



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIX

#### SUPPLEMENTAL

##### *Miscellaneous*

#### **817 Deductions not to be allowed in computing profits or gains.**

- <sup>M1</sup>(1) In arriving at the amount of profits or gains for tax purposes—
- (a) no other deductions shall be made than such as are expressly enumerated in the Tax Acts; and
  - (b) no deduction shall be made on account of any annuity or other annual payment (not being interest) to be paid out of such profits or gains in regard that a proportionate part of income tax is allowed to be deducted on making any such payment.
- (2) In arriving at the amount of profits or gains from any property described in the Tax Acts, or from any office or employment, no deduction shall be made on account of diminution of capital employed, or of loss sustained, in any trade or in any profession, employment or vocation.

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

**C1** See s.125—*annual payments for non-taxable consideration.*

**C2** S. 817(1)(b) restricted (with effect in accordance with Sch. 29 Pt. 14 of the affecting Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 29 para. 8\(3\)](#) (with [Sch. 29 para. 8\(4\)](#))

#### **Marginal Citations**

**M1** Source—1970 s.519.

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## 818 Arrangements for payments of interest less tax or of fixed net amount.

- <sup>M2</sup>(1) It is hereby declared that any provision made before or after the passing of this Act, whether orally or in writing, for the payment of interest “less tax”, or using words to that effect, is to be construed, in relation to interest payable without deduction of tax, as if the words “less tax”, or the equivalent words, were not included.
- (2) In relation to interest on which the recipient is chargeable to tax under Case III of Schedule D, and which is payable without deduction of tax, any provision, made before or after the passing of this Act, whether orally or in writing, and however worded, for the payment of interest at such a rate (“the gross rate”) as shall, after the deduction of income tax, be equal to a stated rate, shall be construed as if it were a provision requiring the payment of interest at the gross rate.

### Marginal Citations

**M2** Source—1970 s.425; 1971 Sch.6 51

## 819 Old references to standard rate tax.

- <sup>M3</sup>(1) Where any provision, however worded, contained in an instrument (of whatever nature) made on or after 3rd September 1939 or in a will or codicil taking effect on or after that date provides for the payment, whether periodically or otherwise—
- of a stated amount free of income tax other than surtax; or
  - of an amount which, after deduction of income tax at the standard rate, is equal to a stated amount;
- it shall have effect as follows.
- (2) If it is such a provision as is mentioned in subsection (1)(a) above it shall have effect as if it provided for the payment of the stated amount free of income tax other than such as exceeds the amount to which the person to whom the payment is made would be liable if all income tax [<sup>F1</sup>not chargeable [<sup>F2</sup>at the starting rate]] [<sup>F3</sup>were charged at the basic rate, or (so far as applicable in accordance with [<sup>F4</sup>section 1A]) the lower rate [<sup>F5</sup>or the Schedule F ordinary rate],] to the exclusion of [<sup>F6</sup>the higher rate and the Schedule F upper rate].
- (3) If it is such a provision as is mentioned in subsection (1)(b) above it shall have effect as if it provided for the payment of an amount which after deduction of income tax at the basic rate is equal to the stated amount.
- (4) Any instrument however worded conferring on any person a right to receive a dividend or interest the amount of which depends on the standard rate of income tax shall have effect as if instead of referring to the standard rate it referred to the basic rate.
- (5) Any reference in a statutory instrument made under the Tax Acts to the standard rate of income tax shall have effect as if it were a reference to the basic rate.

### Textual Amendments

- F1** Words in s. 819(2) inserted (16.7.1992 for the year 1992-93 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48), s. 19(3)(7)
- F2** Words in s. 819(2) substituted (with effect in accordance with s. 22(12) of the amending Act) by Finance Act 1999 (c. 16), s. 22(9)(c)

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- F3** Words in s. 819(2) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras.1, **25(1)**
- F4** Words in s. 819(2) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by Finance Act 1996 (c. 8), **Sch. 6 para. 13**
- F5** Words in s. 819(2) inserted (with effect in accordance with Sch. 4 para. 21(2) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para. 21(1)(a)**
- F6** Words in s. 819(2) substituted (with effect in accordance with Sch. 4 para. 21(2) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 4 para. 21(1)(b)**

#### Marginal Citations

- M3** Source—1971 Sch.7 2-4; 1978 Sch.2 14

### 820 Application of Income Tax Acts from year to year.

<sup>M4</sup> In order to ensure the collection in due time of income tax which may be granted for any year commencing on 6th April, all such provisions contained in the Income Tax Acts as were in force on the preceding day shall have full force and effect with respect to tax which may be so granted, in the same manner as if that tax had been actually granted by Act of Parliament and those provisions had been applied thereto by the Act.

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

- C3** S. 820 applied (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1)(2), **Sch. 2 para. 160**

#### Marginal Citations

- M4** Source—1970 s.520

### 821 Under-deductions from payments made before passing of annual Act.

- <sup>M5</sup>(1) Where, in any year of assessment, any half-yearly or quarterly payments have been made on account of any interest, dividends or other annual profits or gains, previously to the passing of the Act imposing income tax for that year, and tax has not been charged thereon or deducted therefrom or has not been charged thereon or deducted therefrom at the rate ultimately imposed for that year—
- (a) the amount not so charged or deducted shall be charged [<sup>F7</sup>under Case III of Schedule D in respect of those payments; and]
  - (b) the agents entrusted with the payment of the interest, dividends or other annual profits or gains shall furnish to the Board a list containing the names and addresses of the persons to whom payments have been made and the amount of those payments, upon a requisition made by the Board in that behalf.
- (2) Any person liable to pay any rent, interest or annuity, or to make any other annual payment—
- (a) shall be authorised—
    - (i) to make any deduction on account of income tax for any year of assessment which he has failed to make previously to the passing of the Act imposing the tax for that year, or
    - (ii) to make up any deficiency in any such deduction which has been so made,

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on the occasion of the next payment of the rent, interest or annuity or making of the other annual payment after the passing of the Act so imposing the tax, in addition to any other deduction which he may be by law authorised to make; and

- (b) shall also be entitled, if there is no future payment from which the deduction may be made, to recover the sum which might have been deducted as if it were a debt due from the person as against whom the deduction could originally have been made if the Act imposing the tax for the year had been in force.

(3) Subsection (2) above shall apply with respect to—

- (a) any payment for or in respect of copyright to which section 536 applies or of public lending right to which that section applies by virtue of section 537; and

[<sup>F8</sup>(aa) any payment for or in respect of a right in a design to which section 537B applies; and;]

- (b) any royalty or other sum paid in respect of the user of a patent; <sup>F9</sup> . . .

<sup>F9</sup>(c) . . . . .

as it applies with respect to any rent, interest, annuity or other annual payment.

(4) In this section “interest” and “dividends” do not include any interest or dividend which is a distribution.

#### Textual Amendments

**F7** Words in s. 821(1)(a) substituted (with effect in accordance with [Sch. 6 para. 28](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 6 para. 22](#)

**F8** [S. 821\(3\)\(aa\)](#) inserted (1.8.1989) by [Copyright, Designs and Patents Act 1988 \(c. 48\)](#), [Sch. 7 para. 36\(7\)](#); [S.I. 1989/816 art. 2](#)

**F9** [S. 821\(3\)\(c\)](#) and preceding word repealed (with effect in accordance with [Sch. 18 Pt. 6\(2\)](#) Note of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(2\)](#)

#### Marginal Citations

**M5** Source—1970 s.521; 1972 Sch.24 29; 1983 s.27.

## 822 Over-deductions from interest on loan capital etc. made before passing of annual Act.

<sup>M6</sup>(1) If in any year of assessment (“the year”) a resolution having statutory effect under the Provisional Collection of Taxes Act 1968 provides for the charging of income tax at a [<sup>F10</sup>lower rate less] than that charged for the previous year, the following provisions of this section shall have effect with respect to deductions in respect of income tax by any body corporate, from payments of interest (not being a distribution) on any of its securities.

(2) Any deduction which was made before the expiration of one month from the passing of the resolution and which would, if the tax had been renewed at the rate imposed for the previous year, have been a legal deduction, shall be deemed to be a deduction rendered legal by section 2 of the Provisional Collection of Taxes Act 1968 and that section shall, subject to this section, apply accordingly.

(3) Any over-deduction to be made good under that section may be made good by a reduction of the amount of tax deducted from the next payment of like nature made on the security in question after the passing of the Act imposing the tax for the year.

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- (4) Any amount made good under section 2 of the Provisional Collection of Taxes Act 1968 shall—
- (a) in the case of an over-deduction which is made good under subsection (3) above, enure to the benefit of the person entitled to the payment on the occasion of which the over-deduction is made good; and
  - (b) in any other case, enure to the benefit of the person entitled to the security in question at the date when the amount is made good,
- irrespective, in either case, of whether or not he is the person who was entitled to the payment, or to the security at the date when the original deduction was made.
- (5) Subsection (3) above shall not authorise the retention of any part of the amount over-deducted for more than one year from the passing of the Act imposing the tax for the year.

#### Textual Amendments

**F10** Words in s. 822(1) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by Finance Act 1996 (c. 8), Sch. 6 para. 23

#### Marginal Citations

**M6** Source—1970 s.522; 1971 Sch.6 76; 1972 Sch.24 30

### 823 Adjustments of reliefs where given at different times.

- <sup>M7</sup> Where under the provisions of the Income Tax Acts an individual—
- (a) is entitled to claim relief from income tax (other than relief in respect of life insurance premiums), by repayment or otherwise, in respect of—
    - (i) any amount which is paid or borne by him out of his income or which is allowable or may be deducted from his income; or
    - (ii) any reduction of an assessment relating to his income or any part of his income; or
    - (iii) any adjustment or set-off with regard to a loss; and
  - (b) claims that relief for any year of assessment,

any relief granted shall not extend so as to make the total income tax paid or payable by him for that year less than it would have been if the amount in respect of which relief is claimed had been deducted in computing his total income for that year and the amount of any other deductions or reliefs to which he is entitled for that year had been determined accordingly.

#### Marginal Citations

**M7** Source—1970 s.523

### 824 Repayment supplements: individuals and others.

[<sup>F11</sup>(1) Subject to the following provisions of this section, a repayment made by the Board or an officer of the Board of any of the following, namely—

- (a) an amount paid on account of income tax under section 59A of the Management Act;

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- (b) any income tax paid by or on behalf of an individual for a year of assessment;
  - (c) a surcharge imposed under section 59C of that Act; and
  - (d) a penalty incurred by an individual under any of the provisions of that Act,
- shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount repaid at the rate applicable under section 178 of the Finance Act 1989 for the period (if any) between the relevant time and the date on which the order for the repayment is issued.]

[<sup>F12F13</sup>(1A) . . . . .]

- (2) [<sup>F14M8</sup>Subsections (1) <sup>F15</sup>. . . ] above shall with the necessary modifications apply to a payment of the whole or part of a tax credit as [<sup>F16</sup>they apply to a repayment falling within subsection (1)] of income tax paid in the year of assessment to which the tax credit relates.

[<sup>F17F18</sup>(2A) Subsection (1) above shall apply to a repayment made in consequence of a claim under section 228 of the Income Tax Act 1952 (relief in respect of income accumulated under trusts) as if the repayment were of income tax paid by the claimant for the year of assessment in which the contingency mentioned in that section happened.]

[<sup>F19</sup>(2B) Subsection (1) above shall apply to a payment made by the Board under section 375(8) (payment of amount which borrower would have been able to deduct from interest payment under section 369(1)) as if the payment were a repayment falling within that subsection.]

[<sup>F17</sup>(2C) Subsection (1) above shall apply to a repayment made by the Board as a result of a claim for relief under—

- (a) paragraph 2 of Schedule 1B to the Management Act (carry back of loss relief),
  - (b) paragraph 3 of that Schedule (relief for fluctuating profits of farming etc.), or
  - (c) Schedule 4A to this Act (relief for fluctuating profits of creative artists etc.),
- as if it were a repayment falling within that subsection.]

[<sup>F20</sup>(3) For the purposes of subsection (1) above—

[<sup>F21</sup>(aa) if the repayment is a payment made by the Board under section 375(8), the relevant time is—

- (i) if the interest payment was made in the year 1996-97 or a subsequent year of assessment, the 31st January next following that year;
- (ii) if the interest payment was made in an earlier year of assessment, the 5th April next following that year;]

[<sup>F22</sup>(ab) if the repayment is a repayment as a result of a claim for relief under any of the provisions mentioned in subsection (2C) above, the relevant time is the 31st January next following the year that is the later year in relation to the claim;]

[<sup>F23</sup>(a) if the repayment is—

- (i) the repayment of an amount paid in accordance with the requirements of section 59A of the Management Act on account of income tax for a year of assessment, or
- (ii) the repayment of income tax for such a year which is not income tax deducted at source,

the relevant time is the date of the payment that is being repaid;

- (b) if the repayment is of income tax deducted at source for a year of assessment, the relevant time is the 31st January next following that year; and]

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- (c) if the repayment is of a penalty or surcharge, [<sup>F24</sup>the relevant time is the date on which the penalty or surcharge was paid].]
- [<sup>F25</sup>(4) For the purposes of subsection (3) above, where a repayment in respect of income tax for a year of assessment is made to any person, that repayment—
- (a) shall be attributed first to so much of any payment made by him under section 59B of the Management Act as is a payment in respect of income tax for that year;
  - (b) in so far as it exceeds the amount (if any) to which it is attributable under paragraph (a) above, shall be attributed in two equal parts to each of the payments made by him under section 59A of the Management Act on account of income tax for that year;
  - (c) in so far as it exceeds the amounts (if any) to which it is attributable under paragraphs (a) and (b) above, shall be attributed to income tax deducted at source for that year; and
  - (d) in so far as it is attributable to a payment made in instalments shall be attributed to a later instalment before being attributed to an earlier one.
- (4A) In this section any reference to income tax deducted at source for a year of assessment is a reference to—
- (a) income tax deducted or treated as deducted from any income, or treated as paid on any income, in respect of that year, and
  - (b) amounts which, in respect of that year, are tax credits to which section 231 applies,
- but does not include a reference to amounts which, in that year, are deducted at source under [<sup>F26</sup>PAYE regulations] in respect of previous years.]
- (5) <sup>F27</sup>.....
  - (6) [<sup>F28F29</sup> . . . ] The Treasury may by order from time to time increase or decrease the rate of interest by reference to which—
    - (a) repayment supplements are calculated under subsection (1) above; and
    - (b) repayment supplements are calculated under section 47 of the Finance (No. 2) Act 1975.
  - (7) A repayment supplement shall not be payable under this section in respect of a repayment or payment made in consequence of an order or judgment of a court having power to allow interest on the repayment or payment, or in respect of a repayment of a post-war credit within the meaning of the Income Tax (Repayment of Post-War Credits) Act 1959.
  - (8) A repayment supplement paid to any person under this section or under section [<sup>F30</sup>283 of the 1992 Act] shall not be income of that person for any tax purposes.
  - (9) <sup>M9</sup>Subsections (1) to (8) above shall apply in relation to <sup>F31</sup> . . . [<sup>F32</sup>the trustees of a settlement][<sup>F33</sup>or personal representatives <sup>F31</sup> . . . ] as they apply in relation to an individual.
  - (10) <sup>F34</sup>.....

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### Textual Amendments

- F11** S. 824(1) substituted (with effect in accordance with s. 199(2)(3), Sch. 19 para. 41(4) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 41(1)**; S.I. 1998/3173, **art. 2**
- F12** S. 824(1A) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, **7(b)**
- F13** S. 824(1A) repealed (from 18.8.1989) by Finance Act 1989 (c. 26), ss. 178(7), 187, **Sch. 17 Pt. 10**, Note; S.I. 1989/1298
- F14** Words in s. 824(2) substituted (retrospectively) by Finance Act 1988 (c. 39) s. 146, Sch.13 para.7(c)
- F15** Words in s. 824(2) repealed (on and after 18.8.1989) by Finance Act 1989 (c. 26), ss. 178(7), 187, **Sch.17 Part 10**; S.I. 1989/1298
- F16** Words in s. 824(2) substituted (retrospectively) by Finance Act 1988 (c. 39), s. 146, **Sch.13 para.7(c)**
- F17** S. 824(2C) inserted (with effect in accordance with s. 90(4) of the amending Act) by Finance Act 2001 (c. 9), **s. 90(2)**
- F18** S. 824(2A) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, **7(d)**
- F19** S. 824(2B) inserted (retrospectively, with effect in accordance with s. 41(4)-(6) of the amending Act) by Finance Act 1999 (c. 16), **s. 41(2)**
- F20** S. 824(3) substituted (with effect in accordance with s. 199(2)(3), Sch. 19 para. 41(4) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 41(2)**; S.I. 1998/3173, **art. 2**
- F21** S. 824(3)(aa) inserted (retrospectively, with effect in accordance with s. 41(4)-(6) of the amending Act) by Finance Act 1999 (c. 16), **s. 41(3)**
- F22** S. 824(3)(ab) inserted (with effect in accordance with s. 90(4) of the amending Act) by Finance Act 2001 (c. 9), **s. 90(3)**
- F23** S. 824(3)(a)(b) substituted (with effect in accordance with s. 92(6) of the amending Act) by Finance Act 1997 (c. 16), **s. 92(2)**
- F24** Words in s. 824(3)(c) substituted (with effect in accordance with s. 92(6) of the amending Act) by Finance Act 1997 (c. 16), **s. 92(3)**
- F25** S. 824(4)(A) substituted for s. 824(4) (with effect in accordance with s. 92(6) of the amending Act) by Finance Act 1997 (c. 16), **s. 92(4)**
- F26** Words in s. 824(4A) substituted (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. 104** (with Sch. 7)
- F27** S. 824(5) repealed (with effect in accordance with s. 199(2)(3), Sch. 19 para. 41(4) of the repealing Act) by Finance Act 1994 (c. 9), Sch. 19 para. 41(3)(a), **Sch. 26 Pt. 5(23)**, Note 3; S.I. 1998/3173, **art. 2**
- F28** Words in s. 824(6) inserted (retrospectively) by Finance Act 1988 (c. 39), s. 146, Sch. 13 paras. 1, **7(f)**
- F29** Words in s. 824(6) repealed (from 18.8.1989) by Finance Act 1989 (c. 26), ss. 178(7), 187, **Sch. 17 Pt. 10**, Note; S.I. 1989/1298
- F30** Words in s. 824(8) 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(52)** (with ss. 60, 101(1), 171, 201(3))
- F31** Words in s. 824(9) repealed (with effect in accordance with s. 199(2)(3), Sch. 19 para. 41(4) of the repealing Act) by Finance Act 1994 (c. 9), Sch. 19 para. 41(3)(b), **Sch. 26 Pt. 5(23)**, Note 3; S.I. 1998/3173, **art. 2**
- F32** Words in s. 824(9) substituted (1989-90 and subsequent years) by Finance Act 1989 (c. 26), **s. 110(5)(6)-(9)**
- F33** Words in s. 824(9) substituted (1989-90 and subsequent years) by Finance Act 1989 (c. 26), **s. 111(4)(5)-(8)**
- F34** S. 824(10) repealed (with effect in accordance with s. 199(2)(3), Sch. 19 para. 41(4) of the repealing Act) by Finance Act 1994 (c. 9), Sch. 19 para. 41(3)(c), **Sch. 26 Pt. 5(23)**, Note 3; S.I. 1998/3173, **art. 2**



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

- C4 S. 824 excluded (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by Finance Act 1993 (c. 34), ss. 173, 184(3), **Sch. 19 Pt. III para. 13(4)**
- C5 S. 824 excluded (2.1.1996) by The Lloyd's Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3225), **reg. 12(2)** (with reg. 13)
- C6 S. 824(3) modified (22.7.2004) by Finance Act 2004 (c. 12), **s. 108**

#### Marginal Citations

- M8 Source—1975 (No.2) s.47(3)(a)
- M9 Source—1975 (No.2) s.47(11), (12).

## 825 Repayment supplements: companies.

- (1) <sup>M10</sup>This section applies to the following payments made to a company in connection with any accounting period for which the company was resident in the United Kingdom (“the relevant accounting period”), that is to say—
- a repayment of corporation tax paid by the company for that accounting period (including advance corporation tax paid in respect of distributions made by the company in that accounting period *and any sum paid in respect of that period on an assessment under section 430(7)(a)* <sup>F35</sup>; or
  - a repayment of income tax in respect of a payment received by the company in that accounting period on which the company bore income tax by deduction; or
  - a payment of the whole or part of the tax credit comprised in any franked investment income received by the company in that accounting period.
- (2) Subject to the following provisions of this section, where a payment <sup>F36</sup>. . . to which this section applies is made by the Board or an inspector after the end of the 12 months beginning with the material date, the payment shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount paid at the [<sup>F37</sup>rate applicable under section 178 of the Finance Act 1989] for each complete tax month contained in the period (if any) beginning with the relevant date and ending at the end of the tax month in which the order for the payment is issued.
- [<sup>F38</sup>(2A) *In relation to any complete tax month beginning before 6th April 1974 which is contained in the last-mentioned period, subsection (2) above shall have effect as if the rate of interest specified in it were 6 per cent. per annum (instead of the rate so specified or any other rate in force by virtue of subsection (5) below or section 48(6) of the Finance (No.2) Act 1975).* <sup>F39</sup>]
- (3) <sup>M11</sup>For the purposes of subsection (2) above—
- if the payment is a repayment of corporation tax that was paid on or after the first anniversary of the material date, the relevant date is the anniversary of the material date that occurs next after the date on which that tax was paid;
  - in any other case, the relevant date is the first anniversary of the material date; and where a payment to which this section applies is a repayment of corporation tax paid by a company on different dates, the payment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid on a later rather than an earlier date among those dates.
- (4) For the purposes of this section—

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- (a) a repayment of corporation tax made in consequence of a claim by a company under section 239(3) to have the whole or any part of an amount of surplus advance corporation tax arising in the case of any accounting period treated as if it were advance corporation tax paid in respect of distributions made by the company in any earlier accounting period shall be treated as a repayment of corporation tax paid for the accounting period in the case of which that amount of surplus advance corporation tax arose; and
- (b) a repayment of income tax or corporation tax made on a claim under subsection (4) of section 419 shall be treated as if it were a repayment of corporation tax paid for the accounting period in which the repayment of, or of the part in question of, the loan or advance mentioned in that subsection was made. <sup>F40</sup>and
- (c) a repayment of corporation tax or income tax falling to be made as a result of a claim under section 393A(1) to have the whole or any part of a loss incurred in an accounting period set off against profits of an earlier accounting period (“the earlier period”)—
  - (i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss was incurred, be treated as a repayment of tax paid for the earlier period; and
  - (ii) in any other case, shall be treated as a repayment of tax paid for the accounting period in which the loss is incurred; and<sup>F41</sup>(d) .....]
- (5) <sup>F42</sup>*Without prejudice to subsection (2A) above* the Treasury may by order from time to time increase or decrease the rate of interest by reference to which repayment supplements are calculated under subsection (2) above.
- (6) A repayment supplement shall not be payable under this section in respect of a payment made in consequence of an order or judgment of a court having power to allow interest on the payment.
- (7) A repayment supplement paid under this section shall be disregarded for all purposes of income tax and corporation tax.
- (8) In this section—
  - “tax month” means the period beginning with the 6th day of any calendar month and ending with the 5th day of the following calendar month;
  - “the material date” in relation to a payment to which this section applies, means the last date on which corporation tax on any of the profits of the company in question arising in the relevant accounting period could have been paid—
    - (a) in a case where section 10(1) applies, within the nine months there mentioned;
    - (b) in a case where section 478 applies, within the time limit imposed by subsection (2)(a) of that section, but subject to subsection (6) of that section.
- (9) This section has effect subject to section 826(8).

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### Textual Amendments

- F35** Words in s. 825(1)(a) repealed (for accounting periods beginning after 31.3.1989) by [Finance Act 1989](#) (c. 26), s. 187, [Sch. 17 Pt. V](#), Note 6
- F36** Words in s. 825(2) repealed (with effect in relation to payments made on and after 6.4.1993) by [Finance Act 1989](#) (c. 26), ss. 158(2), 187, [Sch. 17 Pt. 8](#), Note 5; S.I. 1993/753
- F37** Words in s. 825(2) substituted (from 18.8.1989) by [Finance Act 1989](#) (c. 26), [s. 179\(1\)\(a\)\(vii\)](#); S.I. 1989/1298
- F38** S. 825(2A) inserted (retrospectively) by [Finance Act 1988](#) (c. 39), s. 146, [Sch. 13 paras. 1, 8\(a\)](#)
- F39** Repealed by 1989 s.178(7) and 187 and Sch.17 Part X from 18 August 1989 (see S.I. 1989 No.1298).
- F40** Words in s. 825(4) added by [Finance Act 1991](#) (c. 31, SIF 63:1), s. 73(3)(4)(5), [Sch. 15 para.22](#)
- F41** S. 825(4)(d) repealed (with effect in accordance with s. 20 of the repealing Act) by [Finance \(No. 2\) Act 1997](#) (c. 58), [Sch. 8 Pt. 2\(4\)](#), Note
- F42** Words in s. 825(2A) inserted (retrospectively) by [Finance Act 1988](#) (c. 39), s. 146, [Sch. 13 paras. 1, 8\(b\)](#)

### Modifications etc. (not altering text)

- C7** S. 825(4)(a) modified (27.7.1993) by [Finance Act 1993](#) (c. 34), s. 120, [Sch. 14 para. 10\(6\)](#)  
S. 825(4)(a) modified (1.5.1995) by [Finance Act 1995](#) (c. 4), s. 120, [Sch. 24 para. 12\(5\)](#)
- C8** See Table I in Vol.1 and see 1989 s.178 for further regulation making powers and Part III Vol.5 for regulations.
- C9** And see [Sch.30 para.1\(9\)](#).

### Marginal Citations

- M10** Source—1975 (No.2) s.48(1), (2)
- M11** Source—1975 (No.2) s.48(4)-(9)

## 826 Interest on tax overpaid.

<sup>M12</sup>(1) In any case where—

- (a) a repayment falls to be made of corporation tax paid by a company for an accounting period which ends after the appointed day; or
- <sup>F43</sup>(aa) a repayment falls to be made under sections 246N and 246Q of advance corporation tax paid by a company in respect of distributions made by it in such an accounting period; or]
- (b) a repayment of income tax falls to be made in respect of a payment received by a company in such an accounting period; or
- (c) a payment falls to be made to a company of the whole or part of the tax credit comprised in any franked investment income received by the company in such an accounting period <sup>F44</sup>; or
- (d) a payment of R&D tax credit falls to be made to a company under Schedule 20 to the Finance Act 2000 in respect of an accounting period <sup>F45</sup>; or
- [ a payment of a tax credit falls to be made to a company under Schedule 13 to <sup>F46</sup>(da) the Finance Act 2002 in respect of an accounting period, or]
- (e) a payment of land remediation tax credit or life assurance company tax credit falls to be made to a company under Schedule 22 to the Finance Act 2001 in respect of an accounting period,]

then, from the material date until <sup>F47</sup>the order for repayment or payment is issued], the repayment or payment shall carry interest at the rate which, under section 89 of

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the Management Act, is for the time being the prescribed rate for the purposes of this section.

- (2) [<sup>F48</sup>Subject to section 826A(2),] in relation to corporation tax paid by a company for an accounting period, the material date for the purposes of this section is the date on which corporation tax was paid or, if it is later, the date on which corporation tax for that accounting period became (or, as the case may be, would have become) due and payable in accordance with [<sup>F49</sup>section 59D of the Management Act (payment of corporation tax)].

[<sup>F50</sup>(2A) <sup>F51</sup>.....]

- (3) In relation to a repayment of income tax falling within subsection (1)(b) above or a payment of the whole or part of a tax credit falling within subsection (1)(c) above, [<sup>F52</sup>the material date is the day after the end of the accounting period] in which the payment referred to in subsection (1)(b) above or, as the case may be, the franked investment income referred to in subsection (1)(c) above was received by the company.

[<sup>F53</sup>(3A) In relation to a payment of R&D tax credit falling within subsection (1)(d) above the material date is whichever is the later of—

- (a) the filing date for the company’s company tax return for the accounting period for which the R&D tax credit is claimed, and
- (b) the date on which the company tax return or amended company tax return containing the claim for payment of the R&D tax credit is delivered to the Inland Revenue.

For this purpose “the filing date”, in relation to a company tax return, has the same meaning as in Schedule 18 to the <sup>M13</sup>Finance Act 1998.]

[<sup>F54</sup>(3AA) In relation to a payment of tax credit falling within subsection (1)(da) above, the material date is whichever is the later of—

- (a) the filing date for the company’s company tax return for the accounting period for which the tax credit is claimed, and
- (b) the date on which the company tax return or amended company tax return containing the claim for payment of the tax credit is delivered to the Inland Revenue.

For this purpose “the filing date”, in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998.]

[<sup>F55</sup>(3B) In relation to a payment of land remediation tax credit or life assurance company tax credit falling within subsection (1)(e) above the material date is whichever is the later of—

- (a) the filing date for the company’s company tax return for the accounting period for which the land remediation tax credit or the life assurance company tax credit is claimed, and
- (b) the date on which the company tax return or amended company tax return containing the claim for payment of the land remediation tax credit or the life assurance company tax credit is delivered to the Inland Revenue.

For this purpose “the filing date”, in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998.]

- (4) For the purposes of this section a repayment of tax made on a claim under section 419(4) shall be treated as if it were a repayment of corporation tax for the

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accounting period in which [<sup>F56</sup>the event giving rise to entitlement to relief under section 419(4) occurred] but, in relation to such a repayment of tax, the material date for the purposes of this section is—

[<sup>F57</sup>(a) the date when the entitlement to relief in respect of the repayment accrued, that is to say—

(i) where the repayment [<sup>F58</sup>, or the release or writing off,] of the loan or advance (or part thereof) occurred on or after the day mentioned in section 419(4A), the date nine months after the end of that accounting period; and

(ii) in any other case, the date nine months after the end of the accounting period in which the loan or advance was made;

or]

(b) if it is later, the date on which the tax which is to be repaid was in fact paid.

(5) Interest paid under this section—

[<sup>F59</sup>(a)] shall be paid without any deduction of income tax and

[<sup>F60</sup>(b)] [<sup>F61</sup>subject to subsection (5A) below,] shall not be brought into account in computing any profits or income.

[<sup>F62</sup>(5A) Paragraph (b) of subsection (5) above does not apply in relation to interest payable to a company within the charge to corporation tax.]

(6) Where a repayment of corporation tax is a repayment of tax paid by a company on different dates, the repayment shall so far as possible be treated for the purposes of this section as a repayment of tax paid on a later rather than an earlier date among those dates.

(7) <sup>F63</sup> .....

[<sup>F64</sup><sup>F65</sup>(7A) In any case where—

(a) a company carrying on a trade incurs a loss in the trade in an accounting period (“the later period”),

(b) as a result of a claim under section 393A(1), the whole or any part of that loss is set off for the purposes of corporation tax against profits (of whatever description) of an earlier accounting period (“the earlier period”) which does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period,

then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of [<sup>F66</sup>so much of the amount of that repayment as falls to be made] as a result of the claim under section 393A(1), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, [<sup>F67</sup>as mentioned in subsection (7D) below].

[<sup>F64</sup>(7AA) <sup>F68</sup> .....

<sup>F69</sup>(7B) .....

[<sup>F70</sup>(7BB) Subject to subsection (7BC) below, in any case where—

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- (a) within the meaning of section 806D, any relievable underlying tax or relievable withholding tax arises in an accounting period of a company (“the later period”),
  - (b) pursuant to a claim under section 806G, the whole or any part of that tax is treated as mentioned in section 806D(4)(c) or (5)(c) in relation to the single related dividend or the single unrelated dividend arising in an earlier accounting period (“the earlier period”), and
  - (c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period,
- then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of the claim under section 806G, except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (7D) below).

(7BC) Where, in a case falling within subsection (7A)(a) and (b) above—

- (a) as a result of the claim under section 393A(1), an amount or increased amount of eligible unrelieved foreign tax arises for the purposes of section 806A(1), and
- (b) pursuant to a claim under section 806G, the whole or any part of an amount of relievable underlying tax or relievable withholding tax is treated as mentioned in section 806D(4)(c) or (5)(c) in relation to the single related dividend or the single unrelated dividend arising in an accounting period before the earlier period,

then subsection (7BB) above shall have effect in relation to the claim under section 806G as if the reference in the words after paragraph (c) to the later period within the meaning of that subsection were a reference to the period which, in relation to the claim under section 393A(1), would be the later period for the purposes of subsection (7A) above.]

[<sup>F71</sup>(7C) In a case where—

- (a) there is for an accounting period of a company (“the later period”) [<sup>F72</sup>a non-trading deficit on the company’s loan relationships,]
- (b) as a result of a claim under [<sup>F73</sup>section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act the whole or part of the deficit for the later period is set off against profits] of an earlier accounting period (“the earlier period”), and
- (c) a repayment falls to be made of corporation tax for the earlier period [<sup>F74</sup>or of income tax in respect of a payment received by the company in that accounting period],

then, in determining the amount of interest (if any) payable under this section on the [<sup>F75</sup>repayment referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of] the claim under [<sup>F76</sup>section 83(2)(c) of that Act or, as the case may be, paragraph 4(3) of Schedule 11 to that Act] except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, [<sup>F67</sup>as mentioned in subsection (7D) below].]

.....)]

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<sup>F79</sup>(7D) In subsections (7), (7A), (7B) <sup>F80</sup>, (7BB)] and (7C) above, any reference to the date on which corporation tax for an accounting period became, or would have become, due and payable shall be construed on the basis that corporation tax for an accounting period becomes due and payable on the day following the expiry of nine months from the end of the accounting period.]

<sup>F81</sup>(7E) The power conferred by section 59E of the Management Act (alteration of date on which corporation tax becomes due and payable) does not include power to make provision in relation to subsection (7), (7A), (7B), <sup>F82</sup>(7BB),] (7C) or (7D) above the effect of which would be to change the meaning of references in subsection (7), (7A), (7B) <sup>F82</sup>, (7BB)] or (7C) above to the date on which corporation tax for an accounting period became, or would have become, due and payable (as mentioned in subsection (7D) above).]

(8) In consequence of the preceding provisions of this section, no repayment supplement (within the meaning of section 825) shall be paid in respect of any repayment of tax or payment of tax credit where the relevant accounting period (within the meaning of that section) ends after the appointed day.

<sup>F83</sup>(8A) Where—

(a) interest has been paid to a company under subsection (1)(a) <sup>F84</sup><sup>F85</sup>, (d), (da)] <sup>F86</sup> or (e)] above,

<sup>F87</sup>(b) there is—

- (i) a change in the company's assessed liability to corporation tax, or
- (ii) a change in the amount of the R&D tax credit <sup>F88</sup>, tax credit under Schedule 13 to the Finance Act 2002] <sup>F89</sup>, land remediation tax credit or life assurance company tax credit] payable to the company (which does not result in a change falling within sub-paragraph (i)),

other than a change which in whole or in part corrects an error made by the Board or an officer of the Board, and]

(c) as a result only of that change (and, in particular, not as a result of any error in the calculation of the interest), it appears to an officer of the Board that the interest ought not to have been paid, either at all or to any extent,

the interest that ought not to have been paid may be recovered from the company as if it were interest charged under Part IX of the Management Act (interest on overdue tax).

(8B) For the purposes of subsection (8A) above, the cases where there is a change in a company's assessed liability to corporation tax are those cases where—

(a) an assessment, or an amendment of an assessment, of the amount of corporation tax payable by the company for the accounting period in question is made, or

(b) a determination of that amount is made under paragraph 36 or 37 of Schedule 18 to the Finance Act 1998 (which until superseded by a self-assessment under that Schedule has effect as if it were one),

whether or not any previous assessment or determination has been made.

<sup>F90</sup>(8BA) [ For the purposes of subsection (8A)(b) above, the cases where there is a change in the amount of the R&D tax credit <sup>F91</sup>, tax credit under Schedule 13 to the Finance Act 2002] <sup>F92</sup>, the land remediation tax credit or the life assurance company tax credit] payable to the company are those cases where an assessment, or an amendment to an assessment, is made to recover an amount of R&D tax credit <sup>F91</sup>, tax credit under

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Schedule 13 to the Finance Act 2002]]<sup>F93</sup>, land remediation tax credit or life assurance company tax credit] paid to the company for the accounting period in question.]

(8C) In subsection (8A)(b) above “error” includes—

- (a) any computational error; and
- (b) the allowance of a claim or election which ought not to have been allowed.]

(9) In this section “the appointed day” means such day or days, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of this section.

### Subordinate Legislation Made

**P1** S. 826(1)(8)(9) power exercised: 30.9.1993 appointed by S.I. 1992/3066, **art. 2(2)(b)**

### Textual Amendments

- F43** S. 826(1)(aa) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 20(2)**
- F44** S. 826(1)(d) and preceding word inserted (with effect in accordance with s. 69(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 21 para. 1(2)**
- F45** S. 826(1)(e) and preceding word inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(2)**
- F46** S. 826(1)(da) inserted (with effect in accordance with Sch. 14 para. 5 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 14 para. 1(2)**
- F47** Words in s. 826(1) substituted (retrospectively) by Finance Act 1989 (c. 26), **s. 180(6)(7)**
- F48** Words in s. 826(2) inserted (31.7.1998) by Finance Act 1998 (c. 36), **Sch. 4 para. 1(1)**
- F49** Words in s. 826(2) substituted (with effect in accordance with s. 199(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 42**; S.I. 1998/3173, **art. 2**
- F50** S. 826(2A) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 20(3)**
- F51** S. 826(2A) repealed (with effect in accordance with Sch. 3 para. 38(5) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 38(2), **Sch. 27 Pt. 3(2)**, Note
- F52** Words in s. 826(3) substituted (with effect in accordance with Sch. 4 para. 2(2) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 4 para. 2(1)**
- F53** S. 826(3A) inserted (with effect in accordance with s. 69(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 21 para. 1(3)**
- F54** S. 826(3AA) inserted (with effect in accordance with Sch. 14 para. 5 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 14 para. 1(3)**
- F55** S. 826(3B) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(3)**
- F56** Words in s. 826(4) substituted (with effect in accordance with s. 90(2) of the amending Act) by Finance Act 1999 (c. 16), **s. 90(1)(a)**
- F57** S. 826(4)(a) substituted (with effect in accordance with s. 173(6) of the amending Act) by Finance Act 1996 (c. 8), **s. 173(5)**
- F58** Words in s. 826(4)(a)(i) inserted (with effect in accordance with s. 90(2) of the amending Act) by Finance Act 1999 (c. 16), **s. 90(1)(b)**
- F59** Words in s. 826(5) re-numbered as s. 826(5)(a) (31.7.1998) by virtue of Finance Act 1998 (c. 36), **s. 34(2)(a)**
- F60** Words in s. 826(5) re-numbered as s. 826(5)(b) (31.7.1998) by virtue of Finance Act 1998 (c. 36), **s. 34(2)(b)**
- F61** Words in s. 826(5)(b) inserted (with effect in accordance with s. 34(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 34(3)**
- F62** S. 826(5A) inserted (with effect in accordance with s. 34(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 34(4)**
- F63** S. 826(7) repealed (with effect in accordance with Sch. 3 para. 38(6) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 38(3), **Sch. 27 Pt. 3(2)**, Note



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- F64** S. 826(7AA) inserted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para. 10(3)(5)**
- F65** S. 826(7A)(7B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), **Sch. 15 para. 23**
- F66** Words in s. 826(7A) substituted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para. 10(2)**
- F67** Words in s. 826(7)(7A)(7B)(7C) substituted (with effect in accordance with Sch. 4 para. 5(5)(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 4 para. 5(2)**
- F68** S. 826(7AA)(7CA) repealed (with effect in accordance with Sch. 3 para. 38(7) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 38(4), **Sch. 27 Pt. 3(2)**, Note
- F69** S. 826(7B) repealed (with effect in accordance with s. 20 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 8 Pt. 2(4)**, Note
- F70** S. 826(7BB)(7BC) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 30 para. 29(2)**
- F71** S. 826(7C) inserted (27.7.1993) by 1993 c. 34, s. 170, **Sch. 18 para. 5**
- F72** Words in s. 826(7C)(a) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 48(1)(a)** (with Sch. 15)
- F73** Words in s. 826(7C)(b) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 48(1)(b)** (with Sch. 15)
- F74** Words in s. 826(7C)(c) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 24 para. 11(a)**
- F75** Words in s. 826(7C) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 24 para. 11(b)**
- F76** Words in s. 826(7C) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 48(1)(c)** (with Sch. 15)
- F77** S. 826(7CA) inserted (with effect in accordance with Sch. 24 para. 12(4)(5) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 24 para. 12(2)**
- F78** S. 826(7AA)(7CA) repealed (with effect in accordance with Sch. 3 para. 38(7) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 38(4), **Sch. 27 Pt. 3(2)**, Note
- F79** S. 826(7D) inserted (with effect in accordance with Sch. 4 para. 5(5)(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 4 para. 5(3)**
- F80** Words in s. 826(7D) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 30 para. 29(3)**
- F81** S. 826(7E) inserted (with effect in accordance with Sch. 4 para. 5(5)(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 4 para. 5(4)**
- F82** Words in s. 826(7E) inserted (28.7.2000) by virtue of Finance Act 2000 (c. 17), **Sch. 30 para. 29(4)**
- F83** S. 826(8A)-(8C) inserted (with effect in accordance with Sch. 4 para. 3(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 4 para. 3(1)**
- F84** Words in s. 826(8A)(a) inserted (with effect in accordance with s. 69(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 21 para. 1(4)(a)**
- F85** Words in s. 826(8A)(a) substituted (with effect in accordance with Sch. 14 para. 5 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 14 para. 1(4)(a)**
- F86** Words in s. 826(8A)(a) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(4)(a)**
- F87** S. 826(8A)(b) substituted (with effect in accordance with s. 69(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 21 para. 1(4)(b)**
- F88** Words in s. 826(8A)(b)(ii) inserted (with effect in accordance with Sch. 14 para. 5 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 14 para. 1(4)(b)**
- F89** Words in s. 826(8A)(b)(ii) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(4)(b)**
- F90** S. 826(8BA) inserted (with effect in accordance with s. 69(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 21 para. 1(5)**
- F91** Words in s. 826(8BA) inserted (with effect in accordance with Sch. 14 para. 5 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 14 para. 1(5)**
- F92** Words in s. 826(8BA) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(5)(a)**
- F93** Words in s. 826(8BA) inserted (with effect in accordance with s. 70(1) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 23 para. 3(5)(b)**

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

- C10** S. 826 excluded (2.1.1996) by [The Lloyd's Underwriters \(Gilt-edged Securities\) \(Periodic Accounting for Tax on Interest\) Regulations 1995 \(S.I. 1995/3225\)](#), **reg. 12(2)** (with **reg. 13**)
- C11** S. 826 applied (with modifications) (7.1.1999 in accordance with reg. 1(2) of the affecting S.I.) by [The Corporation Tax \(Instalment Payments\) Regulations 1998 \(S.I. 1998/3175\)](#), **reg. 8** (as amended by: S.I. 2005/889, **regs. 1(1)(3)**, 7; S.I. 2011/1785, **regs. 1**, 11; S.I. 2017/1072, **regs. 1**, 10)
- C12** S. 826 excluded (27.12.2005 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Lloyd's Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), **regs. 1(1)**, 14(4)(6)(b)

#### **Marginal Citations**

- M12** Source—1987 (No.2) s.87
- M13** 1998 c. 36.

### [<sup>F94</sup> **826A Interest on payments in respect of corporation tax and meaning of “the material date”.**

- (1) The Treasury may by regulations make provision applying section 826, with such modifications as may be prescribed, for the purpose of conferring on companies of such descriptions as may be prescribed a right to interest—
  - (a) on such payments made by them in respect of corporation tax as may be prescribed,
  - (b) at the rate applicable under section 178 of the <sup>M14</sup>Finance Act 1989, and
  - (c) for such period as may be prescribed,
 and for treating any such interest for the purposes, or prescribed purposes, of the Tax Acts as interest under section 826(1)(a) on a repayment of corporation tax.
- (2) The Treasury may by regulations make provision modifying section 826(2) in relation to companies of such description as may be prescribed.
- (3) Subsections (1) and (2) above do not apply in relation to companies in relation to which section 826(2) is modified or otherwise affected by regulations under section 59E of the Management Act (alteration of date on which corporation tax becomes due and payable) in relation to the accounting period to which the corporation tax in question relates.
- (4) Where the Treasury make regulations under subsection (2) above in relation to companies of any description, they may also make regulations modifying section 59DA(2) of the Management Act in relation to those companies, or any description of such companies, by varying the date before which the claim there mentioned may not be made.
- (5) Regulations under this section—
  - (a) may make different provision in relation to different cases or circumstances or in relation to companies or accounting periods of different descriptions;
  - (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (6) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the <sup>M15</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (7) In this section “prescribed” means prescribed by regulations made under this section.]

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#### Textual Amendments

**F94** S. 826A inserted (31.7.1998) by Finance Act 1998 (c. 36), Sch. 4 para. 1(2)

#### Marginal Citations

**M14** 1989 c. 26.

**M15** 1994 c. 9.

### 827 VAT penalties etc.

<sup>M16</sup>(1) Where, under [<sup>F95</sup>Part IV of the Value Added Tax Act 1994], a person is liable to make a payment by way of—

- (a) penalty under any of sections [<sup>F96</sup>60 to 70]; or
- (b) interest under section [<sup>F97</sup>74]; or
- (c) surcharge under section [<sup>F97</sup>59];

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

[<sup>F98</sup>(1A) Where a person is liable to make a payment by way of a penalty under any of sections 8 to 11 of the Finance Act 1994 (penalties relating to excise), that payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.]

[<sup>F99</sup>(1B) Where a person is liable to make a payment by way of—

- (a) penalty under any of paragraphs 12 to 19 of Schedule 7 to the Finance Act 1994 (insurance premium tax), or
- (b) interest under paragraph 21 of that Schedule,

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.]

[<sup>F100</sup>(1C) Where a person is liable to make a payment by way of—

- (a) penalty under Part V of Schedule 5 to the Finance Act 1996 (landfill tax), or
- (b) interest under paragraph 26 or 27 of that Schedule,

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.]

[<sup>F101</sup>(1D) Where a person is liable to make a payment by way of—

- (a) any penalty under any provision of Schedule 6 to the Finance Act 2000 (climate change levy),
- (b) interest under paragraph 70 of that Schedule (interest on recoverable overpayments etc.),
- (c) interest under any of paragraphs 81 to 85 of that Schedule (interest on climate change levy due and on interest), or
- (d) interest under paragraph 109 of that Schedule (interest on penalties),

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.]

[<sup>F102</sup>(1E) Where a person is liable to make a payment by way of—

- (a) any penalty under any provision of Part 2 of the Finance Act 2001 (aggregates levy),

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- (b) interest under any of paragraphs 5 to 9 of Schedule 5 to that Act (interest on aggregates levy due and on interest),
  - (c) interest under paragraph 6 of Schedule 8 to that Act (interest on recoverable overpayments etc.), or
  - (d) interest under paragraph 5 of Schedule 10 to that Act (interest on penalties),
- the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.]
- (2) A sum paid to any person by way of supplement under section [F10379 of that Act] shall be disregarded for all purposes of corporation tax and income tax.

#### Textual Amendments

- F95** Words in s. 827(1) substituted (1.9.1994) by Value Added Tax Act 1994 (c. 23), s. 101(1), **Sch. 14 para. 10(2)(a)**
- F96** Words in s. 827(1)(a) substituted (1.9.1994) by Value Added Tax Act 1994 (c. 23), s. 101(1), **Sch. 14 para. 10(2)(b)**
- F97** Words in s. 827(1)(b)(c) substituted (1.9.1994) by Value Added Tax Act 1994 (c. 23), s. 101(1), **Sch. 14 para. 10(2)(c)**
- F98** S. 827(1A) inserted (1.11.1994 for specified purposes and 1.1.1995 otherwise) by Finance Act 1994 (c. 9), **ss. 18(7), 19(1)** (with s. 19(3)); S.I. 1994/2679, **arts. 2, 3** (with art. 4(3))
- F99** S. 827(1B) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 7 para. 31**
- F100** S. 827(1C) inserted (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 5 para. 40**
- F101** S. 827(1D) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 7 para. 4**
- F102** S. 827(1E) inserted (11.5.2001) by Finance Act 2001 (c. 9), **s. 49(3)**
- F103** Words in s. 827(2) substituted (1.9.1994) by Value Added Tax Act 1994 (c. 23), s. 101(1), **Sch. 14 para. 10(2)(d)**

#### Marginal Citations

- M16** Source—1986 s.53.

VALID FROM 06/04/2005

#### [F104827A] Territorial scope of charges under certain provisions to which section 836B applies

- (1) This section applies in relation to any amount chargeable to income tax under or by virtue of any provision to which section 836B applies (other than a provision listed in Part 2 of the table in that section).
- (2) An amount arising to a person who is resident in the United Kingdom is chargeable to tax whether or not it is from a source in the United Kingdom.
- (3) An amount arising to a person who is not resident in the United Kingdom is chargeable to tax only if it is from a source in the United Kingdom.
- (4) References in this section to amounts which are from a source in the United Kingdom include, in the case of any amount which does not have a source, references to amounts which have a comparable connection to the United Kingdom.
- (5) This section is subject to any express or implied provision to the contrary in any provision of the Income Tax Acts.

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(6) This section does not apply for the purposes of corporation tax.]

#### Textual Amendments

**F104** S. 827A inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 333** (with Sch. 2)

### 828 Orders and regulations made by the Treasury or the Board.

- (1) <sup>M17</sup>Subject to [<sup>F105</sup>subsections (2) and (5)] below, any power of the Treasury or the Board to make any order or regulations under this Act or under any other provision of the Tax Acts (including enactments passed after this Act) shall be exercisable by statutory instrument.
- (2) Subsection (1) above shall not apply in relation to any power conferred by [<sup>F106</sup>section 841(1)(b) or 841A][<sup>F107</sup>or section 178(5) of the Finance Act 1989.]
- (3) <sup>M18</sup>Subject to [<sup>F108</sup>subsections (4) and (5)] below and to any other provision to the contrary, any statutory instrument containing any order or regulations made by the Treasury or the Board under this Act or under any other provision of the Tax Acts (including enactments passed after this Act) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (3) above shall not apply in relation to an order or regulations made under section 1(6), [<sup>F109</sup>257C], 324, <sup>F110</sup> . . . <sup>F111</sup> . . . [<sup>F112</sup>582A(1)][<sup>F113</sup>590C(6)] 658(3) [<sup>F114</sup>791 or 840A(1)(d)] or paragraph 7 of Schedule 14 [<sup>F115</sup>or [<sup>F116</sup>section 82(4)(d) of the Capital Allowances Act]] or—
  - (a) if any other Parliamentary procedure is expressly provided;
  - (b) if the order in question is an order appointing a day for the purposes of any provision of the Tax Acts, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect.
- [<sup>F117</sup>(5) Nothing in this section applies in relation to any of the following (in relation to which section 717 of ITEPA 2003 applies)—
  - (a) any power of the Treasury or the Board to make any order or regulations under ITEPA 2003;
  - (b) any statutory instrument containing any order or regulations made by the Treasury or the Board under that Act.]

#### Textual Amendments

**F105** Words in s. 828(1) substituted (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. 105(2)** (with Sch. 7)

**F106** Words in s. 828(2) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by **Finance Act 1996 (c. 8), Sch. 7 para. 24**

**F107** 1989 s.178(6).

**F108** Words in s. 828(3) substituted (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. 105(3)** (with Sch. 7)

**F109** Words in s. 828(4) substituted (1990-91 and subsequent years of assessment) by **Finance Act 1990 (c. 29), s. 17(3)**

**F110** Words in s. 828(4) repealed (3.5.1994) by **Finance Act 1994 (c. 9), Sch. 26 Pt. 5(19)**

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- F111** Words in s. 828(4) repealed (with effect in accordance with Sch. 20 Pt. 3(7) Note 4 of the repealing Act) by Finance Act 1999 (c. 16), **Sch. 20 Pt. 3(7)**
- F112** Words in s. 828(4) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 118(2)**
- F113** Words in s. 828(4) inserted by Finance Act 1989 (c. 26), **Sch. 6 para. 16**
- F114** Words in s. 828(4) substituted (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 37 para. 1(2)**
- F115** Words in s. 828(4) inserted by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(34)**
- F116** Words in s. 828(4) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 58**
- F117** S. 828(5) added (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. 105(4)** (with Sch. 7)

#### Marginal Citations

- M17** Source—1970 ss.65(5), 204, 231(3), 343 (1A); 1970(F) s.29(6), Sch.5 2(3), 10; 1972 ss.91(3), 108(4); 1973 Sch.16 17(2); 1975 (No.2) ss.47(10), 48(6), 69(9), 70(8), 70A(3); 1976 ss.64(4), 64A, (4) Sch.4 16(2); 1980 s.24(9); **Sch.10** 13(3); 1982 ss.28(5), 29(1), (3), Sch.7 14(2); 1984 ss.26(1), 88(8), 126(1), Sch.8 2(1)(f), 3A; 1983 Sch.5 5A(9), 6(8); 1986 s.28, 61, Sch.11 11, Sch.12 3, Sch.17 6(7).
- M18** Source—1970 ss.65(5), 204, 343(1B); 1970(F) s.29(8), Sch.5 2(3), 10; 1973 Sch.16 17(2); 1975 (No.2) ss.47(10), 48(6), 69(9), 70(8), 70A(3); 1976 ss.64(4), 64A(4); 1982 s.29(5); 1983 Sch.5 5A(9), 6(9); 1984 ss.26(6), 88(8), Sch.8 2(1), 3A; 1986 ss.26, 27(7), 55, Sch.11 11, Sch.12 3, Sch.17 6(7)

## 829 Application of Income Tax Acts to public departments and avoidance of exempting provisions.

- <sup>M19</sup>(1) Subject to subsections (2) and (3) below, all the provisions of the Income Tax Acts relating to the assessment, charge, deduction and payment of income tax shall apply in relation to public offices and departments of the Crown.
- (2) Nothing in those provisions of the Income Tax Acts shall require the payment by any such office or department of any tax which would be ultimately borne by the Crown [<sup>F118</sup>unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above.]
- [<sup>F119</sup>(2A) Subsections (1) and (2) above have effect in relation to Chapter 4 of Part 13 of this Act (sub-contractors in the construction industry) as if the whole of any deduction required to be made under section 559 were in all cases a deduction of income tax.]
- (3) Subsection (1) above shall not apply to public offices and departments of any country, state, province or colony within section 320(3)(b) or (c) and nothing in subsection (1) above shall exempt any government from taxation to which it is liable in connection with any office or department by virtue of section 25 of the Finance Act 1925 (liability in respect of trading operations of Dominion governments and others).
- (4) No letters patent granted or to be granted by the Crown to any person, city, borough or town corporate of any liberty, privilege or exemption from subsidies, tolls, taxes, assessments or aids, and no statute which grants any salary, annuity or pension to any person free of any taxes, deductions or assessments, shall be construed or taken to exempt any person, city, borough or town corporate, or any inhabitant of any city, borough or town corporate, from income tax, and all non-obstantes in any such letters patent or statute made or to be made to the contrary effect shall be void.

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#### Textual Amendments

- F118** Words in s. 829(2) inserted (27.7.1993 with effect in relation to the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 122(1)(3)
- F119** S. 829(2A) inserted (with effect in accordance with s. 40(4) of the amending Act) by Finance Act 2002 (c. 23), s. 40(2)

#### Marginal Citations

- M19** Source—1970 ss.524, 525(1)

### 830 Territorial sea and designated areas.

<sup>M20</sup>(1) The territorial sea of the United Kingdom shall for all purposes of income tax and corporation tax (including the following provisions of this section) be deemed to be part of the United Kingdom.

(2) In this section—

- (a) “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area;
- (b) “exploration or exploitation rights” means rights to assets to be produced by exploration or exploitation activities or to interests in or to the benefit of such assets; and
- (c) “designated area” means an area designated by Order in Council under section 1(7) of the <sup>M21</sup>Continental Shelf Act 1964.

(3) Any profits or gains from exploration or exploitation activities carried on in a designated area or from exploration or exploitation rights shall be treated for the purposes of income tax or corporation tax as profits or gains from activities or property in the United Kingdom.

(4) Any profits or gains arising to any person not resident in the United Kingdom from exploration or exploitation activities or rights shall for the purposes of corporation tax be treated as [<sup>F120</sup>profits] of a trade carried on by that person in the United Kingdom through a branch or agency.

(5) <sup>F121</sup> .....

#### Textual Amendments

- F120** Word in s. 830(4) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 1
- F121** S. 830(5) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 106, Sch. 8 Pt. 1 (with Sch. 7)

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

- C13** S. 830(4) modified (with effect in accordance with s. 153(4) of the modifying Act) by Finance Act 2003 (c. 14), s. 153(2)(a)

#### Marginal Citations

- M20** Source—1973 s.38(1), (2)-(4), (6)

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**M21** 1964 c. 29.



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