



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART IV

#### PROVISIONS RELATING TO THE SCHEDULE D CHARGE

### CHAPTER V

#### COMPUTATIONAL PROVISIONS

#### *Deductions*

#### **74 General rules as to deductions not allowable**

Subject to the provisions of the Tax Acts, in computing the amount of the profits or gains to be charged under Case I or Case II of Schedule D, no sum shall be deducted in respect of—

- (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession or vocation;
- (b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of the trade, profession or vocation;
- (c) the rent of the whole or any part of any dwelling-house or domestic offices, except any such part as is used for the purposes of the trade, profession or vocation, and where any such part is so used, the sum so deducted shall not, unless in any particular case it appears that having regard to all the circumstances some greater sum ought to be deducted, exceed two-thirds of the rent bona fide paid for that dwelling-house or those offices;
- (d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed, for the purposes of the trade, profession or vocation, beyond the sum actually expended for those purposes;
- (e) any loss not connected with or arising out of the trade, profession or vocation;

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- (f) any capital withdrawn from, or any sum employed or intended to be employed as capital in, the trade, profession or vocation, but so that this paragraph shall not be treated as disallowing the deduction of any interest;
- (g) any capital employed in improvements of premises occupied for the purposes of the trade, profession or vocation;
- (h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;
- (j) any debts, except bad debts proved to be such, and doubtful debts to the extent that they are respectively estimated to be bad, and in the case of the bankruptcy or insolvency of a debtor the amount which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof;
- (k) any average loss beyond the actual amount of loss after adjustment;
- (l) any sum recoverable under an insurance or contract of indemnity;
- (m) any annuity or other annual payment (other than interest) payable out of the profits or gains;
- (n) any interest paid to a person not resident in the United Kingdom if and so far as it is interest at more than a reasonable commercial rate;
- (o) any relevant loan interest within the meaning of section 369, other than interest to which section 375(2) applies;
- (p) any royalty or other sum paid in respect of the user of a patent;
- (q) any rent, royalty or other payment which is by section 119 or 120 declared to be subject to deduction of tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

## **75 Expenses of management: investment companies**

- (1) In computing for the purposes of corporation tax the total profits for any accounting period of an investment company resident in the United Kingdom there shall be deducted any sums disbursed as expenses of management (including commissions) for that period, except any such expenses as are deductible in computing profits apart from this section.
- (2) For the purposes of subsection (1) above there shall be deducted from the amount treated as expenses of management the amount of any income derived from sources not charged to tax, other than franked investment income, group income and any regional development grant. In this subsection “regional development grant” means a payment by way of grant under Part II of the Industrial Development Act 1982.
- (3) Where in any accounting period of an investment company the expenses of management deductible under subsection (1) above, together with any charges on income paid in the accounting period wholly and exclusively for purposes of the company’s business, exceed the amount of the profits from which they are deductible—
  - (a) the excess shall be carried forward to the succeeding accounting period; and
  - (b) the amount so carried forward to the succeeding accounting period shall be treated for the purposes of this section, including any further application of this subsection, as if it had been disbursed as expenses of management for that accounting period.
- (4) For the purposes of this section there shall be added to a company’s expenses of management in any accounting period the amount of any allowances falling to be

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made to the company for that period by virtue of section 306 of the 1970 Act (capital allowances for machinery and plant) in so far as effect cannot be given to them under subsection (2) of that section.

- (5) Where an appeal against an assessment to corporation tax or against a decision on a claim under section 242 relates exclusively to the relief to be given under subsection (1) above, the appeal shall lie to the Special Commissioners, and if and so far as the question in dispute on any such appeal which does not lie to the Special Commissioners relates to that relief, that question shall, instead of being determined on the appeal, be referred to and determined by the Special Commissioners, and the Management Act shall apply as if that reference were an appeal.

## **76 Expenses of management: insurance companies**

- (1) Subject to the provisions of this section and of section 432, section 75 shall apply for computing the profits of a company carrying on life assurance business, whether mutual or proprietary, (and not charged to corporation tax in respect of it under Case I of Schedule D), whether or not the company is resident in the United Kingdom, as that section applies in relation to an investment company except that—
- (a) there shall be deducted from the amount treated as the expenses of management for any accounting period the amount of any fines, fees or profits arising from reversions, and
  - (b) no deduction shall be made under section 75(2).

- (2) Relief in respect of management expenses shall not be given to any such company, whether under section 242 or subsection (1) above, so far as it would, if given in addition to all other reliefs to which the company is entitled, reduce the corporation tax borne by the company on the income and gains of its life assurance business for any accounting period to less than would have been paid if the company had been charged to tax in respect of that business under Case I of Schedule D.

In this subsection the references to reliefs do not include references to any set-off under section 239.

- (3) For the purposes of subsection (2) above—
- (a) any tax credit to which the company is entitled in respect of a distribution received by it shall be treated as an equivalent amount of corporation tax borne or paid in respect of that distribution; and
  - (b) any payment in respect of that credit under section 242 shall be treated as reducing the tax so treated as borne or paid.
- (4) In applying subsection (2) above to an accounting period in which a company—
- (a) carries on any business in addition to life assurance business, or
  - (b) carries on both ordinary life assurance business and industrial life assurance business,

the tax that would have been paid if the company had been charged under Case I of Schedule D in respect of its life assurance business, or its life assurance business of either of those classes, shall be calculated as if any advance corporation tax set against the company's liability to corporation tax for that accounting period were apportioned to the corporation tax attributable to each business in proportion to the profits of that business charged to corporation tax for that accounting period.

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- (5) Where relief has been withheld in respect of any accounting period by virtue of subsection (2) above, the excess to be carried forward by virtue of section 75(3) shall be increased accordingly.
- (6) The relief under this section available to an overseas life insurance company (within the meaning of section 431) in respect of its expenses of management shall be limited to expenses attributable to the life assurance business carried on by the company at or through its branch or agency in the United Kingdom.
- (7) For the purposes of this section any sums paid by a company under a long term business levy imposed by virtue of the Policyholders Protection Act 1975 shall be treated as part of its expenses of management.
- (8) In subsections (2) and (6) above “life assurance business” includes the business of granting annuities on human life.

## 77 **Incidental costs of obtaining loan finance**

- (1) Subject to subsection (5) below, in computing the profits or gains to be charged under Case I or II of Schedule D there may be deducted the incidental costs of obtaining finance by means of a qualifying loan or the issue of qualifying loan stock or a qualifying security; and the incidental costs of obtaining finance by those means shall be treated for the purposes of section 75 as expenses of management.
- (2) Subject to subsections (3) and (4) below, in this section—
  - (a) “a qualifying loan” and “qualifying loan stock” mean a loan or loan stock the interest on which is deductible—
    - (i) in computing for tax purposes the profits or gains of the person by whom the incidental costs in question are incurred; or
    - (ii) under section 338 against his total profits; and
  - (b) “qualifying security” means any deep discount security, as defined by paragraph 1 of Schedule 4, in respect of which the income elements, as defined by paragraph 4 of that Schedule, are deductible under paragraph 5(1) of that Schedule in computing the total profits of the company by which the incidental costs in question are incurred.
- (3) Except as provided by subsection (4) below, a loan or loan stock which carries the right of conversion into or to the acquisition of—
  - (a) shares, or
  - (b) other securities not being a qualifying loan or qualifying loan stock,
 is not a qualifying loan or qualifying loan stock if that right is exercisable before the expiry of the period of three years from the date when the loan was obtained or the stock issued.
- (4) A loan or loan stock—
  - (a) which carries such a right as is referred to in subsection (3) above, and
  - (b) which by virtue of that subsection is not a qualifying loan or qualifying loan stock,
 shall nevertheless be regarded as a qualifying loan or qualifying loan stock, as the case may be, if the right is not, or is not wholly, exercised before the expiry of the period of three years from the date when the loan was obtained or the stock was issued.

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- (5) For the purposes of the application of subsection (1) above in relation to a loan or loan stock which is a qualifying loan or qualifying loan stock by virtue of subsection (4) above—
- (a) if the right referred to in subsection (4)(a) above is exercised as to part of the loan or stock within the period referred to in that subsection, only that proportion of the incidental costs of obtaining finance which corresponds to the proportion of the stock in respect of which the right is not exercised within that period shall be taken into account; and
  - (b) in so far as any of the incidental costs of obtaining finance are incurred before the expiry of the period referred to in subsection (4) above they shall be treated as incurred immediately after that period expires.
- (6) In this section “the incidental costs of obtaining finance” means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.
- (7) This section shall not be construed as affording relief—
- (a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies; or
  - (b) for the cost of repaying a loan or loan stock or a qualifying security so far as attributable to its being repayable at a premium or to its having been obtained or issued at a discount.

## **78 Discounted bills of exchange**

- (1) This section applies in any case where—
- (a) a bill of exchange drawn by a company is or was accepted by a bank and discounted by that or any other bank or by a discount house; and
  - (b) the bill becomes or became payable on or after 1st April 1983; and
  - (c) the discount suffered by the company is not (apart from this section) deductible in computing the company’s profits or any description of those profits for purposes of corporation tax.
- (2) Subject to subsection (3) below, in computing, in a case where this section applies, the corporation tax chargeable for the accounting period of the company in which the bill of exchange is paid, an amount equal to the discount referred to in subsection (1)(c) above shall be allowed as a deduction against the total profits for the period as reduced by any relief other than group relief and, except for the purposes of an allowance under section 338(1), that amount shall be treated for the purposes of the Corporation Tax Acts as a charge on income.
- (3) Subsection (2) above shall not apply if the discount is not ultimately suffered by the company and shall not apply unless—
- (a) the company exists wholly or mainly for the purposes of carrying on a trade; or
  - (b) the bill is drawn to obtain funds which are wholly and exclusively expended for the purposes of a trade carried on by the company; or
  - (c) the company is an investment company.
- (4) Where an amount falls to be allowed as mentioned in subsection (2) above, there may be deducted, in computing the profits or gains of the company to be charged under Case

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I of Schedule D, the incidental costs incurred on or after 1st April 1983 in securing the acceptance of the bill by the bank; and those incidental costs shall be treated for the purposes of section 75 as expenses of management.

- (5) For the purposes of subsection (4) above “incidental costs” means fees, commission and any other expenditure wholly and exclusively incurred for the purpose of securing the acceptance of the bill.
- (6) In this section “bank” means a bank carrying on a bona fide banking business in the United Kingdom and “discount house” means a person bona fide carrying on the business of a discount house in the United Kingdom.

## **79 Contributions to local enterprise agencies**

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to an approved local enterprise agency, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax if it would not otherwise be so deductible.
- (2) Where any such contribution is made by an investment company any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making of that contribution, whether from the agency concerned or from any other person.
- (4) In this section “approved local enterprise agency” means a body approved by the Secretary of State for the purposes of this section; but he shall not so approve a body unless he is satisfied that—
  - (a) its sole objective is the promotion or encouragement of industrial and commercial activity or enterprise in a particular area in the United Kingdom with particular reference to encouraging the formation and development of small businesses; or
  - (b) one of its principal objectives is that set out in paragraph (a) above and it maintains or is about to maintain a fund separate from its other funds which is or is to be applied solely in pursuance of that objective;
 and where the Secretary of State approves a body by virtue of paragraph (b) above, the approval shall specify the fund concerned and, in relation to a body so approved, any reference in this section to a contribution is a reference to a contribution which is made wholly to or for the purposes of that fund.
- (5) A body may be approved under subsection (4) above whether or not it is a body corporate or a body of trustees or any other association or organisation and whether or not it is described as a local enterprise agency.
- (6) A body may not be approved under subsection (4) above unless it is precluded, by virtue of any enactment, contractual obligation, memorandum or otherwise, from making any direct or indirect payment or transfer to any of its members, or to any person charged with the control and direction of its affairs, of any of its income or

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profit by way of dividend, gift, division, bonus or otherwise howsoever by way of profit.

- (7) For the purposes of subsection (6) above, the payment—
- (a) of reasonable remuneration for goods, labour or power supplied or for services rendered, or
  - (b) of reasonable interest for money lent, or
  - (c) of reasonable rent for any premises,
- does not constitute a payment or transfer which is required to be so precluded.

- (8) Any approval given by the Secretary of State may be made conditional upon compliance with such requirements as to accounts, provision of information and other matters as he considers appropriate; and if it appears to the Secretary of State that—
- (a) an approved local enterprise agency is not complying with any such requirement, or
  - (b) one or other of the conditions for his approval contained in subsection (4) above or the precondition for his approval in subsection (6) above has ceased to be fulfilled with respect to an approved local enterprise agency,

he shall by notice withdraw his approval from the body concerned with effect from such date as he may specify in the notice (which may be a date earlier than the date on which the notice is given).

- (9) In any case where—
- (a) a contribution has been made to an approved local enterprise agency in respect of which relief has been given under subsection (1) above, and
  - (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

- (10) Section 839 applies for the purposes of subsections (3) and (9) above.
- (11) This section applies to contributions made on or after 1st April 1982 and before 1st April 1992.

## **80 Expenses connected with foreign trades etc**

- (1) This section applies in the case of a trade, profession or vocation carried on wholly outside the United Kingdom by an individual (“the taxpayer”) who does not satisfy the Board as mentioned in section 65(4); and it is immaterial in the case of a trade or profession whether the taxpayer carries it on solely or in partnership.
- (2) Expenses of the taxpayer—
- (a) in travelling from any place in the United Kingdom to any place where the trade, profession or vocation is carried on;
  - (b) in travelling to any place in the United Kingdom from any place where the trade, profession or vocation is carried on; or
  - (c) on board and lodging for the taxpayer at any place where the trade, profession or vocation is carried on;

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shall, subject to subsections (3) and (4) below, be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation.

- (3) Subsection (2) above does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of the trade, profession or vocation or of performing those functions and the functions of any other trade, profession or vocation (whether or not one in the case of which this section applies).
- (4) Where subsection (2) above applies and more than one trade, profession or vocation in the case of which this section applies is carried on at the place in question, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (5) Where the taxpayer is absent from the United Kingdom for a continuous period of 60 days or more wholly and exclusively for the purpose of performing the functions of one or more trades, professions or vocations in the case of which this section applies, expenses to which subsection (6) below applies shall be treated in accordance with subsection (7) or (8) below (as the case may be).
- (6) This subsection applies to the expenses of any journey by the taxpayer's spouse, or any child of his, between any place in the United Kingdom and the place of performance of any of those functions outside the United Kingdom, if the journey—
  - (a) is made in order to accompany him at the beginning of the period of absence or to visit him during that period; or
  - (b) is a return journey following a journey falling within paragraph (a) above;
 but this subsection does not apply to more than two outward and two return journeys by the same person in any year of assessment.
- (7) The expenses shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation concerned (if there is only one).
- (8) The expenses shall be apportioned on such basis as is reasonable between the trades, professions or vocations concerned (if there is more than one) and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (9) In subsection (6) above "child" includes a stepchild and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.
- (10) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

## **81 Travel between trades etc**

- (1) Where a taxpayer (within the meaning of section 80) travels between a place where he carries on a trade, profession or vocation in the case of which section 80 applies and a place outside the United Kingdom where he carries on another trade, profession or vocation (whether or not one in the case of which that section applies) expenses of



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the taxpayer on such travel shall, subject to subsections (3) to (5) below, be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of the trade, profession or vocation mentioned in subsection (2) below.

- (2) The trade, profession or vocation is—
  - (a) the one carried on at the place of the taxpayer's destination; or
  - (b) if that trade, profession or vocation is not one in the case of which section 80 applies, the one carried on at the place of his departure.
- (3) This section does not apply unless the journey was made—
  - (a) after performing functions of the trade, profession or vocation carried on at the place of departure; and
  - (b) for the purpose of performing functions of the trade, profession or vocation carried on at the place of destination.
- (4) This section does not apply unless the taxpayer's absence from the United Kingdom is occasioned wholly and exclusively for the purpose of performing the functions of both the trades, professions or vocations concerned or of performing those functions and the functions of any other trade, profession or vocation.
- (5) Where this section applies and more than one trade, profession or vocation in the case of which section 80 applies is carried on at the place of the taxpayer's destination or (in a case falling within subsection (2)(b) above) at the place of his departure, the expenses shall be apportioned on such basis as is reasonable between those trades, professions or vocations; and the expenses so apportioned to a particular trade, profession or vocation shall be treated for the purposes of section 74(a) as having been wholly and exclusively expended for the purposes of that trade, profession or vocation.
- (6) Nothing in this section shall permit the same sum to be deducted for more than one trade, profession or vocation in respect of expenses in computing profits or gains.

## **82 Interest paid to non-residents**

- (1) In computing the profits or gains arising from a trade, profession or vocation, no sum shall be deducted in respect of any annual interest paid to a person not resident in the United Kingdom unless—
  - (a) the person making the payment has deducted income tax from the payment in accordance with section 349(2) and accounts for the tax so deducted, or
  - (b) the conditions set out in subsection (2) below are satisfied.
- (2) The conditions referred to in subsection (1)(b) above are as follows—
  - (a) that the trade, profession or vocation is carried on by a person residing in the United Kingdom, and
  - (b) that the liability to pay the interest was incurred exclusively for the purposes of the trade, profession or vocation, and
  - (c) that either—
    - (i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade, profession or vocation carried on outside the United Kingdom, or
    - (ii) the interest is payable in a currency other than sterling, and
  - (d) that, under the terms of the contract under which the interest is payable, the interest is to be paid, or may be required to be paid, outside the United Kingdom, and

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- (e) that the interest is in fact paid outside the United Kingdom.
- (3) Where the trade, profession or vocation is carried on by a partnership, subsection (1)(b) above shall not apply to any interest which is payable to any of the partners, or is payable in respect of the share of any partner in the partnership capital.
- (4) Subsection (1)(b) above shall not apply where—
  - (a) the trade, profession or vocation is carried on by a body of persons over whom the person entitled to the interest has control; or
  - (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade, profession or vocation has control; or
  - (c) the person carrying on the trade, profession or vocation and the person entitled to the interest are both bodies of persons and some other person has control over both of them.

In this subsection, the references to a body of persons include references to a partnership, and “control” has the meaning given by section 840.
- (5) If interest paid under deduction of tax in accordance with section 349(2) is deductible in computing the profits or gains of a trade, profession or vocation the amount so deductible shall be the gross amount.
- (6) This section does not apply for the purposes of corporation tax.

### **83 Patent fees etc. and expenses**

Notwithstanding anything in section 74, in computing the profits or gains of a trade there may be deducted as expenses any fees paid or expenses incurred—

- (a) in obtaining for the purposes of the trade the grant of a patent, an extension of the term of a patent, the registration of a design or trade mark, the extension of the period of copyright in a design or the renewal of registration of a trade mark, or
- (b) in connection with a rejected or abandoned application for a patent made for the purposes of the trade.

References in this section to a trade mark include references to a service mark within the meaning of the Trade Marks (Amendment) Act 1984.

### **84 Payments for technical education**

- (1) Notwithstanding anything in section 74, where a person carrying on a trade makes any payment to be used for the purposes of technical education related to that trade at any university or university college or at any such technical college or other similar institution as may for the time being be approved for the purposes of this section by the Secretary of State, the payment may be deducted as an expense in computing the profits or gains of the trade for the purposes of tax.
- (2) For the purposes of this section, technical education shall be deemed to be related to a trade if, and only if, it is technical education of a kind specially requisite for persons employed in the class of trade to which that trade belongs.
- (3) In relation to technical colleges or other institutions in Northern Ireland, this section shall have effect as if for the reference to the Secretary of State there were substituted a reference to the Department of Education for Northern Ireland.

## **85 Payments to trustees of approved profit sharing schemes**

- (1) Any sum expended in making a payment to the trustees of an approved profit sharing scheme by a company which is in relation to that scheme the grantor or a participating company—
- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by that company; or
  - (b) if that company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management,
- if, and only if, one of the conditions in subsection (2) below is fulfilled.
- (2) The conditions referred to in subsection (1) above are—
- (a) that before the expiry of the relevant period the sum in question is applied by the trustees in the acquisition of shares for appropriation to individuals who are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment; and
  - (b) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.
- (3) For the purposes of subsection (2)(a) above “the relevant period” means the period of nine months beginning on the day following the end of the period of account in which the sum in question is charged as an expense of the company incurring the expenditure or such longer period as the Board may allow by notice given to that company.
- (4) For the purposes of this section, the trustees of an approved profit sharing scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.
- (5) In this section—
- “approved profit sharing scheme” means a profit sharing scheme approved under Schedule 9; and
  - “the grantor” and “participating company” have the meaning given by paragraph 1(3) and (4) of that Schedule.

## **86 Employees seconded to charities and educational establishments**

- (1) If a person (“the employer”) carrying on a trade, profession, vocation or business for the purposes of which he employs a person (“the employee”) makes available to a charity, on a basis which is expressed and intended to be of a temporary nature, the services of the employee then, notwithstanding anything in section 74 or 75, any expenditure incurred (or disbursed) by the employer which is attributable to the employment of that employee shall continue to be deductible in the manner and to the like extent as if, during the time that his services are so made available to the charity, they continued to be available for the purposes of the employer’s trade, business, profession or vocation.
- (2) In subsection (1) above—
- “charity” has the same meaning as in section 506;
  - “deductible” means deductible as an expense in computing the profits or gains of the employer to be charged under Case I or II of Schedule D or, as the case may be, deductible as expenses of management for the purposes of section 75.

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- (3) With respect to expenditure attributable to the employment of a person on or after 26th November 1986 and before 1st April 1997, this section shall have effect as if the references to a charity included references to any of the following bodies, that is to say—
- (a) in England and Wales, any local education authority and any educational institution maintained by such an authority;
  - (b) in Scotland, any education authority, any educational establishment maintained by such an authority, and any college of education or central institution within the meaning of the Education (Scotland) Act 1980;
  - (c) in Northern Ireland, any education and library board, college of education or controlled school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 and any institution of further education which is under the management of an education and library board by virtue of Article 28 of that Order; and
  - (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education for Northern Ireland.

## **87 Taxable premiums etc**

- (1) This section applies where in relation to any land used in connection with a trade, profession or vocation—
- (a) tax has become chargeable under section 34 or 35 on any amount (disregarding any reduction in that amount under section 37(2) and (3)); or
  - (b) tax would have become so chargeable on that amount but for the operation of section 37(2) and (3) or but for any exemption from tax;
- and that amount is referred to below as “the amount chargeable”.
- (2) Subject to subsections (3) to (8) below, where—
- (a) during any part of the relevant period the land in relation to which the amount chargeable arose is occupied by the person for the time being entitled to the lease as respects which it arose, and
  - (b) that occupation is for the purposes of a trade, profession or vocation carried on by him,
- he shall be treated, in computing the profits or gains of the trade, profession or vocation chargeable to tax under Case I or II of Schedule D, as paying in respect of that land rent for the period (in addition to any actual rent), becoming due from day to day, of an amount which bears to the amount chargeable the same proportion as that part of the relevant period bears to the whole.
- (3) As respects any period during which a part only of the land in relation to which the amount chargeable arose is occupied as mentioned in subsection (2) above, that subsection shall apply as if the whole were so occupied, but the amount chargeable shall be treated as reduced by so much thereof as, on a just apportionment, is attributable to the remainder of the land.
- (4) Where a person, although not in occupation of the land or any part of the land, deals with his interest in the land or that part as property employed for the purposes of a trade, profession or vocation carried on by him, subsections (2) and (3) above shall apply as if the land or part were occupied by him for those purposes.

*Status: This is the original version (as it was originally enacted).*

- (5) Where section 37(2) and (3) has effect in relation to a lease granted out of the interest referred to in subsection (4) above, subsections (5) and (6) of that section shall apply for modifying the operation of subsections (2) and (3) above as they apply for modifying the operation of subsection (4) of that section.
- (6) In computing profits or gains chargeable under Case I or II of Schedule D for any chargeable period, rent shall not by virtue of subsection (4) above be treated as paid by a person for any period in respect of land in so far as rent treated under section 37(4) as paid by him for that period in respect of the land has in any previous chargeable period been deducted, or falls in that chargeable period to be deducted under Part II.
- (7) Where, in respect of expenditure on the acquisition of his interest in the land in relation to which the amount chargeable arose, a person has become entitled to an allowance under section 60 of the 1968 Act (mineral depletion) for any chargeable period, then—
- (a) if the allowance is in respect of the whole of the expenditure, no deduction shall be allowed him under this section for that or any subsequent chargeable period; or
  - (b) if the allowance is in respect of part only of the expenditure (“the allowable part”), a deduction allowed him under this section for that or any subsequent chargeable period shall be the fraction—

A B

A

of the amount which apart from this subsection would fall to be deducted, where—

A is the whole of the expenditure, and

B is the allowable part of the expenditure;

and the reference in this subsection to an allowance under section 60 of the 1968 Act includes a reference to an allowance under Part III of Schedule 13 to the Finance Act 1986 in respect of expenditure falling within paragraph 4(1)(b) of that Schedule.

- (8) Where the amount chargeable arose under section 34(2) by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, this section shall apply as if the obligation had not included the carrying out of that work and the amount chargeable had been calculated accordingly.
- (9) In this section “the relevant period” means—
- (a) where the amount chargeable arose under section 34, the period treated in computing that amount as the duration of the lease;
  - (b) where the amount chargeable arose under section 35, the period treated in computing that amount as the duration of the lease remaining at the date of the assignment.

## 88 Payments to Export Credit Guarantee Department

Any sums paid by a person to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the Export Guarantees and Overseas Investment Act 1978, or with a view to entering into such an agreement, shall be included—

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- (a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the profits or gains of any trade, profession or vocation carried on by that person; or
- (b) if that person is an investment company or a company in the case of which section 75 applies by virtue of section 76, in the sums to be deducted as expenses of management in computing the company's profits for the purposes of corporation tax;

whether or not they would fall to be so included apart from this section.

## **89 Debts proving irrecoverable after event treated as discontinuance**

Where section 113 or 337(1) applies to treat a trade, profession or vocation as discontinued by reason of any event, then, in computing for tax purposes the profits or gains of the trade, profession or vocation in any period after the event, there may be deducted a sum equal to any amount proved during that period to be irrecoverable in respect of any debts credited in computing for tax purposes the profits or gains for any period before the event (being debts the benefit of which was assigned to the persons carrying on the trade, profession or vocation after the event) in so far as the total amount proved to be irrecoverable in respect of those debts exceeds any deduction allowed in respect of them under section 74(j) in a computation for any period before the event.

## **90 Additional payments to redundant employees**

- (1) Where a payment is made by way of addition to a redundancy payment or to the corresponding amount of any other employer's payment and the additional payment would be—
  - (a) allowable as a deduction in computing for the purposes of Schedule D the profits or gains or losses of a trade, profession or vocation; or
  - (b) eligible for relief under section 75 or 76 as expenses of management of a business,

but for the permanent discontinuance of the trade, profession, vocation or business, the additional payment shall, subject to subsection (2) below, be so allowable or so eligible notwithstanding that discontinuance and, if made after the discontinuance, shall be treated as made on the last day on which the trade, profession, vocation or business was carried on.

- (2) Subsection (1) above applies to an additional payment only so far as it does not exceed three times the amount of the redundancy payment or of the corresponding amount of the other employer's payment.
- (3) In this section references to the permanent discontinuance of a trade, profession, vocation or business include references to any occasion on which it is treated as permanently discontinued by virtue of section 113(1) or 337(1).
- (4) In this section references to a redundancy payment or to the corresponding amount of an employer's payment shall be construed as in sections 579 and 580.

## **91 Cemeteries**

- (1) In computing the profits or gains or losses for any period of a trade which consists of or includes the carrying on of a cemetery, there shall be allowed as a deduction—

*Status: This is the original version (as it was originally enacted).*

- (a) any capital expenditure incurred by the person engaged in carrying on the trade in providing any land in the cemetery sold during that period for the purpose of interments, and
  - (b) the appropriate fraction of the residue at the end of that period of the relevant capital expenditure.
- (2) Subject to subsection (3) below, the relevant capital expenditure is capital expenditure incurred for the purposes of the trade in question by the person engaged in carrying it on, being—
- (a) expenditure on any building or structure other than a dwelling-house, being a building or structure in the cemetery likely to have little or no value when the cemetery is full; and
  - (b) expenditure incurred in providing land taken up by any such building or structure, and any other land in the cemetery not suitable or adaptable for use for interments and likely to have little or no value when the cemetery is full.
- (3) Relevant capital expenditure—
- (a) does not include expenditure incurred on buildings or structures which have been destroyed before the beginning of the first period to which subsection (1) above applies in the case of the trade in question; and
  - (b) of other expenditure incurred before that time, includes only the fraction—

$$\frac{A}{A + B}$$

where—

A is the number of grave-spaces which at that time were or could have been made available in the cemetery for sale, and  
B is the number already sold.

- (4) For the purposes of this section—
- (a) the residue of any expenditure at the end of a period is the amount incurred before that time which remains after deducting—
    - (i) any amount allowed in respect of that expenditure under subsection (1)(b) above in computing the profits or gains or losses of the trade for any previous period, and
    - (ii) if, after the beginning of the first period to which subsection (1) above applies in the case of a trade and before the end of the period mentioned at the beginning of this subsection, any asset representing that expenditure is sold or destroyed, the net proceeds of sale or, as the case may be, any insurance money or other compensation of any description received by the person carrying on the trade in respect of the destruction and any money received by him for the remains of the asset; and
  - (b) the appropriate fraction of the residue of any expenditure at the end of any period is—

$$\frac{A}{A + B}$$

where—

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*Status: This is the original version (as it was originally enacted).*

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A is the number of grave-spaces in the cemetery sold in the period, and  
B is the number of grave-spaces which at the end of the period are or  
could be made available in the cemetery for sale.

- (5) Where in any chargeable period there is a change in the persons engaged in carrying on a trade which consists of or includes the carrying on of a cemetery, any allowance to be made under this section to the persons carrying on the trade after the change shall, whether or not it is to be assumed for other purposes that the trade was discontinued and a new trade set up and commenced, be computed—
- (a) as if they had at all times been engaged in carrying on the trade;
  - (b) as if everything done to or by any of their predecessors in carrying on the trade had been done to or by them; and
  - (c) without regard to the price paid on any sale on the occasion of any such change.
- (6) No expenditure shall be taken into account under both paragraph (a) and paragraph (b) of subsection (1) above, whether for the same or different periods.
- (7) This section shall apply in relation to a trade which consists of or includes the carrying on of a crematorium and, in connection therewith, the maintenance of memorial garden plots, as it applies in relation to a trade which consists of or includes the carrying on of a cemetery, but subject to the modifications that—
- (a) references to the cemetery or land in the cemetery shall be taken as references to the land which is devoted wholly to memorial garden plots, and
  - (b) references to grave-spaces shall be taken as references to memorial garden plots, and
  - (c) references to the sale or use of land for interments shall be taken as references to its sale or use for memorial garden plots.
- (8) In this section—
- (a) references to the sale of land include references to the sale of a right of interment in land, and to the appropriation of part of a memorial garden in return for a dedication fee or similar payment;
  - (b) references to capital expenditure incurred in providing land shall be taken as references to the cost of purchase and to any capital expenditure incurred in levelling or draining it or otherwise rendering it suitable for the purposes of a cemetery or a memorial garden; and
  - (c) the reference in subsection (4)(a)(ii) to subsection (1) above includes a reference to section 141 of the 1970 Act and section 22 of the Finance Act 1952 (which made similar provision to that made by this section).
- (9) Section 84 of the 1968 Act (which relates to expenditure which is reimbursed to a person carrying on a trade) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.