
STATUTORY INSTRUMENTS

2009 No. 2860

CORPORATION TAX

INCOME TAX

CAPITAL GAINS TAX

The Corporation Tax Act 2009 (Amendment) Order 2009

Made - - - - 26th October 2009
Laid before the House of
Commons - - - - 27th October 2009
Coming into force - - 18th November 2009

The Treasury make the following Order in exercise of the powers conferred by sections 1323 and 1324 of the Corporation Tax Act 2009⁽¹⁾.

Citation, commencement and effect

1.—(1) This Order may be cited as the Corporation Tax Act 2009 (Amendment) Order 2009 and shall come into force on 18th November 2009.

(2) The amendments made by this Order (other than article 6(7)(a) and (8)) shall be deemed to have come into force on 1st April 2009 and have effect—

- (a) for corporation tax purposes, for accounting periods ending on or after 1st April 2009, and
- (b) for income tax and capital gains tax purposes, for the tax year 2009-10 and subsequent tax years.

Amendment of the Finance Act 1973

2. In paragraph 4(1) of Schedule 15 to the Finance Act 1973⁽²⁾ (territorial extension of charge to tax – supplementary provisions) for “or section 874 of the Income Tax (Trading and Other Income) Act 2005” substitute “, section 874 of the Income Tax (Trading and Other Income) Act 2005 or section 1313 of the Corporation Tax Act 2009”.

(1) 2009 c. 4.

(2) 1973 c. 51: paragraph 4(1) of Schedule 15 was amended by paragraph 3(2) of Schedule 10 to the [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), paragraph 5 of Schedule 4 to the [Petroleum Act 1998 \(c. 17\)](#) and paragraph 387 of Schedule 1 to the [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#).

Amendment of the Income and Corporation Taxes Act 1988

3.—(1) The Income and Corporation Taxes Act 1988(3) is amended as follows.

(2) In section 397(8)(c)(4) (restriction of loss relief in case of farming and market gardening) for sub-paragraphs (i) and (ii) substitute—

“(i) immediately before the change, the trade is carried on by persons who include a company and after the change, no company that carried on the trade in partnership immediately before the change continues to carry it on in partnership, or

(ii) immediately before the change, no company carries on the trade in partnership, and immediately after the change, the trade is carried on in partnership by persons who include a company.”.

(3) In section 785ZB(4)(5) (section 785ZA: definitions) for the words from “the business” to the end substitute “the business the profits or losses of which are determined, in relation to the company, under section 1259 of CTA 2009 (calculation of firm’s profits and losses).”.

(4) In section 830(6) (territorial sea and designated areas)—

(a) in subsection (1) omit “(including the following provisions of this section)”, and

(b) in the title omit “and designated areas”.

Amendment of the Taxation of Chargeable Gains Act 1992

4. In section 151F(3) of the Taxation of Chargeable Gains Act 1992(7) (treatment of alternative finance arrangements) after “this Act” insert “or the Tax Acts”.

Amendment of the Income Tax Act 2007

5. In section 276(2) of the Income Tax Act 2007(8) (conditions relating to income) for “Chapter 2 of Part 4 of FA 1996” substitute “Part 5 of CTA 2009”.

Amendment of the Corporation Tax Act 2009

6.—(1) The Corporation Tax Act 2009 is amended as follows.

(2) In section 383(8) (lending between partners and the partnership) for “this section” substitute “subsection (7) (but see section 840 of ICTA for the meaning of “control” in subsection (3))”.

(3) In section 514(4) (exclusion of alternative finance return from consideration for sale of assets) for “Corporation Tax Acts” substitute “Tax Acts or TCGA 1992”.

(4) In section 518(2) (investment bond arrangements: treatment as securities)—

(a) omit the word “and” at the end of paragraph (a), and

(b) after paragraph (b) insert—

“, and

(3) 1988 c. 1.

(4) Section 397(8)(c) was inserted by paragraph 113(3)(d) of Schedule 1 to the Corporation Tax Act 2009.

(5) Section 785ZB(4) was inserted by section 83(2) of the Finance Act 2006 (c. 25).

(6) Section 830 was amended by paragraph 1 of Schedule 7 to the Finance Act 1998 (c. 36), paragraph 106 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), paragraph 335 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5), paragraph 210 of Schedule 1 to the Income Tax Act 2007 (c. 3) and paragraph 270 of Schedule 1 to the Corporation Tax Act 2009.

(7) 1992 c. 12. Section 151F was inserted by paragraph 370 of Schedule 1 to the Corporation Tax Act 2009.

(8) 2007 c. 3.

- (c) the bond-issuer is to be treated for the purposes of section 84 of FA 2005 (taxation of securitisation companies) as being party as debtor to a capital market arrangement.”.
- (5) In section 549(4) (meaning of debtor quasi-repo) after “borrower” insert “or any other person”.
- (6) In section 695(9) (transfers of value to connected companies) after “control of—” insert—
“(za) the Crown.”.
- (7) In Schedule 2 (transitionals and savings)—
 - (a) in paragraph 71(1)(f) (prospective repeal of provisions concerning exchange gains and losses from loan relationships) for “section 151F” substitute “section 151E”,
 - (b) in the italic cross-heading before paragraph 73 for “6 April 2005” substitute “certain dates”,
 - (c) for paragraph 73(1) substitute—
 - “(1) Chapter 6 of Part 6 (alternative finance arrangements) does not apply to purchase and resale arrangements entered into before 6 April 2005.
 - (1A) That Chapter only applies to deposit arrangements entered into before that date (“pre-6 April 2005 arrangements”) if they are relevant deposit arrangements and then only so far as provided by this paragraph.”,
 - (d) omit the italic cross-heading before paragraph 74,
 - (e) for paragraph 74(1) substitute—
 - “(1) Chapter 6 of Part 6 (alternative finance arrangements) does not apply to diminishing shared ownership arrangements entered into before 1 April 2006.
 - (1A) That Chapter only applies to profit share agency arrangements entered into before that date (“pre-1 April 2006 arrangements”) if they are relevant profit share agency arrangements and then only so far as provided by this paragraph.”, and
 - (f) omit the italic cross-heading before paragraph 75.
- (8) In Part 2 of Schedule 3 (prospective repeals) for “Section 151F.” substitute “Section 151E.”.
- (9) In Schedule 4 (index of defined expressions)—
 - (a) in the first entry relating to “control”, omit “Part 5,”, and
 - (b) omit the entry relating to “control” in Part 5.

26th October 2009

Dave Watts
Tony Cunningham
Two of the Lords Commissioners of Her
Majesty’s Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exercises powers conferred by the Corporation Tax Act 2009 to undo changes and to make consequential amendments. The Acts affected are the Finance Act 1973 (article 2), the Income and Corporation Taxes Act 1988 (article 3), the Taxation of Chargeable Gains Act 1992 (article 4), the Income Tax Act 2007 (article 5) and the Corporation Tax Act 2009 itself (article 6).

Authority for the retrospective provision made by this Order is conferred by sections 1323(4) and 1324(4) of the Corporation Tax Act 2009.

A full and final Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.