



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Saving and investment: general

62 Follow-up TESSAs

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) After section 326B there shall be inserted—

“326BB Follow-up TESSAs

- (1) Subsection (2) below applies where—
 - (a) an individual, within the period of six months from the day on which a tax-exempt special savings account held by him matured, opens another account (“a follow-up account”) which is a tax-exempt special savings account at the time it is opened; and
 - (b) the total amount deposited in the matured account, before it matured, exceeded £3,000.
 - (2) In relation to the follow-up account section 326B(2)(a) shall apply as if the reference to £3,000 were a reference to the total amount so deposited.
 - (3) For the purposes of subsection (1) above a tax-exempt special savings account held by an individual matures when a period of five years throughout which the account was a tax-exempt special savings account comes to an end.
 - (4) An account is not connected with another account for the purposes of section 326A(8) merely because one of them is a follow-up account.”
- (3) In section 326C(1) (regulations about tax-exempt special savings accounts) after paragraph (c) there shall be inserted—

Status: This is the original version (as it was originally enacted).

- “(cc) providing that subsection (2) of section 326BB does not apply in relation to a follow-up account unless at such time as may be prescribed by the regulations the building society or institution with which the account is held has a document of a prescribed description containing such information as the regulations may prescribe;
 - (cd) requiring building societies and other institutions operating tax-exempt special savings accounts which mature to give to the individuals who have held them certificates containing such information as the regulations may prescribe;”.
- (4) In section 326C(1)(e) for “and 326B” there shall be substituted “326B and 326BB”.
- (5) In section 326C after subsection (1) there shall be inserted—
- “(1A) In paragraph (cc) of subsection (1) above “document” includes a record kept by means of a computer; and regulations made by virtue of that paragraph may prescribe different documents for different cases.
 - (1B) Subsection (3) of section 326BB applies for the purposes of subsection (1) above as it applies for the purposes of subsection (1) of that section.”
- (6) In section 326C(2) for “section 326B” there shall be substituted “sections 326B and 326BB”.

63 TESSAs: European institutions

- (1) Section 326A of the Taxes Act 1988 (tax-exempt special savings accounts) shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) (account must be with building society or institution authorised under Banking Act 1987) after “1987” there shall be inserted “or a relevant European institution”.
- (3) The following subsection shall be inserted after subsection (9)—
- “(10) In this section “relevant European institution” means an institution which—
 - (a) is a European authorised institution within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992, and
 - (b) may accept deposits in the United Kingdom in accordance with those regulations.”
- (4) The following section shall be inserted after section 326C of the Taxes Act 1988 (regulations about tax-exempt special savings accounts etc.)—

“326D Tax-exempt special savings accounts: tax representatives

- (1) Without prejudice to the generality of section 326C(1), the Board may make regulations providing that an account held with a relevant European institution shall not be a tax-exempt special savings account at the time it is opened, or shall cease to be a tax-exempt special savings account at a given time, unless at the time concerned one of the following three requirements is fulfilled.
- (2) The first requirement is that—

Status: This is the original version (as it was originally enacted).

- (a) a person who falls within subsection (5) below is appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and
 - (b) his identity and the fact of his appointment have been notified to the Board by the institution.
- (3) The second requirement is that there are other arrangements with the Board for a person other than the institution to secure the discharge of such duties.
- (4) The third requirement is that there are other arrangements with the Board designed to secure the discharge of such duties.
- (5) A person falls within this subsection if—
 - (a) he is not an individual and has a business establishment in the United Kingdom, or
 - (b) he is an individual and is resident in the United Kingdom.
- (6) Different duties may be prescribed as regards different institutions or different descriptions of institution.
- (7) The regulations may provide that—
 - (a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
 - (b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (8) The regulations may provide that—
 - (a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
 - (b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (9) The regulations may provide as mentioned in subsection (10) below as regards a case where—
 - (a) in accordance with the first requirement a person is at any time appointed to be responsible for securing the discharge of duties, or
 - (b) in accordance with the second requirement there are at any time arrangements for a person to secure the discharge of duties.
- (10) In such a case the regulations may provide that the person concerned—
 - (a) shall be entitled to act on the institution's behalf for any of the purposes of the provisions relating to the duties;
 - (b) shall secure (where appropriate by acting on the institution's behalf) the institution's compliance with and discharge of the duties;
 - (c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.
- (11) Regulations under this section may include provision that section 326B(3) shall have effect as if the reference to subsection (1) included a reference to the regulations.
- (12) In this section “prescribed” means prescribed by the regulations.”

Status: This is the original version (as it was originally enacted).

- (5) Subsection (2) above shall apply in relation to accounts opened after such day as the Board may by order made by statutory instrument appoint.

64 Personal equity plans: tax representatives

- (1) The following section shall be inserted after section 333 of the Taxes Act 1988 (personal equity plans)—

“333A Personal equity plans: tax representatives

- (1) Regulations under section 333 may include provision that a European institution cannot be a plan manager unless one of the following three requirements is fulfilled.
- (2) The first requirement is that—
 - (a) a person who falls within subsection (5) below is for the time being appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and
 - (b) his identity and the fact of his appointment have been notified to the Board by the institution.
- (3) The second requirement is that there are for the time being other arrangements with the Board for a person other than the institution to secure the discharge of such duties.
- (4) The third requirement is that there are for the time being other arrangements with the Board designed to secure the discharge of such duties.
- (5) A person falls within this subsection if—
 - (a) he is not an individual and has a business establishment in the United Kingdom, or
 - (b) he is an individual and is resident in the United Kingdom.
- (6) Different duties may be prescribed as regards different institutions or different descriptions of institution.
- (7) The regulations may provide that—
 - (a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
 - (b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (8) The regulations may provide that—
 - (a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;
 - (b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.
- (9) The regulations may provide as mentioned in subsection (10) below as regards a case where—
 - (a) in accordance with the first requirement a person is for the time being appointed to be responsible for securing the discharge of duties, or

Status: This is the original version (as it was originally enacted).

- (b) in accordance with the second requirement there are for the time being arrangements for a person to secure the discharge of duties.
- (10) In such a case the regulations may provide that the person concerned—
- (a) shall be entitled to act on the institution’s behalf for any of the purposes of the provisions relating to the duties;
 - (b) shall secure (where appropriate by acting on the institution’s behalf) the institution’s compliance with and discharge of the duties;
 - (c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.
- (11) In this section—
- (a) “European institution” has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992;
 - (b) “prescribed” means prescribed by the regulations.
- (12) The preceding provisions of this section shall apply in the case of a relevant authorised person as they apply in the case of a European institution; and “relevant authorised person” here means a person who is an authorised person for the purposes of the Financial Services Act 1986 by virtue of section 31 of that Act.”
- (2) In section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) the following subsection shall be inserted after subsection (2)—
- “(2A) Section 333A of the Taxes Act (personal equity plans: tax representatives) shall apply in relation to regulations under subsection (1) above as it applies in relation to regulations under section 333 of that Act.”

65 Contractual savings schemes

Schedule 12 to this Act (which contains provisions about contractual savings schemes) shall have effect.

66 Enterprise investment scheme: ICTA amendments

- (1) Chapter III of Part VII of the Taxes Act 1988 as it has effect in relation to shares issued on or after 1st January 1994 (the enterprise investment scheme) shall be amended as follows.
- (2) In section 292 (which denies relief where parallel trades are involved) the following subsection shall be inserted after subsection (4)—
- “(5) This section shall not apply where the shares mentioned in subsection (1) above are issued on or after 29th November 1994.”
- (3) In section 293 (qualifying companies) the following subsection shall be inserted after subsection (8A) (which defines “the relevant period” for certain purposes)—
- “(8B) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and

Status: This is the original version (as it was originally enacted).

subsection (8A) above shall have effect subject to the preceding provisions of this subsection.”

(4) In section 305 (reorganisation of share capital) the following subsections shall be inserted after subsection (4)—

“(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.

(6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994.”

67 Enterprise investment scheme: TCGA amendments

Schedule 13 to this Act (which contains amendments relating to chargeable gains as regards the enterprise investment scheme) shall have effect.

68 Business expansion scheme: ICTA amendments

(1) Chapter III of Part VII of the Taxes Act 1988 as it has effect in relation to shares issued before 1st January 1994 (the business expansion scheme) shall be amended as follows.

(2) In section 289 (the relief) the following subsection shall be inserted after subsection (12) (which defines “the relevant period” for the purposes of the Chapter)

—

“(12A) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and subsection (12) above shall have effect subject to the preceding provisions of this subsection.”

(3) In section 305 (reorganisation of share capital) the following subsections shall be inserted after subsection (4)—

“(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.

(6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994.”

69 Business expansion scheme: TCGA amendments

In section 150 of the Taxation of Chargeable Gains Act 1992 (business expansion schemes) the following subsections shall be inserted after subsection (8) (which disappplies provisions about exchanges, reconstructions or amalgamations in certain circumstances)—

“(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—

- (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed,
- (b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and
- (c) the condition in subsection (8B) below is fulfilled.

Status: This is the original version (as it was originally enacted).

- (8B) The condition is that at some time before the issue of the new shares—
- (a) the company issuing them issued eligible shares, and
 - (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.
- (8C) In subsection (8A) above—
- (a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;
 - (b) “relevant period” means the period found by applying section 289(12) (a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.”