



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART I

THE CHARGE TO TAX

Corporation tax

6 The charge to corporation tax and exclusion of income tax and capital gains tax

- (1) Corporation tax shall be charged on profits of companies, and the Corporation Tax Acts shall apply, for any financial year for which Parliament so determines, and where an Act charges corporation tax for any financial year the Corporation Tax Acts apply, without any express provision, for that year accordingly.
- (2) The provisions of the Income Tax Acts relating to the charge of income tax shall not apply to income of a company (not arising to it in a fiduciary or representative capacity) if—
 - (a) the company is resident in the United Kingdom, or
 - (b) the income is, in the case of a company not so resident, within the chargeable profits of the company as defined for the purposes of corporation tax by section 11(2).
- (3) A company shall not be chargeable to capital gains tax in respect of gains accruing to it so that it is chargeable in respect of them to corporation tax or would be so chargeable but for an exemption from corporation tax.
- (4) In this section, sections 7 to 12, 114, 115 (but subject to subsection (7)), 242, 243, 247 and 248, Part VIII, Chapter IV of Part X and Part XI, except in so far as the context otherwise requires—
 - (a) “profits” means income and chargeable gains; and
 - (b) “trade” includes “vocation”, and also includes an office or employment or the occupation of woodlands in any context in which the expression is applied to that in the Income Tax Acts.

(5) Part VIII contains general provisions relating to the taxation of profits of companies.

7 Treatment of certain payments and repayment of income tax

- (1) No payment made by a company resident in the United Kingdom shall be treated for any purpose of the Income Tax Acts as paid out of profits or gains brought into charge to income tax; nor shall any right or obligation under the Income Tax Acts to deduct income tax from any payment be affected by the fact that the recipient is a company not chargeable to income tax in respect of the payment.
- (2) Subject to the provisions of the Corporation Tax Acts, where a company resident in the United Kingdom receives any payment on which it bears income tax by deduction, the income tax thereon shall be set off against any corporation tax assessable on the company by an assessment made for the accounting period in which that payment falls to be taken into account for corporation tax (or would fall to be taken into account but for any exemption from corporation tax); and accordingly in respect of that payment the company, unless wholly exempt from corporation tax, shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.
- (3) Subsection (2) above does not apply to a payment of relevant loan interest to which section 369 applies.
- (4) References in this section to payments received by a company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person.
- (5) Effect shall be given to section 6(2), to that section as modified by subsection (2) above and by section 11(3) and, so far as exemptions from income tax conferred by the Corporation Tax Acts call for repayment of tax, to those exemptions by means of a claim.

8 General scheme of corporation tax

- (1) Subject to any exceptions provided for by the Corporation Tax Acts, a company shall be chargeable to corporation tax on all its profits wherever arising.
- (2) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust, or arising under any partnership, in any case in which it would be so chargeable if the profits accrued to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.
- (3) Corporation tax for any financial year shall be charged on profits arising in that year; but assessments to corporation tax shall be made on a company by reference to accounting periods, and the amount chargeable (after making all proper deductions) of the profits arising in an accounting period shall, where necessary, be apportioned between the financial years in which the accounting period falls.

In relation to accounting periods ending after such day, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of this subsection, this subsection shall have effect with the substitution for “assessments to corporation

tax shall be made on a company” of “corporation tax shall be computed and chargeable (and any assessments shall accordingly be made)”.

- (4) In any financial year assessments for accounting periods falling wholly or partly in that year or (subject to subsection (5) below) in the preceding year may, notwithstanding that corporation tax has not at the time been charged for the year in question, charge tax for so much of the period as falls within that year according to the rate of tax and the other rates and the fractions last fixed, but any such charge shall be subject to later adjustment, if need be, by discharge or repayment of tax or by a further assessment if for that year corporation tax is not charged by an Act of Parliament passed not later than 5th August next after the end of the year or is charged otherwise than as it has been assessed.
- (5) Where the House of Commons passes a resolution for fixing the rate of corporation tax for any financial year or for altering the tax for any financial year, then any assessment to tax afterwards made by virtue of subsection (4) above may be made in accordance with the resolution; but no assessment made by virtue of that subsection later than 5th May next after the end of any financial year shall charge tax for that year, unless a resolution for charging corporation tax for that year has been so passed, nor shall any assessment be made by virtue of any such resolution later than the prescribed period from the date on which the resolution is passed.
- (6) In subsection (5) above “the prescribed period” means—
 - (a) as respects a resolution passed in March or April in any year, a period beginning with the passing of the resolution and ending with 5th August in the same calendar year,
 - (b) as respects any other resolution, four months after the date on which the resolution is passed.

9 Computation of income: application of income tax principles

- (1) Except as otherwise provided by the Tax Acts, the amount of any income shall for purposes of corporation tax be computed in accordance with income tax principles, all questions as to the amounts which are or are not to be taken into account as income, or in computing income, or charged to tax as a person’s income, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law and practice as if accounting periods were years of assessment.
- (2) For the purposes of this section “income tax law” means, in relation to any accounting period, the law applying, for the year of assessment in which the period ends, to the charge on individuals of income tax, except that it does not include such of the enactments of the Income Tax Acts as make special provision for individuals in relation to matters referred to in subsection (1) above.
- (3) Accordingly, for purposes of corporation tax, income shall be computed, and the assessment shall be made, under the like Schedules and Cases as apply for purposes of income tax, and in accordance with the provisions applicable to those Schedules and Cases, but (subject to the provisions of the Corporation Tax Acts) the amounts so computed for the several sources of income, if more than one, together with any amount to be included in respect of chargeable gains, shall be aggregated to arrive at the total profits.
- (4) Without prejudice to the generality of subsection (1) above, any provision of the Income Tax Acts which confers an exemption from income tax, or which provides for

Status: This is the original version (as it was originally enacted).

a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall, except as otherwise provided, have the like effect for purposes of corporation tax.

- (5) Where, by virtue of this section or otherwise, any enactment applies both to income tax and to corporation tax—
- (a) it shall not be affected in its operation by the fact that they are distinct taxes but, so far as is consistent with the Corporation Tax Acts, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and
 - (b) for that purpose references in any such enactment to a relief from or charge to income tax, or to a specified provision of the Income Tax Acts shall, in the absence of or subject to any express adaptation, be construed as being or including a reference to any corresponding relief from or charge to corporation tax, or to any corresponding provision of the Corporation Tax Acts.
- (6) The provisions of the Income Tax Acts applied by this section do not include sections 1 to 5, 60 to 69, Part VII or sections 348 to 350 of this Act; and nothing in this section shall be taken to mean that income arising in any period is to be computed by reference to any other period (except in so far as this results from apportioning to different parts of a period income of the whole period).

10 Time for payment of tax

- (1) Except as provided by section 478—
- (a) corporation tax for an accounting period ending after such day or days (not being earlier than 31st March 1992) as the Treasury may by order appoint for the purposes of this section shall be due and payable on the day following the expiry of nine months from the end of that period; and
 - (b) corporation tax assessed for any other accounting period shall be paid within nine months from the end of that period or, if it is later, within 30 days from the date of the issue of the notice of assessment.
- (2) Notwithstanding that, by virtue of subsection (1)(a) above or section 419(1), any corporation tax (or any amount payable as if it were corporation tax) is due without the making of an assessment, no proceedings for collecting that tax (or other amount) shall be instituted—
- (a) unless it has been assessed; and
 - (b) until the expiry of the period of 30 days beginning on the date on which the notice of assessment is issued;
- and the reference in this subsection to proceedings for collecting tax or any other amount includes a reference to proceedings by way of distraint or pouncing for that tax or other amount.
- (3) If, with respect to any accounting period—
- (a) a company has paid an amount of corporation tax without the making of an assessment; and
 - (b) at any time before an assessment to corporation tax for the period becomes final, the company has grounds for believing that, by reason of a change in

the circumstances of the case since the tax was paid, the amount paid exceeds the company's probable liability for corporation tax,

the company may, by notice given to the inspector on or after the date which, under section 826, is the material date in relation to that tax, make a claim for the repayment to the company of the amount of that excess; and a notice under this subsection shall state the amount which the company considers should be repaid and the grounds referred to in paragraph (b) above.

- (4) If, apart from this subsection, a claim would fall to be made under subsection (3) above at a time when the company concerned has appealed against such an assessment as is referred to in paragraph (b) of that subsection but that appeal has not been finally determined, that subsection shall have effect as if, for the words from "make a claim" to "excess", there were substituted "apply to the Commissioners to whom the appeal stands referred for a determination of the amount which should be repaid to the company pending a determination of the company's liability for the accounting period in question"; and such an application shall be determined in the same way as the appeal.
- (5) Where on an appeal against an assessment to corporation tax a company makes an application under section 55(3) or (4) of the Management Act (postponement of tax charged but not paid etc.), that application may be combined with an application under subsections (3) and (4) above (relating to tax which was paid prior to the assessment).

11 Companies not resident in United Kingdom

- (1) A company not resident in the United Kingdom shall not be within the charge to corporation tax unless it carries on a trade in the United Kingdom through a branch or agency but, if it does so, it shall, subject to any exceptions provided for by the Corporation Tax Acts, be chargeable to corporation tax on all its chargeable profits wherever arising.
- (2) For purposes of corporation tax the chargeable profits of a company not resident in the United Kingdom but carrying on a trade there through a branch or agency shall be—
 - (a) any trading income arising directly or indirectly through or from the branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and
 - (b) such chargeable gains accruing on the disposal of assets situated in the United Kingdom as are by section 12 of the 1979 Act made chargeable to capital gains tax in the case of an individual not resident or ordinarily resident in the United Kingdom.
- (3) Subject to section 447, where a company not resident in the United Kingdom receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to corporation tax, the income tax thereon shall be set off against any corporation tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for corporation tax; and accordingly in respect of that payment the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.
- (4) Subsection (3) above does not apply to a payment of relevant loan interest to which section 369 applies.

12 Basis of, and periods for, assessment

- (1) Except as otherwise provided by the Corporation Tax Acts, corporation tax shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in the period (whether or not received in or transmitted to the United Kingdom) without any other deduction than is authorised by those Acts.
- (2) An accounting period of a company shall begin for purposes of corporation tax whenever—
 - (a) the company, not then being within the charge to corporation tax, comes within it, whether by the company becoming resident in the United Kingdom or acquiring a source of income, or otherwise; or
 - (b) an accounting period of the company ends without the company then ceasing to be within the charge to corporation tax.
- (3) An accounting period of a company shall end for purposes of corporation tax on the first occurrence of any of the following—
 - (a) the expiration of 12 months from the beginning of the accounting period;
 - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period;
 - (c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all the trades carried on by it, within the charge to corporation tax;
 - (d) the company beginning or ceasing to be resident in the United Kingdom;
 - (e) the company ceasing to be within the charge to corporation tax.
- (4) For the purposes of this section a company resident in the United Kingdom, if not otherwise within the charge to corporation tax, shall be treated as coming within the charge to corporation tax at the time when it commences to carry on business.
- (5) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (3)(b) above shall apply with reference to the accounting date of such one of the trades as the Board may determine.
- (6) If a chargeable gain or allowable loss accrues to a company at a time not otherwise within an accounting period of the company, an accounting period of the company shall then begin for the purposes of corporation tax, and the gain or loss shall accrue in that accounting period.
- (7) Notwithstanding anything in subsections (1) to (6) above, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter, subject to section 342(6), an accounting period shall not end otherwise than by the expiration of 12 months from its beginning or by the completion of the winding up.

For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or on the doing of any other act for a like purpose in the case of a winding up otherwise than under the Insolvency Act 1986.

- (8) Where it appears to the inspector that the beginning or end of any accounting period of a company is uncertain, he may make an assessment on the company for such period,

not exceeding 12 months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either—

- (a) the inspector on further facts coming to his knowledge sees fit to revise it; or
- (b) on an appeal against the assessment in respect of some other matter the company shows the true accounting periods;

and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.