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# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

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

### CHAPTER I

#### GENERAL

##### *Income tax: charge, rates and reliefs*

#### **F175 Charge and rates of income tax for 1994-95.**

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##### **Textual Amendments**

**F1** S. 75 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### **F276 Personal allowance.**

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##### **Textual Amendments**

**F2** S. 76 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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**77 Rate of relief to married couples etc.**

(1) “ The provisions of section 256 of the Taxes Act 1988 (general provision as to personal reliefs) shall become subsection (1) of that section and after that subsection there shall be inserted the following subsections— ”

“(2) Where under any provision of this Chapter the relief to which a person is entitled for any year of assessment consists in an income tax reduction calculated by reference to a specified amount, the effect of that relief shall be that the amount of that person’s liability for that year to income tax on his total income shall be the amount to which he would have been liable apart from that provision less whichever is the smaller of—

- (a) the amount equal to 20 per cent. of the specified amount; and
- (b) the amount which reduces his liability to nil.

(3) In determining for the purposes of subsection (2) above the amount of income tax to which a person would be liable apart from any provision providing for an income tax reduction, no account shall be taken—

- (a) where that provision is section 259 or 261A, of any income tax reduction under any of the other provisions of this Chapter;
- (b) where that provision is section 262(1), of any income tax reduction under any of the other provisions of this Chapter except section 259 or 261A; or
- (c) whatever that provision—
  - (i) of 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 or by way of a credit under section 790(1); or
  - (ii) of 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;

but paragraph (a) above, so far as it relates to any income tax reduction under section 261A, is without prejudice to the provisions of subsection (2) of that section.”

(2) In section 257A of that Act (married couple’s allowance)—

- <sup>F3</sup>(a) .....
- (b) in subsection (2), for the words from “to a deduction” to “the deduction” there shall be substituted “ for that year to an income tax reduction calculated by reference to £2,665 (instead of to the reduction ”; and
- (c) in subsection (3), for the words from “to a deduction” to “the deduction” there shall be substituted “ for that year to an income tax reduction calculated by reference to £2,705 (instead of to the reduction ”.

<sup>F4</sup>(3) .....

<sup>F4</sup>(4) .....

<sup>F5</sup>(5) .....

(6) The Taxes Act 1988 and the <sup>M1</sup>Taxes Management Act 1970 shall have effect with the amendments specified in Schedule 8 to this Act (which supplements the provisions of this section).

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(7) This section and Schedule 8 to this Act shall have effect for the year 1994-95 and, subject to the following provisions of this section, for subsequent years of assessment.

<sup>F6</sup>(8) .....

<sup>F6</sup>(9) .....

<sup>F6</sup>(10) .....

#### Textual Amendments

- F3** S. 77(2)(a) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(3), Note 2 in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(3)**, Note 2
- F4** S. 77(3)(4) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(4), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(4)**, Note
- F5** S. 77(5) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(5), Note 2 in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(5)**, Note 2
- F6** S. 77(8)-(10) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### Marginal Citations

- M1** 1970 c. 9.

<sup>F7</sup>78 **Amount by reference to which MCA is reduced.**

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#### Textual Amendments

- F7** S. 78 repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**79 Relief for maintenance payments.**

(1) Sections 347A and 347B of the <sup>M2</sup>Taxes Act 1988 <sup>F8</sup> . . . (which contain provision with respect to the deductions from income allowed on account of maintenance payments) shall have effect in relation to payments becoming due on or after 6th April 1994 with the following modifications.

<sup>F9</sup>(2) .....

<sup>F10</sup>(3) .....

<sup>F10</sup>(4) .....

<sup>F10</sup>(5) .....

<sup>F10</sup>(6) .....

<sup>F9</sup>(7) .....

<sup>F9</sup>(8) .....

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#### Textual Amendments

- F8** Words in s. 79(1) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(6), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(6)**, Note
- F9** S. 79(2)(5)(7)(8) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(6), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(6)**, Note
- F10** S. 79(3)-(6) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with **Sch. 2**)

#### Marginal Citations

- M2** 1988 c. 39.

### 80 Limit on relief for interest.

For each of the years 1994-95 and 1995-96 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.

### 81 Mortgage interest relief etc.

- (1) For subsection (1) of section 353 of the Taxes Act 1988 (general provision for relief for interest payments) there shall be substituted the following subsection—

“(1) Where a person pays interest in any year of assessment, that person, if he makes a claim to the relief, shall for that year of assessment be entitled (subject to sections 354 to 368) to relief in accordance with this section in respect of so much (if any) of the amount of that interest as is eligible for relief under this section by virtue of sections 354 to 365.”

- (2) After that subsection there shall be inserted the following subsections—

“(1A) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

- (a) is eligible for that relief by virtue of section 354 or 365, and
- (b) so far as eligible by virtue of section 354, is so eligible in a case which falls, or is treated as falling, within section 355(1)(a), 356 or 358,

that relief shall consist in an income tax reduction for that year calculated by reference to that amount.

(1B) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

- (a) is eligible for that relief otherwise than by virtue of section 354 or 365, or
- (b) is eligible for that relief by virtue of section 354 in a case falling within section 355(1)(b),

that relief shall consist (subject to sections 237(5)(b) and 355(4)) in a deduction or set-off of that amount from or against that person’s income for that year.

(1C) Without prejudice to subsection (1E) below, where the whole or any part of an amount of interest is eligible for relief under this section by virtue of section 354 in a case which (apart from this subsection) would fall, or be treated as falling, within both section 355(1)(a) or 356 and section 355(1)(b),

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then that case shall be treated for the purposes of this section and the following provisions of this Act—

- (a) except in relation to payments to which an election made for the purposes of this subsection by the person entitled to the relief applies, as falling within section 355(1)(b) and not within section 355(1)(a) or 356; and
- (b) in relation to payments to which such an election does apply, as falling within section 355(1)(a) or, as the case may be, 356, and not within section 355(1)(b).

(1D) An election for the purposes of subsection (1C)—

- (a) shall be made, and may be withdrawn, by the giving of written notice to an officer of the Board;
- (b) shall apply to every payment of interest which—
  - (i) is made after the time specified in the notice of that election as the time as from which it takes effect; and
  - (ii) is not made after a time specified in a notice of the withdrawal of that election as the time as from which that election is withdrawn;
- (c) shall not be made so as to take effect as from any time except the beginning of a year of assessment or a time as from which the conditions for the case to fall, or be treated as falling, within both section 355(1)(a) or 356 and section 355(1)(b) have begun to be satisfied in relation to payments of interest on the loan in question;
- (d) shall not be withdrawn except as from the beginning of a year of assessment; and
- (e) shall not be made so as to take effect, and shall not be withdrawn, as from any time before the beginning of the year of assessment immediately before that in which the notice of the election or, as the case may be, of the withdrawal is given to an officer of the Board.

(1E) Where any person is entitled for any year of assessment to relief under this section in respect of any amount of interest as is eligible for that relief partly as mentioned in subsection (1A) above and partly as mentioned in subsection (1B) above, that amount of interest shall be apportioned between the cases to which each of those subsections applies without regard to what parts of the total amount borrowed remain outstanding but according to the following factors, that is to say—

- (a) the proportions of the total amount borrowed which were applied for different purposes; and
- (b) in the case of so much of any amount of interest which is, or in pursuance of an apportionment under paragraph (a) above is treated as, eligible for relief by virtue of section 354, the different uses to which the land or other property in question is put from time to time;

and subsection (1A) or (1B) above shall apply accordingly in relation to the interest apportioned to the case to which that subsection applies.

(1F) Where any person is entitled under this section for any year of assessment to an income tax reduction calculated by reference to an amount of interest, the amount of that person's liability for that year to income tax on his total income shall be the amount to which he would have been liable apart from this section less whichever is the smaller of—

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- (a) the amount equal to the applicable percentage of that amount of interest; and
- (b) the amount which reduces his liability to nil.

(1G) In subsection (1F) above “the applicable percentage”—

- (a) in relation to so much of any interest as is eligible for relief under this section by virtue of section 354, means 20 per cent.; and
- (b) in relation to so much of any interest as is eligible for relief under this section by virtue of section 365, means the percentage which is the basic rate for the year of assessment in question;

but, in relation to any payment of interest which (whenever falling due) is made in the year 1995-96 or any subsequent year of assessment, paragraph (a) above shall have effect with the substitution of “15 per cent.” for “20 per cent.”

(1H) In determining for the purposes of subsection (1F) above the amount of income tax to which a person would be liable apart from any income tax reduction under this section, no account shall be taken of—

- (a) any income tax reduction under Chapter I of Part VII or section 347B;
- (b) 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 or by way of a credit under section 790(1); or
- (c) 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.”

<sup>F11</sup>(3) .....

(4) For subsections (3) to (5B) of section 369 of that Act (provisions balancing deduction of relevant loan interest from income against charge to tax) there shall be substituted the following subsection—

“(3) The following payments, that is to say—

- (a) payments of relevant loan interest to which this section applies, and
- (b) payments which would be such payments but for section 373(5),

shall not be allowable as deductions for any purpose of the Income Tax Acts except in so far as they fall to be treated as such payments by virtue only of section 375(2) and would be allowable apart from this subsection.”

(5) Schedule 9 to this Act (which for the purposes of or in connection with the provisions of this section makes further modifications of certain enactments in relation to tax relief on interest payments) shall have effect.

(6) The preceding provisions of this section and that Schedule—

- (a) shall have effect in relation to payments of interest made on or after 6th April 1994 (whenever falling due); and
- (b) shall also have effect, so far as they relate to relevant loan interest, in relation to any payments of interest becoming due on or after 6th April 1994 which have been made at any time before that date but on or after 30th November 1993.

(7) Any provision made before the passing of this Act by reference to the basic rate of income tax and contained in any instrument or agreement under or in accordance with which payments of relevant loan interest have been or are to be made shall be taken,

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in relation to any such payment as is mentioned in subsection (6)(a) or (b) above, to have been made, instead, by reference to a rate which, in the case of that payment, is the applicable percentage for the purposes of subsection (1) of section 369 of the Taxes Act 1988.

<sup>F11</sup>(8) .....

(9) In this section “relevant loan interest” has the same meaning as in Part IX of the Taxes Act 1988.

#### Textual Amendments

**F11** S. 81(3)(8) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7), Note 4 in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**, Note 4

## 82 Relief for blind persons.

(1) In section 265(1) of the Taxes Act 1988 (blind person’s allowance) for “£1,080” there shall be substituted “ £1,200 ”.

(2) This section shall apply for the year 1994-95 and subsequent years of assessment.

<sup>F12</sup>83 .....

#### Textual Amendments

**F12** S. 83 repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(2), Note in the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)**, Note

<sup>F13</sup>84 .....

#### Textual Amendments

**F13** S. 84 repealed (27.7.1999 with effect as mentioned in s. 59(3)(b), Sch. 20 Pt. III(15), Note in the repealing Act) by 1999 c. 16, ss. 59(3)(b), 139, **Sch. 20 Pt. III(15)**, Note; S.I. 2000/2004, **art. 2**

### Corporation tax charge and rate

## 85 Charge and rate of corporation tax for 1994.

Corporation tax shall be charged for the financial year 1994 at the rate of 33 per cent.

## 86 Small companies.

(1) For the financial year 1994—

- (a) the small companies’ rate shall be 25 per cent., and
- (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

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- (2) In section 13(3) of that Act (limits of marginal relief) in paragraphs (a) and (b)—
- (a) for “£250,000” there shall be substituted “ £300,000 ”, and
  - (b) for “£1,250,000” there shall be substituted “ £1,500,000 ”.
- (3) Subsection (2) above shall have effect for the financial year 1994 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company’s accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

*Benefits in kind*

**87 Car fuel.**

- (1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

“ **TABLE A**

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£640
More than 1,400 but not more than 2,000	£810
More than 2,000	£1,200

**TABLE AB**

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£580
More than 2,000	£750

**TABLE B**

<i>Description of car</i>	<i>Cash equivalent</i>
Any car	£1,200”

- (2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

**F1488 Beneficial loan arrangements.**

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**Textual Amendments**

- F14** S. 89 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))



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**F1489 Vouchers and credit-tokens.**

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**Textual Amendments**

**F14** S. 89 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

*Chargeable gains*

**90 Annual exempt amount for 1994-95.**

For the year 1994-95 section 3 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

**Marginal Citations**

**M3** 1992 c. 12.

**91 Relief on re-investment.**

- (1) Schedule 11 to this Act (which extends the relief on re-investment for individuals and trustees provided by Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.
- (2) That Schedule shall have effect in relation to disposals made on or after 30th November 1993.
- (3) In section 164H(1) of that Act—
  - (a) for “is greater than” there shall be substituted “ exceeds ”, and
  - (b) at the end there shall be added “ or half the value of the company’s assets as a whole (whichever is the greater); and section 294(3) and (4) of the Taxes Act (meaning of value of company’s assets as a whole) applies for the purposes of this subsection as it applies for the purposes of section 294 of that Act ”.
- (4) Subsection (3) above shall apply to determine whether a company is a qualifying company on or after 30th November 1993.

**F1592** .....

**Textual Amendments**

**F15** S. 92 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(31), Note in the repealing Act) by [1998 c. 36](#), s. 165, [Sch. 27 Pt. III\(31\)](#) Note

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### 93 Indexation losses.

- (1) In section 53 of the Taxation of Chargeable Gains Act 1992 (indexation allowance), in subsection (1), for the words following “contrary” to the end of paragraph (c) there shall be substituted “if on the disposal of an asset there is an unindexed gain, an allowance (“the indexation allowance”) shall be allowed against the unindexed gain—
- (a) so as to give the gain for the purposes of this Act, or
  - (b) if the indexation allowance equals or exceeds the unindexed gain, so as to extinguish it (in which case the disposal shall be one on which, after taking account of the indexation allowance, neither a gain nor a loss accrues)”.
- (2) In subsection (2) of that section—
- (a) for “subsection (1) above” there shall be substituted “ this Chapter ”,
  - (b) for paragraph (a) there shall be substituted—
    - “(a) “unindexed gain” means the amount of the gain on the disposal computed in accordance with this Part”, and
  - (c) in paragraph (b), for “gain or loss” there shall be substituted “ gain ”.
- (3) After that subsection there shall be inserted—
- “(2A) Notwithstanding anything in section 16 of this Act, this section shall not apply to a disposal on which a loss accrues.”
- (4) In section 55 of that Act (assets acquired on a no gain/no loss disposal), after subsection (6) there shall be inserted—
- “(7) The rules in subsection (8) below apply (after the application of section 53 but before the application of section 35(3) or (4)) to give the gain or loss for the purposes of this Act where—
- (a) subsection (6) above applies to the disposal (the “disposal in question”) of an asset by any person (the “transferor”), and
  - (b) but for paragraph (b) of that subsection, the consideration the transferor would be treated as having given for the asset would include an amount or amounts of indexation allowance brought into account by virtue of section 56(2) on any disposal made before 30th November 1993.
- (8) The rules are as follows—
- (a) where (apart from this subsection) there would be a loss, an amount equal to the rolled-up indexation shall be added to it so as to increase it,
  - (b) where (apart from this subsection) the unindexed gain or loss would be nil, there shall be a loss of an amount equal to the rolled-up indexation, and
  - (c) where (apart from this subsection)—
    - (i) there would be an unindexed gain, and
    - (ii) the gain or loss would be nil but the amount of the indexation allowance used to extinguish the gain would be less than the rolled-up indexation,
 the difference shall constitute a loss.

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- (9) In this section the “rolled-up indexation” means, subject to subsections (10) and (11) below, the amount or, as the case may be, the aggregate of the amounts referred to in subsection (7)(b) above; and subsections (10) and (11) below shall, as well as applying on the disposal in question, be treated as having applied on any previous part disposal by the transferor.
- (10) Where, for the purposes of any disposal of the asset by the transferor, any amount falling within any, or any combination of, paragraphs (a) to (c) of section 38(1) is required by any enactment to be excluded, reduced or written down, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (11) below on a previous part disposal) shall be reduced in proportion to any reduction made in the amount falling within the paragraph, or the combination of paragraphs, in question.
- (11) Where the transferor makes a part disposal of the asset at any time, then, for the purposes of that and any subsequent disposal, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (10) above on a previous part disposal by him or after the application of subsection (10) above on the part disposal) shall be apportioned between the property disposed of and the property which remains in the same proportions as the sums falling within section 38(1)(a) and (b).”
- (5) In section 56 of that Act (amount of consideration on no gain/no loss disposals)—
- (a) in subsection (2) for the words preceding paragraph (a) there shall be substituted “ On a no gain/no loss disposal by any person (“the transferor”)”, and
- (b) after that subsection there shall be added—
- “(3) Where apart from this subsection—
- (a) a loss would accrue on the disposal of an asset, and
- (b) the sums allowable as a deduction in computing that loss would include an amount attributable to the application of the assumption in subsection (2) above on any no gain/no loss disposal made on or after 30th November 1993,
- those sums shall be determined as if that subsection had not applied on any such disposal made on or after that date and the loss shall be reduced accordingly or, if those sums are then equal to or less than the consideration for the disposal, the disposal shall be one on which neither a gain nor a loss accrues.
- (4) For the purposes of this section a no gain/no loss disposal is one which, by virtue of any enactment other than section 35(4), 53(1) or this section, is treated as a disposal on which neither a gain nor a loss accrues to the person making the disposal.”
- (6) In section 110 of that Act (indexation allowance for share pools), after subsection (6) there shall be inserted—
- “(6A) Where a disposal to a person acquiring or adding to a new holding is treated by virtue of any enactment as one on which neither a gain nor a loss accrues to the person making the disposal—

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- (a) section 56(2) shall not apply to the disposal (and, accordingly, the amount of the consideration shall not be calculated on the assumption that a gain of an amount equal to the indexation allowance accrues to the person making the disposal), but
  - (b) an amount equal to the indexation allowance on the disposal shall be added to the indexed pool of expenditure for the holding acquired or, as the case may be, held by the person to whom the disposal is made (and, where it is added to the indexed pool of expenditure for a holding so held, it shall be added after any increase required by subsection (8)(a) below).”
- (7) Sections 103 (collective investment schemes, etc.), 111 (building society etc. shares), 182 to 184 (groups and associated companies) and 200 (oil industry assets) of that Act (all of which relate to indexation allowance) shall cease to have effect.
- (8) In Schedule 7A to that Act (restriction on set-off of pre-entry losses), in paragraph 2—
- (a) in sub-paragraph (2), for the definitions of “B” and “C” there shall be substituted—
    - “B is the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph;
    - C is the total amount of all the relevant allowable expenditure”;
  - (b) in sub-paragraph (4), “except in relation to the calculation of any indexed rise” shall cease to have effect,
  - (c) after sub-paragraph (8) there shall be inserted—
    - “(8A) Where by virtue of section 55(8) the allowable loss accruing on the disposal of a pre-entry asset, or any part of the loss, is attributable to an amount (“the rolled-up amount”) of rolled-up indexation (as defined in section 55(9) to (11)), then, for the purposes of this paragraph—
      - (a) the total amount of all the relevant allowable expenditure shall be treated as increased by the rolled-up amount, and
      - (b) the amount of each item of relevant allowable expenditure shall be treated as increased by so much (if any) of the rolled-up amount as is attributable to that item.
    - (8B) Where—
      - (a) section 56(3) applies on the disposal of a pre-entry asset on which an allowable loss accrues, and
      - (b) in accordance with that subsection, the total amount of all the relevant allowable expenditure is reduced by any amount (“the global reduction”),
 the amount of each item of relevant allowable expenditure shall be treated for the purposes of this paragraph as reduced by so much (if any) of the global reduction as is attributable to that item”, and
  - (d) in sub-paragraph (9), the definition of “indexed rise” shall cease to have effect.
- (9) In paragraph 4 of that Schedule—
- (a) in sub-paragraph (12) the words from “together” to the end, and
  - (b) sub-paragraph (13),
- shall cease to have effect.

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: Finance Act 1994, Chapter I is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (10) In paragraph 5 of that Schedule, after sub-paragraph (2) there shall be inserted—
- “(2A) In determining for the purposes of sub-paragraph (2)(a) above the amount of any loss which would have accrued if the asset had been disposed of at the relevant time at its market value at that time—
- (a) it shall be assumed that the amendments of this Act made by section 93(1) to (5) of the Finance Act 1994 (indexation losses) had effect in relation to that disposal and, accordingly,
  - (b) references in those amendments and in subsection (11) of that section to 30th November 1993 shall be read as references to the day on which the relevant time falls.”
- (11) This section shall have effect in relation to disposals made on or after 30th November 1993 and Schedule 12 to this Act (which gives transitional relief) shall have effect for the years 1993–94 and 1994–95.

#### **94 Set-off of pre-entry losses.**

- (1) Schedule 7A to the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 (set off of pre-entry losses) shall be amended as follows.
- (2) In sub-paragraph (3)(a) of paragraph 2 (calculation of pre-entry proportion of loss), for “assumption applying by virtue of sub-paragraphs (4) and (5)” there shall be substituted “ assumptions applying by virtue of sub-paragraphs (4) to (6B) ”, and for sub-paragraph (7) of that paragraph there shall be substituted the following sub-paragraphs—
- “(6A) Notwithstanding anything in section 56(2), where in the case of the disposal of any pre-entry asset—
- (a) any company has at any time between the relevant time and the time of the disposal acquired that asset or the equivalent asset, and
  - (b) the acquisition was either an acquisition in pursuance of a disposal on which there is treated by virtue of section 171 as having been neither a gain nor a loss accruing or an acquisition by virtue of which an asset is treated as the equivalent asset,
- the items of relevant allowable expenditure and the times when those items shall be treated as having been incurred shall be determined for the purposes of this paragraph on the assumptions specified in sub-paragraph (6B) below.
- (6B) Those assumptions are that—
- (a) the company by reference to which the asset in question is a pre-entry asset, and
  - (b) the company mentioned in sub-paragraph (6A) above and every other company which has made an acquisition which, in relation to the disposal of that asset, falls within that sub-paragraph,
- were the same person and, accordingly, that the pre-entry asset had been acquired by the company disposing of it at the time when it or the equivalent asset would have been treated for the purposes of this paragraph as acquired by the company mentioned in paragraph (a) above.
- (7) In sub-paragraphs (5) to (6B) above the references to the equivalent asset, in relation to another asset acquired or disposed of by any company, are

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references to any asset which falls in relation to that company to be treated (whether by virtue of paragraph 1(8) above or otherwise) as the same as the other asset or which would fall to be so treated after applying, as respects other assets, the assumptions for which those sub-paragraphs provide.”

- (3) In paragraph 9(2)(c) (cases where a group is relevant if a company was a member of it in the accounting period in which it joined another relevant group), after “paragraph (a)” there shall be inserted “ or (b) ”.
- (4) This section shall apply in relation to the making in respect of any loss of any deduction from a chargeable gain where either the gain or the loss is one accruing on or after 11th March 1994.

#### Marginal Citations

M4 1992 c. 12.

## 95 Commodity and financial futures.

- (1) In section 143 of the <sup>M5</sup>Taxation of Chargeable Gains Act 1992 (commodity and financial futures and qualifying options), subsection (4) shall cease to have effect and for subsection (6) there shall be substituted the following subsections—

- “(6) In any case where, in the course of dealing in commodity or financial futures, a person has entered into a futures contract and—
- (a) he has not closed out the contract (as mentioned in subsection (5) above), and
  - (b) he becomes entitled to receive or liable to make a payment, whether under the contract or otherwise, in full or partial settlement of any obligations under the contract,

then, for the purposes of this Act, he shall be treated as having disposed of an asset (namely, that entitlement or liability) and the payment received or made by him shall be treated as consideration for the disposal or, as the case may be, as incidental costs to him of making the disposal.

- (7) Section 46 shall not apply to obligations under—
  - (a) a commodity or financial futures contract which is entered into by a person in the course of dealing in such futures on a recognised futures exchange; or
  - (b) a commodity or financial futures contract to which an authorised person or listed institution is a party.
- (8) In this section—
 

“authorised person” has the same meaning as in the Financial Services Act 1986, and

“listed institution” has the same meaning as in section 43 of that Act.”

- (2) This section shall apply in relation to contracts entered into on or after 30th November 1993.

*Status: Point in time view as at 06/04/2007.*

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#### Marginal Citations

M5 1992 c.12.

## 96 Cash-settled options.

- (1) After section 144 of the <sup>M6</sup>Taxation of Chargeable Gains Act 1992 (options and forfeited deposits) there shall be inserted the following section—

### “144A Cash-settled options.

- (1) In any case where—
- (a) an option is exercised; and
  - (b) the nature of the option (or its exercise) is such that the grantor of the option is liable to make, and the person exercising it is entitled to receive, a payment in full settlement of all obligations under the option,
- subsections (2) and (3) below shall apply in place of subsections (2) and (3) of section 144.
- (2) As regards the grantor of the option—
- (a) he shall be treated as having disposed of an asset (namely, his liability to make the payment) and the payment made by him shall be treated as incidental costs to him of making the disposal; and
  - (b) the grant of the option and the disposal shall be treated as a single transaction and the consideration for the option shall be treated as the consideration for the disposal.
- (3) As regards the person exercising the option—
- (a) he shall be treated as having disposed of an asset (namely, his entitlement to receive the payment) and the payment received by him shall be treated as the consideration for the disposal;
  - (b) the acquisition of the option (whether directly from the grantor or not) and the disposal shall be treated as a single transaction and the cost of acquiring the option shall be treated as expenditure allowable as a deduction under section 38(1)(a) from the consideration for the disposal; and
  - (c) for the purpose of computing the indexation allowance (if any) on the disposal, the cost of the option shall be treated (notwithstanding paragraph (b) above) as incurred when the option was acquired.
- (4) In any case where subsections (2) and (3) above would apply as mentioned in subsection (1) above if the reference in that subsection to full settlement included a reference to partial settlement, those subsections and subsections (2) and (3) of section 144 shall both apply but with the following modifications—
- (a) for any reference to the grant or acquisition of the option there shall be substituted a reference to the grant or acquisition of so much of the option as relates to the making and receipt of the payment or, as the case may be, the sale or purchase by the grantor; and

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(b) for any reference to the consideration for, or the cost of or of acquiring, the option there shall be substituted a reference to the appropriate proportion of that consideration or cost.

(5) In this section “appropriate proportion” means such proportion as may be just and reasonable in all the circumstances.”

(2) This section shall apply in relation to options granted on or after 30th November 1993.

#### Marginal Citations

M6 1992 c.12.

### 97 Settlements with foreign element: information.

(1) The <sup>M7</sup>Taxation of Chargeable Gains Act 1992 shall be amended as mentioned in subsections (2) to (4) below.

(2) In Chapter II of Part III (settlements) the following section shall be inserted after section 98—

#### “98A Settlements with foreign element: information.

Schedule 5A to this Act (which contains general provisions about information relating to settlements with a foreign element) shall have effect.”

(3) The following Schedule shall be inserted after Schedule 5—

#### “SCHEDULE 5A

Section 98A.

#### SETTLEMENTS WITH FOREIGN ELEMENT: INFORMATION

- 1 In this Schedule “the commencement day” means the day on which the Finance Act 1994 was passed.
- 2 (1) This paragraph applies if—
  - (a) a settlement was created before 19th March 1991,
  - (b) on or after the commencement day a person transfers property to the trustees otherwise than under a transaction entered into at arm’s length and otherwise than in pursuance of a liability incurred by any person before that day,
  - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
  - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.
- (2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—
  - (a) identifies the settlement, and
  - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.



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- (3) For the purposes of sub-paragraph (2) above the relevant day is the day on which the transfer is made.
- 3 (1) This paragraph applies if a settlement is created on or after the commencement day, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created, and
  - (b) at that time fulfils the condition mentioned in sub-paragraph (3) below,
- shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the settlement is created.
- 4 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
  - (b) at that time does not fulfil the condition mentioned in sub-paragraph (3) below, and
  - (c) first fulfils that condition at a time falling on or after the commencement day,
- shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—

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- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the person first fulfils the condition as mentioned in paragraph (c) of that sub-paragraph.
- 5 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (the relevant time) on or after the commencement day neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on or after the commencement day trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—
- (a) the day on which the settlement was created,
  - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the day when the relevant time falls.
- 6 (1) Nothing in paragraph 2, 3, 4 or 5 above shall require information to be contained in the return concerned to the extent that—
- (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 2, 3, 4 or 5 above shall require a return to be delivered if—
- (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.”
- (4) In Schedule 5, paragraphs 11 to 14 (information) shall be omitted.
- (5) Subsection (4) above shall have effect where the relevant day falls on or after the day on which this Act is passed.

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(6) In the Table in section 98 of the <sup>M8</sup>Taxes Management Act 1970 (penalties) at the end of the second column there shall be inserted—

“ Paragraphs 2 to 6 of Schedule 5A to the 1992 Act. ”

**Marginal Citations**

**M7** 1992 c. 12.

**M8** 1970 c. 9.

*Profit-related pay*

**F1698** .....

**Textual Amendments**

**F16** S. 98 repealed (19.3.1997 with effect as mentioned in s. 61(2)(3), Sch. 18 Pt. VI(3), Notes 1, 2 in the repealing Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**, Notes 1, 2

**F1799** .....

**Textual Amendments**

**F17** S. 99 repealed (19.3.1997 with effect as mentioned in s. 61(2)(3), Sch. 18 Pt. VI(3), Notes 1, 2 in the repealing Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**, Notes 1, 2

*Profit sharing schemes*

**100 Relevant age for purpose of appropriate percentage.**

- (1) Schedule 10 to the Taxes Act 1988 (profit sharing schemes) shall be amended as follows.
- (2) In paragraph 3 (the appropriate percentage for purposes of tax charge) the words from “In this paragraph” to the end of the paragraph shall be omitted.
- (3) The following paragraph shall be inserted after paragraph 3—

- “3A
- (1) In paragraph 3 above the reference to the relevant age shall be construed as follows.
  - (2) Where the scheme is approved before 25th July 1991 and the event occurs before 30th November 1993, the relevant age is pensionable age.
  - (3) Where—
    - (a) the scheme is approved before 25th July 1991,

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- (b) the event occurs on or after 30th November 1993,
- (c) the scheme defines the period of retention by reference to the age of 60 for both men and women, and
- (d) the reference to that age is incorporated in the definition by virtue of an alteration approved by the Board under paragraph 4 of Schedule 9 before the event occurs,

the relevant age is 60.

(4) Where—

- (a) the scheme is approved before 25th July 1991,
- (b) the event occurs on or after 30th November 1993, and
- (c) sub-paragraph (3) above does not apply,

the relevant age is pensionable age.

(5) Where the scheme is approved on or after 25th July 1991, the relevant age is the specified age.”

#### **101 Acceptance of qualifying corporate bonds for shares.**

(1) Schedule 10 to the Taxes Act 1988 (profit sharing schemes) shall be amended as mentioned in subsections (2) to (4) below.

(2) In paragraph 1 (limitations on contractual obligations of participants) in sub-paragraph (1) the following paragraph shall be inserted after paragraph (c)—

“(cc) directing the trustees to accept an offer of a qualifying corporate bond, whether alone or with cash or other assets or both, for his shares if the offer forms part of a general offer which is made as mentioned in paragraph (c) above; or”.

(3) In paragraph 1 the following sub-paragraph shall be inserted after sub-paragraph (3)—

“(4) In sub-paragraph (1)(cc) above “qualifying corporate bond” shall be construed in accordance with section 117 of the 1992 Act.”

(4) The following paragraph shall be inserted after paragraph 5 (company reconstructions)

“5A (1) Paragraph 5(2) to (6) above apply where there occurs in relation to any of a participant’s shares (“the original holding”) a relevant transaction which would result in a new holding being equated with the original holding for the purposes of capital gains tax, were it not for the fact that what would be the new holding consists of or includes a qualifying corporate bond; and “relevant transaction” here means a transaction mentioned in Chapter II of Part IV of the 1992 Act.

(2) In paragraph 5(2) to (6) above as applied by this paragraph—

- (a) references to a company reconstruction are to the transaction referred to in sub-paragraph (1) above;
- (b) references to the new holding are to what would be the new holding were it not for the fact mentioned in sub-paragraph (1) above;
- (c) references to the original holding shall be construed in accordance with sub-paragraph (1) above (and not paragraph 5(1));

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- (d) references to shares, in the context of the new holding, include securities and rights of any description which form part of the new holding.
- (3) In sub-paragraph (1) above “qualifying corporate bond” shall be construed in accordance with section 117 of the 1992 Act.”
- (5) In paragraph 32(1) of Schedule 9 to the Taxes Act 1988 (requirements applicable to profit sharing schemes) for “or (c)” there shall be substituted “, (c) or (cc)”.
- (6) In paragraph 33(a) of Schedule 9 to the Taxes Act 1988 (which provides that the trust instrument must contain certain provision by reference to new shares within the meaning of paragraph 5 of Schedule 10) the reference to paragraph 5 of Schedule 10 shall be construed as including a reference to that paragraph as applied by paragraph 5A.
- (7) Subsections (2) and (3) above shall have effect where a direction is made on or after the day on which this Act is passed.
- (8) Subsection (4) above shall have effect where what would be the new holding comes into being on or after the day on which this Act is passed; but this is subject to subsection (13) below.
- (9) Subsection (5) above shall have effect in relation to any scheme not approved before the day on which this Act is passed.
- (10) In a case where—
- (a) a scheme is approved before the day on which this Act is passed, and
  - (b) on or after that day the trust instrument is altered in such a way that paragraph 32(1) of Schedule 9 to the Taxes Act 1988 would be fulfilled if subsection (5) above applied in relation to the scheme,
- subsection (5) above shall apply in relation to the scheme with effect from the time the alteration is made.
- (11) Subsection (6) above shall have effect in relation to any scheme not approved before the day on which this Act is passed.
- (12) In a case where—
- (a) a scheme is approved before the day on which this Act is passed, and
  - (b) on or after that day the trust instrument is altered in such a way that paragraph 33(a) of Schedule 9 to the Taxes Act 1988 would be fulfilled if subsection (6) above applied in relation to the scheme,
- subsection (6) above shall apply in relation to the scheme with effect from the time the alteration is made.
- (13) In a case where—
- (a) a scheme is approved before the day on which this Act is passed,
  - (b) subsection (4) above would apply in relation to the scheme by virtue of subsection (8) above and apart from this subsection, and
  - (c) the trust instrument is not altered as mentioned in subsection (12)(b) above before what would be the new holding comes into being,
- subsection (4) above shall not apply in relation to the scheme.

*Status: Point in time view as at 06/04/2007.*

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- (14) Subsection (6) above shall not imply a contrary intention for the purposes of section 20(2) of the <sup>M9</sup>Interpretation Act 1978 in its application to other references to paragraph 5 of Schedule 10 to the Taxes Act 1988.

**Marginal Citations**

**M9** 1978 c.30.

*Employee share ownership trusts*

**102 Employee share ownership trusts.**

Schedule 13 to this Act (which contains provisions about employee share ownership trusts) shall have effect.

*Retirement benefits schemes*

<sup>F18</sup>**103 The administrator.**

.....

**Textual Amendments**

**F18** Ss. 103-107 repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)

<sup>F18</sup>**104 Default of administrator etc.**

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**Textual Amendments**

**F18** Ss. 103-107 repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)

<sup>F18</sup>**105 Information.**

.....

**Subordinate Legislation Made**

**P1** S. 105(5) power exercised: 1.1.1996 appointed by **S.I. 1995/3125, art. 2**

**Textual Amendments**

**F18** Ss. 103-107 repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)

**Commencement Information**

**I1** S 105 wholly in force at 1.1.1996; s. 105 in force at Royal Assent except for s. 105(3)(4)(b) see s. 105(5); s. 105(3)(4)(b) in force at 1.1.1996 by **S.I. 1995/3125, art. 2**

*Status: Point in time view as at 06/04/2007.*

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**F18 106 False statements etc.**

.....

**Textual Amendments**

**F18** Ss. 103-107 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F18 107 Discretionary approval.**

.....

**Textual Amendments**

**F18** Ss. 103-107 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**108 Taxation of benefits of non-approved schemes.**

- F19(1) .....
- F19(2) .....
- F19(3) .....
- F19(4) .....
- F19(5) .....
- F19(6) .....

(7) Subject to subsection (8) below, in the Taxes Act 1988—

(a) in section 188(1), paragraph (c), and

F19(b) .....

(exemption from tax where recipient of benefit or lump sum chargeable to tax in respect of sums paid or treated as paid with a view to the provision of the benefit or lump sum) shall cease to have effect in relation to any benefit provided or lump sum paid on or after 1st December 1993.

(8) The repeals made by subsection (7) above shall not have effect in relation to any benefit provided or lump sum paid on or after 1st December 1993 in pursuance of a scheme or arrangement entered into before that day unless the scheme or arrangement is varied on or after that day with a view to the provision of the benefit or lump sum.

**Textual Amendments**

**F19** S. 108(1)-(6)(7)(b) repealed (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)

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## *Annuities*

### **F20 109 Annuities derived from personal pension schemes.**

.....

#### **Textual Amendments**

**F20** Ss. 109, 110 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

### **F20 110 Annuities derived from retirement benefits schemes.**

.....

#### **Textual Amendments**

**F20** Ss. 109, 110 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

## *Authorised unit trusts*

### **F21 111 .....**

#### **Textual Amendments**

**F21** [S. 111](#) repealed (29.4.1996 with effect as mentioned in [Sch. 41 Pt. V\(1\) Note 1](#) of the amending Act) by [1996 c. 8, ss. 73, 205, Sch. 6 para. 28, Sch. 41 Pt. V\(I\) Note 1](#)

### **112 Distributions of authorised unit trusts.**

Schedule 14 to this Act (distributions of authorised unit trusts) shall have effect.

### **113 Umbrella schemes.**

(1) In section 468 of the Taxes Act 1988 (authorised unit trusts), in subsection (6) (definitions) at the beginning there shall be inserted “ Subject to subsections (7) to (9) below ”.

(2) After that subsection there shall be added—

“(7) Each of the parts of an umbrella scheme shall be regarded for the purposes of this Chapter as an authorised unit trust and the scheme as a whole shall not be so regarded.

(8) In this section, “umbrella scheme” means a unit trust scheme—

(a) which provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them;



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- (b) under which the participants are entitled to exchange rights in one pool for rights in another; and
  - (c) in the case of which an order under section 78 of the Financial Services Act 1986 is in force;and any reference to a part of an umbrella scheme is a reference to such of the arrangements as relate to a separate pool.
- (9) In relation to a part of an umbrella scheme, any reference—
  - (a) to investments subject to the trusts of an authorised unit trust, shall have effect as a reference to such of the investments as under the arrangements form part of the separate pool to which the part of the umbrella scheme relates; and
  - (b) to a unit holder, shall have effect as a reference to a person for the time being having rights in that separate pool.”
- (3) In section 469 of the Taxes Act 1988 (other unit trusts)—
  - (a) in subsection (1)(a) (application of section) for the words “that is not an authorised unit trust” there shall be substituted “ that is neither an authorised unit trust nor an umbrella scheme ”; and
  - (b) after subsection (6) there shall be inserted—

“(6A) In this section “umbrella scheme” has the same meaning as in section 468.”
- (4) Subject to what follows, the amendments made by subsections (1) to (3) above shall have effect on and after 1st April 1994 in relation to unit trust schemes and their participants.
- (5) Nothing in those amendments shall have effect before the relevant date in relation to a unit trust scheme which immediately before 1st April 1994 falls within the definition of an umbrella scheme contained in those amendments.
- (6) In this section “the relevant date”, means, in relation to a unit trust scheme, the day after the end of the last distribution period of the scheme which commences before 1st April 1994.
- (7) On and after the relevant date, the amendments made by subsections (1) to (3) above shall have effect in relation to a scheme—
  - (a) to which subsection (5) above applies, and
  - (b) which immediately before the relevant date falls within the definition of an umbrella scheme contained in those amendments,subject to subsections (8) to (10) below.
- (8) The amendments made by subsections (1) to (3) above shall not prevent the trustees of the scheme on and after the relevant date—
  - (a) making a claim under section 239(3) of the Taxes Act 1988 (carry back of surplus advance corporation tax) in respect of accounting periods of the scheme ending before the relevant date; or
  - (b) continuing anything which immediately before that date was in the process of being done for the purposes of tax in relation to such accounting periods.
- (9) Where immediately before the relevant date the trustees of the scheme are entitled to carry forward an excess under—

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- (a) section 75(3) of the Taxes Act 1988 (carry forward of management expenses and sums treated as management expenses), or
  - (b) section 241 of that Act (carry forward of franked investment income),
- then, on the relevant date, that right shall be translated into a right in each successor company to carry forward a proportionate part of that excess.
- (10) Where immediately before the relevant date the trustees of the scheme have an amount of surplus advance corporation tax which—
- (a) has not been dealt with under subsection (3) of section 239 of the Taxes Act 1988, and
  - (b) is due to be treated under subsection (4) of that section as if it were advance corporation tax paid by them in their next accounting period,
- then, on and after the relevant date, a proportionate part of that amount shall be treated as paid under subsection (4) of that section by each successor company in its first accounting period.
- (11) In subsections (9) and (10) above “successor company” means, in relation to a scheme, each part of the scheme which on the relevant date becomes an authorised unit trust.

### *Exchange gains and losses*

#### **114 Assets and liabilities.**

F22 .....

##### **Textual Amendments**

**F22** S. 114 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#)

#### **115 Currency contracts: net payments.**

F23 .....

##### **Textual Amendments**

**F23** S. 115 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#)

#### **116 Currency contracts: matching.**

F24 .....

##### **Textual Amendments**

**F24** S. 116 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 141, [Sch. 40 Pt. 3\(10\)](#)

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## Capital allowances

<sup>F25</sup>117 .....

### Textual Amendments

**F25** S. 117 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

## 118 Expenditure on machinery or plant: notification.

<sup>F26</sup>(1) .....

<sup>F26</sup>(2) .....

<sup>F26</sup>(3) .....

<sup>F26</sup>(3A) .....

<sup>F26</sup>(4) .....

<sup>F26</sup>(5) .....

(6) For the purposes of—

[<sup>F27F28</sup>(a) .....

(b) section 44(4) of the Finance Act 1971 (provision corresponding to section 25(1) applicable to earlier chargeable periods),]

expenditure which has not formed part of a person's qualifying expenditure for a previous chargeable period may not form part of his qualifying expenditure for a subsequent chargeable period unless the machinery or plant on which the expenditure was incurred belongs to that person at some time in that subsequent period<sup>F29</sup> . . .

<sup>F26</sup>(7) .....

<sup>F26</sup>(8) .....

<sup>F26</sup>(9) .....

### Textual Amendments

**F26** S. 118(1)-(5)(7)-(9) repealed (28.7.2000 with effect as mentioned in s. 73(2) of the repealing Act) by 2000 c. 17, ss. 73(1)(a), 156, Sch. 40 Pt. II(8), Note 3

**F27** S. 118(6)(a)(b) substituted for words in s. 118(6) (28.7.2000 with effect as mentioned in s. 73(2) of the amending Act) by 2000 c. 17, s. 73(1)(b)

**F28** S. 118(6)(a) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

**F29** Words in s. 118(6) repealed (3.5.1994 with effect as mentioned in ss. 211(2), 218(1)(b) of the amending Act) by 1994 c. 9, s. 258, Sch. 26 Pt. V(24), Note 5

## 119 Transactions between connected persons.

<sup>F30</sup>(1) .....

*Status: Point in time view as at 06/04/2007.*

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(2) Paragraph 4(2) of Schedule 7 to the <sup>M10</sup>Capital Allowances Act 1968 (provision corresponding to section 158(2)) shall be assumed always to have had effect subject to amendments corresponding to those made to section 158(2) of the 1990 Act by section 117(2) and (3) of the Finance Act 1993.

**Textual Amendments**

**F30** S. 119(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

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**Marginal Citations**

**M10** 1968 c. 3.

<sup>F31</sup>120 .....

**Textual Amendments**

**F31** S. 120 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

<sup>F32</sup>121 .....

**Textual Amendments**

**F32** S. 121 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

*Securities*

**122 Sale and repurchase of securities: deemed manufactured payments.**

After section 737 of the Taxes Act 1988 there shall be inserted the following sections—

**“737A Sale and repurchase of securities: deemed manufactured payments.**

- (1) This section applies where on or after the appointed day a person (the transferor) agrees to sell any securities, and under the same or any related agreement the transferor or another person connected with him—
  - (a) is required to buy back the securities, or
  - (b) acquires an option, which he subsequently exercises, to buy back the securities;
 but this section does not apply unless the conditions set out in subsection (2) below are fulfilled.
- (2) The conditions are that—

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- (a) as a result of the transaction, a dividend which becomes payable in respect of the securities is receivable otherwise than by the transferor,
  - (b) the dividend is not, by virtue of any other provision of the Tax Acts, treated as income of the transferor,
  - (c) there is no requirement under any agreement mentioned in subsection (1) above for a person to pay to the transferor on or before the relevant date an amount representative of the dividend, and
  - (d) it is reasonable to assume that, in arriving at the repurchase price of the securities, account was taken of the fact that the dividend is receivable otherwise than by the transferor.
- (3) For the purposes of subsection (2) above the relevant date is the date when the repurchase price of the securities becomes due.
- (4) Where it is a person connected with the transferor who is required to buy back the securities, or who acquires the option to buy them back, references in the following provisions of this section to the transferor shall be construed as references to the connected person.
- (5) Where this section applies, section 737 and Schedule 23A and dividend manufacturing regulations shall apply as if—
- (a) the relevant person were required, under the arrangements for the transfer of the securities, to pay to the transferor an amount representative of the dividend mentioned in subsection (2)(a) above,
  - (b) a payment were made by that person to the transferor in discharge of that requirement, and
  - (c) the payment were made on the date when the repurchase price of the securities becomes due.
- (6) In subsection (5) above “the relevant person” means—
- (a) where subsection (1)(a) above applies, the person from whom the transferor is required to buy back the securities;
  - (b) where subsection (1)(b) above applies, the person from whom the transferor has the right to buy back the securities;
- and in that subsection “dividend manufacturing regulations” means regulations under Schedule 23A (whenever made).

### **737B Interpretation of section 737A.**

- (1) In section 737A and this section “securities” means United Kingdom equities, United Kingdom securities or overseas securities; and—
- (a) where the securities mentioned in section 737A(1) are United Kingdom securities, references in section 737A to a dividend shall be construed as references to a periodical payment of interest;
  - (b) where the securities mentioned in section 737A(1) are overseas securities, references in section 737A to a dividend shall be construed as references to an overseas dividend.
- (2) In this section “United Kingdom equities”, “United Kingdom securities”, “overseas securities” and “overseas dividend” have the meanings given by paragraph 1(1) of Schedule 23A.

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- (3) For the purposes of section 737A agreements are related if each is entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (4) In section 737A “the repurchase price of the securities” means—
- (a) where subsection (1)(a) of that section applies, the amount which, under any agreement mentioned in section 737A(1), the transferor or connected person is required to pay for the securities bought back, or
  - (b) where subsection (1)(b) of that section applies, the amount which under any such agreement the transferor or connected person is required, if he exercises the option, to pay for the securities bought back.
- (5) In section 737A and subsection (4) above references to buying back securities include references to buying similar securities.
- (6) For the purposes of subsection (5) above securities are similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred; and “interest” here includes dividends.
- (7) For the purposes of section 737A and subsection (4) above—
- (a) a person who is connected with the transferor and is required to buy securities sold by the transferor shall be treated as being required to buy the securities back notwithstanding that it was not he who sold them, and
  - (b) a person who is connected with the transferor and acquires an option to buy securities sold by the transferor shall be treated as acquiring an option to buy the securities back notwithstanding that it was not he who sold them.
- (8) Section 839 shall apply for the purposes of section 737A and this section.
- (9) In section 737A “the appointed day” means such day as the Treasury may by order appoint, and different days may be appointed in relation to—
- (a) United Kingdom equities,
  - (b) United Kingdom securities, and
  - (c) overseas securities.

### **737C Deemed manufactured payments: further provisions.**

- (1) This section applies where section 737A applies.
- (2) Subsection (3) below applies where—
- (a) the dividend mentioned in section 737A(2)(a) is a dividend on United Kingdom equities, and
  - (b) by virtue of section 737A(5), section 737 and paragraph 2 of Schedule 23A apply, or paragraph 2 of Schedule 23A applies, in relation to the payment which is treated under section 737A(5) as having been made;

and in subsection (3) below “the deemed manufactured dividend” means that payment.

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- (3) Where this subsection applies—
- (a) the amount of the deemed manufactured dividend shall be taken to be an amount equal to the amount of the dividend mentioned in section 737A(2)(a);
  - (b) the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by an amount equal to the gross amount of the deemed manufactured dividend.
- (4) In subsection (3) above the reference to the gross amount of the deemed manufactured dividend is to the aggregate of—
- (a) the amount of the deemed manufactured dividend, and
  - (b) the amount of the tax credit that would have been issued in respect of the deemed manufactured dividend had the deemed manufactured dividend in fact been a dividend on the United Kingdom equities.
- (5) Subsection (6) below applies where—
- (a) the dividend mentioned in section 737A(2)(a) is a periodical payment of interest on United Kingdom securities, and
  - (b) by virtue of section 737A(5), section 737 applies in relation to the payment which is treated under section 737A(5) as having been made;
- and in subsection (6) below “the deemed manufactured interest” means the payment referred to in paragraph (b) above.
- (6) Where this subsection applies, the amount of the deemed manufactured interest shall be taken to be an amount equal to the gross amount of the periodical payment referred to in subsection (5)(a) above reduced by an amount equal to income tax thereon at the basic rate for the year of assessment in which that periodical payment is made.
- (7) Subsection (8) below applies where—
- (a) the dividend mentioned in section 737A(2)(a) is a periodical payment of interest on United Kingdom securities, and
  - (b) by virtue of section 737A(5), paragraph 3 of Schedule 23A applies in relation to the payment which is treated under section 737A(5) as having been made (whether or not section 737 also applies in relation to that payment);
- and in subsection (8) below “the deemed manufactured interest” means the payment referred to in paragraph (b) above.
- (8) Where this subsection applies—
- (a) the gross amount of the deemed manufactured interest shall be taken to be the amount found under paragraph 3(4) of Schedule 23A;
  - (b) any deduction which, by v 3 of Schedule 23A, is required to be made out of the gross amount of the deemed manufactured interest shall be deemed to have been made.
- (9) Where subsections (6) and (8) above apply, or where subsection (8) above applies, the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by the gross amount of the deemed manufactured interest.

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- (10) Subsection (11) below applies where—
  - (a) the dividend mentioned in section 737A(2)(a) is an overseas dividend, and
  - (b) by virtue of section 737A(5), paragraph 4 of Schedule 23A applies in relation to the payment which is treated under section 737A(5) as having been made;
 and in subsection (11) below “the deemed manufactured overseas dividend” means that payment.
- (11) Where this subsection applies—
  - (a) the gross amount of the deemed manufactured overseas dividend shall be taken to be the amount found under paragraph 4(5)(b) and (c) of Schedule 23A;
  - (b) any deduction which, by virtue of paragraph 4 of Schedule 23A, is required to be made out of the gross amount of the deemed manufactured overseas dividend shall be deemed to have been made;
  - (c) the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by the gross amount of the deemed manufactured overseas dividend.
- (12) In this section—
  - (a) “United Kingdom equities”, “United Kingdom securities” and “overseas dividend” have the meanings given by paragraph 1(1) of Schedule 23A;
  - (b) “the repurchase price of the securities” shall be construed in accordance with section 737B(4).”

**123 Manufactured payments.**

- F33(1) .....
- F34(2) .....
- F34(3) .....
- F34(4) .....
- F34(5) .....
- F35(6) .....
- F34(7) .....

**Textual Amendments**

**F33** S. 123(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F34** S. 123(2)-(5)(7) repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1), Sch. 18 Pt. VI(10), Note 1 of the repealing Act) by [1997 c. 16](#), s. 113, [Sch. 18 Pt. VI\(10\)](#); S.I. 1997/991, [art. 2](#)

**F35** S. 123(6) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))



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**F36 124** .....

**Textual Amendments**

**F36** S. 124 repealed (29.4.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(21)** Note 2

*PAYE*

**F37 125 Payment by intermediary.**  
.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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**)

**F37 126 Employees working for persons other than their employers, etc.**  
.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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**)

**F37 127 Tradeable assets.**  
.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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**)

**F37 128 Non-cash vouchers.**  
.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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**)

**F37 129 Credit-tokens.**  
.....

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**Textual Amendments**

**F37** Ss. 125-132 repealed (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](#))

**F37 130 Cash vouchers.**

.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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](#))

**F37 131 Supplementary.**

.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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](#))

**F37 132 Payments etc. received free of tax.**

.....

**Textual Amendments**

**F37** Ss. 125-132 repealed (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](#))

**133 PAYE regulations: past cases.**

- (1) Regulation 4 of the 1993 Regulations (intermediate employers) is hereby revoked; but in relation to any time before its revocation it shall be deemed to have been validly made.
- (2) Regulation 3 of the 1973 Regulations (intermediate employers) shall, in relation to any time before its revocation, be deemed to have been validly made.
- (3) Where, at any time before the passing of this Act—
  - (a) a payment has been made of, or on account of, any income of an employee not resident or, if resident, not ordinarily resident in the United Kingdom,
  - (b) at the time when the payment was made it appeared that some of the income would be assessable to income tax under Case II of Schedule E, but that some of the income might prove not to be assessable to income tax under that Schedule, and

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- (c) the payment or any proportion of it was treated for the purposes of the 1993 Regulations or the 1973 Regulations as a payment to which the regulations applied,
- then the treatment of that payment or that proportion of the payment as being a payment to which the regulations applied shall be deemed to have been lawful.
- (4) In this section—
- (a) “employee” means a person holding an office or employment under or with any other person;
- (b) “the 1993 Regulations” means the <sup>M11</sup>Income Tax (Employments) Regulations 1993; and
- (c) “the 1973 Regulations” means the <sup>M12</sup>Income Tax (Employments) Regulations 1973.

#### Marginal Citations

M11 [S.I. 1993/774](#).

M12 [S.I. 1973/334](#).

### *Miscellaneous provisions about companies*

#### **134 Controlled foreign companies.**

- (1) In Schedule 25 to the Taxes Act 1988, Part I (acceptable distribution policy) shall be amended as follows.
- (2) In paragraph 2 (acceptable distribution policies for both trading and non-trading companies)—
- (a) in sub-paragraph (1)—
- (i) for “sub-paragraph (2)” there is substituted “ paragraph 2A ”,
- (ii) in paragraph (a), “or for some other period which, in whole or in part, falls within that accounting period” is omitted,
- (iii) in paragraph (b), for “the period for which it is paid” there is substituted “ that period ”,
- (iv) in paragraph (d) for “proportion” there is substituted “ amount ” and for “represents at least” there is substituted “ is not less than ”, and
- (v) the words following paragraph (d) are omitted,
- (b) sub-paragraph (2) is omitted, and
- (c) for sub-paragraph (3) there is substituted—
- “(3) For the purposes of this paragraph and paragraph 2A below, a dividend which is not paid for the period or periods the profits of which are, in relation to the dividend, the relevant profits for the purposes of section 799 shall be treated (subject to sub-paragraph (3A) below) as so paid.
- (3A) For the purposes of this paragraph and paragraph 2A below—
- (a) where a dividend is paid for a period which is not an accounting period but falls wholly within an accounting

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period, it shall be treated as paid for that accounting period, and

- (b) where a dividend (“the actual dividend”) is paid for a period which falls within two or more accounting periods—
  - (i) it shall be treated as if it were a number of separate dividends each of which is paid for so much of the period as falls wholly within an accounting period, and
  - (ii) the necessary apportionment of the amount of the actual dividend shall be made to determine the amount of the separate dividends.”

(3) After that paragraph there is inserted—

“2A

- (1) Paragraph 2 above shall have effect in accordance with this paragraph to determine whether a controlled foreign company which is not a trading company pursues an acceptable distribution policy in respect of a particular accounting period (“the relevant accounting period”).
- (2) Subject to sub-paragraph (4) below, where the distribution condition is satisfied in relation to the relevant accounting period, then, in addition to any dividend which falls within paragraph 2(1)(a) above apart from this paragraph—
  - (a) any dividend which is paid for the accounting period (“the preceding period”) which immediately precedes the relevant accounting period and is not an excluded period shall be treated as falling within that paragraph, and
  - (b) if the distribution condition is satisfied in relation to the preceding period, any dividend which is paid for the accounting period which immediately precedes the preceding period and is not an excluded period shall be treated as falling within that paragraph,
 and so on; and in this sub-paragraph “dividend” means a dividend not paid out of specified profits.
- (3) For the purposes of this paragraph, the distribution condition is satisfied in relation to any accounting period if—
  - (a) a dividend or dividends are paid for the period to persons resident in the United Kingdom,
  - (b) the amount or, as the case may be, aggregate amount of any dividends falling within paragraph (a) above is not less than—
    - (i) the relevant profits for that period, or
    - (ii) where paragraph 2(4) or (5) above applies (with the modifications of paragraph 2 made by sub-paragraph (5) below), the appropriate portion of those profits, and
  - (c) any dividends falling within that paragraph are paid not later than the time by which any dividend paid for the relevant accounting period is required by paragraph 2(1)(b) above to be paid;
 or if there are no relevant profits for the period.
- (4) Where, by reason only of the fact that a company pursued an acceptable distribution policy in respect of any accounting period (“the earlier period”)

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earlier than the relevant accounting period, no direction could be given in respect of the earlier period under section 747(1), sub-paragraph (2) above shall apply to any dividend required to be taken into account for the purpose of showing that the company pursued an acceptable distribution policy in respect of the earlier period only to the extent (if any) to which that dividend was not required to be taken into account for that purpose.

- (5) The modifications of paragraph 2 above referred to in sub-paragraph (3)(b) above are that—
- (a) the references in sub-paragraphs (4) and (5) to the accounting period in question are to be read as references to the accounting period for which the dividend or dividends are paid,
  - (b) the references in those sub-paragraphs to sub-paragraph (1)(d) are to be read as references to sub-paragraph (3)(b) above, and
  - (c) the reference in the definition of “X” in sub-paragraph (6) to available profits is to be read as a reference to relevant profits.
- (6) Paragraph 2(1)(d) above shall have effect as if for “50 per cent. of the company’s available profits” there were substituted “90 per cent. of the company’s net chargeable profits”.
- (7) In paragraph 2(6) above, the definition of “X” shall have effect as if the reference to available profits were a reference to net chargeable profits.
- (8) For the purposes of this paragraph—
- (a) a period is an excluded period if it is an accounting period in respect of which a direction is given under section 747(1), and
  - (b) relevant profits for any accounting period are the profits which would be the relevant profits of that period for the purposes of section 799 if a dividend were actually paid for that period.”
- (4) In paragraph 3 of that Schedule (available profits)—
- (a) after sub-paragraph (4) there is inserted—
    - “(4A) Subject to sub-paragraph (5) below, for the purposes of this Part of this Schedule, the net chargeable profits of a controlled foreign company for any accounting period are—
      - (a) its chargeable profits for that period, less
      - (b) the amount (if any) which, if a direction were given under section 747(1) in respect of the period, would be the company’s unrestricted creditable tax for that period;    - and for the purposes of this sub-paragraph “unrestricted creditable tax” in relation to a company’s accounting period means the amount which would be its creditable tax for that period if the reference in section 751(6)(a) to Part XVIII did not include section 797”, and
  - (b) in sub-paragraph (5), after “available profits” there is inserted “ or, where the company is not a trading company, the chargeable profits ”.
- (5) This section shall apply to determine whether a controlled foreign company pursues an acceptable distribution policy in respect of accounting periods ending on or after 30th November 1993.

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### **135 Prevention of avoidance of corporation tax.**

(1) In the Taxes Act 1988, immediately before section 768 there shall be inserted—

#### **“767A Change in company ownership: corporation tax.**

- (1) Where it appears to the Board that—
  - (a) there has been a change in the ownership of a company (“the tax-payer company”),
  - (b) any corporation tax assessed on the tax-payer company for an accounting period beginning before the change remains unpaid at any time after the relevant date, and
  - (c) any of the three conditions mentioned below is fulfilled,
 any person mentioned in subsection (2) below may be assessed by the Board and charged (in the name of the tax-payer company) to an amount of corporation tax in accordance with this section.
- (2) The persons are—
  - (a) any person who at any time during the relevant period before the change in the ownership of the tax-payer company had control of it;
  - (b) any company of which the person mentioned in paragraph (a) above has at any time had control within the period of three years before that change.
- (3) In subsection (2) above, “the relevant period” means—
  - (a) the period of three years before the change in the ownership of the tax-payer company; or
  - (b) if during the period of three years before that change (“the later change”) there was a change in the ownership of the tax-payer company (“the earlier change”), the period elapsing between the earlier change and the later change.
- (4) The first condition is that—
  - (a) at any time during the period of three years before the change in the ownership of the tax-payer company the activities of a trade or business of that company cease or the scale of those activities become small or negligible; and
  - (b) there is no significant revival of those activities before that change occurs.
- (5) The second condition is that at any time after the change in the ownership of the tax-payer company, but under arrangements made before that change, the activities of a trade or business of that company cease or the scale of those activities become small or negligible.
- (6) The third condition is that—
  - (a) at any time during the period of six years beginning three years before the change in the ownership of the tax-payer company there is a major change in the nature or conduct of a trade or business of that company;
  - (b) there is a transfer or there are transfers of assets of the tax-payer company to a person mentioned in subsection (7) below or to any person under arrangements which enable any of those assets or

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- any assets representing those assets to be transferred to a person mentioned in subsection (7) below;
- (c) that transfer occurs or those transfers occur during the period of three years before the change in the ownership of the tax-payer company or after that change but under arrangements made before that change; and
  - (d) the major change mentioned in paragraph (a) above is attributable to that transfer or those transfers.
- (7) The persons are—
- (a) any person mentioned in subsection (2)(a) above; and
  - (b) any person connected with him.
- (8) The amount of tax charged in an assessment made under this section must not exceed the amount of the tax which, at the time of that assessment, remains unpaid by the tax-payer company.
- (9) For the purposes of this section the relevant date is the date six months from the date on which the corporation tax is assessed as mentioned in subsection (1)(b) above.
- (10) Any assessment made under this section shall not be out of time if made within three years from the date on which the liability of the tax-payer company to corporation tax for the accounting period mentioned in subsection (1)(b) above is finally determined.

#### **767B Change of company ownership: supplementary.**

- (1) In relation to corporation tax assessed under section 767A—
- (a) section 86 of the Management Act (interest on overdue tax), in so far as it has effect in relation to accounting periods ending on or before 30th September 1993, and
  - (b) section 87A of that Act (corresponding provision for corporation tax due for accounting periods ending after that date),
- shall have effect as if the references in section 86 to the reckonable date and in section 87A to the date when the tax becomes due and payable were, respectively, references to the date which is the reckonable date in relation to the tax-payer company and the date when the tax became due and payable by the tax-payer company.
- (2) A payment in pursuance of an assessment under section 767A shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes; but any person making such a payment shall be entitled to recover an amount equal to the payment from the tax-payer company.
- (3) In subsection (2) above the reference to a payment in pursuance of an assessment includes a reference to a payment of interest under section 86 or 87A of the Management Act (as they have effect by virtue of subsection (1) above).
- (4) For the purposes of section 767A, “control”, in relation to a company, shall be construed in accordance with section 416 as modified by subsections (5) and (6) below.

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- (5) In subsection (2)(a) for “the greater part of” there shall be substituted “50 per cent. of”.
- (6) For subsection (3) there shall be substituted—
- (”) Where two or more persons together satisfy any of the conditions in subsection (2) above and do so by reason of having acted together to put themselves in a position where they will in fact satisfy the condition in question, each of those persons shall be treated as having control of the company.”
- (7) In section 767A(6) “a major change in the nature or conduct of a trade or business” includes any change mentioned in any of paragraphs (a) to (d) of section 245(4); and also includes a change falling within any of those paragraphs which is achieved gradually as the result of a series of transfers.
- (8) In section 767A(6) “transfer”, in relation to an asset, includes any disposal, letting or hiring of it, and any grant or transfer of any right, interest or licence in or over it, or the giving of any business facilities with respect to it.
- (9) Section 839 shall apply for the purposes of section 767A(7).
- (10) Subsection (9) of section 768 shall apply for the purposes of section 767A as it applies for the purposes of section 768.”
- (2) Section 769 (rules for ascertaining change of ownership of company) shall be amended as follows.
- (3) In subsections (1), (2) and (5) for the words “sections 768”, in each place where they occur, there shall be substituted “ sections 767A, 768 ”.
- (4) After subsection (2) there shall be inserted—
- “(2A) Where—
- (a) persons, whether company members or not, possess extraordinary rights or powers under the articles of association or under any other document regulating the company, and
- (b) because of that fact ownership of the ordinary share capital may not be an appropriate test of whether there has been a change in the ownership of the company,
- then, in considering whether there has been a change in the ownership of the company for the purposes of section 767A, holdings of all kinds of share capital, including preference shares, or of any particular category of share capital, or voting power or any other kind of special power may be taken into account instead of ordinary share capital.”
- (5) After subsection (8) there shall be inserted—
- “(9) Subsection (8) above shall not apply in relation to section 767A.”
- (6) The amendments made by this section shall have effect in relation to any change in ownership occurring on or after 30th November 1993 other than a change occurring in pursuance of a contract entered into before that day.



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### 136 Parts of trades: computations in different currencies.

- (1) The following section shall be inserted after section 94 of the <sup>M13</sup>Finance Act 1993 (computations in different currencies for different parts of trades)—

#### “94A Parts of trades: petroleum extraction companies.

- (1) If a trade carried on by a petroleum extraction company is a ring fence trade—
- (a) subsection (1) of section 94 above shall not apply as regards the trade, but
  - (b) regulations may make provision under that section as regards a case where in an accounting period the company carries on the trade and the condition mentioned in subsection (2) below is fulfilled.
- (2) The condition is that—
- (a) part of the trade consists of activities which relate to oil and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area, and
  - (b) part of the trade consists of activities which relate to gas and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area.
- (3) For the purposes of this section—
- (a) a petroleum licence is a licence granted under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964;
  - (b) a petroleum extraction company is a company which carries on activities under the authority of such a licence;
  - (c) a designated area is an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.
- (4) For the purposes of this section “ring fence trade” means activities which—
- (a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492 of the Taxes Act 1988 (oil extraction etc.), and
  - (b) constitute a separate trade (whether by virtue of that subsection or otherwise).
- (5) For the purposes of this section—
- (a) “oil” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is not gas;
  - (b) “gas” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is gas of which the largest component by volume, measured at a temperature of 15 degrees centigrade and a pressure of one atmosphere, is methane or ethane or a combination of those gases.”
- (2) In section 95(6) of the <sup>M14</sup>Finance Act 1993 (commencement of provisions about currency to be used for computations) for “94” there shall be substituted “94A”.

#### Marginal Citations

M13 1993 c.34.

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**M14** 1993 c. 34.

*Miscellaneous*

**137 Enterprise investment scheme.**

<sup>F38</sup>(1) .....

<sup>F38</sup>(2) .....

(3) The <sup>M15</sup>Taxation of Chargeable Gains Act 1992 shall have effect with the amendments made by that Schedule.

**Textual Amendments**  
<sup>F38</sup> S. 137(1)(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

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**Marginal Citations**  
<sup>M15</sup> 1992 c. 12.

**138 Foreign income dividends.**

Schedule 16 to this Act (which contains provisions about foreign income dividends) shall have effect.

<sup>F39F40</sup>**139 Taxation of incapacity benefit.**

.....

**Textual Amendments**  
<sup>F39</sup> S. 139(1)(b) repealed (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), [Sch. 6](#)  
<sup>F40</sup> S. 139 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](#))

**140 Restriction on deduction from income.**

- (1) Section 808 of the Taxes Act 1988 (restriction on deduction of interest or dividends from trading income) shall be amended as follows—
  - (a) for “a banking business, an insurance business or a business consisting wholly or partly in dealing in securities” there shall be substituted “ a business ”;
  - (b) for “or dividend” there shall be substituted “ , dividend or royalties ”;
  - (c) the words “In this section “securities” includes stocks and shares” shall be omitted.
- (2) This section shall apply where it is sought to exclude receipts from income or profits of an accounting period beginning on or after 30th November 1993.

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## **141 Expenditure involving crime.**

- (1) Section 577A of the Taxes Act 1988 (certain expenditure involving crime not to be deducted and not to be included in expenses of management) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—
  - “(1A) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment induced by a demand constituting—
    - (a) the commission in England or Wales of the offence of blackmail under section 21 of the Theft Act 1968,
    - (b) the commission in Northern Ireland of the offence of blackmail under section 20 of the Theft Act (Northern Ireland) 1969, or
    - (c) the commission in Scotland of the offence of extortion.”
- (3) In subsection (2) for “Such expenditure” there shall be substituted “ Any expenditure mentioned in subsection (1) or (1A) above ”.
- (4) This section shall apply in relation to expenditure incurred on or after 30th November 1993.

## **142 Mortgage interest payable under deduction of tax: qualifying lenders.**

<sup>F41</sup>(1) .....

- (2) The following section shall be inserted in the Taxes Act 1988 after section 376—

### **“376A The register of qualifying lenders.**

- (1) The Board shall maintain, and publish in such manner as they consider appropriate, a register for the purposes of section 376(4).
- (2) If the Board are satisfied that an applicant for registration is entitled to be registered, they may register the applicant generally or in relation to any description of loan specified in the register, with effect from such date as may be so specified; and a body which is so registered shall become a qualifying lender in accordance with the terms of its registration.
- (3) The registration of any body may be varied by the Board—
  - (a) where it is general, by providing for it to be in relation to a specified description of loan, or
  - (b) where it is in relation to a specified description of loan, by removing or varying the reference to that description of loan,and where they do so, they shall give the body written notice of the variation and of the date from which it is to have effect.
- (4) If it appears to the Board at any time that a body which is registered under this section would not be entitled to be registered if it applied for registration at that time, the Board may by written notice given to the body cancel its registration with effect from such date as may be specified in the notice.

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- (5) The date specified in a notice under subsection (3) or (4) above shall not be earlier than the end of the period of 30 days beginning with the date on which the notice is served.
- (6) Any body which is aggrieved by the failure of the Board to register it under this section, or by the variation or cancellation of its registration, may, by notice given to the Board before the end of the period of 30 days beginning with the date on which the body is notified of the Board’s decision, require the matter to be determined by the Special Commissioners; and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal.”
- (3) Any body which is, immediately before the date on which this Act is passed, a prescribed body for the purposes of section 376 of the Taxes Act 1988 (by virtue of an order made under subsection (5) of that section) shall be entitled to be entered in the register maintained under section 376A of that Act as a qualifying lender except that if it was, immediately before that date, a qualifying lender only in relation to such description of loan as was specified in the order, it shall be entitled to be entered in the register as a qualifying lender only in relation to that description of loan.
- (4) Until such time as the Board enter any such body in the register, that body shall be deemed to have been registered in accordance with its entitlement.

**Textual Amendments**  
**F41** S. 142(1) repealed (1.12.2001) by S.I. 2001/3629, arts. 1(2)(a), 109, Sch.

<sup>F42</sup>143 .....

**Textual Amendments**  
**F42** S. 143 repealed (1.5.1995 with effect as mentioned in Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), Note 2 (with Sch. 8 paras. 55(2), 57(1))

**144 Debts released in voluntary arrangement: relief from tax.**

<sup>F43</sup>(1) .....

(2) The provisions of that section shall become subsection (1) of that section and after that subsection there shall be inserted—

“(2) In paragraph (j) of subsection (1) above “relevant arrangement or compromise” means—

- (a) a voluntary arrangement which has taken effect under or by virtue of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989; or
- (b) a compromise or arrangement which has taken effect under section 425 of the Companies Act 1985 or Article 418 of the Companies (Northern Ireland) Order 1986.”

(3) In the Taxes Act 1988—

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- (a) in section 94 (debts deducted and subsequently released) after the word “released” where it first occurs, and
  - (b) in section 103(4)(b) (debts deducted before, but released after, discontinuance of trade, etc.) after the word “released”,
- there shall be inserted “ otherwise than as part of a relevant arrangement or compromise ”.
- (4) The provisions of section 94 of the Taxes Act 1988 shall become subsection (1) of that section and after that subsection there shall be inserted—
- “(2) In subsection (1) above “relevant arrangement or compromise” has the same meaning as in section 74.”
- <sup>F44</sup>(5) .....
- <sup>F45</sup>(6) .....
- (7) Subsection (3) above shall have effect in relation to the release on or after 30th November 1993 of the whole or any part of any debt.

**Textual Amendments**

- F43** S. 144(1) repealed (7.4.2005) by Finance Act 2005 (c. 7), Sch. 11 Pt. 2(5)
- F44** S. 144(5) repealed (7.4.2005) by Finance Act 2005 (c. 7), Sch. 11 Pt. 2(5)
- F45** S. 144(6) repealed (7.4.2005) by Finance Act 2005 (c. 7), Sch. 11 Pt. 2(5)

**145 Relief for business donations.**

- <sup>F46</sup>(1) .....
- (2) Section 79A of that Act shall be amended as follows.
- (3) In subsection (1), after “training and enterprise council” there shall be inserted “ business link organisation ” and in subsection (3) after “council” there shall be inserted “ organisation ”.
- (4) In subsection (5), before paragraph (a) there shall be inserted—
- “(aa) “business link organisation” means any person authorised by or on behalf of the Secretary of State to use a service mark (within the meaning of the Trade Marks (Amendment) Act 1984) designated by the Secretary of State for the purposes of this paragraph”.
- (5) In subsection (7), after “1st April 1990” there shall be inserted “ or, in the case of a contribution to a business link organisation, 30th November 1993 ”.

**Textual Amendments**

- F46** S. 145(1) repealed (28.7.2000) by 2000 c. 17, s. 156, Sch. 40 Pt. II(9)

**146 Minor corrections.**

Schedule 17 to this Act (which corrects various mistakes made in or introduced into the Taxes Act 1988) shall have effect.

**Status:**

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