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STATUTORY INSTRUMENTS

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**2010 No. 157**

**The Enactment of Extra-Statutory Concessions Order 2010**

**Income of contemplative communities or of their members**

6.—(1) In the Income and Corporation Taxes Act 1988, after section 508 insert—

**“508A Contemplative religious communities: profits exempt from corporation tax**

(1) Subsection (2) applies in a case where members of a qualifying contemplative religious community transfer all their income and assets, or covenant all their income, to the community (“the independent community”) (and for this purpose it is irrelevant whether or not the community is part of an order or religious institution).

(2) As respects each chargeable period of the independent community, and each person who is a qualifying member of the independent community at any time in that period, the independent community shall be treated for the purposes of corporation tax as if an amount of its profits for the chargeable period equal to the relevant amount (see subsections (5) to (7)) were income of the qualifying member.

(3) Subsection (4) applies in a case where—

- (a) one or more qualifying contemplative religious communities (“constituent communities”) are part of an order or religious institution (“the parent body”), and
- (b) members of the constituent communities transfer all their income and assets, or covenant all their income, to the parent body.

(4) As respects each chargeable period of the parent body, and each person who is a qualifying member of a constituent community at any time in that period, the parent body shall be treated for the purposes of corporation tax as if an amount of its profits for the chargeable period equal to the relevant amount (see subsections (5) to (7)) were income of the qualifying member.

(5) For the purposes of subsections (2) and (4), the relevant amount, in relation to a chargeable period, is the amount of the annual personal allowance for persons under 65 (see section 35 of ITA 2007) for—

- (a) the tax year which begins in the chargeable period, or
- (b) if no tax year begins in the chargeable period, the tax year which is current when the chargeable period begins.

(6) But, if the chargeable period is less than 12 months, the relevant amount is—

$$\frac{P}{365} \times A$$

where—

P is the number of days in the chargeable period;

A is the amount determined under subsection (5) in relation to the chargeable period.

(7) If, during the chargeable period, an individual ceases to be a qualifying member of the independent community or a constituent community (otherwise than on death), the relevant amount, in relation to the chargeable period and that qualifying member, is—

$$\frac{Q}{P} \times B$$

where—

Q is the number of days in the chargeable period for which the individual is a qualifying member of the independent community or constituent community;

P is the number of days in the chargeable period;

B is the amount determined under subsection (5), or subsections (5) and (6), in relation to the chargeable period.

(8) So far as the exemption from corporation tax conferred by this section calls for repayment of tax, no repayment shall be made except on a claim made by the independent community or parent body.

(9) In a case where a member of an independent community or constituent community—

(a) has transferred or covenanted income to the community (in the case of an independent community) or the parent body (in the case of a constituent community), and

(b) has income for a tax year which does not exceed 20% of the annual personal allowance for persons under 65 (see section 35 of ITA 2007) for that tax year,

the member is, for the purposes of this section, to be taken to have transferred or covenanted all his or her income for that tax year to the community or parent body.

(10) For the purposes of this section a contemplative religious community is a “qualifying” contemplative religious community if—

(a) the community is established in the United Kingdom,

(b) the members of the community live and practise their religion in a communal establishment, and

(c) the community is not a charity, but the religion that is professed by the members of the community does not prevent the community from being a charity.

(11) In this section—

“member”, in relation to a religious community, means an individual who—

(a) is living in the community, and

(b) has taken vows or made equivalent commitments (whether probationary or not);

“qualifying member”, in relation to a religious community, means a member of the community who—

(a) has been a member of the community for a period of at least six months, and

(b) has transferred all his or her income and assets, or covenanted all his or her income, to the community (in the case of an independent community) or the parent body (in the case of a constituent community).

### **508B Contemplative religious communities: gains exempt from corporation tax**

(1) Subsection (2) applies if, as respects a chargeable period—

(a) section 508A(2) applies in relation to an independent community,

- (b) the profits of the independent community in the chargeable period are less than the total of the amounts that fall to be treated as income of the qualifying members of the community in accordance with section 508A(2), and
  - (c) the independent community has chargeable gains in the chargeable period.
- (2) As respects the chargeable period and each qualifying member of the independent community, the community shall be treated for the purposes of corporation tax as if the relevant amount of its chargeable gains for that period were income of the qualifying member.
- (3) Subsection (4) applies if, as respects a chargeable period—
- (a) section 508A(4) applies in relation to a parent body,
  - (b) the profits of the parent body in the chargeable period are less than the total of the amounts that fall to be treated as income of the qualifying members of the constituent communities in accordance with section 508A(4), and
  - (c) the parent body has chargeable gains in the chargeable period.
- (4) As respects the chargeable period and each qualifying member of a constituent community, the parent body shall be treated for the purposes of corporation tax as if the relevant amount of its chargeable gains for that period were income of the qualifying member.
- (5) For the purposes of subsections (2) and (4), the relevant amount, in relation to a qualifying member of the independent community or a constituent community, is the smaller of—
- (a) the shortfall in profits, and
  - (b) the average gain.
- (6) The shortfall in profits is the difference between—
- (a) the relevant amount determined under section 508A(5) to (7) in relation to the qualifying member, and
  - (b) the amount that has actually been treated as the income of the qualifying member.
- (7) The average gain is—

$$\frac{G}{N}$$

where—

G is the amount of the chargeable gains which the independent community or parent body has in the chargeable period;

N is the number calculated by adding together the relevant value for each qualifying member of the independent community or constituent communities who, under section 508A(2) or (4), falls to be treated as having income.

- (8) For the purposes of calculating “N” in subsection (7)—
- (a) the relevant value for a qualifying member is 1;
  - (b) but, if section 508A(7) applies in relation to the qualifying member, the relevant value for that member is—

$$1 \times \frac{Q}{P}$$

where Q and P have the same meanings as in section 508A(7).

(9) So far as the exemption from corporation tax conferred by this section calls for repayment of tax, no repayment shall be made except on a claim made by the independent community or parent body.”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(2) The amendment made by paragraph (1) has effect in relation to chargeable periods beginning on or after 1st April 2010.