Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Rents and other receipts from land

41 Tied premises: receipts and expenses treated as those of trade.

(1) For section 98 of the Taxes Act 1988 (tied premises) substitute—

"98 Tied premises: receipts and expenses treated as those of trade.

(1) This section applies where a person ("the trader")—

(a) carries on a trade,

(b) in the course of the trade supplies, or is concerned in the supply of, goods sold or used on premises occupied by another person,

(c) has an estate or interest in those premises, and

(d) deals with that estate or interest as property employed for the purposes of the trade.

(2) Where this section applies the receipts and expenses in connection with the premises that would otherwise fall to be brought into account in computing the profits of a Schedule A business carried on by the trader shall instead be brought into account in computing the profits of the trade.

(3) Any necessary apportionment shall be made on a just and reasonable basis of receipts or expenses—

(a) which do not relate only to the premises concerned, or

(b) where the conditions in subsection (1) are met only in relation to part of the premises.

(4) This section applies to premises outside the United Kingdom as if the premises were in the United Kingdom.”.

(2) In section 156 of the [M1]Taxation of Chargeable Gains Act 1992 (replacement of business assets: buildings and land), for subsection (4) substitute—

“(4) Where section 98 of the Taxes Act applies (tied premises: receipts and expenses treated as those of trade), the trader shall be treated, to the extent that the conditions in subsection (1) of that section are met in relation to premises, as occupying as well as using the premises for the purposes of the trade.”.

(3) The above amendments have effect on and after 17th March 1998, subject to the following transitional provisions.

In those provisions—

“before commencement” and “after commencement” mean, respectively, before 17th March 1998 and on or after that date; and

“the new section 98” means the section as substituted by subsection (1) above.

(4) To the extent that receipts or expenses have been taken into account before commencement, they shall not be taken into account again under the new section 98 after commencement.

(5) To the extent that receipts or expenses would under the new section 98 have been brought into account before commencement, and were not so brought into account, they shall be brought into account immediately after commencement.

(6) If any estate, interest or rights in or over land is or are transferred from one person to another, the references in subsections (4) and (5) above to receipts or expenses being taken into account shall be construed as references to their being taken into account in relation to either of those persons.

(7) For the purposes of those subsections an amount is “taken into account” if—

(a) it is brought into account for tax purposes, or

(b) it would have been so brought into account if the person concerned were chargeable to tax.

Marginal Citations

M1 1992 c. 12.