



# Finance Act 2005

## 2005 CHAPTER 7

### PART 2

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 9

#### INTERNATIONAL MATTERS

##### *Double taxation relief: general*

**<sup>F1</sup>85 Dividends by reference to which a deduction is allowed: no underlying tax**

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**Textual Amendments**

**F1** S. 85 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

##### *Double taxation relief: restrictions*

**86 Limits on credit: income tax and corporation tax: trading profits**

<sup>F2</sup>(1) .....

(2) In section 803 of ICTA (underlying tax reflecting interest on loans)—

<sup>F2</sup>(a) .....

(b) subsections (4) to (9) shall cease to have effect.

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- (3) Subsections (1) and (2) shall have effect—
- (a) for the purposes of corporation tax, in relation to a credit for foreign tax which relates to—
    - (i) a payment of foreign tax on or after 16th March 2005, or
    - (ii) income received on or after that date in respect of which foreign tax has been deducted at source, and
  - (b) for the purposes of income tax, in relation to a credit for foreign tax which relates to—
    - (i) a payment of foreign tax on or after 6th April 2005, or
    - (ii) income received on or after that date in respect of which foreign tax has been deducted at source.
- (4) In subsection (3) a reference to tax deducted at source is a reference to tax deducted or treated as deducted from income, or treated as paid in respect of income.
- (5) In respect of dividends paid before 1st January 2006, the effect of section 798 or 798A of ICTA in respect of credit for foreign tax shall be disregarded to the extent that it would otherwise reduce the allowable credit to less than 50% of the foreign tax; but this subsection shall not apply to tax paid as part of a scheme or arrangement designed or entered into for the purposes of causing this subsection to apply.

**Textual Amendments**

- F2** S. 86(1)(2)(a) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10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. 1** (with [Sch. 9 paras. 1-9, 22](#))

**F3 87 Schemes and arrangements designed to increase relief**

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**Textual Amendments**

- F3** S. 87 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. 1** (with [Sch. 9 paras. 1-9, 22](#))

**88 Self-assessment amendments**

- (1) In section 9A of TMA 1970 (notice of enquiry), in subsection (4) (matters to which an enquiry extends) after paragraph (b) insert—
- “(c) consideration of whether to give the taxpayer a notice under section 804ZA of the principal Act (schemes and arrangements designed to increase relief),”.
- (2) In section 29 of TMA 1970 (assessment where loss of tax discovered), after subsection (7) insert—
- “(7A) The requirement to fulfil one of the two conditions mentioned above does not apply so far as regards any income or chargeable gains of the taxpayer

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in relation to which the taxpayer has been given, after any enquiries have been completed into the taxpayer's return, a notice under section 804ZA of the principal Act.”

<sup>F4</sup>(3) .....

(4) In paragraph 42 of that Schedule (restrictions on power to make discovery assessment etc), after sub-paragraph (2) insert—

“(2A) Those restrictions, other than the restriction in paragraph 45, do not apply so far as regards any income or chargeable gains of the company in relation to which the company has been given, after any enquiries have been completed into the return, a notice under section 804ZA of the Taxes Act 1988.”

(5) The amendments made by this section have effect in accordance with section 87(3).

**Textual Amendments**

**F4** S. 88(3) 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. 1** (with [Sch. 9 paras. 1-9, 22](#))

*Controlled foreign companies*

<sup>F5</sup>**89 ADP dividends and double taxation relief**

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**Textual Amendments**

**F5** S. 89 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 16 para. 5(h)** (with [Sch. 16 para. 78](#))

<sup>F6</sup>**90 Foreign taxation of group as single entity: exclusion of ADP CFCs**

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**Textual Amendments**

**F6** S. 90 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 16 para. 5(h)** (with [Sch. 16 para. 78](#))

*Annual payments and double taxation relief*

**91 Tax avoidance involving annual payments and double taxation relief**

(1) ICTA is amended as follows.

<sup>F7</sup>(2) .....

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<sup>F7</sup>(3) .....

(4) Section 801 (dividends paid between related companies: relief for UK and third country taxes) is amended as follows.

<sup>F8</sup>(5) .....

(6) Subsections (4A) to (4D) (which relate to cases where the amount given by the formula in section 799(1) exceeds U in that formula) shall cease to have effect.

<sup>F9</sup>(7) .....

(8) The amendments made by subsections (4) to (6) have effect in relation to dividends paid on or after 2nd December 2004.

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**Textual Amendments**

**F7** S. 91(2)(3) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F8** S. 91(5) 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. 1** (with [Sch. 9 paras. 1-9, 22](#))

**F9** S. 91(7) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**Changes to legislation:**

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