



Finance (No. 2) Act 2005

CHAPTER 22

FINANCE (NO. 2) ACT 2005

PART 1

VALUE ADDED TAX

- 1 Goods subject to warehousing regime: place of acquisition or supply
- 2 Cars: determination of consideration for fuel supplied for private use
- 3 Credit for, or repayment of, overstated or overpaid VAT
- 4 Section 3: consequential and supplementary provision
- 5 Reverse charge: gas and electricity valuation
- 6 Disclosure of value added tax avoidance schemes

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

PERSONAL TAXATION

Social security pension lump sums

- 7 Charge to income tax on lump sum
- 8 Meaning of “applicable year of assessment” in section 7
- 9 Interpretation and commencement
- 10 Consequential amendments

Gift aid

- 11 Donations to charity by individuals

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Employee securities

- 12 Employee securities: anti-avoidance

CHAPTER 2

SCIENTIFIC RESEARCH ORGANISATIONS

- 13 Corporation tax exemption for organisations
14 Income tax deduction for payments to organisations
15 Corporation tax deduction for payments to organisations

CHAPTER 3

AUTHORISED INVESTMENT FUNDS ETC

- 16 Open-ended investment companies
17 Authorised unit trusts and open-ended investment companies
18 Section 17(3): specific powers
19 Section 17: commencement and procedure
20 Unauthorised unit trusts: chargeable gains
21 Unit trusts: treatment of accumulation units
22 Section 349B ICTA: exemption for distributions to PEP/ISA managers
23 Offshore funds

CHAPTER 4

AVOIDANCE INVOLVING TAX ARBITRAGE

- 24 Deduction cases
25 Rules relating to deductions
26 Receipts cases
27 Rule as to qualifying payment
28 Notices under sections 24 and 26
29 Amendments relating to company tax returns
30 Interpretation
31 Commencement

CHAPTER 5

CHARGEABLE GAINS

Residence, location of assets etc

- 32 Temporary non-residents
33 Trustees both resident and non-resident in a year of assessment
34 Location of assets etc

Miscellaneous

- 35 Exercise of options etc
36 Notional transfers within a group

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

CHAPTER 6

MISCELLANEOUS

Accounting practice and related matters

- 37 Accounting practice and related matters

Financial avoidance etc

- 38 Charges on income for the purposes of corporation tax
39 Avoidance involving financial arrangements

Financing of companies etc

- 40 Transfer pricing and loan relationships

Intangible fixed assets

- 41 Intangible fixed assets

Insurance companies etc

- 42 Insurance companies etc

International matters

- 43 Implementation of the amended Parent/Subsidiary Directive
44 Territories with a lower level of taxation: reduction of amount of local tax

Miscellaneous

- 45 Lloyd's underwriters: assessment and collection of tax
46 Energy Act 2004 and Health Protection Agency Act 2004

PART 3

STAMP TAXES

Stamp duty land tax

- 47 E-conveyancing
48 Disclosure of information contained in land transaction returns
49 Miscellaneous amendments

Stamp duty and stamp duty reserve tax

- 50 Power to extend exceptions relating to recognised exchanges

PART 4

EUROPEAN COMPANY STATUTE

- 51 Chargeable gains
52 Intangible fixed assets
53 Intangible fixed assets: permanent establishment in another member State
54 Loan relationships

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

- 55 Derivative contracts
- 56 Capital allowances
- 57 Stamp duty reserve tax
- 58 Bearer instruments: stamp duty and stamp duty reserve tax
- 59 Consequential amendments
- 60 Residence
- 61 Continuity for transitional purposes
- 62 Groups
- 63 Groups: intangible fixed assets
- 64 Held-over gains
- 65 Restrictions on set-off of pre-entry losses

PART 5

MISCELLANEOUS MATTERS

- 66 Vehicle excise duty: late renewal supplements
- 67 Reorganisation of water and sewerage services in Northern Ireland
- 68 EU Mutual Assistance Directive: notifications
- 69 Abolition of statutory adjudicator for National Savings and Investments

PART 6

SUPPLEMENTARY PROVISIONS

- 70 Repeals
- 71 Interpretation
- 72 Short title

SCHEDULES

SCHEDULE 1 — Disclosure of value added tax avoidance schemes

Introduction

- 1 Schedule 11A to VATA 1994 (disclosure of avoidance schemes) is...

Interpretative provisions

- 2 In paragraph 1 (interpretation), after the definition of “designated scheme”...
- 3 For paragraph 2 substitute— (1) For the purposes of this Schedule, a taxable person...
- 4 After paragraph 2 insert— Meaning of “non-deductible tax” (1) In this Schedule “non-deductible tax”, in relation to a...

Duty to notify Commissioners

- 5 (1) Paragraph 6 (duty to notify Commissioners) is amended as...
- 6 In paragraph 7 (exemptions from duty to notify) in the...

Amount of penalty

- 7 (1) Paragraph 11 (amount of penalty) is amended as follows....

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Penalty assessments

- 8 In paragraph 12 (penalty assessments) for sub-paragraph (3) substitute

SCHEDULE 2 — Employee securities: anti-avoidance

Introductory

- 1 ITEPA 2003 is amended as follows.

Rights under certain insurance contracts to be securities

- 2 (1) Section 420 (income and exemptions relating to securities: meaning...

Restricted securities

- 3 Chapter 2 of Part 7 (restricted securities) is amended as...
4 (1) Section 424 (employment-related securities which are not restricted securities...
5 (1) In section 428 (amount of charge under section 426),...
6 (1) In section 429 (exception from charge under section 426...
7 (1) After section 431A insert— Securities acquired for purpose of...

Convertible securities

- 8 Chapter 3 of Part 7 (convertible securities) is amended as...
9 (1) In section 436(a) (meaning of “convertible securities”), for “immediate...
10 (1) In section 440 (amount of charge under section 438),...
11 (1) In section 443 (exception from charge under section 438...

Securities acquired for less than market value

- 12 Chapter 3C of Part 7 (securities acquired for less than...
13 (1) In section 446R (exception from Chapter for certain company...
14 (1) In section 446U(1) (discharge of notional loan), insert at...
15 (1) After section 446U insert— Pre-acquisition avoidance cases (1) Sections 446S to 446U do not apply if the...
16 (1) Section 698 (PAYE: special charges on employment-related securities) is...

Post-acquisition benefits from securities

- 17 Chapter 4 of Part 7 (post-acquisition benefits from securities) is...
18 (1) Section 447 (charge on other chargeable benefits from securities)...
19 (1) In section 449 (exception from charge under section 447...

Corporation tax relief: minor and consequential amendments

- 20 (1) Schedule 23 to FA 2003 (corporation tax relief for...

SCHEDULE 3 — Qualifying scheme

Part 1 — INTRODUCTORY

- 1 For the purposes of section 24 a scheme is a...

Part 2 — SCHEMES INVOLVING HYBRID ENTITIES

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

2 A scheme falls within this Part if a party to...

3 (1) An entity is a hybrid entity if—

Part 3 — SCHEMES INVOLVING HYBRID EFFECT

Schemes involving hybrid effect

4 A scheme falls within this Part if it satisfies the...

Instruments of alterable character

5 (1) A scheme satisfies the requirements of this paragraph if...

Shares subject to conversion

6 (1) A scheme satisfies the requirements of this paragraph if...

Securities subject to conversion

7 (1) A scheme satisfies the requirements of this paragraph if...

Debt instruments treated as equity

8 (1) A scheme satisfies the requirements of this paragraph if...

Part 4 — SCHEMES INVOLVING HYBRID EFFECT AND CONNECTED PERSONS

Schemes involving hybrid effect and connected persons

9 A scheme falls within this Part if it satisfies the...

Scheme including issue of shares not conferring a qualifying beneficial entitlement

10 (1) A scheme satisfies the requirements of this paragraph if...

Scheme including transfer of rights under a security

11 (1) A scheme satisfies the requirements of this paragraph if...

Interpretation

12 Section 839 of ICTA has effect for the purposes of...

SCHEDULE 4 — Chargeable gains: location of assets etc

Part 1 — LOCATION OF ASSETS

Exceptions from sections 713 and 714 of ICTA

1 (1) Section 715 of ICTA is amended as follows.

Foreign securities: delayed remittances

2 (1) Section 723 of ICTA is amended as follows.

Designated international organisations

3 (1) Section 265 of TCGA 1992 is amended as follows....

Location of assets: general

4 (1) Section 275 of TCGA 1992 is amended as follows....

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Location of certain intangible assets

- 5 After section 275 of TCGA 1992 insert— Location of certain...

Location of assets: interests of co-owners

- 6 After section 275B of TCGA 1992 (as inserted by paragraph...
Part 2 — MINOR AMENDMENTS: NON-RESIDENT COMPANY WITH UK
PERMANENT ESTABLISHMENT

Computation of losses

- 7 (1) Section 16 of TCGA 1992 is amended as follows....

Reallocation within group of gain or loss accruing under section 179

- 8 (1) Section 179A of TCGA 1992 is amended as follows....

Exemptions for disposals by companies with substantial shareholding

- 9 (1) Schedule 7AC to TCGA 1992 is amended as follows....
Part 3 — COMMENCEMENT

Commencement

- 10 (1) The amendments made by Part 1 of this Schedule...

SCHEDULE 5 — Chargeable gains: options

Part 1 — APPLICATION OF MARKET VALUE RULE IN CASE OF EXERCISE OF
OPTION

Application of market value rule in case of exercise of option

- 1 (1) Section 144ZA of TCGA 1992 is amended as follows....

Application of market value rule in case of exercise of option: exception

- 2 After section 144ZA of TCGA 1992 insert— Exception to rule...
Part 2 — MISCELLANEOUS AMENDMENTS RELATING TO SHARE OPTIONS
ETC

Shares acquired on same day: election for alternative treatment

- 3 (1) Section 105A of TCGA 1992 is amended as follows....

Employment-related securities options

- 4 (1) Section 149A of TCGA 1992 is amended as follows....

Interpretation of TCGA 1992

- 5 (1) Section 288 of TCGA 1992 is amended as follows....
Part 3 — COMMENCEMENT

Commencement

- 6 (1) The amendments made by paragraphs 1 to 3 have...

SCHEDULE 6 — Accounting practice and related matters

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Adjustment on change of accounting basis

- 1 (1) In Schedule 22 to FA 2002 (adjustment on change...
- 2 (1) In section 227 of ITTOIA 2005 (adjustment on change...

Meaning of “statutory insolvency arrangement”

- 3 (1) For section 259 of ITTOIA 2005 (trading income: meaning...

Minor corrections

- 4 (1) In Schedule 4 to FA 2005, omit paragraph 6...

Deemed release of liability on impaired debt becoming held by connected company

- 5 (1) In Schedule 9 to FA 1996 (loan relationships: special...

Adjustment on change to international accounting standards: bad debt debits formerly disallowed

- 6 (1) In paragraph 19A of Schedule 9 to FA 1996...

Loan relationships with embedded derivatives

- 7 (1) Where— (a) a company is subject to old UK...
- 8 (1) In section 116(8A) of TCGA 1992 (reorganisations, conversions and...

Exchange gains and losses

- 9 (1) The following provisions shall cease to have effect—
- 10 In section 103 of FA 1996 (loan relationships: general interpretation),...
- 11 In paragraph 54 of Schedule 26 to FA 2002 (derivative...

SCHEDULE 7 — Avoidance involving financial arrangements

Rent factoring

- 1 (1) Part 2 of ICTA (which, at sections 43A to...

Section 730: restriction to income consisting of distributions in respect of company shares etc

- 2 (1) Section 730 of ICTA (transfers of income arising from...

Change in ownership of company with investment business

- 3 (1) In section 768B(10) of ICTA (Part 4 of Schedule...

Transfers of rights to receive annual payments

- 4 (1) After section 775 of ICTA (sale by individual of...

Disposals and acquisitions of company loan relationships with or without interest

- 5 (1) Section 807A of ICTA is amended as follows.

Manufactured interest and the accrued income scheme

- 6 (1) In Schedule 23A to ICTA (manufactured dividends and interest)...

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Consideration due after time of disposal: creditor relationships etc

7 (1) Section 48 of TCGA 1992 (consideration due after time...

Corporate strips: manipulation of price: associated payment giving rise to loss

8 In TCGA 1992, after section 151C (strips: manipulation of price:...

Transactions within a group: shares subject to third party obligations

9 (1) Section 171 of TCGA 1992 (transfers within a group:...

Shares treated as loan relationships

10 (1) After section 91 of FA 1996 insert the following...

Related transactions in relation to right to receive manufactured interest

11 (1) Section 97 of FA 1996 (manufactured interest) is amended...

Money debts etc not arising from lending of money: discounts and profits from transactions

12 (1) Section 100 of FA 1996 (money debts etc not...

Meaning of “commercial rate of interest”

13 (1) In section 103 of FA 1996 (interpretation) after subsection...

Capital redemption policies: removal of exclusion from loan relationships computations

14 (1) Schedule 9 to FA 1996 (loan relationships: special computational...

Deemed disposal of assets and liabilities on company ceasing to be resident in UK etc

15 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

Transactions not at arm's length: exceptions relating to groups of companies

16 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

Continuity of treatment of groups etc: treatment of transferee company

17 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

Transferee leaving group after replacing transferor as party to loan relationship

18 (1) In Schedule 9 to FA 1996 (loan relationships) after...

Avoidance involving repos or stock lending

19 (1) In Schedule 9 to FA 1996 (loan relationships) paragraph...

Capital redemption policies: computations on the I minus E basis

20 (1) In Schedule 11 to FA 1996 (loan relationships: special...

Relevant discounted securities: corporate strips

21 (1) Schedule 13 to FA 1996 (discounted securities: income tax)...

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Transactions within groups: treatment of transferee company

- 22 (1) In Schedule 26 to FA 2002 (derivative contracts) paragraph...

Transactions within groups: fair value accounting

- 23 (1) In Schedule 26 to FA 2002 (derivative contracts) paragraph...

Transferee leaving group after replacing transferor as party to derivative contract

- 24 (1) In Schedule 26 to FA 2002 (derivative contracts) after...

Deeply discounted securities: corporate strips

- 25 (1) Chapter 8 of Part 4 of ITTOIA 2005 (profits...

SCHEDULE 8 — Financing of companies etc: transfer pricing and loan relationships

Amendments of Schedule 28AA to ICTA

- 1 (1) Schedule 28AA to ICTA (provision not at arm's length)...

Amendments of Schedule 9 to FA 1996

- 2 (1) In Schedule 9 to FA 1996 (loan relationships: computational...
3 (1) Paragraph 18 of that Schedule (discounted securities of close...

Commencement and transitional provisions

- 4 (1) Except where sub-paragraph (2) or (3) applies, the amendments...

SCHEDULE 9 — Insurance companies etc

Expenses of insurance companies

- 1 (1) Section 76 of ICTA is amended as follows.

Interpretative provisions relating to insurance companies

- 2 (1) Section 431(2) of ICTA is amended as follows.

Amendment of Chapter 1 of Part 12 of ICTA etc

- 3 For section 431A of ICTA substitute— Amendment of Chapter etc...

Apportionment of income and gains

- 4 (1) Section 432A of ICTA is amended as follows.

Section 432B apportionment: participating funds

- 5 (1) Section 432E of ICTA is amended as follows.

Transfers of business: deemed periodical return

- 6 (1) Section 444AA of ICTA is amended as follows.

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Transfers of business: modification of section 444AC of ICTA

7 (1) Section 444AC of ICTA is amended as follows.

*Transfers of business: transferor shares are assets
of transferee's long-term insurance fund etc*

8 (1) After section 444AC of ICTA insert— Transfers of business:...

Equalisation reserves for general business

9 (1) Section 444BA of ICTA is amended as follows.

Unappropriated surplus on valuation

10 (1) Section 82B of FA 1989 is amended as follows....

Relevant financial reinsurance contracts

11 (1) Section 82C of FA 1989 is amended as follows....

Receipts to be taken into account

12 (1) Section 83 of FA 1989 is amended as follows....

Meaning of “brought into account”

13 (1) Section 83A of FA 1989 is amended as follows....

*Changes in recognised accounts: attribution of
amounts carried forward under s.432F of ICTA*

14 (1) After section 83A of FA 1989 insert— Changes in...

Charge of certain receipts of basic life assurance business

15 (1) Section 85 of FA 1989 is amended as follows....

Corporation tax: policy holders' fraction of profits

16 (1) Section 88 of FA 1989 is amended as follows....

Overseas life insurance companies

17 (1) Section 156 of FA 2003 is amended as follows....

Meaning of “pension business”

18 (1) Schedule 35 to FA 2004 is amended as follows....

Miscellaneous references to “class” of business

19 (1) In section 432B of ICTA (apportionment of receipts brought...

Transfers of business: references to accounting period ending with day of transfer

20 (1) Section 12 of ICTA (corporation tax: basis of, and...

SCHEDULE 10 — Stamp duty land tax: miscellaneous amendments

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Part 1 — AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 16

Introduction

- 1 Part 4 of FA 2003 (stamp duty land tax) is...

Transfer of rights: exclusion of transaction to which alternative finance provisions apply

- 2 In section 45 (contract and conveyance: effect of transfer of...

Group relief

- 3 In paragraph 1 of Schedule 7 (group relief), in sub-paragraph...
4 In paragraph 3 of Schedule 7 (withdrawal of group relief)—...
5 In paragraph 4 of Schedule 7 (cases in which group...
6 After paragraph 4 of Schedule 7 insert— Withdrawal of group...
7 In Schedule 17A (further provisions relating to leases) in paragraph...

Reconstruction and acquisition reliefs

- 8 In paragraph 8 of Schedule 7 (acquisition relief)—
9 In paragraph 9 of Schedule 7 (withdrawal of reconstruction or...

Withdrawal of money etc from partnership after transfer of chargeable interest

- 10 In Schedule 15 (partnerships) after paragraph 17 insert— Withdrawal
of...

Grant of lease to bare trustee

- 11 For paragraph 3 of Schedule 16 substitute— Bare trustee (1) Subject to
sub-paragraph (2), where a person acquires a...
12 In paragraph 11 of Schedule 17A (cases where assignment of...

Variation of lease

- 13 In paragraph 15A of Schedule 17A (leases: reduction of rent...

Loan or deposit in connection with grant or assignment of lease

- 14 After paragraph 18 of Schedule 17A insert— Loan or deposit...
15 In section 80 (adjustment where contingency ceases or consideration
is...

Commencement

- 16 (1) Subject to sub-paragraph (7), paragraphs 3 to 7 have...

Part 2 — AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 22

Introduction

- 17 Part 4 of FA 2003 (stamp duty land tax) is...

Transfers involving public bodies

- 18 In section 66 of FA 2003 (transfers involving public bodies)...

Status: Point in time view as at 20/07/2005.

Changes to legislation: Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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)

Group relief: avoidance arrangements

19 In paragraph 2 of Schedule 7 (restrictions on availability of...

Acquisition relief: avoidance arrangements

20 In paragraph 8 of Schedule 7 (acquisition relief)—

Stamp duty on transfers of partnership interests

21 (1) In Schedule 15 (stamp duty land tax: partnerships), paragraph...

Commencement

22 (1) Subject to sub-paragraph (2), paragraphs 18 to 20 have...

SCHEDULE 11 — Repeals

Part 1 — VALUE ADDED TAX

Part 2 — INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Part 3 — STAMP TAXES

Part 4 — EUROPEAN COMPANY STATUTE

Part 5 — MISCELLANEOUS MATTERS

Status:

Point in time view as at 20/07/2005.

Changes to legislation:

Finance (No. 2) Act 2005 is up to date with all changes known to be in force on or before 06 November 2023. 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.