



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Transfer pricing, FOREX and financial instruments

108 New regime for transfer pricing etc.

^{F1}(1)

^{F1}(2)

^{F2}(3)

(4) In the ^{M1}Finance Act 1996—

^{F2}(a)

(b) in paragraph 16 of Schedule 9 (imputed interest)—

(i) in sub-paragraph (1), for the words from “sections 770” to “that Act” there shall be substituted “ Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length) ”; and

(ii) in sub-paragraph (2), for “Those sections” there shall be substituted “ That Schedule ”.

(5) Subject to subsection (6) below, this section and Schedule 16 to this Act have effect (in relation to provision made or imposed at any time)—

(a) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the ^{M2}Finance Act 1994 for the

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- purposes of Chapter III of Part IV of that Act (self-assessment management provisions); and
- (b) for the purposes of income tax, as respects any year of assessment ending on or after that day.
- (6) The Schedule 28AA to the Taxes Act 1988 that is inserted by subsection (2) above shall not, in the case of any potentially advantaged person, apply as respects the consequences at any time of the difference between the actual provision and the arm's length provision if—
- (a) that time falls before 17th March 2001;
 - (b) the actual provision is a provision made or imposed by means of contractual arrangements entered into by that person before 17th March 1998;
 - (c) the requirements of paragraph 1(1)(b) of Schedule 28AA to that Act (control requirements) are satisfied in the case of the actual provision and that person by reference only to paragraph 4(2)(b) of that Schedule (joint ventures etc.);
 - (d) the rights and obligations of that person by virtue of the actual provision are not ones that have been varied or continued in pursuance of any transaction entered into by that person in the period between 17th March 1998 and that time; and
 - (e) that person is not a party, and has not been a party, to any transaction by virtue of which he could during that period have secured the variation or termination of those rights and obligations.
- (7) Expressions used in subsection (6) above and in Schedule 28AA to the Taxes Act 1988 have the same meanings in that subsection as in that Schedule.

Textual Amendments

- F1** S. 108(1)(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with [Sch. 9 paras. 1-9, 22](#))
- F2** S. 108(3)(4)(a) repealed (24.7.2002 with effect as mentioned in [Sch. 40 Pt. 3\(10\) Note 2](#) of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(10) Note 2**
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Marginal Citations

- M1** 1996 c. 8.
M2 1994 c. 9.

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