



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART VII

#### GENERAL PROVISIONS RELATING TO TAXATION OF INCOME OF INDIVIDUALS

#### CHAPTER I

#### PERSONAL RELIEFS

##### *The reliefs*

#### 256 General.

<sup>M1</sup>An individual who makes a claim in that behalf or, in the case of relief under section 266, who satisfies the conditions of that section, shall be entitled to such relief as is specified in sections 257 to 274, subject however to the provisions of sections 275 to 278 and [<sup>F1</sup>287 and 288.]

#### Textual Amendments

**F1** “287 and 288”

*repealed by 1988(F) Sch.14 Part. VIII for 1990-91 and subsequent years. And see 1970(M) ss.42 and 43—procedure on claims and appeals.*

#### Marginal Citations

**M1** Source-1970 s.5; 1971 Sch.4 3; 1975 (No.2) s.31(3); 1976 Sch.4 3(1), 18(1)

**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 06/04/2007

### [<sup>F2</sup>256A Meaning of “adjusted net income”

- (1) For the purposes of this Chapter an individual's adjusted net income for a year of assessment is calculated as follows.

*Step 1*

Take the amount of the individual's net income for the year of assessment.

*Step 2*

If in the year of assessment the individual makes, or is treated under section 426 of ITA 2007 as making, a gift that is a qualifying donation for the purposes of Chapter 2 of Part 8 of that Act (gift aid) deduct the grossed up amount of the gift.

*Step 3*

If the individual is given relief in accordance with section 192 of FA 2004 (relief at source) in respect of any contribution paid in the year of assessment under a pension scheme, deduct the gross amount of the contribution.

*Step 4*

Add back any relief under section 266 of this Act given by virtue of subsection (7) of that section (payments for life insurance etc) that was deducted in calculating the individual's net income for the year of assessment.

The result is the individual's adjusted net income for the year of assessment.

- (2) The grossed up amount of a gift is the amount of the gift grossed up by reference to the basic rate for the year of assessment.
- (3) The gross amount of a contribution is the amount of the contribution before deduction of tax under section 192(1) of FA 2004.]

#### Textual Amendments

- F2** Ss. 256A, 256B inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 28** (with Sch. 2)

VALID FROM 06/04/2007

### [<sup>F2</sup>256B Meaning of “the minimum amount”

In this Chapter “the minimum amount” means £2,350.]

#### Textual Amendments

- F2** Ss. 256A, 256B inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 28** (with Sch. 2)

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#### Modifications etc. (not altering text)

- C1** S. 256B amended (2008-09) by S.I. 2008/673, **art. 2(2)**  
S. 256B amended (2009-10) by S.I. 2008/3024, **art. 2(a)**

### [<sup>F3</sup>257 Personal allowance.

- (1) The claimant shall be entitled to a deduction from his total income of [<sup>F4</sup>£3,005,].
- (2) If the claimant proves that he is at any time within the year of assessment of the age of 65 or upwards, he shall be entitled to a deduction from his total income of [<sup>F4</sup>£3,670] (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that he is at any time within the year of assessment of the age of [<sup>F5</sup>75] or upwards, he shall be entitled to a deduction from his total income of [<sup>F4</sup>£3,820] (instead of the deduction provided for by subsection (1) or (2) above).
- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds [<sup>F4</sup>£12,300], subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by [<sup>F5</sup>one half] of the excess (but not so as to reduce those amounts below that specified in subsection (1) above).]

#### Textual Amendments

- F3** Ss. 257-257F substituted for s. 257 (1990-91 and subsequent years) by Finance Act 1988 (c. 39), s. 33  
**F4** S.I. 1990 No.677, **arts.2(1)(3)** (in Part III Vol.5)for 1990-91.  
**F5** 1989 s.33 for 1990-91and subsequent years.

#### Modifications etc. (not altering text)

- C2** S. 257 amended (1991-92) by S.I. 1991/732, **art. 2(3)**  
S. 257 amended (1992-93) by S.I. 1992/622, **art. 2(3)**  
S. 257 amounts specified (1993-94) by 1993 c. 34, s. 52 (in place of S.I. 1993/755, **art. 2(3)**)  
S. 257 amounts specified (1994-95) by 1994 c. 9, s. 76 (in place of S.I. 1993/2948, **art. 2(3)**)  
S. 257(1)(5) amended (1995-96) by S.I. 1994/3012, **art. 2(3)(a)(d)**  
S. 257(2)(3) amended (1995-96) by 1995 c. 4, s. 36 (in place of S.I. 1994/3012, **art. 2(3)(b)(c)**)  
S. 257(5) amended (1996-97) by S.I. 1995/3031, **art. 2(3)(d)**

VALID FROM 27/07/1999

### [<sup>F6</sup>257A Children's tax credit.

- (1) If a qualifying child (or more than one) is resident with the claimant during the whole or part of the year of assessment, the claimant shall be entitled to an income tax reduction, to be known as a children's tax credit.
- (2) The reduction shall be calculated by reference to £4,160.

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- (3) Where any part of the claimant's income for the year of assessment falls within section 1(2)(b), his children's tax credit for the year shall be calculated as if the amount specified in subsection (2) above were reduced by £2 for every £3 of that part of his income.
- (4) In this section "qualifying child" means, in relation to a person—
  - (a) a child of his who has not attained the age of 16, or
  - (b) a child who has not attained the age of 16 and who is maintained by, and at the expense of, the person for any part of the year of assessment;
 and "child" includes illegitimate child and stepchild.
- (5) Schedule 13B (which modifies this section where a child lives with more than one adult during a year of assessment) shall have effect.]

#### Textual Amendments

- F6** S. 257AA inserted (with effect in accordance with s. 30(5) of the amending Act) by Finance Act 1999 (c. 16), s. 30(1)

#### 257A Married couple's allowance.

- (1) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, he shall be entitled to a deduction from his total income of [<sup>F7</sup>£1,720].
- (2) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 65 or upwards, he shall be entitled to a deduction from his total income of [<sup>F7</sup>£2,145] (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of [<sup>F8</sup>75] or upwards, he shall be entitled to a deduction from his total income of [<sup>F7</sup>£2,185] (instead of the deduction provided for by subsection (1) or (2) above).
- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds [<sup>F7</sup>£12,300], subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by—
  - (a) [<sup>F8</sup>one half] of the excess, less
  - (b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section,
 (but not so as to reduce amounts so specified below the amount specified in subsection (1) above).
- (6) A man shall not be entitled by virtue of this section to more than one deduction for any year of assessment; and in relation to a claim by a man who becomes married in the year of assessment and has not previously in the year been entitled to relief under

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this section, this section shall have effect as if the amounts specified in subsections (1) to (3) above were reduced by one twelfth for each month of the year ending before the date of the marriage.

In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

### Textual Amendments

- F7** S.I. 1990 No.677, **arts.2(1)(4)** (in Part III Vol.5)for 1990-91.  
**F8** 1989 s.33 for 1990-91and subsequent years.

### Modifications etc. (not altering text)

- C3** S. 257A(2)(3)(5) amended (1991-92) by S.I. 1991/732, **art. 2(4)(b)-(d)**  
 S. 257A(1) amended (1991-92) by 1991 c. 31, **s. 22(2)** (in place of S.I. 1991/732, **art. 2(4)(a)**)  
 S. 257A(2)(3)(5) amended (1992-93) by S.I. 1992/622, **art. 2(4)(b)-(d)**  
 S. 257A(1) amended (1992-93) by 1992 c. 20, **s. 10(3)(5)** (in place of S.I. 1992/622, **art. 2(4)(a)**)  
 S. 257A amounts specified (1993-94) by 1993 c. 34, **s. 52** (in place of S.I. 1993/755, **art. 2(4)**)  
 S. 257A(1)(2)(3) amended (1994-95) by S.I. 1993/2948, **art. 2(4)(a)-(c)**  
 S. 257A(5) amount specified (1994-95) 1994 c. 9, **s. 78** (in place of S.I. 1993/2948, **art. 2(4)(d)**)  
 S. 257A(1)(2)(3) amended (1995-96) by 1994 c. 9, **s. 77(9)**  
 S. 257A(5) amended (1995-96) by S.I. 1994/3012, **art. 2(4)**  
 S. 257A amended (1996-97) by S.I. 1995/3031, **art. 2(4)**  
 S. 257A amended (1997-98) by S.I. 1996/2952, **art. 2(4)**  
 S. 257A amended (1998-99) by S.I. 1998/755, **art. 2(4)**  
 S. 257A(2)(3) amended (1999-00) by 1998 c. 36, **s. 27(2)**  
 S. 257A amended (1999-00) by S.I. 1999/597, **art. 2(4)**  
 S. 257A amended (2000-01) by S.I. 2000/806, **art. 2(4)**  
 S. 257A amended (2001-02) by S.I. 2000/2996, **art. 2(3)**  
 S. 257A amended (2002-03) by S.I. 2001/3773, **art. 2(3)**  
 S. 257A amended (2003-04) by S.I. 2002/2930, **art. 2(3)**  
 S. 257A(2)(3)(5)(5A) amended (2004-05) by S.I. 2003/3215, **art. 2(3)**  
 S. 257A(2)(3)(5)(5A) amended (2005-06) by S.I. 2004/3161, **art. 2(3)**  
 S. 257A(2)(3)(5)(5A) amended (2006-07) by S.I. 2005/3327, **art. 2(3)**  
 S. 257A(2)(3)(5)(5A) amended (2007-08) by S.I. 2006/3241, **art. 2(3)**  
 S. 257A(2)(3)(5) amended (2008-09) by S.I. 2008/673, **art. 2(4)**  
 S. 257A(2)(3)(5) amended (2009-10) by S.I. 2008/3024, **art. 2(c)**
- C4** S. 257A(1)(2)(3)(5) amended, unless Parliament otherwise determines, by S.I. 1991/732, **art. 2(1)(4)**.  
 S. 257A (1)(2)(3)(5) amended (10.3.1992) unless Parliament otherwise determines, by S.I. 1992/622, **art. 2(4)**.  
 S. 257A(1)(2)(3)(5) amended, unless Parliament otherwise determines, for the year 1993-94 by S.I. 1993/755, **art. 2(4)**  
 S. 257A(1)(2)(3)(5) amended, unless Parliament otherwise determines, for the year 1994-95 by S.I. 1993/2948, **art. 2(4)**  
 S. 257A(5) modified (with application for the year 1995-96 and with effect in accordance with art. 2(1) of the amending provision) by **The Income Tax (Indexation) Order 1995** (S.I. 1994/3012), **art. 2(4)**  
 S. 257A(1)(2)(3)(5) modified (with application for the year 1996-97 and with effect in accordance with art. 2(1) of the amending provision) by **The Income Tax (Indexation) Order 1995** (S.I. 1995/3031), **art. 2(4)**  
 S. 257A(1)(2)(3)(5) modified (26.11.1996 with application for the year 1997-98) by **The Income Tax (Indexation) Order 1995** (S.I. 1996/2952), **art. 2(4)**  
 S. 257A(1)(2)(3)(5) modified (17.03.1998 with application for the year 1998-99) by **The Income Tax (Indexation) Order 1998** (S.I. 1998/755), **art. 2(4)**

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- S. 257A(1)(2)(3)(5) modified (9.3.1998 with application for the year 1999-00) by [The Income Tax \(Indexation\) Order 1998 \(S.I. 1999/597\)](#), **art. 2(4)**
- C5** S. 257A(1) amended by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), **s. 22(2)**
- S. 275A(1) amended (16.3.1992) by [Finance Act 1992 \(c. 20\)](#), **s. 10(3)(5)**.

VALID FROM 05/12/2005

**[<sup>F9</sup>257A] Married couple's allowance (post-5th December 2005 marriages and civil partnerships etc.)**

- (1) This section applies if —
- (a) the claimant is, for the whole or any part of the year of assessment, living with his spouse or civil partner,
  - (b) either the claimant or his spouse or civil partner was born before 6th April 1935,
  - (c) the marriage or civil partnership was entered into on or after 5th December 2005 or, if the marriage was entered into before that date, an election for this section to apply has effect for that year, and
  - (d) the claimant's total income for that year exceeds that of his spouse or civil partner or, if they have the same amount of total income for that year, the claimant is specified in an election as the person to be entitled to relief under this section for that year.
- (2) The claimant shall be entitled for that year to an income tax reduction —
- (a) calculated by reference to £5,975 (if either the claimant or his spouse or civil partner is at any time within that year of the age of 75 or upwards), or
  - (b) calculated by reference to £5,905 (in any other case).
- (3) For the purposes of subsection (2)(a) above an individual who would have been of or over the age of 75 within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (4) In relation to a claimant whose total income for the year of assessment exceeds £19,500, subsection (2) above applies as if the amounts specified in it were reduced by—
- (a) one half of the excess, less
  - (b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section.
- (5) The amounts specified in subsection (2) above shall not by virtue of subsection (4) above be treated as reduced below £2,280.
- (6) An individual shall not be entitled by virtue of this section to more than one income tax reduction for any year of assessment.
- (7) In relation to a claim by an individual who —
- (a) becomes a spouse or civil partner in the year of assessment, and
  - (b) has not previously in the year been entitled to relief under this section,
- this section shall have effect as if the amounts specified in subsection (2) above were reduced by one twelfth for each month of the year ending before the date of the marriage or civil partnership.

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In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

- (8) An election under subsection (1)(c) —
- (a) shall be made jointly by the parties to the marriage,
  - (b) shall be made before the first year of assessment for which it is to have effect,
  - (c) shall have effect for that and each succeeding year of assessment for which any party to the marriage is entitled to relief under this section, and
  - (d) shall be irrevocable.
- (9) An election under subsection (1)(d) —
- (a) shall be made jointly by the parties to the marriage or civil partnership, and
  - (b) shall be made on or before the 5th anniversary of the 31st January next following the end of the year of assessment to which the election relates.]

#### Textual Amendments

- F9** S. 257AB inserted (5.12.2005 with effect in accordance with reg. 1(4) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1\(1\)](#), 52

#### Modifications etc. (not altering text)

- C6** S. 257AB(2)(4)(5) amended (2006-07) by [S.I. 2005/3327](#), [art. 2\(4\)](#)  
 S. 257AB(2)(4)(5) amended (2007-08) by [S.I. 2006/3241](#), [art. 2\(4\)](#)  
 S. 257AB(2)(4) amended (2008-09) by [S.I. 2008/673](#), [art. 2\(5\)](#)  
 S. 257AB(2)(4) amended (2009-10) by [S.I. 2008/3024](#), [art. 2\(d\)](#)

#### [<sup>F10</sup>257B] Elections as to transfer of relief under section 257A.

- (1) A woman may elect that for any year of assessment for which her husband is entitled to relief under section 257A—
- (a) she shall be entitled (on making a claim)
    - to deduct from her total income one half of the amount specified in section 257A(1) for that year, and
  - (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly.
- (2) A husband and wife may jointly elect that for any year of assessment for which the husband is entitled to relief under section 257A—
- (a) she shall be entitled (on making a claim) to deduct from her total income the amount specified in section 257A(1) for that year, and
  - (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly (to nil, unless section 257A(2) or (3) applies to him).
- (3) A man may elect that for any year of assessment for which his wife is entitled to relief by virtue of an election under subsection (2) above—
- (a) he shall be entitled (on making a claim) to deduct from his total income one half of the amount specified in section 257A(1) for that year (in addition to the amount, if any, that he is already entitled to deduct under section 257A), and
  - (b) the amount that she is entitled to deduct by virtue of that election shall be reduced accordingly.



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- (4) An election under this section shall be made by giving notice to the inspector in such form as the Board may determine and—
  - (a) subject to subsections (5) and (7) below, shall be made before the first year of assessment for which it is to have effect, and
  - (b) shall have effect for that and each succeeding year of assessment for which the husband is entitled to relief under section 257A, subject to its withdrawal under subsection (8) below or a subsequent election under this section.
- (5) An election may be made during the first year of assessment for which it is to have effect if that is the year of assessment in which the marriage takes place.
- (6) Where subsection (5) above applies, the references in subsections (1)(a), (2)(a) and (3)(a) above to the amount specified for the year of assessment in section 257A(1) shall be read as references to that amount reduced in accordance with section 257A(6).
- (7) An election may be made within the first thirty days of the first year of assessment for which it is to have effect if before that year the inspector has been given written notification that it is intended to make the election.
- (8) The person or persons by whom an election was made may withdraw it by giving notice to the inspector in such form as the Board may determine; but the withdrawal shall not have effect until the year of assessment after the one in which the notice is given.
- (9) A woman shall not be entitled by virtue of an election under this section to more than one deduction for any year of assessment.]

#### Textual Amendments

- F10** Ss. 257BA, 257BB substituted for s. 257B (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.2, 10.

#### <sup>F11</sup>257BH Transfer of relief under section 257A where relief exceeds income.

- (1) Where—
  - (a) a man is entitled to relief under section 257A, but
  - (b) the amount that he is entitled to deduct exceeds what is left of his total income after all other deductions have been made from it,
 his wife shall be entitled to deduct from her total income the amount of the excess (in addition to any amount she is entitled to deduct by virtue of an election under section 257BA).
- (2) Subsection (1) above shall not apply for a year of assessment unless the claimant's husband gives notice to the inspector that it is to apply.
- (3) Where—
  - (a) a woman is entitled to relief by virtue of an election under section 257BA, but
  - (b) the amount that she is entitled to deduct exceeds what is left of her total income after all other deductions have been made from it,



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her husband shall be entitled to deduct from his total income the amount of the excess (in addition to the amount, if more than nil, that he is already entitled to deduct under section 257A).

- (4) Subsection (3) above shall not apply for a year of assessment unless the claimant's wife gives notice to the inspector that it is to apply.
- (5) Any notice under subsection (2) or (4) above—
- (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (6) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
  - (b) under section 289,
  - (c) on account of any payments to which section 593(2) or 639(3) applies,
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
  - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.

#### Textual Amendments

- F11** Ss. 257BA, 257BB substituted for s. 257B (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.2, 10.

#### 257C Indexation of amounts in sections 257 and 257A.

- (1) If the retail prices index for the month of [<sup>F16</sup>September] preceding a year of assessment is higher than it was for the previous [<sup>F16</sup>September], then, unless Parliament otherwise determines, sections 257 and 257A shall apply for that year as if for each amount specified in them as they applied for the previous year (whether by virtue of this section or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index, and—
- (a) if in the case of an amount specified in sections 257(5) and 257A(5) the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple;
  - (b) if in the case of any other amount the increase is not a multiple of £10, rounding the increase up to the nearest amount which is such a multiple.

<sup>F17</sup>(2) .....

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(3) The Treasury shall in each year of assessment make an order specifying the amounts which by virtue of subsection (1) above will be treated as specified for the following year of assessment in sections 257 and 257A.

[<sup>F18</sup>(4) *This section shall have effect in relation to reliefs for the year 1990-91 (as well as for later years); and for that purpose it shall be assumed that sections 257 and 257A applied for the year 1989-90 as they apply, apart from this section, for the year 1990-91.*]

#### Textual Amendments

- F16** Words in s. 257C(1) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(3)(a)(8)
- F17** S. 257C(2) repealed (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, ss. 107(3)(b)(8), 213, Sch. 23 Pt.III
- F18** Repealed by 1990 s.132 and Sch.19 Part IV.

#### Modifications etc. (not altering text)

- C8** S. 257B-262 restricted (with effect as mentioned in s. 77(7) of the amending Act) by Finance Act 1994 (c. 9), Sch. 8 para. 4(1)
- C9** S. 257C applied (2000-01 and subsequent years of assessment) by Finance Act 1999 (c. 16), s. 32(5)
- C10** S. 257C(1) excluded (1991-92) by Finance Act 1991 (c. 31, SIF 63:1), s. 22(1)  
 S. 257C(1) excluded (1992-93) by Finance Act 1992 (c. 20), s. 10(3)(5)  
 S. 257C(1) excluded (1993-94) by Finance Act 1993 c. 34, s. 52  
 S. 257C(1) excluded (1994-95) by Finance Act 1994 (c. 9), s. 76  
 S. 257C(1) excluded (1994-95, 1995-96) by Finance Act 1994 (c. 9), s. 77(10)  
 S. 257C(1) excluded (1994-95) by Finance Act 1994 (c. 9), s. 78  
 S. 257C(1) excluded (1995-96) by Finance Act 1995 (c. 4), s. 36  
 S. 257C(1) excluded (1996-97) by Finance Act 1996 (c. 8), s. 74(1)  
 S. 257C(1) excluded (1997-98) by Finance Act 1997 (c.16), s. 55(1)  
 S. 257C(1) excluded (1999-00) by Finance Act 1999 (c. 16), s. 24(2)  
 S. 257C(1) excluded (2003-04) by Finance Act 2002 (c. 23), ss. 28(2), 29(2)  
 S. 257C(1) excluded (2004-05) by Finance Act 2004 (c. 12), s. 24(2)  
 S. 257C(1) excluded (2005-06) by Finance Act 2005 (c. 7), s. 9  
 S. 257C excluded (2008-09) by Finance Act 2008 (c. 9), ss. 2(2)(b), 3(2)(b)  
 S. 257C excluded (2009-10) by Finance Act 2009 (c. 10), s. 3(2)(b)
- C11** See S.I. 1990 No.677 in Part III Vol.5 for 1990-91.

### 257D Transitional relief: husband with excess allowances.

(1) Where—

- (a) a husband and wife are living together for the whole or any part of the year 1990-91 and section 279 (but not section 287) applied in relation to them for the whole or any part of the year 1989-90, and
- (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter exceed the aggregate mentioned in subsection (2) below,

the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.

(2) The aggregate referred to in subsection (1) above is the aggregate of—

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**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Income and Corporation Taxes Act 1988, PART VII is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (a) the husband's total income for the year 1990-91, and
  - (b) the deductions which the wife is entitled to make from her total income for that year under this Chapter (apart from this section).
- (3) Where—
- (a) a husband and wife are living together for the whole or any part of the year 1990-91 and for part of the year 1989-90 but section 279 did not apply in relation to them for any part of the year 1989-90, and
  - (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter, apart from section 257(6), exceed his total income for the year 1990-91,
- then, subject to subsection (4) below, the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.
- (4) If the deductions which the wife is entitled to make from her total income for the year 1990-91 under this Chapter (apart from this section) exceed the lesser of—
- (a) her total income for the year 1989-90, and
  - (b) the deductions which she was entitled to make from her total income for that year under this Chapter, apart from section 259, section 262 and section 280,
- the deduction provided for by subsection (3) above shall be reduced by an amount equal to the excess.
- (5) Where—
- (a) a husband and wife are living together for the whole or any part of the year 1991-92 or any subsequent year of assessment (“the year in question”), and
  - (b) they were also living together throughout the immediately preceding year of assessment and the wife made a deduction from her total income for that year under this section, and
  - (c) the deductions which the wife is entitled to make from her total income under this Chapter (apart from this section) are either no greater for the year in question than for the immediately preceding year, or greater by a margin which does not exceed the deduction referred to in paragraph (b) above, and
  - (d) the deductions which the husband is entitled to make from his total income for the year in question under this Chapter, apart from section 257A and section 265, exceed his total income for that year,
- the wife shall be entitled to a deduction from her total income for that year.
- (6) The amount of that deduction shall be equal to—
- (a) the deduction referred to in subsection (5)(b) above, reduced where applicable by an amount equal to the margin referred to in subsection (5)(c), or
  - (b) the excess referred to in subsection (5)(d),
- whichever is less.
- (7) In determining for the purposes of subsection (5)(b) above whether the wife made a deduction from her total income for the immediately preceding year of assessment under this section, and the amount of any such deduction, it shall be assumed that a deduction under this section is made after all other deductions (except any deduction under section 289).
- (8) In determining for the purposes of this section a person's total income for the year of assessment there shall be disregarded any deduction made—

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- (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
- (b) under this Chapter or under section 289; <sup>[F19]</sup>or
- (c) on account of any payments to which section 593(2) or 639(3) applies,] <sup>[F20]</sup>or
- (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies]

<sup>[F21]</sup>, or

- (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.]

and in determining for the purposes of subsection (1)(b) above the deductions which a man was entitled to make under this Chapter for the year 1989-90, any application under section 283 shall be disregarded.

- (9) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—
  - (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (10) A notice given under subsection (9) above in relation to a year of assessment shall have effect also as a notice under <sup>[F22]</sup>section 257BB(2)] (and, where it is relevant, under section 265(5)).

#### Textual Amendments

**F19** 1989 s.33(10).

**F20** 1989 s.57(4).

**F21** S. 257D(8)(e) and ',or' preceding it inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 33(4)

**F22** Words in s. 257D(10) substituted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.3, 10.

#### Modifications etc. (not altering text)

**C12** S. 257D(9) modified (1990-91) by The Lloyd's Underwriters (Tax) (1990-91) Regulations 1993 (S.I. 1993/415), regs. 1, 9, **Sch.2**

S. 257D(9) modified (1991-92) by The Lloyd's Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728), regs. 1, 9, **Sch. 2**

S. 257D(9) modified (1992-93, 1993-94 and 1994-5) by The Lloyd's Underwriters (Tax) (1992-93 to 1996-97) Regulations 1995 (S.I. 1995/352), regs. 1, 14, 15, **Sch.**

**C13** S. 257D(9) modified (with effect in accordance with reg. 1(2) of the amending provision) by The Lloyd's Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728), **reg. 9** {Sch. 2}

S. 257D(9) modified (with application for the year 1992-93, 1993-94 and 1994-5 and with effect in accordance with regs. 14(2), 15(2) of the amending Instrument) by The Lloyd's Underwriters (Tax) (1992-93 to 1996-97) Regulations 1995 (S.I. 1995/352), reg. 14(1), 15(1), **Sch.**

#### 257E Transitional relief: the elderly.

- (1) This section shall apply in relation to a claimant for any year of assessment for the whole or any part of which he has his wife living with him if he proves—

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- (a) that for the year 1989-90 he was entitled to relief by virtue of section 257(2) (a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 65 throughout that year), or
- (b) that for the year 1989-90 he was entitled to relief by virtue of section 257(3) (a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of [F<sup>23</sup>75] throughout the year),
- and, in either case, that the amount of that relief exceeded the aggregate amount of any relief to which he would be entitled for the year 1990-91 under sections 257 and 257A (apart from this section).
- (2) Where this section applies, section 257 shall have effect—
- (a) in a case within subsection (1)(a) above as if for the amount specified in subsection (1) of that section there were substituted [F<sup>24</sup>£3,400], and
- (b) in a case within subsection (1)(b) above, as if for the amounts specified in subsections (1) and (2) of that section there were substituted [F<sup>25</sup>£3,540].
- (3) Section 257(5) shall have effect in relation to section 257(1) as modified by this section as it has effect in relation to section 257(2) and (3); and in all cases the reference in section 257(5) to the amount specified in section 257(1) is a reference to the amount specified apart from this section.
- (4) The references in section 257C to the amounts specified in section 257 are references to the amounts specified apart from this section.
- (5) In determining for the purposes of this section the amount of any reliefs to which a person was entitled for the year 1989-90, any application under section 283 shall be disregarded.

#### Textual Amendments

**F23** 1989 s.33(1).

**F24** 1989 s.33(12).

**F25** 1989 s.33(13).

#### Modifications etc. (not altering text)

**C14** [S. 257B-262](#) restricted (with effect as mentioned in [s. 77\(7\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 8 para. 4\(1\)](#)

### 257F Transitional relief: separated couples.

If the claimant proves—

- (a) that he and his wife ceased to live together before 6th April 1990 but that ever since they ceased to live together they have continued to be married to one another and she has been wholly maintained by him, and
- (b) that he is not entitled to make any deduction in respect of the sums paid for her maintenance in computing for income tax purposes the amount of his income for the year to which the claim relates, and
- (c) that he was entitled to a deduction for the year 1989-90 by virtue of section 257(1)(a) of this Act (as it had effect for that year) and, if the claim relates to a year later than 1990-91, that he has been entitled by virtue of this section to a deduction under section 257A for each intervening year,

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sections 257A and 257E (but not section <sup>F26</sup>section 257BA, section 257BB] or section 257D) shall have effect for the year to which the claim relates as if his wife were living with him.

#### Textual Amendments

**F26** Words in s. 257F substituted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.4, 10.

#### Modifications etc. (not altering text)

**C15** S. 257B-262 restricted (with effect as mentioned in s. 77(7) of the amending Act) by Finance Act 1994 (c. 9), Sch. 8 para. 4(1)

### <sup>F27</sup>258 Widower's or widow's housekeeper.

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#### Textual Amendments

**F27** S. 258 repealed (1988-89 and subsequent years) by Finance Act 1988 (c. 39), s. 25(3), Sch.14 Part IV

### 259 Additional relief in respect of children.

<sup>F28</sup>(1) This section applies to—

- (a) any woman who is not throughout the year of assessment married and living with her husband;
- (b) any man who is neither married and living with his wife for the whole or any part of the year, nor entitled to a deduction from his total income by virtue of section 257F; and
- (c) any man who for the whole or any part of the year is married to and living with a wife who is totally incapacitated by physical or mental infirmity throughout the year.]

(2) <sup>M2</sup>Subject to subsections (3) [<sup>F29</sup>to 4(A)] below and to [<sup>F30</sup>sections 260 and 261A], if the claimant, being a person to whom this section applies, proves in the case of a year of assessment that a qualifying child is resident with him for the whole or part of the year, he shall be entitled to a deduction from his total income of an amount equal to [<sup>F31</sup>that specified in section 257A(1).]

(3) <sup>M3</sup>A claimant is entitled to only one deduction under subsection (2) above for any year of assessment irrespective of the number of qualifying children resident with him in that year.

<sup>F32</sup>(3A) A person shall not be entitled to relief under this section by virtue of subsection (1) (a) or (b) above for a year of assessment if that is the year in which he and his spouse separate (as defined in section 261A(6)).]

<sup>F31</sup>(4) A woman shall not be entitled to relief under this section for a year of assessment during any part of which she is married and living with her husband unless the child in respect of whom the relief is claimed is resident with her during a part of the year when she is not married and living with her husband.]

**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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**[<sup>F33</sup>(4A) Where—**

- (a) a man and a woman who are not married to each other live together as husband and wife for the whole or any part of a year of assessment, and
- (b) apart from this subsection each of them would on making a claim be entitled to a deduction under subsection (2) above,

neither of them shall be entitled to such a deduction except in respect of the youngest of the children concerned (that is to say, the children in respect of whom either would otherwise be entitled to a deduction).]

- (5) <sup>M4</sup>For the purposes of this section a qualifying child means, in relation to any claimant and any year of assessment, a child who—
  - (a) is born in, or is under the age of 16 years at the commencement of, the year or, being over that age at the commencement of that year, is receiving full-time instruction at any university, college, school or other educational establishment; and
  - (b) is a child of the claimant or, not being such a child, is born in, or is under the age of 18 years at the commencement of, the year and maintained for the whole or part of that year by the claimant at his own expense.
- (6) In subsection (5)(a) above the reference to a child receiving full-time instruction at an educational establishment includes a reference to a child undergoing training by any person (“the employer”) for any trade, profession or vocation in such circumstances that the child is required to devote the whole of his time to the training for a period of not less than two years.

For the purposes of a claim in connection with a child undergoing training, the inspector may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Board.

- (7) If any question arises under this section whether a child is receiving full-time instruction at an educational establishment, the Board may consult the Secretary of State or the Department of Education for Northern Ireland.
- (8) In subsection (5)(b) above the reference to a child of the claimant includes a reference to a stepchild of his, an illegitimate child of his if he has married the other parent after the child’s birth and an adopted child of his if the child was under the age of 18 years when he was adopted.
- (9) Notwithstanding anything in section 9 of the <sup>M5</sup>Family Law Reform Act 1969 or section 5 of the <sup>M6</sup>Age of Majority Act (Northern Ireland) 1969 or any rule of law in Scotland, for the purposes of subsection (5) above a child whose birthday falls on 6th April shall be taken to be over the age of 16 at the commencement of the year which begins with his 16th birthday and over the age of 18 at the commencement of the year which begins with his 18th birthday.

### Textual Amendments

**F28** 1988(F) s.35 and Sch.3 para.5 for 1990-91 and subsequent years. *Previously*

“(1) This section applies—(a) to any individual who is not entitled for the year of assessment to the higher (married persons) relief under section 257(1); and (b) to any married man who is entitled for the year of assessment to that higher relief but whose wife was throughout that year totally incapacitated by physical or mental infirmity.”.

**F29** 1988(F) s.30(1) from 1989-90. *Previously*



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“and (4)”.

**F30** Words in s. 259(2) substituted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras. 5(2), 10.

**F31** 1988(F) s.35 and Sch.3 para.5(3), (4) for 1990-91 and subsequent years. Previously “the difference between the higher (married persons) relief and the lower (single persons) relief under subsection (1) of section 257 as it applies to persons not falling within subsection (2) or (3) of that section.”

and

“(4) A person to whom this section applies by virtue of subsection (1)(a) above shall not be entitled to relief under this section for a year of assessment during any part of which that person is married and living with his or her spouse unless the child in connection with whom the relief is claimed is resident with that person during a part of the year in which that person is not married and living with his or her spouse.”

**F32** S. 259(3A) inserted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras. 5(3), 10.

**F33** 1988(F) s.30 for 1989-90 and subsequent years.

#### Marginal Citations

**M2** Source-1970 s.14(1), (2); 1976 s.36(4); 1979 (No.2) Sch.1 2(2); 1980 s.24(6); 1987 s.26(5)

**M3** Source-1970 s.14(3); 1979 (No.2) Sch.1 2(3)

**M4** Source-1970 s.14(5)-(9)); 1979 (No.2) Sch.1 2(4); 1987 Sch.15 2(2)

**M5** 1969 c. 46.

**M6** 1969 c. 28 (N.I.).

## 260 Apportionment of relief under section 259.

<sup>M7</sup>(1) Where for any year of assessment two or more individuals are entitled to relief under section 259 in connection with the same child—

- (a) the amount referred to in subsection (2) of that section shall be apportioned between them; and
- (b) the deduction to which each of them is entitled under that section shall, subject to subsection (2) below, be equal to so much of that amount as is apportioned to him.

(2) Where for any year of assessment amounts are apportioned to an individual under this section in respect of two or more children, the deduction to which he is entitled for that year under section 259 shall be equal to the sum of those amounts or the amount referred to in subsection (2) of that section, whichever is the less.

(3) Any amount required to be apportioned under this section shall be apportioned between the individuals concerned in such proportions as may be agreed between them or, in default of agreement, in proportion to the length of the periods for which the child in question is resident with them respectively in the year of assessment; and where the proportions are not so agreed, the apportionment shall be made by such body of General Commissioners, being the General Commissioners for a division in which one of the individuals resides, as the Board may direct, or, if none of the individuals resides in [<sup>F34</sup>the United Kingdom], by the Special Commissioners.

(4) Where a claim is made under section 259 and it appears that, if the claim is allowed, an apportionment will be necessary under this section, the Board may if they think fit direct that the claim itself shall be dealt with by any specified body of Commissioners which could under this section be directed to make the apportionment and that the same Commissioners shall also make any apportionment which proves to be necessary; and

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where a direction is given under this subsection no other body of Commissioners shall have jurisdiction to determine the claim.

- (5) The Commissioners making any apportionment under this section shall hear and determine the case in like manner as an appeal, but any individual who is, or but for the provisions of this section would be, entitled to relief in connection with the child shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.
- (6) For the purposes of this section an individual shall not be regarded as entitled to relief under section 259 for any year of assessment in connection with the same child as another individual if there is another child in connection with whom he, and he alone, is entitled to relief under that section for that year.

#### Textual Amendments

**F34** 1988(F) s.134(3), (4) from 3 April 1989 (commencement order S.I. 1989 No.473—not reproduced). Previously “Great Britain”.

#### Marginal Citations

**M7** Source-1970 s.14A; 1979 (No.2) Sch.1 3; 1980 s.24(6)

### [<sup>F35</sup>261 Claims under section 259 for year of marriage.

A man (but not a woman) who becomes married during a year of assessment may by notice to the inspector elect that his marriage shall be disregarded for the purposes of any claim that he makes for that year under section 259, and, in that case, the marriage shall also be disregarded for the purposes of any claim that he makes for that year under section 257A.]

#### Textual Amendments

**F35** 1988(F) s.35 and Sch.3 para.6 for 1990-91 and subsequent years. Previously “261. A man who becomes married during a year of assessment may by notice to the inspector elect that his marriage be disregarded for the purposes of any claim for that year under section 258 or (“258 or” repealed by s.148 and Sch.14 Part IV for 1988-89 and subsequent years.) 259, and, in that case, the marriage shall also be disregarded for the purposes of any claim for that year under section 257.”.

#### Modifications etc. (not altering text)

**C16** S. 257B-262 restricted (with effect as mentioned in s. 77(7) of the amending Act) by Finance Act 1994 (c. 9), Sch. 8 para. 4(1)

### [<sup>F36</sup>261A Additional relief in respect of children for year of separation.

- (1) A person who proves that a qualifying child is resident with him for any period—
- (a) after he and his spouse separate, and
  - (b) in the year of assessment in which that separation occurs,
- shall be entitled to a deduction from his total income of an amount equal to that specified in section 257A(1) for the year.

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- (2) But if the person is entitled to relief for the year of assessment under section 257A (including by virtue of an election under section 257BA) the amount that he is entitled to deduct under subsection (1) above shall be reduced by the amount of that relief (to nil where the amount of that relief equals or exceeds it).
- (3) Subsection (1) above shall not apply to a man who is entitled to relief under section 259 by virtue of subsection (1)(c) of that section.
- (4) A person is entitled to only one deduction under subsection (1) above irrespective of the number of qualifying children resident with him.
- (5) Where for any year of assessment a person is entitled to relief under this section and another person is entitled to relief in connection with the same child under section 259 or this section—
  - (a) the total amount of the relief to which those persons are entitled shall not exceed the amount specified in section 257A(1) for that year,
  - (b) section 260(3) to (5) shall apply for the purpose of apportioning that total amount between the persons (and the reference in section 260(4) to section 259 shall be taken to include a reference to this section), and
  - (c) the deduction to which each of them is entitled under section 259 or this section shall be equal to so much of that amount as is apportioned to him (subject, in the case of relief under this section, to subsection (2) above).
- (6) In this section, “separate” means—
  - (a) separate under an order of a court of competent jurisdiction, or by deed of separation, or
  - (b) separate in such circumstances that the separation is likely to be permanent.
- (7) Subsections (5) to (9) of section 259 shall apply for the purposes of this section as they apply for the purposes of that section.]

#### Textual Amendments

**F36** S. 261A inserted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 paras.6, 10.](#)

#### [<sup>F37F38</sup>262]Widow’s bereavement allowance.

- (1) Where a married man whose wife is living with him dies, his widow shall be entitled—
  - (a) for the year of assessment in which the death occurs, to a deduction from her total income of an amount equal to the amount specified in section 257A(1) for that year, and
  - (b) (unless she marries again before the beginning of it) for the next following year of assessment, to a deduction of an amount equal to the amount specified in section 257A(1) for that year.]
- [<sup>F39</sup>(2) Where a widow would (but for this subsection) be entitled for a year of assessment—
  - (a) to a deduction from her total income under subsection (1)(a) above, and
  - (b) to a deduction from her total income by virtue of an election under section 257BA,

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the deduction mentioned in paragraph (b) above shall instead be made (without a claim being made) from her late husband's total income for the year.

- (3) If the deduction mentioned in subsection (2)(b) above exceeds what is left of the husband's total income for the year after all other deductions have been made from it, the widow shall be entitled to deduct from her total income the amount of the excess (in addition to the deduction to which she is entitled by virtue of subsection (1) above and without making a further claim).
- (4) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
  - (b) under section 289,
  - (c) on account of any payments to which section 593(2) or 639(3) applies,
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
  - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.]

#### Textual Amendments

**F37** 1988(F) s.35 and Sch.3 para.7(3) for 1990-91. *Previously*

“[**262.** Where a man dies in the year 1989-90 and for that year he is entitled to the higher (married person's) relief under section 257(1), or would be so entitled but for an election under section 261 or 287, his widow shall be entitled—(a) for that year of assessment, to a deduction from her total income of an amount equal to the amount referred to in section 259(2), and (b) (unless she marries again before the beginning of it) for the year 1990-91, to a deduction from her total income of an amount equal to the amount specified in section 257A(1) for that year.]”

*for 1989-90. For 1988-89—* “**262.** Where a man dies in a year of assessment for which he is entitled to the higher (married persons) relief under section 257(1), or would be so entitled but for an election under section 261 or 287, his widow shall be entitled—(a) for that year of assessment, and (b) unless she marries again before the beginning of it, for the next following year of assessment, to a deduction from her total income of an amount equal to that referred to in section 259(2).”

**F38** S. 262 renumbered as s. 262(1) (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by virtue of Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.7, **10**.

**F39** S. 262(2)-(4) inserted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 paras.7, **10**.

#### <sup>F40</sup> **263** Dependent relatives.

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#### Textual Amendments

**F40** S. 263 repealed (1988-89 and subsequent years) by Finance Act 1988 (c. 39), s. 25(3), **Sch.14 Part IV**

**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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**<sup>F41</sup>264 Claimant depending on services of a son or daughter.**

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**Textual Amendments**

**F41** S. 264 repealed (1988-89 and subsequent years) by Finance Act 1988 (c. 39), s. 25(3), **Sch.14 Part IV**

**<sup>F42</sup>265 Blind person's allowance.**

- (1) If the claimant proves that he is a registered blind person for the whole or any part of the year of assessment, he shall be entitled to a deduction of [<sup>F43</sup>£1,080] from his total income.
- (2) Where—
  - (a) a person entitled to relief under subsection (1) above is a married man whose wife is living with him for the whole of any part of the year of assessment, but
  - (b) the amount which he is entitled to deduct from his total income by virtue of that subsection exceeds what is left of his total income after all other deductions have been made from it,
 his wife shall be entitled to a deduction from her total income of an amount equal to the excess.
- (3) In determining for the purposes of subsection (2)(b) above the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
  - (a) on account of any payments of relevant loan interest which becomes due in that year and to which section 369 applies, or
  - (b) under section [<sup>F44</sup>257A (including by virtue of an election under section 257BA) or under] section 289 [<sup>F45</sup>or
  - (c) on account of any payments to which section 593(2) or 639(3) applies,]<sup>F46</sup>or
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies.]
  - <sup>F47</sup>, or
  - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.]
- (4) Subsections (2) and (3) above shall have effect where a wife is entitled to relief under subsection (1) above as they have effect where the husband is entitled to that relief, but with the appropriate modifications <sup>F48</sup> . . .
- (5) Subsections (2) to (4) above shall not apply for a year of assessment unless the person entitled to relief under subsection (1) has given to the inspector written notice that they are to apply; and any such notice—
  - (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (6) A notice given under subsection (5) above in relation to a year of assessment by a husband shall have effect also as a notice under [<sup>F49</sup>section 257BB(2)].

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- (7) In this section “registered blind person” means a person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or, in the case of a person ordinarily resident in Scotland or Northern Ireland, a person who is a blind person within the meaning of section 64(1) of that Act].

### Textual Amendments

- F42** 1988(F) s.35 and Sch.3 para.8 for 1990-91 and subsequent years. *Previously*  
 “Relief for blind persons. **265.**—(1) Subject to subsection (3) below, if the claimant proves—(a) that he is a married man who for the year of assessment has his wife living with him, and that one of them was, and the other was not, a registered blind person for the whole or part of the year; or (b) that, not being such a married man, he was a registered blind person for the whole or part of the year, he shall be entitled to a deduction of £540 from his total income. (2) Subject to subsection (3) below, if the claimant proves—(a) that he is a married man who for the year of assessment has his wife living with him, and (b) that he was a registered blind person for the whole or part of the year and his wife was also a registered blind person for the whole or part of the year, he shall be entitled to a deduction of £1,080 from his total income. (3) *Unless a claimant who is entitled to relief for the year of assessment under section 264 in respect of the services of a son or daughter relinquishes his claim to that relief, he shall not be allowed relief under this section for that year (Repealed by 1988(F) ss.25(3), 148 and Sch.14 Part IV for 1988-89 and subsequent years.)*. (4) In this section “registered blind person” means a person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or, in the case of a person ordinarily resident in Scotland or in Northern Ireland, a person who is a blind person within the meaning of section 64(1) of that Act.” *And see Table E Vol.1 for previous years.*
- F43** 1990 s.18. *Previously*  
 “£540”.
- F44** Words in s. 265(3)(b) substituted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 paras. 8\(2\), 10](#).
- F45** 1989 s.33(10).
- F46** 1989 s.57(4)
- F47** [S. 265\(3\)\(e\)](#) and ‘,or’ preceding it inserted by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 33\(4\)](#)
- F48** Words in [s. 265\(4\)](#) repealed (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by [Finance \(No. 2\) Act 1992 \(c. 48\), ss. 20, 82, Sch. 5 paras. 8\(3\), 10, Sch. 18 Pt.VII](#).
- F49** Words in [s. 265\(6\)](#) substituted (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 paras. 8\(4\), 10](#).

### Modifications etc. (not altering text)

- C17** [S. 265\(5\)](#) modified (1990-91) by [The Lloyd’s Underwriters \(Tax\) \(1990-91\) Regulations 1993 \(S.I. 1993/415\), regs. 1, 9, Sch. 2](#)
- C18** [S. 265\(5\)](#) modified (1991-92) by [The Lloyd’s Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\), regs. 1, 9, Sch. 2](#)  
[S. 265\(5\)](#) modified (1992-93, 1993-94 and 1994-5) by [The Lloyd’s Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\), regs. 1, 14, 15, Sch.](#)

## 266 Life assurance premiums.

- (1) <sup>M8</sup>Subject to the provisions of this section, sections 274 and 619(6) and Schedules 14 and 15, an individual who pays any such premium as is specified in subsection (2) below or makes a payment falling within subsection (7) below shall (without making any claim) be entitled to relief under this section.



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- (2) <sup>M9</sup>The premiums referred to in subsection (1) above are any premiums paid by an individual under a policy of insurance or contract for a deferred annuity, where—
- (a) the payments are made to —
    - (i) any insurance company legally established in the United Kingdom or any branch in the United Kingdom of an insurance company lawfully carrying on in the United Kingdom life assurance business (as defined in section 431); or
    - (ii) underwriters being members of Lloyd’s who comply with the requirements set forth in section 83 of the <sup>M10</sup>Insurance Companies Act 1982; or
    - (iii) a [<sup>F50</sup>friendly society]; or
    - (iv) in the case of a deferred annuity, the National Debt Commissioners; and
  - (b) the insurance or, as the case may be, the deferred annuity is on the life of the individual or on the life of his spouse; and
  - (c) the insurance or contract was made by him or his spouse.
- (3) Subject to subsections (7), (10) and (11) below, no relief under this section shall be given—
- (a) <sup>M11</sup>except in respect of premiums payable under policies for securing a capital sum on death, whether in conjunction with any other benefit or not;
  - (b) <sup>M12</sup>in respect of premiums payable under any policy issued in respect of an insurance made after 19th March 1968 unless the policy is a qualifying policy;
  - (c) <sup>M13</sup>in respect of premiums payable under any policy issued in respect of an insurance made after 13th March 1984, except where the relief relates to part only of any such payment as falls within subsection (6) below;
  - (d) <sup>M14</sup>in respect of premiums payable during the period of deferment in respect of a policy of deferred assurance.
- (4) <sup>M15</sup>Subject to subsections (6) to (8) below, relief under this section in respect of any premiums paid by an individual in a year of assessment shall be given by making good to the person to whom they are paid any deficiency arising from the deductions authorised under subsection (5) below; and this section and Schedule 14 shall have effect in relation to any premium or part of a premium which is paid otherwise than in the year of assessment in which it becomes due and payable as if it were paid in that year.
- (5) Subject to the provisions of Schedule 14—
- (a) an individual resident in the United Kingdom who is entitled to relief under this section in respect of any premium may deduct from any payment in respect of the premium and retain an amount equal to [<sup>F51</sup>12.5 per cent.] of the payment; and
  - (b) the person to whom the payment is made shall accept the amount paid after the deduction in discharge of the individual’s liability to the same extent as if the deduction had not been made and may recover the deficiency from the Board.
- (6) <sup>M16</sup>Where—
- (a) a person is entitled to relief under this section in respect of part only of a payment made to a [<sup>F50</sup>friendly society]; and
  - (b) the insurance or contract was made by the society in the course of tax exempt life or endowment business (as defined in section 466(2)),



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subsection (4) above shall not apply with respect to that relief but there shall be deducted from his total income an amount equal to one-half of that part of the payment.

- (7) <sup>M17</sup>Where a person makes a payment to a trade union as defined in section 28(1) of the <sup>M18</sup>Trade Union and Labour Relations Act 1974, and part of that payment is attributable to the provision of superannuation, life insurance or funeral benefits, he shall be entitled to relief under this section in respect of that part of the payment, but—
- (a) subsection (4) above shall not apply; and
  - (b) there shall be deducted from his total income an amount equal to one-half of that part of the payment.

This subsection shall also apply in relation to any payment made to an organisation of persons in police service but only where the annual amount of the part of the payment attributable to the provision of the benefits in question is £20 or more.

- (8) <sup>M19</sup>Where the individual is not resident in the United Kingdom but is entitled to relief by virtue of section 278(2), subsection (4) above shall not apply but (subject to section 278(3)) the like relief shall be given to him under paragraph 6 of Schedule 14.
- (9) <sup>M20</sup>Subsections (5) and (8) above shall apply in relation to an individual who is not resident in the United Kingdom but is a member of the armed forces of the Crown or the [<sup>F52</sup>spouse] of such a member as if the individual were so resident.
- (10) <sup>M21</sup>Subsection (3)(b) above shall not apply—
- (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals; or
  - (b) to any policy of life insurance issued in connection with an approved scheme as defined in Chapter I of Part XIV.

In the application of this subsection to Scotland, for any reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the <sup>M22</sup>Conveyancing (Scotland) Act 1924 (but including a security constituted by ex facie absolute disposition or assignation).

- (11) <sup>M23</sup>Subsection (3)(a) and (d) above shall not affect premiums payable—
- (a) under policies or contracts made in connection with any superannuation or bona fide pension scheme for the benefit of the employees of any employer, or of persons engaged in any particular trade, profession, vocation or business, or for the benefit of the [<sup>F53</sup>spouse, widow, widower or children or other dependants of any such employee or person,] or
  - (b) under policies taken out by teachers in the schools known in the year 1918 as secondary schools, pending the establishment of a superannuation or pension scheme for those teachers.
- (12) Schedule 14 shall have effect for the purpose of modifying, for certain cases, and supplementing the provisions of this section.
- [<sup>F54</sup>(13) In this section and Schedule 14, “friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).]

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### Textual Amendments

- F50** Words in s. 266(2)(a)(iii)(6)(a) substituted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 paras. 2\(2\)](#); S.I. 1993/236, [art.2](#)
- F51** Words in s. 266(5)(a) substituted (from 6.4.1989) by [Finance Act 1988 \(c. 39\)](#), s. 29
- F52** Words in s. 266(9) substituted (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 35, [Sch. 3 para. 9\(a\)](#)
- F53** Words in s. 266(11)(a) substituted (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 35, [Sch. 3 para. 9\(b\)](#)
- F54** S. 266(13) inserted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 paras. 2\(3\)](#); S.I. 1993/236, [art.2](#)

### Marginal Citations

- M8** Source-1970 s.19(1); 1976 Sch.4 3(1)
- M9** Source-1970 s.19(2); 1976 s.36(5), Sch.4 3(2)
- M10** [1982 c. 50](#).
- M11** Source-1970 s.19(3)(a)
- M12** Source-1970 s.19(4)
- M13** Source-1984 s.72(1)
- M14** Source-1970 s.19(3)(b)
- M15** Source-1976 Sch.4 4(1) 5; 1978 Sch.3 2; 1980 s.29(2)(b)
- M16** Source-1978 Sch.3 11
- M17** Source-1978 Sch.3 12; 1981 s.33
- M18** [1974 c. 52](#).
- M19** Source-1976 Sch.4 4(2)
- M20** Source-1976 Sch.4 5A; 1978 Sch.3 5
- M21** Source-1970 s.19(4)(a), (c); 1971 Sch.3 11
- M22** [1924 c. 27](#).
- M23** Source-1970 s.19(3)(i)(ii)

VALID FROM 06/04/2003

## <sup>F55</sup> 266A Life assurance premiums paid by employer

(1) This section applies if—

- (a) pursuant to a non-approved retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the provision of any relevant benefits for or in respect of any employee of that employer, and
- (b) the payment is made under such an insurance or contract as is mentioned in section 266.

This section applies whether or not the accrual of the relevant benefits is dependent on any contingency.

(2) Relief, if not otherwise allowable, shall be given to that employee under section 266 in respect of the payment to the extent, if any, to which such relief would have been allowable to him if—

- (a) the payment had been made by him, and
- (b) the insurance or contract under which the payment is made had been made with him.

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- (3) For the purposes of subsection (1)(a)—
- (a) a retirement benefits scheme is “non-approved” unless it is—
    - (i) an approved scheme,
    - (ii) a relevant statutory scheme, or
    - (iii) a scheme set up by a government outside the United Kingdom for the benefit of its employees or primarily for their benefit, and
  - (b) benefits are provided in respect of an employee if they are provided for the employee’s spouse, widow or widower, children, dependants or personal representatives.
- (4) Sections 611, 611A and 612 apply for the purposes of this section as they apply for the purposes of Chapter 1 of Part 14.
- (5) Section 388 of ITEPA 2003 (apportionment of payments in respect of more than one employee) applies in relation to a sum within subsection (1) as it applies in relation to a sum within section 386 of that Act (charge on payments to non-approved retirement benefits schemes).
- (6) This section does not apply in any case where either of the following provisions of ITEPA 2003 provides for section 386 of that Act not to apply—
- (a) section 389 (employments where earnings charged on remittance basis), and
  - (b) section 390 (non-domiciled employees with foreign employers).]

#### Textual Amendments

- F55** S. 266A inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 36** (with Sch. 7)

### 267 Qualifying policies.

Schedule 15, Part I of which contains the basic rules for determining whether or not a policy is a qualifying policy, Part II of which makes provision for the certification etc. of policies as qualifying policies and Part III of which modifies Parts I and II in their application to certain policies issued by non-resident companies, shall have effect for the purpose of determining whether or not a policy is a qualifying policy; and, accordingly, any reference in this Act to a qualifying policy shall be construed in accordance with that Schedule.

### 268 Early conversion or surrender of life policies.

- <sup>M24</sup>(1) Where a policy of life insurance to which this section applies has been issued and, within four years from the making of the insurance in respect of which it was issued, any of the following events happens, that is to say—
- (a) the surrender of the whole or part of the rights conferred by the policy;
  - (b) the falling due (otherwise than on death) of a sum payable in pursuance of a right conferred by the policy to participate in profits; and
  - (c) the conversion of the policy into a paid-up or partly paid-up policy;
- the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender or, as the case may be, out of the sum falling due or out of

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the fund available to pay the sums which will be due on death or on the maturity of the policy, a sum determined in accordance with the following provisions of this section, unless the body is wound up and the event is a surrender or conversion effected in connection with the winding-up.

- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the lower of the following, that is to say—
  - (a) the appropriate percentage of the premiums payable under the policy up to the happening of the event; and
  - (b) the surrender value of the policy at the time of the happening of the event less the complementary percentage of the premiums mentioned in paragraph (a) above.
- (3) If the event is one of those mentioned below, the sum payable to the Board shall not exceed the following limit, that is to say—
  - (a) if it is the surrender of part of the rights conferred by the policy, the value of the rights surrendered at the time of the surrender;
  - (b) if it is the conversion of the policy into a partly paid-up policy, the surrender value at the time of the conversion, of so much of the policy as is paid up; and
  - (c) if it is the falling due of a sum, that sum.
- (4) If the event was preceded by the happening of such an event as is mentioned in subsection (1) above, subsection (2) above shall apply—
  - (a) as if the lower of the amounts mentioned therein were reduced by the sum paid under this section in respect of the earlier event; and
  - (b) if the earlier event was such an event as is mentioned in paragraph (a) or (c) of subsection (3) above, as if the surrender value of the policy were increased by the amount which, under that paragraph, limited or might have limited the sum payable under this section in respect of the earlier event.
- (5) For the purposes of this section the appropriate percentage, in relation to any event, is the percentage equal to the following fraction of the percentage found by doubling that mentioned in section 266(5)(a) as in force for the year of assessment in which the event happened, that is to say—
  - (a) if the event happens in the first two of the four years mentioned in subsection (1) above, three-sixths;
  - (b) if it happens in the third of those years, two-sixths; and
  - (c) if it happens in the last of those years, one-sixth;
 and the complementary percentage, in relation to any event, is 100 per cent. less the appropriate percentage.
- (6) Where the annual amount of the premiums payable under a policy of life insurance is at any time increased (whether under the policy or by any contract made after its issue) so as to exceed by more than 25 per cent.—
  - (a) if the insurance was made on or before 26th March 1974, the annual amount as at that date, or
  - (b) in the case of any other insurance, the first annual amount so payable,
 the additional rights attributable to the excess shall be treated for the purposes of this section as conferred by a new policy issued in respect of an insurance made at that time, and the excess shall be treated as premiums payable under the new policy.

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- (7) This section applies to any policy of life insurance which is a qualifying policy unless—
- (a) it is a policy in respect of the premiums on which relief under section 266 is not available by virtue of subsection (3)(c) of that section; or
  - (b) it is a policy of life insurance issued in connection with an approved scheme, as defined in Chapter I of Part XIV;
- and in relation to a policy of life insurance issued in respect of an insurance made before 27th March 1974 applies only in accordance with subsection (6) above.

#### Marginal Citations

**M24** Source-1975 s.7; 1976 Sch.4 19(1); 1984 s.72(5)

### 269 Surrender etc. of policies after four years.

<sup>M25</sup>(1) Where a policy of life insurance to which this section applies has been issued and, in the fifth or any later year from the making of the insurance in respect of which it was issued, either of the following events happens, that is to say—

- (a) the surrender of the whole or part of the rights conferred by the policy; and
- (b) the falling due (otherwise than on death or maturity) of a sum payable in pursuance of a right conferred by the policy to participate in profits;

then, if either of those events has happened before, the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender, or, as the case may be, out of the sum falling due, a sum determined in accordance with the following provisions of this section.

- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the applicable percentage of the lower of the following—
- (a) the total of the premiums which are payable in that year under the policy; and
  - (b) the sums payable by reason of the surrender or, as the case may be, the sum falling due;

and the percentage to be applied for this purpose shall be a percentage equal to that mentioned in section 266(5)(a) as in force for the year of assessment in which the event happens.

- (3) Where, after a sum has become payable under subsection (1) above, and within the same year from the making of the insurance, another such event happens as is mentioned therein, the sums payable under that subsection in respect of both or all of the events shall not exceed the applicable percentage of the total mentioned in subsection (2)(a) above.

- (4) Where, on the happening of an event in the fifth or any later year from the making of the insurance, any sum is payable under subsection (1) of section 268 as applied by subsection (6) of that section as well as under subsection (1) above, subsection (2) above shall apply as if the sums or sum mentioned in paragraph (b) thereof were reduced by the sum payable under that section.

- (5) This section applies to any policy of life insurance which is a qualifying policy unless—
- (a) it is a policy in respect of the premiums on which relief under section 266 is not available by virtue of subsection (3)(c) of that section; or

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- (b) it is a policy issued in the course of an industrial insurance business; or
- (c) it was issued in respect of an insurance made before 27th March 1974.

**Marginal Citations**

**M25** Source-1975 s.8; 1976 Sch.4 19(2); 1984 s.72(5)

**270 Provisions supplementary to sections 268 and 269.**

<sup>M26</sup>(1) Where on the happening of an event in relation to a policy of life insurance a sum is payable under section 268 or 269, relief under section 266 in respect of the relevant premiums paid under the policy shall be reduced by the sum so payable or, as the case may be, by so much of the sum as does not exceed the amount of that relief (or as does not exceed so much of that amount as remains after any previous reduction under this section).

(2) For the purposes of this section the relevant premiums are—

- (a) in relation to a sum payable under section 268, the premiums payable under the policy up to the happening of the event by reason of which the sum is payable; and
- (b) in relation to a sum payable under section 269, the premiums payable in the year (from the making of the insurance) in which the event happens by reason of which the sum is payable.

(3) Where the relevant premiums are payable in more than one year of assessment the reduction in relief under this section shall, so far as possible, reduce relief for an earlier year of assessment before reducing relief for a later one.

(4) Any sum paid under section 268 or 269 by reason of any event shall be treated—

- (a) as between the parties, as received by the person by whom the premiums under the policy were paid; and
- (b) for the purposes of section 266, as a sum paid by that person in satisfaction of his liability resulting from the reduction of relief under this section;

and where that sum exceeds that liability he shall be entitled, on a claim made by him not later than six years after the end of the year of assessment in which the event happens, to repayment of the excess.

**Marginal Citations**

**M26** Source-1975 s.9(1)-(4); 1976 Sch.4 19(3)

**271 Deemed surrender in cases of certain loans.**

<sup>M27</sup>(1) Where—

- (a) under section 547 a gain arising in connection with a policy <sup>F56</sup> . . . would be treated as forming part of an individual's total income; and
- (b) the policy was issued in respect of an insurance made after 26th March 1974 <sup>F57</sup> . . . ; and

**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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- (c) any sum is at any time after the making of the insurance<sup>F56</sup> . . . lent to or at the direction of that individual by or by arrangement with the body issuing the policy<sup>F58</sup> . . . ;

then, subject to subsection (2) below, the same results shall follow under sections 268 to 270 as if at the time the sum was lent there had been a surrender of part of the rights conferred by the policy<sup>F56</sup> . . . and the sum had been paid as consideration for the surrender (and if the policy is a qualifying policy, whether or not the premiums under it are eligible for relief under section 266, those results shall follow under section 269, whether or not a gain would be treated as arising on the surrender).

(2) Subsection (1) above does not apply—

(a) in relation to a policy if—

(i) it is a qualifying policy; and

(ii) either interest at a commercial rate is payable on the sum lent or the sum is lent to a full-time employee of the body issuing the policy for the purpose of assisting him in the purchase or improvement of a dwelling used or to be used as his only or main residence;<sup>F59</sup> . . .

<sup>F59</sup>(b) . . . . .

#### Textual Amendments

**F56** Words in s. 271(1) repealed (retrospectively) by Finance Act 1994 (c. 9), Sch. 17 para. 2(1)(a), Sch. 26 Pt. 5(22)

**F57** Words in s. 271(1)(b) repealed (retrospectively) by Finance Act 1994 (c. 9), Sch. 17 para. 2(1)(b), Sch. 26 Pt. 5(22)

**F58** Words in s. 271(1)(c) repealed (retrospectively) by Finance Act 1994 (c. 9), Sch. 17 para. 2(1)(c), Sch. 26 Pt. 5(22)

**F59** S. 271(2)(b) and preceding word repealed (retrospectively) by Finance Act 1994 (c. 9), Sch. 17 para. 2(2), Sch. 26 Pt. 5(22)

#### Marginal Citations

**M27** Source-1975 Sch.2 16(1), (3); 1976 s.35

## 272 Collection of sums payable under sections 268 and 269.

<sup>M28</sup>(1) Any body by whom a policy to which section 268 or 269 applies has been issued shall, within 30 days of the end of each period of 12 months ending with 31st March in every year, make a return to the collector of the sums which, in that period, have become payable by it under either of those sections.

(2) Any sum which is to be included in a return made under subsection (1) above shall be due at the time by which the return is to be made and shall be paid without being demanded.

(3) Where any sum which was or ought to have been included in such a return is not paid by the end of the period for which the return was to be made, it may be recovered by an assessment as if it were income tax for the year of assessment in which that period ends; and where it appears to the inspector that a sum which ought to have been so included had not been included or that a return is not correct he may make such an assessment to the best of his judgment.



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- (4) All the provisions of the Income Tax Acts relating to the assessment and collection of tax, interest on unpaid tax, appeals and penalties shall, with the necessary modifications, apply in relation to sums due under this section; and for the purposes of those provisions so far as they relate to interest on unpaid tax, a sum assessed in pursuance of this section shall be treated as having been payable when it would have been payable had it been included in a return under subsection (1) above.
- (5) Where, on an appeal against an assessment made in pursuance of this section, it is determined that a greater sum has been assessed than was payable, the excess, if paid, shall be repaid.
- (6) Where a body has paid a sum which is payable under section 268 or 269 it shall give within 30 days to the person by whom the sum is, under section 270(4), treated as received a statement specifying that sum and showing how it has been arrived at.
- (7) The Board or an inspector may, by notice served on the body by whom a policy to which section 268 or 269 applies has been issued, require the body, within such time, not being less than 30 days, as may be specified in the notice—
  - (a) to furnish such particulars; or
  - (b) to make available for inspection by an officer authorised by the Board such books and other documents in the possession or under the control of the body; as the Board or officer may reasonably require for the purposes of those sections or this section.

#### Marginal Citations

**M28** Source-1975 Sch.1

#### [<sup>F60</sup>273 Payments securing annuities.

Subject to sections 274, 617(3) and 619(6), if the claimant is, under any Act of Parliament or under any terms and conditions of employment, liable to the payment of any sum, or to the deduction from any salary or stipend of any sum, for the purpose of securing a deferred annuity to a widow or widower of the claimant or provision for the claimant's children after the claimant dies, the claimant shall be entitled to a deduction from the amount of income tax on which he or she is chargeable equal to income tax at the basic rate on the amount of the sum which he or she has paid or which has been deducted from his or her salary or stipend.]

#### Textual Amendments

**F60** 1988(F) s.35 and Sch.3 para.10 for 1990-91 and subsequent years. *Previously* “Payments securing widows' and children's annuities. **273.** Subject to sections 274, 617(3) and 619(6), if the claimant is, under any Act of Parliament or under the terms or conditions of his employment, liable to the payment of any sum, or to the deduction from his salary or stipend of any sum, for the purpose of securing a deferred annuity to his widow or provision for his children after his death, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the basic rate on the amount of the sum paid by him or deducted from his salary or stipend.”.

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## 274 Limits on relief under sections 266 and 273.

- (1) <sup>M29</sup>The aggregate of the premiums or other sums in respect of which relief is given to any person under section 266 shall not exceed £1,500 in any year of assessment or one-sixth of that person's total income, whichever is the greater.
- (2) <sup>M30</sup>The aggregate of the relief given under sections 266 and 273 in respect of premiums or sums payable for securing any benefits other than capital sums on death shall not exceed the amount of the income tax calculated at the appropriate rate on £100.
- (3) <sup>M31</sup>In subsection (2) above “the appropriate rate”—
  - (a) in relation to premiums to which section 266 applies, means [<sup>F61</sup>12.5 per cent.];
  - (b) in relation to other payments, means the basic rate of income tax.
- (4) <sup>M32</sup>War insurance premiums shall not be taken into account in calculating the limits of one-sixth of total income or of £100 mentioned in this section.

In this subsection “war insurance premiums” means any additional premium or other sum paid in order to extend an existing life insurance policy to risks arising from war or war service abroad, and any part of any premium or other sum paid in respect of a life insurance policy covering those risks, or either of them, which appears to the inspector to be attributable to those risks, or either of them.

### Textual Amendments

**F61** 1988(F) s.29—from 6 April 1989. Previously  
“15 per cent.”.

### Marginal Citations

**M29** Source-1970 s.21(1); 1976 Sch.4 21

**M30** Source-1970 s.21(3); 1975 Sch.2 6

**M31** Source-1970 s.21(4); 1975 Sch.2 6; 1980 s.29; 1976 Sch.4 21; 1987 Sch.15 2(5)

**M32** Source-1970 s.21(5)

## Supplemental

## <sup>F62</sup>275 Meaning of “relative”.

### Textual Amendments

**F62** S. 275 repealed (1988-89 and subsequent years) by Finance Act 1988 (c. 39), s. 148, Sch. 14 Part IV

## 276 Effect on relief of charges on income.

- <sup>M33</sup>(1) Where any of the claimant's income is income the income tax on which (at the basic rate) he is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment, he shall not be entitled to relief under this Chapter in respect of that income, except to the extent, if any, that the relief would exceed tax at the basic rate on that income.

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- (2) Notwithstanding subsection (1) above, relief under section 273 may be given to the extent that the deduction from tax provided for by that section can be made from so much of the income tax with which the claimant is chargeable as exceeds what would be the amount of that tax if all income tax were chargeable at the basic rate to the exclusion of any other rate.

**Marginal Citations**

**M33** Source-1970 s.25; 1971 s.33(5)

**277 Partners.**

<sup>M34</sup>(1) Subject to subsection (2) below, the following persons having joint interests, that is to say—

- (a) coparceners, joint tenants, or tenants in common of the profits of any property, and
- (b) joint tenants, or tenants of land or tenements in partnership, being in the actual and joint occupation thereof in partnership, who are entitled to the profits thereof in shares, and
- (c) partners carrying on a trade, profession or vocation together who are entitled to the profits thereof in shares,

may claim any relief under this Chapter according to their respective shares and interests, and any such claims which are proved may be dealt with in the same manner as in the case of several interests.

- (2) The income of a partner from a partnership carrying on any trade, profession or vocation shall be deemed to be the share to which he is entitled during the year to which the claim relates in the partnership profits, such profits being estimated according to the provisions of the Income Tax Acts.

**Marginal Citations**

**M34** Source-1970 s.26

**278 Non-residents.**

(1) <sup>M35</sup>Subject to the provisions of this section, no relief under this Chapter shall be given in the case of any individual who is not resident in the United Kingdom.

(2) *Subject to subsection (3) below*<sup>F63</sup>, subsection (1) above shall not apply in the case of any individual who satisfies the Board that he or she—

- (a) is a Commonwealth citizen or a citizen of the Republic of Ireland; or
- (b) is a person who is or who has been employed in the service of the Crown, or who is employed in the service of any missionary society or in the service of any territory under Her Majesty's protection; or
- (c) is resident in the Isle of Man or the Channel Islands; or
- (d) has previously resided within the United Kingdom, and is resident abroad for the sake of his or her health, or the health of a member of his or her family resident with him or her; or

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- (e) is a widow whose late husband [<sup>F64</sup>, or a widower whose late wife] was in the service of the Crown.

[<sup>F64</sup>(2A) Notwithstanding subsection (2) above, no relief shall be given under section 257D in a case where the husband is not resident in the United Kingdom.]

- (3) *No relief under this Chapter shall be given so as to reduce the amount of the income tax payable by the individual below the amount which results from applying the fraction—*

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

*to the amount which would have been payable by him by way of income tax if the tax were chargeable on his total income from all sources (including income which is not subject to income tax charged in the United Kingdom) where—*

*A* is the amount of his income subject to income tax charged in the United Kingdom; and

*B* is the amount of his total income<sup>F65</sup>.

- (4) <sup>M36</sup>Subsection (3) above shall have effect as if the amount of any relief to which an individual is entitled under section 266(4) were an amount by which his liability to income tax is reduced<sup>F64</sup>.

- (5) <sup>M37</sup>For the purposes of subsection (3) above as it applies to an individual whose income includes income eligible for double taxation relief—

- (a) in computing the amount of the income tax payable by the individual, the tax chargeable in respect of the income eligible for double taxation relief shall be disregarded;
- (b) in computing the amount of his income subject to income tax charged in the United Kingdom, the income eligible for double taxation relief shall be disregarded; and
- (c) in computing his total income from all sources, including income which is not subject to income tax charged in the United Kingdom, income eligible for double taxation relief shall be included, and the income tax which would be chargeable on that total income shall be computed without regard to the double taxation relief available in respect of the income eligible for double taxation relief;

*and, accordingly, where this subsection applies, the amount of the tax chargeable in respect of the income eligible for double taxation relief shall not be affected by subsections (2) and (3) above<sup>F65</sup>.*

- (6) Subsection (5) shall not operate so as to make the tax payable by an individual for a year of assessment higher than it would have been if the double taxation relief had not been available<sup>F65</sup>.

- (7) In subsection (5) above “income eligible for double taxation relief” means any dividends, interest, royalties or other profits which are chargeable to income tax but in respect of which relief (other than credit) is available under an Order in Council under section 788 so as to limit the rate of income tax so chargeable (but not so as to confer an exemption and make it income which is not subject to income tax charged in the United Kingdom)<sup>F65</sup>.

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(8) Any claim which an individual is entitled to make by virtue of subsection (2) above shall be made to the Board.

**Textual Amendments**

**F63** Repealed by 1988(F) s.148 and Sch. 14 Part IV for 1990-91 and subsequent years.

**F64** 1988(F) s.31 for 1990-91 and subsequent years.

**F65** Repealed by 1988(F) ss.31, 148 and Sch. 14 Part IV for 1990-91 and subsequent years.

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**Modifications etc. (not altering text)**

**C19** See British Nationality Act 1981 ss.37 and 51(1) for definition.

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**Marginal Citations**

**M35** Source-1970 s.27(1), (2)

**M36** Source-1976 Sch.4 18(3)

**M37** Source-1970 s.27(3)-(5)

**CHAPTER II**

**TAXATION OF INCOME OF SPOUSES**

*General rules*

**F66** **279** **Aggregation of wife’s income with husband’s.**

.....

**Textual Amendments**

**F66** **S. 279** repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), ss. 32, 148, **Sch. 14 Part VIII**

**F67** **280** **Transfer of reliefs.**

.....

**Textual Amendments**

**F67** **S. 280** repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, **Sch. 14 Part VIII**

**F68** **281** **Tax repayments to wives.**

.....

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### Textual Amendments

**F68** S. 281 repealed (1990-91 and subsequent years) by Finance Act 1988 (c. 39), s. 148, Sch. 14 Part VIII

## [<sup>F69</sup>282 Construction of references to husband and wife living together.

A husband and wife shall be treated for income tax purposes as living together unless—

- (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or
- (b) they are in fact separated in such circumstances that the separation is likely to be permanent.]

### Textual Amendments

**F69** 1988(F) s.35 and Sch.3 para.11 for 1990-91 and subsequent years. *Previously* “Construction of references to married women living with their husbands. **282.**—(1) A married woman shall be treated for income tax purposes as living with her husband unless—(a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or (b) they are in fact separated in such circumstances that the separation is likely to be permanent (*See* 1988(F) s.40(3) —*application of s.282(1) to certain maintenance payments.*). (2) Where a married woman is living with her husband and either—(a) one of them is, and the other is not, resident in the United Kingdom for a year of assessment, or (b) both of them are resident in the United Kingdom for a year of assessment, but one of them is, and the other is not, absent from the United Kingdom throughout that year, the same consequences shall follow for income tax purposes as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent. (3) Where subsection (2) above applies and the net aggregate amount of income tax falling to be borne by the husband and the wife for the year is greater than it would have been but for that subsection, the Board shall cause such relief to be given (by the reduction of such assessments on the husband or the wife or the repayment of such tax paid, by deduction or otherwise, by the husband or the wife, as the Board may direct) as will reduce that net aggregate amount by the amount of the excess.”

### Modifications etc. (not altering text)

- C20** *See* 1979(C) s.155(2)—*capital gains—references to a married woman living with her husband to be construed in accordance with s.282.*
- C21** S. 282 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 288(3), 289 (with ss. 60, 101(1), 171, 201(3)).

## [<sup>F70</sup>282A Jointly held property.

- (1) Subject to the following provisions of this section, income arising from property held in the names of a husband and his wife shall for the purposes of income tax be regarded as income to which they are beneficially entitled to equal shares.
- (2) Subsection (1) above shall not apply to income to which neither the husband nor the wife is beneficially entitled.
- (3) Subsection (1) above shall not apply to income—

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- (a) to which either the husband or the wife is beneficially entitled to the exclusion of the other, or
  - (b) to which they are beneficially entitled in unequal shares,
- if a declaration relating to it has effect under section 282B.
- (4) Subsection (1) above shall not apply to—
- (a) earned income, or
  - (b) income which is not earned income but to which section 111 applies.
- (5) Subsection (1) above shall not apply to income to which the husband or the wife is beneficially entitled if or to the extent that it is treated by virtue of any other provision of the Income Tax Acts as the income of the other of them or of a third party.
- (6) References in this section to a husband and his wife are references to a husband and wife living together.]

#### Textual Amendments

**F70** Ss. 282A, 282B inserted (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\), s. 34](#)

#### **282B Jointly held property: declarations.**

- (1) The declaration referred to in section 282A (3) is a declaration by both the husband and the wife of their beneficial interests in—
- (a) the income to which the declaration relates, and
  - (b) the property from which that income arises.
- (2) Subject to the following subsections, a declaration shall have effect under this section in relation to income arising on or after the date of the declaration; but a declaration made before 6th June 1990 shall also have effect in relation to income arising before that date.
- (3) A declaration shall not have effect under this section unless notice of it is given to the inspector, in such form and manner as the Board may prescribe, within the period of 60 days beginning with the date of the declaration.
- (4) A declaration shall not have effect under this section in relation to income from property if the beneficial interests of the husband and the wife in the property itself do not correspond to their beneficial interests in the income.
- (5) A declaration having effect under this section shall continue to have effect unless and until the beneficial interests of the husband and wife in either the income to which it relates, or the property from which the income arises, cease to accord with the declaration.

#### *Separate assessments*

#### **<sup>F71</sup>283 Option for separate assessment.**

.....



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**Textual Amendments**

**F71** Ss. 283-288 repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 Part VIII](#)

**F72 284 Effect of separate assessment on personal reliefs.**

.....

**Textual Amendments**

**F72** Ss. 283-288 repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 Part VIII](#)

**F73 285 Collection from wife of tax assessed on husband but attributable to her income.**

.....

**Textual Amendments**

**F73** Ss. 283-288 repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 Part VIII](#)

**F74 286 Right of husband to disclaim liability for tax on deceased wife’s income.**

.....

**Textual Amendments**

**F74** Ss. 283-288 repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 Part VIII](#)

*Separate taxation*

**F75 287 Separate taxation of wife’s earnings.**

.....

**Textual Amendments**

**F75** Ss. 283-288 repealed (1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 148, [Sch. 14 Part VIII](#)

**F76 288 Elections under section 287.**

.....

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### Textual Amendments

**F76** Ss. 283-288 repealed (1990-91 and subsequent years) by Finance Act 1988 (c. 39), s. 148, Sch. 14 Part VIII

## CHAPTER III

### RELIEF FOR INVESTMENT IN CORPORATE TRADES: THE BUSINESS EXPANSION SCHEME

#### Modifications etc. (not altering text)

**C22** See—s.360(3A)—*exclusion of relief for interest on loan to purchase close company shares if BES relief claimed.* 1988(F) ss.50-53 and Sch.4 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

### 289 The relief.

- (1) This Chapter has effect for affording relief from income tax where an individual who qualifies for the relief subscribes for eligible shares in a qualifying company, and either—
- (a) <sup>M38</sup>those shares are issued to him after 5th April 1983 [<sup>F77</sup>and before the end of 1993] for the purpose of raising money for a qualifying trade which is being carried on by the company or which it intends to carry on; or
  - (b) <sup>M39</sup>those shares are issued to him after 18th March 1986 [<sup>F77</sup>and before the end of 1993] for the purpose of raising money—
    - (i) for research and development which is being carried on by the company or by any subsidiary of the company on the date on which the shares are issued, or begins so to be carried on immediately thereafter, and from which it is intended that a qualifying trade (to be so carried on) will be derived; or
    - (ii) both for any such research and development and the resulting trade; or
  - (c) <sup>M40</sup>those shares are issued to him after 5th April 1985 and before 19th March 1986 for the purpose of raising money—
    - (i) for research and development which is being carried on at the time when the shares are issued, or begins immediately thereafter, and from which the company intends to derive a qualifying trade which will be carried on by it; or
    - (ii) both for any such research and development and the resulting trade; or
  - (d) <sup>M41</sup>those shares are issued to him after the passing of the Finance Act 1986 (25th July 1986) [<sup>F77</sup>and before the end of 1993] for the purpose of raising money for oil exploration which—
    - (i) is being carried on by the company, or by any subsidiary of the company, on the date on which the shares are issued; or
    - (ii) begins so to be carried on immediately thereafter; and from which it is intended that a qualifying trade (to be so carried on) will be derived.
- (2) <sup>M42</sup>Subsection (1)(d) above shall not apply unless—

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- (a) throughout the period of three years beginning with the date on which the shares were issued the company, or any subsidiary of the company, holds an exploration licence which was granted to it, or to another such subsidiary;
  - (b) the exploration is carried out solely within the area to which the licence applies; and
  - (c) on the date on which the shares are issued, neither the company nor any subsidiary of the company holds an appraisal licence or a development licence relating to that area or any part of that area.
- (3) <sup>M43</sup>Where, at any time after the issue of the shares but before the end of the period mentioned in subsection (2)(a) above, the company, or any subsidiary of the company, comes to hold an appraisal licence or development licence which relates to the area, or any part of the area, to which the exploration licence relates, the exploration licence and that other licence shall be treated for the purposes of subsection (2)(a) above as a single exploration licence.
- (4) <sup>M44</sup>In this Chapter “eligible shares” means new ordinary shares which, throughout the period of five years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed.
- (5) Subject to subsection (6) below, the relief in respect of the amount subscribed by an individual for any eligible shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.
- (6) <sup>M45</sup>If—
- (a) the shares are issued before 6th October in a year of assessment; and
  - (b) the claimant so requests in his claim for relief;
- the relief shall be given partly by way of deduction from the claimant’s total income for the year of assessment in which the shares are issued and partly by way of deduction from his total income for the preceding year of assessment.
- (7) A deduction from the claimant’s total income for the year of assessment preceding that in which the shares are issued shall be of such amount as may be specified in the claim; but
- (a) that amount shall not exceed one half of the total relief in respect of the shares; and
  - (b) the aggregate of that amount and the amounts of any other deductions made by virtue of subsection (6) above from the claimant’s total income for the year of assessment preceding that in which the shares are issued shall not exceed £5,000.
- (8) The relief shall be given on a claim and shall not be allowed—
- (a) <sup>M46</sup>in a case falling within subsection (1)(a)—
    - (i) unless and until the company has carried on the trade for four months; and
    - (ii) if the company is not carrying on that trade at the time when the shares are issued, unless the company begins to carry it on within two years after that time;
  - (b) <sup>M47</sup>in a case falling within subsection (1)(b) or (c) unless and until the company or (as the case may be) the subsidiary has carried on the research and development for four months;

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- (c) <sup>M48</sup> in a case falling within subsection (1)(d) unless and until the company has carried on the exploration for four months.
- (9) <sup>M49</sup> A claim for relief may be allowed—
- (a) under subsection (1)(a), (c) or (d) at any time after the trade, the research and development or the exploration (as the case may be) has been carried on by the company for four months;
  - (b) under subsection (1)(b) at any time after the research and development has been carried on for four months;
- if the conditions for the relief are then satisfied.
- (10) <sup>M50</sup> In the case of a claim allowed before the end of the relevant period, the relief shall be withdrawn if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.
- (11) <sup>M51</sup> An individual is not entitled to relief in respect of any shares unless the shares are subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose, or one of the main purposes of which, is the avoidance of tax.
- (12) <sup>M52</sup> In this Chapter “the relevant period”, in relation to relief in respect of any eligible shares issued by a company, means—
- (a) as respects sections 291, 299, [<sup>F78</sup>299A,] 300, 302 and 303, the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending five years after the issue of the shares; and
  - (b) as respects [<sup>F79</sup>sections 290A, 293], 294, 297, 308 and 309, the period beginning with the date on which the shares were issued and ending either—
    - (i) three years after that date; or
    - (ii) in a case falling within subsection (1)(a), where the company was not at that date carrying on a qualifying trade, three years after the date on which it subsequently began to carry on such a trade.
- (13) <sup>M53</sup> Where by reason of its being wound up, or dissolved without winding up, the company carries on the qualifying trade for a period shorter than four months, subsection (8)(a) above shall have effect as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.
- (14) <sup>M54</sup> The relief shall be treated for the purposes of section 835(5) as a deduction to be made under Chapter I of this Part after all other deductions under that Chapter and shall be disregarded for the purposes of calculating relief under section 550(2), *paragraph 3 of Schedule 2* <sup>F80</sup> and paragraphs 4 and 16 of Schedule 11 where an election has effect under paragraph 12 of that Schedule.
- (15) Where effect is given to a claim for relief by repayment of tax, section 824 shall have effect in relation to the repayment as if the time from which the 12 months mentioned in subsections (1)(b) and (3)(a) of that section are to be calculated were the end of the year of assessment in which the shares are issued or, if the period mentioned in subsection (8)(a) above ends in a later year, the end of that later year.

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### Textual Amendments

- F77** Words in s. 289(1)(a)(b)(d) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 38](#).
- F78** Word in s. 289(12)(a) inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by [1993 c. 34, s. 111\(2\)\(4\)](#)
- F79** 1988(F) s.51(1)(a)—*deemed always to have had effect. Previously* “section 293”.
- F80** *Repealed by 1988(F) s.148 and Sch.14 Part IV for 1988-89 and subsequent years.*

### Modifications etc. (not altering text)

- C23** [S. 289](#) amended (as it has effect in relation to shares issued before 1st January 1994) by [Finance Act 1995 \(c. 4\), s. 68\(1\)\(2\)](#)
- C24** See 1988(F) s.50 and Sch.4 Part I para.2(1) and Part II for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C25** See 1988(F) s.35 and Sch.3 para.12(3)(b) for application to husband and wife where amounts are subscribed in 1990-91.
- C26** See 1988(F) s.50 and Sch.4 para.2(2) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C27** See 1988(F) s.50 and Sch.4 para.2(3) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C28** See 1988(F) s.50 and Sch.4 para.2(4) for changes applicable in respect of shares issued after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C29** Subs.(13) omitted by 1988(F) Sch.4 para.2(5) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.

### Marginal Citations

- M38** Source-1983 s.26(1), Sch.5 2(1); 1986 s.40(2)
- M39** Source-1983 Sch.5 2(1)(b), 2A(2); 1985 s.44(2); 1986 Sch.9 3(b)
- M40** Source-1983 Sch.5 2(1)(b), 2A(2); 1985 s.44(2), (7)
- M41** Source-1983 Sch.5 2(1) (b), 2B(2); 1986 Sch.9 4
- M42** Source-1983 Sch.5 2(1)(c)-(e), 2B(2); 1986 Sch.9 4
- M43** Source-1983 Sch.5 2(1A), 2B(3); 1986 Sch.9 4
- M44** Source-1983 Sch.5 2(2), (3)
- M45** Source-1983 Sch.5 2(4A), (4B); 1987 s.42(1)
- M46** Source-1983 Sch.5 2(4)
- M47** Source-1983 Sch.5 2(4), 2A(3); 1985 s.44(2); 1986 Sch.9 3(c)
- M48** Source-1983 Sch.5 2(4), 2B (4); 1985 s.44(2); 1986 Sch.9 4
- M49** Source-1983 Sch.5 2(5), 2A(4), 2B(5); 1985 s.44(2); 1986 Sch.9 3(d), 4
- M50** Source-1983 Sch.5 2(6)
- M51** Source-1983 Sch.5 11
- M52** Source-1983 Sch.5 2(7), 2A (5), 2B(6); 1985 s.44(2); 1986 Sch.9 2, 4
- M53** Source-1983 Sch.5 2(8)
- M54** Source-1983 Sch.5 2(9), (10); 1981 s.52(7), 8; 1987 s.42(2)

VALID FROM 03/05/1994

### [<sup>F81</sup>289A] Form of relief.

- (1) Where an individual eligible for relief in respect of any amount subscribed for eligible shares makes a claim, then, subject to the following provisions of this

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Chapter, the amount of his liability for the year of assessment in which the shares were issued (“the current year”) to income tax on his total income shall be the following amount.

- (2) That amount is the amount to which he would be so liable apart from this section less whichever is the smaller of—
  - (a) an amount equal to tax at the lower rate for the current year on the amount or, as the case may be, the aggregate of the amounts subscribed for eligible shares issued in that year in respect of which he is eligible for relief, and
  - (b) the amount which reduces his liability to nil.
- (3) Subject to subsection (4) below, if in the case of any issue of relevant shares, that is, shares—
  - (a) which are issued before 6th October in the current year, and
  - (b) in respect of the amount subscribed for which the individual is eligible for relief,

the individual so requests in his claim, subsection (1) above shall apply as if, in respect of such part of that issue as may be specified in his claim, the shares had been issued in the preceding year of assessment; and his liability to income tax for both years of assessment shall be determined accordingly.
- (4) Not more than half of the relevant shares comprised in any issue may be treated by virtue of subsection (3) above as issued in the previous year; and the number of relevant shares (comprised in any issues) so treated as issued in a particular year shall not be such that the total amount subscribed for them exceeds £15,000.
- (5) In determining for the purposes of subsection (2) above the amount of income tax to which a person would be liable apart from this section, no account shall be taken of—
  - (a) any income tax reduction under Chapter I of Part VII of this Act or under section 347B,
  - (b) any income tax reduction under section 353(1A),
  - (c) any income tax reduction under section 54(3A) of the Finance Act 1989,
  - (d) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1), or
  - (e) any tax at the basic rate on so much of that person’s income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.
- (6) A claim for relief shall not be allowed unless subsection (7) below is complied with but, where it is complied with, the relief may be given at any time when it appears that the conditions for the relief may be satisfied.
- (7) This subsection is complied with if—
  - (a) in the case of shares issued for the purpose of a qualifying business activity falling within paragraph (a) of section 289(2), the company or subsidiary concerned has carried on the trade for four months,
  - (b) in the case of shares issued for the purpose of a qualifying business activity falling within paragraph (b) of that subsection or within both paragraph (a) and paragraph (b) of that subsection, the company or subsidiary concerned has carried on the research and development for four months, and

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- (c) in the case of shares issued for the purpose of a qualifying business activity falling within paragraph (c) of that subsection, the company or subsidiary concerned has carried on the exploration for four months.
- (8) Where—
- (a) the company or subsidiary concerned, by reason of its being wound up, or dissolved without winding up, carries on a trade for a period shorter than four months, and
- (b) it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax,
- subsection (7)(a) above shall have effect as if it referred to that shorter period.
- (9) Where effect is given to a claim for relief by repayment of tax, section 824 shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (3)(a) of that section are to be calculated were the end of the year of assessment in which the shares are issued or, if subsection (7) above is first complied with in a later year, the end of that later year.]

#### Textual Amendments

- F81** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**

VALID FROM 03/05/1994

#### [<sup>F82</sup>289B Attribution of relief to shares.

- (1) References in this Chapter, in relation to any individual, to the relief attributable to any shares or issue of shares shall be read, subject to the provisions of this Chapter providing for the reduction or withdrawal of relief, as references to any reduction made in the individual's liability to income tax which is attributed to those shares or that issue in accordance with this section.
- (2) Where an individual's liability to income tax is reduced in any year of assessment ("the current year") under section 289A, then—
- (a) where the reduction is given by reason of an issue of shares made (or treated as made) in the current year, the amount of the reduction shall be attributed to that issue, and
- (b) where the reduction is given by reason of two or more issues of shares made (or treated as made) in the current year, the reduction—
- (i) shall be apportioned between those issues in the same proportions as the amounts subscribed by the individual for each issue, and
- (ii) shall be attributed to those issues accordingly.
- (3) Where under this section an amount of any reduction of income tax is attributed to an issue of shares ("the original issue") in a company to an individual—
- (a) a proportionate part of that amount shall be attributed to each share comprised in the original issue, and



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- (b) if any bonus shares in that company which are eligible shares are issued to him at any subsequent time—
- (i) a proportionate part of the total amount attributed immediately before that time to shares comprised in the original issue shall be attributed to each of the shares in the holding comprising those shares and the bonus shares, and
  - (ii) this Chapter shall apply as if the original holding had comprised all those shares.
- (4) Subject to subsection (5) below, in this Chapter references to an issue of shares in any company to an individual are to any shares in the company issued to him on the same day.
- (5) Where section 289A(1) applies in the case of any issue of shares as if part of the issue had been issued in a previous year, this section and the following provisions of this Chapter (except section 290(1)) shall have effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous year).
- (6) Where, at a time when any relief is attributable to, or to any part of, any issue of shares, the relief falls to be withdrawn or reduced under this Chapter—
- (a) where it falls to be withdrawn, the relief attributable to each of the shares in question shall be reduced to nil, and
  - (b) where it falls to be reduced by any amount, the relief attributable to each of the shares in question shall be reduced by a proportionate part of that amount.]

#### Textual Amendments

**F82** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**

## 290 Minimum and maximum subscriptions.

- <sup>M55</sup>(1) Subject to section 311(3), the relief shall not be given in respect of any amount subscribed by an individual for eligible shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the eligible shares issued to him by the company in that year is £500 or more.
- (2) No more than £40,000 may be deducted by way of relief under section 289 from the total income of an individual for a year of assessment.

#### Modifications etc. (not altering text)

**C30** See 1988(F) s.35 and Sch.3 para.12(3)(b) for application to husband and wife where amounts are subscribed in 1990-91.

#### Marginal Citations

**M55** Source-1983 Sch.5 3; 1987 s.42(3)



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### **[<sup>F83</sup>290A Restriction of relief where amounts raised exceed permitted maximum.**

- (1) Where—
- (a) a company raises any amount through the issue of eligible shares after 15th March 1988; and
  - (b) the aggregate of that amount and of all other amounts (if any) so raised within the period mentioned in subsection (2) below exceeds [<sup>F84</sup>£750,000].
- the relief shall not be given in respect of the excess.
- (2) The period referred to in subsection (1) above is—
- (a) the period of 6 months ending with the date of the issue of the shares; or
  - (b) the period beginning with the preceding 6th April and ending with the date of that issue,
- whichever is the longer.
- (3) In determining the aggregate mentioned in subsection (1) above, no account shall be taken of any amount—
- (a) which is subscribed by a person other than an individual who qualifies for relief; or
  - (b) as respects which relief is precluded by section 290 or this section.
- (4) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
  - (b) that other person, or at least one of those other persons, is a company,
- the reference to [<sup>F85</sup>£750,000] in subsection (1) above shall have effect as if it were a reference to—

$$\frac{\pounds 750,000}{1 + A},$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which, during the relevant period, are members of any such partnership or parties to any such joint venture.

- (5) Where this section precludes the giving of relief on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from this section, be eligible for relief.
- (6) Where—
- (a) in the case of a company falling within subsection (2)(a) of section 293, the qualifying trade or each of the qualifying trades is a trade to which subsection (7) below applies;
  - (b) in the case of a company falling within subsection (2)(b)(i) of that section, the subsidiary or each of the subsidiaries is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades which or each of which is a trade to which subsection (7) below applies; or

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- (c) in the case of a company falling within subsection (2)(b)(ii) of that section, the requirements mentioned in each of paragraphs (a) and (b) above are satisfied, subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £5 million.
- (7) This subsection applies to a trade if it consists, wholly or substantially wholly, of operating or letting ships, other than oil rigs or pleasure craft, and—
- (a) every ship operated or let by the company carrying on the trade is beneficially owned by the company;
  - (b) every ship beneficially owned by the company is registered in the United Kingdom;
  - (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
  - (d) the conditions mentioned in section 297(7) are satisfied in relation to every letting by the company.
- (8) Where—
- (a) any of the requirements mentioned in paragraphs (a) to (c) of subsection (7) above are not satisfied in relation to any ships; or
  - (b) any of the conditions referred to in paragraph (d) of that subsection are not satisfied in relation to any lettings,
- the trade shall not thereby be precluded from being a trade to which that subsection applies if the operation or letting of those ships, or, as the case may be, those lettings do not amount to a substantial part of the trade.
- (9) The Treasury may by order amend any of the foregoing provisions of this section by substituting a different amount for the amount for the time being specified there.
- (10) Where—
- (a) the issue of the eligible shares is made in pursuance of a prospectus published, or an offer in writing made, before 15th March 1988;
  - (b) the shares are issued after that date and before 6th April 1988; and
  - (c) subsection (6) above does not apply,
- subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £1 million.
- (11) In this section—
- “let” means let on charter and “letting” shall be construed accordingly;
- “oil rig” and “pleasure craft” have the same meanings as in section 297;
- “prospectus” has the meaning given by section 744 of the <sup>M56</sup>Companies Act 1985 or Article 2(3) of the <sup>M57</sup>Companies (Northern Ireland) Order 1986.]

#### Textual Amendments

- F83** S. 290A inserted (retrospectively) by Finance Act 1988 (c. 39) s. 51(1)(b)
- F84** S.I.1990 No.862, **art.3(a)** (in Part III Vol.5)in force on 1May 1990.Previously “£500,000”.
- F85** S.I.1990 No.862, **art.3(b)** (in Part III Vol.5)in force on 1May 1990.Previously “£500,000”.

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#### Modifications etc. (not altering text)

- C31** See 1988(F) s.50 and Sch.4 para.3(1) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C32** See 1988(F) s.50 and Sch.4 paras.3(1), (2) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.
- C33** Subss.(6)-(8) omitted by 1988(F) Sch.4 para.3(3) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- C34** Subss. (10) and (11) omitted by 1988(F) Sch.4 para.3(3) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.

#### Marginal Citations

**M56** 1985 c. 6.

**M57** S.I. 1986/1032 (N.I. 6)

## 291 Individuals qualifying for relief.

- (1) <sup>M58</sup> Subject to section 292, an individual qualifies for the relief if he—
- subscribes for the eligible shares on his own behalf,
  - is resident and ordinarily resident in the United Kingdom at the time when they are issued, and
  - is not at any time in the relevant period connected with the company;
- and, in relation to shares issued after 5th April 1986, an individual who is at any time performing duties which are treated by virtue of section 132(4)(a) as performed in the United Kingdom shall be treated for the purposes of this section as resident and ordinarily resident in the United Kingdom at that time.

[<sup>F86</sup>(1A)]

- (2) <sup>M59</sup> An individual is connected with the company if he, or an associate of his, is—
- an employee of the company or of a partner of the company;
  - a partner of the company; or
  - subject to subsection (3) below, a director of the company or of another company which is a partner of that company.
- (3) An individual is not connected with a company by reason only that he, or an associate of his, is a director unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from the company during the period of five years beginning with the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—
- any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director of the company;
  - any interest which represents no more than a reasonable commercial return on money lent to the company;
  - any dividend or other distribution which does not exceed a normal return on the investment;
  - any payment for the supply of goods which does not exceed their market value; and

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- (e) any reasonable and necessary remuneration which —
  - (i) is paid for services rendered to the company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself); and
  - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.
- (4) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of—
  - (a) the issued ordinary share capital of the company; or
  - (b) the loan capital and issued share capital of the company; or
  - (c) the voting power in the company.
- (5) For the purposes of subsection (4)(b) above the loan capital of a company shall be treated as including any debt incurred by the company—
  - (a) for any money borrowed or capital assets acquired by the company; or
  - (b) for any right to receive income created in favour of the company; or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (6) An individual is connected with the company if he directly or indirectly 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, entitle him to receive more than 30 per cent. of the assets of the company which would then be available for distribution to equity holders of the company, and for the purposes of this subsection—
  - (a) the persons who are equity holders of the company, and
  - (b) the percentage of the assets of the company to which the individual would be entitled,

shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (7) An individual is connected with a company if he has control of it within the meaning of section 840.
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire, and there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (9) <sup>M60</sup>In determining for the purposes of this section whether an individual is connected with a company, no debt incurred by the company by overdrawing an account with a person carrying on a business of banking shall be treated as loan capital of the company if the debt arose in the ordinary course of that business.
- (10) Where an individual subscribes for shares in a company with which he is not connected (either within the meaning of this section or by virtue of section 309(6)(b)) he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another

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company with which that or any other individual who is a party to the arrangement is connected (within the meaning of this section or by virtue of section 309(6)(b)).

#### Textual Amendments

**F86** See 1988(F) s.50 and Sch.4 para.4 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

#### Marginal Citations

**M58** Source-1983 Sch.5 4(1), (5); 1983 (No.2) Sch.2 1; 1986 Sch.9 5

**M59** Source-1981 s.54(2)-(8); 1983 Sch.5 4(2)

**M60** Source-1983 Sch.5 4(3), (4)

VALID FROM 03/05/1994

#### <sup>F87</sup>291A Connected persons: directors.

- (1) An individual is not connected with the issuing company by reason only that he, or an associate of his, is a director of that or another company unless he or his associate (or a partnership of which he or his associate is a member)—
  - (a) receives a payment from the issuing company or a related person during the relevant period, or
  - (b) is entitled to receive such a payment in respect of that period or any part of it.
- (2) In this section—
  - (a) “related person”, in relation to the issuing company, means—
    - (i) any company of which the individual or his associate is a director and which is a subsidiary or a partner of the issuing company or of a subsidiary, and
    - (ii) any person connected with the issuing company or with a company falling within sub-paragraph (i) above, and
  - (b) any reference to a payment to an individual includes a payment made to him indirectly or to his order or for his benefit.
- (3) For the purposes of subsection (1) above there shall be disregarded—
  - (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director,
  - (b) any interest which represents no more than a reasonable commercial return on money lent to the issuing company or a related person,
  - (c) any dividend or other distribution which does not exceed a normal return on the investment,
  - (d) any payment for the supply of goods which does not exceed their market value,
  - (e) any payment of rent for any property occupied by the issuing company or a related person which does not exceed a reasonable and commercial rent for the property, and
  - (f) any reasonable and necessary remuneration which —

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- (i) is paid for services rendered to the issuing company or related person in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the person to whom they are rendered), and
  - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.
- (4) An individual (“the subscriber”) who subscribes for eligible shares (“the relevant shares”) may qualify for the relief notwithstanding his connection with the company at any time in the relevant period if—
- (a) he is so connected by reason only of his, or his associate’s, being a director of, or of a company which is a partner of, the issuing company or a subsidiary in receipt of, or entitled to receive, remuneration as such, and
  - (b) the following conditions are satisfied;
- and in this subsection and subsection (5) below “remuneration” includes any benefit or facility.
- (5) The conditions are that—
- (a) in relation to the director (whether he is the subscriber or his associate), his remuneration, or the remuneration to which he is entitled, (leaving out of account any reasonable and necessary remuneration falling within subsection (3)(f) above) consists only of remuneration which is reasonable remuneration for services rendered to the company of which he is a director in his capacity as such,
  - (b) the subscriber was issued with eligible shares (whether the relevant shares or a previous issue of eligible shares) at a time when he had never been—
    - (i) connected with the issuing company, or
    - (ii) an employee of any person who previously carried on the trade carried on by the issuing company, and
  - (c) where the issue of the relevant shares did not satisfy paragraph (b) above, they were not issued after the end of the period of five years beginning with the date of the latest issue of eligible shares which satisfied that paragraph, and in paragraph (b) above “trade” includes any business, profession or vocation, and the reference to a trade previously carried on includes part of such a trade.
- (6) In this section “subsidiary”, in relation to the issuing company, means a 51 per cent. subsidiary of the issuing company.]

#### Textual Amendments

**F87** Ss. 291-291B substituted for s. 291 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 5**



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VALID FROM 03/05/1994

**[<sup>F88</sup>291B Connected persons: persons interested in capital etc. of company.**

- (1) An individual is connected with the issuing company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of—
  - (a) the issued ordinary share capital of the company or any subsidiary,
  - (b) the loan capital and issued share capital of the company or any subsidiary, or
  - (c) the voting power in the company or any subsidiary.
- (2) An individual is connected with the issuing company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or any subsidiary or in any other circumstances, entitle him to receive more than 30 per cent. of the assets of the company or subsidiary (the “company in question”) which would then be available for distribution to equity holders of the company in question.
- (3) For the purposes of subsection (2) above—
  - (a) the persons who are equity holders of the company in question, and
  - (b) the percentage of the assets of the company in question to which the individual would be entitled,shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company in question are available for distribution to its equity holders.
- (4) An individual is connected with a company if he has control of it or of any subsidiary.
- (5) Where an individual subscribes for shares in a company with which (apart from this subsection) he is not connected, he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which (assuming it to be an issuing company) that or any other individual who is a party to the arrangement is connected.
- (6) In this section “subsidiary”, in relation to the issuing company, means a 51 per cent. subsidiary of the issuing company—
  - (a) whether it becomes such a subsidiary before, during or after the year of assessment in respect of which the individual concerned claims relief, and
  - (b) whether or not it is such a subsidiary while he has, or is entitled to acquire, such capital, voting power, rights or control as are mentioned in this section.
- (7) For the purposes of this section the loan capital of a company shall be treated as including any debt incurred by the company—
  - (a) for any money borrowed or capital assets acquired by the company,
  - (b) for any right to receive income created in favour of the company, or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on it).



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- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire, and there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (9) In determining for the purposes of this section whether an individual is connected with a company, no debt incurred by the company or any subsidiary by overdrawing an account with a person carrying on a business of banking shall be treated as loan capital of the company or subsidiary if the debt arose in the ordinary course of that business.
- (10) Section 840 applies for the purposes of this section.]

#### Textual Amendments

**F88** Ss. 291-291B substituted for s. 291 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 5**

## 292 Parallel trades. <sup>F89</sup>

- <sup>M61</sup>(1) An individual is not entitled to relief in respect of any shares in a company which are issued after 18th March 1986 where, at the date mentioned in subsection (2) below—
- (a) he is one of a group of persons—
    - (i) who control the company; or
    - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in the trade carried on by the company;
  - (b) he is also an individual, or one of a group of persons—
    - (i) controlling another company; or
    - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in another trade; and
  - (c) the trade carried on by the company, or a substantial part of it—
    - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities; and
    - (ii) serves substantially the same or similar outlets or markets;
 as the other trade or (as the case may be) the trade carried on by the other company.
- (2) The date mentioned in subsection (1) above is—
- (a) the date on which the shares are issued; or
  - (b) if later, the date on which the company begins to carry on the trade.
- (3) For the purposes of subsection (1) above—
- (a) the persons to whom a trade belongs, and (where a trade belongs to two or more persons) their respective shares in that trade, shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
  - (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.
- (4) For the purposes of this section—

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- (a) references to a company’s trade include references to the trade of any of its subsidiaries; and
- (b) “trade” in the expressions “another trade”, “other trade” and “trade carried on by the other company” includes any business, profession or vocation.

#### Textual Amendments

**F89** S.292 omitted by 1988(F) Sch.4 para.5 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.

#### Marginal Citations

**M61** Source-1983 Sch.5 10A; 1986 Sch.9 12

### 293 Qualifying companies.

- (1) <sup>M62</sup>Subject to section 294, a company is a qualifying company if it is incorporated in the United Kingdom and complies with the requirements of this section.
- (2) <sup>M63</sup>The company must, throughout the relevant period, be an unquoted company which is resident in the United Kingdom and not resident elsewhere, and be—
  - (a) a company which exists wholly, or substantially wholly, for the purpose of carrying on wholly or mainly in the United Kingdom one or more qualifying trades; or
  - (b) a company whose business consists wholly of—
    - (i) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or
    - (ii) both the holding of such shares or securities, or the making of such loans, and the carrying on wholly or mainly in the United Kingdom of one or more qualifying trades.
- (3) <sup>M64</sup>In this section “qualifying subsidiary”, in relation to a company, means a subsidiary of that company of a kind which may be held by virtue of sections 308 and 309.
- <sup>F90</sup>(4) <sup>M65</sup>Where a company has one or more qualifying subsidiaries, it shall not be a qualifying company in relation to shares issued after 18th March 1986 if the qualifying trade or trades carried on by the company and its subsidiaries, taken as a whole, are not carried out wholly or mainly in the United Kingdom.
- (5) <sup>M66</sup>Without prejudice to the generality of subsection (2) above, but subject to subsection (6) below, a company ceases to comply with that subsection if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the <sup>M67</sup>Insolvency Act 1986 or the <sup>M68</sup>Companies (Northern Ireland) Order 1986, any other act is done for the like purpose) or the company is dissolved without winding up.
- (6) A company shall not be regarded as ceasing to comply with subsection (2) above if it does so by reason of being wound up or dissolved without winding up and—
  - (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; and

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- (b) the company's net assets, if any, are distributed to its members or dealt with as bona vacantia before the end of the relevant period or, in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (7) The company's share capital must not, at any time in the relevant period, include any issued shares that are not fully paid up.
- (8) Subject to sections 308 and 309, the company must not at any time in the relevant period—
  - (a) control (or together with any person connected with it control) another company or be under the control of another company (or another company and any other person connected with that other company); or
  - (b) be a 51 per cent. subsidiary of another company or itself have a 51 per cent. subsidiary;

and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above.

<sup>F91</sup>(9) <sup>M69</sup>A company is not a qualifying company in relation to shares issued before 19th March 1986 if—

- (a) an individual has acquired a controlling interest in the company's trade after 5th April 1983; and
- (b) at any time in the period mentioned in subsection (10) below he has, or has had, a controlling interest in another trade; and
- (c) the trade carried on by the company or a substantial part of it—
  - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities as the other trade, or
  - (ii) serves substantially the same or similar outlets or markets as the other trade.

Section 298(1) and (2) shall apply for the purposes of this subsection.

<sup>F91</sup>(10) <sup>M70</sup>The period referred to in subsection (9) above is the period beginning two years before and ending three years after—

- (a) the date on which the shares were issued; or
- (b) if later, the date on which the company began to carry on the trade.

<sup>F91</sup>(11) In subsections (9) and (10) above references to a company's trade include references to the trade of any of its subsidiaries.

#### Textual Amendments

**F90** *S.293(4) omitted by 1988(F) Sch.4 para.6(2) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

**F91** *Subss.(9)-(11) omitted by 1988(F) Sch.4 para.6(2) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

#### Modifications etc. (not altering text)

**C35** *See 1988(F) s.50 and Sch.4 para.6(1) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.*

**C36** *See Insolvency (Northern Ireland) Order 1989 art.381(2) and Sch.9 para.59 (S.I.1989 No.2405—not reproduced) for change from a day to be appointed.*

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### Marginal Citations

- M62** Source-1983 Sch.5 5(1); 1986 Sch.9 6(2)  
**M63** Source-1983 Sch.5 5(2); 1983 (No.2) Sch.1 3(a)  
**M64** Source-1983 Sch.5 5(3)  
**M65** Source-1983 Sch.5 5(3A); 1986 Sch.9 6(3)  
**M66** Source-1983 Sch.5(4)-(7)  
**M67** 1986 c. 45.  
**M68** S.I. 1986/1032 (N.I. 6).  
**M69** Source-1983 Sch.5 5(8); 1986 Sch.9 6(4)  
**M70** Source-1983 Sch.5 5(10), (11); 1983 (No.2) Sch.1 3(b); 1986 Sch.9 6(4)

## 294 Companies with interests in land. <sup>F92</sup>

- <sup>M71</sup>(1) Subject to section 296, a company is not a qualifying company in relation to shares issued after 18th March 1986 if at any time during the relevant period—
- (a) the value of the interests in land held by the company at that time; or
  - (b) where lower, the value of the interests in land which were held by the company immediately after the issue of the shares (adjusted in accordance with section 295);
- is greater than half the value of the company's assets as a whole.
- (2) For the purposes of this section, the value of the interests in land held by a company on any date shall be arrived at by first aggregating the market value on that date of each of those interests and then deducting—
- (a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);
  - (b) the amount of any unsecured debts of the company which do not fall due for payment before the expiry of the period of 12 months beginning with that date; and
  - (c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.
- (3) For the purposes of this section, the value of a company's assets as a whole shall be arrived at by first aggregating the market value of each of those assets and then deducting the amount of the debts and liabilities of the company.
- (4) For the purposes of subsection (3) above, the amount paid up in respect of those shares of a company (if any) which carry a present or future preferential right to the company's assets on its winding up shall be treated as a debt of the company, but otherwise a company's share capital, share premium account and reserves shall not be treated for those purposes as debts or liabilities of the company.
- (5) In this section "interest in land" means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—
- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or

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- (b) in Scotland, the interest of a creditor in a charge or security of any kind over land.

[<sup>F93</sup>(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it.]

- (6) In arriving at the value of any interest in land for the purposes of this section—
- (a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and
  - (b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.
- (7) Where a company is a member of a partnership which holds any interest in land—
- (a) that interest shall, for the purposes of this section and sections 295 and 296, be treated as an interest in land held by the company; but
  - (b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.
- (8) Where a qualifying company has one or more subsidiaries, the company and its subsidiaries (“the group”) shall be treated as a single company for the purposes of this section and sections 295 and 296; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.
- (9) The Treasury may by order amend subsection (1) above by substituting a different fraction for the fraction for the time being specified there.

#### Textual Amendments

- F92** *Ss.294-296 omitted by 1988(F) Sch.4 para. 70 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*
- F93** *1988(F) s.52 in respect of valuations falling to be made on or after 29 July 1988.*

#### Marginal Citations

- M71** *Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), (7)*

### 295 Valuation of interests in land for purposes of section 294(1)(b).

<sup>M72</sup>(1) For the purposes of section 294(1)(b), the value of the interests in land held by a company immediately after the issue of the shares in question (“the original interests”) shall be adjusted by—

- (a) adding—
  - (i) the cost of any interests in land subsequently acquired by the company (“the later interests”); and
  - (ii) any expenditure (whenever payable) incurred by the company wholly and exclusively in enhancing the value of any of the original or later interests;

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- (b) deducting any consideration received by the company on the disposal of any of the original or later interests or on the grant by the company of any interest in land out of any of those interests;
  - (c) deducting any consideration otherwise derived by the company from its ownership of any of the original or later interests.
- (2) Any sum which is received by a company by way of rent, or which is attributable to the use of any premises by the company, shall be disregarded for the purposes of subsection (1)(c) above.
- (3) For the purposes of this section—
- (a) the cost of an interest in land acquired by a company shall be taken to be the amount or value of the consideration given by the company, or on its behalf, wholly and exclusively for the acquisition of the interest;
  - (b) consideration shall be brought into account without any discount for the postponement of the right to receive any part of it; and
  - (c) the grant of an interest in land out of any of the original interests shall be treated as a disposal of the original interest in question.
- (4) Where—
- (a) the interest of a company as lessee under a lease (“the lease”) falls to be valued at any time for the purposes of section 294 or the cost of acquiring that interest falls to be calculated for the purposes of this section; and
  - (b) the aggregate amount of the rent payable by the lessee under the lease before the end of the relevant period exceeds that which would be so payable under a lease of the premises at a full market rent (but otherwise on the same terms and conditions as the lease);
- the value of the company’s interest at that time shall be calculated on the assumption that the aggregate amount payable as mentioned in paragraph (b) above is a nominal amount and, where the interest was acquired after the issue of the shares in question, it shall be assumed that the company paid the appropriate premium when acquiring the interest.
- (5) In determining, for the purposes of this section, the consideration for the disposal or acquisition of an interest in land, no account shall be taken in the first instance of any contingent liability assumed by the company or by any other person.
- (6) If it is subsequently shown to the satisfaction of the Board that a contingent liability which was not taken into account in determining the consideration for a disposal or acquisition has become enforceable and is being or had been enforced, such adjustment, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as is required in consequence.
- (7) Where the relief obtainable under subsection (6) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

**Modifications etc. (not altering text)**

**C37** *Ss.294-296 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*



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### Marginal Citations

M72 Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), 7

## 296 Section 294 disappplied where amounts raised total £50,000 or less. <sup>F94</sup>

- <sup>M73</sup>(1) Where a company raises any amount through the issue of eligible shares, section 294—
- (a) shall not have effect to deny relief in relation to those shares if the aggregate of that amount and of all other amounts (if any) so raised within the period of 12 months ending with the date of that issue does not exceed £50,000; and
  - (b) where that aggregate exceeds £50,000, shall have effect to deny relief only in relation to the excess.
- (2) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
  - (b) that other person, or at least one of those other persons, is a company;
- each reference to £50,000 in subsection (1)(a) and (b) above shall have effect as if it were a reference to—

$$\frac{\pounds 50,000}{1 + A}$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which are members of any such partnership or parties to any such joint venture during the relevant period.

- (3) Where section 294, as read with this section, requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restrictions, be eligible for the relief.
- (4) A claimant who is dissatisfied with the manner in which the available relief is divided under this section between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (5) In this section “the appropriate Commissioners” means—
  - (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners, unless all the claimants agree that the question should be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question should be determined by the Special Commissioners;
  - (c) in any other case, the Special Commissioners.



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- (6) In calculating the aggregate mentioned in subsection (1)(a) above in respect of any period of 12 months which begins on or before 18th March 1986, any amount raised by the issue of eligible shares on or before that date shall be disregarded.

#### Textual Amendments

**F94** Ss.294-296 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.

#### Marginal Citations

**M73** Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), 7

## 297 Qualifying trades. <sup>F95</sup>

- (1) <sup>M74</sup> Subject to section 298(6) and (7) below, a trade is a qualifying trade if it complies with the requirements of this section.
- (2) <sup>M75</sup> Subject to subsection (9) below, the trade must not at any time in the relevant period consist of one or more of the following activities if that activity amounts, or those activities when taken together amount, to a substantial part of the trade—
- (a) dealing in commodities, shares, securities, land or futures;
  - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
  - (c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;
  - (d) oil extraction activities;
  - (e) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;
  - (f) providing legal or accountancy services;
  - (g) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of paragraphs (a) to (f) above and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company;
  - (h) <sup>M76</sup> property development;
  - (j) <sup>M77</sup> farming.
- (3) <sup>M78</sup> For the purposes of subsection (2)(b) above—
- (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;
  - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption;
  - (c) a trade is not an ordinary trade of wholesale or retail distribution if—
    - (i) it consists to a substantial extent of dealing in goods of a kind which are collected or held as an investment or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and
    - (ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor

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- would reasonably be expected to hold them while endeavouring to dispose of them at their market value; and
- (d) in determining whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the following features, that is to say—
- (i) the goods are bought by the trader in quantities larger than those in which he sells them;
  - (ii) the goods are bought and sold by the trader in different markets;
  - (iii) the trader employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, in addition to any remuneration paid to any person connected with it;
  - (iv) there are purchases or sales from or to persons who are connected with the trader;
  - (v) purchases are matched with forward sales or vice versa;
  - (vi) the goods are held by the trader for longer than is normal for goods of the kind in question;
  - (vii) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;
  - (viii) the trader does not take physical possession of the goods;
- those features in sub-paragraphs (i) to (iii) being regarded as indications that the trade is such an ordinary trade and those in sub-paragraphs (iv) to (viii) being regarded as indications of the contrary.
- (4)<sup>M79</sup> A trade shall not be treated as failing to comply with this section by reason only of its consisting to a substantial extent of receiving royalties or licence fees if—
- (a) the company carrying on the trade is engaged throughout the relevant period in—
    - (i) the production of films; or
    - (ii) the production of films and the distribution of films produced by it in the relevant period; and
  - (b) all royalties and licence fees received by it in that period are in respect of films produced by it in that period or sound recordings in relation to such films or other products arising from such films.
- (5)<sup>M80</sup> A trade shall not be treated as failing to comply with this section by reason only that at any time after 19th March 1985 it consists to a substantial extent of receiving royalties or licence fees if—
- (a) the company carrying on the trade is engaged in research and development throughout the relevant period; and
  - (b) all royalties and licence fees received by it in that period are attributable to research and development which it has carried out.
- (6)<sup>M81</sup> A trade shall not be treated as failing to comply with this section by reason only of its consisting of letting ships, other than oil rigs or pleasure craft, on charter if—
- (a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;
  - (b) every ship beneficially owned by the company is registered in the United Kingdom; and
  - (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and

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(d) the conditions mentioned in subsection (7) below are satisfied in relation to every letting on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings of such ships, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(7) The conditions are that—

- (a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the lease or otherwise) for extending it beyond that period otherwise than at the option of the lessee;
- (b) during the period of the letting there is no provision in force (whether made in the lease or otherwise) for the grant of a new letting to end, otherwise than at the option of the lessee, more than 12 months after that provision is made;
- (c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;
- (d) under the terms of the charter the company is responsible as principal—
  - (i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and
  - (ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period; and
- (e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between the company in question and its subsidiary, or between it and another company of which it is a subsidiary or between it and a company which is a subsidiary of the same company of which it is a subsidiary, as if paragraph (c) were omitted.

- (8) <sup>M82</sup>The trade must, during the relevant period, be conducted on a commercial basis and with a view to the realisation of profits.
- (9) <sup>M83</sup>A trade which consists to any substantial extent of oil extraction activities shall, if it would be a qualifying trade were it not for subsection (2)(d) above, be treated as a qualifying trade for the purposes of section 289(1)(d).

#### Textual Amendments

**F95** *Ss.297-298 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

#### Marginal Citations

**M74** Source-1983 Sch.5 6(1)

**M75** Source-1983 Sch.5 6(2); 1986 Sch.9 8(2)

**M76** Source-1985 s.44(3)

**M77** Source-1984 s.37(1)

**M78** Source-1983 Sch.5 6(4); 1986 Sch.9 8(4); 1981 s.56(3), Sch.11

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|------------|--|
| <b>M79</b> | Source-1983 Sch.5 6(2A); 1984 s.37(2); 1987 s.43             |
| <b>M80</b> | Source-1983 Sch.5 6(2AA); 1985 s.44(4)                       |
| <b>M81</b> | Source-1983 Sch.5 6(2B), (2C); 1984 s.37(2); 1986 Sch.9 8(3) |
| <b>M82</b> | Source-1983 Sch.5 6(3)                                       |
| <b>M83</b> | Source-1983 Sch.5 2B(7); 1986 Sch.9 4                        |

## 298 Provisions supplementary to sections 293 and 297. <sup>F96</sup>

- (1) <sup>M84</sup>For the purposes of sections 293(9) and 297 a person has a controlling interest in a trade—
  - (a) in the case of a trade carried on by a company, if—
    - (i) he controls the company;
    - (ii) the company is a close company and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent. of the ordinary share capital of the company; or
    - (iii) not less than half of the trade could in accordance with section 344(2) be regarded as belonging to him;
  - (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (3) References in this section and section 297 to a trade shall be construed without regard to so much of the definition of “trade” in section 832(1) as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in section 297(2)(g) or subsection (1) above to a trade carried on by a person other than the company and those references shall be construed as including a reference to any business, profession or vocation.
- (4) <sup>M85</sup>The Treasury may by order amend section 297 and this section, except in relation to shares issued before 19th March 1986, in such manner as they consider expedient.
- (5) <sup>M86</sup>In section 297—
  - “film” means an original master negative of a film, an original master film disc or an original master film tape;
  - “oil rig” means any ship which is an offshore installation for the purposes of the <sup>M87</sup>Mineral Workings (Offshore Installations) Act 1971;
  - “pleasure craft” means any ship of a kind primarily used for sport or recreation;
  - “property development” means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 294(5)), with the sole or main object of realising a gain from disposing of the land when developed; and
  - “sound recording” means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape.
- (6) <sup>M88</sup>Section 297 shall have effect in relation to shares issued before 19th March 1986 subject to the following modifications—

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- (a) in subsection (2) the words “or those activities when taken together amount” shall be omitted;
  - (b) subsection (2)(h) shall not apply unless the shares were issued after 19th March 1985;
  - (c) subsection (2)(j) shall not apply unless the shares were issued after 13th March 1984;
  - (d) in subsection (3) the words in paragraph (a) “to members of the general public for their use or consumption” and paragraph (c) shall be omitted; and
  - (e) subsections (6) and (7) shall be omitted;
- and in relation to shares issued after 18th March 1986 section 297(2) shall have effect with the omission of paragraphs (h) and (j).
- (7) <sup>M89</sup>Section 297(2) shall have effect so far as it relates to oil extraction only in relation to shares issued after 25th July 1986.
- (8) <sup>M90</sup>Section 297(4) shall have effect in relation to shares issued before 17th March 1987 with the omission of paragraph (a)(ii), together with the word “or” immediately before it, (but not the word “and” at the end of it) and the words in paragraph (b) “in that period” in the second place where they appear.

#### Textual Amendments

**F96** *Ss.297-298 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

#### Marginal Citations

**M84** Source-1981 s.56(8)-(10); 1983 Sch.5 5(9), 6(2), (3), 6(5)-(7); 1986 Sch.9 1(2), 8(4)

**M85** Source-1983 Sch.5 6(8); 1986 Sch.9 1(2), 8(4)

**M86** Source-1983 Sch.5 6(2B), (10); 1984 s.37(2); 1985 s.44(5); 1986 Sch.9 4

**M87** 1971 c. 61.

**M88** Source-1985 s.44(7); 1986 Sch.9 1(2); 1984 s.37(3)

**M89** Source-1986 Sch.9 8(5)

**M90** Source-1987 s.43(2)

## 299 Disposal of shares.

- (1) <sup>M91</sup>Where an individual disposes of any eligible shares before the end of the relevant period, then—
- (a) if the disposal is otherwise than by way of a bargain made at arm’s length, he shall not be entitled to any relief in respect of those shares; and
  - (b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.
- (2) <sup>M92</sup>Where after 18th March 1986 an option, the exercise of which would bind the grantor to purchase any shares, is granted to an individual during the relevant period, the individual shall not be entitled to any relief in respect of the shares to which the option relates.
- (3) <sup>M93</sup>Where an individual holds ordinary shares of any class in a company and the relief has been given (and not withdrawn) in respect of some shares of that class but not others, any disposal by him of ordinary shares of that class in the company, and any

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option of the kind mentioned in subsection (2) above, shall be treated for the purposes of this section as relating—

- (a) first, to those (if any) in respect of which relief has been given (and not withdrawn) under Chapter II of Part IV of the Finance Act 1981 rather than to others; and
  - (b) then, to those in respect of which relief has been given (and not withdrawn) under this Chapter (or Schedule 5 to the Finance Act 1983).
- (4)<sup>M94</sup> Where the relief has been given (and not withdrawn) to an individual in respect of shares of any class in a company which have been issued to him at different times, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.
- (5)<sup>M95</sup> Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in section [F97126(2)(a) of the 1992 Act] (not being an allotment for payment) fallen to be treated under section [F97127] of that Act as the same asset as a new holding—
- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares; and
  - (b) the new holding shall be treated for the purposes of subsection (3) above as shares in respect of which the relief has been given.
- (6)<sup>M96</sup> For the purposes of this section—
- (a) shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange; and
  - (b) references to a disposal of shares include references to the grant of an option (after 18th March 1986) the exercise of which would bind the grantor to sell the shares.

#### Textual Amendments

**F97** Words in s. 299(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(17)** (with ss. 60, 101(1), 171, 201(3)).

#### Modifications etc. (not altering text)

**C38** S. 299 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 150(4), 289** (with ss. 60, 101(1), 171, 201(3)).

#### Marginal Citations

**M91** Source-1983 Sch.5 7(1)  
**M92** Source-1983 Sch.5 7(1A); 1986 Sch.9 9(2), (6)  
**M93** Source-1983 Sch.5 7(2); 1983 (No.2) Sch.1 4(2); 1986 Sch.9 9(3)  
**M94** Source-1983 Sch.5 7(2A); 1983 (No.2) Sch.1 4(3); 1986 Sch.9 9(4)  
**M95** Source-1983 Sch.5 7(3); 1983 (No.2) Sch.1 4(4); 1981 s.57(4)  
**M96** Source-1983 Sch.5 7(4); 1983 (No.2) Sch.1 4(5); 1986 Sch.9 9(5)

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### [<sup>F98</sup>299A Loan linked investments.

- (1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—
- (a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and
  - (b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.
- (2) References in this section to the making by any person of a loan to any individual or an associate of his include references—
- (a) to the giving by that person of any credit to that individual or any associate of his; and
  - (b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;
- and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly.]

#### Textual Amendments

**F98** S. 299A inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by 1993 c. 34, s. 111(1)(4)

VALID FROM 31/07/1998

### [<sup>F99</sup>299B Pre-arranged exits.

- (1) An individual is not eligible for relief in respect of any shares in a company if the relevant arrangements include—
- (a) arrangements with a view to the subsequent repurchase, exchange or other disposal of those shares or of other shares in or securities of the same company;
  - (b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the company or a person connected with the company;
  - (c) arrangements for the disposal of, or of a substantial amount of, the assets of the company or of a person connected with the company;
  - (d) arrangements the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for persons investing in shares in that company against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in subsection (1)(a) above do not include any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 304A(1).



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- (3) The arrangements referred to in subsection (1)(b) and (c) above do not include any arrangements applicable only on the winding up of a company except in a case where—
- (a) the relevant arrangements include arrangements for the company to be wound up; or
  - (b) the company is wound up otherwise than for bona fide commercial reasons.
- (4) The arrangements referred to in subsection (1)(d) above do not include any arrangements which are confined to the provision—
- (a) for the company itself, or
  - (b) in the case of a company which is a parent company of a trading group, for the company itself, for the company itself and one or more of its subsidiaries or for one or more of its subsidiaries,
- of any such protection against the risks arising in the course of carrying on its business as it might reasonably be expected so to provide in normal commercial circumstances.
- (5) The reference in subsection (4) above to the parent company of a trading group shall be construed in accordance with the provision contained for the purposes of section 293 in that section.
- (6) In this section “the relevant arrangements” means—
- (a) the arrangements under which the shares are issued to the individual; and
  - (b) any arrangements made before the issue of the shares to him in relation to or in connection with that issue.
- (7) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.]

#### Textual Amendments

- F99** S. 299B inserted (with effect in accordance with s. 71(5) of the amending Act) by Finance Act 1998 (c. 36), s. 71(1)

### 300 Value received from company.

- (1)<sup>M97</sup> Subject to section 299, where an individual who subscribes for eligible shares in a company—
- (a) has, before the issue of the shares but within the relevant period, received any value from the company; or
  - (b) after their issue but before the end of the relevant period, receives any such value;
- the amount of the relief to which he is entitled in respect of the shares shall be reduced by the value received; but the value received shall be disregarded to the extent to which relief under Schedule 5 to the Finance Act 1983 or under this Chapter has been reduced on its account.
- (2)<sup>M98</sup> For the purposes of this section an individual receives value from the company if the company—

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- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
  - (b) repays any debt owed to the individual other than a debt which was incurred by the company—
    - (i) on or after the date on which he subscribed for the shares in respect of which the relief is claimed; and
    - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
  - (c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section 291(3)(a) or (e) or an ordinary trade debt) on its extinguishment;
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;
  - (e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares in respect of which relief is claimed;
  - (f) provides a benefit or facility for the individual;
  - (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or
  - (h) makes to him any other payment except a payment of the kind mentioned in section 291(3)(a), (b), (c), (d) or (e) or a payment in discharge of an ordinary trade debt.
- (3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 293(6).
- (4) The value received by an individual is—
- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question;
  - (b) in a case within paragraph (d) of that subsection, the amount of the liability;
  - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed;
  - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
  - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
  - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
  - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) <sup>M99</sup>For the purposes of this section an individual also receives value from the company if any person who would, for the purposes of section 291, be treated as connected with the company—

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- (a) purchases any of its share capital or securities which belong to the individual; or
  - (b) makes any payment to him for giving up any right in relation to any of the company's share capital or securities;
- and the value received by the individual is the amount receivable by the individual or, if greater, the market value of the shares or securities in question.

#### Marginal Citations

**M97** Source-1983 Sch.5 8(1); 1986 Sch.9 10(2)

**M98** Source-1983 Sch.5 8(2); 1981 s.58(2)-(4); 1986 Sch.9 10(3)

**M99** Source-1983 Sch.5 8(3); 1983 (No.2) Sch.1 5

VALID FROM 11/05/2001

#### **[<sup>F100</sup>300A] Receipt of replacement value**

(1) Where—

- (a) any relief attributable to any eligible shares comprised in an issue of shares subscribed for by an individual (“the individual”) would, in the absence of this section, be reduced or withdrawn under section 300 by reason of a receipt of value within subsection (2) or (5) of that section (“the original value”),
- (b) the original supplier receives value (“the replacement value”) from the original recipient by virtue of a qualifying receipt, and
- (c) the amount of the replacement value is not less than the amount of the original value,

the receipt of the original value shall be disregarded for the purposes of section 300.

This is subject to subsections (7) and (8) below.

(2) For the purposes of this section—

“the original recipient” means the person who receives the original value, and

“the original supplier” means the person from whom that value was received.

(3) Where the amount of the original value is, by virtue of subsection (1BA) of section 300, treated as reduced for the purposes of that section as it applies in relation to the eligible shares in question, the reference in subsection (1)(c) above to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.

(4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) above if it arises—

- (a) by reason of the original recipient doing one or more of the following—
  - (i) making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which subsection (5) below applies;
  - (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;

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- (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;
  - (b) where the receipt of the original value was within section 300(2)(d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or
  - (c) where the receipt of the original value was within section 300(5), by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.
- (5) This subsection applies to—
- (a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—
    - (i) the original supplier, or
    - (ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),
 which is reasonable in relation to the market value of those goods, services or facilities;
  - (b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);
  - (c) any payment for the acquisition of an asset which does not exceed its market value;
  - (d) any payment, as rent for any property occupied by—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),
 of an amount not exceeding a reasonable and commercial rent for the property;
  - (e) any payment in discharge of an ordinary trade debt; and
  - (f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii) above.
- (6) For the purposes of this section, the amount of the replacement value is—
- (a) in a case within paragraph (a) of subsection (4) above, the aggregate of—
    - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
    - (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,
  - (b) in a case within subsection (4)(b) above, the same as the amount of the original value, and

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- (c) in a case within subsection (4)(c) above, the amount or value of the consideration received by the original supplier, and section 300(4) and (5) shall apply for the purposes of determining the amount of the original value.
- (7) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of this section, as it applies in relation to the eligible shares, to the extent to which that receipt has previously been set (under this section) against any receipts of value which are, in consequence, disregarded for the purposes of section 300 as that section applies in relation to those shares or any other shares subscribed for by the individual.
- (8) The receipt of the replacement value by the original supplier (“the event”) shall be disregarded for the purposes of this section if—
- (a) the event occurs before the start of the period of restriction, or
  - (b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or
  - (c) where an appeal has been brought by the individual against an assessment to withdraw or reduce any relief attributable to the eligible shares by reason of the receipt of the original value, the event occurs more than 60 days after the amount of relief which falls to be withdrawn has been finally determined.
- But nothing in this section requires the replacement value to be received after the original value.
- (9) Subsection (10) below applies where—
- (a) the receipt of the replacement value by the original supplier is a qualifying receipt (for the purposes of subsection (1) above) in consequence of which any receipts of value are disregarded for the purposes of section 300 as that section applies in relation to the shares in question or any other shares subscribed for by the individual in question, and
  - (b) the event which gives rise to the receipt is (or includes) a subscription for shares by—
    - (i) the individual, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his, whether or not he is such an associate at the material time.
- (10) Where this subsection applies, the person who subscribes for the shares as mentioned in subsection (9)(b) above shall not—
- (a) be eligible for any relief under this Chapter in relation to those shares or any other shares in the same issue, or
  - (b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of Schedule 5B to the 1992 Act (enterprise investment scheme: reinvestment).
- (11) In this section—
- (a) any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit, and

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- (b) references to “the period of restriction” are to the period of restriction relating to the shares mentioned in subsection (1)(a) above.]

### Textual Amendments

**F100** S. 300A inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 16

## 301 Provisions supplementary to section 300.

- (1) <sup>M100</sup>Where by virtue of section 300 any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different times before 19th March 1986 the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.
- (2) <sup>M101</sup>Where relief to which an individual is entitled in respect of eligible shares issued after 18th March 1986 is reduced by virtue of section 300, effect shall be given to the reduction by apportioning it, as between any such eligible shares held by him, in such a way as appears to the inspector, or on an appeal to the Commissioners concerned, to be just and reasonable.
- (3) <sup>M102</sup>For the purposes of section 300(2)(d) a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (4) For the purposes of section 300(2)(e) there shall be treated as if it were a loan made by the company to the individual—
  - (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (5) In this section and section 300, “an ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where the credit given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (6) In this section and section 300—
  - (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
  - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.
- (7) <sup>M103</sup>Section 300 shall apply in relation to shares issued before 19th March 1986 with the omission—
  - (a) in subsection (2)(e) of the words “which has not been repaid in full before the issue of the shares in respect of which relief is claimed”; and
  - (b) in subsection (4)(c) of the words “reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed”.

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### Marginal Citations

**M100** Source-1983 Sch.5 8(2); 1981 s.58(5)

**M101** Source-1983 Sch.5 8(4); 1986 Sch.9 10(4)

**M102** Source-1981 s.58(6)-(9); 1983 Sch.5 8(2); 1986 Sch.9 10(3); 1987 Sch.15 14(2)

**M103** Source-1985 Sch.9 1(2), 10(3)

VALID FROM 11/05/2001

### [<sup>F101</sup>301A] Receipts of insignificant value: supplementary provision

- (1) In this section and section 300 references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to subsection (3) below.

- (2) For the purposes of this section and section 300 “an amount of insignificant value” means an amount of value which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the individual in question for the eligible shares in question.

- (3) For the purposes of section 300, if, at any time in the period—
- (a) beginning one year before the eligible shares in question are issued, and
  - (b) expiring at the end of the issue date,
- arrangements are in existence which provide for the individual in question to receive or to be entitled to receive, at any time in the period of restriction relating to those shares, any value from the company that issued those shares, no amount of value received by the individual shall be treated as a receipt of insignificant value.

- (4) For the purposes of this section—
- (a) references to the individual include references to any person who, at any time in the period of restriction relating to the shares in question, is an associate of his (whether or not he is such an associate at the material time), and
  - (b) the reference in subsection (3) above to the company includes a reference to any person who, at any time in the period of restriction relating to the shares in question, is connected with the company (whether or not that person is so connected at the material time).

- (5) For the purposes of this section, an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.]

### Textual Amendments

**F101** S. 301A inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 18



**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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### 302 Replacement capital.

- <sup>M104</sup>(1) An individual is not entitled to relief in respect of any shares in a company where—
- (a) at any time in the relevant period, the company or any of its subsidiaries—
    - (i) begins to carry on as its trade or as part of its trade a trade which was previously carried on at any time in that period otherwise than by the company or any of its subsidiaries; or
    - (ii) acquires the whole, or greater part, of the assets used for the purposes of a trade previously so carried on; and
  - (b) subsection (2) below applies in relation to that individual.
- (2) This subsection applies in relation to an individual where—
- (a) any person or group of persons to whom an interest amounting in the aggregate to more than a half share in the trade (as previously carried on) belonged, at any time in the relevant period, is or are a person or group of persons to whom such an interest in the trade carried on by the company belongs or has, at any such time, belonged; or
  - (b) any person or group of persons who control or, at any such time, have controlled the company is or are a person or group of persons who, at any such time, controlled another company which previously carried on the trade; and the individual is that person or one of those persons.
- (3) An individual is not entitled to relief in respect of any shares in a company where—
- (a) the company comes to acquire all of the issued share capital of another company, at any time in the relevant period; and
  - (b) any person or group of persons who control or have, at any such time, controlled the company is or are a person or group of persons who, at any such time, controlled that other company; and that individual is that person or one of those persons.
- (4) For the purposes of subsection (2) above—
- (a) the persons to whom a trade belongs and, where a trade belongs to two or more persons, their respective shares in that trade shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
  - (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.
- (5) In this section—
- “subsidiary” means a subsidiary of a kind which a qualifying company may have by virtue of sections 308 and 309; and
- “trade” includes any business, profession or vocation, and references to a trade previously carried on include references to part of such a trade.

#### Modifications etc. (not altering text)

**C39** See 1988(F) s.50 and Sch.4 para.9(1), (2) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

**C40** See 1988(F) s.50 and Sch.4 para.9(3) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

**C41** Definition of “trade”

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*omitted by 1988(F) Sch.4 para.9(4) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

### **Marginal Citations**

**M104** Source-1983 Sch.5 9; 1983 (No.2) Sch.1 6

## **303 Value received by persons other than claimants.**

- (1) <sup>M105</sup>The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (2) below if at any time in the relevant period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—
  - (a) that individual; or
  - (b) another individual whose relief is thereby withdrawn or reduced by virtue of section 299 or reduced by virtue of section 300(2)(a);
 or makes any payment to any such member for giving up his right to any of the company's share capital on its cancellation or extinguishment.
- (2) <sup>M106</sup>Where subsection (1) above applies, the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question; and where, apart from this subsection, two or more individuals would be entitled to relief the reduction shall be made in proportion to the amounts of relief to which they would, apart from this subsection, have been entitled.
- (3) Where at any time in the relevant period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of section 291(4) in its application to any subsequent time—
  - (a) the amount of the company's issued ordinary share capital; and
  - (b) the amount of the part of that capital which consists of the shares which (within the meaning of section 291) the individual directly or indirectly possesses or is entitled to acquire, and the amount of the part consisting of the remainder, shall each be treated as reduced in accordance with subsection (4) below.
- (4) The amount of each of the parts mentioned in subsection (3)(b) above shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed; and the amount of the issued share capital shall be treated as equal to the sum of the amounts treated under this subsection as the amount of those parts respectively.
- (5) In subsection (4) above "the relevant value", in relation to each of the parts there mentioned, means the value received by the member or members entitled to the shares of which that part consists.
- (6) For the purposes of subsection (3) above a member of a company receives or is entitled to receive value from the company in any case in which an individual would receive value from the company by virtue of section 300(2)(d), (e), (f), (g) or (h) (but treating as excepted from paragraph (h) all payments made for full consideration) and the value received shall be determined as for the purposes of that section.
- (7) For the purposes of subsection (6) above a person shall be treated as entitled to receive anything which he is entitled to receive at a future date or will at a future date be entitled to receive.

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(8) <sup>M107</sup>Subsection (1) above does not apply in relation to the redemption of any share capital for which the redemption date was fixed before 15th March 1983.

(9) Where—

(a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the <sup>M108</sup>Companies Act 1985) for the purposes of complying with the requirements of section 117 of that Act (public company not to do business unless requirements as to share capital complied with); and

(b) after the registrar of companies has issued the company with a certificate under section 117, it issues eligible shares;

subsection (1) above shall not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.

In relation to companies incorporated under the law of Northern Ireland references in this subsection to the Companies Act 1985 and to section 117 of that Act shall have effect as references to the <sup>M109</sup>Companies (Northern Ireland) Order 1986 and to Article 127 of that Order.

(10) <sup>M110</sup>Where relief to which an individual is entitled in respect of eligible shares issued after 18th March 1986 is reduced by virtue of this section, effect shall be given to the reduction by apportioning it as between any such eligible shares held by him in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable.

(11) <sup>M111</sup>In relation to shares issued before 19th March 1986, subsection (1)(b) above shall have effect with the omission of the words “withdrawn or reduced by virtue of section 299 or”.

#### Marginal Citations

**M105** Source-1983 Sch.5 10(1); 1986 Sch.9 11(2)

**M106** Source-1981 s.59(3)-(8); 1983 Sch.5 10(2)

**M107** Source-1983 Sch.5 10(3), (4); 1987 Sch.15 15(1)

**M108** 1985 c. 6.

**M109** S.I. 1986/1032 (N.I. 6)

**M110** Source-1983 Sch.5 10(5A); 1986 Sch.9 11(3)

**M111** Source-1986 Sch.9 1(2)

VALID FROM 11/05/2001

#### <sup>F102</sup>303A Significant repayments disregarded for purposes of s.303(1)

(1) Any repayment shall be disregarded for the purposes of section 303(1) (repayments etc. which cause withdrawal or reduction of relief) if whichever is the greater of—

(a) the market value of the shares to which it relates (“the target shares”) immediately before the event occurs, and

(b) the amount received by the member in question,

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is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to subsection (4) below.

- (2) For the purposes of this section “repayment” means a repayment, redemption, repurchase or payment mentioned in section 303(1) (repayments etc. which cause withdrawal or reduction of relief).
- (3) For the purposes of subsection (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.
- (4) Where an individual subscribes for eligible shares in a company, subsection (1) above does not apply to prevent section 303(1) having effect in relation to those shares if, at a relevant time, arrangements are in existence that provide—
  - (a) for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or
  - (b) for anyone to be entitled to such a repayment,
 at any time in the period of restriction relating to those shares.
- (5) For the purposes of subsection (4) above “a relevant time” means any time in the period—
  - (a) beginning one year before the eligible shares were issued, and
  - (b) expiring at the end of the issue date.]

#### Textual Amendments

**F102** S. 303AA inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 20

VALID FROM 28/07/2000

#### **[<sup>F103</sup>303A] Restriction on withdrawal of relief under section 303.**

- (1) Subsections (4) and (7) below apply where, by reason of a repayment, any investment relief which is attributable under Schedule 15 to the Finance Act 2000 to any shares is withdrawn under paragraph 56(2) of that Schedule.
- (2) For the purposes of this section “repayment” means a repayment, redemption, repurchase or payment mentioned in paragraph 56(1) of that Schedule (repayments etc. which cause withdrawal of investment relief).
- (3) For the purposes of this section “the relevant amount” is the amount determined by the formula—

$$X - 5Y$$

Where—

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X is the amount of the repayment, and

Y is the aggregate amount of investment relief withdrawn by reason of the repayment.

- (4) Where the relevant amount does not exceed £1,000 the repayment shall be disregarded for the purposes of section 303(1), unless repayment arrangements are in existence at any time in the period—
- (a) beginning one year before the shares mentioned in subsection (1) above are issued, and
  - (b) expiring at the end of the issue date of those shares.
- (5) For this purpose “repayment arrangements” means arrangements which provide—
- (a) for a repayment by the company that issued the shares (“the issuing company”) or any subsidiary of that company, or
  - (b) for anyone to be entitled to such a repayment, at any time.
- (6) Subsection (5)(a) above applies in relation to a subsidiary of the issuing company whether or not it is such a subsidiary—
- (a) at the time of the repayment mentioned in subsection (1) above, or
  - (b) when the arrangements were made.
- (7) Where the repayment is not disregarded by virtue of subsection (4) above, the amount receivable by reason of the repayment shall be treated for the purposes of section 303(1C)(a) as an amount equal to the relevant amount.
- (8) Where, but for the existence of paragraph 57(1) of Schedule 15 to the Finance Act 2000 (repayments causing insignificant changes to share capital to be disregarded), any investment relief would be withdrawn by reason of a repayment, the repayment shall be disregarded for the purposes of section 303(1).
- (9) In this section—
- (a) “investment relief” has the same meaning as in that Schedule; and
  - (b) references to the withdrawal of investment relief include its reduction.]

#### Textual Amendments

**F103** S. 303A inserted (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000](#) (c. 17), [Sch. 16 para. 2\(3\)](#)

### 304 Husband and wife.

- (1) <sup>M112</sup>In the case of any amount subscribed by a married woman for eligible shares issued to her at a time—
- (a) when she is living with her husband; and
  - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,
- the deduction under section 289(5) shall, subject to Chapter II of this Part and subsections (2) to (5) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.

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- (2) <sup>M113</sup>The limits in section 290 shall apply jointly to a husband and wife as respects amounts subscribed for shares at a time—
- (a) when they are married and living together; and
  - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;
- but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.
- (3) Where an application under section 283(1) or an election under section 287(1) is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 290(2) requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.
- (4) Subsections (2) and (3) above shall apply in relation to the limit of £5,000 imposed by section 289(7) as it applies in relation to the limit of £40,000 imposed by section 290(2); and for this purpose the reference in subsection (3) above to a division in proportion to the amounts subscribed by the husband and wife shall be construed as a reference to a division in proportion to the aggregate amounts of the relevant deductions sought by each of them in their claims under section 289(6) <sup>F104</sup>.
- [<sup>F105</sup>(5) Subsection (1) of section 299 shall not apply to a disposal made by a married man to his wife or a married woman to her husband at a time when they are living together; but where shares issued to one of them have been transferred to the other by a transaction inter vivos that subsection shall apply on the disposal of the shares by the transferee to a third person and any assessment for withdrawing relief in respect of the shares shall be made on the transferee.
- (6) If any relief given for the year 1989-90 or any earlier year of assessment in respect of shares for which a married man or married woman has subscribed and which were issued while they were living together falls to be withdrawn in the year 1990-91 or any subsequent year of assessment by virtue of a disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that relief under section 280 or of any allocation of the reduction under section 284 for the year of assessment for which the relief was given.]

#### Textual Amendments

**F104** Repealed by 1988(F) ss.35 and 148 and Sch.3 para.12(1) and Sch.14 Part VIII for 1990-91 and subsequent years.

**F105** 1988(F) s.35 and Sch.3 para.12 for 1990-91 and subsequent years. Previously

“(5) Subsection (1) of section 299 shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction inter vivos—(a) that subsection shall apply on the disposal of the shares by the transferee to a third person; and (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not

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been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee. (6) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that relief under section 280 or of any allocation of the reduction under section 284.”

### Marginal Citations

**M112** Source-1983 Sch.5 12(1)

**M113** Source-1981 s.60(4)-(7); 1983 Sch.5 12(2), (3); 1987 s.42(4)

VALID FROM 31/07/1998

### <sup>F106</sup>304A Acquisition of share capital by new company.

- (1) This section applies where—
  - (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
  - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
  - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
  - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
  - (e) at some time before the issue of the new shares—
    - (i) the old company issued eligible shares; and
    - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 and in accordance with that section; and
  - (f) before the issue of the new shares, the Board have, on the application of the new company or the old company, notified that company that the Board are satisfied that the exchange of shares—
    - (i) will be effected for bona fide commercial reasons; and
    - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.
- (2) For the purposes of this Chapter—
  - (a) the exchange of shares shall not be regarded as involving any disposal of the old shares or any acquisition of the new shares; and
  - (b) any relief under this Chapter which is attributable to any old shares shall be attributable instead to the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were subscribed for by and issued to the individual, this Chapter shall have effect as if—



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- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
  - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
  - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which his liability was so reduced in respect of the old shares.
- (4) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were transferred to the individual as mentioned in section 304, this Chapter shall have effect in relation to any subsequent disposal or other event as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for;
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
  - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which the liability of the individual who subscribed for the old shares was so reduced in respect of those shares.
- (5) Where relief becomes so attributable to any new shares—
- (a) this Chapter shall have effect as if anything which, under section 306(2), 307(1A) or 310, has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company; and
  - (b) any appeal brought by the old company against a notice under section 307(1A)(b) may be prosecuted by the new company as if it had been brought by that company.
- (6) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in subsection (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
- (7) Nothing in section 293(8) shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1) above or arrangements with a view to such an exchange.
- (8) Subsection (2) of section 138 of the 1992 Act shall apply for the purposes of subsection (1)(f) above as it applies for the purposes of subsection (1) of that section.]

#### Textual Amendments

**F106** S. 304A inserted (with effect in accordance with s. 74(3), [Sch. 13 para. 17\(2\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 17\(1\)](#); and see also the s. 304A inserted (with effect in

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accordance with s. 74(3), Sch. 13 para. 41(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 13 paras. 37, 41(1)

### 305 Reorganisation of share capital.

<sup>M114</sup>(1) Where shares in respect of which relief has been given and not withdrawn have by virtue of any such allotment, otherwise than for payment, as is mentioned in section [F<sup>107</sup>126(2)(a) of the 1992 Act] fallen to be treated under section [F<sup>107</sup>127] of that Act as the same asset as a new holding—

- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this Part as a disposal of the whole or a corresponding part of those shares; and
- (b) the new holding shall be treated for the purposes of section 299(3) as shares in respect of which relief has been given and not withdrawn.

(2) Where—

- (a) there is, by virtue of any such allotment for payment as is mentioned in section 77(2)(a) of the 1979 Act, a reorganisation affecting ordinary shares in respect of which relief has been given; and
- (b) immediately before the reorganisation the relief had not been withdrawn; and
- (c) the amount of relief (or, where the relief has been reduced, the amount remaining) and the market value of the shares immediately before the reorganisation, exceeds their market value immediately after the reorganisation;

the relief shall be reduced by an amount equal to whichever is the smaller of those excesses.

(3) Subsection (2) above shall also apply where—

- (a) an individual who has received, or become entitled to receive, in respect of any ordinary shares in a company, a provisional allotment of shares in or debentures of the company disposes of his rights; and
- (b) subsection (2) above would have applied (apart from this subsection) had those rights not been disposed of but an allotment of shares or debentures made to him.

(4) This section has effect in relation to reorganisations occurring after 18th March 1986.

#### Textual Amendments

**F107** Words in s. 305(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 14(17) (with ss. 60, 101(1), 171, 201(3)).

#### Marginal Citations

**M114** Source-1983 Sch.5 16A(1), (3), (4); 1986 Sch.9 17(1), (2)

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VALID FROM 03/05/1994

**[<sup>F108</sup>305A] Relief for loss on disposal of shares.**

- (1) Section 574 shall apply on the disposal by an individual of shares to which relief is attributable as it applies to a disposal by him of shares in a qualifying trading company for which he has subscribed (“qualifying trading company” and “subscribed” having for this purpose the same meaning as in that section).
- (2) For the purposes of that section (as applied by this) sections 575(1) and (3) and 576(2) and (3) shall apply]

**Textual Amendments**

**F108** S. 305A inserted (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), Sch. 15 para. 20

**306 Claims.**

- <sup>M115</sup>(1) A claim for relief in respect of eligible shares issued by a company in any year of assessment shall be made—
- (a) not earlier than the end of the period of four months mentioned in section 289(8)(a), (b) or (c), as the case may be; and
  - (b) not later than two years after the end of that year of assessment or, if that period of four months ended after the end of that year, not later than two years after the end of that period.
- (2) A claim for relief in respect of eligible shares in a company shall not be allowed unless it is accompanied by a certificate issued by the company in such form as the Board may direct and certifying that the conditions for the relief, so far as applying to the company and the trade, are satisfied in relation to those shares.
- (3) Before issuing a certificate for the purposes of subsection (2) above a company shall furnish the inspector with a statement to the effect that it satisfies the conditions for the relief, so far as they apply in relation to the company and the trade, and has done so at all times since the beginning of the relevant period.
- (4) No such certificate shall be issued without the authority of the inspector or where the company, or a person connected with the company, has given notice to the inspector under section 310(2).
- (5) Any statement under subsection (3) above shall contain such information as the Board may reasonably require, shall be in such form as the Board may direct and shall contain a declaration that it is correct to the best of the company’s knowledge and belief.
- (6) Where a company has issued a certificate for the purposes of subsection (2) above, or furnished a statement under subsection (3) above and—
- (a) the certificate or statement is made fraudulently or negligently; or
  - (b) the certificate was issued in contravention of subsection (4) above;
- the company shall be liable to a penalty not exceeding [<sup>F109</sup>£3,000].

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- (7) For the purposes of regulations made under section 203 no regard shall be had to the relief unless a claim for it has been duly made and admitted.
- (8) No application shall be made under section 55(3) or (4) of the Management Act (application for postponement of payment of tax pending appeal) on the ground that the applicant is entitled to the relief unless a claim for the relief has been duly made by him.
- (9) For the purposes of section 86 of the Management Act (interest on overdue tax), tax charged by an assessment—
- (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
  - (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;
- and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.
- (10) <sup>M116</sup>For the purposes of the provisions of the Management Act relating to appeals against decisions on claims, the refusal of the inspector to authorise the issue of a certificate under subsection (2) above shall be taken to be a decision refusing a claim made by the company.

This subsection shall not apply in relation to shares issued before 19th March 1986.

#### Textual Amendments

**F109** 1989 s.170(3) *in relation to things done or omitted on or after 27 July 1989. Previously* “£250 or, in the case of fraud, £500.”.

#### Modifications etc. (not altering text)

- C42** S. 306(1)(b) modified for the year of assessment 1988-89 by S.I. 1991/851, reg. 9, Sch.2.  
S. 306(1)(b) modified (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, reg. 9, Sch.2.  
S. 306(1)(b) applied (with modifications) for the year of assessment 1990-91 by S.I. 1993/415, regs. 1(1), 9, Sch.2
- C43** See 1988(F) s.50 and Sch.4 para.10 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

#### Marginal Citations

- M115** Source-1983 Sch.5 13(1)-(9); 1981 s.61(6)  
**M116** Source-1983 Sch.5 13(10); 1986 Sch.9 1(2), 13

### 307 Withdrawal of relief.

- (1) <sup>M117</sup>Where any relief has been given which is subsequently found not to have been due, it shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given; but where by virtue of section 289(6) relief has been given for each of two consecutive years of assessment, any withdrawal of relief shall be made for the first of those years before being made for the second.

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- (2) <sup>M118</sup>Subject to subsections (3) to (7) below, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within six years after the end of the year of assessment in which that event occurs.
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 299(1)(b) applies, disposed of all the ordinary shares issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 291.
- (5) Subsection (2) above is without prejudice to section 36 of the Management Act (<sup>F110</sup>fraudulent or negligent conduct).
- (6) In its application to an assessment made by virtue of this section, section 86 of the Management Act (interest on overdue tax) shall have effect as if the reckonable date were—
  - (a) <sup>M119</sup>in the case of relief withdrawn by virtue of section 289(11)—
    - (i) so far as effect has been given to the relief in accordance with regulations under section 203, 5th April in the year of assessment in which effect was so given;
    - (ii) so far as effect has not been so given, the date on which the relief was granted.
  - (b) <sup>M120</sup>in the case of relief withdrawn by virtue of section 291, 293, 297, 302, 303(1) or 305 in consequence of any event after the grant of the relief, the date of that event;
  - (c) in the case of relief withdrawn by virtue of section 299(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
  - <sup>F111</sup>(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;
  - (d) in the case of relief withdrawn by virtue of section 300 in consequence of a receipt of value after the grant of the relief, the date of the receipt.
- (7) <sup>M121</sup>For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.
- (8) <sup>M122</sup>Where a company has ceased to be a qualifying company in consequence of the operation of section 294, subsection (6) above shall apply as if the relief was withdrawn in consequence of an event which occurred at the time when the company so ceased to be a qualifying company.
- (9) Subsections (1) to (7) above apply in relation to relief under Chapter II of Part IV of the Finance Act 1981 as they apply in relation to relief under this Chapter (or Schedule 5 to the Finance Act 1983) but—
  - (a) with the substitution for references to sections 299 (in both places), 291, 289(11), 293, 297, 302, 303(1), 305 and 300 of this Act of references respectively to sections 57, 54, 59(1), 53(7), 54, 55, 56, 59(2) and 58 of the Finance Act 1981; and

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- (b) with the omission of subsection (6)(a)(i).

#### Textual Amendments

**F110** 1989 s.149(4)(b) *but does not affect the making of assessments for years before 1983-84 or for accounting periods ending before 1 April 1983. Previously*  
“fraud and wilful default) and section 37 of that Act (neglect.”.

**F111** **S. 307(6)(ca)** inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by **1993 c. 34, s. 111(3)(4)**

#### Marginal Citations

**M117** Source-1983 Sch.5 14(1), (1A); 1987 s.42(5)

**M118** Source-1981 s.62(2)-(5); 1983 Sch.5 14(2)

**M119** Source-1981 s.62(6)(d); 1983 Sch.5 14(2)

**M120** Source-1981 s.62(6)(a)-(c); 1983 Sch.5 14(2); 1983 Sch.1 8; 1986 Sch.9 14

**M121** Source-1981 s.62(7)

**M122** Source-1983 Sch.5 5A(10); 1986 Sch.9 7

### 308 Application to subsidiaries.

- <sup>M123</sup>(1) A qualifying company may, in the relevant period, have one or more subsidiaries if—
- (a) the conditions mentioned in subsection (2) below are satisfied in respect of the subsidiary or, as the case may be, each subsidiary and, except as provided by subsection (3) below, continue to be so satisfied until the end of the relevant period; and
  - (b) the subsidiary or, as the case may be, each subsidiary exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades or is a property managing, or dormant, subsidiary;
- (2) The conditions referred to are—
- (a) that the qualifying company, or another of its subsidiaries, possesses not less than 90 per cent. of the issued share capital of, and not less than 90 per cent. of the voting power in, the subsidiary;
  - (b) that the qualifying company, or another of its subsidiaries, would in the event of a winding up of the subsidiary or in any other circumstances be beneficially entitled to receive not less than 90 per cent. of the assets of the subsidiary which would then be available for distribution to the equity holders of the subsidiary;
  - (c) that the qualifying company or another of its subsidiaries is beneficially entitled to not less than 90 per cent. of any profits of the subsidiary which are available for distribution to the equity holders of the subsidiary;
  - (d) that no person other than the qualifying company or another of its subsidiaries has control of the subsidiary within the meaning of section 840; and
  - (e) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) to (d) above could cease to be satisfied.
- (3) The conditions shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up, or dissolved without winding up, if—

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- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; and
  - (b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (4) The conditions shall not be regarded as ceasing to be satisfied by reason only of the disposal by the qualifying company or (as the case may be) by another subsidiary, within the relevant period, of all its interest in the subsidiary if it is shown that the disposal is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (5) For the purposes of this section—
- (a) a subsidiary of a qualifying company is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding and managing property used by the qualifying company, or by any of its subsidiaries, for the purposes of—
    - (i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its subsidiaries will be derived; or
    - (ii) one or more qualifying trades so carried on;
  - (b) a subsidiary is a dormant subsidiary if it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments; and
  - (c) the persons who are equity holders of a subsidiary and the percentage of the assets of a subsidiary to which an equity holder would be entitled shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.
- (6) <sup>M124</sup>In relation to shares issued before 19th March 1986 this section shall have effect subject to the following modifications—
- (a) the following paragraph shall be substituted for subsection (1)(b)—
    - “(b) the subsidiary or each subsidiary was incorporated in the United Kingdom and is a company falling within section 293(2)(a).”;
  - (b) the following subsection shall be substituted for subsection (2)—
    - “(2) The conditions referred to in subsection (1)(a) above are—
      - (a) that the qualifying company possesses all the issued share capital of, and all the voting power in, the subsidiary; and
      - (b) that no other person has control of the subsidiary within the meaning of section 840; and
      - (c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) above could cease to be satisfied.”; and
  - (c) subsections (4) and (5) shall be omitted.



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#### Modifications etc. (not altering text)

**C44** See 1988(F) s.50 and Sch.4 para.11 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

#### Marginal Citations

**M123** Source-1983 Sch.5 17(1)-(10); 1986 Sch.9 18; 1987 Sch.15 15(2)

**M124** Source-1981 s.65; 1983 Sch.5 17(1)(b); 1986 Sch.9 1(2);

### 309 Further provisions as to subsidiaries.

- (1) <sup>M125</sup>Where a qualifying company has one or more subsidiaries in the relevant period, this Chapter shall have effect subject to subsections (2) to (8) below.
- (2) <sup>M126</sup>The shares issued by the qualifying company may, instead of or as well as being issued for the purpose mentioned in subsection (1)(a) of section 289, be issued for the purpose of raising money for a qualifying trade which is being carried on by a subsidiary or which a subsidiary intends to carry on; and, where shares are so issued, subsections (8), (9), 12(b)(ii) and (13) of that section shall have effect as if references to the company were or, as the case may be, included references to the subsidiary.
- (3) In relation to a qualifying trade carried on by a subsidiary the reference in section 297(2)(g) to another person shall not include a reference to the company of which it is a subsidiary.
- (4) In section 303(1) references to the company (except the first) shall include references to a company which during the relevant period is a subsidiary of the company whether it becomes a subsidiary before or after the redemption, repayment, repurchase or payment referred to in that subsection.
- (5) <sup>M127</sup>In subsections (2), (4) and (6) of section 291, references to the company (except, in each subsection, the first such reference) include references to a company which is during the relevant period a subsidiary of that company—
  - (a) whether it becomes a subsidiary before, during or after the year of assessment in respect of which the individual concerned claims relief; or
  - (b) whether or not it is such a subsidiary while he is such an employee, partner or director as is mentioned in subsection (2) or while he has or is entitled to acquire such capital or voting power or rights as are mentioned in subsections (4) and (6).
- (6) Without prejudice to the provisions of section 291 (as it has effect in accordance with subsection (5) above), an individual shall be treated as connected with a company if—
  - (a) he has at any time in the relevant period had control (within the meaning of section 840) of another company which has since that time and before the end of the relevant period become a subsidiary of the company; or
  - (b) he directly or indirectly possesses or is entitled to acquire any loan capital of a subsidiary of that company.
- (7) Section 291(5) and (8) shall apply for the purposes of this section.
- (8) <sup>M128</sup>In sections 300(1) and 303(3) references to the receipt of value from the company shall include references to the receipt of value from any company which during the relevant period is a subsidiary of that company, whether it becomes a subsidiary before

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or after the individual concerned receives any value from it, and other references to the company in sections 300 and 301 and in section 303(6) shall be construed accordingly.

**Modifications etc. (not altering text)**

**C45** See 1988(F) s.50 and Sch.4 para.12 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

**Marginal Citations**

**M125** Source-1983 Sch.5 17(2)

**M126** Source-1983 Sch.5 18(1)-(3); 1983 (No.2) Sch.1 9

**M127** Source-1981 Sch.12 2; 1982 s.52(2); 1983 Sch.5 18(5)

**M128** Source-1981 Sch.12 4; 1982 s.52(3); 1983 Sch.5 18(5)

**310 Information.**

- (1) <sup>M129</sup>Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of sections 291, 299, [<sup>F112</sup>299A,] 300 or 304(2) to (6), the individual shall within 60 days of his coming to know of the event give a notice to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 289(11), 293, 297, 300, 302 or 303—
  - (a) the company; and
  - (b) any person connected with the company who has knowledge of that matter;
 shall within 60 days of the event or, in the case of a person within paragraph (b) above, of his coming to know of it, give a notice to the inspector containing particulars of the event or payment.
- (3) <sup>M130</sup>Where—
  - (a) a company has issued a certificate under section 306(2) in respect of any eligible shares in the company; and
  - (b) it appears to the company, or to any person connected with the company who has knowledge of the matter, that section 294 may have effect to deny relief in respect of those shares;
 the company or (as the case may be) that person or (where it so appears to each of them) both the company and that person shall give notice to the inspector setting out the particulars of the case.
- (4) <sup>M131</sup>If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1) or (2) above in respect of any event, or under subsection (3) above in respect of any particular case, the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event or case as the inspector may reasonably require for the purposes of this Chapter.
- (5) <sup>M132</sup>Where relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 289(11), 291(10), 293(8) or 308(2)(e), he may by notice require any person concerned to furnish him within such time (not being less than 60 days) as may be specified in the notice with—

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- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;
  - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (6) References in subsection (5) above to the person concerned are references, in relation to sections 289(11), 291(10) and 308(2)(e), to the claimant and, in relation to sections 289(11), 293(8) and 308(2)(e), to the company and any person controlling the company.
- (7) <sup>M133</sup>Where relief has been given in respect of shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of sections 300, 301 and 303(3); and
  - (b) any person on whose behalf such a payment or asset is received, shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.
- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.
- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.
- (10) <sup>M134</sup>This section shall have effect in relation to relief under Chapter II of Part IV of the Finance Act 1981 as it has effect in relation to relief under this Chapter but with the substitution—
- (a) in subsection (1) for “291, 299, [<sup>F112</sup>299A,] 300 or 304(2) to (6)” of “ 54, 57, 58 and 60(6) of the Finance Act 1981 ”;
  - (b) for subsection (3) of the following subsection—
    - “(3) Where the company is notified by the inspector that relief has been given in respect of any shares issued by the company on a specified date, then, if any shares in the company (whether or not shares in respect of which relief has been given) are transferred at any time in the period of five years beginning with that date, the company shall within 60 days of—
      - (a) coming to know of the transfer; or
      - (b) receiving the notification from the inspector,
 whichever is the later, give a notice to the inspector containing particulars of the transfer.”;
  - (c) in subsection (5) for references to sections 289(11), 291(10), 293(8) and 308(2)(e) of references to sections 54(9), 55(8) and 59(1) of the 1981 Act;
  - (d) in subsection (6) for “289(11), 293(10) and 308(2)(e)” and “289(11), 293(8) and 308(2)(e)” of “ 54(9) and 59(1) of the Finance Act 1981 ” and “ 55(8) and 59(1) of that Act ”, respectively;

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- (e) in subsection (7) for “300, 301 or 303(3)” of “ 58 or 59(4) of the Finance Act 1981 ”.
- (11) In any case where this section has effect in accordance with subsection (10) above and the qualifying company has one or more subsidiaries—
- (a) subsection (3) above shall, where the inspector has notified the subsidiary that relief has been given in respect of shares in the company of which it is a subsidiary, apply to the subsidiary as respects any transfer of its shares as it applies to the company as respects any transfer of shares in the company; and
  - (b) subsections (5) and (6) above shall have effect in relation to any such arrangements as are mentioned in paragraph (c) of subsection (2) of section 308 (as that subsection has effect by virtue of subsection (6) of that section) as they have effect in relation to any such arrangement as is mentioned in section 289(11).

#### Textual Amendments

**F112** Words in s. 310(1)(10)(a) inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by 1993 c. 34, s. 111(2)(4)

#### Marginal Citations

**M129** Source-1983 Sch.5 15(1), (2)  
**M130** Source-1983 Sch.5 15A(1); 1986 Sch.9 15  
**M131** Source-1983 Sch.5 15(3), 15A(2); 1986 Sch.9 15  
**M132** Source-1983 Sch.5 15(4), (5), 18(4); 1986 Sch.9 19(2)  
**M133** Source-1981 s.63(7)-(9); 1983 Sch.5 15(6)  
**M134** Source-1983 s.26(2); 1981 Sch.12 6, 7

### 311 Nominees, bare trustees and approved investment funds.

- (1) <sup>M135</sup>Shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.
  - (2) <sup>M136</sup>Where eligible shares issued after 18th March 1986 are held on a bare trust for two or more beneficiaries, this Chapter shall have effect (with the necessary modifications) as if—
    - (a) each beneficiary had subscribed as an individual for all of those shares; and
    - (b) the amount subscribed by each beneficiary was equal to the total amount subscribed on the issue of those shares divided by the number of beneficiaries.
- [<sup>F113</sup>(2A) Subsection (2B) below applies where an individual claims relief in respect of eligible shares in a company and—
- (a) the shares have been issued to the managers of an approved fund as nominee for the individual;
  - (b) the fund has closed, that is to say, no further investments in the fund are to be accepted; and
  - (c) the amounts which the managers have, as nominee for the individual, subscribed for eligible shares issued within six months after the closing of the fund represent not less than 90 per cent. of his investment in the fund;

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and in this section “the managers of an approved fund” means the person or persons having the management of an investment fund approved for the purposes of this section by the Board.

(2B) In any case where this subsection applies, subsections (5) to (7) of section 289 and subsections (1) to (3) and (6) of section 304 shall have effect as if—

- (a) any reference to the year of assessment or other period in which the shares are issued were a reference to the year of assessment or other period in which the fund closes; and
- (b) any reference to the time of the issue of the shares, or the time of the subscription for the shares, were a reference to the time of the closing of the fund.

(3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the managers of an approved fund.]

(4) Where an individual claims relief in respect of eligible shares in a company which have been issued to the managers of an approved fund as nominee for that individual, section 306(2) shall apply as if it required—

- (a) the certificate referred to in that section to be issued by the company to the managers;
- (b) the claim for relief to be accompanied by a certificate issued by the managers, in such form as the Board may authorise, certifying that the managers hold certificates issued to them by the companies concerned, for the purposes of sections 306(2), in respect of the holdings of eligible shares shown on the managers’ certificate.

(5) The managers of an approved fund may be required by a notice given to them by an inspector or other officer of the Board to deliver to the officer, within the time limited by the notice, a return of the holdings of eligible shares shown on certificates issued by them in accordance with subsection (4) above in the year of assessment to which the return relates.

(6) Section 306(6) shall not apply in relation to any certificate issued by the managers of an approved fund for the purposes of subsection (4) above.

#### Textual Amendments

**F113** 1988(F) s.53 in respect of funds closing after 15 March 1988.

#### Marginal Citations

**M135** Source-1983 Sch.5 19(1)

**M136** Source-1983 Sch.5 19A; 1986 Sch.9 20

## 312 Interpretation of Chapter III.

(1) <sup>M137</sup>In this Chapter—

“associate” has the meaning given in subsections (3) and (4) of section 417 except that in those subsections “relative” shall not include a brother or sister;

“appraisal licence” means an appraisal licence incorporating the model clauses set out in Schedule 4 to the 1984 Regulations or a Northern Ireland

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licence granted for the five year renewal term and includes in either case any modified appraisal licence;

“control”, except in sections 291(7), 308(2) and 309(6)(a), shall be construed in accordance with section 416(2) to (6);

“debenture” has the meaning given by section 744 of the <sup>M138</sup>Companies Act 1985;

“development licence” means a development licence incorporating the model clauses set out in Schedule 5 to the 1984 Regulations or a Northern Ireland licence granted for the 30 year renewal term and includes in either case any modified development licence;

“director” shall be construed in accordance with section 417(5);

“exploration licence” means an exploration licence incorporating the model clauses set out in Schedule 3 to the 1984 Regulations or a Northern Ireland licence granted for the initial term and includes in either case any modified exploration licence;

“fixed-rate preference share capital” means share capital consisting of shares which—

- (a) are issued for consideration which is or includes new consideration; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
  - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
  - (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares; and
- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of the Stock Exchange;

“modified appraisal licence”, “modified development licence” and “modified exploration licence” mean, respectively, any appraisal licence, development licence or exploration licence in which any of the relevant model clauses have been modified or excluded by the Secretary of State or in Northern Ireland the Department of Economic Development;

“new consideration” has the same meaning as in Part VI;

“Northern Ireland licence” means a licence granted under the <sup>M139</sup>Petroleum (Production) Act (Northern Ireland) 1964 and incorporating the model clauses set out in Schedule 2 to the <sup>M140</sup>Petroleum Production (Licences) Regulations (Northern Ireland) 1965, and in relation to such a licence the references above to “the initial term”, “the 30 year renewal term” and “the five year renewal term” shall be construed in accordance with Clause 2 of Schedule 2 to those Regulations;

“oil” and “oil extraction activities” have the same meanings as they have in Chapter V of Part XII;

“oil exploration” means searching for oil;

“ordinary shares” means shares forming part of a company’s ordinary share capital;

“the relevant period” has the meaning given in section 289(12);

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“research and development” means any activity which is intended to result in a patentable invention (within the meaning of the <sup>M141</sup>Patents Act 1977) or in a computer program;

“the relief” and “relief”, except where the reference is to relief under Chapter II of Part IV of the Finance Act 1981, means relief under section 289 (and includes relief under Schedule 5 to the Finance Act 1983), and references to the amount of the relief shall be construed in accordance with section 289(5); and

“unquoted company” means a company none of whose shares, stocks or debentures are listed in the Official List of the Stock Exchange or dealt in on the Unlisted Securities Market;

and “the 1984 Regulations” means the <sup>M142</sup>Petroleum (Production) (Landward Areas) Regulations 1984.

- (2) <sup>M143</sup>Section 839 applies for the purposes of this Chapter other than section 291.
- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section [<sup>F114</sup>136(1) of the 1992 Act] as exchanging for other shares.
- (4) References in this Chapter to the reduction of any amount include references to its reduction to nil.
- (5) <sup>M144</sup>For the purposes of this Chapter—
  - (a) in relation to shares issued after 18th March 1986, the market value at any time of any asset shall be taken to be the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it;
  - (b) in relation to shares issued before 19th March 1986, “market value” shall be construed in accordance with section [<sup>F114</sup>272 of the 1992 Act].
- (6) References in this Chapter to relief given to an individual in respect of eligible shares, and to the withdrawal of such relief, include respectively references to relief given to him in respect of those shares at any time after he has disposed of them and references to the withdrawal of such relief at any such time.
- (7) In relation to any case falling within section 289(1)(d), any reference in that section to any licence being held by, or granted to, any person shall be read as including a reference to such a licence being held by, or (as the case may be) granted to, that person together with one or more other persons.
- (8) The Treasury may by order amend any of the definitions set out in subsection (1) above which relate to licences under the <sup>M145</sup>Petroleum (Production) Act 1934 or the <sup>M146</sup>Petroleum (Production) Act (Northern Ireland) 1964.

#### Textual Amendments

**F114** Words in s. 312(3)(5)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(18)** (with ss. 60, 101(1), 171, 201(3)).

#### Marginal Citations

**M137** Source-1981 s.67; 1983 Sch.5 20(1), (2); 1985 s.44(6); 1986 Sch.9 21(1), (2)



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- M138** 1985 c. 6.
- M139** 1964 c. 28 (N.I.).
- M140** S.R.& O.(N.I.) 1965 No.47.
- M141** 1977 c. 37.
- M142** S.I. 1984/1832.
- M143** Source-1981 s.67(2)-(4); 1983 Sch.5 20(1)
- M144** Source-1983 Sch.5 20(3)-(6); 1986 Sch.9 21(3)
- M145** 1934 c. 36.
- M146** 1964 c. 28 (N.I.).

## CHAPTER IV

### SPECIAL PROVISIONS

#### **313 Taxation of consideration for certain restrictive undertakings.**

- <sup>F115M147</sup>(1) Where an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding that office or employment an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities, any sum to which this section applies shall be treated as an emolument of the office or employment, and accordingly shall be chargeable to tax under Schedule E, for the year of assessment in which it is paid.
- (2) This section applies to any sum which—
- (a) is paid, in respect of the giving of the undertaking or its total or partial fulfilment, either to the individual or to any other person; and
  - (b) would not, apart from this section, fall to be treated as an emolument of the office or employment.
- (3) Where the individual has died before the payment of any sum to which this section applies, subsections (1) and (2) above shall have effect as if that sum had been paid immediately before his death.
- (4) Where valuable consideration otherwise than in the form of money is given in respect of the giving of the undertaking or its total or partial fulfilment, subsections (1) to (3) above shall have effect as if a sum had instead been paid equal to the value of that consideration.
- (5)]
- <sup>F115</sup>(6) In this section—
- (a) “office or employment” means any office or employment whatsoever such that the emoluments thereof, if any, are or would be chargeable to income tax under Case I or II of Schedule E; and
  - (b) references to the giving of valuable consideration do not include references to the mere assumption of an obligation to make over or provide valuable property, rights or advantages, but do include references to the doing of anything in or towards the discharge of such an obligation.

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### Textual Amendments

**F115** Subss. (1)-(5) replaced by 1988(F) s.73 in respect of undertakings given on or after 9 June 1988. And see 1970(M) s.98—penalty for failure to deliver particulars.

### Marginal Citations

**M147** Source-1970 s.34(1); 1971 Sch.6 15

## 314 Divers and diving supervisors.

<sup>M148</sup>(1) Where the duties of any employment which are performed by a person in the United Kingdom or a designated area consist wholly or mainly—

- (a) of taking part, as a diver, in diving operations concerned with the exploration or exploitation of the seabed, its subsoil and their natural resources; or
- (b) of acting, in relation to any such diving operations, as a diving supervisor,

the Income Tax Acts shall have effect as if the performance by that person of those duties constituted the carrying on by him of a trade within Case I of Schedule D; and accordingly Schedule E shall not apply to the emoluments from the employment so far as attributable to his performance of those duties.

(2) In this section “designated area” means any area designated under section 1(7) of the <sup>M149</sup>Continental Shelf Act 1964.

### Marginal Citations

**M148** Source-1978 s.29(1), (2)

**M149** 1964 c. 29.

## 315 Wounds and disability pensions.

<sup>M150</sup>(1) Income from wounds and disability pensions to which this subsection applies shall be exempt from income tax and shall not be reckoned in computing income for any purposes of the Income Tax Acts.

(2) Subsection (1) above applies to—

- (a) wounds pensions granted to members of the naval, military or air forces of the Crown;
- (b) retired pay of disabled officers granted on account of medical unfitness attributable to or aggravated by naval, military or air-force service;
- (c) disablement or disability pensions granted to members, other than commissioned officers, of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air-force service;
- (d) disablement pensions granted to persons who have been employed in the nursing services of any of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air-force service; and
- (e) injury and disablement pensions payable under any scheme made under the <sup>M151</sup>Injuries in War (Compensation) Act 1914, the <sup>M152</sup>Injuries in War Compensation Act 1914 (Session 2) and the <sup>M153</sup>Injuries in War

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(Compensation) Act 1915 or under any War Risks Compensation Scheme for the Mercantile Marine.

- (3) Where the amount of any retired pay or pensions to which subsection (1) above applies is not solely attributable to disablement or disability, the relief conferred by that subsection shall extend only to such part as is certified by the [F116Secretary of State for Social Security], after consultation with the appropriate government department, to be attributable to disablement or disability.

#### Textual Amendments

**F116** Words in s. 315(3) substituted by [The Transfer of Functions \(Health and Social Security\) Order 1988 \(S.I. 1988/1843\)](#), [Sch. 3 para. 2\(d\)](#)

#### Modifications etc. (not altering text)

**C46** S. 315(3): functions transferred by [The Transfer of Functions \(Health and Social Security\) Order 1988 \(S.I. 1988/1843\)](#), art. 2, [Sch. 2 Pt. 2](#)

#### Marginal Citations

**M150** Source-1970 s.365

**M151** 1914 c. 30.

**M152** 1914 c. 18 (5 & 6 Geo. 5 c. 18).

**M153** 1915 c. 24.

### 316 Allowances, bounties and gratuities.

- <sup>M154</sup>(1) Where, under the scheme relating to men in the Armed Forces of the Crown announced on behalf of His Majesty's Government in the United Kingdom on 15th April 1946 or under any other scheme certified by the Treasury to make analogous provision for classes of persons to whom the first-mentioned scheme does not apply, a person who has served in the armed forces of the Crown at any time during the continuance in force of the <sup>M155</sup>Emergency Powers (Defence) Act 1939 voluntarily undertakes to serve therein for a further period, any sum payable to him in pursuance of the scheme out of moneys provided by Parliament by way of gratuity at the end of his further period of service shall not be regarded as income for any income tax purposes.
- (2) Where, under the scheme relating to members of the Women's Royal Naval Service, the Auxiliary Territorial Service and the Women's Auxiliary Air Force announced on behalf of His Majesty's Government in the United Kingdom on 20th November 1946, or under any other scheme certified by the Treasury to make analogous provision for classes of persons to whom the first-mentioned scheme does not apply, a woman who has served in or with the armed forces of the Crown at any time during the continuance in force of the Emergency Powers (Defence) Act 1939 voluntarily undertakes to serve in or with those forces for a further period, any sum payable to her in pursuance of the scheme out of moneys provided by Parliament by way of gratuity at the end of her further period of service shall not be regarded as income for any income tax purposes.
- (3) Any allowance payable out of the public revenue to or in respect of any class of persons, being members of the armed forces of the Crown, as respects which the Treasury certifies either—
- (a) that it is payable to the persons in question in lieu of food or drink normally supplied in kind to members of the armed forces, or

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- (b) that it is payable in respect of the persons in question as a contribution to the expenses of a mess,  
shall not be regarded as income for any income tax purposes.
- (4) The sums known as training expenses allowances payable out of the public revenue to members of the reserve and auxiliary forces of the Crown, and the sums payable by way of bounty out of the public revenue to such members in consideration of their undertaking prescribed training and attaining a prescribed standard of efficiency, shall not be treated as income for any income tax purpose.
- (5) Any sum which, in pursuance of the scheme as to service emoluments contained in the Command Paper laid before Parliament in August 1950, becomes payable out of moneys provided by Parliament by way of bounty to a person who, having served in the armed forces of the Crown, voluntarily undertakes to serve for a further period shall not be regarded as income for any income tax purpose.

#### Marginal Citations

**M154** Source-1970 s.366

**M155** 1939 c. 62.

### 317 Victoria Cross and other awards.

- <sup>M156</sup>(1) The following shall be disregarded for all the purposes of the Income Tax Acts—
- (a) annuities and additional pensions paid to holders of the Victoria Cross;
  - (b) annuities and additional pensions paid to holders of the George Cross;
  - (c) annuities paid to holders of the Albert Medal or of the Edward Medal;
  - (d) additional pensions paid to holders of the Military Cross;
  - (e) additional pensions paid to holders of the Distinguished Flying Cross;
  - (f) additional pensions paid to holders of the Distinguished Conduct Medal;
  - (g) additional pensions paid to holders of the Conspicuous Gallantry Medal;
  - (h) additional pensions paid to holders of the Distinguished Service Medal;
  - (i) additional pensions paid to holders of the Military Medal;
  - (j) additional pensions paid to holders of the Distinguished Flying Medal;
- where paid by virtue of holding the award.

#### Marginal Citations

**M156** Source-1970 s.368; 1980 s.26

### 318 Other pensions in respect of death due to war service etc.

- <sup>M157</sup>(1) Payments of pensions or allowances to which this section applies shall not be treated as income for any purposes of the Income Tax Acts.
- (2) This section applies to—
- (a) any pension or allowance payable by or on behalf of the Department of Health and Social Security under so much of any Order in Council, Royal Warrant, order or scheme as relates to death due to—

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- (i) service in the armed forces of the Crown or war-time service in the merchant navy, or
  - (ii) war injuries;
  - (b) any pension or allowance at similar rates and subject to similar conditions which is payable by the Ministry of Defence in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939; and
  - (c) any pension or allowance which is payable under the law of a country other than the United Kingdom and is of a character substantially similar to a pension or allowance falling within paragraph (a) or (b) above.
- (3) Where a pension or allowance falling within subsection (2) above is withheld or abated by reason of the receipt of another pension or allowance not falling within that subsection, there shall be treated as falling within that subsection so much of the other pension or allowance as is equal to the pension or allowance that is withheld or, as the case may be, to the amount of the abatement.

**Marginal Citations**

M157 Source-1979 (No.2) s.9

**319 Crown servants: foreign service allowance.**

Where any allowance to any person in the service of the Crown is certified by the Treasury to represent compensation for the extra cost of having to live outside the United Kingdom in order to perform his duties, that allowance shall not be regarded as income for any income tax purpose.

**320 Commonwealth Agents-General and official agents etc.**

<sup>M158</sup>(1) An Agent-General who is resident in the United Kingdom shall be entitled to the same immunity from income tax as that to which the head of a mission so resident is entitled under the <sup>M159</sup>Diplomatic Privileges Act 1964.

(2) Any person having or exercising any employment to which this subsection applies (not being a person employed in any trade, business or other undertaking carried on for the purposes of profit) shall be entitled to the same immunity from income tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.

(3) The employments to which subsection (2) above applies are the employment in the United Kingdom as—

- (a) a member of the personal staff of any Agent-General; or
- (b) an official agent for, or for any state or province of, any of the countries for the time being mentioned in Schedule 3 to the <sup>M160</sup>British Nationality Act 1981 or the Republic of Ireland; or
- (c) an official agent for any self-governing colony,

of a person certified by the High Commissioner of the country in question or, as the case may be, by the Agent-General for the state, province or self-governing colony in question to be ordinarily resident outside the United Kingdom and to be resident in the United Kingdom solely for the purpose of the performance of his duties as such member or official agent.

**Status:** Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

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(4) In this section—

“Agent-General” means the Agent-General for any state or province of a country within subsection (3)(b) above or for any self-governing colony;

“High Commissioner” includes the head of the mission of a country within subsection (3)(b) above by whatever name called;

“mission” has the same meaning as in the Diplomatic Privileges Act 1964, and references to the head of a mission and a member of the staff of a mission shall be construed in accordance with that Act;

“self-governing colony” means any colony certified by a Secretary of State to be a self-governing colony.

#### Modifications etc. (not altering text)

**C47** *The countries mentioned in the British Nationality Act 1981 Sch.3 (as amended) are—Countries whose citizens are Commonwealth citizens* Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Canada, Republic of Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Nauru, New Zealand, Nigeria, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Western Samoa, Zambia, Zimbabwe.

#### Marginal Citations

**M158** Source-1970 s.372

**M159** 1964 c. 81.

**M160** 1981 c. 81.

### 321 Consuls and other official agents.

<sup>M161</sup>(1) Income arising from any office or employment to which this section applies shall be exempt from income tax, and no account shall be taken of any such income in estimating the amount of income for any income tax purposes.

(2) The offices and employments to which this section applies are the following, that is to say—

- (a) the office of a consul in the United Kingdom in the service of any foreign state; and
- (b) the employment of an official agent in the United Kingdom for any foreign state, not being an employment exercised by a Commonwealth citizen or a citizen of the Republic of Ireland or exercised in connection with any trade, business or other undertaking carried on for the purposes of profit.

(3) In this section—

“consul” means a person recognised by Her Majesty as being a consul-general, consul, vice-consul or consular agent; and

“official agent” means a person, not being a consul, who is employed on the staff of any consulate, official department or agency of a foreign state, not being a department or agency which carries on any trade, business or other undertaking for the purposes of profit.

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### Marginal Citations

M161 Source-1970 s.373

## 322 Consular officers and employees.

<sup>M162</sup>(1) Where a consular officer or employee in the United Kingdom of any foreign state to which this section applies—

- (a) is not a British citizen, a British Dependent Territories citizen [<sup>F117</sup>, a British National (Overseas)] or a British Overseas citizen, and
- (b) is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as such a consular officer or employee, and
- (c) either is a permanent employee of that state or was not ordinarily resident in the United Kingdom immediately before he became a consular officer or employee in the United Kingdom of that state;

then any income of his falling within Case IV or V of Schedule D shall be exempt from income tax, and he shall be treated as not resident in the United Kingdom for the purposes of sections 48 and 123(4).

- (2) Without prejudice to section 321, the income arising from a person's employment in the United Kingdom as a consular employee of any foreign state to which this section applies shall be exempt from income tax, except in the case of a person who is not a national of that state but is a British citizen, a British Dependent Territories citizen [<sup>F117</sup>, a British National (Overseas)] or a British Overseas citizen.
- (3) For the purposes of this section “consular employee” includes any person employed, for the purposes of the official business of a consular officer, at any consulate or consular establishment or at any other premises used for those purposes.
- (4) This section shall apply to any foreign state to which Her Majesty by Order in Council directs that it shall apply for the purpose of giving effect to any consular convention or other arrangement with that state making similar provision in the case of Her Majesty's consular officers or employees in that state.
- (5) An Order in Council under subsection (4) above—
  - (a) may limit the operation of this section in relation to any state in such manner as appears to Her Majesty to be necessary or expedient having regard to the arrangement with that state;
  - (b) may be made so as to have effect from a date earlier than the making of the Order or the passing of this Act (but not earlier than the coming into force of the arrangement with regard to which it is made); and
  - (c) may contain such transitional provisions as appear to Her Majesty to be necessary or expedient;

and any statutory instrument under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

### Textual Amendments

**F117** 1990 s.89 and Sch.14 para.4(1) (correction of errors)—deemed always to have had effect.



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#### Modifications etc. (not altering text)

**C48** For orders see Part III Vol.5.

#### Marginal Citations

**M162** Source-1970 s.374(1), (3)-(7)

### 323 Visiting forces.

- <sup>M163</sup>(1) The emoluments paid by the government of any designated country to any member of a visiting force of that country who is not a British citizen, a British Dependent Territories citizen [<sup>F118</sup>, a British National (Overseas)] or a British Overseas citizen shall be exempt from income tax.
- (2) A period during which a member of a visiting force to whom subsection (1) above applies is in the United Kingdom by reason solely of his being a member of that force shall not be treated for the purposes of income tax either as a period of residence in the United Kingdom or as creating a change of his residence or domicile.
- (3) Subsection (2) above shall not affect the operation of section 278 in relation to any person for any year of assessment.
- (4) In subsections (1) and (2) above references to a visiting force shall apply to a civilian component of such a force as they apply to the force itself; and those subsections shall be construed as one with the <sup>M164</sup>Visiting Forces Act 1952, but so that, for the purposes of this section, references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.
- (5) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by subsections (1) and (2) above on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.
- (6) In the case of persons of any category for the time being agreed between Her Majesty's government in the United Kingdom and the other members of the North Atlantic Council—
- (a) employment by a designated allied headquarters shall be treated for the purposes of subsection (2) above as if it were service as a member of a visiting force of a designated country; and
  - (b) the emoluments paid by a designated allied headquarters to persons employed by such a headquarters shall be exempt from income tax.
- (7) The exemption conferred by subsection (6)(b) above shall cease to apply to British citizens, British Dependent Territories citizens [<sup>F119</sup>, a British National (Overseas)] and British Overseas citizens if it becomes unnecessary that it should so apply for the purpose of giving effect to any agreement between parties to the North Atlantic Treaty.
- (8) For the purposes of this section—
- “allied headquarters” means any international military headquarters established under the North Atlantic Treaty, and

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“designated” means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.

#### Textual Amendments

**F118** 1990 s.89 and Sch.14 para.4(1) (correction of errors)—deemed always to have had effect.

**F119** 1990 s.89 and Sch.14 para.4(2) (correction of errors)—deemed always to have had effect.

#### Modifications etc. (not altering text)

**C49** For orders see Part III Vol.5 under “Securities”.

#### Marginal Citations

**M163** Source-1970 s.367

**M164** 1952 c. 67.

### 324 Designated international organisations.

<sup>M165</sup>(1) The Treasury may by order designate for the purposes of this section—

- (a) any international organisation—
  - (i) if one of its members is the United Kingdom or any of the Communities; and
  - (ii) if the agreement under which that member became a member provides for exemption from tax, in relation to the organisation, of the kind for which provision is made by this section; or
- (b) any of the Communities or the European Investment Bank.

(2) Where an organisation has been so designated, a person not resident in the United Kingdom shall not be liable to income tax in respect of income from any security issued by the organisation if he would not be liable but for the fact that—

- (a) the security or income is issued, made payable or paid in the United Kingdom or in sterling; or
- (b) the organisation maintains an office or other place of business in the United Kingdom.

#### Marginal Citations

**M165** Source-1984 s.126(1), (2), (3)(a), (4); 1985 s.96(1)

### 325 Interest on deposits with National Savings Bank.

Where the total income of an individual for the year of assessment includes, or would but for this section include, any sums paid or credited in respect of interest on deposits with the National Savings Bank, other than investment deposits, those sums shall be disregarded for all purposes of the Income Tax Acts, other than the furnishing of information, if or in so far as they do not exceed £70; and for this purpose the question whether or how far those sums exceed £70 shall, where by virtue of section 279a a woman's income is deemed to be her husband's, be determined separately as regards the part of his income which is his by virtue of that section and the part which is his apart from that section<sup>F120</sup>.

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### Textual Amendments

**F120** Words repealed by 1988(F) s.14 and Sch.14 Part VIII for 1990-91 and subsequent years.

## 326 Interest etc. under contractual savings schemes.

<sup>M166</sup>(1) Any terminal bonus, or interest or other sum, payable under a certified contractual savings scheme—

- (a) in respect of money raised under section 12 of the <sup>M167</sup>National Loans Act 1968, or
- (b) in respect of shares in a building society, [<sup>F121</sup>or
- (c) in respect of money paid to an institution authorised under the <sup>M168</sup>Banking Act 1987,]

shall [<sup>F122</sup>not be regarded as income for any income tax purpose.]

(2) In this section “certified contractual savings scheme” means, except in relation to a building society [<sup>F123</sup>or an institution authorised under the Banking Act 1987], a scheme—

- (a) governed by regulations made under section [<sup>F124</sup>11 of the <sup>M169</sup>National Debt Act 1972]; and
- (b) providing for periodical contributions by individuals for a specified period, and the repayment in accordance with the regulations of contributions together with any additional sum by way of bonus or interest, and
- (c) certified by the Treasury as qualifying for exemption under this section.

(3) In this section “certified contractual savings scheme” means, in relation to a building society, a scheme—

- (a) providing for periodical contributions by individuals for a specified period, being contributions by way of investment in shares in the building society, and
- (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.

[<sup>F125</sup>(4) In this section “certified contractual savings scheme” means, in relation to an institution authorised under the Banking Act 1987, a scheme—

- (a) providing for periodical contributions by individuals for a specific period, and
- (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.]

### Textual Amendments

**F121** 1990 s.29(a).

**F122** 1990 s.29(b). *Previously*

“be disregarded for all purposes of the Income Tax Acts.”

**F123** 1990 s.29(c).

**F124** 1990 s.89 and Sch.14 para.5 (*correction of errors*)—*deemed always to have had effect. Previously* “12 of the National Debt Act 1958 or section 52 of the Finance Act 1969”.

**F125** 1990 s.29(d).

### Modifications etc. (not altering text)

**C50** See 1988(F) Sch.12 para.7—*application of s.326 to building society transfers.*

*Status: Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.*

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#### **Marginal Citations**

**M166** Source-1970 s.415(1)-(3), (5)

**M167** 1968 c. 13.

**M168** 1987 c. 22.

**M169** 1972 c. 65.

#### **[<sup>F126</sup>326A] Tax-exempt special savings accounts.**

- (1) Subject to the provisions of section 326B, any interest or bonus payable on a deposit account in respect of a period when it is a tax-exempt special savings account shall not be regarded as income for any income tax purpose.
- (2) An account is a “tax-exempt special savings account” for the purposes of this section if the conditions set out in subsections (3) to (9) below and any further conditions prescribed by regulations made by the Board are satisfied when the account is opened; and subject to section 326B it shall continue to be such an account until the end of the period of five years beginning with the day on which it is opened, or until the death of the account-holder if that happens earlier.
- (3) The account must be opened on or after 1st January 1991 by an individual aged 18 or more.
- (4) The account must be with a building society or an institution authorised under the Banking Act 1987.
- (5) The account must be identified as a tax-exempt special savings account and the account-holder must not simultaneously hold any other such account (with the same or any other society or institution).
- (6) The account must not be a joint account.
- (7) The account must not be held on behalf of a person other than the account-holder.
- (8) The account must not be connected with any other account held by the account-holder or any other person; and for this purpose an account is connected with another if—
  - (a) either was opened with reference to the other, or with a view to enabling the other to be opened on particular terms, or with a view to facilitating the opening of the other on particular terms, and
  - (b) the terms on which either was opened would have been significantly less favourable to the holder if the other had not been opened.
- (9) There must not be in force a notice given by the Board to the society or institution prohibiting it from operating new tax-exempt special savings accounts.]

#### **Textual Amendments**

**F126** Ss. 326A-326C inserted by [Finance Act 1990 \(c. 29\), s. 28\(1\)](#)

#### **326B Loss of exemption for special savings accounts.**

- (1) A tax-exempt special savings account shall cease to be such an account if at any time after it is opened any of the conditions set out in subsections (4) to (8) of section 326A,

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or any further condition prescribed by regulations made by the Board, is not satisfied, or if any of the events mentioned in subsection (2) below occurs.

- (2) The events referred to in subsection (1) above are—
- (a) the deposit of more than £3,000 in the account during the period of 12 months beginning with the day on which it is opened, more than £1,800 in any of the succeeding periods of 12 months, or more than £9,000 in total;
  - (b) a withdrawal from the account which causes the balance to fall below an amount equal to the aggregate of—
    - (i) all the sums deposited in the account before the time of the withdrawal, and
    - (ii) an amount equal to income tax at the basic rate on any interest or bonus paid on the account before that time (and for this purpose the basic rate in relation to any interest or bonus is the rate that was the basic rate when the interest or bonus was paid);
  - (c) the assignment of any rights of the account-holder in respect of the account, or the use of such rights as security for a loan.
- (3) If at any time an account ceases to be a tax-exempt special savings account by virtue of subsection (1) above, the Income Tax Acts shall have effect as if immediately after that time the society or institution had credited to the account an amount of interest equal to the aggregate of any interest and bonus payable in respect of the period during which the account was a tax-exempt special savings account.

#### Modifications etc. (not altering text)

**C51** S. 326B(3) modified (2.1.1996) by The Tax-exempt Special Savings Account (Relevant European Institutions) Regulations 1995 (S.I. 1995/3239), reg. 7

VALID FROM 01/05/1995

#### [<sup>F127</sup>326BB] Follow-up TESSAs.

- (1) Subsection (2) below applies where—
- (a) an individual, within the period of six months from the day on which a tax-exempt special savings account held by him matured, opens another account (“a follow-up account”) which is a tax-exempt special savings account at the time it is opened; and
  - (b) the total amount deposited in the matured account, before it matured, exceeded £3,000.
- (2) In relation to the follow-up account section 326B(2)(a) shall apply as if the reference to £3,000 were a reference to the total amount so deposited.
- (3) For the purposes of subsection (1) above a tax-exempt special savings account held by an individual matures when a period of five years throughout which the account was a tax-exempt special savings account comes to an end.
- (4) An account is not connected with another account for the purposes of section 326A(8) merely because one of them is a follow-up account.]

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### Textual Amendments

**F127** S. 326BB inserted (1.5.1995) by **Finance Act 1995 (c. 4), s. 62(2)**

## 326C Tax-exempt special savings accounts: supplementary.

- (1) The Board may make regulations—
  - (a) prescribing conditions additional to those set out in section 326A which must be satisfied if an account is to be or remain a tax-exempt special savings account;
  - (b) making provision for the giving by the Board to building societies and other institutions of notices prohibiting them from operating new tax-exempt special savings accounts, including provision about appeals against the giving of notices;
  - (c) requiring building societies and other institutions operating or proposing to operate tax-exempt special savings accounts to give information or send documents to the Board or to make documents available for inspection;
  - (d) making provision as to the transfer of tax-exempt special savings accounts from one building society or institution to another;
  - (e) generally for supplementing the provisions of sections 326A and 326B.
- (2) The reference in section 326A to a deposit account shall be taken to include a reference to a share account with a building society, and accordingly that section, section 326B and subsection (1) above shall apply to such an account with the necessary modifications.

VALID FROM 01/05/1995

### <sup>F128</sup> 326D Tax-exempt special savings accounts: tax representatives.

- (1) Without prejudice to the generality of section 326C(1), the Board may make regulations providing that an account held with a relevant European institution shall not be a tax-exempt special savings account at the time it is opened, or shall cease to be a tax-exempt special savings account at a given time, unless at the time concerned one of the following three requirements is fulfilled.
- (2) The first requirement is that—
  - (a) a person who falls within subsection (5) below is appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and
  - (b) his identity and the fact of his appointment have been notified to the Board by the institution.
- (3) The second requirement is that there are other arrangements with the Board for a person other than the institution to secure the discharge of such duties.
- (4) The third requirement is that there are other arrangements with the Board designed to secure the discharge of such duties.
- (5) A person falls within this subsection if—

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- (a) he is not an individual and has a business establishment in the United Kingdom, or
  - (b) he is an individual and is resident in the United Kingdom.
- (6) Different duties may be prescribed as regards different institutions or different descriptions of institution.
- (7) The regulations may provide that—
- (a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
  - (b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (8) The regulations may provide that—
- (a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
  - (b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (9) The regulations may provide as mentioned in subsection (10) below as regards a case where—
- (a) in accordance with the first requirement a person is at any time appointed to be responsible for securing the discharge of duties, or
  - (b) in accordance with the second requirement there are at any time arrangements for a person to secure the discharge of duties.
- (10) In such a case the regulations may provide that the person concerned—
- (a) shall be entitled to act on the institution’s behalf for any of the purposes of the provisions relating to the duties;
  - (b) shall secure (where appropriate by acting on the institution’s behalf) the institution’s compliance with and discharge of the duties;
  - (c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.
- (11) Regulations under this section may include provision that section 326B(3) shall have effect as if the reference to subsection (1) included a reference to the regulations.
- (12) In this section “prescribed” means prescribed by the regulations.]

#### Textual Amendments

**F128** S. 326D inserted (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 63\(4\)](#)

### 327 Disabled person’s vehicle maintenance grant.

A grant made under paragraph 2 of Schedule 2 to the <sup>M170</sup>National Health Service Act 1977 or section 46(3) of the <sup>M171</sup>National Health Service (Scotland) Act 1978 (cost of maintenance etc. of vehicles belonging to disabled persons) or under Article 30 of the <sup>M172</sup>Health and Personal Social Services (Northern Ireland) Order



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1972 to any person owning a vehicle shall not be treated as income for any purpose of the Income Tax Acts.

#### Marginal Citations

**M170** 1977 c. 49.

**M171** 1978 c. 29.

**M172** S.I. 1972/1265 (N.I. 14).

VALID FROM 10/07/2003

#### <sup>F129</sup> 327A Payments to adopters

- (1) The following payments shall not be treated as income for any purpose of the Income Tax Acts—
- (a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
  - (b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);
  - (c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations 1991);
  - (d) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
  - (e) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt);
  - (f) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved by the Secretary of State under section 51(5) of that Act (schemes for payment of allowances to persons who have adopted, or intend to adopt, a child);
  - (g) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act;
  - (h) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (payments authorised by the court) which is made to a person who has adopted, or intends to adopt, a child;
  - (i) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted, or intends to adopt, a child;
  - (j) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted, or intend to adopt, children) (as at 9th April 2003, see the Adoption Allowance Regulations (Northern Ireland) 1996);
  - (k) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (see sections 2(6) and (7) and 4 of that Act);

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- (l) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).
- (2) The Treasury may by order amend this section for the purposes of—
  - (a) adding a description of payment, or
  - (b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.]

#### Textual Amendments

**F129** S. 327A inserted (with effect in accordance with s. 175(2) of the amending Act) by Finance Act 2003 (c. 14), s. 175(1)

### 328 Funds in court.

- (1) <sup>M173</sup>If any common investment fund established under section 42 of the <sup>M174</sup>Administration of Justice Act 1982 is for the time being designated for the purposes of this subsection by an agreement between the Board and the investment manager of the fund—
  - (a) subject to subsection (2) below, the investment manager shall be entitled to exemption from income tax in respect of so much of the income derived from that fund or any investment thereof as is paid by him by way of dividend on the shares into which the fund is divided; and
  - (b) dividends on those shares shall be paid without deduction of income tax and shall be chargeable under Case III of Schedule D.

A claim for exemption under paragraph (a) shall be made to the Board.

- (2) <sup>M175</sup>Where the income or part of the income derived in a year of assessment from the fund or its investments consists of interest on securities, the income or part (as the case may be) shall for the purposes of subsection (1)(a) above be calculated by treating it as the amount it would be apart from section 714(5), but reduced by an amount (if any) equal to the excess of A over B.
- (3) In subsection (2) above—
 

A is the total amount of allowances to which, by virtue of section 714(4), the investment manager of the fund is entitled in the year of assessment in respect of all securities comprised in the fund; and

B is the total amount of annual profits or gains which, by virtue of section 714(2), he is treated as receiving in the year of assessment in respect of those securities.
- (4) In subsections (2) and (3) above “interest” and “securities” have the same meanings as in sections 710 and 711.
- (5) <sup>M176</sup>Where at any time by virtue of subsection (1) above the income of any person from any source becomes chargeable to income tax as provided by that subsection, not having previously been chargeable by direct assessment on that person, section 66(3) shall apply as if the source of that income were a new source of income acquired by that person at that time.

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- (6) The Accountant General and any other person authorised to invest in a fund designated for the purposes of subsection (1) above shall as respects each year of assessment furnish to the Board, at such time and in such manner as they may direct, particulars of any sums paid without deduction of tax by virtue of that subsection and of the persons to whom they were paid, except that particulars shall not be required of any case where the total of such sums paid to any person in that year did not exceed £15.
- (7) An agreement designating a fund for the purposes of subsection (1) above may provide for incidental and consequential matters, including arrangements for giving effect to subsection (1)(a) above by provisional repayments of tax deducted at source, and may be determined by the Board or the investment manager of the fund by one year's notice expiring at the end of any year of assessment.
- (8) The reference to the Accountant General is a reference to the Accountant General of the Supreme Court of England and Wales and in relation to money in the Supreme Court of Judicature of Northern Ireland, or money in a county court in Northern Ireland, and in relation to investments representing such money, includes a reference to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

**Modifications etc. (not altering text)**

**C52** See the Common Investment Funds Scheme 1965 (S.I. 1965 No.1467) (not reproduced) para.3—*establishment of Gross Income Fund, and para.5—dividends thereon to be paid without deduction of tax so far as permitted by arrangements between Public Trustee and Commissioners of Inland Revenue.*

**Marginal Citations**

**M173** Source-1970 s.413(1), (2)

**M174** 1982 c. 53.

**M175** Source-1985 Sch.23 8(5), (6); 1986 Sch.17 1(1)

**M176** Source-1970 s.413(3)-(6)

**329 Interest on damages for personal injuries.**

- (1)<sup>M177</sup>The following interest shall not be regarded as income for any income tax purpose—
  - (a) any interest on damages in respect of personal injuries to a plaintiff or any other person, or in respect of a person's death, which is included in any sum for which judgment is given by virtue of a provision to which this paragraph applies; and
  - (b) any interest on damages or solatium in respect of personal injuries sustained by a pursuer or by any other person, decree for payment of which is included in any interlocutor by virtue of section 1 of the <sup>M178</sup>Interest on Damages (Scotland) Act 1958.
- (2)<sup>M179</sup>The provisions to which subsection (1)(a) above applies are—
  - (a) section 3 of the <sup>M180</sup>Law Reform (Miscellaneous Provisions) Act 1934;
  - (b) section 17 of the <sup>M181</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
  - (c) section 35A of the <sup>M182</sup>Supreme Court Act 1981;

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- (d) section 69 of the <sup>M183</sup>County Courts Act 1984;
  - (e) section 33A of the <sup>M184</sup>Judicature (Northern Ireland) Act 1978; and
  - (f) Article 45A of the <sup>M185</sup>County Courts (Northern Ireland) Order 1980.
- (3) <sup>M186</sup>A payment in satisfaction of a cause of action, including a payment into court, shall not be regarded as income for any income tax purpose to the extent to which it is in respect of interest which would fall within subsection (1) above if included in a sum for which a judgment is given or if decree for payment of it were included in an interlocutor.
- (4) <sup>M187</sup>In this section “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

#### Marginal Citations

**M177** Source-1970 s.375A(1); 1971 s.19

**M178** 1958 c. 61.

**M179** Source-1970 s.375A(1B)

**M180** 1934 c. 41.

**M181** 1937 c. 9 (N.I.).

**M182** 1981 c. 54.

**M183** 1984 c. 28.

**M184** 1978 c. 23 (N.I.).

**M185** S.I. 1980/397 (N.I. 13).

**M186** Source-1970 s.375A(1A); 1981 s.39

**M187** Source-1970 s.35 7A(2); 1971 s.19

VALID FROM 29/04/1996

#### <sup>F130</sup>**329A Personal injury damages in the form of periodical payments.**

- (1) Where—
- (a) an agreement is made settling a claim or action for damages for personal injury on terms whereby the damages are to consist wholly or partly of periodical payments; or
  - (b) a court awarding damages for personal injury makes an order incorporating such terms,
- the payments shall not for the purposes of income tax be regarded as the income of any of the persons mentioned in subsection (2) below and accordingly shall be paid without any deduction under section 348(1)(b) or 349(1).
- (2) The persons referred to in subsection (1) above are—
- (a) the person (“A”) entitled to the damages under the agreement or order;
  - (b) any person who, whether in pursuance of the agreement or order or otherwise, receives the payments or any of them on behalf of A;
  - (c) any trustee who, whether in pursuance of the agreement or order or otherwise, receives the payments or any of them on trust for the benefit of A under a trust under which A is during his lifetime the sole beneficiary.

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- (3) The periodical payments referred to in subsection (1) above, or any of them, may, if the agreement or order mentioned in that subsection or a subsequent agreement so provides, consist of payments under one or more annuities purchased or provided for, or for the benefit of, A by the person by whom the payments would otherwise fall to be made.
- (4) Sums paid to, or for the benefit of, A by a trustee or trustees shall not be regarded as his income for the purposes of income tax if made out of payments which by virtue of this section are not to be regarded for those purposes as income of the trustee or trustees.
- (5) In this section “personal injury” includes any disease and any impairment of a person’s physical or mental condition.
- (6) For the purposes of this section a claim or action for personal injury includes—
  - (a) such a claim or action brought by virtue of the <sup>M188</sup>Law Reform (Miscellaneous Provisions) Act 1934;
  - (b) such a claim or action brought by virtue of the <sup>M189</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
  - (c) such a claim or action brought by virtue of the <sup>M190</sup>Damages (Scotland) Act 1976;
  - (d) a claim or action brought by virtue of the <sup>M191</sup>Fatal Accidents Act 1976;
  - (e) a claim or action brought by virtue of the <sup>M192</sup>Fatal Accidents (Northern Ireland) Order 1977.
- (7) In relation to such an order as is mentioned in paragraph (b) of subsection (1) above “damages” includes an interim payment which the court, by virtue of rules of court in that behalf, orders the defendant to make to the plaintiff; and where, without such an order, the defendant agrees to make a payment on account of the damages that may be awarded against him in such an action as is mentioned in paragraph (a) of that subsection, that paragraph shall apply to the payment and the agreement as it applies to damages and to such an agreement as is there mentioned.
- (8) In the application of subsection (7) above to Scotland for references to the plaintiff and the defendant there shall be substituted references to the pursuer and the defender.]

#### Textual Amendments

**F130** Ss. 329AA, 329AB inserted (with effect in accordance with s. 150(2)-(4) of the amending Act) by Finance Act 1996 (c. 8), s. 150(1), **Sch. 26**

#### Modifications etc. (not altering text)

**C53** S. 329AA applied (with modifications) (5.8.2004) by [The Thalidomide Children's Trust \(Application of Section 329AA of the Income and Corporation Taxes Act 1988\) Order 2004 \(S.I. 2004/1819\)](#), **art. 2**

#### Marginal Citations

**M188** 1934 c. 41.

**M189** 1937 c. 9 (N.I.).

**M190** 1976 c. 13.

**M191** 1976 c. 30.

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**M192 S.I. 1977/1251 (N.I. 18).**

VALID FROM 29/04/1996

**[<sup>F130</sup>329AB Compensation for personal injury under statutory or other schemes.**

- (1) Section 329AA applies to annuity payments under an award of compensation made under the Criminal Injuries Compensation Scheme as it applies to payments of damages in that form under such an agreement or order as is mentioned in subsection (1) of that section.
- (2) In subsection (1) above “the Criminal Injuries Compensation Scheme” means—
  - (a) the scheme established by arrangements made under the <sup>M193</sup>Criminal Injuries Compensation Act 1995; or
  - (b) arrangements made by the Secretary of State for compensation for criminal injuries and in operation before the commencement of that scheme.
- (3) If it appears to the Treasury that any other scheme or arrangement, whether established by statute or otherwise, makes provision for the making of periodical payments by way of compensation for personal injury within the meaning of section 329AA, the Treasury may by order apply that section to those payments with such modifications as the Treasury consider necessary.]

**Textual Amendments**

**F130** Ss. 329AA, 329AB inserted (with effect in accordance with s. 150(2)-(4) of the amending Act) by Finance Act 1996 (c. 8), s. 150(1), **Sch. 26**

**Marginal Citations**

**M193** 1995 c. 53.

VALID FROM 01/05/1995

**[<sup>F131</sup>329A Annuities purchased for certain persons.**

- (1) In a case where—
  - (a) an agreement is made settling a claim or action for damages for personal injury,
  - (b) under the agreement the damages are to consist wholly or partly of periodical payments, and
  - (c) under the agreement the person entitled to the payments is to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,
 the agreement is for the purposes of this section a qualifying agreement.
- (2) In a case where—



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- (a) an agreement is made settling a claim or action for damages for personal injury,
  - (b) under the agreement the damages are to consist wholly or partly of periodical payments, and
  - (c) a later agreement is made under which the person entitled to the payments is from a future date to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,
- the agreement mentioned in paragraph (c) above is for the purposes of this section a qualifying agreement.
- (3) Subsection (4) below applies where—
- (a) a person receives a sum as the annuitant under an annuity purchased for him pursuant to a qualifying agreement, or
  - (b) a person receives a sum on behalf of the annuitant under an annuity purchased for the annuitant pursuant to a qualifying agreement.
- (4) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).
- (5) Subsections (6) to (10) below apply for the purposes of subsection (1) above.
- (6) The periodical payments may be for the life of the claimant, for a specified period or of a specified number or minimum number or include payments of more than one of those descriptions.
- (7) The amounts of the periodical payments (which need not be at a uniform rate or payable at uniform intervals) may be—
- (a) specified in the agreement, with or without provision for increases of specified amounts or percentages,
  - (b) subject to adjustment in a specified manner so as to preserve their real value, or
  - (c) partly specified as mentioned in paragraph (a) and partly subject to adjustment as mentioned in paragraph (b) above.
- (8) The annuity or annuities must be such as to provide sums which as to amount and time of payment correspond to the periodical payments described in the agreement.
- (9) Personal injury includes any disease and any impairment of a person's physical or mental condition.
- (10) A claim or action for personal injury includes—
- (a) such a claim or action brought by virtue of the <sup>M194</sup>Law Reform (Miscellaneous Provisions) Act 1934;
  - (b) such a claim or action brought by virtue of the <sup>M195</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
  - (c) such a claim or action brought by virtue of the <sup>M196</sup>Damages (Scotland) Act 1976;
  - (d) a claim or action brought by virtue of the <sup>M197</sup>Fatal Accidents Act 1976;
  - (e) a claim or action brought by virtue of the <sup>M198</sup>Fatal Accidents (Northern Ireland) Order 1977.



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- (11) For the purposes of subsection (2) above—
- (a) subsections (6), (9) and (10) above apply;
  - (b) subsection (7) above applies as if the reference to the agreement were to that mentioned in subsection (2)(a) above;
  - (c) subsection (8) above applies as if the reference to periodical payments described in the agreement were to periodical payments described in the agreement mentioned in subsection (2)(a) above and falling to be made after the later agreement takes effect.
- (12) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when—
- (a) the agreement mentioned in subsection (1) above is made or takes effect, or
  - (b) either of the agreements mentioned in subsection (2) above is made or takes effect.]

#### Textual Amendments

**F131** Ss. 329A, 329B inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 142

#### Marginal Citations

**M194** 1934 c. 41.

**M195** 1937 c. 9 (N.I.).

**M196** 1976 c. 13.

**M197** 1976 c. 30.

**M198** S.I. 1977/1251 (N.I. 18).

VALID FROM 01/05/1995

#### **[<sup>F131</sup>329B] Annuities assigned in favour of certain persons.**

- (1) In a case where—
- (a) an agreement is made settling a claim or action for damages for personal injury,
  - (b) under the agreement the damages are to consist wholly or partly of periodical payments,
  - (c) the person against whom the claim or action is brought (or, if he is insured against the claim concerned, his insurer) purchases one or more annuities, and
  - (d) a later agreement is made under which the annuity is, or the annuities are, assigned in favour of the person entitled to the payments so as to secure that from a future date he receives the payments as the annuitant under the annuity or annuities,
- the agreement mentioned in paragraph (d) above is for the purposes of this section a qualifying agreement.
- (2) Subsection (3) below applies where—
- (a) a person receives a sum as the annuitant under an annuity assigned in his favour pursuant to a qualifying agreement, or

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- (b) a person receives a sum on behalf of the annuitant under an annuity assigned in the annuitant's favour pursuant to a qualifying agreement.
- (3) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).
- (4) For the purposes of subsection (1) above—
  - (a) subsections (6), (9) and (10) of section 329A apply;
  - (b) subsections (7) and (8) of section 329A apply as if references to the agreement were to that mentioned in subsection (1)(a) above.
- (5) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when either of the agreements mentioned in subsection (1) above is made or takes effect.]

#### Textual Amendments

**F131** Ss. 329A, 329B inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 142

VALID FROM 08/11/1995

#### **[<sup>F132</sup>329C] Annuities: criminal injuries.**

- (1) For the purposes of this section—
  - (a) “a qualifying award” is an award of compensation made under the Criminal Injuries Compensation Scheme with respect to a person (“A”) on terms which provide—
    - (i) for payments under one or more annuities purchased for A in accordance with the provisions of the Scheme to be received by A or by another person on his behalf; or
    - (ii) for payments under one or more annuities purchased in accordance with the provisions of the Scheme to be received and held on trust by trustees of a qualifying trust for the benefit of A; and
  - (b) “a qualifying trust” is a trust under which A is, during his lifetime, the sole beneficiary.
- (2) Where a person receives a sum—
  - (a) as the annuitant under an annuity purchased for him pursuant to a qualifying award,
  - (b) on behalf of the annuitant under an annuity purchased for the annuitant pursuant to a qualifying award, or
  - (c) as a trustee to be held on trust for A under a qualifying trust, in a case where the sum is paid under the terms of an annuity purchased pursuant to a qualifying award,

the sum shall not be regarded for the purposes of income tax as income of the recipient, or as A's income, and accordingly shall be paid without any deduction under section 349(1).
- (3) In this section “the Criminal Injuries Compensation Scheme” means—

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- (a) the scheme established by arrangements made under the Criminal Injuries Compensation Act 1995; or
- (b) arrangements made by the Secretary of State for compensation for criminal injuries and in operation at any time before the commencement of that scheme.]

#### Textual Amendments

**F132** S. 329C inserted (8.11.1995) by [Criminal Injuries Compensation Act 1995 \(c. 53\)](#), s. 8

### 330 Compensation for National-Socialist persecution.

Annuities and pensions payable under any special provision for victims of National-Socialist persecution which is made by the law of the Federal Republic of Germany or any part of it or of Austria shall not be regarded as income for any income tax purpose.

### 331 Scholarship income.

<sup>M199</sup>(1) Income arising from a scholarship held by a person receiving full-time instruction at a university, college, school or other educational establishment shall be exempt from income tax, and no account shall be taken of any such income in computing the amount of income for income tax purposes.

(2) In this section “scholarship” includes an exhibition, bursary or any other similar educational endowment.

#### Marginal Citations

**M199** Source-1970 s.375(1), (2)

VALID FROM 27/07/1999

### <sup>F133</sup>331A Student loans: certain interest to be disregarded.

- (1) If—
  - (a) a loan is made to a person under any of the relevant student loan provisions,
  - (b) an amount is recovered from him in respect of the loan,
  - (c) an amount is repaid to him in respect of the amount recovered, and
  - (d) interest is paid to him in respect of the amount repaid,
 the interest shall be disregarded for all purposes of income tax.
- (2) For the purposes of subsection (1) above the relevant student loan provisions are—
  - (a) section 22 of the <sup>M200</sup>Teaching and Higher Education Act 1998;
  - (b) section 73(f) of the <sup>M201</sup>Education (Scotland) Act 1980;
  - (c) Article 3 of the <sup>M202</sup>Education (Student Support) (Northern Ireland) Order 1998.]

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#### Textual Amendments

**F133** S. 331A inserted (27.7.1999) by [Finance Act 1999 \(c. 16\), s. 60](#)

#### Marginal Citations

**M200** 1998 c.30

**M201** 1980 c.44

**M202** S.I. 1998/1760 (N.I. 14).

### 332 Expenditure and houses of ministers of religion.

- <sup>M203</sup>(1) Subsection (2) below applies where an interest in any premises belongs to a charity or any ecclesiastical corporation and (in right of that interest)—
- (a) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or
  - (b) any particular person holding such an office,
- have or has a residence in those premises from which to perform the duties of the office.
- (2) In the case of such a clergyman or minister, for the purposes of income tax with which he may be chargeable under Schedule E, there shall be disregarded—
- (a) the making good to him, in consequence of his being the holder of his office, of statutory amounts payable in connection with the premises or statutory deductions falling to be made in connection therewith, except in so far as an amount or deduction is properly attributable to a part of the premises in respect of which he receives rent;
  - (b) the payment on his behalf, except as aforesaid, of such a statutory amount; and
  - (c) unless he is in [<sup>F134</sup>employment to which Chapter II of Part V applies], the value to him of any expenses incurred in connection with the provision in the premises of living accommodation for him, being expenses incurred in consequence of his being the holder of his office.
- (3) In assessing the income tax chargeable (whether under Schedule E or any other Schedule) upon a clergyman or minister of any religious denomination, the following deductions may be made from any profits, fees or emoluments of his profession or vocation—
- (a) any sums of money paid or expenses incurred by him wholly, exclusively and necessarily in the performance of his duty as a clergyman or minister;
  - (b) such part of the rent (not exceeding one-quarter) as the inspector by whom the assessment is made may allow, paid by him in respect of a dwelling-house any part of which is used mainly and substantially for the purposes of his duty as such clergyman or minister; and
  - (c) in respect of expenses borne by him in the maintenance, repairs, insurance or management of any premises in which, in right of such an interest as is mentioned in subsection (1) above, he has such a residence as is mentioned in that subsection, such part of the expenses as, together with any deduction allowable in respect of such expenses under paragraph (a) above, is equal to one-quarter of the amount of the expenses.

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On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under paragraph (b) above.

- (4) In this section “statutory amount” and “statutory deduction” mean an amount paid and a deduction made in pursuance of any provision contained in or having the force of an Act.

#### Textual Amendments

**F134** 1989 s.53(2)(f). *Previously*

“director's or higher-paid employment (as defined in section 167)”.

#### Marginal Citations

**M203** Source-1970 s.194; 1977 Sch.8 2, 3; 1987 Sch.15 2(12)

VALID FROM 01/05/1995

#### <sup>F135</sup>332A **Venture capital trusts: relief.**

Schedule 15B shall have effect for conferring relief from income tax in respect of investments in venture capital trusts and distributions by such trusts.]

#### Textual Amendments

**F135** S. 332A inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 71(1)

### 333 Personal equity plans.

- <sup>M204</sup>(1) The Treasury may make regulations providing that an individual who invests under a plan shall be entitled to relief from income tax in respect of the investments.
- (2) The regulations shall set out the conditions subject to which plans are to operate and the extent to which investors are to be entitled to relief from tax.
- (3) In particular, the regulations may—
- (a) specify the description of individuals who may invest and the kind of investments they may make;
  - (b) specify maximum investment limits and minimum periods for which investments are to be held;
  - (c) provide that investments are to be held by persons (“plan managers”) on behalf of investors;
  - (d) specify how relief from tax is to be claimed by, and granted to, investors or plan managers on their behalf;
  - (e) provide that plans and plan managers must be such as are approved by the Board;
  - (f) specify the circumstances in which approval may be granted and withdrawn.

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- [<sup>F136</sup>(g) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations;
- (h) provide that the Board may register a plan as being of a particular kind;
- (i) make different provision as to different kinds of plan;
- (j) provide for investment by an individual under more than one plan in the same year of assessment.]
- (4) The regulations may include provision—
- (a) that in prescribed circumstances—
- (i) an investor under a plan shall cease to be, and be treated as not having been, entitled to relief from tax in respect of the investments; and
- (ii) he or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has already been given on the basis that the investor was so entitled;
- (b) that an investor under a plan or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given in circumstances such that the investor was not entitled to it;
- (c) adapting, or modifying the effect of, any enactment relating to income tax in order to—
- (i) secure that investors under plans are entitled to relief from tax in respect of investments;
- (ii) secure that investors under plans cease to be, and are treated as not having been, so entitled;
- (iii) secure that investors under plans or plan managers account for tax as mentioned in paragraph (a) or (b) above;
- (d) that a person who is, or has at any time been, either an investor under a plan or a plan manager—
- (i) shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board’s inspection documents (of a prescribed kind) relating to a plan or to investments which are or have been held under it;
- (ii) shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about a plan or about investments which are or have been held under it;
- (e) generally for the purpose of bringing plans into existence, and generally for the purpose of the administration of plans and the administration of income tax and corporation tax in relation to them.
- (5) In this section “prescribed” means prescribed by the regulations.

#### **Textual Amendments**

**F136** S. 333(3)(g)-(j) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s.70

#### **Modifications etc. (not altering text)**

**C54** S. 333(2)-(5) applied (with modifications) (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. **151(2)**, 289 (with ss. 60, 101(1), 171, 201(3)).

**C55** For regulations see Part III Vol.5.

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### Marginal Citations

M204 Source-1986 Sch.8

VALID FROM 01/05/1995

### <sup>F137</sup>333A Personal equity plans: tax representatives.

- (1) Regulations under section 333 may include provision that a European institution cannot be a plan manager unless one of the following three requirements is fulfilled.
- (2) The first requirement is that—
  - (a) a person who falls within subsection (5) below is for the time being appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and
  - (b) his identity and the fact of his appointment have been notified to the Board by the institution.
- (3) The second requirement is that there are for the time being other arrangements with the Board for a person other than the institution to secure the discharge of such duties.
- (4) The third requirement is that there are for the time being other arrangements with the Board designed to secure the discharge of such duties.
- (5) A person falls within this subsection if—
  - (a) he is not an individual and has a business establishment in the United Kingdom, or
  - (b) he is an individual and is resident in the United Kingdom.
- (6) Different duties may be prescribed as regards different institutions or different descriptions of institution.
- (7) The regulations may provide that—
  - (a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
  - (b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (8) The regulations may provide that—
  - (a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
  - (b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (9) The regulations may provide as mentioned in subsection (10) below as regards a case where—
  - (a) in accordance with the first requirement a person is for the time being appointed to be responsible for securing the discharge of duties, or
  - (b) in accordance with the second requirement there are for the time being arrangements for a person to secure the discharge of duties.
- (10) In such a case the regulations may provide that the person concerned—



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- (a) shall be entitled to act on the institution’s behalf for any of the purposes of the provisions relating to the duties;
  - (b) shall secure (where appropriate by acting on the institution’s behalf) the institution’s compliance with and discharge of the duties;
  - (c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.
- (11) In this section—
- (a) “European institution” has the same meaning as in the <sup>M205</sup>Banking Co-ordination (Second Council Directive) Regulations 1992;
  - (b) “prescribed” means prescribed by the regulations.
- (12) The preceding provisions of this section shall apply in the case of a relevant authorised person as they apply in the case of a European institution; and “relevant authorised person” here means a person who is an authorised person for the purposes of the <sup>M206</sup>Financial Services Act 1986 by virtue of section 31 of that Act.]

#### Textual Amendments

**F137** S. 333A inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 64(1)

#### Marginal Citations

**M205** S.I. 1992/3218.

**M206** 1986 c. 60.

VALID FROM 31/07/1998

### <sup>F138</sup>**333 Involvement of insurance companies with plans and accounts.**

- (1) The Treasury may make regulations providing exemption from tax for income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company’s long term business fund as is referable to section 333 business.
- (2) The Treasury may by regulations modify the effect of section 30(4) of the <sup>M207</sup>Finance (No. 2) Act 1997 (which repeals section 231(2) of the Taxes Act 1988 with effect from 6th April 1999) in relation to distributions which—
  - (a) are made before 6th April 2004; and
  - (b) are received by an insurance company in respect of investments of so much of its long term business fund as is referable to section 333 business.
- (3) Regulations under this section may make provision for insurance companies that are not resident in the United Kingdom to be treated, in relation to investments of so much of their long term business funds as are referable to section 333 business—
  - (a) as if they were so resident for the purposes of any enactment conferring an entitlement to, or to the payment of, tax credits in respect of investments; and
  - (b) as if such other conditions of any entitlement to, or to the payment of, tax credits were also satisfied.

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- (4) Regulations under section 333 or this section may include provision which, in relation to insurance companies that are not resident in the United Kingdom—
- (a) requires a person to be appointed to be responsible for securing the discharge of any duties to which such an insurance company is subject under the regulations; and
  - (b) confers rights and powers, and imposes liabilities, on a person so appointed; and, without prejudice to the generality of paragraphs (a) and (b) above, regulations made by virtue of this subsection may include any provision corresponding to any that, in relation to a European institution, may be made under section 333A.
- (5) Regulations under this section may provide that an insurance company—
- (a) shall comply with any notice served on it by the Board which requires it, within a prescribed period, to make available for the Board’s inspection documents (of a prescribed kind) relating to, or to matters connected with, its past or present section 333 business; and
  - (b) shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about its past or present section 333 business or any matters connected with it.
- (6) Any power of the Treasury under this section to make provision by regulations in relation to insurance companies shall include power by regulations to make such corresponding provision in relation to friendly societies as the Treasury think fit.
- (7) Regulations under this section may—
- (a) for purposes connected with any exemption from tax conferred by virtue of subsection (1) above, apply or modify any provision made by or under the Tax Acts;
  - (b) make different provision for different cases;
  - (c) include such incidental, supplemental, consequential and transitional provision as the Treasury may consider appropriate.
- (8) Without prejudice to the generality of the powers conferred by subsection (7) above, the provision that may be made in connection with an exemption from tax conferred by virtue of subsection (1) above shall include provision for section 436 to apply (with any such modifications as may be prescribed) in relation to section 333 business as it applies in relation to pension business.
- (9) In this section—
- “friendly society” has the same meaning as in Chapter II of Part XII;
  - “insurance company” means an insurance company within the meaning of the <sup>M208</sup>Insurance Companies Act 1982;
  - “long term business fund” has the same meaning as in Chapter I of Part XII;
  - “prescribed” means prescribed by regulations under this section;
  - “section 333 business”, in relation to an insurance company, means the business of the company that is attributable to the making of investments with that company under plans for which provision is made by regulations under section 333.]

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#### Textual Amendments

**F138** [S. 333B](#) inserted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 77\(1\)](#)

#### Marginal Citations

**M207** [1997 c. 58](#).

**M208** [1982 c. 50](#).

## CHAPTER V

### RESIDENCE OF INDIVIDUALS

#### **334 Commonwealth citizens and others temporarily abroad.**

Every Commonwealth citizen or citizen of the Republic of Ireland—

- (a) shall, if his ordinary residence has been in the United Kingdom, be assessed and charged to income tax notwithstanding that at the time the assessment or charge is made he may have left the United Kingdom, if he has so left the United Kingdom for the purpose only of occasional residence abroad, and
- (b) shall be charged as a person actually residing in the United Kingdom upon the whole amount of his profits or gains, whether they arise from property in the United Kingdom or elsewhere, or from any allowance, annuity or stipend, or from any trade, profession, employment or vocation in the United Kingdom or elsewhere.

#### **335 Residence of persons working abroad.**

<sup>M209</sup>(1) Where—

- (a) a person works full-time in one or more of the following, that is to say, a trade, profession, vocation, office or employment; and
- (b) no part of the trade, profession or vocation is carried on in the United Kingdom and all the duties of the office or employment are performed outside the United Kingdom;

the question whether he is resident in the United Kingdom shall be decided without regard to any place of abode maintained in the United Kingdom for his use.

- (2) Where an office or employment is in substance one of which the duties fall in the year of assessment to be performed outside the United Kingdom there shall be treated for the purposes of this section as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.

#### Marginal Citations

**M209** [Source-1970 s.50](#)

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### 336 Temporary residents in the United Kingdom.

<sup>M210</sup>(1) A person shall not be charged to income tax under Schedule D as a person residing in the United Kingdom, in respect of profits or gains received in respect of possessions or securities out of the United Kingdom, if—

- (a) he is in the United Kingdom for some temporary purpose only and not with any view or intent of establishing his residence there, and
- (b) he has not actually resided in the United Kingdom at one time or several times for a period equal in the whole to six months in any year of assessment,

but if any such person resides in the United Kingdom for such a period he shall be so chargeable for that year.

(2) For the purposes of Cases I, II and III of Schedule E, a person who is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there shall not be treated as resident in the United Kingdom if he has not in the aggregate spent at least six months in the United Kingdom in the year of assessment, but shall be treated as resident there if he has.

[<sup>F139</sup>(3) The question whether—

- (a) a person falls within subsection (1)(a) above, or
- (b) for the purposes of subsection (2) above a person is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there,

shall be decided without regard to any living accommodation available in the United Kingdom for his use.]

#### Textual Amendments

**F139** S. 336(3) inserted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 208(1)(4)

#### Modifications etc. (not altering text)

**C56** See 1979(C) s.18(3)—*corresponding provision for capital gains.*

#### Marginal Citations

**M210** Source-1970 s.51

**Status:**

Point in time view as at 27/07/1993. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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