



Finance (No. 2) Act 2005

2005 CHAPTER 22

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 6

MISCELLANEOUS

Financial avoidance etc

38 Charges on income for the purposes of corporation tax

- (1) Section 338A of ICTA (meaning of “charges on income” for the purposes of corporation tax) is amended as follows.
- (2) In subsection (2) (what are charges on income) paragraph (a) (annuities or other annual payments that meet the conditions in section 338B) shall cease to have effect.
- ^{F1}(3)
- (4) In section 434A(2)(a) of ICTA (loss resulting to insurance company from computation in accordance with Case I of Schedule D: reduction by specified amounts) omit subparagraph (i) (which relates to charges on income).
- ^{F2}(5)
- (6) The amendment made by subsection (4) has effect for accounting periods beginning on or after 1st April 2004.
- (7) The other amendments made by this section have effect in relation to payments made on or after the commencement date in respect of annuities or other annual payments.
- (8) Where—

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Cross Heading: Financial avoidance etc. (See end of Document for details)

- (a) an accounting period of a company begins before, and ends on or after, the commencement date,
 - (b) a payment in respect of an annuity or other annual payment is made by the company in that period but before the commencement date, and
 - (c) the payment is deductible as a charge on income for the purposes of corporation tax,
- subsection (9) applies.
- (9) In any such case, so much of any amount as represents that payment—
- (a) is not deductible under section 75 of ICTA (expenses of management), and
 - (b) is not to be brought into account under section 76 of that Act (expenses of insurance companies) as expenses payable,
- for that or any subsequent accounting period.
- (10) Subsection (12) applies in any case where—
- (a) a payment in respect of an annuity or other annual payment is made by a company on or after the commencement date, and
 - (b) the condition in subsection (11) is satisfied.
- (11) The condition is that the payment represents an amount which (apart from subsection (12))—
- (a) would not be deductible under section 75 of ICTA, or
 - (b) would not fall to be brought into account under section 76 of that Act,
- by reason only of section 337A(1)(b) of that Act (company's income from any source to be computed without any deduction in respect of charges on income) as it applies by virtue of section 338A(2)(a) of that Act.
- (12) In any such case, the amount represented by the payment—
- (a) is deductible under section 75 of ICTA, or
 - (b) falls to be brought into account under section 76 of that Act as expenses payable,
- for the accounting period in which the payment is made.
- (13) In this section “the commencement date” means 16th March 2005.

Textual Amendments

- F1** S. 38(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F2** S. 38(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

39 Avoidance involving financial arrangements

Schedule 7 (which makes provision in relation to tax avoidance involving financial arrangements) has effect.

Changes to legislation:

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