Sections 241(5), 438(5) and 441A(8) of the Taxes Act 1988 (use of franked investment income) and section 89(8) of the Finance Act 1989 (definition of “unrelieved” franked investment income) shall have effect as if the amounts specified in paragraphs (a) and (b) of subsection (5) above were the same so that, if—
- (a) tax credits determined in respect of any distributions in accordance with subsection (3) above have been paid, or
  - (b) in the case of section 441A(8), tax credits so determined are payable,
- there shall be no further amount of tax credits comprised in the franked investment income consisting of those distributions which is available for use for franking distributions or, as the case may be, which is unrelieved.
- (8) Where—
- (a) a claim is made under section 242(1) or 243(1) of the Taxes Act 1988 (set-off against franked investment income) for any accounting period in relation to any surplus of franked investment income; and
  - (b) the surplus to which the claim relates is or contains an amount of franked investment income (“the relevant amount”) which represents distributions

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the tax credits in respect of which are of amounts that would, apart from subsection (4)(a) above, be determined in accordance with subsection (3) above,

that claim shall be treated as confined to what would have been the amount of the surplus if the tax credits comprised in the relevant amount (but no other tax credits comprised in the franked investment income in question) had been of amounts so determined.

(9) Where—

- (a) for any accounting period there is a claim under section 242(1) or 243(1) of the Taxes Act 1988 to which subsection (8) above applies, and
- (b) apart from this subsection there would, after any reduction in pursuance of the claim, be an amount falling under section 241(3) of that Act to be carried forward as a surplus of franked investment income to any subsequent accounting period,

the amount to be so carried forward shall be further reduced by the amount representing the difference between an amount of franked investment income equal to the reduction in pursuance of the claim and calculated with subsection (3) above applying for determining the amount of tax credits comprised in it and the equivalent amount of franked investment income calculated without regard to that subsection.

- (10) Without prejudice to subsection (8) above, the reference in section 243(1) of the Taxes Act 1988 to the amount up to which a surplus of franked investment income may be taken into account under section 393(1) of that Act shall have effect as if franked investment income taken into account by virtue of section 393(8) of that Act were to be calculated using tax credits of amounts determined in accordance with subsection (3) above.
- (11) Subsection (6) above shall not apply to the references to franked investment income in section 434(3) of the Taxes Act 1988 (policy-holder's share not to be used for franking); but this subsection shall be without prejudice to the effect of subsections (8) and (9) above in relation to a case in which a surplus of franked investment income for any accounting period is determined in accordance with section 434(3) of that Act.
- (12) In section 246 of the Taxes Act 1988 (charge of ACT at previous rate), in subsections (1), (2) and (4), for the words “basic rate”, wherever they occur, there shall be substituted “lower rate”.
- (13) Subsection (12) above shall have effect in relation to the financial year 1994 and subsequent financial years.

## **79 Provisions supplemental to sections 77 and 78**

- (1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.
- (2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—
  - (a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, “under section 462(2) as applied by section 686(4) or”; and

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(b) that subsection included the following paragraph—

“(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;”.

(3) Subject to section 686(2A) of the Taxes Act 1988 but notwithstanding anything in section 207A(2) and (3) of that Act, the expenses of any trustees in any year of assessment, so far as they are properly chargeable to income (or would be so chargeable but for any express provisions of the trust), shall be treated as set against so much (if any) of any income as is chargeable to tax in accordance with section 207A of that Act before being set against any other income.

## **80 Transitional relief for charities etc**

(1) In any case where—

- (a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;
- (b) the recipient of the distribution is a section 505 body; and
- (c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,

the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

(2) The amount referred to in subsection (1) above is an amount equal to—

- (a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;
- (b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;
- (c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;
- (d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.

(3) For the purposes of this section each of the following is a section 505 body—

- (a) any charity (as defined in section 506(1) of the Taxes Act 1988);
- (b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
- (c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

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- (5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.
- (6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.
- (7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.
- (8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

## **81 Restriction of set-off of ACT**

In section 245 of the Taxes Act 1988 (calculation etc. of ACT on change of ownership of company) after subsection (3) there shall be inserted the following subsections—

- “(3A) No advance corporation tax paid by the company in respect of distributions made in an accounting period ending after the change of ownership shall be treated under section 239(3) as paid by it in respect of distributions made in an accounting period beginning before 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.
- (3B) Subsection (3A) above applies in relation to changes in ownership occurring on or after 16th March 1993.”