



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Relief for interest and losses etc.

79 Relief for loan to acquire interest in a close company

- (1) At the end of subsection (3A) of section 360 of the Taxes Act 1988 (loan to buy interest in close company) there shall be inserted the words “or makes a claim in respect of them under Schedule 5B to the 1992 Act”.
- (2) This section has effect in relation to shares acquired on or after 6th April 1998.

80 Relief for losses on unlisted shares in trading companies

- (1) At the beginning of subsection (1) of section 576 of the Taxes Act 1988 (provisions supplementary to sections 573 to 575) there shall be inserted the words “Subject to subsections (1A) and (1B) below,”.
- (2) After that subsection there shall be inserted the following subsections—
 - “(1A) Subsection (1B) below applies where the holding mentioned in subsection (1) above comprises any of the following, namely—
 - (a) shares issued before 1st January 1994 in respect of which relief has been given under Chapter III of Part VII and has not been withdrawn;
 - (b) shares issued on or after that date to which relief under that Chapter is attributable; and

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- (c) shares to which deferral relief (within the meaning of Schedule 5B to the 1992 Act) is attributable.
- (1B) Any such question as is mentioned in subsection (1) above shall not be determined as provided by that subsection, but shall be determined instead—
- (a) in the case of shares issued before 1st January 1994, as provided by subsections (3) to (4C) of section 299 as it has effect in relation to such shares; and
 - (b) in the case of shares issued on or after that date, as provided by subsections (6) to (6D) of that section as it has effect in relation to such shares.”
- (3) For subsection (4) of that section there shall be substituted the following subsections—
- “(4) For the purposes of sections 573 to 575 and this section a qualifying trading company is a company which at all times in the relevant period has been an unquoted company (within the meaning given by section 312) and which—
- (a) either—
 - (i) is an eligible trading company on the date of the disposal; or
 - (ii) has ceased to be an eligible trading company at a time which is not more than three years before that date and has not since that time been an excluded company, an investment company or a trading company that is not an eligible trading company; and
 - (b) either—
 - (i) has been an eligible trading company for a continuous period of six years ending on that date or at that time; or
 - (ii) has been an eligible trading company for a shorter continuous period ending on that date or at that time and has not before the beginning of that period been an excluded company, an investment company or a trading company that is not an eligible trading company; and
 - (c) has carried on its business wholly or mainly in the United Kingdom throughout the relevant period.
- (4A) A company is an eligible trading company for the purposes of subsection (4) above at any time when, or in any period throughout which, it would comply with the requirements of section 293 if—
- (a) the provisions mentioned in subsection (4B) below were omitted;
 - (b) the references in subsection (6) of section 293 to dissolution were omitted and the condition in paragraph (b) of that subsection were a condition that the company continue to be a trading company within the meaning of subsection (5) below;
 - (c) the reference in section 293(6A) to the eligible shares were a reference to the shares in respect of which relief is claimed under section 573 or 574;
 - (d) any reference in section 293, 297 or 308 to the relevant period were a reference to the time that is relevant for the purposes of subsection (4) (a) above or, as the case may require, the continuous period that is relevant for the purposes of subsection (4)(b) above;

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- (e) the reference in section 304A(1)(e)(i) to eligible shares were a reference to shares in respect of which relief is claimed under section 573 or 574;
- (f) references in section 304A(3) to an individual were references to a person;
- (g) the reference in section 304A(4) to section 304 were a reference to section 574(3)(b); and
- (h) the reference in section 304A(6) to the expressions “eligible shares” and “subscriber shares” were a reference to the expression “subscriber shares”.

(4B) The provisions are—

- (a) in section 293, the words “Subject to section 294,” in subsection (1), the words “an unquoted company and be” in subsection (2), and subsections (8A) and (8B);
- (b) sections 294 to 296;
- (c) in section 298(5), the words “and section 312(1A)(b) shall apply to determine the relevant period for the purposes of that section”;
- (d) in section 304A, subsections (1)(e)(ii) and (2)(b), in subsection (3), the words “to which relief becomes so attributable” and paragraphs (c) and (d), in subsection (4), the words “to which relief becomes so attributable” and paragraphs (c) and (d), and subsection (5); and
- (e) section 308(5A).”

(4) In subsection (5) of that section—

- (a) in the definition of “excluded company”, for the words “dealing in shares, securities, land, trades or commodity futures” there shall be substituted the words “dealing in land, in commodities or futures or in shares, securities or other financial instruments,”;
- (b) in the definition of “relevant period”, for the words “subscribed for” there shall be substituted the word “issued”;
- (c) for the definition of “shares” there shall be substituted the following definition—
 - ““shares”—
 - (a) except in subsections (1A) and (1B) above, includes stock; but
 - (b) except in the definition of “excluded company”, does not include shares or stock not forming part of a company’s ordinary share capital;”and
- (d) in the definition of “trading group”, the words “or not resident in the United Kingdom” shall cease to have effect.

(5) In this section—

- (a) subsections (1) and (2) have effect in relation to disposals made on or after 6th April 1998; and
- (b) subsections (3) and (4) have effect in relation to shares issued on or after that date.

81 Group relief: special rules for consortium cases

- (1) Section 403C of the Taxes Act 1988 (which imposes limits, based on the former section 403(9), on the amounts which may be set off where the surrendering company

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or, as the case may be, the claimant company is a member of a consortium) shall be amended as follows.

- (2) In subsection (1)(a) (case where the surrendering company is a member of the consortium) for “surrendering company” there shall be substituted “claimant company”.
- (3) In subsection (2)(a) (case where the claimant company is a member of the consortium) for “claimant company” there shall be substituted “surrendering company”.
- (4) In consequence of the amendments made by subsections (2) and (3) above, in subsection (3) (which defines “the relevant fraction” by reference to the member company’s share in the consortium)—
 - (a) in paragraph (a) (meaning in a case falling within subsection (1)) for “surrendering company’s” there shall be substituted “claimant company’s”; and
 - (b) in paragraph (b) (meaning in a case falling within subsection (2)) for “claimant company’s” there shall be substituted “surrendering company’s”.
- (5) Section 403C of the Taxes Act 1988 and Schedule 7 to the Finance (No. 2) Act 1997 (which, among other things, inserted that section into the Taxes Act 1988) shall have effect, and be deemed always to have had effect, as if that section had been originally enacted in that Schedule with the amendments made by this section.

82 Carry forward of non-trading deficit on loan relationships

- (1) In section 83 of the Finance Act 1996 (non-trading deficit on loan relationships), for subsections (3) and (4) substitute—
 - “(3) So much of the deficit for the deficit period as is not the subject of a claim under subsection (2) above shall be carried forward and treated as a deficit for the next accounting period.
 - (4) An amount carried forward to an accounting period under subsection (3) above—
 - (a) may be the subject of a claim under paragraph (d) of subsection (2) above, but not under any other paragraph of that subsection, and
 - (b) shall be disregarded for the purposes of any claim under that subsection relating to a deficit arising in that period.”.
- (2) Section 797 (limits on credit: corporation tax) and section 797A (foreign tax on interest brought into account as a non-trading credit) of the Taxes Act 1988 are amended as follows—
 - (a) in section 797(3B)(b), omit “or in accordance with subsection (3) of that section”;
 - (b) in section 797A(5), at the end of paragraph (a) insert the word “and” and omit paragraph (c) and the word “and” preceding it;
 - (c) at the end of section 797A(5), insert—

“An amount carried forward to the applicable accounting period under section 83(3) of that Act shall not be treated as a non-trading deficit for that period for the purposes of paragraphs (a) and (b).”;

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- (d) in section 797A(6), for “specified in subsection (5)(c) above” substitute “carried forward to the applicable accounting period in pursuance of a claim under section 83(2)(d) of that Act”;
 - (e) at the end of section 797A(7) insert—
 - “An amount carried forward to the applicable accounting period under section 83(3) of the Finance Act 1996 shall be disregarded for the purposes of paragraphs (a) and (b).”.
- (3) The following amendments of Schedule 28A to the Taxes Act 1988 (change in ownership of investment company: deductions) are consequential on the amendment in subsection (1) above—
- (a) in paragraph 6(da), after “period” insert “(other than one within subparagraph (dc) below)”;
 - (b) in paragraph 6(db), omit “(dc) or”;
 - (c) in paragraph 6(dc), for “debit given for that accounting period by” substitute “deficit carried forward to that accounting period under”;
 - (d) in paragraph 7(1)(b), for “debit” substitute “deficit”;
 - (e) in paragraph 11(2), omit paragraph (a);
 - (f) in paragraph 13(1)(ea), after “period” insert “(other than one within paragraph (ec) below)”;
 - (g) in paragraph 13(1)(eb), omit “(ec) or”;
 - (h) in paragraph 13(1)(ec), for “debit given for that accounting period by” substitute “deficit carried forward to that accounting period under”;
 - (i) in paragraph 16(1)(b), for “debit” substitute “deficit”.
- (4) The amendments made by this section shall be deemed always to have had effect.