



Finance Act 1994

1994 CHAPTER 9

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CHANGES FOR FACILITATING SELF-ASSESSMENT

Assessment under Cases I and II of Schedule D

^{F1}200 **Assessment on current year basis.**

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

^{F1}201 **Basis of assessment at commencement.**

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

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F1202 Change of basis period.

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1203 Conditions for such a change.

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1204 Basis of assessment on discontinuance.

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1205 Overlap profits and overlap losses.

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

Assessment under Cases III to VI of Schedule D

F1206 Basis of assessment under Case III.

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Textual Amendments

F1 Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

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F1 207 Basis of assessment under Cases IV and V.

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Textual Amendments

- F1** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1 208 Basis of assessment under Case VI.

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Textual Amendments

- F1** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

Loss relief

209 Loss relief: general.

- (1) For subsections (1) and (2) of section 380 of the Taxes Act 1988 (set-off against general income) there shall be substituted the following subsections—

“(1) Where in any year of assessment any person sustains a loss in any trade, profession, vocation or employment carried on by him either solely or in partnership, he may, by notice given within twelve months from the 31st January next following that year, make a claim for relief from income tax on—

- (a) so much of his income for that year as is equal to the amount of the loss or, where it is less than that amount, the whole of that income; or
(b) so much of his income for the last preceding year as is equal to that amount or, where it is less than that amount, the whole of that income;

but relief shall not be given for the loss or the same part of the loss both under paragraph (a) and under paragraph (b) above.

- (2) Any relief claimed under paragraph (a) of subsection (1) above in respect of any income shall be given in priority to any relief claimed in respect of that income under paragraph (b) of that subsection.”

- (2) In subsection (2) of section 381 of that Act (further relief for individuals for losses in early years of trade), for the words “an amount of the claimant’s income equal to the amount of the loss” there shall be substituted the words “ so much of the claimant’s income as is equal to the amount of the loss or, where it is less than that amount, the whole of that income ”.

- (3) For subsections (3) and (4) of section 382 of that Act (provisions supplementary to sections 380 and 381) there shall be substituted the following subsections—

“(3) Subject to subsection (4) below, for the purposes of sections 380 and 381, the amount of a loss sustained in a trade, profession or vocation shall be computed in like manner and in respect of the same period as the profits or gains arising

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or accruing from the trade, profession or vocation are computed under the provisions of the Income Tax Acts applicable to Case I or II of Schedule D.

- (4) An amount of a loss which, apart from this subsection, would fall to be included in the computations for two successive years of assessment shall not be included in the computation for the second of those years.”
- (4) For subsection (1) of section 385 of that Act (carry-forward against subsequent profits) there shall be substituted the following subsection—
- “(1) Where a person has, in any trade, profession or vocation carried on by him either alone or in partnership, sustained a loss (to be computed as mentioned in subsections (3) and (4) of section 382) in respect of which relief has not been wholly given either under section 380 or any provision of the Income Tax Acts—
- (a) he may make a claim requiring that any part of the loss for which relief has not been so given shall be set off for the purposes of income tax against the income of the trade, profession or vocation for subsequent years of assessment; and
- (b) where he makes such a claim, the income from the trade, profession or vocation in any subsequent year of assessment shall be treated as reduced by that part of the loss, or by so much of that part as cannot, on that claim, be relieved against such income of an earlier year of assessment.”
- (5) Subsections (3) and (8) of that section shall cease to have effect.
- (6) In subsection (1) of section 388 of that Act (carry-back of terminal losses) for the words “the three years of assessment last preceding that in which the discontinuance occurs” there shall be substituted the words “ the year of assessment in which the discontinuance occurs and the three years last preceding it ”.
- (7) In their application to trades, professions or vocations set up and commenced before 6th April 1994, subsections (3) to (5) above have effect as respects the year 1997-98 and subsequent years of assessment.

Modifications etc. (not altering text)

C1 S. 209 amended (*retrospectively*) by 1995 c. 4, s. 118

210 Relief for losses on unquoted shares.

- (1) For subsections (1) and (2) of section 574 of the Taxes Act 1988 (relief for individuals for losses on unquoted shares) there shall be substituted the following subsections—
- “(1) Where an individual who has subscribed for shares in a qualifying trading company incurs an allowable loss (for capital gains tax purposes) on the disposal of the shares in any year of assessment, he may, by notice given within twelve months from the 31st January next following that year, make a claim for relief from income tax on—
- (a) so much of his income for that year as is equal to the amount of the loss or, where it is less than that amount, the whole of that income; or

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(b) so much of his income for the last preceding year as is equal to that amount or, where it is less than that amount, the whole of that income; but relief shall not be given for the loss or the same part of the loss both under paragraph (a) and under paragraph (b) above.

Where such relief is given in respect of the loss or any part of it, no deduction shall be made in respect of the loss or (as the case may be) that part under the 1992 Act.

(2) Any relief claimed under paragraph (a) of subsection (1) above in respect of any income shall be given in priority to any relief claimed in respect of that income under paragraph (b) of that subsection; and any relief claimed under either paragraph in respect of any income shall be given in priority to any relief claimed in respect of that income under section 380 or 381.”

(2) This section has effect as respects the year 1994-95 and subsequent years of assessment.

Modifications etc. (not altering text)

C2 S. 210 amended (*retrospectively*) by 1995 c. 4, s. 119

Capital allowances

211 Income tax allowances and charges in taxing a trade etc.

^{F2}(1)

(2) Subject to section 214(7) below, this section and sections 212 to 214 below, in their application to trades, professions or vocations set up and commenced before 6th April 1994 or employments or offices entered into before that date, have effect as respects the year 1997-98 and subsequent years of assessment.

Textual Amendments

F2 S. 211(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

^{F3}**212**

Textual Amendments

F3 S. 212 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

^{F4}**213**

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Textual Amendments

F4 S. 213 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

214 Amendments of other enactments.

- (1) In the Taxes Act 1988, the following provisions shall cease to have effect, namely—
 - (a) in section 96 (farming and market gardening: relief for fluctuating profits), in subsection (7), paragraph (b);
 - (b) section 383 (extension of right to set-off to capital allowances);
 - (c) in section 384 (restrictions on right of set-off), in subsection (1), the words “(including any amount in respect of capital allowances which, by virtue of section 383, is to be treated as a loss)”, and in subsection (2), the words “or an allowance in respect of expenditure incurred”, paragraph (b) and the word “or” immediately preceding that paragraph;
 - (d) in section 388 (carry-back of terminal losses), in subsection (6), paragraphs (b) and (d) and the word “and” immediately preceding paragraph (d), and in subsection (7), the words from the beginning to “an earlier year: and”; and
 - (e) in section 389 (supplementary provisions relating to carry-back of terminal losses), subsections (5) to (7).
- (2) In subsection (6) of section 384 of that Act—
 - (a) for the words “There shall be disregarded for the purposes of section 383 any allowances” there shall be substituted the words “ There shall be disregarded for the purposes of sections 380 and 381 so much of any loss as derives from any allowances ”; and
 - (b) for the words “the year of the loss (as defined in section 383)” there shall be substituted the words “ the year of assessment in which the loss was sustained ”.
- (3) In subsection (1) of section 397 of that Act (restriction of relief in case of farming and market gardening)—
 - (a) after the word “loss”, in the second place where it occurs, there shall be inserted the words “ , computed without regard to capital allowances, ”; and
 - (b) the words from “and where” to the end shall cease to have effect.
- ^{F5}(4)
- ^{F5}(5)
- ^{F5}(6)
- (7) Subsection (1)(a) above—
 - (a) except in its application to a trade set up and commenced on or after 6th April 1994, has effect where the first of the two years of assessment to which the claim relates is the year 1996-97 or any subsequent year, and
 - (b) in its application to a trade so set up and commenced, has effect where the first of those two years of assessment is the year 1995-96 or any subsequent year.

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Textual Amendments

- F5** S. 214(4)-(6) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

Miscellaneous and supplemental

215 Treatment of partnerships.

- (1) For section 111 of the Taxes Act 1988 there shall be substituted the following section—

“111 Treatment of partnerships.

- (1) Where a trade or profession is carried on by two or more persons in partnership, the partnership shall not, unless the contrary intention appears, be treated for the purposes of the Tax Acts as an entity which is separate and distinct from those persons.
- (2) So long as a trade or profession (“the actual trade or profession”) is carried on by persons in partnership, and each of those persons is chargeable to income tax, the profits or gains or losses arising from the trade or profession shall be computed for the purposes of income tax in like manner as if the partnership were an individual.
- (3) A person’s share in the profits or gains or losses of the partnership which for any period are computed in accordance with subsection (2) above shall be determined according to the interests of the partners during that period; and income tax shall be chargeable or, as the case may require, loss relief may be claimed as if—
 - (a) that share derived from a trade or profession (“the deemed trade or profession”) carried on by the person alone;
 - (b) the deemed trade or profession was set up and commenced by him at the time when he became a partner or, where the actual trade or profession was previously carried on by him alone, the time when the actual trade was set up and commenced; and
 - (c) the deemed trade or profession is permanently discontinued by him at the time when he ceases to be a partner or, where the actual trade or profession is subsequently carried on by him alone, the time when the actual trade or profession is permanently discontinued.
- (4) Where—
 - (a) subsections (2) and (3) above apply in relation to the profits or gains or losses of a trade or profession carried on by persons in partnership, and
 - (b) other income accrues to those persons by virtue of their being partners,that other income shall be chargeable to tax by reference to the same periods as if it were profits or gains arising from the trade or profession.
- (5) Subsections (1) to (3) above apply, with the necessary modifications, in relation to a business as they apply in relation to a trade.”

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- (2) In section 114 of that Act (special rules for computing profits or losses), after the word “trade”—
 - (a) in subsection (1), in each place where it occurs;
 - (b) in subsection (2); and
 - (c) in subsection (3), in the first place where it occurs,
 there shall be inserted the words “ profession or business ”.
- (3) The following provisions of that Act shall cease to have effect, namely—
 - (a) in section 114, in subsection (3), the words from “except that” to the end, and subsection (4);
 - (b) in section 115 (provisions supplementary to section 114), subsections (1) to (3) and (6); and
 - (c) in section 277 (personal reliefs: partnerships), in subsection (1), the words “Subject to subsection (2) below”, paragraph (c) and the word “and” immediately preceding that paragraph, and subsection (2).
- (4) This section and section 216 below—
 - (a) except in their application to partnerships mentioned in subsection (5) below, have effect as respects the year 1997-98 and subsequent years of assessment, and
 - (b) in its application to partnerships so mentioned, have effect as respects the year 1994-95 and subsequent years of assessment.
- (5) The partnerships referred to in subsection (4) above are partnerships—
 - (a) whose trades, professions or businesses are set up and commenced on or after 6th April 1994; ^{F6} . . .
 - ^{F6}(b)

<p>Textual Amendments</p> <p>F6 S. 215(5)(b) and the preceding word “and” repealed (1.5.1995 with effect as mentioned in s. 125(1) of the repealing Act for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(16), Note 4</p> <hr/> <p>Modifications etc. (not altering text)</p> <p>C3 S. 215 amended (<i>retrospectively</i>) by 1995 c. 4, s. 117</p>

216 Effect of change in ownership of trade, profession or vocation.

- ^{F7}(1)
- (2) Subsections (3) to (5) of that section and, in subsection (6) of that section, the words from “and where” to the end shall cease to have effect.
- (3) The following provisions of that Act shall cease to have effect, namely—
 - (a) in section 96 (farming and market gardening: relief for fluctuating profits), in subsection (6) the words from “except that” to the end;
 - (b) in section 380 (set-off against general income), subsection (3);
 - (c) in section 381 (further relief in early years of trade), subsection (6);
 - (d) in section 384 (restrictions on right of set-off), subsection (5);

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- (e) in section 385 (carry-forward against subsequent profits), subsections (2) and (5);
- (f) in section 386 (carry-forward where business transferred to a company), subsection (4); and
- (g) in section 389 (supplementary provisions relating to carry-back of terminal losses), subsection (3).

^{F8}(4)

(5) Subsection (3)(a) above—

- (a) except in its application to a trade set up and commenced on or after 6th April 1994, has effect where the first of the two years of assessment to which the claim relates is the year 1996-97 or any subsequent year, and
- (b) in its application to a trade so set up and commenced, has effect where the first of those two years of assessment is the year 1995-96 or any subsequent year.

Textual Amendments

- F7** S. 216(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))
- F8** S. 216(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

217 Double taxation relief in respect of overlap profits.

(1) In subsection (1) of section 804 of the Taxes Act 1988 (relief against income tax in respect of income arising in years of commencement), for the words “any income arising in the years of commencement” there shall be substituted the words “any income which is an overlap profit”.

(2) For subsection (5) of that section there shall be substituted the following subsections—

“(5) Subsections (5A) and (5B) below apply where—

- (a) credit against income tax for any year of assessment is allowed by virtue of subsection (1) above in respect of any income which is an overlap profit (“the original income”), and
- (b) the original income or any part of it contributes to an amount which, by virtue of section 63A(1) or (3), is deducted in computing the profits or gains of a subsequent year of assessment (“the subsequent year”).

(5A) The following shall be set off one against the other, namely—

- (a) the difference between—
 - (i) the amount of the credit which, under this Part (including this section), has been allowed against income tax in respect of so much of the original income as contributes as mentioned in subsection (5) above, and
 - (ii) the amount of the credit which, apart from this section, would have been so allowed; and
- (b) the amount of credit which, on the assumption that no amount were deducted by virtue of section 63A(1) or (3), would be allowable under this Part against income tax in respect of income arising in the subsequent year from the same source as the original income.

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- (5B) The person chargeable in respect of the income (if any) arising in the subsequent year from the same source as the original income shall—
- (a) if the amount given by paragraph (a) of subsection (5A) above exceeds that given by paragraph (b) of that subsection, be treated as having received in that year a payment chargeable under Case VI of Schedule D of an amount such that income tax on it at the basic rate is equal to the excess; and
 - (b) if the amount given by paragraph (b) of subsection (5A) above exceeds that given by paragraph (a) of that subsection, be allowed for that year under this Part an amount of credit equal to the excess.
- (5C) For the purposes of subsections (5) to (5B) above, it shall be assumed that, where an amount is deducted by virtue of section 63A(1), each of the overlap profits included in the aggregate of such profits contributes to that amount in the proportion which that overlap profit bears to that aggregate.”
- (3) In subsection (8) of that section—
- (a) immediately before the definition of “overseas tax” there shall be inserted the following definition—
 - ““overlap profit” means an amount of profits or gains which, by virtue of sections 60 to 62, is included in the computations for two successive years of assessment;”; and
 - (b) the definitions of “non-basis period” and “years of commencement” and the words “references to the enactments relating to cessation are references to sections 63, 67 and 113” shall cease to have effect.”

218 Commencement, transitional provisions and savings.

- (1) Unless the contrary intention appears, this Chapter—
- (a) except in its application to a trade set up and commenced on or after 6th April 1994 or income from a source arising to a person on or after that date, has effect as respects the year 1996-97 and subsequent years of assessment, and
 - (b) in its application to a trade so set up and commenced or income from a source so arising, has effect as respects the year 1994-95 and subsequent years of assessment.

[^{F9}(1A) In a case where—

- (a) a trade is set up and commenced by a company, and
 - (b) it is not set up and commenced before 6th April 1994,
- sections 213(4) and (8) and 214(4) and (6) have effect only if it is set up and commenced on or after 6th April 1995.]
- (2) Any reference in subsection (1) above to a trade includes a reference to a profession, vocation, employment or office.
 - (3) Where the first underwriting year of the underwriting business of a member of Lloyd’s is the year 1994, subsection (1) above shall have effect in relation to that business as if it had been set up and commenced on 6th April 1994.
 - (4) Where, as respects income from any source, income tax is to be charged under Case IV or V of Schedule D by reference to the amounts of income received in the United

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Kingdom, the source shall be treated for the purposes of subsection (1) above as arising on the date on which the first amount of income is so received.

- (5) This Chapter shall have effect subject to the transitional provisions and savings contained in Schedule 20 to this Act.

Textual Amendments

F9 S. 218(1A) inserted (*retrospectively*) by 1995 c. 4, s. 102(2)

Status:

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Changes to legislation:

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