



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

CORPORATION TAX: GENERAL

Transfer pricing

^{F1}30 Provision not at arm's length: transactions between UK taxpayers etc

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Textual Amendments

- F1** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

^{F1}31 Exemptions for dormant companies and small and medium-sized enterprises

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Textual Amendments

- F1** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

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F132 Special applications of paragraph 6 of Schedule 28AA to the Taxes Act 1988

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Textual Amendments

- F1** Ss. 30-32 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with [Sch. 9 paras. 1-9, 22](#))

Penalties: temporary relaxation

33 Provision not at arm's length: temporary relaxation of liability to penalty

- (1) This section has effect in relation to—
- (a) the years of assessment 2004-05 and 2005-06, and
 - (b) accounting periods beginning on or after 1st January 2004 and ending on or before 31st March 2006,
- and in the following provisions of this section “relevant period” means any of those years of assessment or accounting periods.
- (2) In this section “records relating to an arm's length provision” means such records as might have been requisite for the purpose of making and delivering a correct and complete return, so far as relating to the determination of the provision asserted to be the arm's length provision for the purposes of Schedule 28AA to the Taxes Act 1988 in a case where that Schedule applies.
- (3) In relation to any relevant period, the following provisions (which provide for penalties for failure to keep and preserve records for purposes of returns)—
- (a) section 12B(5) of the Taxes Management Act 1970 (c. 9), and
 - (b) paragraph 23 of Schedule 18 to the Finance Act 1998 (c. 36),
- do not apply if the records which the person in question fails to keep or preserve are records relating to an arm's length provision.
- (4) In the application of subsection (2) in relation to paragraph 23 of Schedule 18 to the Finance Act 1998—
- (a) for “requisite” substitute “ needed ”, and
 - (b) for “making and delivering” substitute “ delivering ”.
- (5) Where a person delivers an incorrect return for any relevant period, he shall not be regarded as doing so negligently for the purposes of—
- (a) section 95 of the Taxes Management Act 1970, or
 - (b) paragraph 20 of Schedule 18 to the Finance Act 1998,
- by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm's length provision.
- (6) For the purposes of section 95A of the Taxes Management Act 1970, where a partner delivers an incorrect partnership return for any relevant period—
- (a) he shall not be regarded as doing so negligently, and
 - (b) his doing so shall not be regarded as attributable to negligent conduct on the part of any relevant partner,

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by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm's length provision.

- (7) For the purposes of section 99 of the Taxes Management Act 1970 (penalty for assisting in preparation of incorrect documents) a person shall not be taken to know that a return is incorrect by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm's length provision.

Thin capitalisation

34 Payments of excessive interest etc

- (1) In section 209 of the Taxes Act 1988 (meaning of “distribution”) the following provisions shall cease to have effect—
- (a) in subsection (2), paragraph (da) (interest etc in respect of securities where issuing company is 75% subsidiary of holder etc and the interest represents an amount that would not have been paid but for a special relationship etc); and
 - (b) subsections (8A) to (8F) (application of section 808A(2) to (4) for purposes of paragraph (da) of subsection (2)).

^{F2}(2)

^{F2}(3)

^{F3}(4)

Textual Amendments

- F2** S. 34(2)(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. 2](#) (with Sch. 9 paras. 1-9, 22)
- F3** S. 34(4) 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)

^{F4}35 Elimination of double counting etc

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Textual Amendments

- F4** S. 36 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

^{F4}36 Balancing payments and elections to pay tax instead

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Textual Amendments

- F4** S. 36 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 2](#) (with [Sch. 9 paras. 1-9, 22](#))

Transfer pricing and thin capitalisation: commencement

37 Commencement and transitional provisions

- (1) In this section “the amending provisions” means—
- (a) sections 30 to 32 (transfer pricing);
 - (b) sections 34 to 36 (thin capitalisation);
 - (c) Schedule 5 (provision not at arm’s length: related amendments).
- (2) The amendments made by those provisions have effect in relation to chargeable periods beginning on or after 1st April 2004 (whenever the actual provision, within the meaning of Schedule 28AA to the Taxes Act 1988, is or was made or imposed).
- (3) Where an accounting period of a company begins before, and ends on or after, 1st April 2004, it shall be assumed for the purposes of the amending provisions, the amendments which they make and subsection (2) that that accounting period (“the straddling period”) consists of two separate accounting periods—
- (a) the first beginning with the straddling period and ending with 31st March 2004, and
 - (b) the second beginning with 1st April 2004 and ending with the straddling period,
- and the company’s profits and losses shall be computed accordingly for tax purposes.
- (4) Where a period of account of any person within the charge to income tax begins before, and ends on or after, 6th April 2004, it shall be assumed for the purposes of the amending provisions, the amendments which they make and subsection (2) that that period (“the straddling period of account”) consists of two separate periods of account—
- (a) the first beginning with the straddling period of account and ending with 5th April 2004, and
 - (b) the second beginning with 6th April 2004 and ending with the straddling period of account,
- and the person’s profits and losses shall be computed accordingly for the purposes of income tax.

Expenses of companies with investment business and insurance companies

^{F5}38 Expenses of management: companies with investment business

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Textual Amendments

- F5** S. 38 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](#))

F⁶39 Accounting period to which expenses of management are referable

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Textual Amendments

- F6** S. 39 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](#))

F⁷40 Expenses of insurance companies

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Textual Amendments

- F7** S. 40 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(l\)\(i\)](#)

F⁸41 Related amendments to other enactments

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Textual Amendments

- F8** S. 41 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(l\)\(i\)](#)

42 Commencement of sections 38 to 41

- (1) The amendments made by sections 38 to 41 and Schedule 6 have effect for accounting periods beginning on or after 1st April 2004.
- (2) This is subject to the transitional provisions in sections 43 and 44 and that Schedule.

43 Companies with investment business: transitional provisions

- (1) Any amount which, apart from this subsection, would have fallen to be treated under the old section 75(3) as if it had been disbursed as expenses of management for the first new accounting period of a company shall instead be treated as if it were expenses of management deductible for that period by virtue of the new section 75(9).
- (2) To the extent that any amount was deductible under subsection (1) of section 75 for an old accounting period, the amount shall not again be deductible under that subsection for a new accounting period.

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- (3) Subsection (2) is without prejudice to the old section 75(3) and the new section 75(9) (carry forward of unrelieved excess to later accounting period).
- (4) To the extent that an amount—
- (a) was not deductible under section 75(1) by an investment company for any old accounting period, but
 - (b) would have been deductible under the new section 75(1) for an old accounting period if the amendments made by sections 38 and 39 and Schedule 6 or any order under section 46 (so far as having effect in relation to the first new accounting period) had been in force in relation to that period,
- the amount shall be deductible under section 75(1) for the first new accounting period of the company.
- (5) Where there is an accounting period that begins before, and ends on or after, 1st April 2004 (“the commencement date”), it shall be assumed, for the purpose of determining the amounts that are deductible for that period under section 75(1) of the Taxes Act 1988, that that accounting period (the “straddling period”) consists of two separate accounting periods—
- (a) the first beginning with the straddling period and ending with the day preceding the commencement date, and
 - (b) the second beginning with the commencement date and ending with the straddling period,
- but this is subject to subsection (6).
- (6) In the case of an investment company, subsection (5) does not have effect for the purpose of determining the amounts that are deductible for the straddling period under section 75(1) by virtue of—
- (a) subsection (3) of the old section 75, or
 - (b) any provision of the Corporation Tax Acts, apart from section 75 and this section.
- (7) Where, for the purposes of section 768B or 768C of the Taxes Act 1988, there is a change in the ownership of a company during the straddling period, then for the purposes of the section in question (and Schedule 28A to that Act), before making any such division as is required by section 768B(4) or 768C(3) of that Act,—
- (a) the straddling period shall be divided into two parts in accordance with subsection (5), and
 - (b) those parts shall be treated in accordance with that subsection as two separate accounting periods, but
 - (c) subsection (6) shall be disregarded,
- and section 768B or 768C of, and Schedule 28A to, the Taxes Act 1988 shall have effect accordingly.
- (8) In this section—
- “the commencement date” shall be construed in accordance with subsection (5);
- “investment company” has the same meaning as in Part 4 of the Taxes Act 1988 (see section 130 of that Act);
- “new accounting period” means an accounting period beginning on or after the commencement date;

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“old accounting period” means an accounting period beginning before the commencement date;

“the new section 75” means section 75 as it has effect in relation to a new accounting period;

“the old section 75” means section 75 as it has effect (apart from subsection (5) above) in relation to an old accounting period;

“section 75” means section 75 of the Taxes Act 1988.

F9 44 Insurance companies: transitional provisions

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Textual Amendments

F9 S. 44 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(I\)\(ii\)](#)

Amounts reversing expenses of management deducted

45 Amounts reversing expenses of management deducted: charge to tax

F10(1)

F10(2)

F10(3)

F11(4)

Textual Amendments

F10 S. 45(1)-(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](#))

F11 S. 45(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Power to make consequential amendments

46 Power to make consequential amendments

(1) The Treasury may by order make such amendments, repeals or revocations in any enactment (including an enactment amended by this Act) as appear to them to be appropriate in consequence of sections 38 to 40 and 45 and Schedule 6.

(2) The power conferred by subsection (1) to make an order includes power—
(a) to make different provision for different cases, and
(b) to make incidental, consequential, supplemental or transitional provision and savings.

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- (3) Any order made under this section on or before 31st December 2004 may make provision having effect in relation to accounting periods ending before the date on which the order is made (but not before 1st April 2004).
- (4) In this section—
 - “enactment” includes an enactment comprised in subordinate legislation;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (see section 21 of that Act).

Insurance companies: miscellaneous

47 Insurance companies etc.

Schedule 7 to this Act (which makes provision about insurance companies and companies which have ceased to be insurance companies after a transfer of business) shall have effect.

Loan relationships and derivative contracts

^{F12}48 Loan relationships: miscellaneous amendments

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Textual Amendments
F12 S. 48 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](#))

49 Derivative contracts: miscellaneous amendments

Schedule 9 to this Act (which makes amendments relating to derivative contracts) shall have effect.

Accounting practice

^{F13}50 Generally accepted accounting practice

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Textual Amendments
F13 S. 50 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 424](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

^{F14}51 Use of different accounting practices within a group of companies

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Textual Amendments

F14 S. 51 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 425](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

52 Amendment of enactments that operate by reference to accounting practice

- (1) Schedule 10 makes amendments of provisions of the Tax Acts that operate by reference to accounting practice.
- (2) In that Schedule—
 - Part 1 makes amendments relating to loan relationships;
 - Part 2 makes amendments relating to derivative contracts;
 - Part 3 makes amendments relating to intangible fixed assets;
 - Part 4 makes amendments relating to foreign currency accounting.
- (3) The amendments have effect in relation to—
 - (a) periods of account beginning on or after 1st January 2005, ^{F15}...
 - ^{F15}(b)

Textual Amendments

F15 S. 52(3)(b) and word repealed (retrospective to 7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 4 para. 50](#), [Sch. 11 Pt. 2\(7\)](#)

53 Treatment of expenditure on research and development

- (1) Expenditure by a company on research and development, if not of a capital nature, is not prevented from being regarded for tax purposes as deductible in computing profits by reason of the fact that for accounting purposes it is brought into account by the company in determining the value of an intangible asset.
- (2) Subsection (1) applies, in particular, for the purposes of—
 - section 82A of the Taxes Act 1988 (deduction of expenditure on research and development),
 - Schedule 20 to the Finance Act 2000 (c. 17) (R&D tax relief),
 - Schedule 12 to the Finance Act 2002 (c. 23) (tax relief for expenditure on research and development), and
 - Schedule 13 to that Act (tax relief for expenditure on vaccine research etc.).
- (3) Where expenditure is brought into account by a company for tax purposes in accordance with subsection (1), no deduction may be made in computing for tax purposes the profits of the company in respect of the writing down of so much of the value of an intangible asset as is attributable to that expenditure.
- (4) Expenditure shall not be regarded by virtue of subsection (1) as deductible in computing a company's profits for an accounting period to the extent that—
 - (a) a deduction has been made in respect of it in computing the company's profits for a previous accounting period, or

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- (b) the company has benefited from a tax relief in respect of it for a previous accounting period under any of the provisions specified in subsection (2).
- (5) In this section—
- “intangible asset” has the meaning it has for accounting purposes; and
- “research and development” has the meaning given by section 837A of the Taxes Act 1988.
- (6) This section shall come into force in accordance with provision made by the Treasury by order made by statutory instrument.

Commencement Information

- II** S. 53 in force at 1.1.2005 with effect as specified in art. 2 of the commencing S.I. by [S.I. 2004/3268, art. 2](#)

^{F16}54 **Trading profits etc. from securities: taxation of amounts taken to reserves**

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Textual Amendments

- F16** S. 54 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](#))

Miscellaneous

55 Duty of company to give notice of coming within charge to corporation tax

- (1) A company must give notice to the Board—
- (a) of the beginning of its first accounting period, and
- (b) of the beginning of any subsequent accounting period that does not immediately follow the end of a previous accounting period.
- (2) The notice required by this section—
- (a) must be in writing;
- (b) must state when the accounting period began;
- (c) must contain such other information as may be prescribed;
- (d) may be given to any officer of the Board; and
- (e) must be given not later than three months after the beginning of the accounting period.
- (3) “Prescribed” in subsection (2)(c) means prescribed by regulations made by the Board.
- (4) A company that has a reasonable excuse for failing to give notice as required by this section—
- (a) is not to be regarded as having failed to comply with this section until the excuse ceases, and

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- (b) after the excuse ceases is not to be regarded as having failed to comply with this section if the required notice is given without unreasonable delay after the excuse ceases.
- (5) In this section—
- (a) “accounting period” means an accounting period for the purposes of corporation tax;
 - (b) “company” means a body corporate and does not include an unincorporated association or a partnership; and
 - (c) “the Board” means the Commissioners of Inland Revenue.
- (6) In the second column of the Table in section 98 of the Taxes Management Act 1970 (c. 9) (penalty for failure to provide information), at the appropriate place insert— “section 55 of the Finance Act 2004 ”.
- (7) This section applies in relation to accounting periods beginning on or after the day on which this Act is passed.

[^{F17}55A Section 55: exception to duty to give notice

- (1) A company is not required to give notice under section 55 of the beginning of an accounting period if it reasonably expects that—
- (a) all the income on which it will be chargeable to corporation tax for the period will consist of payments on which it bears income tax by deduction, ^{F18}...
 - (b) it will have no chargeable gains for the period [^{F19}, and
 - (c) in consequence of the deduction of the income tax mentioned in paragraph (a) at the fourth step in paragraph 8 of Schedule 18 to the Finance Act 1998 (calculation of tax payable), the amount of tax payable for the period will be nil.]
- (2) Subsection (3) applies if—
- (a) by reason of subsection (1) a company is not required to give notice under section 55 of the beginning of an accounting period (“the unreported period”), and
 - (b) a subsequent accounting period immediately follows the end of the unreported period.
- (3) The subsequent accounting period is to be treated for the purposes of section 55 as if it does not immediately follow the end of a previous accounting period.
- (4) If by reason of subsection (1) ceasing to apply a company becomes subject to the duty to give notice under section 55 of the beginning of an accounting period the notice must be given not later than three months after the date on which it becomes subject to that duty.]

Textual Amendments

- F17** S. 55A inserted (6.4.2020) by [Finance Act 2019 \(c. 1\)](#), [Sch. 5 paras. 7, 35](#) (with [Sch. 5 para. 36](#))
- F18** Word in s. 55A(1) omitted (6.4.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 6 para. 7\(a\)](#)
- F19** S. 55A(1)(c) and word inserted (6.4.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 6 para. 7\(b\)](#)

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F20 56 Relief for community amateur sports clubs

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Textual Amendments

F20 S. 56 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)