



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Corporation tax: periodic payments etc

30 Corporation tax: due and payable date.

(1) After section 59DA of the ^{M1}Taxes Management Act 1970 there shall be inserted—

“59E Further provision as to when corporation tax is due and payable.

- (1) The Treasury may by regulations make provision, in relation to companies of such descriptions as may be prescribed, for or in connection with treating amounts of corporation tax for an accounting period as becoming due and payable on dates which fall on or before the date on which corporation tax for that period would become due and payable apart from this section.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
 - (a) for or in connection with the determination of amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (b) for or in connection with the determination of the dates on which amounts of corporation tax are treated as becoming due and payable under the regulations;

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- (c) for or in connection with the making of payments to the Board in respect of amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (d) for or in connection with the determination of the amount of any such payments as are mentioned in paragraph (c) above;
 - (e) for or in connection with the determination of the dates on which any such payments as are mentioned in paragraph (c) above become due and payable;
 - (f) for or in connection with any assumptions which are to be made for any purposes of the regulations;
 - (g) for or in connection with the payment to the Board of interest on amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (h) for or in connection with the repayment of amounts paid under the regulations;
 - (i) for or in connection with the payment of interest by the Board on amounts paid or repaid under the regulations;
 - (j) with respect to the furnishing of information to the Board;
 - (k) with respect to the keeping, production or inspection of any books, documents or other records;
 - (l) for or in connection with the imposition of such requirements as the Treasury think necessary or expedient for any purposes of the regulations;
 - (m) for or in connection with appeals in relation to questions arising under the regulations.
- (3) Regulations under this section may make provision—
- (a) for amounts of corporation tax for an accounting period to be treated as becoming due and payable on dates which fall within the accounting period;
 - (b) for payments in respect of any such amounts of corporation tax for an accounting period as are mentioned in paragraph (a) above to become due and payable on dates which fall within the accounting period.
- (4) Where interest is charged by virtue of regulations under this section on any amounts of corporation tax for an accounting period which are treated as becoming due and payable under the regulations, the company shall, in such circumstances as may be prescribed, be liable to a penalty not exceeding twice the amount of that interest.
- (5) Regulations under this section—
- (a) may make such modifications of any provisions of the Taxes Acts, or
 - (b) may apply such provisions of the Taxes Acts,
- as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (6) Regulations under this section which apply any provisions of the Taxes Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (7) Regulations under this section—

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- (a) may make different provision for different purposes, cases or circumstances;
 - (b) may make different provision in relation to companies or accounting periods of different descriptions;
 - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (8) Subject to subsection (9) below, regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (9) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the ^{M2}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (10) In this section—
 - “modifications” includes amendments, additions and omissions;
 - “prescribed” means prescribed by regulations made under this section.
- (11) Any reference in this section to corporation tax includes a reference—
 - (a) to any amount due from a company under section 419 of the principal Act (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;
 - (b) to any sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”
- (2) The Treasury may by regulations make provision for or in connection with the payment to the Board of an amount or amounts determined by or under the regulations in any case where, on or after 25th November 1997 and before 30th June 2002, a company takes any action specified in the regulations which has the effect—
 - (a) of delaying the application, or
 - (b) of delaying or avoiding the full effect,in relation to the company of any regulations made under section 59E of the ^{M3}Taxes Management Act 1970.
- (3) Any amount determined by or under regulations under this section shall be computed as if it were interest on a sum determined by or under the regulations; and any amount so determined shall be treated for the purposes of the Tax Acts as if it were interest due to the Board.
- (4) The action which may be specified in regulations under this section includes—
 - (a) a change by a company in the date or dates on which any of its accounting periods begin or end; or
 - (b) a transfer by a company of any property, rights or liabilities to a company which belongs to the same group as that company.
- (5) In subsection (4) above “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries.

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(6) Regulations under this section—

- (a) may make different provision in relation to different cases or in relation to companies of different descriptions;
- (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

Marginal Citations

- M1** 1970 c. 9.
- M2** 1994 c. 9.
- M3** 1970 c. 9.

31 Abolition of advance corporation tax.

- (1) No company resident in the United Kingdom shall be liable to pay advance corporation tax in respect of any qualifying distribution made on or after 6th April 1999.
- (2) For the purposes of the Tax Acts, no distribution made on or after 6th April 1999 shall be treated as giving rise to the making of a franked payment.
- (3) No franked investment income which is attributable to a distribution made on or after 6th April 1999 shall be used to frank any distributions of a company.
- (4) Section 238(3) of the Taxes Act 1988 shall apply for the purposes of subsection (3) above as it applies for the purposes of Chapter V of Part VI of that Act.
- (5) Schedule 3 to this Act (which makes provision for and in connection with the abolition of advance corporation tax) shall have effect.

32 Unrelieved surplus advance corporation tax.

- (1) The Treasury may by regulations make provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to corporation tax on profits charged to corporation tax for accounting periods ending on or after 6th April 1999 (and thus to discharge a corresponding amount of any such liability).
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
 - (a) for or in connection with imposing a limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against liability to corporation tax on profits charged to corporation tax for an accounting period;
 - (b) for or in connection with the carrying forward of unrelieved surplus advance corporation tax from earlier accounting periods to later accounting periods;
 - (c) for or in connection with the recovery of corporation tax from companies in prescribed circumstances where any such liability as is mentioned in paragraph (a) above is or has been discharged by the set-off of unrelieved surplus advance corporation tax;
 - (d) for or in connection with the reduction or extinguishment of unrelieved surplus advance corporation tax;

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- (e) for or in connection with treating notional amounts of advance corporation tax (“shadow ACT”) as paid by companies in respect of distributions made on or after 6th April 1999;
 - (f) for or in connection with the determination of amounts of shadow ACT which are treated as paid by companies in respect of distributions made on or after 6th April 1999;
 - (g) in relation to the treatment of shadow ACT;
 - (h) in relation to the treatment of companies which have prescribed relationships or connections with each other;
 - (i) in relation to the treatment of prescribed events, arrangements or transactions involving companies with unrelieved surplus advance corporation tax.
- (3) The provision which may be made by regulations under this section includes provision—
- (a) for or in connection with treating shadow ACT as reducing any limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against any such liability as is mentioned in subsection (2)(a) above;
 - (b) for or in connection with the carrying forward of shadow ACT from earlier accounting periods to later accounting periods;
 - (c) for or in connection with the carrying back of shadow ACT from later accounting periods to earlier accounting periods;
 - (d) for or in connection with the transfer of shadow ACT between companies;
 - (e) for or in connection with the reduction or extinguishment of shadow ACT.
- (4) The provision which may be made by virtue of subsection (2)(c) above includes provision for or in connection with the recovery of corporation tax from a company which has a prescribed relationship or connection with a company whose liability to corporation tax is or has been discharged by the set-off of unrelieved surplus advance corporation tax.
- (5) The provision which may be made by regulations under this section includes provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to a sum chargeable under section 747(4)(a) of the Taxes Act 1988 (controlled foreign companies) as if it were an amount of corporation tax for an accounting period.
- (6) In this section “unrelieved surplus advance corporation tax” means the advance corporation tax (if any) which, apart from sub-paragraph (3) of [F1] paragraph 12] of Schedule 3 to this Act but otherwise in accordance with that paragraph, would be treated by virtue of section 239(4) of the Taxes Act 1988 as paid in respect of distributions made by a company in the first accounting period of the company to begin on or after 6th April 1999.
- (7) The reference in subsection (6) above to an accounting period beginning on or after 6th April 1999 includes a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins on 6th April 1999.
- (8) Regulations under this section—
- (a) may make such modifications of any provisions of the Tax Acts, or
 - (b) may apply such provisions of the Tax Acts,
- as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

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- (9) Regulations under this section which apply any provisions of the Tax Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (10) Regulations under this section—
- (a) may make different provision for different purposes, cases or circumstances;
 - (b) may make different provision in relation to companies or accounting periods of different descriptions;
 - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (11) Regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (12) In this section—
- “modifications” includes amendments, additions and omissions;
- “prescribed” means prescribed by regulations made under this section.

Textual Amendments

F1 Words in s. 32(6) substituted (*retrospective to 31.7.1998*) by 1999 c. 16, s. 91(4)(6)

33 Relief for interest payable under the Tax Acts.

- (1) Section 90 of the ^{M4}Taxes Management Act 1970 (interest on overdue tax to be paid without deduction of income tax and not to be allowed as a deduction in computing income, profits or losses) shall be amended as follows.
- (2) At the beginning there shall be inserted “(1)” and in the subsection (1) so formed—
 - (a) after “Interest payable under this Part of this Act” there shall be inserted “ (a) ”; and
 - (b) after “and” there shall be inserted “ (b) ”.
- (3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (disallowance of relief for interest) there shall be inserted “subject to subsection (2) below,”.
- (4) At the end of the section there shall be added—

“(2) Paragraph (b) of subsection (1) above does not apply in relation to interest under section 87 or 87A of this Act payable by a company within the charge to corporation tax.”
- (5) The amendments made by subsections (3) and (4) above have effect in relation to—
 - (a) interest on corporation tax for accounting periods ending on or after the day appointed under section 199 of the ^{M5}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment); and
 - (b) interest on tax assessable in accordance with Schedule 13 or 16 to the Taxes Act 1988 for return periods in accounting periods ending on or after that day.

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Marginal Citations

M4 1970 c. 9.

M5 1994 c. 9.

34 Charge to tax on interest payable under the Tax Acts.

- (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.
- (2) In subsection (5) (interest on overpaid tax to be paid without deduction of income tax and not to be brought into account in computing profits or income)—
 - (a) after “Interest paid under this section” there shall be inserted “ (a) ”; and
 - (b) after “and” there shall be inserted “ (b) ”.
- (3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (interest not to be brought into account in computing profits or income) there shall be inserted “subject to subsection (5A) below,”.
- (4) After subsection (5) there shall be inserted—

“(5A) Paragraph (b) of subsection (5) above does not apply in relation to interest payable to a company within the charge to corporation tax.”
- (5) The amendments made by subsections (3) and (4) above have effect in relation to interest payable by virtue of any paragraph of section 826(1) of the ^{M6}Taxes Act 1988 if the accounting period mentioned in that paragraph is one which ends on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

Marginal Citations

M6 1994 c. 9.

35 Further provision about interest payable under the Tax Acts.

Schedule 4 to this Act (which makes further amendments relating to interest payable under the Tax Acts by or to companies) shall have effect.

36 Arrangements with respect to payment of corporation tax.

- (1) The Board may enter into arrangements with some or all of the members of a group of companies for one of those members to discharge any liability of each of those members to pay corporation tax for the accounting periods to which the arrangements relate.
- (2) Any such arrangements—
 - (a) may make provision in relation to cases where companies become or cease to be members of a group of companies;
 - (b) may make provision in relation to the discharge of liability to pay interest or penalties;

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- (c) may make provision in relation to the discharge of liability to pay any amount treated as corporation tax;
 - (d) may make provision for or in connection with the termination of the arrangements;
 - (e) may make such supplementary, incidental, consequential or transitional provision as is necessary or expedient for the purposes of the arrangements.
- (3) Any such arrangements—
- (a) shall not affect the liability to corporation tax, or to pay corporation tax, of any company to which the arrangements relate; and
 - (b) shall not affect any other liability of any such company under the Tax Acts.
- (4) For the purposes of this section a company and all its 51 per cent. subsidiaries form a group of companies and, if any of those subsidiaries have 51 per cent. subsidiaries, the group of companies includes them and their 51 per cent. subsidiaries, and so on.
- (5) The reference in subsection (2)(c) above to any amount treated as corporation tax is a reference—
- (a) to any amount due from a company under section 419 of the Taxes Act 1988 (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;
 - (b) to any sum chargeable on a company under section 747(4)(a) of the Taxes Act 1988 (controlled foreign companies) as if it were an amount of corporation tax.

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