



Finance (No. 2) Act 2017

2017 CHAPTER 32

PART 1

DIRECT TAXES

Income tax: investments

8 Dividend nil rate for tax year 2018-19 etc

- (1) In section 13A of ITA 2007 (income charged at the dividend nil rate), for “£5000”, in each place, substitute “£2000”.
- (2) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

9 Life insurance policies: recalculating gains on part surrenders etc

- (1) ITTOIA 2005 is amended as follows.
- (2) After section 507 (method for making periodic calculations in part surrender or assignment cases) insert—

“507A Recalculating gains under section 507

- (1) An interested person may apply to an officer of Revenue and Customs for a review of a calculation under section 507 on the ground that the gain arising from it is wholly disproportionate.
- (2) For the purposes of this section an interested person in relation to a calculation under section 507 is a person who would be liable for all or any part of the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.
- (3) Applications under subsection (1) must be—

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- (a) made in writing, and
 - (b) received by an officer of Revenue and Customs within—
 - (i) the four tax years following the tax year in which the gain arose, or
 - (ii) such longer period as the officer may agree.
- (4) In considering whether the gain is wholly disproportionate, the officer may take into account (as well as the amount of the gain) any factor which the officer considers appropriate including, so far as the officer considers it appropriate to do so—
- (a) the economic gain on the rights surrendered or assigned,
 - (b) the amount of the premiums paid under the policy or contract,
 - (c) the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.
- (5) If, following an application under subsection (1), an officer considers that the gain arising from the calculation under section 507 is wholly disproportionate, the officer must recalculate the gain on a just and reasonable basis.
- (6) Following a recalculation under subsection (5), references in this Chapter (but excluding this section) to a calculation under section 507 are to be regarded as references to a recalculation under this section.
- (7) Following a recalculation under subsection (5), an officer of Revenue and Customs must notify the interested person of the result of the recalculation.
- (8) If two or more persons are interested persons in relation to a calculation under section 507—
- (a) an application under subsection (1) may be made only by all the interested persons jointly, and
 - (b) subsection (7) applies as if the reference to the interested person were a reference to each of the interested persons.
- (9) Following a recalculation under subsection (5), all necessary adjustments and repayments of income tax are to be made.
- (10) No recalculation is to be made under this section if the gain mentioned in subsection (1) arises as a result of one or more transactions which form part of arrangements, the main purpose, or one of the main purposes, of which is to obtain a tax advantage for any person.
- (11) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
 - “tax advantage” has the meaning given by section 1139 of CTA 2010.”
- (3) After section 512 (available premium left for relevant transaction in certain part surrender or assignment cases) insert—

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“512A Recalculating gains under section 511

- (1) An interested person may apply to an officer of Revenue and Customs for a review of a calculation under section 511 on the ground that the gain arising from it is wholly disproportionate.
- (2) For the purposes of this section an interested person in relation to a calculation under section 511 is a person who would be liable for all or any part of the amount of tax that would be chargeable under this Chapter—
 - (a) if the gain were not recalculated, or
 - (b) if all rights under the policy or contract had been surrendered immediately after the surrender or assignment of rights which gave rise to the calculation.
- (3) Applications under subsection (1) must be—
 - (a) made in writing, and
 - (b) received by an officer of Revenue and Customs within—
 - (i) the four tax years following the tax year in which the gain arose, or
 - (ii) such longer period as the officer may agree.
- (4) In considering whether the gain is wholly disproportionate, the officer may take into account (as well as the amount of the gain) any factor which the officer considers appropriate including, so far as the officer considers it appropriate to do so—
 - (a) the economic gain on the rights surrendered or assigned,
 - (b) the amount of the premiums paid under the policy or contract,
 - (c) the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.
- (5) If, following an application under subsection (1), an officer considers that the gain arising from the calculation under section 511 is wholly disproportionate, the officer must recalculate the gain on a just and reasonable basis.
- (6) Following a recalculation under subsection (5), references in this Chapter (but excluding this section) to a calculation under section 511 are to be regarded as references to a recalculation under this section.
- (7) Following a recalculation under subsection (5), an officer of Revenue and Customs must notify the interested person of the result of the recalculation.
- (8) If two or more persons are interested persons in relation to a calculation under section 511—
 - (a) an application under subsection (1) may be made only by all the interested persons jointly, and
 - (b) subsection (7) applies as if the reference to the interested person were a reference to each of the interested persons.
- (9) Following a recalculation under subsection (5), all necessary adjustments and repayments of income tax are to be made.
- (10) No recalculation is to be made under this section if the gain mentioned in subsection (1) arises as a result of one or more transactions which form part

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of arrangements, the main purpose, or one of the main purposes, of which is to obtain a tax advantage for any person.

(11) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

“tax advantage” has the meaning given by section 1139 of CTA 2010.”

(4) In section 538 (recovery of tax from trustees), after subsection (6) insert—

“(7) Subsection (8) applies where—

- (a) an individual has recovered an amount from trustees under this section, and
- (b) subsequently the individual's liability to tax under this Chapter has been reduced (or removed) as a result of a recalculation under section 507A or 512A.

(8) The individual must repay to the trustees the amount (if any) by which the recovered amount exceeds the individual's revised entitlement.

(9) In subsection (8) the individual's revised entitlement is the amount to which the individual is entitled under this section calculated by reference to the individual's liability to tax under this Chapter as reduced (or removed) as a result of the recalculation under section 507A or 512A.”

(5) The amendments made by subsection (4) have effect in relation to amounts recovered before, as well as after, the day on which this Act is passed.

10 Personal portfolio bonds

In section 520 of ITTOIA 2005 (property categories), after subsection (4) insert—

“(5) The Treasury may by regulations—

- (a) amend the table in subsection (2) by adding, removing or amending a category of property;
- (b) add, remove or amend a definition relating to any category of property in that table; and
- (c) make consequential amendments.

(6) A statutory instrument containing regulations under this section which have the effect of removing a category of property from the table in subsection (2)—

- (a) must be laid before the House of Commons; and
- (b) ceases to have effect at the end of the period of 28 days beginning with the day on which it was made, unless it is approved during that period by a resolution of the House of Commons.

(7) In reckoning the period of 28 days, no account is to be taken of any time during which Parliament is dissolved or prorogued, or during which the House of Commons is adjourned for more than four days.”

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11 EIS and SEIS: the no pre-arranged exits requirement

- (1) ITA 2007 is amended as follows.
- (2) In section 177 (EIS: the no pre-arranged exits requirement), for subsection (2) substitute—
 - “(2) The arrangements referred to in subsection (1)(a) do not include—
 - (a) any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 247(1), or
 - (b) any arrangements with a view to any shares in the issuing company being exchanged for, or converted into, shares in that company of a different class.”
- (3) In section 257CD (SEIS: the no pre-arranged exits requirement), for subsection (2) substitute—
 - “(2) The arrangements referred to in subsection (1)(a) do not include—
 - (a) any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 257HB(1), or
 - (b) any arrangements with a view to any shares in the issuing company being exchanged for, or converted into, shares in that company of a different class.”
- (4) The amendments made by this section have effect in relation to shares issued on or after 5 December 2016.

12 VCTs: follow-on funding

- (1) ITA 2007 is amended as follows.
- (2) In section 326 (restructuring to which sections 326A and 327 apply)—
 - (a) in the heading to section 326, for “section 327 applies” substitute “ sections 326A, 327 and 327A apply ”;
 - (b) in subsection (1), for “Sections 326A and 327 apply” substitute “ Sections 326A, 327 and 327A apply ”.
- (3) After section 327 insert—

“327A Follow-on funding

- (1) Subsections (2) and (3) apply where—
 - (a) this section applies (see section 326(1)),
 - (b) the acquisition by the new company of all the old shares, which is provided for by the arrangements mentioned in section 326(1), takes place, and
 - (c) the acquisition falls within section 326(2).
- (2) If, after the acquisition, another company makes an investment in the new company, section 280C (the permitted maximum age condition) has effect in relation to that investment as if—
 - (a) in subsection (4)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been

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- made in the old company before the acquisition and before the end of the initial investing period, and
- (b) in subsection (6)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.
- (3) In relation to any relevant holding issued by the new company after the acquisition, section 294A (the permitted company age requirement) has effect as if—
- (a) in subsection (3)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been made in the old company before the acquisition and before the end of the initial investing period, and
- (b) in subsection (5)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.
- (4) In subsection (3) “relevant holding” has the same meaning as in Chapter 4.”
- (4) The amendments made by this section have effect—
- (a) for the purposes of section 280C of ITA 2007, in relation to investments made on or after 6 April 2017;
- (b) for the purposes of section 294A of ITA 2007, in relation to relevant holdings issued on or after 6 April 2017.

13 VCTs: exchange of non-qualifying shares and securities

- (1) Section 330 of ITA 2007 (power to facilitate company reorganisations etc involving exchange of shares) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Treasury may by regulations make provision for the purposes of this Part for cases where—
- (a) a holding of shares or securities that does not meet the requirements of Chapter 4 is exchanged for other shares or securities not meeting those requirements, and
- (b) the exchange is made for genuine commercial reasons and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.”
- (3) In subsection (2), for “subsection (1)” substitute “ subsections (1) and (1A) ”.
- (4) In subsection (3), for “The regulations” substitute “ Regulations under subsection (1) ”.
- (5) After subsection (3) insert—
- “(3A) Regulations under subsection (1A) may, among other things, make provision—
- (a) for the new shares or securities to be treated in any respect in the same way as the original shares and securities for any period;
- (b) as to when the new shares or securities are to be regarded as having been acquired;

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- (c) as to the valuation of the original or the new shares or securities.”
- (6) In subsection (4), for “The regulations” substitute “ Regulations under this section ”.
- (7) In subsection (6). in paragraph (c), at the beginning insert “ in the case of regulations under subsection (1) ”.

14 Social investment tax relief

Schedule 1 makes provision about income tax relief for social investments.

15 Business investment relief

- (1) Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- (2) In section 809VC (qualifying investments), in subsection (1)(a), after “issued to” insert “ or acquired by ”.
- (3) In section 809VD (condition relating to qualifying investments)—
- (a) in subsection (1), omit the “or” at the end of paragraph (b) and after that paragraph insert—
 - “(ba) an eligible hybrid company, or”;
 - (b) in subsection (2)(b), for “2” substitute “ 5 ”;
 - (c) in subsection (3)(c), for “2” substitute “ 5 ”;
 - (d) after subsection (3) insert—
 - “(3A) A company is an “eligible hybrid company” if—
 - (a) it is a private limited company,
 - (b) it is not an eligible trading company or an eligible stakeholder company,
 - (c) it carries on one or more commercial trades or is preparing to do so within the next 5 years,
 - (d) it holds one or more investments in eligible trading companies or is preparing to do so within the next 5 years, and
 - (e) carrying on commercial trades and making investments in eligible trading companies are all or substantially all of what it does (or of what it is reasonably expected to do once it begins operating).”;
 - (e) in subsection (4), for “reference in subsection (3)” substitute “ references in subsections (3) and (3A) ”;
 - (f) in subsection (5)(a), for “2” substitute “ 5 ”.
- (4) In section 809VE (commercial trades), after subsection (5) insert—
- “(6) A company which is a partner in a partnership is not to be regarded as carrying on a trade carried on by the partnership.”
- (5) In section 809VH (meaning of “potentially chargeable event”)—
- (a) in subsection (1)(a), after “eligible stakeholder company” insert “ nor an eligible hybrid company ”;
 - (b) in subsection (1)(d), for “2-year” substitute “ 5-year ”;
 - (c) in subsection (2), for paragraph (b) substitute—

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- “(b) the value is received from any person in circumstances that are directly or indirectly attributable to the investment, and”;
 - (d) omit subsection (4);
 - (e) in subsection (5)—
 - (i) for “2-year” substitute “ 5-year ”;
 - (ii) in paragraph (a), for “2” substitute “ 5 ”;
 - (f) in subsection (6), omit the “or” at the end of paragraph (b) and after that paragraph insert—
 - “(ba) it is an eligible hybrid company but is not trading and—
 - (i) it holds no investments in eligible trading companies, or
 - (ii) none of the eligible trading companies in which it holds investments is trading, or”;
 - (g) in subsection (10)(b), after “eligible stakeholder company” insert “ or an eligible hybrid company ”.
- (6) In section 809VJ (grace period), after subsection (2) insert—
- “(2A) But subsection (2B) applies instead of subsections (1) and (2) where the potentially chargeable event is a breach of the 5-year start-up rule by virtue of section 809VH(5)(b).
- (2B) The grace period allowed for the steps mentioned in section 809VI(2)(a) and (2)(b) is the period of 2 years beginning with the day on which a relevant person first became aware or ought reasonably to have become aware of the potentially chargeable event referred to in subsection (2A).”
- (7) In section 809VN (order of disposals etc), in subsections (1)(c) and (5)(a) and (b), after “eligible stakeholder company” insert “ or eligible hybrid company ”.
- (8) The amendments made by this section have effect where the relevant event as defined in section 809VA of ITA 2007 occurs on or after 6 April 2017.

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