



Finance Act 2011

2011 CHAPTER 11

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Miscellaneous

51 Taxable benefits: calculating the appropriate percentage for cars

- (1) In section 139 of ITEPA 2003 (cars with a CO₂ emissions figure: the appropriate percentage), as substituted by section 59 of FA 2010 with effect for the tax year 2012-13 and subsequent tax years, in subsection (5) for “100 grams” substitute “95 grams”.
- (2) The amendment made by this section has effect for the tax year 2013-14 and subsequent tax years.

52 Furnished holiday lettings

Schedule 14 contains provisions about furnished holiday lettings.

53 Leases and changes to accounting standards

- (1) This section applies where there is a change in a leasing accounting standard which—
 - (a) occurs on or after 1 January 2011, and
 - (b) is not within subsection (3),(in this section referred to as a “leasing change”).
- (2) “Leasing accounting standard” means—
 - (a) International Accounting Standard 17 (leases) issued by the International Accounting Standards Board,
 - (b) Statement of Standard Accounting Practice 21 (accounting for leases and hire purchase contracts) recognised by the Accounting Standards Board,

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- (c) the part of the International Financial Reporting Standard for Small and Medium-sized Entities issued by the International Accounting Standards Board which relates specifically to leases,
 - (d) the part of the Financial Reporting Standard for Smaller Entities issued by the Accounting Standards Board which relates specifically to leases, or
 - (e) any accounting standard, or part of an accounting standard, which replaces (wholly or in part) a standard or part mentioned in paragraphs (a) to (d).
- (3) A change is within this subsection if, and to the extent that, it is one which permits or requires persons, when preparing accounts in accordance with UK GAAP, to account for a lease, or a transaction accounted for as a lease, in a manner equivalent to that provided for by the International Financial Reporting Standard for Small and Medium-sized Entities issued by the International Accounting Standards Board (disregarding any leasing change which may be made to that Standard).
- (4) Changes within subsection (1) include those which may or must be adopted for periods of account which fall wholly or partly before the time the change occurs or before the day on which this Act is passed.
- (5) For the purposes of the Taxes Acts any reference in those Acts (other than this section) —
- (a) to a thing being determined or done in accordance with or by reference to generally accepted accounting practice, or
 - (b) to accounts prepared (or not prepared) in accordance with international accounting standards or UK GAAP,
- is to be construed as if any leasing change had not occurred.
- (6) Section 997 of ITA 2007 and section 1127 of CTA 2010 (meaning of “generally accepted accounting practice” and related expressions in the Tax Acts) have effect subject to subsection (5).
- (7) Where a person prepares or is required to prepare accounts in accordance with new standards for a period of account, the Taxes Acts (other than this section) have effect as if the person prepared or was required to prepare accounts, for that period, in accordance with the corresponding old standards.
- (8) For the purposes of subsection (7)—
- (a) if the new standards are international accounting standards, the corresponding old standards are international accounting standards disregarding any leasing change, and
 - (b) if the new standards are UK GAAP, the corresponding old standards are UK GAAP disregarding any leasing change.
- (9) In this section—
- “accounting body” means the International Accounting Standards Board or the Accounting Standards Board, or a successor body to either of those Boards;
 - “accounting standard” includes any statement of practice, guidance or other similar document issued or recognised by an accounting body;
 - “change”, in relation to a leasing accounting standard, means the issue, revocation, amendment or recognition of, or withdrawal of recognition from, the standard by an accounting body;

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“international accounting standards” has the same meaning as in section 1127 of CTA 2010;

“new standards” means accounting standards which reflect one or more leasing changes;

“Taxes Acts” means—

- (a) the Tax Acts, and
- (b) TCGA 1992 and all other enactments relating to capital gains tax;

“UK GAAP” means UK generally accepted accounting practice as defined in section 997(2) of ITA 2007 and section 1127(2) of CTA 2010.

- (10) This section has effect in relation to any period (including any period falling wholly or partly before the day on which this Act is passed) in respect of which a change to a leasing accounting standard which occurs on or after 1 January 2011 may or must be adopted by any person for accounting purposes.

54 Leasing companies: withdrawal of election

- (1) In section 398A(1)(a) of CTA 2010 (election out of qualifying change of ownership), after “day”)” insert “before 23 March 2011”.
- (2) The amendment made by this section is to be treated as having come into force on 23 March 2011.

55 Companies with small profits: associated companies

- (1) For section 27 of CTA 2010 (meaning of “associated company”: attribution to persons of rights and powers of their partners) substitute—

“27 Attribution to persons of rights and powers of their associates

- (1) This section applies if—
 - (a) it is necessary to determine in accordance with section 25(4) and (5) whether a company is an associated company of another company, and
 - (b) the relationship between the two companies is not one of substantial commercial interdependence.
 - (2) In the application of section 451 (meaning of “control”: rights to be attributed) for the purposes of the determination, any person to whom rights and duties fall to be attributed under subsections (4) and (5) of that section is to be treated, for the purposes of those subsections, as having no associates.
 - (3) The Treasury may by order prescribe factors that are to be taken into account in determining whether a relationship between two companies amounts to substantial commercial interdependence for the purposes of this section.”
- (2) The amendment made by this section has effect in relation to accounting periods ending on or after 1 April 2011.
 - (3) But a company may elect that the amendment made by this section is of no effect in relation to an accounting period that begins before that date.

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- (4) An election under subsection (3) must be made within one year from the end of the accounting period to which it relates.
- (5) The first order under section 27(3) of CTA 2010 (as substituted by subsection (1) of this section) may be made so as to have effect in relation to accounting periods ending on or after 1 April 2011.

56 Insurance companies: apportionment of amounts brought into account

- (1) In section 432C of ICTA (section 432B apportionment: non-participating funds), in subsection (9), for the words from “D is” to the end substitute—
 - “D is the sum of—
 - (a) the mean of the opening and closing liabilities of the relevant business so far as referable to basic life assurance and general annuity business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to that category of business, and
 - (b) the mean of the opening and closing liabilities of the relevant business so far as referable to PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to that category of business.”
- (2) The amendment made by this section has effect in relation to periods of account beginning on or after 1 January 2011.
- (3) For the purposes of section 432CA of ICTA, where the current period of account begins on or after 1 January 2011, the reference in subsection (4) to section 432C is a reference to that section as amended by this section even if the applicable appropriate period of account began before that date.
- (4) In subsection (3), “current period of account”, “appropriate period of account” and “applicable” have the meaning given by section 432CA of ICTA.

57 Tonnage tax: capital allowances in respect of ship leasing

- (1) Part 10 of Schedule 22 to FA 2000 (companies within tonnage tax: capital allowances in respect of ship leasing) is amended as follows.
- (2) In paragraph 94 (quantitative restrictions on allowances)—
 - (a) in sub-paragraph (3)(a), for “a rate of 20% per annum” substitute “the rate determined under sub-paragraph (3A)”,
 - (b) in sub-paragraph (3)(b), for “a rate of 10% per annum” substitute “the rate specified in section 104D(1) of the Capital Allowances Act 2001”,
 - (c) after sub-paragraph (3) insert—
 - “(3A) The rate mentioned in sub-paragraph (3)(a) is—
 - (a) if the rate of the writing down allowance to which the lessor would be entitled in respect of the expenditure apart from this paragraph is that specified in section 56(1) of the Capital Allowances Act 2001, that rate, and

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- (b) otherwise, the rate specified in section 104D(1) of that Act.”,
 - (d) in sub-paragraph (4)—
 - (i) omit the words “within each of those bands”,
 - (ii) after “separate pools” insert “in accordance with sub-paragraph (4A)”, and
 - (iii) omit the second sentence, and
 - (e) after that sub-paragraph insert—
 - “(4A) The expenditure is to be allocated to the following pools—
 - (a) to the extent that it is expenditure in respect of which the lessor is entitled to writing down allowance at the rate specified in section 56(1) of the Capital Allowances Act 2001, a pool to be known as “the tonnage tax (main rate) pool”, and
 - (b) to the extent that it is expenditure in respect of which the lessor is entitled to writing down allowance at the rate specified in section 104D(1) of that Act, a pool to be known as “the tonnage tax (special rate) pool”.”
- (3) In paragraph 95(4)—
 - (a) for “(4)” substitute “(4A)”, and
 - (b) for “20%” substitute “tonnage tax (main rate)” and for “10%” substitute “tonnage tax (special rate)”.
- (4) In paragraph 97—
 - (a) in sub-paragraphs (2) and (3), for “20%” substitute “tonnage tax (main rate)” and for “10%” substitute “tonnage tax (special rate)”, and
 - (b) in sub-paragraph (4), for “10%” substitute “tonnage tax (special rate)”.
- (5) In paragraph 98(8), for “20%” substitute “tonnage tax (main rate)” and for “10%” substitute “tonnage tax (special rate)”.
- (6) In paragraph 99 (quantitative restrictions: change of circumstances taking case out of restrictions)—
 - (a) in sub-paragraph (2), for “20%” substitute “tonnage tax (main rate)” and for “10%” substitute “tonnage tax (special rate)”,
 - (b) in sub-paragraph (4), for the words from “the whole of” to the end substitute “the amount that the tax written down value of the ship would have been, at the time the change of circumstances occurs, had paragraph 94 never applied.”, and
 - (c) omit sub-paragraph (5).
- (7) In consequence of the amendments made by this section, omit section 80(5) to (7) of FA 2008.
- (8) The amendments made by this section have effect in relation to chargeable periods ending on or after 1 January 2011.
- (9) But the amendments made by this section are of no effect in relation to expenditure incurred before that date.

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58 Transfer pricing: application of OECD principles

(1) In section 164 of TIOPA 2010 (Part to be interpreted in accordance with OECD principles), for subsection (4) substitute—

“(4) In this section “the transfer pricing guidelines” means—

- (a) the version of the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations approved by the Organisation for Economic Co-operation and Development (OECD) on 22 July 2010, or
- (b) such other document approved and published by the OECD in place of that (or a later) version or in place of those Guidelines as is designated for the time being by order made by the Treasury,

including, in either case, such material published by the OECD as part of (or by way of update or supplement to) the version or other document concerned as may be so designated.”

(2) The amendment made by this section has effect (in relation to provision made or imposed at any time)—

- (a) for corporation tax purposes, for accounting periods beginning on or after 1 April 2011, and
- (b) for income tax purposes, for the tax year 2011-12 and subsequent tax years.

59 Offshore funds

In Part 8 of TIOPA 2010 (offshore funds), after section 363 insert—

“363A Residence of offshore funds which are undertakings for collective investment in transferable securities

(1) This section applies to an offshore fund (within the meaning of section 355) which—

- (a) is, for the purposes of the UCITS Directive, an undertaking for collective investment in transferable securities, and
- (b) is authorised pursuant to Article 5 of the UCITS Directive in a Member State other than the United Kingdom.

(2) If—

- (a) the offshore fund is a body corporate which, under the law of the Member State in which it is authorised pursuant to Article 5 of the UCITS Directive, is treated as resident in that State for the purposes of any tax imposed under that law on income, and
- (b) (apart from this section) the body corporate would be treated as resident in the United Kingdom for the purposes of any enactment (within the meaning of section 354) relating to income tax, corporation tax or capital gains tax,

the body corporate is instead to be treated as if it were not resident in the United Kingdom.

(3) If, by virtue of section 99 or 103A of TCGA 1992, that Act applies in relation to the offshore fund as if it were a company, that Act applies as if the company

were neither resident nor ordinarily resident in the United Kingdom (if it would not otherwise do so).

(4) In this section “the UCITS Directive” means Directive [2009/65/EC](#) of the European Parliament and of the Council.”

60 Index-linked gilt-edged securities

(1) In section 399 of CTA 2009 (index-linked gilt-edged securities: basic rules), for subsection (4) substitute—

“(4) In this section and sections 400 to 400C—

“index-linked gilt-edged securities” means any gilt-edged securities under which the amounts of the payments are determined wholly or partly by reference to an index of prices published by the Statistics Board;

“relevant prices index”, in relation to an index-linked gilt-edged security, means the index of prices by reference to which the amounts of the payments under the security are wholly or partly determined.”

(2) In the following provisions of that Act, for “retail” substitute “relevant”—

(a) section 400(1)(b), (2), (3) and (6);

(b) section 400A(3) and (7)(b).

(3) Accordingly, in Schedule 14 to FA 2010, omit paragraph 4(4).

(4) The amendments made by this section have effect in relation to securities issued on or after the day on which this Act is passed.