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STATUTORY INSTRUMENTS

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**2009 No. 2859**

**INCOME TAX**  
**CAPITAL GAINS TAX**  
**CORPORATION TAX**

The Income Tax Act 2007 (Amendment) (No. 2) Order 2009

*Made* - - - - 26th October 2009  
*Laid before the House of*  
*Commons* - - - - 27th October 2009  
*Coming into force* - - 18th November 2009

The Treasury make the following Order in exercise of the power conferred by section 1029 of the Income Tax Act 2007<sup>(1)</sup>.

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Income Tax Act 2007 (Amendment) (No. 2) Order 2009 and shall come into force on 18th November 2009.

(2) The amendments made by this Order shall be deemed to have come into force on 6th April 2007 and have effect—

- (a) for income tax and capital gains tax purposes, for the year 2007-08 and subsequent tax years, and
- (b) for corporation tax purposes, for accounting periods ending after 5th April 2007.

**Amendment of the Income and Corporation Taxes Act 1988**

2.—(1) The Income and Corporation Taxes Act 1988<sup>(2)</sup> is amended as follows.

(2) In section 576D<sup>(3)</sup> (share loss relief: the control and independence requirement) after subsection (3) insert—

“(3A) Section 839 (connected persons) applies for the purposes of this section.”.

(3) In section 777(13)<sup>(4)</sup> (transactions in land: provisions supplementary to section 776), in the definition of “capital”—

- (a) after “section 776” insert “of this Act and Chapter 3 of Part 13 of ITA 2007”, and

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(1) 2007 c. 3.

(2) 1988 c. 1.

(3) Section 576D was inserted by paragraph 124 of Schedule 1 to the Income Tax Act 2007.

(4) Section 777(13) was amended by paragraph 185(12) of Schedule 1 to the Income Tax Act 2007.

- (b) for “corporation tax purposes” substitute “purposes of the Tax Acts”.

### **Amendment of the Finance Act 2006**

- 3.—**(1) Amend section 139 of the Finance Act 2006<sup>(5)</sup> (manufactured dividends) as follows.
- (2) After subsection (1) insert—
- “(1A) Paragraph 2 of Schedule 23A to ICTA has effect with the modifications set out in subsections (2) and (2A).”.
- (3) In subsection (2) for the words from the beginning to “paragraph 2(2)—” substitute “For sub-paragraph (2) there is substituted—”.
- (4) After subsection (2) insert—
- “(2A) Sub-paragraphs (6) to (8) are omitted.”.

### **Amendment of the Income Tax Act 2007**

- 4.—**(1) The Income Tax Act 2007 is amended as follows.
- (2) In section 29 (calculation of income tax liability: supplementary provisions about tax reductions)—
- (a) in subsection (4)(a) for “section 796(1) and (2) of ICTA” substitute “section 796(1), (2) and (3) of ICTA”, and
- (b) after subsection (4) insert—
- “(4A) If the taxpayer is an individual, the total of the tax reductions within subsection (4B) that are deducted at Step 6 must not be greater than—

#### **A – B**

where—

A is the amount of tax calculated at Step 5, and

B is the total amount of the tax treated under section 414 (gift aid) as deducted from gifts made by the taxpayer in the tax year.

(4B) A tax reduction is within this subsection if it is under—

Chapter 1 of Part 5 (EIS relief),

Chapter 2 of Part 6 (VCT relief), or

Chapter 1 of Part 7 (community investment tax relief).

(4C) Subsection (4A) applies in addition to subsections (2) and (3).”.

- (3) In section 424(2) (gift aid: charge to tax: interpretation) for paragraph (b) of the definition of “amount C” substitute—
- “(b) the amount of capital gains tax to which the individual would be chargeable for the tax year if the following were ignored—
- (i) any relief under section 788 of ICTA (double taxation arrangements: relief by agreement), and
- (ii) any relief under section 790(1) of ICTA (relief for foreign tax where no double taxation arrangements).”.

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(5) 2006 c. 25; section 139 was amended by paragraph 621 of Schedule 1 to the Income Tax Act 2007, by paragraph 20 of Schedule 14 to the Finance Act 2007 (c. 11) by virtue of article 3 of the Finance Act 2007 (Schedules 13 and 14) Order 2007 (S.I. 2007/2483), by paragraph 35(2)(b) of Schedule 17 to the Finance Act 2008 (c. 9) and by paragraph 691 of Schedule 1 to the Corporation Tax Act 2009 (c. 4).

(4) In section 772(1) (transactions in land: interpretation) for “income tax purposes apart from” substitute “purposes of the Tax Acts otherwise than as a result of section 776 of ICTA or”.

(5) In section 777(7) (sales of occupation income: conditions for sections 778 and 779 to apply) for “income tax purposes apart from” substitute “purposes of the Tax Acts otherwise than as a result of”.

(6) In paragraph 193 of Schedule 1 (which amends section 796 of the Income and Corporation Taxes Act 1988)—

(a) for sub-paragraph (4) (which provides for the repeal of section 796(3) of the 1988 Act except as applied by section 277(1) of the Taxation of Chargeable Gains Act 1992(6)) substitute—

“(4) In subsection (3) for “less any income tax which he is entitled to charge against any other person” substitute “less the total amount of the tax treated under section 414 of ITA 2007 (gift aid) as deducted from gifts made by him in that year”.”, and

(b) in sub-paragraph (5)(7) (which provides for paragraph 193 not to apply to section 796 of the 1988 Act as applied by section 277(1) of the 1992 Act) for “This paragraph does not” substitute “Sub-paragraphs (2) and (3) do not”.

(7) In Part 1 of Schedule 3 (repeals) omit—

(a) the entry for section 796(3) of the Income and Corporation Taxes Act 1988, and

(b) the note(8) at the end of that Part of that Schedule, relating to that entry.

#### **Amendment of the Income Tax Act 2007 (Amendment) (No. 3) Order 2007**

5. In consequence of article 4(7)(b) of this Order omit article 3(6) of the Income Tax Act 2007 (Amendment) (No. 3) Order 2007.

26th October 2009

*Dave Watts*  
*Tony Cunningham*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(6) 1992 c. 12.

(7) Paragraph 193(5) was inserted by article 3(5) of the Income Tax Act 2007 (Amendment) (No. 3) Order 2007 (S.I. 2007/3506).

(8) The note was inserted by article 3(6) of the Income Tax Act 2007 (Amendment) (No. 3) Order 2007.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order exercises powers conferred by the Income Tax Act 2007 to undo changes. The Acts affected are the Income and Corporation Taxes Act 1988 (article 2), the Finance Act 2006 (article 3) and the Income Tax Act 2007 itself (article 4). Article 5 makes a consequential amendment of the Income Tax Act 2007 (Amendment) (No. 3) Order 2007.

Authority for the retrospective provision made by this Order is conferred by section 1029(4) of the Income Tax Act 2007.

A full and final Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.