



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Taxation of income from land

39 Income chargeable under Schedule A

- (1) Section 15 of the Taxes Act 1988 (charge to Schedule A) shall have effect, except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax, as if the following provisions were substituted for the Schedule A set out in subsection (1) of that section—

“SCHEDULE A

- 1 (1) Tax under this Schedule shall be charged on the annual profits or gains arising from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land in the United Kingdom.
- (2) To the extent that any transaction entered into by any person is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land in the United Kingdom that transaction shall be taken for the purposes of this Schedule to have been entered into in the course of such a business as is mentioned in subparagraph (1) above.
- (3) In this paragraph “receipts”, in relation to any land, includes—
- (a) any payment in respect of any licence to occupy or otherwise to use any land or in respect of the exercise of any other right over land; and

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- (b) rentcharges, ground annuals and feu duties and any other annual payments reserved in respect of, or charged on or issuing out of, that land.
- 2 Paragraph 1 above does not apply to—
- (a) any profits or gains arising from any person's entitlement to receive any yearly interest;
 - (b) any profits or gains arising from a person's occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits; or
 - (c) any profits or gains charged to tax under Schedule D by virtue of section 53 or 55 or arising from any person's entitlement to receive payments so charged under section 119 or 120;
- and that paragraph has effect subject to the provisions of section 98 with respect to tied premises.
- 3 (1) For the purposes of paragraph 1 above a right of any person to use a caravan or houseboat shall be deemed, where the use to which the caravan or houseboat may be put in pursuance of that right is confined to its use at only one location in the United Kingdom, to be a right the entitlement to confer which derives, in the case of the person conferring it, from an estate or interest in land in the United Kingdom.
- (2) In sub-paragraph (1) above—
- “caravan” has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960; and
- “houseboat” means a boat or similar structure designed or adapted for use as a place of human habitation.
- 4 (1) In any case where—
- (a) a sum (whether rent or otherwise) is payable in respect of the use of any premises,
 - (b) the tenant or other person entitled to the use of the premises is also entitled to the use, in connection therewith, of furniture, and
 - (c) any part of the sum payable in respect of the use of the premises would fall to be taken into account as a receipt in computing the profits or gains chargeable to tax under this Schedule,
- any amount payable as part of, or in connection with, the sums payable in respect of the use of the premises, in so far as it is payable for the use of the furniture, shall also be so taken into account.
- (2) Sub-paragraph (1) above does not apply to any amount which, apart from that sub-paragraph, would fall to be taken into account as a trading receipt in computing the profits or gains of any trade that consists in or involves the making available for use in any premises of any furniture.
- (3) In sub-paragraph (1) above any reference to a sum shall be construed as including the value of any consideration, and references to a sum being payable shall be construed accordingly.
- (4) In this paragraph “premises” includes a caravan or houseboat within the meaning of paragraph 3 above.”

- (2) For section 21 of that Act (persons chargeable under Schedule A) there shall be substituted the following section—

“21 Persons chargeable and computation of amounts chargeable

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.
 - (2) Income tax under Schedule A shall be computed on the full amount of the profits or gains arising in the year of assessment.
 - (3) Except in so far as express provision to the contrary is made by the Income Tax Acts, the profits or gains of a Schedule A business and the amount of any loss incurred in such a business shall be computed as if Chapter V of Part IV applied in relation to the business as it applies in relation to a trade the profits or gains of which are chargeable to tax under Case I of Schedule D.
 - (4) All the businesses and transactions carried on or entered into by any particular person or partnership, so far as they are businesses or transactions the profits or gains of which are chargeable to tax under Schedule A, shall be treated for the purposes of that Schedule as, or as entered into in the course of carrying on, the one business.
 - (5) Sections 103 to 106, 108, 109A and 110 shall apply in the case of the permanent discontinuance of a business the profits or gains of which are chargeable to income tax under Schedule A as they apply in the case of the permanent discontinuance of a trade.
 - (6) Section 111 shall apply in relation to a Schedule A business carried on in partnership as it applies in the case of a partnership whose business was set up and commenced on or after 6th April 1995.
 - (7) Subsections (1) and (2) of section 113 shall apply in relation to a change in the persons engaged in carrying on a Schedule A business as they apply in relation to a change in the persons carrying on a trade set up and commenced on or after 6th April 1995.
 - (8) The preceding provisions of this section do not apply for the purposes of the Corporation Tax Acts.”
- (3) That Act and the other enactments specified in Schedule 6 to this Act shall have effect with the further modifications set out in that Schedule; and, without prejudice to section 20(2) of the Interpretation Act 1978 (construction of references), a reference in any enactment to another enactment shall have effect, where the other enactment is applied or modified by virtue of this section or that Schedule, as including a reference to that other enactment as so applied or modified.
- (4) This section and Schedule 6 to this Act shall have effect, subject to subsection (5) below—
- (a) for the year 1995-96 and subsequent years of assessment, and
 - (b) so far as they make provision having effect for the purposes of corporation tax, in relation to accounting periods ending on or after 31st March 1995.

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- (5) This section and Schedule 6 to this Act shall not have effect for the year 1995-96 in relation to the profits or gains or losses arising or accruing from any source to any person where—
- (a) that source is a source in respect of the profits or gains from which that person is chargeable to tax for the year 1994-95 under Schedule A or Case VI of Schedule D; and
 - (b) that source ceases, in the course of the year 1995-96, to be a source from which any such profits or gains arise to that or any other person as would be chargeable to tax under Schedule A or Case VI of Schedule D if the amendments for which this section and Schedule 6 to this Act provide were to be disregarded; and
 - (c) that person is not a person who sets up and commences a Schedule A business in the course of the year 1995-96;

and the provisions of that Schedule relating to the Capital Allowances Act 1990 shall not apply for the year 1995-96 in the case of any person who has a source of income for the whole or any part of that year which is a source falling within paragraphs (a) and (b) above and who is a person to whom paragraph (c) above applies.

40 Non-residents and their representatives

- (1) The following section shall be inserted after section 42 of the Taxes Act 1988—

“42A Non-residents and their representatives

- (1) The Board may by regulations make provision for the charging, assessment, collection and recovery on or from prescribed persons falling within subsection (2) below of prescribed amounts in respect of the tax which is or may become chargeable under Schedule A on the income of any person who has his usual place of abode outside the United Kingdom (“the non-resident”).
- (2) A person falls within this subsection if he is—
 - (a) a person by whom any such sums are payable to the non-resident as fall, or would fall, to be treated as receipts of a Schedule A business carried on by the non-resident; or
 - (b) a person who acts on behalf of the non-resident in connection with the management or administration of any such business.
- (3) A person on whom any obligation to make payments to the Board is imposed by regulations under this section shall be entitled—
 - (a) to be indemnified by the non-resident for all such payments; and
 - (b) to retain, out of any sums otherwise due from him to the non-resident, or received by him on behalf of the non-resident, amounts sufficient for meeting any liabilities under the regulations to make payments to the Board which have been discharged by that person or to which he is subject.
- (4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may include any or all of the following provisions, that is to say—

- (a) provision for the amount of any payment to be made to the Board in respect of the tax on any income to be calculated by reference to such factors as may be prescribed;
 - (b) provision for the determination in accordance with any such regulations of the period for which, the circumstances in which and the times at which any payments are to be made to the Board;
 - (c) provision for requiring the payment of interest on amounts which are not paid to the Board at the times required under any such regulations;
 - (d) provision as to the certificates to be given in prescribed circumstances to the non-resident by a person falling within subsection (2) above, and as to the particulars to be included in any such certificate;
 - (e) provision for the making of repayments of tax to the non-resident and for such repayments to be made in prescribed cases to persons falling within subsection (2) above;
 - (f) provision for the payment of interest by the Board on sums repaid under any such regulations;
 - (g) provision for the rights and obligations arising under any such regulations to depend on the giving of such notices and the making of such claims and determinations as may be prescribed;
 - (h) provision for the making and determination of applications for requirements of any such regulations not to apply in certain cases, and for the variation or revocation, in prescribed cases, of the determinations made on such applications;
 - (i) provision for appeals with respect to questions arising under any such regulations;
 - (j) provision requiring prescribed persons falling within subsection (2) (b) above to register with the Board;
 - (k) provision requiring persons registered with the Board and other prescribed persons falling within subsection (2) above to make returns and supply prescribed information to the Board and to make available prescribed books, documents and other records for inspection on behalf of the Board;
 - (l) provision for the partnership, as such, to be treated as the person falling within subsection (2) above in a case where a liability to make any payment under the regulations arises from amounts payable or things done in the course of a business carried on by any persons in partnership;
 - (m) provision which, in relation to payments to be made by virtue of this section in respect of any tax or to any sums retained in respect of such payments, applies (with or without modifications) any enactment or subordinate legislation having effect apart from this section with respect to cases in which tax is or is treated as deducted from any income.
- (5) Interest required to be paid by any regulations under this section shall be paid without deduction of tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.
- (6) Regulations under this section may—
- (a) make different provision for different cases; and

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(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate; and the provision that may be made by virtue of paragraph (b) above may include provision which, in connection with any other provision made by any such regulations, modifies the operation in any case of section 59A of the Management Act or Schedule 21 to the Finance Act 1995 (payments on account of income tax).

(7) In this section—

“prescribed” means prescribed by, or determined by an officer of the Board in accordance with, regulations made by the Board under this section; and

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.

(8) This section shall have effect—

(a) as if references in this section to a Schedule A business included references to any activities which would be comprised in a Schedule A business if they were carried on by an individual, rather than by a company; and

(b) in relation to companies that carry on such activities, as if the reference in subsection (1) above to tax which is or may become chargeable under Schedule A included a reference to tax which is or may become chargeable under Case VI of Schedule D.”

(2) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), after the entry in the first column relating to section 42 of the Taxes Act 1988 and after the entry in the second column relating to section 41(2) of the Taxes Act 1988, there shall, in each case, be inserted the following entry—

“regulations under section 42A;”.

(3) Section 43 of the Taxes Act 1988 (payments to non-residents of amounts chargeable under Schedule A) shall not have effect in relation to any payment made on or after 6th April 1996.

41 Income from overseas property

(1) In section 65 of the Taxes Act 1988 (general provision about Cases IV and V assessments), after subsection (2) there shall be inserted the following subsections—

“(2A) Subject to section 65A and to the provisions of section 41(5) to (9) of the Finance Act 1995 (which contain transitional provisions for the years 1995-96 to 1997-98), income tax chargeable under Case V of Schedule D on income which—

(a) arises from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land outside the United Kingdom; and

(b) is not income immediately derived by any person from the carrying on by him of any trade, profession or vocation, either solely or in partnership,

shall be computed in accordance with the rules which are applicable under the Income Tax Acts to the computation of the profits or gains of a Schedule A business.

(2B) The provisions of Schedule A shall apply for determining for the purposes of subsection (2A) above whether income falls within paragraph (a) of that subsection as they would apply if—

- (a) the land in question were in the United Kingdom, or
- (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom;

and any provision of the Income Tax Acts in pursuance of which there is deemed in certain cases to be a Schedule A business in relation to any land in the United Kingdom shall have effect, where the corresponding circumstances arise with respect to land outside the United Kingdom, as if, for the purposes of that subsection, there were deemed to be a business such as is mentioned in that paragraph.”; and in subsection (4) of that section for “Subsections (1), (2) and (3)” there shall be substituted “Subsections (1) to (3)”.

(2) After section 65 of that Act there shall be inserted the following section—

“65A Case V income from land overseas etc

(1) Notwithstanding anything in section 21(4), subsection (2A) of section 65 shall require the rules referred to in that subsection to be applied separately in relation to—

- (a) any business which is treated for the purposes of that subsection as if it were a Schedule A business, and
 - (b) any actual Schedule A business of the person chargeable,
- as if, in each case, that business were the only Schedule A business carried on by that person.

(2) Section 21(3), so far as applied by virtue of section 65(2A) for the purposes of the computation of the amount of any income chargeable to tax under Case V of Schedule D, shall have effect as if it required sections 80 and 81 to be disregarded in the computation of the amount of any profits or gains, or losses, of a Schedule A business.

(3) Sections 503 and 504 of this Act and section 29 of the 1990 Act (furnished holiday accommodation) shall be disregarded in the computation in accordance with section 65(2A) of any income chargeable to tax under Case V of Schedule D.

(4) Section 65(2A) and this section shall not apply for the purposes of corporation tax.”

(3) In section 161 of the Capital Allowances Act 1990 (interpretative provisions), after subsection (2) there shall be inserted the following subsection—

“(2A) This Act applies in accordance with subsection (2A) of section 65 of the principal Act in relation to cases where a person is treated for the purposes of that subsection as if any actual or deemed business of his were a Schedule A business as it applies in relation to cases where a person is carrying on a Schedule A business.”

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- (4) In Schedule 8 to the Taxation of Chargeable Gains Act 1992 (which contains provision excluding from the charge to capital gains tax premiums taxed under Schedule A), after paragraph 7 there shall be inserted the following paragraph—
- “7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business shall include references to any amount which, in accordance with section 65(2A) of the Taxes Act, is brought into account for the purposes of Case V of Schedule D as if it were such a receipt.”
- (5) Where any income falling within paragraphs (a) and (b) of subsection (2A) of section 65 of the Taxes Act 1988 which is chargeable to tax for any year of assessment under Case V of Schedule D would (apart from this section) be computed, wholly or partly, on an amount of income arising in the year preceding the year of assessment, that subsection shall have effect as if the income chargeable to tax for that year under Schedule A were to be computed, to the same extent, by reference to the year preceding the year of assessment (instead of being computed in accordance with the rule in section 21(2) of that Act), and as if the rules applied by section 65(2A) of that Act had effect accordingly.
- (6) Notwithstanding anything in section 21(4) of the Taxes Act 1988, for the years 1995-96 and 1996-97 subsection (2A) of section 65 shall be treated as requiring the rules referred to in that subsection to be applied, in a case where a person is chargeable under Case V of Schedule D in respect of the rents or other receipts from more than one property situated outside the United Kingdom, separately in relation to each property outside the United Kingdom—
- (a) as if a separate Schedule A business were carried on in relation to each property, and
 - (b) in the case of each such business, as if that business were the only Schedule A business carried on by the person chargeable.
- (7) Where subsection (5) above applies for the computation of the income from any property for any year of assessment, then for that year no allowance or charge under the Capital Allowances Act 1990 shall be made on any person by virtue of this section for any purpose connected with the taxation of the income from that property.
- (8) Section 379A of the Taxes Act 1988 (Schedule A losses) shall not apply by virtue of section 65(2A) of that Act for the computation of any income chargeable to tax under Case V of Schedule D for any year of assessment before the year 1998-99.
- (9) Section 65(2A) of the Taxes Act 1988 shall not apply in any case which, if the land in question were in the United Kingdom, would be a case falling within section 39(5) above.
- (10) Subject to subsections (5) to (9) above, this section has effect for the year 1995-96 and subsequent years of assessment.

42 Abolition of interest relief for commercially let property

- (1) In section 355 of the Taxes Act 1988, paragraph (b) of subsection (1) (relief for property that is commercially let) shall cease to have effect.
- (2) That Act shall be further amended as follows—

- (a) in section 353(1B), in the words after paragraph (b), for “sections 237(5)(b) and 355(4)” there shall be substituted “section 237(5)(b)”;
 - (b) in section 355, for the words “subsection (1)(a) above”, wherever occurring, there shall be substituted “subsection (1) above”;
 - (c) in sections 356(1) and 356B(5), for “355(1)(a)” there shall be substituted “355(1)”;
 - (d) in sections 357A(7) and 357B(1)(c) and (6), for the words from “and is such” onwards there shall be substituted “by virtue of section 354”; and
 - (e) in section 357C—
 - (i) in subsection (1)(e), for the words from “and would have been” onwards, and
 - (ii) in subsection (2), for the words from “and was such” onwards, there shall, in each case, be substituted “by virtue of section 354”.
- (3) Subject to subsections (4) to (6) below, this section shall have effect in relation to any payment of interest made on or after 6th April 1995.
- (4) Where—
- (a) the profits or gains of any source of income that ceases in the course of the year 1995-96 are taxed, by virtue of section 39(5) or 41(9) above, without reference to the Schedule A that has effect by virtue of section 39(1) above, and
 - (b) that source of income includes any land, caravan or house-boat with respect to which the condition specified in section 355(1)(b) of the Taxes Act 1988 would be satisfied in the case of any loan,
- this section shall not apply to any payment of interest on that loan which is made before the time in the year 1995-96 when that source of income ceases.
- (5) Subject to paragraph 19(3) of Schedule 6 to this Act, no relief in respect of any payment of interest before 6th April 1995 shall be given under section 355(4) of the Taxes Act 1988 (income against which relief available) against any income for the year 1995-96 or any subsequent year of assessment except in a case where the income falls within subsection (4)(a) above.
- (6) Schedule 7 to this Act (which makes amendments in relation to corporation tax which are consequential on this section) shall have effect in relation to accounting periods ending after 31st March 1995.