



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Receipts basis etc.

43 Schedule D: computation.

- (1) Subsection (2) below applies where—
- (a) a calculation is made of profits or gains which are to be charged under Schedule D and are for a period of account ending after 5th April 1989,
 - (b) relevant emoluments would (apart from that subsection) be deducted in making the calculation, and
 - (c) the emoluments are not paid before the end of the period of nine months beginning with the end of that period of account.
- (2) The emoluments—
- (a) shall not be deducted in making the calculation mentioned in subsection(1) (a) above, but
 - (b) shall be deducted in calculating profits or gains which are to be charged under Schedule D and are for the period of account in which the emoluments are paid.
- (3) Subsections (4) and (5) below apply where—
- (a) a calculation such as is mentioned in subsection (1)(a) above is made,
 - (b) the calculation is made before the end of the period of nine months beginning with the end of the period of account concerned,

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Section 43. (See end of Document for details)

- (c) relevant emoluments would (apart from subsection (2) above) be deducted in making the calculation, and
 - (d) the emoluments have not been paid when the calculation is made.
- (4) It shall be assumed for the purpose of making the calculation that the emoluments will not be paid before the end of that period of nine months.
- (5) But the calculation shall be adjusted if—
- (a) the emoluments are paid after the calculation is made but before the end of that period of nine months,
 - (b) a claim to adjust the calculation is made to the inspector, and
 - (c) the claim is made before the end of the period of two years beginning with the end of the period of account concerned.

^{F1}(6)

^{F1}(7)

- (8) In a case where the period of account mentioned in subsection (1)(a) above begins before 6th April 1989 and ends before 6th April 1990, the references in subsections (1)(c), (3)(b), (4) and (5)(a) above to nine months shall be construed as references to eighteen months.
- (9) In this section “period of account” means a period for which an account is made up.
- (10) For the purposes of this section “relevant emoluments” are emoluments for a period after 5th April 1989 allocated either—
- (a) in respect of particular offices or employments (or both), or
 - (b) generally in respect of offices or employments (or both).
- (11) This section applies in relation to potential emoluments as it applies in relation to relevant emoluments, and for this purpose—
- (a) potential emoluments are amounts or benefits reserved in the accounts of an employer, or held by an intermediary, with a view to their becoming relevant emoluments;
 - (b) potential emoluments are paid when they become relevant emoluments which are paid.
- (12) In deciding for the purposes of this section whether emoluments are paid at any time after 5th April 1989, section 202B of the Taxes Act 1988 (time when emoluments are treated as received) shall apply as it applies for the purposes of section 202A(1)(a) of that Act, but reading “paid” for “received” throughout.
- (13) In section 436(1)(b) of the Taxes Act 1988 (profits to be computed in accordance with provisions of that Act applicable to Case I of Schedule D) the reference to that Act shall be deemed to include a reference to this section.

Textual Amendments

F1 S. 43(6)(7) repealed (27.7.1993 with effect in relation to periods of account ending on or after 30.6.1993) by 1993 c. 34, ss. 181, 184(3), 213, Sch. 23 Pt. III(12) Note 3

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Modifications etc. (not altering text)

- C1** S. 43 applied (31.7.1998 with effect as mentioned in s. 38(2)(3) of 1998 c. 36) by 1988 c. 1, s. 21A(2) (as substituted by 1998 c. 36, s. 38(1), Sch. 5 Pt. I paras. 4, 73)
- S. 43 excluded (31.7.1998) by 1998 c. 36, s. 38, Sch. 5 Pt. IV paras. 66(2), 69

Status:

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Changes to legislation:

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