



Finance Act 2003

2003 CHAPTER 14

PART 7

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX: GENERAL

Miscellaneous

175 Payments to adopters

(1) After section 327 of the Taxes Act 1988 insert—

“327A Payments to adopters

- (1) The following payments shall not be treated as income for any purpose of the Income Tax Acts—
- (a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
 - (b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);
 - (c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations 1991);
 - (d) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
 - (e) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);
 - (f) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved by the Secretary of State under section 51(5) of that Act (schemes for

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payment of allowances to persons who have adopted, or intend to adopt, a child);

- (g) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act;
- (h) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
- (i) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted, or intends to adopt, a child;
- (j) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations (Northern Ireland) 1996);
- (k) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (see sections 2(6) and (7) and 4 of that Act);
- (l) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

(2) The Treasury may by order amend this section for the purposes of—

- (a) adding a description of payment, or
- (b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.”.

(2) The amendment made by this section has effect for the year 2003-04 and subsequent years of assessment.

176 Foster carers

(1) Schedule 36 to this Act (foster carers) has effect.

(2) This section has effect in relation to the year 2003-04 and subsequent years of assessment.

177 Currency contracts and currency options

(1) This section applies in any case where at any time on or after 30th September 2002—

- (a) a qualifying company becomes party to a qualifying contract which is a currency contract or currency option, or
- (b) the terms of such a qualifying contract held by such a company are varied, and the conditions in subsection (2) are, or subsequently become, satisfied.

(2) The conditions are that—

- (a) in accordance with generally accepted accounting practice, the company in preparing its statutory accounts uses the exchange rate implied by the qualifying contract (“the accounting rate”);
- (b) there is a difference between the accounting rate and the final payment rate; and

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- (c) the difference between those exchange rates is more than 1 per cent of the final payment rate.
- (3) In subsection (2) “the final payment rate” means the exchange rate found by reference only to the amounts which fall or would, apart from this section and the provisions specified in subsection (4), fall to be regarded for the purposes of subsection (2) or, as the case may be, (7) of section 150 of the Finance Act 1994 (c. 9) as the amounts of the currency to be received, and the currency to be paid in exchange, under the qualifying contract as mentioned in that subsection.
- (4) Where this section first applies in relation to the qualifying contract in an accounting period of the company which begins before 1st October 2002 (“the relevant contract period”), the following provisions of the Finance Act 2002 (c. 23), namely—
- (a) section 79(1)(b) (repeal of forex),
 - (b) section 80 and Schedule 24 (corporation tax: currency), and
 - (c) section 83 and Schedules 26 and 27 (derivative contracts),
- shall be taken to have effect in the case of the company, so far as relating to that contract, in relation to that accounting period and any subsequent accounting periods.
- (5) Where—
- (a) the qualifying contract is a currency contract which arises from the exercise of a currency option which is or was itself a qualifying contract (or a series of such currency options), and
 - (b) that currency option was entered into or varied on or after 30th September 2002 (or, in the case of a series of currency options, any of them was entered into or varied on or after that date),
- the provisions specified in subsection (4) shall be taken to have effect in the case of the company, so far as relating to the currency option (or, in the case of a series of currency options, each of the options entered into or varied on or after 30th September 2002), in relation to the earliest accounting period (“the relevant options period”) in which the option (or any of the options) was so entered into or varied and any subsequent accounting periods.
- (6) Where the provisions specified in subsection (4) have effect by virtue of this section in relation to a currency contract or currency option the following provisions of the Finance Act 2002, namely—
- (a) section 81 (transitional provision), so far as relating to section 80 and Schedule 24, and
 - (b) Schedule 28 (derivative contracts: transitional provisions etc),
- shall have effect accordingly.
- (7) In the application of Schedule 28 to the Finance Act 2002 by virtue of this section, any reference to the company’s commencement day is to be taken—
- (a) in the case of a currency contract, as a reference to the first day of the relevant contract period; or
 - (b) in the case of a currency option, as a reference to the first day of the relevant options period.
- (8) This section does not apply in relation to any contract entered into or varied in an accounting period beginning on or after 1st October 2002 unless the contract arises from the exercise of a currency option which was entered into or varied on or after 30th September 2002 and in an accounting period beginning on or before that date.

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(9) In this section the following expressions, namely—

- (a) qualifying company,
- (b) qualifying contract,
- (c) currency contract,
- (d) currency option,

have the same meaning as in Chapter 2 of Part 4 of the Finance Act 1994 (c. 9), (disregarding for this purpose the provisions specified in subsection (4)) and references to the exercise of an option shall be construed accordingly.

(10) In this section “statutory accounts” has the meaning given by paragraph 52 of Schedule 26 to the Finance Act 2002 (c. 23).

(11) This section shall be deemed to have come into force on 30th September 2002.

178 Loan relationships: amendments

Schedule 37 to this Act (which makes amendments in relation to loan relationships) has effect.

179 Derivative contracts: transactions within groups

(1) In paragraph 28 of Schedule 26 to the Finance Act 2002 (c. 23), in sub-paragraph (3)

(a) (credits and debits to be brought into account: disregard of the transaction or series of transactions except for certain purposes) after “except” insert—

“(i) for the purpose of determining the credits and debits to be brought into account in respect of exchange gains or losses and identifying the company which is to bring them into account, or

(ii)”.

(2) In sub-paragraph (3)(b) of that paragraph (transferor and transferee deemed to be the same person, except for that purpose) for “that purpose” substitute “those purposes”.

(3) For sub-paragraph (4) of that paragraph substitute—

“(4) References in this paragraph to one company replacing another as party to a derivative contract shall include references to a company becoming party to any derivative contract which—

- (a) confers rights or imposes liabilities, or
- (b) both confers rights and imposes liabilities,

where those rights or liabilities, or rights and liabilities, are equivalent to those of the other company under a derivative contract to which that other company has previously ceased to be party.”.

(4) For paragraph 30 of that Schedule (amount to be brought into account on transaction within a group where transferor uses mark to market basis of accounting) substitute—

“30 (1) Paragraph 28 does not apply where the transferor company uses an authorised mark to market basis of accounting as respects the derivative contract in question, but in any such case—

- (a) the amount to be brought into account by the transferor company in respect of the transaction referred to in that paragraph, or

in respect of the series of transactions there referred to, taken together, must be the fair value of the derivative contract as at the date of transfer to the transferee company; and

- (b) the amount to be brought into account by the transferee company in respect of the transaction referred to in that paragraph, or in respect of the series of transactions there referred to, taken together, must be the same as the amount brought into account by the transferor company in respect of that transaction or, as the case may be, that series of transactions, taken together.

(2) In this paragraph “transferor company” and “transferee company” have the same meaning as in paragraph 28.”.

- (5) The amendments made by this section have effect where the date of transfer to the transferee company falls on or after 9th April 2003.

180 Contributions to urban regeneration companies

- (1) After section 79A of the Taxes Act 1988 (contributions to training and enterprise councils and local enterprise companies) insert—

“79B Contributions to urban regeneration companies

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a designated urban regeneration company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits of the trade, profession or vocation if it would not otherwise be so deductible.
- (2) Where any such contribution is made by an investment company, any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the urban regeneration company concerned or from any other person.
- (4) In any case where—
- (a) relief has been given under subsection (1) above in respect of a contribution, and
 - (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

- (5) In this section “urban regeneration company” means any body of persons (whether corporate or unincorporate) which the Treasury by order designates as an urban regeneration company for the purposes of this section.

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- (6) The Treasury may only make an order under subsection (5) above designating a body as an urban regeneration company for the purposes of this section if they consider that each of the criteria in subsection (7) below is satisfied in the case of the body.
- (7) The criteria are that—
 - (a) the sole or main function of the body is to co-ordinate the regeneration of a specific urban area in the United Kingdom;
 - (b) the body is expected to seek to perform that function by creating a plan for the development of that area and endeavouring to secure that the plan is carried into effect;
 - (c) in co-ordinating the regeneration of that area, the body is expected to work together with some or all of the public or local authorities which exercise functions in relation to the whole or part of that area.
- (8) An order under subsection (5) above may be framed so as to take effect on a date earlier than the making of the order, but not earlier than—
 - (a) 1st April 2003, in the case of the first order under that subsection, or
 - (b) three months before the date on which the order is made, in the case of any subsequent order.
- (9) Section 839 (connected persons) applies for the purposes of this section.
- (10) This section applies to contributions made on or after 1st April 2003.”.
- (2) In section 828(4) of the Taxes Act 1988 (orders or regulations under specified provisions not to be subject to Commons negative resolution parliamentary procedure) after “section 1(6),” insert “79B(5),”.

181 Repos etc

Schedule 38 to this Act (which contains amendments relating to arrangements for the sale and repurchase of securities etc) has effect.

182 Relevant discounted securities: withdrawal of relief for costs and losses, etc

Schedule 39 to this Act (relevant discounted securities: withdrawal of relief for costs and losses, and extension of definition of “strip”) has effect.

183 Court common investment funds

- (1) Section 469A of the Taxes Act 1988 (court common investment funds) is amended as follows.
- (2) In paragraph (c) of subsection (1) (persons entitled as against the Accountant General to share in fund’s investments treated as unit holders in authorised unit trust) for “the persons whose interests entitle them, as against the Accountant General, to share in the fund’s investments” substitute “the persons with qualifying interests”.
- (3) After that subsection insert—
 - “(1A) For the purposes of subsection (1)(c) above, the persons with qualifying interests are—

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- (a) in relation to shares in the fund held by the Accountant General, the persons whose interests entitle them, as against him, to share in the fund's investments;
 - (b) in relation to shares in the fund held by any other person authorised by the Lord Chancellor to hold such shares on behalf of others (an "authorised person")—
 - (i) if there are persons whose interests entitle them, as against the authorised person, to share in the fund's investments, those persons;
 - (ii) if not, the authorised person;
 - (c) in relation to shares in the fund held by persons authorised by the Lord Chancellor to hold such shares on their own behalf, those persons.".
- (4) This section has effect in relation to income arising to a common investment fund on or after 6th April 2003.
- (5) In this section "common investment fund" means a common investment fund established under section 42 of the Administration of Justice Act 1982 (c. 53).

184 Intangible fixed assets: tax avoidance arrangements and related parties

- (1) Schedule 29 to the Finance Act 2002 (c. 23) (gains and losses of a company from intangible fixed assets) is amended as follows.
- (2) In paragraph 111 (tax avoidance arrangements to be disregarded)—
- (a) in sub-paragraph (1) for the words following "in determining" substitute "whether a debit or credit is to be brought into account under this Schedule or the amount of any such debit or credit", and
 - (b) in sub-paragraph (2)—
 - (i) for "under paragraph 9" in paragraph (a), and
 - (ii) for "under Part 4" in paragraph (b),substitute "under this Schedule".
- (3) In paragraph 95(1) (cases in which persons are "related parties") at the end add—

"Case Four

P is a company and C is another company in the same group."

- (4) The amendments in this section—
- (a) have effect in relation to the debits or credits to be brought into account for accounting periods beginning on or after 20th June 2003, and
 - (b) in relation to the debits or credits to be brought into account for any such period shall be deemed always to have had effect.
- (5) For this purpose an accounting period beginning before, and ending on or after, that date is treated as if so much of that period as falls before that date, and so much of that period as falls on or after that date, were separate accounting periods.