



Scotland Act 1998

1998 CHAPTER 46

[^{F1}PART 4A

TAXATION]

[^{F1}CHAPTER 2

INCOME TAX

Textual Amendments

- F1** Pt. 4A Ch. 2 inserted (1.7.2012 with effect in accordance with s. 44(3)(a) of the amending Act) by Scotland Act 2012 (c. 11), ss. 25(3), 44(2)(b), (3)(a); S.I. 2015/2000, art. 3

80C Power to set Scottish [^{F2}rates] for Scottish taxpayers

- (1) The Scottish Parliament may by resolution (a “Scottish rate resolution”) set [^{F3}the Scottish basic rate, and any other rates, for the purposes of section 11A of the Income Tax Act 2007 (which provides for the income of Scottish taxpayers which is charged at those rates)].
- [^{F4}(2A) Where a Scottish rate resolution sets more than one rate it must also set limits or make other provision to enable it to be ascertained, for the purposes of that section, which rates apply in relation to a Scottish taxpayer.
- (2B) But a Scottish rate resolution may not provide for different rates to apply in relation to different types of income.
- (2C) In this Chapter a “Scottish rate” means a rate set by a Scottish rate resolution.]
- (3) A Scottish rate resolution applies—
- for only one tax year, and
 - for the whole of that year.

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- ^{F5}(4)
- (5) [^{F6}A] Scottish rate must be a whole number or half a whole number [^{F7}, or zero].
- (6) A Scottish rate resolution—
- (a) must specify the tax year for which it applies,
 - (b) must be made before the start of that tax year, and
 - (c) must not be made more than 12 months before the start of that year.
- (7) If a Scottish rate resolution is cancelled before the start of the tax year for which it is to apply—
- (a) the Income Tax Acts have effect for that year as if the resolution had never been passed, and
 - (b) the resolution may be replaced by another Scottish rate resolution.
- (8) Standing orders must provide that only a member of the Scottish Government may move a motion for a Scottish rate resolution.

Textual Amendments

- F2** Word in s. 80C title substituted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), **ss. 13(6)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)
- F3** Words in s. 80C(1) substituted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), **ss. 13(2)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)
- F4** S. 80C(2A)-(2C) substituted (30.11.2016) for s. 80C(2) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), **ss. 13(3)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)
- F5** S. 80C(4) omitted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 13(4)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)
- F6** Word in s. 80C(5) substituted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), **ss. 13(5)(a)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)
- F7** Words in s. 80C(5) inserted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), **ss. 13(5)(b)(14)**, 72(3); S.I. 2016/1161, [reg. 2](#)

80D Scottish taxpayers

- (1) [^{F8}For] any tax year, a Scottish taxpayer is an individual (T)—
- (a) who is resident in the UK for income tax purposes [^{F9} for that year (see Schedule 45 to the Finance Act 2013)], and
 - (b) who, for that year, meets condition A, B or C.
- (2) T meets condition A if T has a close connection with Scotland (see section 80E).
- (3) T meets condition B if—
- (a) T does not have a close connection with [^{F10}England, Wales or Northern Ireland] (see section 80E), and
 - (b) T spends more days of that year in Scotland than in any other part of the UK (see section 80F).
- (4) T meets condition C if, for the whole or any part of the year, T is—
- (a) a member of Parliament for a constituency in Scotland, [^{F11}or]
 - ^{F12}(b)

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(c) a member of the Scottish Parliament.

[Subsection (1) does not apply if T is a Welsh parliamentarian for the whole or any part ^{F13}(4A) of the year (see section 80DA).

(4B) For the purposes of subsection (4A) and section 80DA, T is a Welsh parliamentarian if T is a member as described in [^{F14}paragraph (a) or (c)] of section 116E(4) of the Government of Wales Act 2006 (definition of a Welsh taxpayer).]

(5) In this Chapter “the UK” means the United Kingdom.

Textual Amendments

- F8** Word in s. 80D(1) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(3)(a)**, 29(2)(b), 29(3)
- F9** Words in s. 80D(1)(a) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(3)(b)**, 29(2)(b), 29(3)
- F10** Words in s. 80D(3)(a) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(4)**, 29(2)(b), 29(3)
- F11** Word in s. 80D(4)(a) inserted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 12 of the commencing S.I. of the commencing S.I.) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 14(2)(a)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F12** S. 80D(4)(b) and word omitted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 12 of the commencing S.I. of the commencing S.I.) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 14(2)(b)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F13** S. 80D(4A)(4B) inserted (24.7.2018) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(5)**, 29(4); S.I. 2018/892, art. 4 (with art. 7)
- F14** Words in s. 80D(4B) substituted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 12 of the commencing S.I. of the commencing S.I.) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 14(3)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

^{F15}80DA **Scottish taxpayers: Welsh parliamentarians**

- (1) An individual (T) who is a Welsh parliamentarian for the whole or any part of a tax year is a Scottish taxpayer for that tax year if—
- T is resident in the UK for income tax purposes for that year (see Schedule 45 to the Finance Act 2013),
 - T meets condition C in section 80D for that year, and
 - T meets either of the following conditions for that year.
- (2) T meets the first condition if—
- the number of days in that year on which T is a member as described in [^{F16}paragraph (a) or (c)] of section 80D(4), exceeds
 - the number of days in that year on which T is a Welsh parliamentarian.
- (3) T meets the second condition if—
- the number of days in that year mentioned in paragraphs (a) and (b) of subsection (2) are the same, and
 - T meets condition A or B in section 80D for that year.]

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Textual Amendments

- F15** S. 80DA inserted (24.7.2018) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(6)**, 29(4); S.I. 2018/892, art. 4 (with art. 7)
- F16** Words in s. 80DA(2)(a) substituted (with effect in relation to the tax year 2020-21 and subsequent tax years in accordance with reg. 12 of the commencing S.I. of the commencing S.I.) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), **Sch. 3 para. 15** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

80E Close connection with Scotland or another part of the UK

- (1) To find whether, for any year, T has a close connection with any part of the UK see—
- (a) subsection (2) (where T has only one place of residence in the UK), or
 - (b) subsection (3) (where T has 2 or more places of residence in the UK).
- (2) T has a close connection with a part of the UK if in that year—
- (a) T has only one place of residence in the UK,
 - (b) that place of residence is in that part of the UK, and
 - (c) for at least part of the year, T lives at that place.
- (3) T has a close connection with a part of the UK if in that year—
- (a) T has 2 or more places of residence in the UK,
 - (b) for at least part of the year, T's main place of residence in the UK is in that part of the UK,
 - (c) the times in the year when T's main place of residence is in that part of the UK comprise (in aggregate) [^{F17}more of the year than] the times when T's main place of residence is in [^{F18}each other part of the UK (considered separately)], and
 - (d) for at least part of the year, T lives at a place of residence in that part of the UK.
- (4) In this section “place” includes a place on board a vessel or other means of transport.

Textual Amendments

- F17** Words in s. 80E(3)(c) substituted (24.7.2018) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(7)(a)**, 29(4); S.I. 2018/892, art. 4 (with art. 7)
- F18** Words in s. 80E(3)(c) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 11(7)(b)**, 29(2)(b), 29(3)

80F Days spent in Scotland or another part of the UK

- (1) T spends more days of a year in Scotland than in any other part of the UK if (and only [^{F19}if] the number of days in the year on which T is in Scotland at the end of the day exceeds each of the following—
- (a) the number of days in the year on which T is in England at the end of the day;
 - (b) the number of days in the year on which T is in Wales at the end of the day;
 - (c) the number of days in the year on which T is in Northern Ireland at the end of the day.]
- (2) [^{F20}T is treated as not] being in the UK at the end of a day if—
- (a) on that day T arrives in the UK as a passenger,

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, CHAPTER 2. (See end of Document for details)

- (b) T departs from the UK on the next day, and
- (c) during the time between arrival and departure T does not engage in activities which are to a substantial extent unrelated to T's passage through the UK.

Textual Amendments

- F19** S. 80F(1)(a)-(c) and words substituted for words in s. 80F(1) (24.7.2018) by [Wales Act 2014 \(c. 29\)](#), [ss. 11\(8\)\(a\), 29\(4\)](#); [S.I. 2018/892, art. 4](#) (with art. 7)
- F20** Words in s. 80F(2) substituted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 11\(8\)\(b\), 29\(2\)\(b\), 29\(3\)](#)

80G Supplemental powers to modify enactments

[^{F21}(1) The Treasury may by order modify section 11A of the Income Tax Act 2007 (income charged at [^{F22}Scottish] rates) for the purpose of altering—

- (a) the definition of the income which is charged to income tax at [^{F23}Scottish rates], or
- (b) the application of the section in relation to a particular class of income which is so charged.

(1A) The Treasury may by order modify any enactment [^{F24}so as to make any provision that they consider necessary or expedient in consequence of or in connection with—

- (a) the powers of the Parliament under section 80C;
- (b) a Scottish rate resolution].

(1B) If the Treasury consider it necessary or expedient to do so, they may by order provide that—

- (a) [^{F25}provision made by a Scottish rate resolution for a tax year,
- (b) the absence of particular provision in a Scottish rate resolution for a tax year, or
- (c) the absence of a Scottish rate resolution for a tax year,]

does not require any change in the amounts repayable or deductible under PAYE regulations between the beginning of that year and such later date as may be specified in the order.]

(2) The Treasury may by order make such modifications of any enactment as they consider necessary or expedient in consequence of or in connection [^{F26}with an order under subsection (1), (1A) or (1B)]

^{F27}(3)

(4) An order under this section may, to the extent that the Treasury consider it to be appropriate, take effect retrospectively from the beginning of the tax year in which the order is made.

[The power under subsection (1) does not include power to provide that any income ^{F28}(5) which is—

- (a) savings income, or
- (b) dividend income which would otherwise be charged to income tax at a rate provided for under section 13 of the Income Tax Act 2007,

is income which is charged to income tax at a rate provided for under section 11A of that Act.]

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, CHAPTER 2. (See end of Document for details)

Textual Amendments

- F21** Ss. 80G(1)-(1B) substituted for s. 80G(1) (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(4\)](#)
- F22** Words in s. 80G(1) substituted (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), [ss. 13\(10\)\(a\)\(14\)](#), 72(3); S.I. 2016/1161, [reg. 2](#)
- F23** Words in s. 80G(1)(a) substituted (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), [ss. 13\(10\)\(b\)\(14\)](#), 72(3); S.I. 2016/1161, [reg. 2](#)
- F24** Words in s. 80G(1A) substituted (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), [ss. 13\(11\)\(14\)](#), 72(3); S.I. 2016/1161, [reg. 2](#)
- F25** S. 80G(1B)(a)-(c) substituted for s. 80G(1B)(a)(b) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), [ss. 13\(12\)\(14\)](#), 72(3); S.I. 2016/1161, [reg. 2](#)
- F26** Words in s. 80G(2) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(5\)](#)
- F27** S. 80G(3) omitted (17.7.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(6\)](#)
- F28** S. 80G(5) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 38 para. 16\(7\)](#)

80H Reimbursement of expenses

The Scottish Ministers may reimburse any Minister of the Crown or government department for administrative expenses incurred by virtue of this Chapter at any time after the passing of the Scotland Act 2012 by the Minister or department.]

[^{F29}80H] Report by the Comptroller and Auditor General

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).
- (2) Those matters are—
 - (a) the adequacy of any of HMRC 's rules and procedures put in place, in consequence of the Scottish rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
 - (b) whether the rules and procedures described in paragraph (a) are being complied with,
 - (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Scottish rate resolution, and
 - (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).
- (3) The “Scottish rate provisions” are—
 - (a) any provision made by or under this Chapter, and
 - (b) any provision made by or under the Income Tax Acts relating to [^{F30}a Scottish rate].
- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 80H

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, CHAPTER 2. (See end of Document for details)

(having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).

- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the Scottish Parliament not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty’s Revenue and Customs.]

Textual Amendments

F29 S. 80HA inserted (17.7.2014 with effect in accordance with s. 297(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 297\(1\)](#)

F30 Words in s. 80HA(3)(b) substituted (30.11.2016) (with effect in accordance with s. 13(15)(16) of the amending S.I.) by [Scotland Act 2016 \(c. 11\)](#), [ss. 13\(13\)\(14\)](#), [72\(3\)](#); [S.I. 2016/1161](#), [reg. 2](#)

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