



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

CORPORATION TAX: GENERAL

Accounting practice

50 Generally accepted accounting practice

- (1) In the Tax Acts “generally accepted accounting practice” means—
 - (a) in relation to the affairs of a company or other entity that prepares accounts in accordance with international accounting standards (“IAS accounts”), generally accepted accounting practice with respect to such accounts;
 - (b) in any other case, UK generally accepted accounting practice.
- (2) In the Tax Acts “international accounting standards” means the international accounting standards, within the meaning of Regulation (EC) No. 1606/2002 of the European Parliament and the Council of 19 July 2002 on the application of international accounting standards, adopted from time to time by the European Commission in accordance with that Regulation.
- (3) Where the European Commission has not adopted a particular international accounting standard, then as regards the matters covered by that standard—
 - (a) generally accepted accounting practice with respect to IAS accounts shall be regarded as permitting the use either of the unadopted standard or of UK generally accepted accounting practice, and
 - (b) accounts prepared on either basis shall be regarded for the purposes of the Tax Acts as prepared in accordance with international accounting standards.

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- (4) In the Tax Acts “UK generally accepted accounting practice”—
- (a) means generally accepted accounting practice with respect to accounts of UK companies (other than IAS accounts) that are intended to give a true and fair view, and
 - (b) has the same meaning in relation to—
 - (i) individuals,
 - (ii) entities other than companies, and
 - (iii) companies that are not UK companies,
 as it has in relation to UK companies.

In this subsection “UK companies” means companies incorporated or formed under the law of a part of the United Kingdom.

- (5) In section 832(1) of the Taxes Act 1988 (interpretation of the Tax Acts)—
- (a) in the definition of “generally accepted accounting practice” for “has the meaning given by section 836A” substitute “has the meaning given by section 50(1) of the Finance Act 2004”;
 - (b) at the appropriate place insert—
 - ““international accounting standards” has the meaning given by section 50(2) of the Finance Act 2004;” and
 - ““UK generally accepted accounting practice” has the meaning given by section 50(4) of the Finance Act 2004;”.
- (6) This section has effect in relation to—
- (a) periods of account beginning on or after 1st January 2005, and
 - (b) in the case of a company required to prepare accounts under the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), any period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.

51 Use of different accounting practices within a group of companies

- (1) This section applies where—
- (a) a company (company A) prepares accounts in accordance with international accounting standards,
 - (b) another company (company B) in the same group of companies prepares accounts in accordance with UK generally accepted accounting practice,
 - (c) there is a transaction between, or a series of transactions involving, company A and company B, and
 - (d) a tax advantage would (apart from this section) be obtained by either or both of those companies in relation to the transaction or series of transactions as a result of the use of different accounting practices.
- (2) In that case the Tax Acts apply in relation to that transaction or series of transactions as if both companies prepared accounts in accordance with UK generally accepted accounting practice.

- (3) The provisions of section 170(3) to (6) of the Taxation of Chargeable Gains Act 1992 (c. 12) apply to determine for the purposes of this section whether companies are in the same group of companies.
- (4) A series of transactions is not prevented from being a series of transactions involving company A and company B by reason only of the fact that one or more of the following is the case—
- (a) there is no transaction in the series to which both those companies are parties;
 - (b) that parties to any arrangement in pursuance of which the transactions in the series are entered into do not include one or both of those companies;
 - (c) there are one or more transactions in the series to which neither of those companies is a party.
- (5) In this section “tax advantage” has the same meaning as in Chapter 1 of Part 17 of the Taxes Act 1988 (see section 709 of that Act).
- (6) This section has effect in relation to—
- (a) periods of account beginning on or after 1st January 2005, and
 - (b) in the case of a company required to prepare accounts under the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), any period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.

52 Amendment of enactments that operate by reference to accounting practice

- (1) Schedule 10 makes amendments of provisions of the Tax Acts that operate by reference to accounting practice.
- (2) In that Schedule—
- Part 1 makes amendments relating to loan relationships;
 - Part 2 makes amendments relating to derivative contracts;
 - Part 3 makes amendments relating to intangible fixed assets;
 - Part 4 makes amendments relating to foreign currency accounting.
- (3) The amendments have effect in relation to—
- (a) periods of account beginning on or after 1st January 2005, and
 - (b) in the case of a company required to prepare accounts under the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, any period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.

53 Treatment of expenditure on research and development

- (1) Expenditure by a company on research and development, if not of a capital nature, is not prevented from being regarded for tax purposes as deductible in computing profits by reason of the fact that for accounting purposes it is brought into account by the company in determining the value of an intangible asset.
- (2) Subsection (1) applies, in particular, for the purposes of—

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section 82A of the Taxes Act 1988 (deduction of expenditure on research and development),
 Schedule 20 to the Finance Act 2000 (c. 17) (R&D tax relief),
 Schedule 12 to the Finance Act 2002 (c. 23) (tax relief for expenditure on research and development), and
 Schedule 13 to that Act (tax relief for expenditure on vaccine research etc.).

- (3) Where expenditure is brought into account by a company for tax purposes in accordance with subsection (1), no deduction may be made in computing for tax purposes the profits of the company in respect of the writing down of so much of the value of an intangible asset as is attributable to that expenditure.
- (4) Expenditure shall not be regarded by virtue of subsection (1) as deductible in computing a company's profits for an accounting period to the extent that—
- (a) a deduction has been made in respect of it in computing the company's profits for a previous accounting period, or
 - (b) the company has benefited from a tax relief in respect of it for a previous accounting period under any of the provisions specified in subsection (2).
- (5) In this section—
- “intangible asset” has the meaning it has for accounting purposes; and
 “research and development” has the meaning given by section 837A of the Taxes Act 1988.
- (6) This section shall come into force in accordance with provision made by the Treasury by order made by statutory instrument.

54 Trading profits etc. from securities: taxation of amounts taken to reserves

- (1) Before section 473 of the Taxes Act 1988 insert—

“472A Trading profits etc. from securities: taxation of amounts taken to reserves

- (1) This section applies in relation to securities—
- (a) which are held by a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities; and
 - (b) which are such that a profit on their sale would form part of the trading profits of that business.
- (2) Profits and losses arising from such securities that in accordance with generally accepted accounting practice are—
- (a) calculated by reference to the fair value of the securities, and
 - (b) recognised in that person's statement of recognised gains and losses or statement of changes in equity,
- shall be brought into account in computing the profits or losses of a business in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (2) does not apply—

- (a) to an amount to the extent that it derives from or otherwise relates to an amount brought into account under that subsection in an earlier period of account, or
 - (b) to an amount recognised for accounting purposes by way of correction of a fundamental error.
- (4) In this section, “securities”—
 - (a) includes shares and any rights, interests or options that by virtue of section 99, 135(5) or 136(5) of the Taxation of Chargeable Gains Act 1992 are treated as shares for the purposes of sections 126 to 136 of that Act; but
 - (b) does not include a loan relationship (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996).”.
- (2) This section has effect in relation to—
 - (a) periods of account beginning on or after 1st January 2005, and
 - (b) in the case of a company required to prepare accounts under the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), any period of account beginning before that date for which the company is required or permitted to prepare such accounts in accordance with international accounting standards.