



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Management: self-assessment etc.

103 Liability of trustees.

- (1) In subsection (2) of section 7 of the Management Act (notice of liability)—
 - (a) for the words “a person who is” there shall be substituted the words “ persons who are ”; and
 - (b) for the words “a trustee” there shall be substituted the words “ the relevant trustees ”.
- (2) After subsection (8) of that section there shall be inserted the following subsection—

“(9) For the purposes of this Act the relevant trustees of a settlement are—

 - (a) in relation to income, the persons who are trustees when the income arises and any persons who subsequently become trustees; and
 - (b) in relation to chargeable gains, the persons who are trustees in the year of assessment in which the chargeable gains accrue and any persons who subsequently become trustees.”
- (3) In subsection (1) of section 8A of that Act (trustee’s return)—
 - (a) for the words “a trustee” there shall be substituted the words “ the relevant trustees ”; and
 - (b) for the words “the trustee”, in the first place where they occur, there shall be substituted the words “ any relevant trustee ”.
- (4) After subsection (4) of that section there shall be inserted the following subsection—

“(5) The following references, namely—

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- (a) references in section 9 or 28C of this Act to a person to whom a notice has been given under this section being chargeable to tax; and
- (b) references in section 29 of this Act to such a person being assessed to tax,

shall be construed as references to the relevant trustees of the settlement being so chargeable or, as the case may be, being so assessed.”

- (5) At the beginning of Part XI of that Act (miscellaneous and supplemental) there shall be inserted the following section—

“ Settlements

107A Relevant trustees.

- (1) Subject to the following provisions of this section, anything which for the purposes of this Act is done at any time by or in relation to any one or more of the relevant trustees of a settlement shall be treated for those purposes as done at that time by or in relation to the other or others of those trustees.
- (2) Subject to subsection (3) below, where the relevant trustees of a settlement are liable—
- (a) to a penalty under section 7, 12B, 93, 95 or 97AA of this Act or paragraph 2A of Schedule 1A to this Act, or to interest under section 103A of this Act on such a penalty;
 - (b) to make a payment in accordance with an assessment under section 30 of this Act, or to make a payment under section 59A or 59B of this Act;
 - (c) to a surcharge under section 59C of this Act, or to interest under that section on such a surcharge; or
 - (d) to interest under section 86 of this Act,
- the penalty, interest, payment or surcharge may be recovered (but only once) from any one or more of those trustees.
- (3) No amount may be recovered by virtue of subsection (2)(a) or (c) above from a person who did not become a relevant trustee until after the relevant time, that is to say—
- (a) in relation to so much of a penalty under section 93(3) or 97AA(1) (b) of this Act as is payable in respect of any day, or to interest under section 103A of this Act on so much of such a penalty as is so payable, the beginning of that day;
 - (b) in relation to a penalty under any other provision of this Act mentioned in subsection (2)(a) above, or to interest under section 103A of this Act on such a penalty, the time when the relevant act or omission occurred; and
 - (c) in relation to a surcharge under subsection (2) or (3) of section 59C of this Act, or to interest under that section on such a surcharge, the beginning of the day mentioned in that subsection;
- and in paragraph (b) above “the relevant act or omission” means the act or omission which caused the penalty to become payable.

- (4) In a case where—

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- (a) subsection (2)(a) above applies in relation to a penalty under section 93 of this Act, or
 - (b) subsection (2)(c) above applies in relation to a surcharge under section 59C of this Act,
- subsection (8) of section 93 or, as the case may be, subsection (9) of section 59C of this Act shall have effect as if the reference to the taxpayer were a reference to each of the relevant trustees.”
- (6) In section 118 of that Act (interpretation), after the definition of “the principal Act” there shall be inserted the following definition—
- ““the relevant trustees”, in relation to a settlement, shall be construed in accordance with section 7(9) of this Act.”
- (7) Unless the contrary intention appears, this section, sections 104 to 115 below and Schedule 20 to this Act—
- (a) so far as they relate to income tax and capital gains tax, have effect as respects the year 1996-97 and subsequent years of assessment, and
 - (b) so far as they relate to corporation tax, have effect as respects accounting periods ending on or after the appointed day for the purposes of Chapter III of Part IV of the ^{M1}Finance Act 1994.

Marginal Citations

M1 1994 c. 9.

104 Returns and self-assessments.

- (1) In each of the following, namely—
- (a) subsection (1A) of section 8 of the Management Act (personal return); and
 - (b) subsection (1A) of section 8A of that Act (trustee’s return),
- there shall be inserted at the end the words “ and the amounts referred to in that subsection are net amounts, that is to say, amounts which take into account any relief, allowance or repayment of tax for which a claim is made and give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies ”.
- (2) In subsection (1B) of section 8 of that Act, for the word “loss” there shall be substituted the words “ loss, tax, credit ”.
- (3) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) In this section and sections 8A, 9 and 12AA of this Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.”
- (4) In subsection (1) of section 9 of that Act (returns to include self-assessment), for the words “on the basis of the information contained in the return” there shall be substituted the following paragraphs—
- “(a) on the basis of the information contained in the return; and
 - (b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return and giving credit for any income

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tax deducted at source and any tax credit to which section 231 of the principal Act applies.”.

[^{F1}(5) In subsection (1) of section 11AA of that Act (return of profits to include self-assessment), for the words “on the basis of the information contained in the return” there shall be substituted the following paragraphs—

- “(a) on the basis of the information contained in the return; and
- (b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return.”.]

(6) For subsection (1) of section 12AA of that Act (partnership return) there shall be substituted the following subsections—

“(1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating the establishment of the following amounts, namely—

- (a) the amount in which each partner chargeable to income tax for any year of assessment is so chargeable, and
- (b) the amount in which each partner chargeable to corporation tax for any period is so chargeable,

an officer of the Board may act under subsection (2) or (3) below (or both).

(1A) The amounts referred to in paragraphs (a) and (b) of subsection (1) above are net amounts, that is to say, amounts which—

- (a) take into account any relief, allowance or repayment of tax for which a claim is made; and
- (b) in the case of the amount referred to in paragraph (a) of that subsection, give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies.”

(7) For subsection (1) of section 12AB of that Act (partnership return to include partnership statement) there shall be substituted the following subsection—

“(1) Every return under section 12AA of this Act shall include a statement (a partnership statement) of the following amounts, namely—

- (a) in the case of each period of account ending within the period in respect of which the return is made—
 - (i) the amount of income or loss from each source which, on the basis of the information contained in the return and taking into account any relief or allowance a section 42(7) claim for which is included in the return, has accrued to or has been sustained by the partnership for that period,
 - (ii) each amount of income tax which, on that basis, has been deducted or treated as deducted from any income of the partnership, or treated as paid on any such income, for that period,
 - (iii) the amount of each tax credit which, on that basis, has accrued to the partnership for that period, and
 - (iv) the amount of each charge which, on that basis, was a charge on the income of the partnership for that period; and
- (b) in the case of each such period and each of the partners, the amount which, on that basis and (where applicable) taking into account any

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such relief or allowance, is equal to his share of that income, loss, tax, credit or charge.”

- (8) In subsection (5) of that section, after the definition of “period of account” there shall be inserted the following definitions—

““section 42(7) claim” means a claim under any of the provisions mentioned in section 42(7) of this Act;

“tax credit” means a tax credit to which section 231 of the principal Act applies.”

Textual Amendments

- F1** [S. 104\(5\)](#) repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28) Note of the amending Act) by [1998 c. 36, s. 165, Sch. 27 Pt. III\(28\)](#) Note; [S.I. 1998/3173, art. 2](#)

105 Records for purposes of returns.

- (1) In subsection (1) of section 12B of the Management Act (records to be kept for purposes of returns), for paragraph (b) there shall be substituted the following paragraph—

“(b) preserve those records until the end of the relevant day, that is to say, the day mentioned in subsection (2) below or, where a return is required by a notice given on or before that day, whichever of that day and the following is the latest, namely—

(i) where enquiries into the return or any amendment of the return are made by an officer of the Board, the day on which, by virtue of section 28A(5) or 28B(5) of this Act, those enquiries are treated as completed; and

(ii) where no enquiries into the return or any amendment of the return are so made, the day on which such an officer no longer has power to make such enquiries.”

- (2) In subsection (2) of that section, the words from “or, where a return” to the end shall cease to have effect.

- (3) After that subsection there shall be inserted the following subsection—

“(2A) Any person who—

(a) is required, by such a notice as is mentioned in subsection (1) above given at any time after the end of the day mentioned in subsection (2) above, to make and deliver a return for a year of assessment or other period; and

(b) has in his possession at that time any records which may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period,

shall preserve those records until the end of the relevant day, that is to say, the day which, if the notice had been given on or before the day mentioned in subsection (2) above, would have been the relevant day for the purposes of subsection (1) above.”

- (4) In subsection (3) of that section—

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- (a) in paragraph (a), after the words “subsection (1)” there shall be inserted the words “ or (2A) ”; and
- F2(b)
- (5) In subsection (4) of that section, after the words “subsection (1)” there shall be inserted the words “ or (2A) ”.
- (6) In subsection (5) of that section—
 - (a) at the beginning there shall be inserted the words “ Subject to subsection (5A) below, ”; and
 - (b) after the words “subsection (1)” there shall be inserted the words “ or (2A) ”.
- (7) After that subsection there shall be inserted the following subsection—

“(5A) Subsection (5) above does not apply where the records which the person fails to keep or preserve are records which might have been requisite only for the purposes of claims, elections or notices which are not included in the return.”

Textual Amendments

F2 S. 105(4)(b) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 115(2), Sch. 37 para. 11(a); S.I. 2009/402, art. 2

106 Return of employees’ emoluments etc.

- (1) For section 15 of the Management Act there shall be substituted the following section—

“15 Return of employees’ emoluments etc.

- (1) Every employer, when required to do so by notice from an officer of the Board, shall, within the time limited by the notice, prepare and deliver to the officer a return relating to persons who are or have been employees of his, containing the information required under the following provisions of this section.
- (2) An employer shall not be required to include in his return information relating to any year of assessment if the notice is given more than five years after the 31st January next following that year.
- (3) A notice under subsection (1) above—
 - (a) shall specify the employees for whom a return is to be made and may, in particular, specify individuals (by name or otherwise) or all employees of an employer or all his employees who are or have been in employment to which Chapter II of Part V of the principal Act applies; and
 - (b) shall specify the years of assessment or other periods with respect to which the information is to be provided.
- (4) A notice under subsection (1) above may require the return to state the name and place of residence of an employee to whom it relates.
- (5) A notice under subsection (1) above may require the return to contain, in respect of an employee to whom it relates, the following particulars—

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- (a) in the case of relevant payments made by the employer, particulars of the payments;
 - (b) in the case of relevant payments not falling within paragraph (a) above the making of which by another person has been arranged by the employer—
 - (i) particulars of the payments; and
 - (ii) the name and business address of the other person; and
 - (c) in the case of relevant payments not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, made the payments.
- (6) Any payments made to an employee in respect of his employment are relevant payments for the purposes of this section, including—
- (a) payments to him in respect of expenses (including sums put at his disposal and paid away by him);
 - (b) payments made on his behalf and not repaid; and
 - (c) payments to him for services rendered in connection with a trade or business, whether the services were rendered in the course of his employment or not.
- (7) Where, for the purposes of his return, an employer apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters—
- (a) the return shall contain a statement that the sum included in the return is the result of such an apportionment; and
 - (b) if required to do so by notice from an officer of the Board, the employer shall prepare and deliver to the officer, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which, and the grounds on which, the apportionment has been made.
- (8) A notice under subsection (1) above may require the return—
- (a) to state in respect of an employee to whom it relates whether any benefits are or have been provided for him (or for any other person) by reason of his employment, such as may give rise to charges to tax under the relevant sections, that is to say, sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the principal Act (miscellaneous benefits in cash or in kind); and
 - (b) if such benefits are or have been provided, to contain such particulars of those benefits as may be specified in the notice.
- (9) Where such benefits are provided the notice may, without prejudice to subsection (8)(b) above, require the return to contain the following particulars—
- (a) in the case of benefits which are or have been provided by the employer, particulars of the amounts which may be chargeable to tax by virtue of the relevant sections;
 - (b) in the case of benefits not falling within paragraph (a) above the provision of which by another person is or has been arranged by the employer—
 - (i) particulars of the amounts which may be so chargeable; and

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- (ii) the name and business address of the other person; and
 - (c) in the case of benefits not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, provided the benefits.
- (10) Where it appears to an officer of the Board that a person has, in any year of assessment, been concerned in making relevant payments to, or providing benefits to or in respect of, employees of another, the officer may at any time up to five years after the 31st January next following that year by notice require that person—
- (a) to deliver to the officer, within the time limited by the notice, such particulars of those payments or benefits, or of the amounts which may be chargeable to tax in respect of the benefits, as may be specified in the notice (so far as known to him); and
 - (b) to include with those particulars the names and addresses (so far as known to him) of the employees concerned.
- (11) In determining, in pursuance of a notice under subsection (1) or (10) above, amounts which may be chargeable to tax by virtue of the relevant sections, a person—
- (a) shall not make—
 - (i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant sections; or
 - (ii) any deduction authorised by section 141(3), 142(2), 145(3) or 156(8) of the principal Act; but
 - (b) subject to that, shall make all such deductions and other adjustments as may be authorised or required by the relevant sections.
- (12) Where the employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall be treated as the employer for the purposes of this section.

Where the employer is a body corporate, that body corporate, as well as the secretary or other officer, shall be liable to a penalty for failure to comply with this section.

- (13) In this section—
- “arranged” includes guaranteed and in any way facilitated;
 - “employee” means an office holder or employee whose emoluments fall to be assessed under Schedule E, and related expressions are to be construed accordingly;
 - “relevant payments” has the meaning given by subsection (6) above; and
 - “the relevant sections” has the meaning given by subsection (8)(a) above.”

- (2) This section has effect as respects payments made or benefits provided on or after 6th April 1996.

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107 Procedure for making claims etc.

- (1) After subsection (1) of section 42 of the Management Act (procedure for making claims etc.) there shall be inserted the following subsection—

“(1A) Subject to subsection (3) below, a claim for a relief, an allowance or a repayment of tax shall be for an amount which is quantified at the time when the claim is made.”

- (2) In subsection (2) of that section, for the words “subsection (3)” there shall be substituted the words “ subsections (3) and (3A) ”.

- (3) In subsection (3) of that section, for the words “Subsection (2)” there shall be substituted the words “ Subsections (1A) and (2) ”.

- (4) After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where a person makes a claim requiring relief for a loss incurred or treated as incurred, or a payment made, in one year of assessment (“the later year”) to be given in an earlier year of assessment (“the earlier year”)—

- (a) subsection (2) above shall not apply in relation to the claim;
- (b) the claim shall be made in relation to the later year;
- (c) the claim shall be for an amount equal to the difference between—
 - (i) the amount in which he has been assessed to tax under section 9 of this Act for the earlier year; and
 - (ii) the amount in which he would have been so assessed if the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year; and
- (d) effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an addition to the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.

(3B) Where no notice under section 8 or 8A of this Act has been given to the person for the earlier year, subsection (3A)(c) above shall have effect as if—

- (a) sub-paragraph (i) referred to the amount in which he would have been assessed to tax under section 9 of this Act for that year if such a notice had been so given; and
- (b) sub-paragraph (ii) referred to the amount in which he would have been so assessed if such a notice had been so given and the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year.”

[^{F3}(5) In subsection (4) of that section, there shall be inserted at the beginning the words “ Subject to subsection (4A) below, ”.]

[^{F3}(6) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) Subsection (4) above shall not apply where—

- (a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income; and
- (b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the principal Act.”]

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- (7) In subsection (5) of that section, for the words “subsections (2) and (4) above” there shall be substituted the words “ this section ”.
- (8) In subsection (7)(a) of that section, for the words “sections 84” there shall be substituted the words “ sections 62A, 84 ”.
- (9) In subsection (10) of that section, after the words “This section” there shall be inserted the words “ (except subsection (1A) above) ”.
- (10) In subsection (11) of that section, paragraph (b) and the word “and” immediately preceding that paragraph shall cease to have effect.
- (11) Schedule 1A to that Act (claims etc. not included in returns) shall have effect subject to the amendments specified in Schedule 20 to this Act.

Textual Amendments

- F3** S. 107(5)(6) repealed (31.7.1997 with effect as mentioned in Sch. 4 paras. 2, 3 of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)** Note 1 (with s. 3(3)); S. 107(5)(6) expressed to be repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28) Note of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note; S.I. 1998/3173, **art. 2**

^{F4F5} 108 Payments on account of income tax.

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Textual Amendments

- F4** S. 108 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, s. 723, **Sch. 8 Pt. 1** (with Sch. 7)
- F5** S. 108 restored (22.7.2004) by **Finance Act 2004 (c. 12)**, **Sch. 17 para. 6(1)** (with Sch. 17 para. 6(2))

109 Surcharges on unpaid tax.

- (1) In section 59C of the Management Act (surcharges on unpaid income tax and capital gains tax), in subsection (4) (exceptions to surcharge), for the words “or 95” there shall be substituted the words “ , 95 or 95A ”.
- (2) That section of that Act shall apply in relation to any income tax or capital gains tax which—
 - (a) is charged by an assessment made on or after 6th April 1998; and
 - (b) is for the year 1995-96 or an earlier year of assessment,
 as it applies in relation to any income tax or capital gains tax which becomes payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.

110 Interest on overdue tax.

- (1) For section 86 of the Management Act there shall be substituted the following section—

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“86 Interest on overdue income tax and capital gains tax.

- (1) The following, namely—
 - (a) any amount on account of income tax which becomes due and payable in accordance with section 59A(2) of this Act, and
 - (b) any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of this Act,shall carry interest at the rate applicable under section 178 of the ^{M2}Finance Act 1989 from the relevant date until payment.
- (2) For the purposes of subsection (1)(a) above the relevant date is whichever of the dates mentioned in section 59A(2) of this Act is applicable; and for the purposes of subsection (1)(b) above the relevant date is—
 - (a) in any such case as is mentioned in subsection (3) of section 59B of this Act, the last day of the period of three months mentioned in that subsection; and
 - (b) in any other case, the date mentioned in subsection (4) of that section.
- (3) Subsection (1) above applies even if the relevant date is a non-business day within the meaning of section 93 of the ^{M3}Bills of Exchange Act 1882.
- (4) Subsection (5) below applies where as regards a year of assessment—
 - (a) any person makes a claim under subsection (3) or (4) of section 59A of this Act in respect of the amounts (the section 59A amounts) payable by him in accordance with subsection (2) of that section, and
 - (b) an amount (the section 59B amount) becomes payable by him in accordance with section 59B(3), (4) or (5) of this Act.
- (5) Interest shall be payable under this section as if each of the section 59A amounts had been equal to—
 - (a) the aggregate of that amount and 50 per cent. of the section 59B amount, or
 - (b) the amount which would have been payable in accordance with subsection (2) of section 59A of this Act if the claim under subsection (3) or (4) of that section had not been made,whichever is the less.
- (6) In determining for the purposes of subsections (4) and (5) above what amount (if any) is payable by any person in accordance with section 59B(3), (4) or (5) of this Act—
 - (a) it shall be assumed that both of the section 59A amounts have been paid, and
 - (b) no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.
- (7) Subsection (8) below applies where as regards any person and a year of assessment—
 - (a) amounts (the section 59A amounts) become payable by him in accordance with section 59A(2) of this Act, and

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- (b) an amount (the section 59B amount) becomes repayable to him in accordance with section 59B (3), (4) or (5) of this Act.
- (8) So much of any interest payable under this section on either of the section 59A amounts as is not attributable to the amount by which that amount exceeds 50 per cent. of the section 59B amount shall be remitted.
- (9) In determining for the purposes of subsections (7) and (8) above what amount (if any) is repayable to any person in accordance with section 59B(3), (4) or (5) of this Act, no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.”
- (2) That section of that Act shall apply in relation to any income tax or capital gains tax which—
- (a) is charged by an assessment made on or after 6th April 1998; and
 - (b) is for the year 1995-96 or an earlier year of assessment,
- as it applies in relation to any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.
- (3) In that section of that Act as it so applies, “the relevant date” means the 31st January next following the year of assessment.
- [^{F6}(4) So far as it relates to partnerships whose trades, professions or businesses were set up and commenced before 6th April 1994, subsection (1) above has effect as respects the year 1997-98 and subsequent years of assessment.]

Textual Amendments

F6 S. 110(4) inserted (*retrospectively*) by 1996 c. 8, s. 131(1)

Marginal Citations

M2 1989 c. 26.

M3 1882 c. 61.

^{F7}**111 Assessments in respect of income taken into account under PAYE.**

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Textual Amendments

F7 S. 111 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

112 Recovery of certain amounts deducted or paid under MIRAS.

- (1) After section 374 of the Taxes Act 1988 there shall be inserted the following section—

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“374A Interest which never has been relevant loan interest etc.

- (1) This section applies where, in the case of any loan, interest on the loan never has been relevant loan interest or the borrower never has been a qualifying borrower.
 - (2) Without prejudice to subsection (3) below, in relation to a payment of interest—
 - (a) as respects which either of the conditions mentioned in paragraphs (a) and (b) of section 374(1) is fulfilled, and
 - (b) from which a deduction was made as mentioned in section 369(1), section 369 shall have effect as if the payment of interest were a payment of relevant loan interest made by a qualifying borrower.
 - (3) Nothing in subsection (2) above shall be taken as regards the borrower as entitling him to make any deduction or to retain any amount deducted and, accordingly, where any amount has been deducted, he shall be liable to make good that amount and an officer of the Board may make such assessments as may in his judgment be required for recovering that amount.
 - (4) The Management Act shall apply to an assessment under subsection (3) above as if it were an assessment to income tax for the year of assessment in which the deduction was made and as if—
 - (a) the assessment were among those specified in section 55(1) of that Act (recovery of tax not postponed);
 - (b) the assessment were made for the purpose of making good to the Crown a loss of tax wholly attributable to such a failure or error as is mentioned in subsection (1) of section 88 of that Act (interest on tax recovered to make good loss due to taxpayer’s fault); and
 - (c) for the purposes of that section the date when the tax ought to have been paid were the 1st December following the year of assessment.
 - (5) If the borrower fraudulently or negligently makes any false statement or representation in connection with the making of any deduction, he shall be liable to a penalty not exceeding the amount deducted.”
- (2) In subsection (2) of section 375 of that Act (interest ceasing to be relevant loan interest etc.), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) as respects which any of the conditions mentioned in section 374(1) is fulfilled, and”.
- (3) For subsection (4) of that section there shall be substituted the following subsections—
- “(4) The Management Act shall apply to an assessment under subsection (3) above as it applies, by virtue of subsection (4) of section 374A, to an assessment under subsection (3) of that section.
- (4A) If there is any unreasonable delay in the giving of a notice under subsection (1) above, the borrower shall be liable to a penalty not exceeding so much of the aggregate amount that he is liable to make good under subsection (3) above as is attributable to that delay.”
- (4) After subsection (8) of that section there shall be inserted the following subsection—

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“(8A) In any case where an amount to which a person is not entitled is paid to him by the Board in pursuance of regulations made by virtue of subsection (8) above, regulations may—

- (a) provide for an officer of the Board to make such assessments as may in his judgment be required for recovering that amount from that person; and
- (b) make provision corresponding to that made by subsection (4A) above and subsections (4) and (5) of section 374A.”

(5) This section applies in relation to deductions made by borrowers, and payments made by the Board, after the passing of this Act.

113 Allowable losses: capital gains tax.

(1) After subsection (2) of section 16 of the ^{M4}Taxation of Chargeable Gains Act 1992 (computation of losses) there shall be inserted the following subsection—

“(2A) A loss accruing to a person in a year of assessment shall not be an allowable loss for the purposes of this Act unless, in relation to that year, he gives a notice to an officer of the Board quantifying the amount of that loss; and sections 42 and 43 of the Management Act shall apply in relation to such a notice as if it were a claim for relief.”

(2) Deductions under that Act in respect of allowable losses shall be given preference as follows—

- (a) a deduction in respect of a loss accruing to a person in the year 1996-97 or a subsequent year of assessment shall be preferred to a deduction in respect of a loss accruing to him in an earlier year of assessment; and
- (b) a deduction in respect of a loss accruing to a company in an accounting period ending on or after the appointed day for the purposes of Chapter III of Part IV of the ^{M5}Finance Act 1994 shall be preferred to a deduction in respect of a loss accruing to the company in an accounting period ending before that day.

Modifications etc. (not altering text)

C1 S. 113(2) excluded (27.7.1999) by 1992 c. 12, s. 71(2C) (as substituted (27.7.1999) by 1999 c. 16, s. 75(1))

Marginal Citations

M4 1992 c. 12.

M5 1994 c. 9.

114 Liability of trustees and personal representatives: capital gains tax.

(1) For subsection (1) of section 65 of the ^{M6}Taxation of Chargeable Gains Act 1992 (liability for tax of trustees and personal representatives) there shall be substituted the following subsection—

“(1) Subject to subsection (3) below, capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed

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and charged on and in the name of any one or more of the relevant trustees or the relevant personal representatives.”

(2) After subsection (2) of that section there shall be inserted the following subsections—

“(3) Where section 80 applies as regards the trustees of a settlement (“the migrating trustees”), nothing in subsection (1) above shall enable any person—

(a) who ceased to be a trustee of the settlement before the end of the relevant period, and

(b) who shows that, when he ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the United Kingdom,

to be assessed and charged to any capital gains tax which is payable by the migrating trustees by virtue of section 80(2).

(4) In this section—

“the relevant period” has the same meaning as in section 82;

“the relevant trustees”, in relation to any chargeable gains, means the trustees in the year of assessment in which the chargeable gains accrue and any subsequent trustees of the settlement, and “the relevant personal representatives” has a corresponding meaning.”

Marginal Citations

M6 1992 c. 12.

115 Minor amendments and repeals.

- (1) In subsection (7) of section 7 of the Management Act (notice of liability), for the words “income from which” there shall be substituted the words “ income on which ”.
- (2) In subsection (3) of section 9 of that Act (returns to include self-assessment), the words “the following provisions of” shall cease to have effect.
- (3) Section 11A of that Act (notice of liability to capital gains tax) shall cease to have effect.
- (4) In subsection (2) of section 12AA of that Act (partnership return), for the words “such accounts and statements” there shall be substituted the words “ such accounts, statements and documents, relating to information contained in the return, ”.
- (5) In subsection (1)(c) of section 30B of that Act (amendment of partnership statement where loss of tax discovered), after the word “relief” there shall be inserted the words “ or allowance ”.
- (6) In subsection (6) of section 59B of that Act (payment of income tax and capital gains tax), for the words “under section 29 of this Act shall” there shall be substituted the words “ otherwise than under section 9 of this Act shall, unless otherwise provided, ”.
- (7) In subsection (1) of section 100B of that Act (appeals against penalty determinations), after the words “95A of this Act” there shall be inserted the word “ and ”.
- (8) In section 103A of that Act (interest on penalties), for the words “Part II or VA” there shall be substituted the words “ Part II, IV or VA ”.

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- (9) Section 73 of the Taxes Act 1988 (single assessments for purposes of Cases III, IV and V of Schedule D) shall cease to have effect.
- (10) In sections 536 and 537B of that Act (taxation of royalties where owner abroad)—
- (a) in subsection (2) (exemption from requirement to deduct tax from royalties), the words “are shown on a claim to” shall cease to have effect; and
 - (b) in subsection (4) (deduction of tax where agent’s commission unknown), the words from “and in that case” to the end shall cease to have effect.
- (11) In Schedule 3 to that Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D), in paragraph 6E, subparagraphs (1) and (3) shall cease to have effect.
- (12) Section 7 of the ^{M7}Taxation of Chargeable Gains Act 1992 (time for payment of capital gains tax) shall cease to have effect.
- (13) Subsection (3) above has effect as respects the year 1995-96 and subsequent years of assessment.

Marginal Citations

M7 1992 c. 12.

116 Transitional provisions.

- (1) The provisions of the Management Act specified in Schedule 21 to this Act shall have effect subject to the transitional provisions contained in that Schedule.
- (2) Section 198 of the ^{M8}Finance Act 1994 (which is superseded by this section) shall cease to have effect.

Marginal Citations

M8 1994 c. 9.

Changes to legislation:

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