



Income Tax Act 2007

2007 CHAPTER 3

PART 8

OTHER RELIEFS

CHAPTER 1

INTEREST PAYMENTS

The relief: introduction

383 Relief for interest payments

- (1) A person who pays interest in a tax year is entitled to relief for the tax year for the interest if—
 - (a) the loan on which the interest is payable is a loan to which a provision specified in subsection (2) applies,
 - (b) the interest is eligible for relief in accordance with this Chapter, and
 - (c) the person makes a claim.
- (2) The provisions are—
 - (a) section 388 (loan to buy plant or machinery for partnership use),
 - (b) section 390 (loan to buy plant or machinery for employment use),
 - (c) section 392 (loan to buy interest in close company),
 - (d) section 396 (loan to buy interest in employee-controlled company),
 - (e) section 398 (loan to invest in partnership),
 - (f) section 401 (loan to invest in co-operative), and
 - (g) section 403 (loan to pay inheritance tax).
- (3) The amount of the relief given under subsection (1) is equal to the amount of the interest eligible for relief.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (4) The relief is given by deducting that amount in calculating the person's net income for the tax year in which the interest is paid (see Step 2 of the calculation in section 23).
- (5) This section is subject to—
- (a) section 384 (general restrictions on relief under this Chapter),
 - (b) section 385 (general provisions about loans),
 - (c) section 386 (loans partly meeting requirements),
 - (d) section 387 (exclusion of double relief etc), and
 - (e) section 405 (carry back and forward of relief for interest on loans within section 403).
- (6) See also section 51(2) of FA 2005 (under which this Chapter applies as if arrangements falling within section 47 of that Act were loans and alternative finance return were interest).

384 General restrictions on relief under Chapter

- (1) Relief is not to be given under this Chapter for interest on a debt incurred—
- (a) by overdrawing an account, or
 - (b) by debiting the account of any person as the holder of a credit card or under similar arrangements.
- (2) If [^{F1}the interest paid on a loan in a tax year exceeds a reasonable commercial amount of interest on the loan for the relevant period] , relief is not to be given under this Chapter for so much of the interest as represents the excess.
- [^{F2}(3) The relevant period is the tax year or, if the loan exists for part only of the tax year, the part of the tax year for which the loan exists.
- (4) A reasonable commercial amount of interest on the loan for the relevant period is an amount which, together with any interest paid before that period (other than unrelieved interest), represents a reasonable commercial rate of interest on the loan from the date it was made to the end of that period.
- (5) “Unrelieved interest” means interest which because of subsection (2) is not eligible for relief under this Chapter.]

Textual Amendments

- F1** Words in s. 384(2) substituted (21.7.2008 with effect in accordance with Sch. 22 para. 21(4) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 22 para. 21\(2\)](#)
- F2** S. 384(3)-(5) inserted (21.7.2008 with effect in accordance with Sch. 22 para. 21(4) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 22 para. 21\(3\)](#)

[^{F3}384A Restriction on relief where arrangements minimise risk to borrower

- (1) Relief is not to be given under this Chapter for interest paid by a person on a loan if—
- (a) the loan is made to the person (“the borrower”) as part of arrangements which appear very likely to produce a post-tax advantage, and

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- (b) the arrangements seem to have been designed to reduce any income tax or capital gains tax to which the borrower (or any person whose circumstances are like those of the borrower) would be liable apart from the arrangements.
- (2) Arrangements “appear very likely” to produce a post-tax advantage if (and only if) it would be reasonable to assume from either or both of—
 - (a) the likely effect of the arrangements, and
 - (b) the circumstances in which the arrangements, or any parts of the arrangements, are entered into or effected,that there is no risk, or only an insignificant risk, that they will not produce a post-tax advantage.
- (3) “Produce a post-tax advantage” means give rise to a sum or sums—
 - (a) payable to the borrower or a person connected with the borrower, or
 - (b) payable to any other person for the benefit of the borrower or a person connected with the borrower,of an amount (or aggregate amount) which, after making the appropriate tax adjustments, is equal to or greater than the relevant amount.
- (4) “The relevant amount” is the aggregate of—
 - (a) the amount required to meet the borrower's obligations in respect of the loan, and
 - (b) any amount which is used by the borrower in the same way as that which entitles the borrower to relief under this Chapter in respect of the loan and is not money lent to the borrower under any loan.
- (5) If, with a view to securing that the condition in subsection (1)(a) is not met, the arrangements make provision for securing that, in all or any circumstances in which they do not produce a post-tax advantage, they will produce a broadly compensatory amount, the arrangements are to be regarded for the purposes of subsection (2) as making provision for securing the production of a post-tax advantage in those circumstances.
- (6) “Produce a broadly compensatory amount” means give rise to a sum or sums payable as mentioned in subsection (3) of an amount (or aggregate amount) which, after making the appropriate tax adjustments, is not significantly less than the relevant amount.
- (7) For the purposes of subsections (3) and (6) causing the value of an asset to be obtainable, directly or indirectly, by a person is to be treated as equivalent to giving rise to a sum payable to the person of an amount equal to that value.
- (8) To make the appropriate tax adjustments for the purpose of subsection (3) or (6)—
 - (a) if A exceeds B, deduct the amount of the excess from the amount (or aggregate amount), and
 - (b) if B exceeds A, add the amount of the excess to the amount (or aggregate amount).
- (9) For the purposes of subsection (8)—

A is the amount of any income tax, any capital gains tax and any tax under the law of a territory outside the United Kingdom to which the borrower is liable in consequence of the arrangements, and

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B is the amount by which the borrower's liability to income tax and capital gains tax is (or apart from subsection (1) would be) reduced in consequence of the arrangements.

- (10) Arrangements seem to have been designed to reduce any income tax or capital gains tax to which the borrower (or any person whose circumstances are like those of the borrower) would be liable apart from the arrangements if (and only if) it would be reasonable to assume from either or both of—
- (a) the likely effect of the arrangements, and
 - (b) the circumstances in which the arrangements, or any parts of the arrangements, are entered into or effected,
- that the arrangements, or any parts of the arrangements, are designed to do so.
- (11) In this section “arrangements” means arrangements consisting of any number of agreements, understandings, schemes, transactions or other arrangements (whether or not legally enforceable); but in subsections (1)(a), (2), (5) and (9) the references to arrangements also include any related transactions.
- (12) In subsection (11) “related transactions” means transactions in the case of which it is reasonable to assume from either or both of—
- (a) the likely effect of the transactions, and
 - (b) the circumstances in which the transactions are entered into or effected,
- that the transactions would not have been entered into or effected independently of the arrangements.
- (13) Transactions are not prevented from being related transactions just because the transactions—
- (a) are not between the same parties, or
 - (b) are not between parties to the arrangements.]

Textual Amendments

- F3** S. 384A inserted (with effect in accordance with Sch. 30 para. 1(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 1\(1\)](#)

385 General provisions about loans

- (1) References in this Chapter to a loan being used or used in any way—
 - (a) are references to the money lent being applied or, as the case may be, applied in that way, and
 - (b) except in section 403 include references to a loan being used to meet expenditure already incurred or, as the case may be, already incurred on such a use.
- (2) Sections 392, 396, 398, 401 and 403 apply to a loan only if it is made—
 - (a) in connection with the use of money, and
 - (b) on the occasion of its use or within what is in the circumstances a reasonable time from its use.
- (3) Those sections apply to a loan only if the loan is used as mentioned in those sections without first having been used for another purpose.

Status: Point in time view as at 21/07/2009.

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- (4) For the purposes of this Chapter the giving of credit for any money due from the purchaser under a sale is treated as the making of a loan used by the purchaser in making the purchase.

386 Loans partly meeting requirements

- (1) If, at the time a loan (“the mixed loan”) is used, only part of the mixed loan is a loan to which any of the provisions specified in section 383(2) apply, for the purposes of this Chapter that part (“the qualifying part”) is treated as a loan to which the provision in question applies.
- (2) Accordingly, the corresponding proportion of the interest on the mixed loan is eligible for relief.
- (3) If a mixed loan is partly repaid, for the purposes of this Chapter the corresponding proportion of the repayment is treated as repaying the qualifying part (but see section 406(5)).
- (4) In this section “the corresponding proportion” means the proportion that the qualifying part bears to the whole of the mixed loan at the time the mixed loan is used.

387 Exclusion of double relief etc

- (1) Interest for which relief is given under this Chapter is not allowable as a deduction for any other income tax purposes.
- (2) No relief is given under this Chapter for any tax year for the payment of any interest taken into account in calculating the profits of—
- (a) any trade, profession or vocation,
 - (b) any UK property business, or
 - (c) any overseas property business.
- (3) If interest is so taken into account, no relief is given under this Chapter for any relevant tax year for other interest on the same debt or liability.
- (4) A tax year is a relevant one if the interest has been taken into account in calculating the profits of the trade, profession, vocation or business of the tax year.
- (5) For the purposes of subsection (3) all interest which—
- (a) is capable of being taken into account in calculating the profits of a trade, profession, vocation or business, and
 - (b) is payable by the same person on money advanced to the person on current account,
- is treated as interest on the same debt.
- (6) It does not matter whether the money is advanced—
- (a) on one or more accounts, or
 - (b) by the same or separate banks or other persons.
- (7) The reference in subsections (2) to (4) to interest taken into account is a reference to interest allowed as a deduction in an assessment which can no longer be varied (whether on appeal or otherwise).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

Loans for plant or machinery

388 Loan to buy plant or machinery for partnership use

- (1) This section applies to a loan that is used for capital expenditure on the provision of plant or machinery to which subsection (2) applies.
- (2) This subsection applies to plant or machinery if—
 - (a) it is in use for the purposes of a trade, profession or ordinary property business carried on by a partnership, and
 - (b) the partnership is entitled to a capital allowance or liable to a balancing charge in respect of it under section 264 of CAA 2001 (partnership using property of a partner) for the period of account in which the interest is paid.
- (3) A partnership is treated as entitled to a capital allowance or liable to a balancing charge in respect of plant or machinery for a period of account (“the later period”) for the purposes of subsection (2)(b) if—
 - (a) it has been so entitled or liable for a previous period of account, and
 - (b) no disposal value has been brought into account in respect of it in the later period or any earlier period of account.
- (4) In this section and sections 389 and 390—
 - “capital expenditure” has the meaning given in section 4 of CAA 2001,
 - “period of account” has the same meaning as in that Act (see section 6(2) to (6) of that Act), and
 - “ordinary property business” has the same meaning as in Part 2 of that Act (see section 16 of that Act).

389 Eligibility requirements for interest on loans within section 388

- (1) Interest on a loan within section 388(1) is eligible for relief if conditions A and B are met.
- (2) Condition A is that the interest is paid by an individual who is a member of the partnership referred to in section 388(2).
- (3) Condition B is that the interest falls due and payable not later than 3 years after the end of the period of account in which the loan was made.
- (4) If the machinery or plant is in use partly for the purposes of the trade, profession or ordinary property business carried on by the partnership referred to in section 388(2) (“trade purposes”) and partly for other purposes, only part of the interest is eligible for relief.
- (5) That part is such part as it is just and reasonable to attribute to trade purposes, having regard to all the relevant circumstances and, in particular, to the extent of the use for other purposes.

390 Loan to buy plant or machinery for employment use

- (1) This section applies to a loan that is used for capital expenditure on the provision of plant or machinery to which subsection (2) applies.
- (2) This subsection applies to plant or machinery if—

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- (a) it is in use for the purposes of an office or employment held by an individual in the tax year,
 - (b) the plant or machinery belongs to the individual, and
 - (c) the individual is entitled to a capital allowance or liable to a balancing charge in respect of it under Part 2 of CAA 2001 for the tax year.
- (3) An individual is treated as entitled to a capital allowance or liable to a balancing charge in respect of plant or machinery for a tax year (“the later year”) for the purposes of subsection (2)(c) if—
- (a) the individual has been so entitled or liable for a previous tax year, and
 - (b) no disposal value has been brought into account in respect of it in the later year or any earlier year.
- (4) An individual is also treated as so entitled or liable for the purposes of this section if the individual would be so entitled or liable but for a contribution made by the individual's employer.

391 Eligibility requirements for interest on loans within section 390

- (1) Interest on a loan within section 390(1) is eligible for relief if conditions A and B are met.
- (2) Condition A is that the interest is paid by the individual referred to in section 390(2).
- (3) Condition B is that the interest falls due and payable not later than 3 years after the end of the tax year in which the loan was made.
- (4) If the machinery or plant is in use partly for the purposes of the office or employment referred to in section 390(2) (“employment purposes”) and partly for other purposes, only part of the interest is eligible for relief.
- (5) That part is such part as it is just and reasonable to attribute to employment purposes having regard to all the relevant circumstances and, in particular, to the extent of the use for other purposes.

Loans for interests in close companies

392 Loan to buy interest in close company

- (1) This section applies to a loan to an individual that is used in one or more of the ways specified in subsection (2).
- (2) The ways are—
 - (a) acquiring any part of the ordinary share capital of a close company that is not a close investment-holding company,
 - (b) lending to such a company money which is used wholly and exclusively—
 - (i) for the purposes of the business of the company, or
 - (ii) for the purposes of the business of any associated company of the company which is also a close company that is not a close investment-holding company, or
 - (c) repaying another loan to which this section applies.

Status: Point in time view as at 21/07/2009.

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- (3) Subsection (2)(a) does not apply if at any time the individual by whom the shares are acquired or that individual's spouse or civil partner—
- (a) makes a claim for relief in respect of them under Part 5 of this Act or, in the case of shares issued before 6 April 2007, Chapter 3 of Part 7 of ICTA (enterprise investment scheme), or
 - (b) makes a claim in respect of them under Schedule 5B to TCGA 1992 (enterprise investment scheme: reinvestment).
- (4) In this section and section 393—
- “close investment-holding company” has the meaning given by section 13A(1) of ICTA (companies not qualifying for small companies' relief), and
- “associated company” has the meaning given by section 416 of ICTA.
- (5) This section is subject to section 411 (ineligibility of interest where business is occupation of commercial woodlands).

393 Eligibility requirements for interest on loans within section 392

- (1) Interest on a loan within section 392(1) to an individual is eligible for relief only if—
- (a) when the interest is paid the company is not a close investment-holding company, and
 - (b) the capital recovery condition and either the full-time working conditions or the material interest conditions are met.
- (2) The capital recovery condition is that in the period from the use of the loan to the payment of the interest the individual has not recovered any capital from the company, apart from any amount taken into account under section 406(2) (recovered capital that is treated as a repayment of the loan).
- (3) The full-time working conditions are that—
- (a) when the interest is paid the individual holds part of the ordinary share capital of the company, and
 - (b) in the period from the use of the loan to the payment of the interest the greater part of the individual's time has been spent in the actual management or conduct of the company or of an associated company of the company.
- (4) The material interest conditions are that—
- (a) when the interest is paid the individual has a material interest in the company (see section 394), and
 - (b) if the company exists wholly or mainly for the purpose of holding investments or other property, either—
 - (i) the condition in subsection (3)(b) is met, or
 - (ii) no property held by the company is used as a residence by the individual.

394 Meaning of “material interest” in section 393

- (1) For the purposes of section 393(4)(a) an individual has a material interest in a company if a relevant person meets condition A or B.
- (2) In this section “relevant person” means—

Status: Point in time view as at 21/07/2009.

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- (a) the individual, either alone or with one or more associates (see section 395), or
 - (b) any associate of the individual with or without such other associates.
- (3) Condition A is that the relevant person is the beneficial owner of, or able directly or indirectly to control, more than 5% of the ordinary share capital of the company.
- (4) Condition B is that the relevant person possesses, or is entitled to acquire, such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive more than 5% of the assets which would then be available for distribution among the participators.
- (5) In this section—
- “control” has the meaning given by section 416(2) to (6) of ICTA, and
 - “participator” has the meaning given by section 417(1) of ICTA.

395 Meaning of “associate” in section 394

- (1) For the purposes of determining under section 394 whether an individual has a material interest in a company, in that section “associate”, in relation to that individual and company, means—
- (a) a relative or partner of the individual,
 - (b) the trustees of a settlement in relation to which—
 - (i) the individual is a settlor, or
 - (ii) a relative of the individual (living or dead) is or was a settlor,
 - (c) if the individual is interested in any shares or obligations of the company which are subject to a trust, the trustees of the settlement, and
 - (d) if the individual is interested in any shares or obligations of the company which are part of the estate of a deceased person, the personal representatives.
- (2) But, despite subsection (1)(c), the trustees of an employee benefit trust are not regarded for the purposes of section 394 as the associates of an individual merely because the individual has an interest in shares or obligations of the company as a beneficiary of the trust, unless subsection (3) applies.
- (3) This subsection applies if at any time after 26 July 1989 the individual, alone or with associates, or an associate of the individual, alone or with other such associates—
- (a) has been the beneficial owner of more than 5% of the ordinary share capital of the company, or
 - (b) has been able directly or indirectly to control more than 5% of that share capital.
- (4) In subsection (3) “associate” has the meaning given by section 549(4) of ITEPA 2003.
- (5) Sections 552 to 554 of ITEPA 2003 (attribution of interests in company) apply for the purposes of subsection (3) in relation to the individual as they apply for the purposes of the provisions listed in section 549(2) of that Act in relation to an employee.
- (6) In this section—
- “control” has the meaning given by section 416(2) to (6) of ICTA,
 - “employee benefit trust” has the meaning given by section 550 of ITEPA 2003 except that the reference in section 550(3) of that Act to 13 March 1989 is to be read as a reference to 26 July 1989, and

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“relative” means spouse or civil partner, ancestor or lineal descendant or brother or sister.

Loans for interests in employee-controlled companies

396 Loan to buy interest in employee-controlled company

- (1) This section applies to a loan to an individual that is used in one or more of the ways specified in subsection (2).
- (2) The ways are—
 - [^{F4}(a) acquiring part of the ordinary share capital of a company that first becomes an employee-controlled company—
 - (i) after the date of acquisition, or
 - (ii) not earlier than 12 months before that date, and]
 - (b) repaying another loan to which this section applies.
- (3) For the purposes of this section and section 397, a company is employee-controlled at any time when—
 - (a) more than 50% of the issued ordinary share capital of the company is owned beneficially by persons who are full-time employees of the company, and
 - (b) more than 50% of the voting power in the company is so owned.
- (4) If an individual owns beneficially more than 10% of the issued ordinary share capital of, or voting power in, a company, for the purposes of subsection (3) the excess is treated as being owned by an individual who is not a full-time employee of the company.
- (5) In this section and section 397 “full-time employee”, in relation to a company, means an individual the greater part of whose time is spent working as an employee or director of the company or of a 51% subsidiary of the company.
- (6) This section is subject to section 411 (ineligibility of interest where business is occupation of commercial woodlands).

Textual Amendments

- F4** S. 396(2)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) \(No.3\) Order 2007 \(S.I. 2007/3506\)](#), arts. 1(1), **3(2)**

397 Eligibility requirements for interest on loans within section 396

- (1) Interest on a loan within section 396 to an individual is eligible for relief only if conditions A to D are met.
- (2) Condition A is that the company is, throughout the period beginning with the date on which the shares are acquired and ending with the date on which the interest is paid (“the payment date”)—
 - (a) an unquoted company that is UK resident and is not resident outside the United Kingdom, and
 - (b) a trading company or the holding company of a trading group.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (3) Condition B is that during the tax year in which the interest is paid the company either—
- (a) first becomes an employee-controlled company, or
 - (b) is such a company throughout a period of at least 9 months.
- (4) Condition C is that—
- (a) the individual is a full-time employee of the company throughout the period beginning with the date on which the loan is used (“the use date”) and ending with the payment date, or
 - (b) the individual ceased to be such an employee not more than 12 months before the payment date and was such an employee throughout the period beginning with the use date and ending with the date the individual ceased to be such an employee.
- (5) Condition D is that in the period from the use of the loan to the payment of the interest the individual has not recovered any capital from the company, apart from any amount taken into account under section 406(2) (recovered capital that is treated as a repayment of the loan).
- (6) In this section—

“holding company” means a company whose business (ignoring any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 75% subsidiaries,

“trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades,

“trading group” means a group the business of whose members taken together consists wholly or mainly of the carrying on of a trade or trades (taking a group to consist of a company with one or more 75% subsidiaries and those subsidiaries), and

“unquoted company” means a company none of whose shares is [^{F5}included in the official UK list].

Textual Amendments

F5 Words in s. 397(6) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(9\)](#)

Loans for investing in partnerships

398 Loan to invest in partnership

- (1) This section applies to a loan to an individual that is used in one or more of the ways specified in subsection (2).
- (2) The ways are—
- (a) purchasing a share in a partnership,
 - (b) contributing money to a partnership, by way of capital or premium, that is used wholly for the purposes of the trade or profession carried on by the partnership,
 - (c) advancing money to a partnership that is so used, and
 - (d) repaying another loan to which this section applies.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (3) This section is subject to section 411 (ineligibility of interest where business is occupation of commercial woodlands).

399 Eligibility requirements for interest on loans within section 398

- (1) Interest on a loan within section 398 to an individual is eligible for relief only if conditions A and B are met.
- (2) Condition A is that throughout the period from the use of the loan until the interest is paid the individual has been a member of the partnership otherwise than—
- (a) as a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (c. 24), or
 - (b) as a member of an investment LLP.
- (3) Condition B is that in that period the individual has not recovered any capital from the partnership, apart from any amount taken into account under section 406(2) (recovered capital that is treated as a repayment of the loan).
- (4) If section 400 (film partnerships) applies in a tax year, only 40% of the interest that would otherwise be eligible for relief for that year is eligible.
- (5) For the purposes of subsection (2) an individual who is not a member of a partnership is treated as such a member if—
- (a) the partnership carries on a profession,
 - (b) the individual is employed by the partnership in a senior capacity, and
 - (c) the individual is allowed—
 - (i) to act independently in dealing with clients of the partnership, and
 - (ii) to act generally in such a way as to be indistinguishable from the partners in relations with those clients.
- (6) For the purposes of subsection (2) “investment LLP” means a limited liability partnership—
- (a) whose business consists wholly or mainly of the making of investments, and
 - (b) the principal part of whose income is derived from investments,
- and whether a limited liability partnership is an investment LLP is determined for each period of account of the partnership.

400 Film partnerships

- (1) This section applies in a tax year if—
- (a) the partnership (“the film partnership”) carries on a trade,
 - (b) the profits or losses of the trade are calculated in accordance with Chapter 9 of Part 2 of ITTOIA 2005 (films etc),
 - (c) the loan is secured on an asset or activity of another partnership (“the investment partnership”),
 - (d) the individual to whom the loan is made (“A”) is or has been a member of the investment partnership, and
 - (e) at any time in the year the proportion of the profits of the investment partnership to which A is entitled is less than the proportion of that partnership's capital contributed by A at that time.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (2) For the purposes of subsection (1)(c), a loan is secured on an asset or activity of a partnership if there is an arrangement—
- (a) under which such an asset may be used or relied upon wholly or partly to guarantee repayment of any part of the loan, or
 - (b) because of which any part of the loan is expected to be repaid directly or indirectly out of assets held by or income accruing to the partnership.
- (3) In subsection (1)(e)—
- “profits” excludes any amount that would not be taken into account as, or for the purposes of calculating, income for income tax purposes, and
- “partnership's capital” means—
- (a) anything that is, or in accordance with generally accepted accounting practice would be, accounted for as partners' capital or partners' equity, and
 - (b) amounts lent to the partnership by partners or persons connected with partners.
- (4) So far as the investment partnership's capital includes at any time any of the following amounts, they are treated as amounts contributed by A—
- (a) any amount A paid to acquire any interest in the partnership, so far as A retains the interest at that time,
 - (b) any amount made available by A directly or indirectly to another person, so far as that person retains any interest in the partnership at that time,
 - (c) any amount A lent to the partnership, so far as it has not been repaid at that time,
 - (d) any amount A made available directly or indirectly to another person, so far as any amount that person lent to the partnership has not been repaid at that time, and
 - (e) an amount made available in any other way prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (5) Regulations under subsection (4)(e)—
- (a) may make provision having retrospective effect,
 - (b) may make provision generally or only in relation to specified cases or circumstances,
 - (c) may make different provision for different cases or circumstances,
 - (d) may make transitional, consequential or incidental provision, and
 - (e) may be made only if a draft of them has been laid before and approved by a resolution of the House of Commons.
- (6) In this section a reference to A includes a reference to a person connected with A.
- (7) Section 993 (meaning of “connected” persons) applies for the purposes of this section with the omission of subsections (3) to (7).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

Loans for investing in co-operatives

401 Loan to invest in co-operative

- (1) This section applies to a loan to an individual that is used in one or more of the ways specified in subsection (2).
- (2) The ways are—
 - (a) acquiring shares in a body which is a co-operative,
 - (b) lending money to any such body which is used wholly and exclusively for the purposes of the business of that body or of a subsidiary of that body, and
 - (c) repaying another loan to which this section applies.
- (3) In this Chapter—

“co-operative” means a common ownership enterprise or a co-operative enterprise as defined in section 2 of the Industrial Common Ownership Act 1976 (c. 78), and

“subsidiary”, in relation to a co-operative, has the same meaning as for the purposes of section 2 of that Act.

402 Eligibility requirements for interest on loans within section 401

- (1) Interest on a loan within section 401 to an individual is eligible for relief only if conditions A to C are met.
- (2) Condition A is that when the interest is paid the body continues to be a co-operative.
- (3) Condition B is that in the period from the use of the loan to the payment of the interest the greater part of the individual's time has been spent working as an employee of the body or of a subsidiary of the body.
- (4) Condition C is that in that period the individual has not recovered any capital from the body, apart from any taken into account under section 406(2) (recovered capital that is treated as a repayment of the loan).

Loans for paying inheritance tax

403 Loan to pay inheritance tax

- (1) This section applies to a loan to the personal representatives of a deceased person if the loan is used—
 - (a) in paying inheritance tax that meets the condition specified in subsection (2), or
 - (b) in repaying another loan to which this section applies.
- (2) The condition is that the personal representatives are obliged to pay the tax under section 226(2) of IHTA 1984 (obligation of personal representatives to pay tax on delivery of their account).
- (3) A written statement appearing to be from an officer of Revenue and Customs is sufficient evidence—
 - (a) of the amount of inheritance tax that meets the condition specified in subsection (2), and

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

(b) of any statements relevant to its calculation.

(4) In this section references to inheritance tax include interest payable on that tax.

404 Eligibility requirements for interest on loans within section 403

Interest on a loan within section 403(1) is eligible for relief only so far as it is paid in respect of a period ending within 12 months from the making of the loan used as mentioned in section 403(1)(a).

405 Carry back and forward of relief for interest on loans within section 403

- (1) This section applies if relief for any interest on a loan within section 403(1) that is eligible for relief cannot be given for the tax year in which the interest is paid because there is not enough income in that year.
- (2) The person paying the interest is entitled to relief for that interest—
 - (a) for the preceding tax year, or
 - (b) if there is not enough income in that year, for the tax year preceding it, and so on.
- (3) If relief cannot be given under subsection (2), it may instead be given—
 - (a) for the tax year following that in which the interest is paid, or
 - (b) if there is not enough income in that year, for the tax year following it, and so on.

General and supplementary

406 Effect of recovery of capital in the case of some loans

- (1) This section applies if the individual to whom a loan is made to which section 392, 396, 398 or 401 applies recovers any amount of capital from the company, partnership or co-operative concerned at any time after the loan is used.
- (2) The individual is treated for the purposes of this Chapter as having repaid that amount out of the loan at that time, whether or not such a repayment occurred.
- (3) Accordingly, only part of the interest that, apart from any such repayment, would be payable on the loan for any period after that time and eligible for relief is so eligible.
- (4) That part is so much of that interest as is attributable to the amount of the loan after the repayment.
- (5) In the case of a loan to which section 386 applies (loans partly meeting requirements), subsection (3) applies instead of section 386(3) (under which repayments are apportioned between the qualifying and non-qualifying parts of such loans).
- (6) The cases in which an individual is treated as having recovered an amount of capital for the purposes of this section are set out in section 407(1) to (3).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

407 Events counting as recovery of capital for section 406

- (1) An individual is treated as having recovered an amount of capital from a company for the purposes of section 406 if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the ordinary share capital of the company,
 - (ii) by way of repayment of part of that ordinary share capital, or
 - (iii) for assigning a debt due to the individual from the company, or
 - (b) the company repays that amount of a loan or advance from the individual.
- (2) An individual is treated as having recovered an amount of capital from a partnership for those purposes if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the individual's interest in the partnership, or
 - (ii) for assigning a debt due to the individual from the partnership, or
 - (b) the partnership repays that amount of a loan or advance from the individual, or
 - (c) the partnership returns that amount of capital to the individual.
- (3) An individual is treated as having recovered an amount of capital from a co-operative for those purposes if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the individual's shares in the co-operative,
 - (ii) by way of repayment of part of the individual's shares in the co-operative, or
 - (iii) for assigning a debt due to the individual from the co-operative, or
 - (b) the co-operative repays that amount of a loan or advance from the individual.
- (4) A sale or assignment that is not a bargain made at arm's length is treated for the purposes of this section as being made for a consideration of an amount equal to the market value of what is disposed of.

408 Replacement loans

- (1) This section applies to a replacement loan.
- (2) In subsection (1) “replacement loan” means a loan to which section 392, 396, 398 or 401 applies because the loan is used in repaying another loan (“the replaced loan”) to which that section applies.
- (3) This Chapter, except for sections 385 and 386, applies to the replacement loan as if that loan and the replaced loan were a single loan (subject to subsection (5)).
- (4) Accordingly, any restriction under section 406 (effect of recovery of capital in the case of some loans) which applies to the replaced loan applies to the replacement loan.
- (5) But this Chapter, except for sections 385 and 386, applies as if references to the use of the loan were references to the use of the original loan.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

409 Business successions between partnerships

- (1) This section applies if—
 - (a) a loan to which section 398 applies is made to an individual,
 - (b) the partnership in question (“the old partnership”) is dissolved,
 - (c) on its dissolution another partnership of which the individual is a member (“the new partnership”) is formed to carry on the whole or part of the undertaking carried on by the old partnership, and
 - (d) interest payable on the loan for the period ending with the dissolution of the old partnership was eligible for relief (or would have been had any been payable).
- (2) This Chapter applies as if the old partnership and the new partnership were the same partnership.
- (3) Section 399(5) (salaried partners etc treated as partners) applies for the purposes of subsection (1)(c) as it applies for the purposes of section 399(2).

410 Other business successions and reorganisations

- (1) This subsection applies if—
 - (a) a loan to which one of the business loan provisions or section 398 (loan to invest in partnership) applies is made to an individual (“the original loan”),
 - (b) the company, partnership or co-operative in question is involved in a transaction as a result of which the individual acquires shares in or makes a loan to another company or a body that is a co-operative,
 - (c) interest payable on the original loan for the period ending with the time of the transaction was eligible for relief (or would have been had any been payable), and
 - (d) had the original loan been made at the time of the transaction and applied in acquiring the shares in or making the loan to the other company or the co-operative, the original loan would have fallen within one of the business loan provisions.
- (2) If subsection (1) applies, from the time of the transaction referred to in subsection (1)(b) the original loan is treated as if it had been made and applied as mentioned in subsection (1)(d).
- (3) In this section “the business loan provisions” means—
 - (a) section 392 (loan to buy interest in close company),
 - (b) section 396 (loan to buy interest in employee-controlled company), and
 - (c) section 401 (loan to invest in co-operative).

411 Ineligibility of interest where business is occupation of commercial woodlands

- (1) Interest that would be eligible for relief under this Chapter apart from this section is not eligible if—
 - (a) the interest is on a loan to which section 392, 396 or 398 applies, and
 - (b) the business carried on by the close company, employee-controlled company or partnership concerned consists of the occupation of commercial woodlands.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (2) If only part of the business consists in such occupation, only part of the interest is ineligible for the relief.
- (3) That part is such part of the interest as it is just and reasonable to attribute to that part of the business having regard to all the relevant circumstances and, in particular, to the extent of the other part of the business.
- (4) For the purposes of this section two or more businesses carried on by a company or partnership are to be regarded as a single business.
- (5) In this section “commercial woodlands” means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

412 Information

- (1) A person (“the payer”) who claims relief under this Chapter for a payment of interest made in a tax year is entitled to request the person to whom the interest is paid to give the payer a statement in writing about that interest containing the information specified in subsection (3).
- (2) That request must be in writing.
- (3) The information is—
 - (a) the date when the debt was incurred,
 - (b) the amount of the debt when incurred,
 - (c) the interest paid in the tax year, and
 - (d) the name and address of the debtor.
- (4) The person to whom the interest is paid has a duty to comply with a request under subsection (1) and that duty is enforceable by the payer.
- (5) This section does not apply if the interest is paid to a building society or to a local authority.

CHAPTER 2

GIFT AID

The relief

413 Overview of Chapter

- (1) This Chapter gives relief for some gifts of money to charities by individuals.
- (2) The relief is set out in section 414.
- (3) The Chapter contains provisions under which, in some circumstances—
 - (a) the individual's entitlement to some other reliefs may be restricted (see section 423), and
 - (b) the individual may be charged to income tax (see section 424).
- (4) See section 430 for bodies that are treated as charities for the purposes of this Chapter.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (5) For related reliefs for charities see Part 10 of this Act, section 25(10) of FA 1990 and section 505 of ICTA.

414 Relief for gifts to charity

- (1) An individual who makes a gift to a charity which is a qualifying donation is entitled to the relief set out in subsection (2).
- (2) The Income Tax Acts have effect in their application to the individual for the tax year in which the gift is made as if—
- the gift had been made after deduction of income tax at the basic rate, and
 - the basic rate limit [^{F6}and the higher rate limit] (see [^{F7}section 10]) were increased by an amount equal to the grossed up amount of the gift.
- (3) See subsection (7) of section 535 of ITTOIA 2005 (gains from contracts for life insurance etc: top slicing relief) for provision about how relief under this Chapter is to be ignored for the purpose of calculating relief under that section.

Textual Amendments

- F6** Words in s. 414(2)(b) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 6](#)
- F7** Words in s. 414(2)(b) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 20](#)

415 Meaning of “grossed up amount”

In this Chapter references to the grossed up amount of a gift are to the amount of the gift grossed up by reference to the basic rate for the tax year in which the gift is made.

416 Meaning of “qualifying donation”

- (1) A gift made to a charity by an individual is a qualifying donation for the purposes of this Chapter if—
- conditions A to G are met, and
 - the individual gives the charity a gift aid declaration relating to the gift (see section 428).
- (2) Condition A is that the gift takes the form of a payment of a sum of money.
- (3) Condition B is that the payment is not subject to any condition as to repayment.
- (4) Condition C is that the payment is not a sum falling within section 713(3) of ITEPA 2003 (payroll deduction scheme).
- (5) Condition D is that the payment is not deductible in calculating the individual's income from any source.
- (6) Condition E is that the payment is not conditional on, associated with or part of an arrangement involving, the acquisition of property by the charity from the individual or a person connected with the individual.

An acquisition by way of gift is ignored for the purposes of this condition.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

(7) Condition F is that—

- (a) there are no benefits associated with the gift, or
- (b) there are benefits associated with the gift but the restrictions on those benefits are not breached.

See sections 417 to 421 for provision about benefits associated with gifts.

(8) Condition G is that the gift is not a disqualified overseas gift (see section 422).

417 Meaning of “benefits associated with a gift”

A benefit is associated with a gift for the purposes of this Chapter if it is received by the individual who makes the gift, or a person connected with the individual, in consequence of making the gift.

Restrictions on associated benefits

418 Restrictions on associated benefits

(1) For the purposes of section 416(7), the restrictions on benefits associated with a gift are breached if condition A or B is met.

(2) Condition A is that the total value of the benefits associated with the gift exceeds the variable limit, which is—

- (a) 25% of the amount of the gift, if the amount of the gift is £100 or less,
- (b) £25, if the amount of the gift is more than £100 but not more than £1,000,
- (c) [^{F8}5%] of the amount of the gift, if the amount of the gift is more than £1,000.

(3) Condition B is that the sum of—

- (a) the total value of the benefits associated with the gift, and
- (b) the total value of the benefits (if any) associated with each relevant prior gift, is more than [^{F9}£500].

(4) “Relevant prior gift” means a gift—

- (a) which has already been made by the individual to the charity in the tax year, and
- (b) which is a qualifying donation.

(5) This section needs to be read with sections 419 to 421.

Textual Amendments

F8 Word in s. 418(2)(c) substituted (with effect in accordance with s. 60(3) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 60\(1\)\(a\)](#)

F9 Word in s. 418(3) substituted (with effect in accordance with s. 60(3) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 60\(1\)\(b\)](#)

419 Gifts and benefits linked to periods of less than 12 months

(1) This section modifies the application of section 418(2) in relation to a gift if condition A, B, C or D is met.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (2) Condition A is that a benefit associated with the gift relates to a period of less than 12 months.
- (3) Condition B is that a benefit associated with the gift consists of a right to receive benefits at intervals over a period of less than 12 months.
- (4) Condition C is that a benefit associated with the gift is one of a series of benefits which are—
 - (a) received at intervals, and
 - (b) associated with a series of gifts made at intervals of less than 12 months.
- (5) Condition D is that—
 - (a) a benefit associated with the gift is not one of a series of benefits received at intervals, and
 - (b) the gift is one of a series of gifts made at intervals of less than 12 months.
- (6) If condition A, B or C is met, then for the purposes of section 418(2)—
 - (a) the value of the benefit is taken to be the annual equivalent of its actual value, and
 - (b) the amount of the gift is taken to be the annual equivalent of its actual amount.
- (7) If condition D is met, the amount of the gift is taken for the purposes of section 418(2) to be the annual equivalent of its actual amount.
- (8) The annual equivalent of the value of a benefit, or of the amount of a gift, is calculated as follows.

Step 1

Multiply the value or amount by 365.

Step 2

If condition A or B is met in relation to the benefit (and neither condition C nor condition D is met in relation to it), divide the result by the number of days in the period of less than 12 months referred to in subsection (2) or (as the case may be) subsection (3).

If condition C or D is met in relation to the benefit, divide the result by the average number of days in the intervals of less than 12 months referred to in subsection (4)(b) or (as the case may be) subsection (5)(b).

Admission rights

420 Disregard of certain admission rights

- (1) A benefit associated with a gift is ignored for the purposes of this Chapter if the benefit consists of a relevant right of admission.
- (2) “Right of admission” means a right which—
 - (a) benefits the individual who makes the gift or that individual and one or more members of that individual's family (whether or not the right must be exercised by all of them at the same time),

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (b) authorises admission to premises or property to which the public are admitted on payment of an admission fee, and
 - (c) authorises admission to those premises or that property without payment of the admission fee or on payment of a reduced fee.
- (3) A right of admission is a relevant right of admission if—
- (a) conditions A and B are met in relation to it, and
 - (b) either condition C or condition D is met in relation to it.
- (4) Condition A is that the opportunity to make a gift and to receive the right of admission in consequence is available to the public.
- (5) Condition B is that the right of admission is a right granted by the charity for the purpose of viewing property preserved, maintained, kept or created by a charity for its charitable purposes.
- (6) The property mentioned in subsection (5) includes, in particular—
- (a) buildings,
 - (b) grounds or other land,
 - (c) plants,
 - (d) animals,
 - (e) works of art (but not performances),
 - (f) artefacts, and
 - (g) property of a scientific nature.
- (7) Condition C is that the right of admission applies, during a period of at least 12 months, at all times at which the public can obtain admission.
- (8) Condition D is that—
- (a) a member of the public could purchase the same right of admission, and
 - (b) the amount of the gift is greater by at least 10% than the amount the member of the public would have to pay.
- (9) This section needs to be read with section 421.

421 Admission rights: supplementary

- (1) This section applies for the purposes of section 420.
- (2) Condition C is to be treated as met even if the right does not apply on days which are specified by the charity as event days, provided no more than 5 days are so specified in relation to the applicable period.
- (3) The applicable period is—
 - (a) the period during which the right applies, in the case of a right which applies for a period of 12 months, or
 - (b) each calendar year during all or part of which the right applies, in the case of a right which applies for a period of more than 12 months.
- (4) An “event day” is a day on which an event is to take place on the premises to which the right relates.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (5) In condition D the “same right of admission” means a right relating to the same property, classes of persons and periods of time as the right received in consequence of the gift.

Disqualified overseas gifts

422 Disqualified overseas gifts

- (1) This section applies for the purposes of section 416(8).
- (2) A gift is an “overseas gift” if—
- (a) it is made by an individual to a charity at a time when the individual is neither UK resident nor in Crown employment, and
 - (b) ignoring condition G in section 416(8), it is a qualifying donation.
- (3) An overseas gift made by an individual in a tax year is a “disqualified overseas gift” if, as a result of the gift, the overseas gifts total is more than the individual's charged amount (see section 427).
- (4) In subsection (3) “overseas gifts total” means the sum of the grossed up amounts of all overseas gifts made by the individual in the tax year.
- (5) In this section “Crown employment” means employment under the Crown—
- (a) which is of a public nature, and
 - (b) the earnings from which are payable out of the public revenue of the United Kingdom or of Northern Ireland.

Measures to ensure donor's liability not less than tax treated as deducted

423 Restriction of certain reliefs

- (1) This section applies if—
- (a) an individual makes one or more gifts to charities in a tax year which are qualifying donations, and
 - (b) amount A is greater than amount B.
- (2) In this section—
- “amount A” means the total amount of the tax treated as deducted from the gifts under section 414, and
 - “amount B” means the total amount of income tax and capital gains tax to which the individual is charged for the tax year (before applying this section).
- (3) For the purposes of this section, the total amount of income tax to which the individual is charged for the tax year is the amount calculated in accordance with section 425.
- (4) The individual's entitlement to the reliefs mentioned in subsection (5) is extinguished, so far as is necessary to ensure that the total amount of income tax and capital gains tax to which the individual is charged for the tax year (after applying this section)—
- (a) is equal to amount A, or
 - (b) if that is not possible, falls short of amount A by as little as possible.
- (5) The reliefs are—

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (a) an allowance under Chapter 2 of Part 3 of this Act ^{F10}... (personal allowance and blind person's allowance),
- (b) a tax reduction under Chapter 3 of Part 3 of this Act ^{F10}... (tax reductions for married couples and civil partners),
- (c) relief under section 457 or 458 of this Act ^{F10}... (payments to trade unions and police organisations), and
- (d) a tax reduction under section 459 of this Act ^{F10}... (payments for benefit of family members).

Textual Amendments

F10 Words in s. 423(5) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(o\)\(iii\)](#)

424 Charge to tax

- (1) Income tax is charged under this section if—
 - (a) an individual makes one or more gifts to charity in a tax year which are qualifying donations, and
 - (b) amount A is greater than amount C.
- (2) In this section—
 - “amount A” means the total amount of the tax treated as deducted from the gifts under section 414, and
 - “amount C” means the sum of—
 - a) the amount of income tax to which the individual is charged for the tax year, and
 - b) [^{F11}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
 - (ii) any relief under section 790(1) of ICTA (relief for foreign tax where no double taxation arrangements).]
- (3) For the purposes of this section, the total amount of income tax to which the individual is charged for the tax year is the amount calculated in accordance with section 425, after taking into account any restriction of relief under section 423.
- (4) The amount of the tax charged under this section is equal to the difference between amount A and amount C.
- (5) Tax charged under this section is charged for the tax year in which the gift or gifts are made.
- (6) The person liable for any tax charged under this section is the individual.

Textual Amendments

F11 Words in s. 424(2) substituted (retrospective with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) \(No. 2\) Order 2009 \(S.I. 2009/2859\)](#), [art. 4\(3\)](#)

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

425 Total amount of income tax to which individual charged for a tax year

- (1) For the purposes of sections 423 and 424, the total amount of income tax to which an individual is charged for a tax year is the amount calculated as follows.
- (2) Calculate the individual's liability to income tax for the tax year in accordance with section 23, as modified by subsection (3).
- (3) In applying section 23—
 - (a) at Step 6, ignore any tax reductions to which the individual is entitled for the tax year under a provision listed in subsection (4), and
 - (b) ignore Step 7.
- (4) The tax reductions to be ignored are tax reductions under—
 - (a) section 453 (qualifying maintenance payments),
 - (b) section 788 of ICTA (double taxation arrangements: relief by agreement), or
 - (c) section 790(1) of ICTA (relief for foreign tax where no double taxation arrangements).
- (5) From the amount calculated in accordance with subsections (2) to (4) deduct—
 - (a) any tax treated as having been paid under—
 - (i) section 399(2) or 400(2) of ITTOIA 2005 (distributions from UK resident companies etc on which there is no tax credit),
 - (ii) section 414(1) of that Act (stock dividend income),
 - (iii) section 421(1) of that Act (release of loan to participator in close company),
 - (iv) section 530(1) of that Act (gains from contracts for life insurance), or
 - (v) section 685A(3) of that Act (settlor-interested settlements),^{F12} ...
 - (b) any tax treated as deducted from estate income under section 656(3) or 657(4) of ITTOIA 2005, so far as that income is treated under section 679 of that Act as paid from sums within section 680(3)(b) or (4) of that Act^{F13}, and
 - (c) the amount of any tax credit under section 397A of ITTOIA 2005 (tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents).]
- (6) For the purposes of this section a person is treated as being entitled to a tax reduction under section 788 of ICTA if the person is entitled to credit against income tax under double taxation arrangements.

Textual Amendments

F12 Word in s. 425(5)(a)(v) omitted (21.7.2008 with effect in accordance with s. 34(2) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 24\(a\)](#)

F13 S. 425(5)(c) and word inserted (21.7.2008 with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 24\(b\)](#)

Election to carry back relief

426 Election by donor: gift treated as made in previous tax year

- (1) If—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (a) an individual makes a gift to a charity that is a qualifying donation, and
 - (b) the condition in subsection (2) is met,
- the individual may elect to be treated as if the gift had been made in the previous tax year (“year P”).
- (2) The condition is that the individual's charged amount for year P (see section 427) is at least equal to the increased total of gifts.
 - (3) If an election is made, sections 414 and 423 to 425 have effect in relation to the individual as if the gift were a qualifying donation made by the individual in year P.
 - (4) The increased total of gifts is the sum of—
 - (a) the grossed up amount of the gift, and of any gifts that are the subject of the same election or an election made at the same time,
 - (b) the sum of the grossed up amounts of any gifts to charities made by the individual in year P which—
 - (i) are qualifying donations, and
 - (ii) are not themselves treated as made in the tax year before year P because of an election under this section, and
 - (c) the sum of the grossed up amounts of any gifts which, as a result of an earlier election under this section, are treated as made in year P.
 - (5) The grossed up amount of the gifts mentioned in paragraphs (a) and (c) of subsection (4) is to be determined as if the gifts were made in year P.
 - (6) An election must be made—
 - (a) on or before the date on which the individual delivers a return for year P under section 8 of TMA 1970 (personal return), and
 - (b) not later than the normal self-assessment filing date for year P.
 - (7) An election does not affect the position of the recipient of the gift (see section 520 (gifts to charitable trusts: income tax treated as paid) and section 25(10) of FA 1990 (gifts to charitable companies)).
 - (8) This section does not apply to gifts which are treated as qualifying donations under section 429 (giving through self-assessment return).

Supplementary

427 Meaning of “charged amount”

- (1) For the purposes of this Chapter, an individual's charged amount is the amount calculated as follows.
- (2) Calculate the amount of the individual's modified net income for year X (see section 1025).
- (3) Calculate the amount on which the individual is chargeable to capital gains tax for year X.
- (4) Add together the amounts calculated under subsections (2) and (3).

The result is the individual's charged amount for year X.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

428 Meaning of “gift aid declaration”

- (1) In this Chapter “gift aid declaration” means a declaration which—
 - (a) is given in the manner specified by regulations made by the Commissioners for Her Majesty's Revenue and Customs, and
 - (b) contains any information and any statements required by the regulations.
- (2) The regulations may provide for declarations—
 - (a) to have effect,
 - (b) to cease to have effect, or
 - (c) to be treated as never having had effect,in any circumstances and for any purposes specified by the regulations.
- (3) The regulations may—
 - (a) require charities to keep records with respect to declarations received from individuals, and
 - (b) make different provision for declarations made in a different manner.

429 Giving through self-assessment return

- (1) This section applies if—
 - (a) as a result of a personal return for a tax year being made by an individual, a tax repayment for one or more tax years falls to be made to the individual, and
 - (b) conditions A and B are met.
- (2) Condition A is that the personal return contains a single direction, in the form specified in the return, requiring—
 - (a) the whole of the tax repayment, or so much of it as does not exceed a specified amount, to be paid on the individual's behalf as a gift to a single listed charity which is specified in the return, and
 - (b) the gift to be treated as a qualifying donation for the purposes of this Chapter.
- (3) Condition B is that the gift meets Conditions A to G mentioned in section 416.
- (4) The gift is to be treated for the purposes of this Chapter as a qualifying donation made by the individual at the time the payment is received by the charity.
- (5) In this section—

“listed charity” means a charity which, at the time the personal return is made, is included (at the request of the charity) in a list maintained for the purposes of this section by the Commissioners for Her Majesty's Revenue and Customs,

“personal return” means a return under section 8 of TMA 1970,

“tax repayment” means a repayment (after any [^{F14}relevant set-off]) of either or both of—

 - (a) income tax or amounts paid on account of income tax, and
 - (b) capital gains tax,

and, for the purposes of subsection (2)(a), includes any repayment supplement (within the meaning of section 824 of ICTA or section 283 of TCGA 1992).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

[^{F15c}“relevant set-off”, in relation to an individual, means any set-off that falls to be made against the individual's liabilities, other than any set-off under section 130 of FA 2008.]

Textual Amendments

F14 Words in s. 429(5) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 130\(9\)\(a\)](#)

F15 Words in s. 429(5) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 130\(9\)\(b\)](#)

430 “Charity” to include exempt bodies

- (1) In this Chapter “charity” includes—
 - (a) the Trustees of the National Heritage Memorial Fund,
 - (b) the Historic Buildings and Monuments Commission for England,
 - (c) the National Endowment for Science, Technology and the Arts, and
 - (d) a club that is registered as a community amateur sports club for the purposes of Schedule 18 to FA 2002.
- (2) For the purposes of the application of section 414(1) in relation to clubs that are charities as a result of subsection (1)(d) of this section, membership fees are not gifts.

CHAPTER 3

GIFTS OF SHARES, SECURITIES AND REAL PROPERTY TO CHARITIES ETC

Entitlement to relief

431 Relief for gifts of shares, securities and real property to charities etc

- (1) An individual who disposes of the whole of the beneficial interest in a qualifying investment (see section 432) to a charity is entitled to relief if—
 - (a) the disposal is otherwise than by way of a bargain made at arm's length, and
 - (b) the individual makes a claim.
- (2) The relief is given by deducting the relievable amount in calculating the individual's net income for the tax year in which the disposal is made (see Step 2 of the calculation in section 23).
- (3) For the calculation of the relievable amount, see section 434.
- (4) If the qualifying investment is a qualifying interest in land (see section 433), this section is subject to—
 - section 441 (certificates),
 - section 442 (qualifying interests in land held jointly),
 - section 443 (calculation of relievable amount where joint disposal), and
 - section 444 (disqualifying events).
- (5) See section 446 for bodies that are treated as charities for the purposes of this Chapter.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (6) See subsection (7) of section 535 of ITTOIA 2005 (top slicing relief) for provision about how relief under this Chapter is to be ignored for the purpose of calculating relief under that section.

432 Meaning of “qualifying investment”

- (1) In this Chapter “qualifying investment” means—
- (a) shares or securities which are listed [^{F16}on a recognised stock exchange or dealt in on any designated market in the United Kingdom],
 - (b) units in an authorised unit trust,
 - (c) shares in an open-ended investment company,
 - (d) an interest in an offshore fund, and
 - (e) a qualifying interest in land.

- (2) In this section—

[^{F17}“designated” means designated by an order made by the Commissioners for Her Majesty's Revenue and Customs for the purposes of subsection (1)(a),]

“offshore fund” has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act), and

“open-ended investment company” is to be read in accordance with section 468A(2) to (4) of ICTA.

- [^{F18}(3) An order under subsection (2) may—

- (a) designate a market by name or by reference to any class or description of market, and
- (b) vary or revoke a previous order under that subsection.]

Textual Amendments

F16 Words in s. 432(1)(a) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(10\)\(a\)](#)

F17 Words in s. 432(2) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(10\)\(b\)](#)

F18 S. 432(3) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(10\)\(c\)](#)

433 Meaning of “qualifying interest in land”

- (1) In this Chapter “qualifying interest in land” means—
- (a) a freehold interest in land in the United Kingdom, or
 - (b) a leasehold interest in land in the United Kingdom which is a term of years absolute.

This is subject to subsections (2) to (5).

- (2) Subsection (3) applies if an individual with a beneficial interest in a freehold or leasehold interest mentioned in subsection (1)(a) or (b) makes a disposal to a charity of—
- (a) the whole of the beneficial interest, and
 - (b) an easement, servitude, right or privilege so far as benefiting the land in question.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (3) The disposal mentioned in subsection (2)(b) is regarded for the purposes of this Chapter as a disposal by the individual of the whole of the individual's beneficial interest in a qualifying interest in land separate from the disposal mentioned in subsection (2)(a).
- (4) If an individual who has a freehold or leasehold interest in land in the United Kingdom grants a lease for a term of years absolute to a charity of the whole or part of that land, the grant of the lease is regarded for the purposes of this Chapter as a disposal by the individual of the whole of the beneficial interest in the leasehold interest so granted.
- (5) Neither an agreement to acquire a freehold interest nor an agreement for a lease is a qualifying interest in land.
- (6) In the application of this section to Scotland—
- (a) references to a freehold interest in land are to the interest of the owner,
 - (b) references to a leasehold interest in land which is a term of years absolute are to a tenant's right over or interest in a property subject to a lease,
 - (c) references to an agreement for a lease do not include missives of let that constitute an actual lease, and
 - (d) in subsection (4) the reference to granting a lease for a term of years absolute is to granting a lease.

Amount of relief

434 The relievable amount

- (1) If the disposal is a gift, the relievable amount is given by the formula—

$$V + IC - B$$

where—

V is the value of the net benefit to the charity at, or immediately after, the time when the disposal is made, whichever is less,

IC is the amount of the incidental costs of making the disposal to the individual making it, and

B is the total value of any benefits received in consequence of making the disposal by the individual making the disposal or a person connected with the individual.

- (2) If the disposal is at an undervalue, the relievable amount is given by the formula—

$$E + C - B$$

where—

E is the amount (if any) by which V (as defined in subsection (1)) exceeds the amount or value of the consideration for the disposal,

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

C is given by subsection (4), and
B is as defined in subsection (1).

- (3) But if the amount given by the formula in subsection (1) or (2) is a negative amount, the relievable amount is nil.
- (4) C is found by taking the following steps.

Step 1

Calculate the consideration for which the disposal is treated as made for the purposes of TCGA 1992 as a result of section 257(2)(a) of that Act (in case of disposal to charity etc, consideration to be such that no gain or loss accrues).

Step 2

Find the excess (if any) of the amount calculated at Step 1 over the amount or value of the consideration for the disposal.

If there is such an excess, C is the amount of that excess or, if less, the amount of the incidental costs of making the disposal to the individual making it.

If there is no such excess, C is nil.

- (5) This section needs to be read with—
- (a) section 435 (incidental costs of making disposal),
 - (b) section 436 (consideration), and
 - (c) sections 437 to 440 (value of net benefit to charity).

435 Incidental costs of making disposal

References in section 434 to the incidental costs of making the disposal to the individual making it are to—

- (a) fees, commission or remuneration paid for the professional services of a surveyor, valuer, auctioneer, accountant, agent or legal adviser which are wholly and exclusively incurred by the individual for the purposes of the disposal,
- (b) costs of transfer or conveyance wholly and exclusively incurred by the individual for the purposes of the disposal,
- (c) costs of advertising to find a buyer, and
- (d) costs reasonably incurred in making any valuation or apportionment required for the purposes of this Chapter.

436 Consideration

- (1) For the purposes of the formula in section 434(2) consideration for the disposal is brought into account—
- (a) without any discount for postponement of the right to receive any part of it,
 - (b) in the first instance, without regard to a risk of any part of it being irrecoverable, and
 - (c) in the first instance, without regard to the right to receive any part of it being contingent.
- (2) If—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (a) any part of the consideration so brought into account subsequently proves to be irrecoverable, and
 - (b) a claim is made,
- such adjustment as is required in consequence must be made.
- (3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax or otherwise.

Value of net benefit to charity

437 Value of net benefit to charity

- (1) For the purposes of this Chapter the value of the net benefit to a charity is—
- (a) the market value of the qualifying investment, or
 - (b) if the charity is, or becomes, subject to a disposal-related obligation, the market value of the qualifying investment reduced by the total amount of the disposal-related liabilities of the charity.
- (2) This section is supplemented by—
- section 438 (market value of qualifying investments),
 - section 439 (meaning of “disposal-related obligation”), and
 - section 440 (meaning and amount of “disposal-related liability”).

438 Market value of qualifying investments

- (1) The market value of a qualifying investment for the purposes of this Chapter is determined in accordance with sections 272 to 274 of TCGA 1992 (subject to Part 1 of Schedule 11 to that Act).
- (2) But, in the case of an interest in an offshore fund for which separate buying and selling prices are published regularly by the managers of the fund, the market value for the purposes of this Chapter is equal to the buying price (that is the lower price) published on—
- (a) the day of the disposal, or
 - (b) if none were published on that day, on the latest day on which the prices were published before that day.

439 Meaning of “disposal-related obligation”

- (1) In this Chapter an obligation is a “disposal-related obligation”, in relation to a qualifying investment, if condition A or condition B is met in relation to it.
- (2) The obligation may be to any person (whether or not the individual making the disposal or a person connected with the individual).
- (3) Condition A is that it is reasonable to suppose that the disposal of the qualifying investment to the charity would not have been made in the absence of the obligation.
- (4) Condition B is that the obligation (whether in whole or in part) relates to, is framed by reference to, or is conditional on the charity receiving, the qualifying investment or a disposal-related investment.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (5) In applying condition A, all the circumstances must be taken into account (including, in particular, the difference in the value of the net benefit to the charity calculated under section 437(1)(a) and that value calculated under section 437(1)(b)).
- (6) In subsection (4) “disposal-related investment” means any of the following—
- (a) an asset of the same class or description as the qualifying investment (irrespective of size, quantity or amount),
 - (b) an asset derived from, or representing, the qualifying investment, whether in whole or in part and whether directly or indirectly, and
 - (c) an asset from which the qualifying investment is derived, or which the qualifying investment represents, whether in whole or in part and whether directly or indirectly.
- (7) In this Chapter “obligation” includes a reference to each of the following—
- (a) a scheme, arrangement or understanding of any kind, whether or not legally enforceable, and
 - (b) a series of obligations (whether or not between the same parties).

440 Meaning and amount of “disposal-related liability”

- (1) In this Chapter a liability is a “disposal-related liability” in the case of a qualifying investment if it is a liability of the charity under a disposal-related obligation in relation to the qualifying investment.
- (2) If the disposal-related obligation is contingent, the amount to be brought into account for the purposes of section 437 at any time in respect of the disposal-related liability, so far as contingent, is—
- (a) if the contingency occurs, the amount or value of the liability actually incurred in consequence of the occurrence of the contingency, or
 - (b) if the contingency does not occur, nil.

Special provisions about qualifying interests in land

441 Certificate required from charity

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) No individual may make a claim for relief under this Chapter unless the individual has received a certificate given by or on behalf of the charity.
- (3) The certificate must—
- (a) describe the qualifying interest in land,
 - (b) specify the date of the disposal, and
 - (c) state that the charity has acquired the qualifying interest in land.

442 Qualifying interests in land held jointly

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) It applies if two or more persons (“the owners”)—
- (a) are jointly beneficially entitled to the qualifying interest in land, or

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (b) are, taken together, beneficially entitled in common to the qualifying interest in land.
- (3) Relief under this Chapter is available if—
 - (a) at least one of the owners is an individual, and
 - (b) all the owners dispose of the whole of their beneficial interests in the qualifying interest in land to the charity.
- (4) Relief under this Chapter is available to each of the owners who is an individual.
- (5) The amount of relief under this Chapter to be given to an individual is such share of the relievable amount as is allocated to the individual by an agreement made between those owners who are—
 - (a) individuals, or
 - (b) qualifying companies.
- (6) A company is a qualifying company if—
 - (a) it is not itself a charity, and
 - ^{F19}(b)
- (7) If one or more of the owners is not an individual—
 - (a) for the purpose of determining whether the owners' beneficial interests are disposed of as mentioned in subsection (3)(b) of this section, subsections (2) to (4) of section 433 apply as if references to an individual included a reference to a person who is not an individual, and
 - (b) the total amount of relief given under this Chapter and section 587B of ICTA as a result of the disposal of the qualifying interest in land is not to exceed the relievable amount.

Textual Amendments

F19 S. 442(6)(b) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

443 Calculation of relievable amount where joint disposal of interest in land

- (1) This section applies for the purpose of calculating the relievable amount in a case where relief under this Chapter is available as a result of section 442(3).
- (2) Calculate the relievable amount as if—
 - (a) the owners were a single individual, and
 - (b) the disposals of the owners' beneficial interests were a single disposal by that single individual of the whole of the beneficial interest in the qualifying interest in land.
- (3) In particular, calculate the consideration mentioned at Step 1 in section 434(4) by—
 - (a) calculating, for each owner, the consideration for which the disposal of the owner's beneficial interest is treated as made for the purposes of TCGA 1992 as a result of section 257(2)(a) of that Act, and
 - (b) adding together all the consideration calculated under paragraph (a).
- (4) Subsection (5) applies if one or more of the owners is neither—
 - (a) an individual, nor

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (b) a qualifying company (see section 442(6)).
- (5) In calculating the relievable amount make just and reasonable adjustments to reduce the relievable amount to reflect the fact that relief under this Chapter or section 587B of ICTA is not available to that owner or to those owners.

^{F20}(6)

Textual Amendments

F20 S. 443(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

444 Disqualifying events

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) If a disqualifying event occurs at any time in the provisional period, the following are treated as never having been entitled to relief under this Chapter in respect of the disposal of the qualifying interest in land—
 - (a) in a case to which section 442 does not apply, the individual who made the disposal, or
 - (b) in a case to which section 442 applies, each individual who is an owner.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (2).
- (4) A disqualifying event occurs if a person mentioned in subsection (5) becomes, otherwise than for full consideration in money or money's worth—
 - (a) entitled to an interest or right in relation to all or part of the land to which the disposal relates, or
 - (b) party to an arrangement under which the person enjoys some right in relation to all or part of that land.
- (5) The persons are—
 - (a) in a case to which section 442 does not apply—
 - (i) the individual who made the disposal, or
 - (ii) a person connected with that individual, and
 - (b) in a case to which section 442 applies—
 - (i) a person who is an owner, or
 - (ii) a person connected with such a person.
- (6) A disqualifying event does not occur if a person becomes entitled to an interest or right as mentioned in subsection (4)(a) as a result of a disposition of property on death (whether the disposition is effected by will, under the law relating to intestacy or otherwise).
- (7) “The provisional period” is the period beginning with the date of the disposal of the qualifying interest in land and ending with the fifth anniversary of the normal self-assessment filing date for the tax year in which the disposal was made.

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

Supplementary

445 Prohibition against double relief

- (1) If a claim is made for relief under this Chapter in respect of a disposal—
 - (a) section 108 of ITTOIA 2005 (gifts of trading stock to charities etc) does not apply in relation to the disposal, and
 - (b) no relief in respect of the disposal is allowable under any other provision of the Income Tax Acts.
- (2) For the effect on capital gains tax or corporation tax on chargeable gains where an individual is entitled to relief under this Chapter, see section 257(2A) to (2C) of TCGA 1992 (gifts to charities etc).

446 “Charity” to include exempt bodies

In this Chapter “charity” includes—

- (a) the Trustees of the National Heritage Memorial Fund,
- (b) the Historic Buildings and Monuments Commission for England, and
- (c) the National Endowment for Science, Technology and the Arts.

CHAPTER 4

ANNUAL PAYMENTS AND PATENT ROYALTIES

447 Overview of Chapter

- (1) This Chapter gives relief for some of the payments from which sums representing income tax must be deducted under Chapter 6 of Part 15 (deduction from annual payments and patent royalties).
- (2) For the payments which attract relief, see sections 448 and 449.

448 Relief for individuals

- (1) This section applies to a payment made in a tax year if—
 - (a) the person who makes it is an individual,
 - (b) a sum representing income tax is required by section 900(2) or 903(5) (deduction from annual payments and patent royalties) to be deducted from it, and
 - (c) the payment is not deductible in calculating the individual's income from any source.
- (2) The individual is entitled to relief for the tax year equal to the gross amount of the payment.
- (3) But this is subject to the restrictions in subsection (4) ^{F21}....
- (4) The total amount of relief given under this section to an individual for a tax year cannot be greater than the amount of the individual's modified net income for the tax year (see section 1025).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (5) The relief is given by deducting the amount of the relief in calculating the individual's net income for the tax year (see Step 2 of the calculation in section 23).

Textual Amendments

F21 Words in s. 448(3) omitted (21.7.2008 with effect in accordance with s. 66(8) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 66\(4\)\(l\)\(iii\)](#)

449 Relief for other persons

- (1) This section applies to a payment made in a tax year if—
- the person who makes it is not an individual,
 - a sum representing income tax is required by section 901(3) or 903(6) (deduction from annual payments and patent royalties) to be deducted from it, and
 - the payment is not deductible in calculating the person's income from any source.
- (2) The person who makes the payment is entitled to relief for the tax year equal to the gross amount of the payment.
- (3) But this is subject to the restrictions in subsections (4) and (5)^{F22}....
- (4) Relief is not given for the payment so far as it is ineligible for relief (see section 450).
- (5) The total amount of relief given under this section to a person for a tax year cannot be greater than the amount of the person's modified net income for the tax year (see section 1025).
- (6) The relief is given by deducting the amount of the relief in calculating the person's net income for the tax year (see Step 2 of the calculation in section 23).

Textual Amendments

F22 Words in s. 449(3) omitted (21.7.2008 with effect in accordance with s. 66(8) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 66\(4\)\(l\)\(iv\)](#)

450 Other persons: payments ineligible for relief

- (1) This section sets out the circumstances in which a payment to which section 449 applies, or part of it, is ineligible for relief.
- (2) The payment is ineligible for relief if, or so far as, it can lawfully be made only out of—
- capital, or
 - income that is exempt from income tax.
- (3) If the payment or any part of it is charged to capital, the payment or that part is ineligible for relief.
- (4) If—
- the person who makes the payment treats it or any part of it as made out of income that is exempt from income tax, and

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (b) the rights or obligations of any person are or may in the future be different from what they would have been if the payment or part had not been so treated, the payment, or the part concerned, is ineligible for relief.
- (5) If the payment or a part of it is not ultimately borne by the person who makes it, the payment or the part concerned is ineligible for relief.
- (6) But subsection (5) does not apply to a payment or part of a payment if—
- (a) the person who makes the payment is liable to income tax on an amount, and
 - (b) it is because the person receives that amount or benefits from it in some other way that the payment or the part concerned is not ultimately borne by that person.

^{F23} 451 Special rule for persons affected by section 733 of ICTA

.....

Textual Amendments

F23 S. 451 omitted (21.7.2008 with effect in accordance with s. 66(8) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 66\(4\)\(I\)\(v\)](#)

452 The gross amount of a payment

References in this Chapter to the gross amount of a payment are to the amount of the payment before deduction of the sum representing income tax deductible from it under Chapter 6 of Part 15 (deduction from annual payments and patent royalties).

CHAPTER 5

QUALIFYING MAINTENANCE PAYMENTS

453 Tax reduction for qualifying maintenance payments

- (1) An individual who makes a claim is entitled to a tax reduction for a tax year in which any qualifying maintenance payments made by the individual fall due.
- (2) The amount of the tax reduction is 10% of—
 - (a) the total amount of qualifying maintenance payments made by the individual which fall due in the tax year, or
 - (b) if less, the amount specified in section 43 (tax reductions for married couples and civil partners: meaning of “the minimum amount”).
- (3) The tax reduction is given effect at Step 6 of the calculation in section 23.

454 Meaning of “qualifying maintenance payment”

- (1) For the purposes of section 453 a payment is a “qualifying maintenance payment” if conditions A to E are met.
- (2) Condition A is that the payment is a periodical payment made by—

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 8. (See end of Document for details)

- (a) one of the parties to a marriage or civil partnership (including a marriage or civil partnership which has been dissolved or annulled) to or for the benefit of the other party and for the maintenance of the other party, or
 - (b) one parent of a child to the child's other parent for the maintenance of the child by the other parent or by one person to another for the maintenance by the other of a relevant child of theirs.
- (3) Condition B is that—
- (a) in a case falling within subsection (2)(a), either of the parties to the marriage or civil partnership was born before 6 April 1935, and
 - (b) in a case falling within subsection (2)(b), either the person who made the payment, or the person to whom it is made, was born before that date.
- (4) Condition C is that the payment is made—
- (a) under an order made by a court in a member State, or
 - (b) under a written agreement the law applicable to which is the law of a member State or of a part of a member State.
- (5) Condition D is that the payment is due at a time when—
- (a) in a case falling within subsection (2)(a)—
 - (i) the two parties are not a married couple, or civil partners of each other, living together (see section 1011), and
 - (ii) the party to whom or for whose benefit the payment is made has not entered into a new marriage or a new civil partnership, and
 - (b) in a case falling within subsection (2)(b), the person making the payment and the person to whom the payment is made are not living together.
- (6) Condition E is that relief from tax in respect of the payment is not available to the person making it under any provision of the Income Tax Acts other than section 453.
- (7) In subsection (4) the reference to an order made by a court in a member State includes a reference to a maintenance calculation.
- (8) “Maintenance calculation” means—
- (a) a maintenance calculation made under the Child Support Act 1991 (c. 48), or
 - (b) a maintenance assessment made under the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)).
- (9) In this section—
- “child” means a person under 21 years of age,
 - “periodical payment” does not include an instalment of a lump sum, and
 - “relevant child”, in relation to any two persons, means a child who (not being a child who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family.

455 Child support maintenance payments

- (1) Condition A in section 454(2) is treated as met in relation to a payment if—
- (a) it is a periodical payment made under a maintenance calculation by any person,

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- (b) another person is, for the purposes of the Child Support Act 1991 or (as the case may be) the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)), a parent of the child or children with respect to whom the calculation has effect,
 - (c) the calculation was not made under section 7 of the Child Support Act 1991 (right of child in Scotland to apply for maintenance calculation), and
 - (d) any of the conditions mentioned in subsection (2) is met.
- (2) The conditions are that—
- (a) the payment is made to the Secretary of State in accordance with regulations made under section 29 of the Child Support Act 1991 by virtue of subsection (3)(a)(ii) of that section (collection of child support maintenance: payment to or through Secretary of State),
 - (b) the payment is retained by the Secretary of State in accordance with regulations made under section 41 of that Act (arrears of child support maintenance),
 - (c) the payment is made to the Department of Health, Social Services and Public Safety for Northern Ireland in accordance with regulations made under Article 29 of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)), by virtue of paragraph (3)(a)(ii) of that Article (collection of child support maintenance: payment to or through Department), or
 - (d) the payment is retained by the Department of Health, Social Services and Public Safety for Northern Ireland in accordance with regulations made under Article 38 of that Order (arrears of child support maintenance).
- (3) “Maintenance calculation” and “periodical payment” have the meanings given in section 454(8) and (9).

456 Payments under orders for recovery of benefit etc

- (1) Condition A in section 454(2) is treated as met in relation to a payment made by any person if—
- (a) it is a periodical payment made to the Secretary of State or to the Department of Health, Social Services and Public Safety for Northern Ireland, and
 - (b) it is made under a recovery of benefit order.
- (2) A “recovery of benefit order” is—
- (a) one made under section 106 of the Social Security Administration Act 1992 (c. 5) or section 101 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (recovery of expenditure on benefit from person liable for maintenance) in respect of income support claimed by any other person, or
 - (b) one made by virtue of section 23 of the Jobseekers Act 1995 (c. 18) or Article 25 of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) (recovery of sums in respect of maintenance), in respect of an income-based jobseeker's allowance claimed by any other person.
- (3) In subsection (2) “income-based jobseeker's allowance” has the same meaning as in—
- (a) the Jobseekers Act 1995, or
 - (b) for Northern Ireland, the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)).
- (4) “Periodical payment” has the meaning given in section 454(9).

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CHAPTER 6

MISCELLANEOUS OTHER RELIEFS

Payments for life insurance etc

457 Payments to trade unions

- (1) An individual who makes a payment to a trade union in a tax year is entitled to relief for the tax year if—
 - (a) part of the payment (the “qualifying amount”) is attributable to the provision of superannuation, life insurance or funeral benefits,
 - (b) the individual meets the requirements of section 460 (residence etc), and
 - (c) the individual makes a claim.
- (2) The amount of the relief is equal to half the qualifying amount.
- (3) But the maximum amount of relief under this section to which an individual is entitled for a tax year is £100.
- (4) The relief is given by deducting the amount of the relief in calculating the individual's net income for the tax year (see Step 2 of the calculation in section 23).
- (5) “Trade union” has the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

458 Payments to police organisations

- (1) An individual who makes a payment to a police organisation in a tax year is entitled to relief for the tax year if—
 - (a) part of the payment (the “qualifying amount”) is attributable to the provision of superannuation, life insurance or funeral benefits,
 - (b) the sum of the qualifying amounts for all the payments which the individual makes in the tax year is at least £20,
 - (c) the individual meets the requirements of section 460 (residence etc), and
 - (d) the individual makes a claim.
- (2) The amount of the relief is equal to half the qualifying amount.
- (3) But the maximum amount of relief under this section to which an individual is entitled for a tax year is £100.
- (4) The relief is given by deducting the amount of the relief in calculating the individual's net income for the tax year (see Step 2 of the calculation in section 23).
- (5) “Police organisation” means an organisation of persons in police service.

459 Payments for benefit of family members

- (1) An individual who pays a sum, or from whose earnings a sum is deducted, in a tax year is entitled to a tax reduction for the tax year if—
 - (a) the sum is paid or deducted under an Act or the individual's terms and conditions of employment,

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- (b) the sum is for the purpose of—
 - (i) securing a deferred annuity after the individual's death for the individual's surviving spouse or civil partner, or
 - (ii) making provision after the individual's death for the individual's children,
 - (c) the individual meets the requirements of section 460 (residence etc), and
 - (d) the individual makes a claim.
- (2) The amount of the tax reduction is equal to income tax at the basic rate on the total of all the sums paid or deducted in the tax year.
- (3) But the maximum amount of the tax reduction under this section to which an individual is entitled for a tax year is equal to income tax at the basic rate on £100.
- (4) A tax reduction under this section is given effect at Step 6 of the calculation in section 23.
- (5) There is no entitlement to a tax reduction under this section in respect of a contribution paid by any person under—
- (a) Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4), or
 - (b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (6) This section is also subject to sections 192 to 194 of FA 2004 (relief for pension contributions).
- (7) In this section “earnings” has the meaning given by section 62 of ITEPA 2003.

460 Residence etc of claimants

- (1) This section applies in relation to an individual who claims—
- (a) relief under section 457 or 458 (payments to trade unions and police organisations) for a tax year, or
 - (b) a tax reduction under section 459 (payments for benefit of family members) for a tax year.
- (2) The individual meets the requirements of this section if the individual—
- (a) is UK resident for the tax year, or
 - (b) meets the condition in subsection (3).
- (3) An individual meets the condition in this subsection if, at any time in the tax year, the individual—
- (a) is resident in the Isle of Man or the Channel Islands,
 - (b) has previously resided in the United Kingdom and is resident abroad for the sake of the health of—
 - (i) the individual, or
 - (ii) a member of the individual's family who is resident with the individual,
 - (c) is a person who is or has been employed in the service of the Crown,
 - (d) is employed in the service of any territory under Her Majesty's protection,
 - (e) is employed in the service of a missionary society, or

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- (f) is a person whose late spouse or late civil partner was employed in the service of the Crown.

[^{F24}(4) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement under section 457, 458 or 459).]

Textual Amendments

F24 S. 460(4) inserted (21.7.2008 with effect in accordance with Sch. 7 para. 81 of the amending Act) by Finance Act 2008 (c. 9), Sch. 7 para. 78

Patent royalty receipts

461 Spreading of patent royalty receipts

- (1) A person who makes a claim is entitled to a tax reduction for a tax year in which the person receives a payment of a royalty or other sum if—
- (a) the payment is in respect of the use of a patent,
 - (b) the use of the patent has extended over a period of two years or more, and
 - (c) the payment is one from which a sum representing income tax is required to be deducted under section 903.
- (2) The amount of the tax reduction is the difference between—
- (a) the amount of income tax payable by the person in respect of the payment, and
 - (b) the total amount of income tax which would have been payable by the person in respect of the payment on the assumptions in subsection (3).
- (3) Those assumptions are that—
- (a) the payment was made in a number of equal instalments at yearly intervals,
 - (b) the last instalment was paid on the date on which the payment was in fact made, and
 - (c) the number of instalments was the same as the number of complete years in the period over which the use of the patent extended, but subject to a maximum of 6.
- (4) The tax reduction is given effect at Step 6 of the calculation in section 23.

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Changes to legislation:

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