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Finance Act 1999

1999 CHAPTER 16

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

VALID FROM 27/07/1999

Pensions and insurance, etc.

79 Sharing of pensions on divorce, etc.

Schedule 10 to this Act (which, for purposes connected with the sharing of pensions between ex-spouses, makes provision with respect to pensions and annuities) shall have effect.

80 Purchased life annuities.

Section 657(2) of the Taxes Act 1988 (annuities not treated as purchased life annuities within section 656) shall have effect, and shall be deemed always to have had effect, with the substitution of the following paragraph for the “or” at the end of paragraph (d)—

“(da) to any annuity purchased under or for the purposes of a scheme approved by virtue of section 591 or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme;”.

81 Acquisitions disregarded under insurance companies concession.

(1) This section applies for the purposes of corporation tax in relation to the disposal by a company (“the relevant company”) of any asset where—

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- (a) the asset is one acquired by the relevant company from an insurance company at a time when the relevant company and that insurance company were both members of the same group of companies;
 - (b) there was an occasion before the disposal (whether the occasion of the transfer of the asset to the relevant company or the occasion of an earlier transfer of the asset) in relation to which the non-statutory arrangements for groups of insurance companies were applied in the case of the transferring company;
 - (c) the application of those arrangements in relation to that occasion had the effect of preventing the cost of the asset's acquisition by the transferring company ("the previous acquisition") from being brought into account for tax purposes; and
 - (d) there has not, between that occasion and the making of the disposal, been any relevant event by reference to which the cost of the previous acquisition has been brought into account in computing the profits or losses of any company for tax purposes.
- (2) Subject to subsection (5) below, where the computation of the relevant company's profits or losses from any trade requires the cost of the acquisition of the asset by that company to be brought into account in the accounting period in which the disposal takes place, that cost shall be brought into account in that period as if it were an amount equal to the cost of the previous acquisition.
- (3) Subject to subsections (4) and (5) below, where—
- (a) the asset disposed of represents a creditor relationship,
 - (b) the disposal is such that paragraph 6 of Schedule 15 to the ^{M1}Finance Act 1996 (adjustment for pre-commencement trading relationships) would require an amount to be brought into account in the accounting period in which the disposal takes place in any case in which there is, for that relationship, a difference such as is mentioned in sub-paragraph (1) of that paragraph, and
 - (c) the cost of the previous acquisition is less than the amount which for the purposes of paragraph 5(2) of that Schedule would (apart from this subsection) be the notional closing value of the relationship on 31st March 1996,
- the question whether an amount falls to be brought into account in accordance with paragraph 6(2) or (3) of that Schedule, and the amount (if any) falling to be so brought into account, shall be determined as if the notional closing value of the relationship on 31st March 1996 had been equal to the cost of the previous acquisition.
- (4) In any case where the asset represents a creditor relationship in relation to which an election under paragraph 6(4) of Schedule 15 to the ^{M2}Finance Act 1996 has effect—
- (a) subsection (3) above and paragraphs (b) and (c) below shall be disregarded in determining the amounts falling to be brought into account under paragraph 6(4) to (7) of that Schedule;
 - (b) paragraph 6(1) and (2) of that Schedule shall be treated as applying, notwithstanding paragraph 6(4)(a), if, in the case of that relationship, the amount referred to in subsection (3)(c) above exceeds the cost of the previous acquisition; and
 - (c) the amount falling by virtue of paragraph (b) above to be brought into account in accordance with paragraph 6(2) of that Schedule shall be

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determined as if the excess referred to in paragraph 6(2)(a) were the excess mentioned in paragraph (b) above.

- (5) Where—
- (a) there are two or more occasions such as are mentioned in paragraph (b) of subsection (1) above, and
 - (b) paragraph (d) of that subsection is satisfied in relation to each of them,
- subsections (2) to (4) above shall have effect as if the references to the previous acquisition were references to the acquisition which is the previous acquisition in relation to the earliest of those occasions.
- (6) In subsection (1)(d) above “relevant event”, in relation to any asset, means—
- (a) a disposal of the asset; or
 - (b) any event by reference to which the conditions of the non-statutory arrangements for groups of insurance companies has required the cost of the previous acquisition to be brought into account in computing the profits or losses of any company for tax purposes.
- (7) Section 170 of the ^{M3}Taxation of Chargeable Gains Act 1992 (meaning of groups etc.) shall apply for construing references in the preceding provisions of this section to a group of companies as it applies for the purposes of sections 171 to 181 of that Act.
- (8) In the preceding provisions of this section—
- “creditor relationship” has the same meaning as in Chapter II of Part IV of the Finance Act 1996; and
 - “insurance company” means an insurance company within the meaning of Chapter I of Part XII of the Taxes Act 1988.
- (9) References in this section to an asset shall be construed as if section 473 of the Taxes Act 1988 (cases where different assets are treated as the same) applied for the purposes of this section as it applies for the purposes of that Act; and paragraph 12(2) of Schedule 9 to the ^{M4}Finance Act 1996 (cases where different companies are treated as the same) shall apply for the purposes of this section as it applies for the purposes of Chapter II of Part IV of that Act of 1996.
- (10) In this section any reference to the non-statutory arrangements for groups of insurance companies is a reference to so much of any arrangements made by the Board otherwise than by virtue of an enactment as—
- (a) in relation to an accounting period beginning before 1st January 2000—
 - (i) provided for a single assessment of the trading profits of a group of insurance companies to be made on the principal company of the group; and
 - (ii) excluded trading profits on intra-group transfers of investments from the group assessment;
 - or
 - (b) contains transitional provision, in connection with the withdrawal of any arrangements falling within paragraph (a) above, for allowing trading profits on intra-group transfers to be excluded from assessments of members of groups of insurance companies that relate to accounting periods beginning on or after 1st January 1999 and before 1st January 2000.
- (11) This section—

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- (a) shall not be construed as requiring any amount representing a gain on the disposal of the asset to be brought into account for tax purposes in so far as an amount representing that gain is or has already been brought into account, as an attributed gain, under any regulations made by virtue of Schedule 16 to the ^{M5}Finance Act 1993 (Forex transitional provisions); and
- (b) shall be without prejudice to any power of the Board apart from this section to enforce any conditions subject to which any relief in accordance with the non-statutory arrangements for groups of insurance companies has been allowed.

(12) This section applies in relation to disposals by the relevant company made in accounting periods beginning on or after 1st January 1999.

Marginal Citations

- M1 1996 c.8.
- M2 1996 c.8.
- M3 1992 c.12.
- M4 1996 c.8.
- M5 1993 c.34.

82 Lloyd's: members' agent pooling arrangements.

- (1) This section applies where a member has entered into a members' agent pooling arrangement ("the arrangement").
- (2) Subsections (3) to (9) below shall apply for the purpose of determining any liability of the member's to capital gains tax that may arise from transactions effected in pursuance of the arrangement.
- (3) The syndicate rights held by the member under the arrangement shall be treated as a single asset acquired by him at the time when he entered into the arrangement; but, subject to subsection (9) below, he shall not be treated as disposing of the asset (in whole or in part) except as mentioned in subsection (6) below.
- (4) The member shall be treated as having given, wholly and exclusively for the acquisition of the asset, consideration equal to any amount paid by him on entering into the arrangement.
- (5) Any other amount paid by the member under the arrangement shall, on a disposal of the asset, be treated as expenditure incurred wholly and exclusively on the asset for the purpose of enhancing its value and reflected in its state or nature at the time of the disposal.
- (6) If an amount is paid to the member at any time under the arrangement, he shall be treated as disposing of the whole asset or, as the case may be, part of the asset at that time for a consideration equal to that amount.
- (7) If syndicate rights held by the member otherwise than under the arrangement become at any time rights held by him under the arrangement, he shall be treated as disposing of those rights at that time for a consideration equal to their market value at that time.
- (8) If syndicate rights held by the member under the arrangement become at any time rights held by him otherwise than under the arrangement, he shall be treated as

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acquiring those rights at that time for a consideration equal to their market value at that time.

(9) Nothing in subsection (3) above shall affect the operation of section 24(1) of the ^{M6}Taxation of Chargeable Gains Act 1992 (disposals where assets extinguished etc.) in relation to the asset.

(10) Subject to subsection (11) below this section applies to arrangements entered into on or after 6th April 1999 or subsisting on that date.

(11) In the case of arrangements subsisting on 6th April 1999, this section has effect—

- (a) as if the time mentioned in subsection (3) above were the earliest time (“the notional time of acquisition”) at which the member acquired any of the syndicate rights held by him under the arrangement immediately before 6th April 1999;
- (b) as if the consideration referred to in subsection (4) above were the consideration, in money or money’s worth, given by him wholly and exclusively for the acquisition of such of those rights as he acquired at the notional time of acquisition; and
- (c) in relation to times before 6th April 1999, as if the amount mentioned in subsection (5) above were the amount of any consideration, in money or money’s worth, given by him wholly and exclusively for the acquisition, after the notional time of acquisition, of rights such as are mentioned in paragraph (a) above;

and the incidental costs of any acquisition falling within paragraph (b) or (c) above shall be taken to be incidental costs of the acquisition of the asset.

Marginal Citations

M6 1992 c.12.

83 Provisions supplementary to s. 82.

(1) In section 82 above and this section, except where the context otherwise requires—
“member” means an individual who is an underwriting member of Lloyd’s;

“members’ agent”, in relation to a member, means a person registered as a members’ agent at Lloyd’s who is acting as such an agent for the member;

“members’ agent pooling arrangement”, in relation to a member, means an arrangement—

(i) under which a members’ agent arranges for the member’s participation in syndicates; and

(ii) which satisfies the conditions set out in subsection (2) below;

“syndicate” has the same meaning as in Chapter III of Part II of the ^{M7}Finance Act 1993; and

“syndicate rights”, in relation to a member, means rights under a syndicate in which the member participates.

(2) The conditions mentioned in paragraph (ii) of the above definition of “members’ agent pooling arrangement” are that under the arrangement—

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- (a) the member must participate in each of the syndicates to which the arrangement relates; and
 - (b) the extent to which the member participates in each such syndicate is determined—
 - (i) by the members' agent; or
 - (ii) according to a formula provided for in the arrangement.
- (3) References in section 82 above to the payment of an amount are references to the payment of an amount in money or money's worth; and to the extent that an amount mentioned in subsection (4), (5) or (6) of that section is paid in money's worth, the amount of the consideration or expenditure there referred to shall be calculated by reference to the market value of the money's worth at the time of the payment mentioned in that subsection.
- (4) Section 82 above and this section have effect in relation to a Scottish partnership which is an underwriting member of Lloyd's as they have effect in relation to a member, but as if the reference in section 82(2) to any liability of the member's to capital gains tax that may arise from transactions effected in pursuance of the arrangement were a reference to any such liability of members of the partnership that may so arise.

Marginal Citations

M7 1993 c.34.

84 Lloyd's: roll-over relief.

- (1) In section 155 of the ^{M8}Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 7 there shall be inserted—

“CLASS 8

ASSETS WITHIN HEADS A AND B BELOW.

HEAD A

RIGHTS OF A MEMBER OF LLOYD'S UNDER A SYNDICATE WITHIN THE MEANING OF CHAPTER III OF PART II OF THE ^{M9}FINANCE ACT 1993.

HEAD B

AN ASSET WHICH A MEMBER OF LLOYD'S IS TREATED AS HAVING ACQUIRED BY VIRTUE OF SECTION 82 OF THE FINANCE ACT 1999.”

- (2) This section applies to—
- (a) assets (or interests in them) disposed of on or after 6th April 1999;
 - (b) assets (or interests in them) acquired on or after that date.

CLASS 8 – Assets within heads A and B below.

Head B – An asset which a member of Lloyd's is treated as having acquired by virtue of section 82 of the Finance Act 1999.

Document Generated: 2024-05-22

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M8 1992 c.12.

M9 1993 c.34.

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