



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIII

#### MISCELLANEOUS SPECIAL PROVISIONS

#### CHAPTER I

#### INTELLECTUAL PROPERTY

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

C1 Pt. 13 Ch. 1 modified (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), [Sch. 3 para. 20](#)

*Patents and know-how*

**520 Allowances for expenditure on purchase of patent rights: post-31st March 1986 expenditure.**

F1 .....

**Textual Amendments**

F1 [Ss. 520-523](#) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 44](#), [Sch. 4](#)

**521 Provisions supplementary to section 520.**

F2 .....

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**Textual Amendments**

- F2** Ss. 520-523 repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 44, Sch. 4](#)

**522 Allowances for expenditure on purchase of patent rights: pre-1st April 1986 expenditure.**

**F3** .....

**Textual Amendments**

- F3** Ss. 520-523 repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 44, Sch. 4](#)

**523 Lapses of patent rights, sales etc.**

**F4** .....

**Textual Amendments**

- F4** Ss. 520-523 repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 44, Sch. 4](#)

**524 Taxation of receipts from sale of patent rights.**

- (1) <sup>M1</sup>Subject to subsection (2) below, where a person resident in the United Kingdom sells all or any part of any patent rights and the net proceeds of the sale consist wholly or partly of a capital sum, he shall, subject to the provisions of this Chapter, be charged to tax under Case VI of Schedule D, for the chargeable period in which the sum is received by him and successive chargeable periods, being charged in each period on the same fraction of the sum as the period is of six years (or such less fraction as has not already been charged).

- (2) If the person by notice served on [<sup>F5</sup>an officer of the Board within the period specified in subsection (2A) below], elects that the whole of the sum shall be charged to tax for [<sup>F6</sup>the chargeable period in which it was received], it shall be charged to tax accordingly.

[<sup>F7</sup>(2A) The period mentioned in subsection (2) above is—

- (a) in the case of an election for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which the sum was received;
- (b) in the case of an election for the purposes of corporation tax, the period of two years beginning at the end of the accounting period in which the sum was received.]

- (3) <sup>M2</sup>Subject to subsection (4) below, where a person not resident in the United Kingdom sells all or any part of any patent rights and the net proceeds of the sale consist wholly

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- or partly of a capital sum, and the patent is a United Kingdom patent, then, subject to the provisions of this Chapter—
- (a) he shall be chargeable to tax in respect of that sum under Case VI of Schedule D; and
  - (b) section 349(1) shall apply to that sum as if it was an annual sum payable otherwise than out of profits or gains charged to income tax; and
  - (c) all other provisions of the Tax Acts shall, save as therein otherwise provided, have effect accordingly.
- (4) If, [<sup>F8</sup>on or before the first anniversary of the 31st January next following] the year of assessment in which the sum is paid, the person to whom it is paid, by notice to the Board, elects that the sum shall be treated for the purpose of income tax for that year and each of the five succeeding years as if one-sixth thereof, and no more, were included in his income chargeable to tax for all those years respectively, it shall be so treated, and all such repayments and assessments of tax for each of those years shall be made as are necessary to give effect to the election, but—
- (a) the election shall not affect the amount of tax which is to be deducted and assessed under section 349(1) and 350; and
  - (b) where any sum is deducted under section 349(1), any adjustments necessary to give effect to the election shall be made by way of repayment of tax; and
  - (c) those adjustments shall be made year by year and as if one-sixth of the sum deducted had been deducted in respect of tax for each year, and no repayment of, or of any part of, that portion of the tax deducted which is to be treated as deducted in respect of tax for any year shall be made unless and until it is ascertained that the tax ultimately falling to be paid for that year is less than the amount of tax paid for that year.
- (5) <sup>M3</sup>In subsections (3) and (4) above, “tax” shall mean income tax or, in subsection (3) in a case where the seller of the patent rights, being a company, would be within the charge to corporation tax in respect of any proceeds of the sale not consisting of a capital sum, corporation tax.
- (6) Where subsection (3) applies to charge a company to corporation tax in respect of a sum paid to it, subsection (4) shall not apply, but the company may, by notice given to the Board not later than two years after the end of the accounting period in which the sum is paid, elect that the sum shall be treated as arising rateably in the accounting periods ending not later than six years from the beginning of that in which the sum is paid (being accounting periods during which the company remains within the charge to corporation tax in respect of any proceeds of the sale not consisting of a capital sum), and there shall be made all such repayments of tax and assessments to tax as are necessary to give effect to any such election.
- (7) <sup>M4</sup>Subject to subsections (8) and (9) below, where the person selling all or any part of any patent rights (“the seller”) acquired the rights sold, or the rights out of which they were granted, by purchase and the price paid by him consisted wholly or partly of a capital sum, the preceding provisions of this section shall apply as if any capital sum received by him when he sells the rights were reduced by the amount of that sum.
- (8) Where between the purchase and the sale the seller has sold part of the rights acquired by him and the net proceeds of that sale consist wholly or partly of a capital sum, the amount of the reduction falling to be made under subsection (7) above in respect of the subsequent sale shall be itself reduced by the amount of that sum.

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(9) Nothing in subsections (7) and (8) above shall affect the amount of income tax which is to be deducted and assessed under section 349(1) and (3) by virtue of subsection (3) above, and, where any sum is deducted under section 349(1), any adjustment necessary to give effect to the provisions of this subsection shall be made by way of repayment of tax.

(10)<sup>M5</sup> A claim for relief under this section shall be made to the Board.

#### Textual Amendments

- F5** Words in s. 524(2) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 15(2)(a)**
- F6** Words in s. 524(2) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 15(2)(b)**
- F7** S. 524(2A) inserted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 15(3)**
- F8** Words in s. 524(4) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 15(4)**

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

- C2** See S.I. 1970 No.488 (under “Double taxation relief: general” in Part III Vol.5) regns. 2-10—*payments exempt under double taxation agreements.*

#### Marginal Citations

- M1** Source - 1970 s.380(1)
- M2** Source - 1970 s.380(2)
- M3** Source - 1970 s.380(3)
- M4** Source - 1970 s.380(4)
- M5** Source - 1970 s.380(5)

### 525 Capital sums: death, winding up or partnership change.

- (1)<sup>M6</sup> Where a person on whom, by reason of the receipt of a capital sum, a charge falls or would otherwise fall to be made under section 524 dies or, being a body corporate, commences to be wound up—
- (a) no sums shall be charged under that section on that person for any chargeable period subsequent to that in which the death takes place or the winding up commences; and
  - (b) the amount falling to be charged for the chargeable period in which the death occurs or the winding up commences shall, subject to subsection (2) below, be increased by the total amounts which, but for the death or winding up, would have fallen to be charged for subsequent chargeable periods.
- (2) In the case of a death the personal representatives may, by notice served on the inspector not later than 30 days after notice has been served on them of the charge falling to be made by virtue of subsection (1) above, require that the income tax payable out of the estate of the deceased by reason of the increase provided for by that subsection shall be reduced so as not to exceed the total amount of income tax which would have been payable by him or out of his estate by reason of the operation of section 524 in relation to that sum, if, instead of the amount falling to be charged

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for the year in which the death occurs being increased by the whole amount of the sums charged for subsequent years, the several amounts falling to be charged for the years beginning with that in which the capital sum was received and ending with that in which the death occurred had each been increased by that whole amount divided by the number of those years.

- (3) <sup>M7</sup>Where, under [<sup>F9</sup>section 559 of the Capital Allowances Act (effect of successions)] as applied by section 532, a charge under section 524 falls to be made on two or more persons jointly as being the persons for the time being carrying on a trade, and that trade is discontinued, subsection (1) above shall have effect in relation to the discontinuance as it has effect where a body corporate commences to be wound up.
- (4) Where subsection (3) above applies—
- (a) the additional sum which, under subsection (1) above, falls to be charged for the chargeable period in which the discontinuance occurs shall be apportioned among the members of the partnership immediately before the discontinuance, according to their respective interests in the partnership profits before the discontinuance, and each partner (or, if he is dead, his personal representatives) shall be charged separately for his proportion; and
  - (b) each partner (or, if he is dead, his personal representatives) shall have the same right to require a reduction of the total income tax payable by him or out of his estate by reason of the increase as would have been exercisable by the personal representatives under subsection (2) above in the case of a death, and that subsection shall have effect accordingly, but as if references to the amount of income tax which would have been payable by the deceased or out of his estate in the event therein mentioned were a reference to the amount of income tax which would in that event have fallen to be paid or borne by the partner in question or out of his estate.
- (5) <sup>F10</sup> .....

**Textual Amendments**

- F9** Words in s. 525(3) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 45](#)
- F10** S. 525(5) repealed (with effect in accordance with Sch. 14 Pt. 8 Note 4 of the repealing Act) by [Finance Act 1988 c. 39, Sch. 14 Pt. 8](#)

**Marginal Citations**

- M6** Source - 1970 s.381(1)
- M7** Source - 1970 s.381(2)

**526 Relief for expenses.**

- <sup>M8</sup>(1) Where—
- (a) a person, otherwise than for the purposes of a trade carried on by him, pays any fees or incurs any expenses in connection with the grant or maintenance of a patent, or the obtaining of an extension of a term of a patent, or a rejected or abandoned application for a patent, and
  - (b) those fees or expenses would, if they had been paid or incurred for the purposes of a trade, have been allowable as a deduction in estimating the [<sup>F11</sup>profits] of that trade,

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there shall be made to him, for the chargeable period in which those expenses were paid or incurred, an allowance equal to the amount thereof.

- (2) Where a patent is granted in respect of any invention, an allowance equal to so much of the net amount of any expenses incurred by an individual who, whether alone or in conjunction with any other person, actually devised the invention as is properly ascribable to the devising thereof (not being expenses in respect of which, or of assets representing which, an allowance falls to be made under any other provision of the Income Tax Acts) shall be made to that individual for the year of assessment in which the expenses were incurred.

**Textual Amendments**

**F11** Word in s. 526(1)(b) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 1

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**Marginal Citations**

**M8** Source - 1970 s.382

**527 Spreading of royalties over several years.**

<sup>M9</sup>(1) Where a royalty or other sum to which section 348 or 349(1) applies is paid in respect of the user of a patent, and that user extended over a period of six complete years or more, the person receiving the payment may on the making of a claim require that the income tax or corporation tax payable by him by reason of the receipt of that sum shall be reduced so as not to exceed the total amount of income tax or corporation tax which would have been payable by him if that royalty or sum had been paid in six equal instalments at yearly intervals, the last of which was paid on the date on which the payment was in fact made.

(2) Subsection (1) above shall apply in relation to a royalty or other sum where the period of the user is two complete years or more but less than six complete years as it applies to the royalties and sums mentioned in that subsection, but with the substitution for the reference to six equal instalments of a reference to so many equal instalments as there are complete years comprised in that period.

(3) <sup>F12</sup> .....

(4) Nothing in this section shall apply to any sum to which section 349(1) applies by virtue of section 524(3)(b).

**Textual Amendments**

**F12** S. 527(3) repealed (with effect in accordance with Sch. 14 Pt. 8 Note 5 of the repealing Act) by Finance Act 1988 (c. 39), Sch. 14 Pt. 8

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**Marginal Citations**

**M9** Source - 1970 s.384

**528 Manner of making allowances and charges.**

<sup>M10</sup>(1) <sup>F13</sup> .....

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- (2) Where an allowance falls to be made to a person for any year of assessment under [F14]section 526 as that provision applies] for the purposes of income tax, and the allowance is not to be made in taxing a trade—
- (a) the amount of the allowance shall be deducted from or set off against his income from patents for that year of assessment, and
  - (b) if the amount to be allowed is greater than the amount of his income from patents for that year of assessment, the balance shall be deducted from or set off against his income from patents for the next year of assessment, and so on for subsequent years of assessment, and tax shall be discharged or repaid accordingly.

Relief shall be given under this subsection on the making of a claim.

- (3) Where an allowance falls to be made to a company for any accounting period under [F14]section 526 as that provision applies] for the purposes of corporation tax, and is not to be made in taxing a trade—
- (a) the allowance shall, as far as may be, be given effect by deducting the amount of the allowance from the company's income from patents of the accounting period;
  - (b) where the allowance cannot be given full effect under paragraph (a) above in that period by reason of a want or deficiency of income from patents, then (so long as the company remains within the charge to corporation tax) the amount unallowed shall be carried forward to the succeeding accounting period, and shall be treated for the purposes of that paragraph, and of any further application of this paragraph, as the amount of a corresponding allowance for that period.

[F15](3A) In this section references to a person's or a company's income from patents are references to that income after any allowance has been deducted from or set off against it under section 479 or 480 of the Capital Allowances Act.]

(4) F13 .....

#### Textual Amendments

- F13** S. 528(1)(4) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 46\(1\)\(4\), Sch. 4](#)
- F14** Words in s. 528(2)(3) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 46\(2\)](#)
- F15** S. 528(3A) inserted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 46\(3\)](#)

#### Marginal Citations

- M10** Source-1970 s.385; 1985 s.64(2)(d)-(f)

### 529 Patent income to be earned income in certain cases.

- <sup>M11</sup>(1) Subject to subsection (2) below, any income from patent rights arising to an individual where the patent was granted for an invention actually devised by him, whether alone or jointly with any other person, shall be treated for all purposes as earned income.



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- (2) Where any part of the rights in question or of any rights out of which they were granted has at any time belonged to any other person, so much only of that income shall be treated as earned income as is not properly attributable to the rights which have belonged to that other person.

#### Marginal Citations

**M11** Source-1970 s.383

### 530 Disposal of know-how.

F16 .....

#### Textual Amendments

**F16** S. 530 repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 47, Sch. 4](#)

### 531 Provisions supplementary to section 530.

- (1) <sup>M12</sup>Subject to subsection (7) below, where, after 19th March 1968, a person disposes of know-how which has been used in a trade carried on by him, and continues to carry on the trade after the disposal, the amount or value of any consideration received by him for the disposal shall—
- (a) if it is received in respect of the disposal of know-how after 31st March 1986, so far as it is not brought into account [<sup>F17</sup>as a disposal value under section 462 of the Capital Allowances Act], nor is chargeable to tax as a revenue or income receipt;
  - (b) in any other case, so far as it is not chargeable to tax as a revenue or income receipt,
- be treated for all purposes as a trading receipt.
- (2) <sup>M13</sup>Subject to subsection (3) below, where, after 19th March 1968, a person disposes of a trade or part of a trade and, together with that trade or part, of know-how used in it, any consideration received by him for the know-how shall be dealt with in relation both to him and to the person acquiring the know-how, if that person provided the consideration, and for the purposes of corporation tax, income tax and capital gains tax, as a payment for goodwill.
- (3) Subsection (2) above shall not apply—
- (a) to either of the persons concerned if they so elect by notice given jointly to the inspector within two years of the disposal, or
  - (b) to the person acquiring the know-how if the trade in question was, before the acquisition, carried on wholly outside the United Kingdom;

F18 .....

- (4) <sup>M14</sup>Subject to subsections (5) and (7) below, any consideration received by a person for the disposal of know-how shall—



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- (a) if it is received in respect of the disposal of know-how after 31st March 1986 and is not brought into account [<sup>F19</sup>as a disposal value under section 462 of the Capital Allowances Act], or
- (b) if it is neither chargeable to tax under subsection (1) above or otherwise as a revenue or income receipt, nor dealt with in relation to him as a payment for goodwill as mentioned in subsection (2) above, (whether the disposal took place before or after 31st March 1986),

be treated as a profit or gain chargeable to tax under Case VI of Schedule D.

- (5) <sup>M15</sup>Where the person concerned has incurred expenditure wholly and exclusively in the acquisition or disposal of the know-how, the amount which would apart from this subsection be treated as a profit or gain chargeable to tax under Case VI of Schedule D shall be reduced by the amount of that expenditure; but a deduction shall not be twice made in respect of the same expenditure, whether under this subsection or otherwise.
- (6) Where subsection (4) above has effect in the case of an individual who devised the know-how in question, whether alone or jointly with any other person, the amount in respect of which he is chargeable to tax by virtue of that subsection shall be treated for all purposes as earned income.
- (7) Subsections (1) and (3) to (6) above <sup>F20</sup>. . . shall not apply on any sale of know-how where the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them; and subsection (2) above shall apply in any such case with the omission of the words “Subject to subsection (3) below”.

In this subsection references to a body of persons include references to a partnership.

- (8) <sup>M16</sup>Where in connection with any disposal of know-how a person gives an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict his or another’s activities in any way, any consideration received in respect of the giving of the undertaking or its total or partial fulfilment shall be treated for the purposes of this section as consideration received for the disposal of the know-how.

#### Textual Amendments

- F17** Words in s. 531(1) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 48\(1\)](#)
- F18** Words in s. 531(3) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 48\(2\), Sch. 4](#)
- F19** Words in s. 531(4)(a) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 48\(3\)](#)
- F20** Words in s. 531(7) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 48\(4\), Sch. 4](#)

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

- C3** [S. 531\(2\)\(7\)](#) excluded (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\), Sch. 3 para. 19\(2\)](#)

#### Marginal Citations

- M12** [Source-1970 s.386\(2\); 1985 s.65\(3\)\(a\)](#)
- M13** [Source-1970 s.386\(3\)](#)

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- M14** Source-1970 s.386(4); 1985 s.65(3)(b)  
**M15** Source-1970 s.386(4)-(6)  
**M16** Source-1970 s.386(8); 1985 Sch.18 Part II 8

## [<sup>F21</sup>532 Application of Capital Allowances Act

The Tax Acts have effect as if sections 524 to 529 and 531, this section and section 533 were contained in the Capital Allowances Act.]

### Textual Amendments

- F21** S. 532 substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 49](#)

## 533 Interpretation of sections 520 to 532.

- (1) <sup>M17</sup>In [<sup>F22</sup>sections 524 to 529]—
- “income from patents” means—
- (a) any royalty or other sum paid in respect of the user of a patent; and
- (b) any amount on which tax is payable for any chargeable period by virtue of section <sup>F23</sup> . . . 524 or 525 [<sup>F24</sup>or section 472(5) of, or paragraph 100 of Schedule 3 to, the Capital Allowances Act];
- <sup>F25</sup> . . . . .
- “patent rights” means the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent;
- “United Kingdom patent” means a patent granted under the laws of the United Kingdom.
- (2) Subject to subsection (3) below, in [<sup>F22</sup>sections 524 to 529] any reference to the sale of part of patent rights includes a reference to the grant of a licence in respect of the patent in question, and any reference to the purchase of patent rights includes a reference to the acquisition of a licence in respect of a patent.
- (3) If a licence granted by a person entitled to any patent rights is a licence to exercise those rights to the exclusion of the grantor and all other persons for the whole of the remainder of the term for which the right subsists, the grantor shall be treated for the purposes of [<sup>F22</sup>sections 524 to 529] as thereby selling the whole of the rights.
- (4) Where, under sections 46 to 49 of the Patents Act 1949 [<sup>F26</sup>, sections 55 to 59 of the Patents Act 1977] or any corresponding provisions of the law of any country outside the United Kingdom, an invention which is the subject of a patent is made, used, or exercised or vended by or for the service of the Crown or the government of the country concerned, [<sup>F22</sup>sections 524 to 529] shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence, and any sums paid in respect thereof shall be treated accordingly.
- (5) Expenditure incurred in obtaining a right to acquire in the future patent rights as respects any invention in respect of which the patent has not yet been granted shall be deemed for all the purposes of [<sup>F22</sup>sections 524 to 529] to be expenditure on the purchase of patent rights, and if the patent rights are subsequently acquired the

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expenditure shall be deemed for those purposes to have been expenditure on the purchase of those rights.

- (6) Any sum received from a person which by virtue of subsection (5) above is deemed to be expenditure incurred by him on the purchase of patent rights shall be deemed to be proceeds of a sale of patent rights.
- (7) <sup>M18</sup>In [<sup>F27</sup>section 531]“know-how” means any industrial information and techniques likely to assist in the manufacture or processing of goods or materials, or in the working of a mine, oil-well or other source of mineral deposits (including the searching for, discovery or testing of deposits or the winning of access thereto), or in the carrying out of any agricultural, forestry or fishing operations.

#### Textual Amendments

- F22** Words in ss. 533(1)-(5) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 50\(1\)](#)
- F23** Words in s. 533(1) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 50\(2\)\(b\), Sch. 4](#)
- F24** Words in s. 533(1) inserted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para 50\(2\)\(a\)](#)
- F25** Words in s. 533(1) repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 4\), Sch. 2 para. 50\(2\)\(b\), Sch. 4](#)
- F26** Words in s. 533(4) inserted (with retrospective effect) by Finance Act 1988, Sch. 13 Pt. 1 paras. 5, 1
- F27** Words in s. 533(7) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 50\(3\)](#)

#### Marginal Citations

- M17** Source-1970 s.388; 1985 s.64(2)(g)
- M18** Source-1970 s.386(8); 1985 Sch.18 Part II 8

### *Copyright and public lending right*

#### **534 Relief for copyright payments etc.**

<sup>F28</sup> .....

#### Textual Amendments

- F28** [S. 534](#) repealed (with effect in accordance with s. 71(3) of the repealing Act) by [Finance Act 2001 \(c. 9\), Sch. 33 Pt. 2\(6\)](#)

#### **535 Relief where copyright sold after ten years or more.**

<sup>F29</sup> .....

#### Textual Amendments

- F29** [S. 535](#) repealed (with effect in accordance with s. 71(3) of the repealing Act) by [Finance Act 2001 \(c. 9\), Sch. 33 Pt. 2\(6\)](#)

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### 536 Taxation of royalties where owner abroad.

- <sup>M19</sup>(1) Subject to the provisions of this section, where the usual place of abode of the owner of a copyright is not within the United Kingdom, section 349(1) shall apply to any payment of or on account of any royalties or sums paid periodically for or in respect of that copyright as it applies to annual payments not payable out of profits or gains brought into charge to income tax.
- (2) In subsection (1) above—
- [<sup>F30</sup>“copyright” does not include copyright in—
- (i) a cinematograph film or video recording, or
- (ii) the sound-track of such a film or recording, so far as it is not separately exploited; and]
- “owner of a copyright” includes a person who, notwithstanding that he has assigned a copyright to some other person, is entitled to receive periodical payments in respect of that copyright;
- and the reference to royalties or sums paid periodically for or in respect of a copyright does not include royalties or sums paid in respect of copies of works which <sup>F31</sup> . . . have been exported from the United Kingdom for distribution outside the United Kingdom.
- (3) Subject to subsection (4) below, where any payment to which subsection (1) above applies is made through an agent resident in the United Kingdom and that agent is entitled as against the owner of the copyright to deduct any sum by way of commission in respect of services rendered, the amount of the payment shall for the purposes of section 349(1) be taken to be diminished by the sum which the agent is so entitled to deduct.
- (4) Where the person by or through whom the payment is made does not know that any such commission is payable or does not know the amount of any such commission, any income tax deducted by or assessed and charged on him shall be computed in the first instance on, and the account to be delivered of the payment shall be an account of, the total amount of the payment without regard being had to any diminution thereof <sup>F32</sup> . . . .
- (5) The time of the making of a payment to which subsection (1) above applies shall, for all tax purposes, be taken to be the time when it is made by the person by whom it is first made and not the time when it is made by or through any other person.
- (6) Any agreement for the making of any payment to which subsection (1) above applies in full and without deduction of income tax shall be void.

#### Textual Amendments

- F30** Words in s. 536(2) substituted (1.8.1989) by [Copyright, Designs and Patents Act 1988 \(c. 48\)](#), [Sch. 7 para. 36\(5\)](#); S.I. 1989/816, [art. 2](#)
- F31** Words in s. 536(2) repealed (with effect in accordance with s. 103(7) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), s. 115(10)(a), [Sch. 29 Pt. 8\(14\)](#), Note 2
- F32** Words in s. 536(4) repealed (with effect in accordance with s. 103(7) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), s. 115(10)(b), [Sch. 29 Pt. 8\(14\)](#), Note 2

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

- C4** See—1988 s.387—*sums assessed under s.350 by virtue of s.536 not to be carried forward under s.387 as trading losses.* 1988 s.821—*under-deductions of tax from payments made before passing of annual Act.* S.I. 1970 No.488 (*under “Double Taxation relief: general”*)

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in Part III Vol.5) regns.2-10—payments exempt under double taxation agreements.

**Marginal Citations**

**M19** Source-1970 s.391

**537 Public lending right.**

[<sup>F33M20</sup>Section 536] shall have effect in relation to public lending right as [<sup>F34</sup>it has] effect in relation to copyright.

**Textual Amendments**

**F33** Words in s. 537 substituted (with application in accordance with Sch. 24 para. 4(2) of the amending Act) by Finance Act 2001 (c. 9), Sch. 24 para. 4(1)(a)

**F34** Words in s. 537 substituted (with application in accordance with Sch. 24 para. 4(2) of the amending Act) by Finance Act 2001 (c. 9), Sch. 24 para. 4(1)(b)

**Marginal Citations**

**M20** Source-1983 s.27(b)

*[<sup>F35</sup> Designs*

**Textual Amendments**

**F35** Ss. 537A, 537B and preceding cross-heading inserted (1.8.1989) by Intellectual Property Act 1988 (c. 48), Sch. 7 para. 36(6); S.I. 1989/816, art. 2

**537A Relief for payments in respect of designs.**

<sup>F36</sup> ..... ]

**Textual Amendments**

**F36** S. 537A repealed (with effect in accordance with s. 71(3) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 33 Pt. 2(6)

**537B Taxation of design royalties where owner abroad.**

- (1) Where the usual place of abode of the owner of a right in a design is not within the United Kingdom, section 349(1) shall apply to any payment of or on account of any royalties or sums paid periodically for or in respect of that right as it applies to annual payments not payable out of profits or gains brought into charge to income tax.
- (2) In subsection (1) above—
  - (a) “right in a design” means design right or the right in a registered design,
  - (b) the reference to the owner of a right includes a person who, notwithstanding that he has assigned the right to some other person, is entitled to receive periodical payments in respect of the right, and

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- (c) the reference to royalties or other sums paid periodically for or in respect of a right does not include royalties or sums paid in respect of articles which<sup>F37</sup> . . . have been exported from the United Kingdom for distribution outside the United Kingdom.
- (3) Where a payment to which subsection (1) above applies is made through an agent resident in the United Kingdom and that agent is entitled as against the owner of the right to deduct any sum by way of commission in respect of services rendered, the amount of the payment shall for the purpose of section 349(1) be taken to be diminished by the sum which the agent is entitled to deduct.
- (4) Where the person by or through whom the payment is made does not know that any such commission is payable or does not know the amount of any such commission, any income tax deducted by or assessed and charged on him shall be computed in the first instance on, and the account to be delivered of the payment shall be an account of, the total amount of the payment without regard being had to any diminution thereof<sup>F38</sup> . . . .
- (5) The time of the making of a payment to which subsection (1) above applies shall, for all tax purposes, be taken to be the time when it is made by the person by whom it is first made and not the time when it is made by or through any other person.
- (6) Any agreement for the making of any payment to which subsection (1) above applies in full and without deduction of income tax shall be void.

#### Textual Amendments

- F37** Words in s. 537B(2) repealed (with effect in accordance with s. 103(7) of the repealing Act) by Finance Act 1995 (c. 4), s. 115(10)(a), **Sch. 29 Pt. 8(14)**, Note 2
- F38** Words in s. 537B(4) repealed (with effect in accordance with s. 103(7) of the repealing Act) by Finance Act 1995 (c. 4), s. 115(10)(b), **Sch. 29 Pt. 8(14)**, Note 2

#### *Artists' receipts*

### **538 Relief for painters, sculptors and other artists.**

<sup>F39</sup> . . . . .

#### Textual Amendments

- F39** S. 538 repealed (with effect in accordance with s. 71(3) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(6)**

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