



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Management: self-assessment etc.

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—

“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—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Section 112. (See end of Document for details)

- (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—
- “(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.

Changes to legislation:

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