



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

##### *Income tax rates and allowances*

#### **<sup>F1</sup>30 Charge and rates of income tax for 1989-90.**

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##### **Textual Amendments**

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### **<sup>F1</sup>31 Age allowance.**

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##### **Textual Amendments**

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### **<sup>F1</sup>32 Operative date for PAYE.**

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

### Textual Amendments

**F1** Ss. 30-32 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### 33 Married couples.

- (1) Sections 257 to 257F and 265 of the <sup>M1</sup>Taxes Act 1988, as inserted for the year 1990-91 and subsequent years by the Finance Act 1988, shall be amended as follows.
- (2) In section 257(1) for “£2,605” there shall be substituted “£2,785”.
- (3) In section 257(2) for “£3,180” there shall be substituted “£3,400”.
- (4) In section 257(3)—
- <sup>F2</sup>(a) .....
- (b) for “£3,310” there shall be substituted “£3,540”.
- (5) In section 257(5)—
- (a) for “£10,600” there shall be substituted “£11,400”, and
- <sup>F3</sup>(b) .....
- [<sup>F4</sup>(6) In section 257A(1) for “£1,490” there shall be substituted “£1,590”.]
- (7) In section 257A(2) for “£1,855” there shall be substituted “£1,985”.
- (8) In section 257A(3)—
- <sup>F5</sup>(a) .....
- (b) for “£1,895” there shall be substituted “£2,025”.
- (9) In section 257A(5)—
- (a) for “£10,600” there shall be substituted “£11,400”, and
- <sup>F6</sup>(b) .....
- (10) In sections <sup>F7</sup>. . . [<sup>F8</sup>257D(8) and] 265(3) after paragraph (b) there shall be inserted “or
- (c) on account of any payments to which section 593(2) or 639(3) applies.”.
- [<sup>F9</sup>(11) In section 257E(1)(b) for “80” there shall be substituted “75”.
- <sup>F9</sup>(12) In section 257E(2)(a) for “£3,180” there shall be substituted “£3,400”.
- <sup>F9</sup>(13) In section 257E(2)(b) for “£3,310” there shall be substituted “£3,540”.]

### Textual Amendments

- F2** S. 33(4)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)
- F3** S. 33(5)(b) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)
- F4** S. 33(6) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(3\)](#), note 2
- F5** S. 33(8)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(c\)](#)

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)

- F6** S. 33(9)(b) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 1 para. 6(c)**
- F7** Words in s. 33(10) repealed (16.7.1992) by virtue of Finance (No. 2) Act 1992 (c. 48), ss. 20, 82, Sch. 5 para. 10, **Sch. 18 Pt. VII(1)**
- F8** Words in s. 33(10) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by virtue of 1999 c. 16, s. 139, **Sch. 20 Pt. III(3)**, note 2
- F9** S. 33(11)-(13) repealed (27.7.1999 with effect for the year 2000-2001 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(3)**, note 2

**Modifications etc. (not altering text)**

- C1** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 257 for 1989–1990 and see Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), 257–257F for 1990–1991

**Marginal Citations**

- M1** 1988 c. 39.

*Corporation tax rates etc.*

**34 Charge and rate of corporation tax for financial year 1989.**

Corporation tax shall be charged for the financial year 1989 at the rate of 35 per cent.

**Modifications etc. (not altering text)**

- C2** For earlier years see Table K, Vol. 1

**<sup>F10</sup>35 Corporation tax: small companies.**

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**Textual Amendments**

- F10** S. 35 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Receipts basis etc.*

**<sup>F11</sup>36 Schedule E: revised Cases.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, Part II. (See end of Document for details)*

**F1137 Schedule E: assessment on receipts basis.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F1138 Schedule E: unpaid emoluments.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F1139 Schedule E: unremitted emoluments.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F1140 Schedule E: emoluments already paid.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F1141 Schedule E: pensions etc.**

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**Textual Amendments**

- F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**Modifications etc. (not altering text)**

- C3** S. 41 extended (3.5.1994) by [1994 c. 9](#), s. **139(3)**

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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)

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**F11 42 Schedule E: supplementary.**

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**Textual Amendments**

**F11** Ss. 36-42 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F12 43 Schedule D: computation**

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**Textual Amendments**

**F12** S. 43 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 339](#), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F13 44 Companies with investment business and insurance companies: computation**

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**Textual Amendments**

**F13** S. 44 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 340](#), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F14 45 PAYE: meaning of payment.**

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**Textual Amendments**

**F14** S. 45 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

*Interest*

**46 Relief for interest.**

For the year 1989-90 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

**F15 47 Close company loans: business expansion scheme.**

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F15** S. 47 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F16</sup>48 Close company loans: material interest.**

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**Textual Amendments**

**F16** S. 48 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Benefits in kind*

**49 Car benefits.**

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

**“PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

table A

CARS WITH AN ORIGINAL MARKET VALUE UP  
TO £19,250 AND HAVING A CYLINDER CAPACITY

Cylinder capacity of car in cubic centimetres	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
1400 or less	£1,400	£950
More than 1400 but not more than 2000	£1,850	£1,250
More than 2000	£2,950	£1,950

table B

CARS WITH AN ORIGINAL MARKET VALUE UP TO  
£19,250 AND NOT HAVING A CYLINDER CAPACITY

Original market value of car	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
Less than £6,000	£1,400	£950

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£6,000 or more but less than £8,500	£1,850	£1,250
£8,500 or more but not more than £19,250	£2,950	£1,950

table B

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

Original market value of car	Age of car at end of relevant year of assessment	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£3,850	£2,600
More than £29,000	£6,150	£4,100 <sup>2</sup>

(2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

<sup>F17</sup>**50 Security assets and services.**

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**Textual Amendments**

**F17** Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

<sup>F17</sup>**51 Assets used partly for security.**

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**Textual Amendments**

**F17** Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

<sup>F17</sup>**52 Security: supplementary.**

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**Textual Amendments**

**F17** Ss. 50-52 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with Sch. 7)

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### 53 Employees earning £8,500 or more and directors.

- <sup>F18</sup>(1) .....
- <sup>F18</sup>(2) .....
- <sup>F18</sup>(a) .....
- <sup>F18</sup>(b) .....
- <sup>F18</sup>(c) .....
- <sup>F18</sup>(d) .....
- <sup>F18</sup>(e) .....
- (f) the words “ employment to which Chapter II of Part V applies ” shall be substituted for the words from “director’s” to “section167)” in [<sup>F19</sup>section 418(3)(a)] of that Act;
- <sup>F18</sup>(g) .....

#### Textual Amendments

- F18** S. 53 repealed (except s. 53(2)(f) so far as relating to s. 418(3) of ICTA) (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with Sch. 7)
- F19** Words in s. 53(2)(f) substituted (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 159](#) (with Sch. 7)

#### *Medical insurance*

### [<sup>F20</sup>54 Relief.

- (1) This section applies where—
- (a) on or after 6th April 1990 an individual makes a payment in respect of a premium under a contract of private medical insurance (whenever issued),
  - (b) the contract meets the requirement in subsection (2) below as to the person or persons insured,
  - (c) at the time the payment is made the contract is an eligible contract,
  - (d) the individual making the payment does not make it out of resources provided by another person for the purpose of enabling it to be made, and
  - (e) the individual making the payment is not entitled to claim any relief or deduction in respect of it under any other provision of the Tax Acts.
- (2) The requirement mentioned in subsection (1)(b) above is that the contract insures—
- (a) an individual who at the time the payment is made is aged 60 or over and resident in the United Kingdom,
  - (b) individuals each of whom at that time is aged 60 or over and resident in the United Kingdom, or
  - (c) two individuals who are married to each other at that time, at least one of whom is aged 60 or over at that time, and each of whom is resident in the United Kingdom at that time.

[ In a case where—  
<sup>F21</sup>(2A)



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- (a) a payment is made in respect of a premium under a contract at a time when the contract meets the requirement in subsection (2) above by virtue of paragraph (c) of that subsection, and
- (b) a payment is made under the same contract at a time after one of the individuals has died and when the contract does not (apart from this subsection) meet the requirement in subsection (2) above by virtue only of the fact that the surviving spouse is not aged 60 or over at the time,

for the purposes of subsection (2) above in its application to the contract the surviving spouse shall be deemed to be aged 60 or over at the time mentioned in paragraph (b) above.]

- (3) If the payment is made by an individual who at the time it is made is resident in the United Kingdom (whether or not he is the individual or one of the individuals insured by the contract) [<sup>F22</sup>the individual shall be entitled to relief under this subsection in respect of the payment; and (except where subsections (4) to (6) below apply) relief under this subsection shall be given—
  - (a) in accordance with subsections (3A) to (3C) below, and
  - (b) only on a claim made for the purpose.]

[ Where an individual is entitled to relief under subsection (3) above in respect of one <sup>F23</sup>(3A) or more payments made in a given year of assessment, the amount of his liability for that year of assessment to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—

- (a) the amount found under subsection (3B) below, and
- (b) the amount which reduces his liability to nil.

- (3B) The amount referred to in subsection (3A)(a) above is an amount found by—
  - (a) taking the amount of the payment referred to in subsection (3A) above or (as the case may be) the aggregate amount of the payments there referred to, and
  - (b) finding an amount equal to tax on the amount taken under paragraph (a) above at the basic rate for the year of assessment concerned.

- (3C) In determining for the purposes of subsection (3A) above the amount of incomers on whom he would be liable apart from this section, no account shall be taken of—
  - (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
  - (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;
  - (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
  - (d) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]

- (4) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (3) above shall be given in accordance with subsections (5) and (6) below.
- (5) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.
- (6) The person to whom the payment is made—

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- (a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
  - (b) may, on making a claim [<sup>F24</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
- (7) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
- (a) an individual who has made a payment in respect of a premium under a contract of private medical insurance shall cease to be and be treated as not having been entitled to relief under subsection (3) above; and
  - (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
- (8) Regulations under subsection (7) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
- (9) In this section—
- (a) references to a premium, in relation to a contract of insurance, are to any amount payable under the contract to the insurer, and
  - (b) references to an individual who is resident in the United Kingdom at anytime include references to an individual who is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.]

#### Textual Amendments

- F20** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F21** S. 54(2A) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 4(2)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 4(1)**
- F22** Words and paras. (a)(b) substituted for words in s. 54(3) (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(2)(4)**
- F23** S. 54(3A)-(3C) inserted (3.5.1994 with effect in relation to payments on or after 6.4.1994) by 1994 c. 9, s. 83, **Sch. 10 para. 2(3)(4)**
- F24** Words in s. 54(6)(b) inserted (29.4.1996) by 1996 c. 8, s. 129(2)

#### Modifications etc. (not altering text)

- C4** S. 54 restricted (31.7.1997 with effect for the year 1997-1998 and subsequent years of assessment) by 1997 c. 58, s. 17(1)-(5) (with s. 3(3))
- C5** For regulations see S.I. 1989/2387 and S.I. 1989/2389 (in Part III Vol. *Sunder "Private medical insurance"*)

#### [<sup>F25</sup>55 Eligible contracts.

- (1) This section has effect to determine whether a contract is at a particular time (the relevant time) an eligible contract for the purposes of section 54 above.
- (2) A contract is an eligible contract at the relevant time if—

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- (a) it was entered into by an insurer who at the time it was entered into was a qualifying insurer and was approved by the Board for the purposes of this section,
- (b) the period of insurance under the contract does not exceed one year(commencing with the date it was entered into),
  - [ at the relevant time the contract satisfies the conditions set out in
- <sup>F26</sup>(ba) subsection (2A) below,
- (bb) the contract is not one in the case of which subsection (2D) below applies,]
- (c) the contract is not connected with any other contract at the relevant time and has not been connected with any other contract at any time since it was entered into, [<sup>F27</sup>and]
- (d) no benefit has been provided by virtue of the contract other than an approved benefit, [<sup>F28</sup>and
- (e) the contract meets one or more of the three conditions set out below.]

[ The conditions referred to in subsection (2)(ba) above are that—

- <sup>F29</sup>(2A) (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,
- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
- (c) the premium under the contract is reasonable, and
- (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.

(2B) In a case where—

- (a) at the relevant time the contract confers a material right, or more than one such right, but
- (b) the total cost to the insurer of providing benefits in pursuance of the material right or (as the case may be) in pursuance of all the material rights would not exceed the prescribed sum,

the contract shall not thereby be regarded as failing to satisfy at the relevant time the condition set out in subsection (2A)(b) above.

(2C) For the purposes of subsection (2B) above a material right is a right which—

- (a) is not a right such as is mentioned in subsection (2A)(a) above or such as is for the time being specified in regulations made under subsection (2A)(b) above, and
- (b) is not a right to a cash benefit.

(2D) This subsection applies in the case of a contract (the main contract) if—

- (a) at least one other contract is entered into which is a contract (a collateral contract) under which a benefit is provided in consideration of the insured's entering into the main contract, and
- (b) the cost to the insurer of fulfilling his obligations under the collateral contract (or, if there is more than one collateral contract, of fulfilling his obligations under all of them) exceeds the prescribed sum.]

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- [ The first condition is that the contract is certified by the Board under section 56 below<sup>F30</sup>(3) at the relevant time.
- <sup>F30</sup>(4) The second condition is that, at the time the contract was entered into, it conformed with a standard form certified by the Board as a standard form of eligible contract.
- <sup>F30</sup>(5) The third condition is that, at the time the contract was entered into, it conformed with a form varying from a standard form so certified in no other respect than by making additions—
- (a) which were (at the time the contract was entered into) certified by the Board as compatible with an eligible contract when made to that standard form, and
  - (b) which (at that time) satisfied any conditions subject to which the additions were so certified.
- <sup>F30</sup>(6) Where a contract is varied, and the relevant time falls after the time the variation takes effect, subsections (1) to (5) above shall have effect as if “entered into” read “varied” in each place where it occurs in subsections (4) and (5) above.]
- (7) For the purposes of this section a contract is connected with another contract at any time if—
- (a) they are simultaneously in force at that time,
  - (b) either of them was entered into with reference to the other, or with a view to enabling the other to be entered into on particular terms, or with a view to facilitating the other being entered into on particular terms, and
  - (c) the terms on which either of them was entered into would have been significantly less favourable to the insured if the other had not been entered into.
- (8) For the purposes of this section each of the following is a qualifying insurer—
- (a) an insurer lawfully carrying on in the United Kingdom business of any of the classes specified in Part I of Schedule 2 to the <sup>M2</sup>Insurance Companies Act 1982;
  - (b) an insurer not carrying on business in the United Kingdom but carrying on business in another member State and being either a national of a member State or a company or partnership formed under the law of any part of the United Kingdom or another member State and having its registered office, central administration or principal place of business in a member State.
- (9) For the purposes of this section a benefit is an approved benefit if it is provided in pursuance of a right of a description
- <sup>F31</sup>(a) [ mentioned in subsection (2A)(a) above, or
  - (b) for the time being specified in regulations made under subsection (2A)(b) above.]
- [ For the purposes of this section a benefit is also an approved benefit if it is not a cash<sup>F32</sup>(10) benefit and—
- (a) it is a single benefit provided otherwise than as mentioned in subsection (9) above and the cost to the insurer of providing it does not exceed the prescribed sum, or
  - (b) it is one of a number of benefits provided otherwise than as mentioned in subsection (9) above and the total cost to the insurer of providing the benefits does not exceed the prescribed sum.

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- (11) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.
- (12) For the purposes of this section the prescribed sum is £30.
- (13) The Treasury may by order substitute for the sum for the time being specified in subsection (12) above such sum as may be specified in the order; and any such substitution shall have effect in relation to cases where the relevant time falls on or after such date as is specified in the order.]]

#### Textual Amendments

- F25** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))
- F26** S. 55(2)(ba)(bb) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(2)**
- F27** Word in s. 55(2)(c) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(3)(a)**
- F28** S. 55(2)(e) and the word “and” immediately preceding it repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(3)(b)**, **Sch. 26 Pt. V(3)**, Note 2
- F29** S. 55(2A)-(2D) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(4)**
- F30** S. 55(3)-(6) repealed (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, ss. 83, 258, **Sch. 10 para. 5(5)**, **Sch. 26 Pt. V(3)**, Note 2
- F31** Paras. (a)(b) substituted for words in s. 55(9) (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(6)**
- F32** S. 55(10)-(13) inserted (3.5.1994 with effect as mentioned in **Sch. 10 para. 5(8)** of the amending Act) by 1994 c. 9, s. 83, **Sch. 10 para. 5(7)**

#### Marginal Citations

- M2** 1982 c.50.

### [<sup>F33</sup>56 Certification of contracts.

- (1) The Board shall certify a contract under this section if it satisfies the conditions set out in subsection (3) below; and the certification shall be expressed to take effect from the time the conditions are satisfied, and shall take effect accordingly.
- (2) The Board shall revoke a certification of a contract under this section if it comes to their notice that the contract has ceased to satisfy the conditions set out in subsection (3) below; and the revocation shall be expressed to take effect from the time the conditions ceased to be satisfied, and shall take effect accordingly.
- (3) The conditions referred to above are that—
  - (a) the contract either provides indemnity in respect of all or any of the costs of all or any of the treatments, medical services and other matters for the time being specified in regulations made by the Treasury, or in addition to providing indemnity of that description provides cash benefits falling within rules for the time being so specified,

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- (b) the contract does not confer any right other than such a right as is mentioned in paragraph (a) above or is for the time being specified in regulations made by the Treasury,
  - (c) the premium under the contract is in the Board’s opinion reasonable, and
  - (d) the contract satisfies such other requirements as are for the time being specified in regulations made by the Treasury.
- (4) The certification of a contract by the Board under this section shall cease to have effect if the contract is varied; but this is without prejudice to the application of the preceding provisions of this section to the contract as varied.
- (5) Where the Board refuse to certify a contract under this section, or they revoke a certification, an appeal may be made to the Special Commissioners by—
- (a) the insurer, or
  - (b) any person who (if the policy were certified) would be entitled to relief under section 54 above.
- (6) Where a contract is certified under this section, or a certification is revoked or otherwise ceases to have effect, any adjustments resulting from the certification or from its revocation or ceasing to have effect shall be made.
- (7) Subsection (6) above applies where a certification or revocation takes place on appeal as it applies in the case of any other certification or revocation.
- (8) In this section the reference to a premium, in relation to a contract of insurance, is to any amount payable under the contract to the insurer.]

**Textual Amendments**

**F33** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

**Modifications etc. (not altering text)**

**C6** For regulations see **S.I. 1989/2389** (in Part III Vol. 5 under “Private medical insurance”)

**[<sup>F34</sup>57 Medical insurance: supplementary.**

- (1) The Board may by regulations—
- (a) provide that a claim under section 54(3) or (6)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;
  - <sup>F35</sup>(aa) [ make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;]
  - (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 54 above, for the giving by insurers in such circumstances as may be prescribed of certificates of payment in such form as may be prescribed to such persons as may be prescribed;
  - (c) provide that a person who provides (or has at any time provided) insurance under contracts of private medical insurance shall comply with any notice which is served on him by the Board and which requires him within a

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- prescribed period to make available for the Board’s inspection documents (of a prescribed kind) relating to such contracts;
- (d) provide that persons of such a description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about contracts of private medical insurance;
  - (e) make provision with respect to the approval of insurers for the purposes of section 55 above and the withdrawal of approval for the purposes of that section;
  - (f) make provision for and with respect to appeals against decisions of the Board with respect to the giving or withdrawal of approval of insurers for the purposes of section 55 above;
  - (g) make provision with respect to the certification by the Board of standard forms of eligible contract and variations from standard forms of eligible contract certified by them;
  - (h) make provision for and with respect to appeals against decisions of the Board with respect to the certification of standard forms of eligible contractor variations from standard forms of eligible contract certified by them;
  - (i) provide that certification, or the revocation of a certification, under section 56 above shall be carried out in such form and manner as may be prescribed;
  - (j) make provision with respect to appeals against decisions of the Board with respect to certification or the revocation of certification under section 56 above;
  - (k) make provision generally as to administration in connection with sections 54 to 56 above.

<sup>F36</sup>(2) .....

- (3) The following provisions of the Taxes Management Act 1970, namely—
- <sup>F37</sup>(a) [ section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;]
  - (b) section 30 (tax repaid in error etc.) [<sup>F38</sup>apart from subsection (1B)],
  - (c) [<sup>F39</sup>section 86] (interest), and
  - (d) section 95 (incorrect return or accounts),

[<sup>F40</sup>shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 54(6)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]

<sup>F41</sup>(3A) [ In the application of section 86 of the Taxes Management Act 1970 by virtue of subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

- (a) in a case where the person falling within section 54(6) above has made any interim claim, within the meaning of regulations made under subsection (1) and section 54(4) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and
- (b) in any other case, is the later of the following dates, that is to say—
  - (i) 1st January in the year of assessment for which the assessment is made; or

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- (ii) the date of the making of the payment by the Board which gives rise to the assessment.]
- (4) In sections <sup>F42</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988 after paragraph (c) there shall be inserted
  - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies”.
- (5) In subsection (1) above—
  - “eligible contract” has the meaning given by section 55 above, and
  - “prescribed” means prescribed by or, in relation to form, under the regulations.]

**Textual Amendments**

**F34** Ss. 54-57 repealed (31.1.1997 with effect as mentioned in Sch. 8 Pt. II(2), note of the amending Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)** (with s. 3(3))

**F35** S. 57(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. 129(3)

**F36** S. 57(2) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 60(c)**

**F37** S. 57(3)(a) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(a)**

**F38** Words in s. 57(3)(b) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(b)**

**F39** Words in s. 57(3)(c) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(c)**

**F40** Words in s. 57(3) substituted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(2)(d)**

**F41** S. 57(3A) inserted (29.4.1996 with effect as mentioned in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 12(3)**

**F42** Words in s. 57(4) repealed (16.7.1992) by virtue of [Finance \(No. 2\) Act 1992 \(c. 48\)](#), ss. 20, 82, [Sch. 5 para. 10](#), **Sch. 18 Pt. VII(1)**

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**Modifications etc. (not altering text)**

**C7** See [S.I. 1989/2387](#)

*Charities*

**58 Payroll deduction scheme.**

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £240 the deductions attracting relief) for “£240” there shall be substituted “£480”.
- (2) This section shall have effect for the year 1989-90 and subsequent years of assessment.

<sup>F43</sup>**59** .....



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**Textual Amendments**

- F43** S. 59 repealed (28.7.2000 with effect as mentioned in s. 41(9) of the amending Act) by 2000 c. 17, ss. 41(7), 156, **Sch. 40 Pt. II(1)**, note 3

**60 British Museum and Natural History Museum.**

- F44**(1) . . . . .
- F44**(2) . . . . .
- F45**(3) . . . . .
- F46**(4) . . . . .

**Textual Amendments**

- F44** S. 60(1)(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010** (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F45** S. 60(3) repealed (1.5.1995 with effect as mentioned in s. 74(2), **Sch. 29 Pt. VIII(8)** of the amending Act) by 1995 c. 4, ss. 74(1), 162, **Sch. 17 Pt. III para. 25**, **Sch. 29 Pt. VIII(8)**
- F46** S. 60(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010** (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Profit-related pay, share schemes etc.*

**[<sup>F47</sup>61 Profit-related pay.**

Schedule 4 to this Act (which amends the provisions of the Taxes Act 1988 relating to profit-related pay) shall have effect.]

**Textual Amendments**

- F47** S. 61 repealed (19.3.1997 with effect as mentioned in Sch. 18 Pt. VI(3), notes 1, 2 of the amending Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**

**<sup>F48</sup>62 Savings-related share option schemes.**

. . . . .

**Textual Amendments**

- F48** S. 62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003** (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**<sup>F49</sup>63 Profit sharing schemes.**

. . . . .

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**Textual Amendments**

**F49** S. 63 repealed (having effect for the year 1991-92 and subsequent years of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt. V** Note 6.

<sup>F50</sup> **64 Share option and profit sharing schemes: shares of consortium member.**

.....

**Textual Amendments**

**F50** S. 64 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**65 Employee share schemes: material interest.**

In Schedule 9 to the Taxes Act 1988 the following paragraph shall be inserted after paragraph 39—

**Shares subject to an employee benefit trust**

- “40 (1) Where an individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (3) below applies in relation to him.
- (2) In this paragraph “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8.
- (3) This sub-paragraph applies in relation to an individual if at any time on or after 14th March 1989—
- (a) the individual, either on his own or with any one or more of his associates, or
  - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company.
- (4) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 shall apply for the purposes of this paragraph in relation to an individual as they apply for the purposes of that paragraph in relation to an employee.”

<sup>F51</sup> **66 Priority share allocations for employees etc.**

.....

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)

### Textual Amendments

**F51** S. 66 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

### *Employee share ownership trusts*

## 67 Tax relief.

- (1) This section applies where—
  - (a) a company expends a sum in making a payment by way of contribution to the trustees of a trust which is a qualifying employee share ownership trust at the time the sum is expended,
  - (b) at that time, the company or a company which it then controls has employees who are eligible to benefit under the terms of the trust deed,
  - (c) at that time the company is resident in the United Kingdom,
  - (d) before the expiry of the expenditure period the sum is expended by the trustees for one or more of the qualifying purposes, and
  - (e) before the end of the claim period a claim for relief under this section is made.
- (2) In such a case the sum—
  - (a) shall be deducted in computing for the purposes of Schedule D the [<sup>F52</sup>profits] of a trade carried on by the company,
  - [<sup>F53</sup>(b) if the company is an investment company, shall be treated as expenses of management, or
  - (c) if the company is a company in relation to which the I - E rules apply and the sum is referable, in accordance with Chapter 4 of Part 2 of the Finance Act 2012, to the company's basic life assurance and general annuity business, shall be treated for the purposes of section 76 of that Act as ordinary BLAGAB management expenses of the company.]
- (3) For the purposes of subsection (1)(b) above, the question whether one company is controlled by another shall be construed in accordance with section 840 of the Taxes Act 1988.
- (4) For the purposes of subsection (1)(d) above each of the following is a qualifying purpose—
  - (a) the acquisition of shares in the company which established the trust;
  - (b) the repayment of sums borrowed;
  - (c) the payment of interest on sums borrowed;
  - (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
  - (e) the meeting of expenses.
- (5) For the purposes of subsection (1)(d) above the expenditure period is the period of nine months beginning with the day following the end of the period of account in which the sum is charged as an expense of the company, or such longer period as the Board may allow by notice given to the company.

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- (6) For the purposes of subsection (1)(e) above the claim period is the period of two years beginning with the day following the end of the period of account in which the sum is charged as an expense of the company.
- (7) For the purposes of this section the trustees of an employee share ownership trust shall be taken to expend sums paid to them in the order in which the sums are received by them (irrespective of the number of companies making payments).

#### Textual Amendments

**F52** Words in s. 67(2)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3), **Sch. 7 para. 3**

**F53** S. 67(2)(b)(c) substituted for s. 67(2)(b) (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 48**

#### Modifications etc. (not altering text)

**C8** See Finance Act 1990 (c. 29) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**C9** S. 67 excluded (10.7.2003) by Finance Act 2003 (c. 14), **s. 142(1)**

## 68 Principal charges to tax.

- (1) This section applies where a chargeable event (within the meaning of section 69 below) occurs in relation to the trustees of an employee share ownership trust.
- (2) In such a case—
- (a) the trustees shall be treated as receiving, when the event occurs, [<sup>F54</sup>income of an amount that] is equal to the chargeable amount (within the meaning of section 70 below),
  - [<sup>F55</sup>(b) that income shall be chargeable to income tax for the year of assessment in which the event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [<sup>F56</sup>, and]
  - (bb) the trustees are liable for any tax so chargeable, ]<sup>F57</sup>...
  - <sup>F58</sup>(c) .....
- (3) If the whole or any part of the tax assessed on the trustees is not paid before the expiry of the period of six months beginning with the day on which the assessment becomes final and conclusive, a notice of liability to tax under this subsection may be served on a qualifying company and the tax or the part unpaid (as the case may be) shall be payable by the company on service of the notice.
- (4) Where a notice of liability is served under subsection (3) above—
- (a) any interest which is due on the tax or the part (as the case may be) and has not been paid by the trustees, and
  - (b) any interest accruing due on the tax or the part (as the case may be) after the date of service,
- shall be payable by the company.
- (5) Where a notice of liability is served under subsection (3) above and any amount payable by the company (whether on account of tax or interest) is not paid by the company before the expiry of the period of three months beginning with the date of

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service, the amount unpaid may be recovered from the trustees (without prejudice to the right to recover it instead from the company).

- (6) For the purposes of this section each of the following is a qualifying company—
- (a) the company which established the employee share ownership trust;
  - (b) any company falling within subsection (7) below.
- (7) A company falls within this subsection if, before it is sought to serve a notice of liability on it under subsection (3) above—
- (a) it has paid a sum to the trustees, and
  - (b) the sum has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.

#### Textual Amendments

- F54** Words in s. 68(2)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(a\)](#) (with [Sch. 2](#))
- F55** S. 68(2)(b)(ba)(bb) substituted for s. 68(2)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 407\(b\)](#) (with [Sch. 2](#))
- F56** Word in s. 68(2)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(a\)\(7\)](#)
- F57** Words in s. 68(2)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(3\)\(b\)\(7\), Sch. 26 Pt. 3\(15\)](#)
- F58** S. 68(2)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(2\)\(a\)\(5\), Sch. 26 Pt. 3\(15\)](#)

#### Modifications etc. (not altering text)

- C10** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

## 69 Chargeable events.

- (1) For the purposes of section 68 above each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
- (a) the transfer of securities by the trustees, if the transfer is not a qualifying transfer;
  - (b) the transfer of securities by the trustees to persons who are at the time of the transfer beneficiaries under the terms of the trust deed, if the terms on which the transfer is made are not qualifying terms;
  - (c) the retention of securities by the trustees at the expiry of the [<sup>F59</sup>qualifying period] beginning with the date on which they acquired them;
  - (d) the expenditure of a sum by the trustees for a purpose other than a qualifying purpose.
- [<sup>F60</sup>(e) where—
- (i) the trustees make a qualifying transfer within subsection (3AA) below for a consideration, and
  - (ii) they do not, during the period specified in subsection (5A) below, expend a sum of not less than the amount of that consideration for one or more qualifying purposes,
- the expiry of that period.]

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- (2) For the purposes of subsection (1)(a) above a transfer is a qualifying transfer if it is made to a person who at the time of the transfer is a beneficiary under the terms of the trust deed.
- (3) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is made to the trustees of a scheme which at the time of the transfer is a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988, and
  - (b) it is made for a consideration which is not less than the price the securities might reasonably be expected to fetch on a sale in the open market.
- <sup>F61</sup>(3AA) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—
- (a) it is a transfer of relevant shares made to the trustees of the plan trust of [<sup>F62</sup>a share incentive] plan,
  - (b) the plan is approved under [<sup>F63</sup>Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003] when the transfer is made, and
  - (c) the consideration (if any) for which the transfer is made does not exceed the market value of the shares.
- (3AB) For the purpose of determining whether a transfer by the trustees is a qualifying transfer within subsection (3AA) above, where on or after 21st March 2000—
- (a) the trustees transfer or dispose of part of a holding of shares (whether by way of a qualifying transfer or otherwise), and
  - (b) the holding includes any relevant shares,
- the relevant shares shall be treated as transferred or disposed of before any other shares included in that holding.
- For this purpose “ holding ” means any number of shares of the same class held by the trustees, growing or diminishing as shares of that class are acquired or disposed of.
- (3AC) For the purposes of subsections (3AA) and (3AB) above—
- “ market value ” has the same meaning as [<sup>F64</sup>it has for the purposes of the SIP code (see paragraph 92 of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003)]; and
- “ relevant shares ” means—
- (i) shares that are held by the trustees of the employee share ownership trust at midnight on 20th March 2000, and
  - (ii) shares purchased by those trustees with original funds after that time.
- (3AD) For the purposes of subsection (3AC) above—
- (a) “ original funds ” means any money held by the trustees of the employee share ownership trust in a bank or building society account at midnight on 20th March 2000, and
  - (b) any payment made by the trustees after that time (whether to acquire shares or otherwise) shall be treated as made out of original funds (and not out of money received after that time) until those funds are exhausted.]
- <sup>F65</sup>[(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992.]
- (4) For the purposes of subsection (1)(b) above a transfer of securities is made on qualifying terms if—

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- (a) all the securities transferred at the same time [<sup>F66</sup>other than those transferred on a transfer such as is mentioned in subsection (4ZA) below] are transferred on similar terms,
- (b) securities have been offered to all the persons who are beneficiaries under the terms of the trust deed [<sup>F67</sup>by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act] when the transfer is made, and
- (c) securities are transferred to all such [<sup>F68</sup>persons] who have accepted.

[<sup>F69</sup>(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—

- (a) it is made to a person exercising a right to acquire shares, and
- (b) that right was obtained in accordance with the provisions of [<sup>F70</sup>an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of the Income Tax (Earnings and Pensions) Act 2003)]—
  - (i) which was established by, or by a company controlled by, the company which established the trust, and
  - (ii) which is approved under [<sup>F71</sup>Schedule 3 to that Act], and
- (c) that right is being exercised in accordance with the provisions of that scheme, and
- (d) the consideration for the transfer is payable to the trustees.]

[<sup>F72</sup>(4A) For the purposes of subsection (1)(c) above the qualifying period is—

- (a) seven years, in the case of trusts established on or before the day on which the Finance Act 1994 was passed;
- (b) twenty years, in the case of other trusts;

and for this purpose a trust is established when the deed under which it is established is executed.]

(5) For the purposes of subsection (1)(d) [<sup>F73</sup>or (e)] above each of the following is a qualifying purpose—

- (a) the acquisition of shares in the company which established the trust;
- (b) the repayment of sums borrowed;
- (c) the payment of interest on sums borrowed;
- (d) the payment of any sum to a person who is a beneficiary under the terms of the trust deed;
- (e) the meeting of expenses.

[<sup>F74</sup>(5A) The period referred to in paragraph (e) of subsection (1) above is the period—

- (a) beginning with the qualifying transfer mentioned in that paragraph, and
- (b) ending nine months after the end of the period of account in which that qualifying transfer took place.

For this purpose the period of account means the period of account of the company that established the employee share ownership trust.]

(6) For the purposes of subsection (4) above, the fact that terms vary according to the levels of remuneration of beneficiaries, the length of their service, or similar factors, shall not be regarded as meaning that the terms are not similar.

(7) In ascertaining for the purposes of this section whether particular securities are retained, securities acquired earlier by the trustees shall be treated as transferred by them before securities acquired by them later.

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- (8) For the purposes of this section trustees—
- (a) acquire securities when they become entitled to them (subject to the exceptions in subsection (9) below);
  - (b) transfer securities to another person when that other becomes entitled to them;
  - (c) retain securities if they remain entitled to them.
- (9) The exceptions are these—
- (a) if securities are issued to trustees in exchange in circumstances mentioned in section [F75 135(1) of the Taxation of Chargeable Gains Act 1992], they shall be treated as having acquired them when they became entitled to the securities for which they are exchanged;
  - (b) if trustees become entitled to securities as a result of a reorganisation, they shall be treated as having acquired them when they became entitled to the original shares which those securities represent (construing “reorganisation” and “original shares” in accordance with section [F75 126] of that Act).
- (10) If trustees agree to take a transfer of securities, for the purposes of this section they shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (11) If trustees agree to transfer securities to another person, for the purposes of this section the other person shall be treated as becoming entitled to them when the agreement is made and not on a later transfer made pursuant to the agreement.
- (12) For the purposes of this section the following are securities—
- (a) shares;
  - (b) debentures.

#### Textual Amendments

- F59** Words in s. 69(1)(c) substituted (3.5.1994) by 1994 c. 9, s. 102, **Sch. 13 para. 6(2)**
- F60** S. 69(1)(e) inserted (28.7.2000) by 2000 c. 17, s. 55(2)
- F61** S. 69(3AA)-(3AD) inserted (28.7.2000) by 2000 c. 17, s. 55(3)
- F62** Words in s. 69(3AA)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 160(2)(a)** (with Sch. 7)
- F63** Words in s. 69(3AA)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 160(2)(b)** (with Sch. 7)
- F64** Words in s. 69(3AC) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 160(3)** (with Sch. 7)
- F65** S. 69(3A) inserted (16.7.1992, the amending provision applying in relation to exchanges made on or after 1.1.1992) by **Finance (No. 2) Act 1992 (c. 48), s. 36(1)(2)**
- F66** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(a)
- F67** Words in s. 69(4)(b) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(b)
- F68** Word in s. 69(4)(c) substituted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(3)(c)
- F69** S. 69(4ZA) inserted (29.4.1996 with effect as mentioned in s. 120(12) of the amending Act) by 1996 c. 8, s. 120(4)



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- F70** Words in s. 69(4ZA)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 160\(4\)\(a\)](#) (with Sch. 7)
- F71** Words in s. 69(4ZA)(b)(ii) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 160\(4\)\(b\)](#) (with Sch. 7)
- F72** S. 69(4A) inserted (3.5.1994) by [1994 c. 9, s. 102, Sch. 13 para. 6\(3\)](#)
- F73** Words in s. 69(5) inserted (28.7.2000) by [2000 c. 17, s. 55\(4\)](#)
- F74** S. 69(5A) inserted (28.7.2000) by [2000 c. 17, s. 55\(5\)](#)
- F75** Words in s. 69(9) substituted (in relation to tax for the year 1992-1993 and subsequent years subject as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 19\(1\)](#) (with s. 60, 101(1), 171, 201(3))

**Modifications etc. (not altering text)**

- C11** See [Finance Act 1990 \(c. 29\) ss.31–40](#)—*roll-over relief for disposal of assets to employee share ownership trusts*
- C12** S. 69 modified (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 142\(2\)](#)
- C13** *Definition employed for purposes of Finance Act 1990 (c. 29) s. 36—roll-over relief where replacement asset owned*

**70 Chargeable amounts.**

- (1) This section has effect to determine the chargeable amount for the purposes of section 68 above.
- (2) If the chargeable event falls within section 69(1)(a), (b) or (c) above the following rules shall apply—
- (a) if the event constitutes a disposal of the securities by the trustees for the purposes of the [<sup>F76</sup>[Taxation of Chargeable Gains Act 1992](#)], the chargeable amount is an amount equal to the sums allowable under section [<sup>F76</sup>[38\(1\)\(a\)](#)] and (b) of that Act;
- (b) if the event does not constitute such a disposal, the chargeable amount is an amount equal to the sums which would be so allowable had the trustees made a disposal of the securities for the purposes of that Act at the time the chargeable event occurs.
- (3) If the chargeable event falls within section 69(1)(d) above the chargeable amount is an amount equal to the sum concerned.
- [<sup>F77</sup>(4) If the chargeable event falls within section 69(1)(e) above the chargeable amount is an amount equal to—
- (a) the amount of the consideration received for the qualifying transfer mentioned in section 69(1)(e) above, less
- (b) the amount of any expenditure by the trustees for a qualifying purpose during the period mentioned in section 69(5A) above.]

**Textual Amendments**

- F76** Words in s. 70(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 289, 290, Sch. 10 para. 19\(2\)](#) (with ss. 60, 101(1), 201(3))
- F77** S. 70(4) inserted (28.7.2000) by [2000 c. 17, s. 55\(6\)](#)

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**Modifications etc. (not altering text)**

**C14** See Finance Act 1990 (c. 29) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**71 Further charges to tax: borrowing.**

- (1) This section applies where—
- (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees of an employee share ownership trust,
  - (b) at the time the event occurs anything is outstanding in respect of the principal of an amount or amounts borrowed at any time by the trustees, and
  - (c) the chargeable event is one as regards which section 72(2)(b) below applies.
- (2) In the following provisions of this section—
- (a) “the initial chargeable event” means the event referred to in subsection (1)(a) above, and
  - (b) “the total outstanding amount” means the total amount outstanding, at the time the initial chargeable event occurs, in respect of the principal of an amount or amounts borrowed at any time by the trustees.
- (3) If any of the total outstanding amount is repaid after the initial chargeable event occurs, a further chargeable event shall occur in relation to the trustees at the end of the year of assessment in which the repayment is made.
- (4) In such a case—
- (a) the trustees shall be treated as receiving, when the further event occurs, [<sup>F78</sup>income of an amount that] is equal to the chargeable amount,
  - <sup>F79</sup>(b) that income shall be chargeable to income tax for the year of assessment at the end of which the further event occurs,
  - (ba) the tax so chargeable shall be charged on the full amount of the income the trustees are treated as receiving in the year of assessment [<sup>F80</sup>, and]
  - (bb) the trustees are liable for any tax so chargeable, [<sup>F81</sup> ...
  - <sup>F82</sup>(c) .....
- (5) Subject to subsection (6) below, for the purposes of subsection (4) above the chargeable amount is an amount equal to the aggregate of the total outstanding amount repaid in the year of assessment.
- (6) In a case where section 72(2)(b) below had effect in the case of the initial chargeable event, for the purposes of subsection (4) above the chargeable amount is an amount equal to the smaller of—
- (a) the aggregate of the total outstanding amount repaid in the year of assessment, and
  - (b) an amount found by applying the formula A-B-C.
- (7) For the purposes of subsection (6) above—
- (a) A is the amount which would be the chargeable amount for the initial chargeable event apart from section 72(2) below,
  - (b) B is the chargeable amount for the initial chargeable event, and
  - (c) C is the amount (if any) found under subsection (8) below.

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- (8) If, before the further chargeable event occurs, one or more prior chargeable events have occurred in relation to the trustees by virtue of the prior repayment of any of the total outstanding amount found for the time the initial chargeable event occurs, the amount found under this subsection is an amount equal to the chargeable amount for the prior chargeable event or to the aggregate of the chargeable amounts for the prior chargeable events (as the case may be).
- (9) In a case where—
- (a) a chargeable event (within the meaning of section 69 above) occurs in relation to the trustees in circumstances mentioned in subsection (1) above,
  - (b) a sum falls to be included in the total outstanding amount found for the time the event occurs,
  - (c) another chargeable event (within the meaning of that section) occurs in relation to the trustees in circumstances mentioned in subsection (1) above, and
  - (d) the same sum or a part of it would (apart from this subsection) fall to be included in the total outstanding amount found for the time the event occurs,
- the sum or part (as the case may be) shall not be included in the total outstanding amount found for the time the other chargeable event occurs.
- (10) In ascertaining for the purposes of this section whether a repayment is in respect of a particular amount, amounts borrowed earlier shall be taken to be repaid before amounts borrowed later.
- (11) Subsections (3) to (7) of section 68 above shall apply where tax is assessed by virtue of this section as they apply where tax is assessed by virtue of that section.

#### **Textual Amendments**

- F78** Words in s. 71(4)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 408\(a\)](#) (with [Sch. 2](#))
- F79** S. 71(4)(b)(ba)(bb) substituted for s. 71(4)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 408\(b\)](#) (with [Sch. 2](#))
- F80** Word in s. 71(4)(ba) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(4\)\(a\)\(7\)](#)
- F81** Word in s. 71(4)(bb) repealed (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(4\)\(b\)\(7\), Sch. 26 Pt. 3\(15\)](#)
- F82** S. 71(4)(c) repealed (with effect in relation to payments made on or after 6.4.2006) by [Finance Act 2006 \(c. 25\), Sch. 13 para. 28\(2\)\(b\)\(5\), Sch. 26 Pt. 3\(15\)](#)

#### **Modifications etc. (not altering text)**

- C15** See [Finance Act 1990 \(c. 29\) ss.31–40](#)—*roll-over relief for disposal of assets to employee share ownership trusts*

## **72 Limit on chargeable amount.**

- (1) For the purposes of this section each of the following is a chargeable event in relation to the trustees of an employee share ownership trust—
- (a) an event which is a chargeable event by virtue of section 69 above;
  - (b) an event which is a chargeable event by virtue of section 71 above.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (2) If a chargeable event (the event in question) occurs in relation to the trustees of an employee share ownership trust, the following rules shall apply—
- (a) the amount which would (apart from this subsection) be the chargeable amount for the event in question shall be aggregated, for the purposes of paragraph (b) below, with the chargeable amounts for other chargeable events (if any) occurring in relation to the trustees before the event in question,
  - (b) if the amount which would (apart from this subsection) be the chargeable amount for the event in question (or the aggregate found under paragraph (a) above, if there is one) exceeds the deductible amount, the chargeable amount for the event in question shall be the amount it would be apart from this subsection less an amount equal to the excess, and
  - (c) section 70(2) and (3) and section 71(5) above shall have effect subject to paragraph (b) above.
- (3) For the purposes of subsection (2) above the deductible amount (as regards the event in question) is an amount equal to the total of the sums falling within subsection (4) below.
- (4) A sum falls within this subsection if it has been received by the trustees before the occurrence of the event in question and—
- (a) it has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, before the occurrence of that event, or
  - (b) it would fall to be so deducted or treated if a claim for relief under section 67 above had been made immediately before the occurrence of that event.

**Modifications etc. (not altering text)**

**C16** See Finance Act 1990 (c. 29) ss.31–40—*roll-over relief for disposal of assets to employee share ownership trusts*

**73 Information.**

- (1) An inspector may by notice in writing require a return to be made by the trustees of an employee share ownership trust if they have at any time received a sum which has been deducted as mentioned in section 67(2)(a) above or treated as mentioned in section 67(2)(b) above.
- (2) Where he requires such a return to be made the inspector shall specify the information to be contained in it.
- (3) The information which may be specified is information the inspector needs for the purposes of sections 68 to 72 above, and may include information about—
  - (a) sums received (including sums borrowed) by the trustees;
  - (b) expenditure incurred by them;
  - (c) assets acquired by them;
  - (d) transfers of assets made by them.
- (4) The information which may be required under subsection (3)(a) above may include the persons from whom the sums were received.
- (5) The information which may be required under subsection (3)(b) above may include the purpose of the expenditure and the persons receiving any sums.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (6) The information which may be specified under subsection (3)(c) above may include the persons from whom the assets were acquired and the consideration furnished by the trustees.
- (7) The information which may be included under subsection (3)(d) above may include the persons to whom assets were transferred and the consideration furnished by them.
- (8) In a case where a sum has been deducted as mentioned in section 67(2)(a) above, or treated as mentioned in section 67(2)(b) above, the inspector shall send to the trustees to whom the payment was made a certificate stating—
  - (a) that a sum has been so deducted or so treated, and
  - (b) what sum has been so deducted or so treated.
- (9) In the Table in section 98 of the <sup>M3</sup>Taxes Management Act 1970 (penalties for failure to comply with notices etc.) at the end of the first column there shall be inserted— “Section 73 of the Finance Act 1989 ”.

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**Modifications etc. (not altering text)**

**C17** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

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**Marginal Citations**

**M3** 1970 c. 9.

**74 Interpretation.**

Schedule 5 to this Act shall have effect to determine whether, for the purposes of sections 67 to 73 above, a trust is at a particular time—

- (a) an employee share ownership trust;
- (b) a qualifying employee share ownership trust.

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**Modifications etc. (not altering text)**

**C18** See [Finance Act 1990 \(c. 29\)](#) ss.31–40—.roll-over relief for disposal of assets to employee share ownership trusts

*Pensions etc.*

<sup>F83</sup>**75 Retirement benefits schemes.**

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**Textual Amendments**

**F83** Ss. 75-77 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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**F8376 Non-approved retirement benefits schemes.**

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**Textual Amendments**  
**F83** Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

**F8377 Personal pension schemes.**

.....

**Textual Amendments**  
**F83** Ss. 75-77 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

*Unit trusts etc.*

**78, 79.** ..... **F84**

**Textual Amendments**  
**F84** Ss. 78, 79 repealed by Finance Act 1990 (c. 29, SIF 58), s.132, Sch. 19 Pt. IV Note

**F8580** .....

**Textual Amendments**  
**F85** S. 80 repealed (31.7.1998) by 1998 c. 36, s. 165, Sch. 27 Pt. III(23)

**81 Offshore funds operating equalisation arrangements.**

- (1) In section 758 of the Taxes Act 1988 (offshore funds operating equalisation arrangements) in subsection (6) (reference to section 78 of the <sup>M4</sup> Capital Gains Tax Act 1979 not to include reference to it as applied by section 82) for the words “but not” there shall be substituted the words “and a reference to section 78”.
- (2) This section shall apply where a conversion of securities occurs on or after 14th March 1989; and “conversion of securities” here has the same meaning as in section 82 of the Capital Gains Tax Act 1979.

**Marginal Citations**  
**M4** 1979 c. 14.

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*Changes to legislation:* There are currently no known outstanding effects  
for the Finance Act 1989, Part II. (See end of Document for details)

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*Life assurance*

**F86 82 Calculation of profits: bonuses etc**

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**Textual Amendments**

**F86** S. 82 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 49](#)

**F87 82A Calculation of profits: policy holders' tax**

.....

**Textual Amendments**

**F87** S. 82A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 50](#)

**F88 82B Unappropriated surplus on valuation**

.....

**Textual Amendments**

**F88** S. 82B omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 51](#)

**F89 82C Relevant financial reinsurance contracts**

.....

**Textual Amendments**

**F89** S. 82C repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 9](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**F90 82D. Treatment of profits: life assurance — adjustment consequent on change in Insurance Prudential Sourcebook**

.....

**Textual Amendments**

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

**F90 82E. Section 82D: treatment of transferors under insurance business transfer schemes**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

**<sup>F90</sup>82F. Section 82D: treatment of transferees under insurance business transfer schemes**

.....

**Textual Amendments**

**F90** Ss. 82D-82F omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 52](#)

**<sup>F92</sup>83 Receipts to be [<sup>F91</sup>taken] into account.**

.....

**Textual Amendments**

**F91** Word in s. 83 heading substituted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 2\(10\)](#)

**F92** S. 83 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 53](#)

**<sup>F93</sup>83XA Structural assets**

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**Textual Amendments**

**F93** S. 83XA omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 54](#)

**<sup>F94</sup>83YA Changes in value of assets brought into account: non-profit companies**

.....

**Textual Amendments**

**F94** S. 83YA omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 55](#)

**<sup>F95</sup>83YB Meaning of “appropriate line 51 amount” for purposes of s.83YA**

.....

**Textual Amendments**

**F95** S. 83YB omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 55](#)



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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**F96 83YCFAFTS: charge in relevant period of account**

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**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

**F96 83YDFAFTS: deduction in subsequent periods of account**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

**F96 83YERegulations: apportionment and redefining “financial reinsurance arrangement”**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

**F96 83YFFinancial reinsurance arrangements: further provision**

.....

**Textual Amendments**

**F96** Ss. 83YC-83YF omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 56](#)

**F97 83ZAContingent loans**

.....

**Textual Amendments**

**F97** S. 83ZA omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 1\(4\)](#) (with Sch. 17 para. 4(4))

**F98 83A Meaning of “brought into account”.**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F98** S. 83A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 57](#)

**F99 83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988**

.....

**Textual Amendments**

**F99** S. 83B omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 58](#)

**F100 83AA Amounts added to long term insurance fund of a company in excess of that company’s loss.**

.....

**Textual Amendments**

**F100** S. 83AA repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(b\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**F101 83AB Treatment of surplus where there is a subsequent transfer of business from the company etc.**

.....

**Textual Amendments**

**F101** S. 83AB repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(c\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

**84 Interpretation of sections 85 to 89 and further provisions about insurance companies.**

- F102**(1) .....
- F103**(2) .....
- F104**(3) .....
- F105**(4) .....
- F106**(5) .....
- F107**(6) .....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

- F102** S. 84(1) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**
- F103** S. 84(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), **Sch. 27 Pt. 2(10)**
- F104** S. 84(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), **Sch. 27 Pt. 2(10)**
- F105** S. 84(4) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 247(a)(i)**
- F106** S. 84(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), **Sch. 27 Pt. 2(10)**
- F107** S. 84(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(a), **Sch. 27 Pt. 2(10)**

**<sup>F108</sup>85 Charge of certain receipts of basic life assurance business.**

.....

**Textual Amendments**

- F108** S. 85 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 59**

**<sup>F110</sup>85A Excess adjusted [<sup>F109</sup>life assurance trade] profits**

.....

**Textual Amendments**

- F109** Words in s. 85A heading substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 349(8)** (with Sch. 2 Pts. 1, 2)
- F110** S. 85A omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 60**

**<sup>F111</sup>86 Spreading of relief for acquisition expenses.**

.....

**Textual Amendments**

- F111** S. 86 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 61**

**<sup>F112</sup>87 Management expenses.**

.....

**Textual Amendments**

- F112** S. 87 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 16(4)(d), **Sch. 27 Pt. 2(10)**

**<sup>F114</sup>88 Corporation tax: policy holders' [<sup>F113</sup>share] of profits.**

.....

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

- F113** Word in s. 88 heading substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 15(3)**
- F114** S. 88 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 62**

**<sup>F115</sup>88A Lower corporation tax rate on certain insurance company profits.**

.....

**Textual Amendments**

- F115** S. 88A repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(3\)](#), **Sch. 43 Pt. 3(12)**

**<sup>F116</sup>89 Policy holders' share of profits.**

.....

**Textual Amendments**

- F116** S. 89 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 63**

**<sup>F117</sup>89A Modification of sections 82 to 83A, 88 and 89 in relation to overseas life insurance companies.**

.....

**Textual Amendments**

- F117** S. 89A repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [reg. 1](#), **Sch. Pt. 1**

**<sup>F118</sup>90 Life policies etc. held by companies.**

.....

**Textual Amendments**

- F118** S. 90 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 14 para. 17(a)**

**<sup>F119</sup>90A Interpretation**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F119** S. 90A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(3\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

*Underwriters*

**F120**<sup>91</sup> **Premiums trust funds: stock lending.**

.....

**Textual Amendments**

**F120** S. 91 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

**92 Regulations about underwriters etc.**

- F121**(1) .....
- F121**(2) .....
- F122**(3) .....
- F123**(4) .....
- F123**(5) .....
- F123**(6) .....
- F123**(7) .....

**Textual Amendments**

- F121** S. 92(1)(2) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1
- F122** S. 92(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))
- F123** S. 92(4)-(7) repealed (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34](#), s. 213, [Sch. 23 Pt. III\(12\)](#) Note 5

*Securities*

**F124**<sup>93</sup> .....

**Textual Amendments**

**F124** S. 93 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#), note

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, Part II. (See end of Document for details)*

<sup>F125</sup>94 .....

**Textual Amendments**

**F125** S. 94 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**, note

<sup>F126</sup>95 .....

**Textual Amendments**

**F126** S. 95 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**, note

**96 Securities: miscellaneous.**

<sup>F127</sup>(1) .....

<sup>F128</sup>(2) .....

<sup>F129</sup>(3) .....

<sup>F130</sup>(4) .....

**Textual Amendments**

**F127** S. 96(1) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

**F128** S. 96(2) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F129** S. 96(3) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F130** S. 96(4) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

*Groups of companies*

**[<sup>F131</sup>97 Set-off of ACT where companies remain in the same group.**

- (1) In section 240 of the Taxes Act 1988 (set-off of company's ACT against subsidiary's liability to corporation tax) at the end of subsection (5)(set-off not to be made against subsidiary's liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company) there shall be added the words "unless throughout that period or part both companies were subsidiaries of a third company".
- (2) This section shall have effect in relation to accounting periods ending on or after 14th March 1989.]

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

### Textual Amendments

**F131** S. 97 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2), note

### [<sup>F132</sup>98 Restriction on set-off of ACT.

(1) After section 245 of the Taxes Act 1988 there shall be inserted—

#### “ Restriction on application of section 240 in certain circumstances.

- (1) This section applies if—
- (a) there is a change in the ownership of a company (“the relevant company”);
  - (b) by virtue of section 240 the relevant company is treated as having paid an amount of advance corporation tax in respect of a distribution made by it at any time before the change; and
  - (c) within the period of six years beginning three years before the change, there is a major change in the nature or conduct of a trade or business of the company which is for the purposes of section 240 the surrendering company in relation to that amount.
- (2) No advance corporation tax which the relevant company is treated by virtue of section 240 as having paid in respect of a distribution made by it in an accounting period beginning before the change of ownership shall be treated under section 239(4) as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (3) Subsections (4) and (5) of section 245 shall apply also for the purposes of this section and as if the reference in subsection (4) of section 245 to the period of three years mentioned in subsection (1)(a) of that section were a reference to the period mentioned in subsection (1)(c) above.
- (4) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.

#### Restriction on set-off where asset transferred after change in ownership of company.

- (1) Subsection (4) below applies if—
- (a) there is a change in the ownership of a company (“the relevant company”);
  - (b) any advance corporation tax paid by the relevant company in respect of distributions made by it in an accounting period beginning before the change is treated under section 239(4) as paid by it in respect of distributions made by it in an accounting period ending after the change;

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (c) after the change the relevant company acquires an asset from another company in such circumstances that section 273(1) of the Taxes Act 1970 applies to the acquisition; and
  - (d) a chargeable gain accrues to the relevant company on the disposal of the asset within the period of three years beginning with the change of ownership.
- (2) Subsection (1)(b) above shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.
- (3) For the purposes of subsection (1)(d) above an asset acquired by the relevant company as mentioned in subsection (1)(c) above shall be treated as the same as an asset owned at a later time by that company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.
- (4) In relation to the accounting period in which the chargeable gain accrues to the relevant company (“the relevant period”), section 239 shall have effect as if the limit imposed by subsection (2) of that section on the amount of advance corporation tax to be set against the relevant company’s liability to corporation tax were reduced by whichever is the lesser of—
- (a) the amount of advance corporation tax that would have been payable (apart from section 241) in respect of a distribution made at the end of the relevant period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the chargeable gain, and
  - (b) the amount of surplus advance corporation tax in relation to the accounting period which by virtue of subsection (2) above is treated for the purposes of subsection (1)(b) above as ending with the change of ownership.
- (5) Sections 768(8) and (9) and 769 shall apply also for the purposes of this section and as if in subsection (3) of section 769 the reference to the benefit of losses were a reference to the benefit of advance corporation tax.”
- (2) This section shall have effect where the change in the ownership of the relevant company occurs on or after 14th March 1989.]

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**Textual Amendments**

**F132** S. 98 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(2), note

**F133**99 .....

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**Textual Amendments**

**F133** S. 99 repealed (11.5.2001 with application as mentioned in Sch. 33 Pt. 2(10) of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(10), note



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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**F134 100 Change in ownership of company.**

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**Textual Amendments**

**F134** S. 100 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F135 101 Treatment of convertible shares or securities for purposes relating to group relief etc.**

.....

**Textual Amendments**

**F135** S. 101 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F136 102 Surrender of company tax refund etc. within group.**

.....

**Textual Amendments**

**F136** S. 102 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 215](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Close companies*

**103 Repeal of apportionment provisions.**

- (1) Except as provided by subsection (2) below, Chapter III of Part XI of the Taxes Act 1988 (apportionment of undistributed income etc. of close companies) shall not have effect in relation to accounting periods beginning after 31st March 1989.
- (2) Section 427(4) of the Taxes Act 1988 (which gives relief to an individual where income apportioned to him in an earlier accounting period of a close company is included in a distribution received by him in a later accounting period), and section 427(5) of, and Part I of Schedule 19 to, that Act so far as they relate to section 427(4), shall continue to have effect in any case where the subsequent distribution referred to in section 427(4) is made before 1st April 1992.

**F137 104 Meaning of “close company”.**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F137** S. 104 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**<sup>F138</sup>105 Small companies' rate not available to certain close companies.**

.....

**Textual Amendments**

**F138** S. 105 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**[<sup>F139</sup>106 Restriction on payment of tax credits.**

(1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) in subsection (3) after the words “made and” there shall be inserted the words “subject to subsections (3A) to (3D) below” and after that subsection there shall be inserted—

“(3A) Subject to subsection (3B) below, where it appears to the inspector that, in any accounting period of a company at the end of which it is a close investment-holding company—

- (a) arrangements relating to the distribution of the profits of the company exist or have existed the main purpose of which or one of the main purposes of which is to enable payments, or payments of a greater amount, to be made to any one or more individuals under subsection (3) above in respect of such an excess as is mentioned in that subsection, and
- (b) by virtue of those arrangements, any eligible person—
  - (i) receives a qualifying distribution consisting of a payment made by the company on the redemption, repayment or purchase of its own shares, or
  - (ii) receives any other qualifying distribution in respect of shares in or securities of the company, where the amount or value of the distribution is greater than might in all the circumstances have been expected but for the arrangements,

the entitlement of the eligible person to have paid to him under subsection (3) above all or part of a tax credit in respect of any distribution made by the company in the period shall be restricted to such extent as appears to the inspector to be just and reasonable.

(3B) Subsection (3A) above does not apply in relation to a tax credit in respect of a dividend paid by a company in any accounting period in respect of its ordinary share capital if—

- (a) throughout the period, the company's ordinary share capital consisted of only one class of shares, and
- (b) no person waived his entitlement to any dividend which would have become payable by the company in the period or failed to receive any

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)

dividend which had become due and payable to him by the company in the period.

(3C) In subsection (3A) above—

“arrangements” means arrangements of any kind whether in writing or not,

“close investment-holding company” has the meaning given by section 13A, and

“eligible person”, in relation to a qualifying distribution, means an individual resident in the United Kingdom who would (apart from subsection (3A) above) be entitled to have paid to him under subsection (3) above all or part of a tax credit in respect of the distribution.

(3D) In determining under subsection (3) above whether a person is entitled to have any excess of tax credit paid to him in a case where subsection (3A) above applies, tax credits shall be set against income tax in the order that results in the greatest payment in respect of the excess.”

(2) This section shall have effect in relation to distributions made by companies in accounting periods beginning after 31st March 1989.]

**Textual Amendments**

**F139** S. 106 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)**, note 3

**107 Close companies: consequential amendments.**

Schedule 12 to this Act (in which Part I contains administrative provisions relating to close companies and Part II makes amendments connected with section 103 above) shall have effect.

*Settlements etc.*

**F140** **108** .....

**Textual Amendments**

**F140** S. 108 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

**109 Settlements where settlor retains interest in settled property.**

**F141**(1) .....

**F141**(2) .....

**F141**(3) .....

**F142**(4) .....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

- F141** S. 109(1)-(3) repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note
- F142** S. 109(4) repealed (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5)**, s. 883(1), **Sch. 3** (with **Sch. 2**)

**<sup>F143</sup>110 Residence of trustees.**

.....

**Textual Amendments**

- F143** S. 110 repealed (with effect in relation to payments made on or after 6.4.2006) by **Finance Act 2006 (c. 25)**, **Sch. 13 para. 28(2)(c)(5)**, **Sch. 26 Pt. 3(15)**

**111 Residence of personal representatives.**

**<sup>F144</sup>(1)** .....

**<sup>F144</sup>(2)** .....

**<sup>F144</sup>(3)** .....

(4) In section 824(9) of the Taxes Act 1988 (repayment supplements), for the words from “or, in” to “section 701” there shall be substituted the words “or personal representatives (within the meaning of section 111 of the Finance Act 1989)”.

(5) <sup>F145</sup>... this section shall apply for the year 1989-90 and subsequent years of assessment.

**<sup>F146</sup>(6)** .....

**<sup>F146</sup>(7)** .....

**<sup>F146</sup>(8)** .....

**Textual Amendments**

- F144** S. 111(1)-(3) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 1 para. 280(a)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F145** Words in s. 111(5) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 1 para. 280(b)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F146** S. 111(6)-(8) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 1 para. 280(a)**, **Sch. 3 Pt. 1** (with **Sch. 2**)

*Miscellaneous*

**<sup>F147</sup>112 Security: trades etc.**

.....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F147** S. 112 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 410, [Sch. 3](#) (with Sch. 2)

**<sup>F148</sup>113 Security: trades etc. (supplementary).**

.....

**Textual Amendments**

**F148** S. 113 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 410, [Sch. 3](#) (with Sch. 2)

**<sup>F149</sup><sup>F150</sup>114 Relief for pre-trading expenditure.**

.....

**Textual Amendments**

**F149** S. 114 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

**F150** S. 114 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

**<sup>F151</sup>115 Double taxation: tax credits.**

.....

**Textual Amendments**

**F151** S. 115 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 54\(a\)](#)

**<sup>F152</sup>116 .....**

**Textual Amendments**

**F152** S. 116 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the amending Act) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(3\)](#), note

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

## CHAPTER II

### CAPITAL ALLOWANCES

**117–** ..... <sup>F153</sup>  
**120**

**Textual Amendments**

**F153** Ss. 117–120 repealed by [Capital Allowance Act 1990 \(c.1, SIF 63:1\)](#), s. 164(4)(5), [Sch. 2](#)

<sup>F154</sup>**121** .....

**Textual Amendments**

**F154** [S. 121](#) repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 580](#), [Sch. 4](#)

## CHAPTER III

### CAPITAL GAINS

#### *Exemptions*

<sup>F155</sup>**122** .....

**Textual Amendments**

**F155** [S. 122](#) repealed (6.3.1992 with effect as mentioned in [s. 289\(1\)\(2\)](#) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with [ss. 201\(3\)](#), [Sch. 11 paras. 22, 26\(2\), 27](#))

**123 Increase of chattel exemption.**

(1) In the following enactments, namely—

<sup>F156</sup>(a) .....

<sup>F157</sup>(b) .....

(c) section 25(7) of that Act (information about assets disposed of),  
 for “£3,000”, in each place where it occurs, there shall be substituted “£6,000”.

(2) This section applies to disposals on or after 6th April 1989 and accordingly, in relation to subsection (1)(b) above, to assets acquired on or after that date.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

- F156** S. 123(1)(a) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)
- F157** S. 123(1)(b) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 60(c)**

*Gifts*

**F158** 124 .....

**Textual Amendments**

- F158** S. 124 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F159** 125 .....

**Textual Amendments**

- F159** S. 125 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Non-residents etc.*

**F160** 126 .....

**Textual Amendments**

- F160** S. 126 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F161** 127 .....

**Textual Amendments**

- F161** S. 127 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F162** 128 .....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F162** S. 128 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F163** **129** .....

**Textual Amendments**

**F163** S. 129 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F164** **130** .....

**Textual Amendments**

**F164** S. 130 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F165** **131** .....

**Textual Amendments**

**F165** S. 131 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F166** **132** .....

**Textual Amendments**

**F166** S. 132 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F167** **133** .....

**Textual Amendments**

**F167** S. 133 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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<sup>F168</sup> **134** .....

**Textual Amendments**

**F168** S. 134 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Value shifting and groups of companies*

<sup>F169</sup> **135** .....

**Textual Amendments**

**F169** S. 135 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

<sup>F170</sup> **136** .....

**Textual Amendments**

**F170** S. 136 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

<sup>F171</sup> **137** .....

**Textual Amendments**

**F171** S. 137 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

<sup>F172</sup> **138** .....

**Textual Amendments**

**F172** S. 138 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

*Miscellaneous*

<sup>F173</sup> **139** .....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**Textual Amendments**

**F173** S. 139 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F174** **140** .....

**Textual Amendments**

**F174** S. 140 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**F175** **141** .....

**Textual Amendments**

**F175** S. 141 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

**CHAPTER IV**

MANAGEMENT

*Information*

**142 Power to call for documents and information.**

(1) Section 20 of the <sup>M5</sup> Taxes Management Act 1970 (power to call for documents of taxpayer and others) shall be amended in accordance with subsections (2) to (8) below.

**F176**(2) .....

**F177**(3) .....

**F178**(4) .....

(5) Subsections (4) and (5) shall be omitted.

(6) In subsection (6)—

**F179**(a) .....

(b) the words “and in relation” onwards shall be omitted.

**F180**(7) .....

**F181**(8) .....

**F182**(9) .....

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

- (10) This section shall apply with respect to notices given on or after the day on which this Act is passed.

#### Textual Amendments

- F176** S. 142(2) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F177** S. 142(3) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F178** S. 142(4) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F179** S. 142(6)(a) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F180** S. 142(7) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F181** S. 142(8) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)
- F182** S. 142(9) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

#### Marginal Citations

- M5** 1970 c. 9.

### 143 Power to call for papers of tax accountant.

- (1) In section 20A of the <sup>M6</sup> Taxes Management Act 1970 (power to call for papers of tax accountant) for the last sentence of subsection (1) there shall be substituted—

“(1A) The reference to documents in subsection (1) above does not include—

- (a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
- (b) journalistic material (as defined in section 13 of that Act).

(1B) Subject to subsection (1A) above, the reference to documents in subsection (1) above is to those specified or described in the notice in question; and—

- (a) the notice shall require documents to be delivered within such time (which shall not be less than thirty days after the date of the notice) as may be specified in the notice; and
- (b) the inspector may take copies of them or of extracts from them.”

- (2) This section shall apply with respect to notices given on or after the day on which this Act is passed.

#### Marginal Citations

- M6** 1970 c. 9.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

**144 Restrictions on powers under TMA ss.20 and 20A.**

- (1) Section 20B of the <sup>M7</sup> Taxes Management Act 1970(restrictions on powers under sections 20 and 20A) shall be amended as follows.
- (2) In subsection (1), after the word “question” there shall be inserted the words “, or to furnish the particulars in question”.
- <sup>F183</sup>(3) .....
- (4) In subsection (2), after the words “deliver documents”, in the first place where they occur, there shall be inserted the words “or furnish particulars”.
- <sup>F184</sup>(5) .....
- (6) In subsection (7), the words from “to a person” to “daughter”shall be omitted.
- <sup>F185</sup>(7) .....
- (8) This section shall apply with respect to notices given on or after the day on which this Act is passed.

**Textual Amendments**

**F183** S. 144(3) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

**F184** S. 144(5) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

**F185** S. 144(7) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(b)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

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**Marginal Citations**

**M7** 1970c. 9.

**145 Falsification etc. of documents.**

- (1) After section 20B of the <sup>M8</sup>Taxes Management Act 1970there shall be inserted—
  - “20BB Falsification etc. of documents.**
  - (1) Subject to subsections (2) to (4) below, a person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which—
    - (a) he has been required by a notice under section 20 or 20A above, or
    - (b) he has been given an opportunity in accordance with section 20B(1) above,
 to deliver, or to deliver or make available for inspection.
  - (2) A person does not commit an offence under subsection (1) above if he acts—
    - (a) with the written permission of a General or Special Commissioner, the inspector or an officer of the Board,
    - (b) after the document has been delivered or, in a case within section 20(3) or (8A) above, inspected, or

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- (c) after a copy has been delivered in accordance with section 20B(4) or (14) above and the original has been inspected.
- (3) A person does not commit an offence under subsection (1)(a) above if he acts after the end of the period of two years beginning with the date on which the notice is given, unless before the end of that period the inspector or an officer of the Board has notified the person in writing that the notice has not been complied with to his satisfaction.
- (4) A person does not commit an offence under subsection (1) (b) above if he acts—
  - (a) after the end of the period of six months beginning with the date on which an opportunity to deliver the document was given, or
  - (b) after an application for consent to a notice being given in relation to the document has been refused.
- (5) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”
- (2) This section shall apply to any falsification, concealment, destruction or disposal of a document occurring on or after the day on which this Act is passed.

**Marginal Citations**

M8 1970 c. 9.

**<sup>F186</sup>146 Entry with warrant to obtain documents.**

**Textual Amendments**

**F186** S. 146 repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)

**<sup>F187</sup>147 Procedure where documents etc. are removed.**

**Textual Amendments**

**F187** S. 147 repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(5), Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)

**148 Interpretation.**

- (1) Section 20D of the <sup>M9</sup>Taxes Management Act 1970 shall be amended as follows.

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- (2) In subsection (2), for the words “of returns or accounts to be made or delivered by the other” there shall be substituted the words “or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used”.
- (3) For subsection (3) there shall be substituted—
  - “(3) Without prejudice to section 127 of the Finance Act 1988, in sections 20 to 20CC above “document” has, subject to sections 20(8C) and 20A(1A), the same meaning as it has—
    - (a) in relation to England and Wales, in Part I of the Civil Evidence Act 1968,
    - (b) in relation to Scotland, in Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and
    - (c) in relation to Northern Ireland, in Part I of the Civil Evidence Act (Northern Ireland) 1971.”

<sup>F188</sup>(4) .....

<p><b>Textual Amendments</b></p> <p><b>F188</b> S. 148(4) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 7, Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)</p> <hr/> <p><b>Marginal Citations</b></p> <p><b>M9</b> 1970 c. 9.</p>
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*Assessments, claims etc.*

**149 Assessments founded on fraudulent or negligent conduct.**

(1) The following section shall be substituted for section 36 of the Taxes Management Act 1970—

**“36 Fraudulent or negligent conduct.**

- (1) An assessment on any person (in this section referred to as “the person in default”) for the purpose of making good to the Crown a loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time not later than twenty years after the end of the chargeable period to which the assessment relates.
- (2) Where the person in default is an individual who carried on a trade or profession in partnership with another individual, or with other persons at least one of whom is an individual, at any time in the year for which the assessment is made, an assessment in respect of the profits or gains of the trade or profession for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or, as the case may be, on any of his partners who is an individual.
- (3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given

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to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts.”

- (2) Sections 37 to 39 (special provisions as to “neglect”) and section 41 (leave required for certain assessments) of the Taxes Management Act 1970 shall cease to have effect.
- (3) The words “section 36” shall be substituted—
  - (a) for the words “sections 36, 37 and 39” in section 30(6) of the <sup>M10</sup>Taxes Management Act 1970 (tax repaid in error etc.),
  - (b) for the words “sections 37 to 39” in section 118(3) of that Act (effect under law of Scotland of assessment in partnership name),
  - <sup>F189</sup>(c) for the words “sections 36 and 39” in paragraph 10(1) of Schedule 13 to the Taxes Act 1988 (assessments to advance corporation tax),] and
  - <sup>F190</sup>(d) .....
- (4) The words “fraudulent or negligent conduct” shall be substituted—
  - (a) for the words “fraud, wilful default or neglect” in—
    - <sup>F191</sup>(i) .....
    - <sup>F192</sup>(ii) .....
    - (iii) paragraph 9 of Schedule 16A to the <sup>M11</sup>Finance Act 1973 and of Schedule 19A to the Taxes Act 1988 (Lloyd’s), and
  - <sup>F193</sup>(b) .....
- (5) In section 105 of the Taxes Management Act 1970 (admissibility of evidence), for the words “fraud or default” and the words “fraud or wilful default” there shall be substituted the words “fraudulent conduct”.
- (6) In paragraph 9 of Schedule 16A to the Finance Act 1973 and of Schedule 19A to the Taxes Act 1988, for “37, 40 and 41” there shall be substituted “and 40”.
- (7) Nothing in this section shall affect the making of assessments—
  - (a) for years of assessment before the year 1983-84, or
  - (b) for accounting periods which ended before 1st April 1983.

#### Textual Amendments

- F189** S. 149(3)(c) repealed (31.7.1998 with effect in accordance with [Sch. 3](#) of the amending Act) by 1998 c. 36, s. 165, [Sch. 27 Pt. III\(2\)](#), note
- F190** S. 149(3)(d) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F191** S. 149(4)(a)(i) omitted (1.4.2010) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 65\(a\)](#); S.I. 2009/403, art. 2(2) (with art. 10)
- F192** S. 149(4)(a)(ii) omitted (1.4.2010) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 65\(a\)](#); S.I. 2009/403, art. 2(2) (with art. 10)
- F193** S. 149(4)(b) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

#### Marginal Citations

- M10** 1970 c.9.
- M11** 1973 c. 51.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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## 150 Further assessments: claims etc.

- (1) The following sections shall be inserted after section 43 of the Taxes Management Act 1970—

### “43A Further assessments: claims etc.

- (1) This section applies where—
- (a) by virtue of section 29(3) of this Act an assessment is made on any person for a chargeable period, and
  - (b) the assessment is not made for the purpose of making good to the Crown any loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf.
- (2) Without prejudice to section 43(2) above but subject to section 43B below, where this section applies—
- (a) any relevant claim, election, application or notice which could have been made or given within the time allowed by the Taxes Acts may be made or given at any time within one year from the end of the chargeable period in which the assessment is made, and
  - (b) any relevant claim, election, application or notice previously made or given may at any such time be revoked or varied—
    - (i) in the same manner as it was made or given, and
    - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, in the case of any such person who has died, by or with the consent of his personal representatives),
 except where by virtue of any enactment it is irrevocable.
- (3) For the purposes of this section and section 43B below, a claim, election, application or notice is relevant in relation to an assessment for a chargeable period if—
- (a) it relates to that chargeable period or is made or given by reference to an event occurring in that chargeable period, and
  - (b) it or, as the case may be, its revocation or variation has or could have the effect of reducing any of the liabilities mentioned in subsection (4) below.
- (4) The liabilities referred to in subsection (3) above are—
- (a) the increased liability to tax resulting from the assessment,
  - (b) any other liability to tax of the person concerned for—
    - (i) the chargeable period to which the assessment relates, or
    - (ii) any chargeable period which follows that chargeable period and ends not later than one year after the end of the chargeable period in which the assessment is made.
- (5) Where a claim, election, application or notice is made, given, revoked or varied by virtue of subsection (2) above, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of assessments or otherwise, as are required to take account of the effect of the taking of that action on any person’s liability to tax for any chargeable period.



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (6) The provisions of this Act relating to appeals against decisions on claims shall apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of subsection (2) above.

### **43B Limits on application of section 43A.**

- (1) If the effect of the exercise by any person of a power conferred by section 43A(2) above—
- (a) to make or give a claim, election, application or notice, or
  - (b) to revoke or vary a claim, election, application or notice previously made or given,
- would be to alter the liability to tax of another person, that power may not be exercised except with the consent in writing of that other person or, where he has died, his personal representatives.
- (2) Where—
- (a) a power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and
  - (b) the exercise of the power increases the liability to tax of another person,
- that section shall not apply by reason of any assessment made because of that increased liability.
- (3) In any case where—
- (a) one or more relevant claims, elections, applications or notices are made, given, revoked or varied by virtue of the application of section 43A above in the case of an assessment, and
  - (b) the total of the reductions in liability to tax which, apart from this subsection, would result from the action mentioned in paragraph (a) above would exceed the additional liability to tax resulting from the assessment,
- the excess shall not be available to reduce any liability to tax.
- (4) Where subsection (3) above has the effect of limiting either the reduction in a person's liability to tax for more than one period or the reduction in the liability to tax of more than one person, the limited amount shall be apportioned between the periods or persons concerned—
- (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the person or persons concerned, or
  - (b) where the person concerned gives (or the persons concerned jointly give) notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the person or persons concerned.
- (5) For the purposes of paragraph (b) of subsection (4) above the relevant period is the period of 30 days beginning with the day on which notice under paragraph (a) of that subsection is given to the person concerned or, where more than one person is concerned, the latest date on which such notice is given to any of them.”

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (2) This section shall apply in relation to any assessment notice of which is issued on or after the day on which this Act is passed.

**F194 151 Assessment of trustees etc.**

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**Textual Amendments**

**F194** S. 151 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 7 para. 60, Sch. 10 Pt. 12](#) (with Sch. 9 paras. 1-9, 22)

*Distress and poinding etc.*

**152 Distress for non-payment of tax.**

- (1) Section 61 of the <sup>M12</sup>Taxes Management Act 1970 (distress) shall be amended as follows.
- (2) In subsection (1), for the words “the collector shall” onwards there shall be substituted the words “the collector may distrain upon the goods and chattels of the person charged (in this section referred to as “the person in default”).”
- (3) In subsection (2), for the words from “a collector” to “Commissioners” there shall be substituted the words “a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to”.
- (4) In subsection (4), for the words “neglecting or refusing to pay” there shall be substituted the words “in default”.
- (5) In subsection (5)—
- (a) for the word “aforesaid” there shall be substituted the words “in default”,
  - (b) the words “within the said five days” shall be omitted,
  - (c) for the words from “two or more inhabitants of the parish” to “sufficient persons” there shall be substituted the words “one or more independent persons appointed by the collector”, and
  - (d) the words from “The costs” to “the collector, and” shall be omitted.
- (6) The following subsection shall be added after that subsection—
- “(6) The Treasury may by regulations make provision with respect to—
- (a) the fees chargeable on or in connection with the levying of distress, and
  - (b) the costs and charges recoverable where distress has been levied;
- and any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (7) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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**Marginal Citations**

M12 1970 c. 9.

**153 Priority in cases of distraint by others.**

(1) Section 62 of the <sup>M13</sup>Taxes Management Act 1970 (priority of claim for tax) shall be amended as follows.

(2) In subsection (1)—

- (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any goods or chattels belonging to any person (in this section referred to as “the person in default”) are”,
- (b) for the word “unless” there shall be substituted the words “the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector”, and
- (c) for the words “arrears of tax” onwards there shall be substituted the words “such sums as have fallen due at or before the date of seizure.”

(3) The following subsection shall be inserted after that subsection—

“(1A) The sums referred to in subsection (1) above are—

- (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under section 203 of the principal Act (pay as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
- (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry).”

(4) In subsection (2)—

- (a) for the words from the beginning to “the collector shall” there shall be substituted the words “If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may”,
- (b) for the words “shall proceed” there shall be substituted the words “may proceed”, and
- (c) for the words “the tax charged and claimed” there shall be substituted the words “those sums”.

**Marginal Citations**

M13 1970 c. 9.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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#### 154 Recovery of tax from debtor in Scotland.

- (1) Section 63 of the <sup>M14</sup>Taxes Management Act 1970 (recovery of tax in Scotland) shall be amended as follows.
- (2) In subsection (3), for the words “which relates to” onwards there shall be substituted the words “insofar as it relates to sums due in respect of—
  - (a) deductions of income tax which any person specified in the application was liable to make under section 203 of the principal Act (pay as you earn); or
  - (b) deductions required to be made under section 559 of the principal Act (sub-contractors in the construction industry) by any person specified in the application.”
- (3) The following subsection shall be added after that subsection—
  - “(4) In this section references to amounts of tax due and references to sums due in respect of deductions include references to amounts which are deemed to be—
    - (a) amounts of tax which the person is liable to pay by virtue of the Income Tax (Employments) Regulations 1973; or
    - (b) amounts which the person is liable to pay by virtue of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.”

#### Marginal Citations

M14 1970 c. 9.

#### 155 Priority in cases of poinding etc. by others in Scotland.

- (1) Section 64 of the Taxes Management Act 1970 (priority of claim for tax in Scotland) shall be amended as follows.
- (2) In subsection (1)—
  - (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any moveable goods and effects belonging to any person (in this section referred to as “the person in default”) are”,
  - (b) for the word “unless” there shall be substituted the words “the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods and effects may not be so taken unless on demand made by the collector”, and
  - (c) for the words “the tax so in arrear” onwards there shall be substituted the words “such sums as have fallen due at or before the date of poinding or, as the case may be, other diligence or assignation.”
- (3) The following subsection shall be inserted after that subsection—
  - “(1A) The sums referred to in subsection (1) above are—
    - (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of poinding, being deductions which the person in default was liable to make under section 203 of the principal Act (pay

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- as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
- (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry).”
- (4) In subsection (2)—
- (a) for the words from the beginning to “the tax claimed shall” there shall be substituted the words “If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the sums shall”, and
- (b) for the words “proceeding at his instance” there shall be substituted the word “proceedings”.

*Interest etc.*

#### 156 Interest on overdue tax.

- (1) In section 86 of the <sup>M15</sup>Taxes Management Act 1970, for subsection (3) and the words in subsection (4) preceding the Table there shall be substituted—
- “(3) For the purposes of this section—
- (a) the reckonable date in relation to any tax charged by an assessment to income tax under Schedule E, and
- (b) subject to subsection (3A) below, the reckonable date in relation to tax charged by any other assessment to which this section applies, is the date on which the tax becomes due and payable.
- (3A) Where an appeal has been made against an assessment and any of the tax charged by the assessment is due and payable on a date later than the date given by the Table in subsection (4) below, the reckonable date in relation to the tax so due and payable is the later of—
- (a) the date given by that Table, and
- (b) the date on which the tax would have been due and payable if there had been no appeal against the assessment (assuming in a case where the tax would not have been charged by the assessment if there had been no appeal that it was so charged).
- (4) The Table referred to in subsection (3A) above is as follows—”.
- (2) In section 55 of that Act—
- (a) in subsection (2), for the words “it were” onwards there shall be substituted the words “there had been no appeal.”,
- (b) in subsection (6), for paragraphs (a) and (b) there shall be substituted—
- “(a) in the case of a determination made on an application under subsection (3) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and

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- (b) in the case of a determination made on an application under subsection (4) above—
  - (i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
  - (ii) any tax overpaid shall be repaid.” and
- (c) for subsection (9) there shall be substituted—
  - “(9) On the determination of the appeal—
    - (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the assessment if there had been no appeal, be determined as if the tax were charged by an assessment—
      - (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
      - (ii) against which there had been no appeal; and
    - (b) any tax overpaid shall be repaid.”
- (3) In section 56(9) of that Act, for the words “amount of” there shall be substituted the words “amount charged by”.
- (4) This section shall apply to tax charged by any assessment notice of which is issued after 30th July 1982.

**Marginal Citations**  
 M15 1970 c. 9.

## 157 Effect of certain claims on interest.

- (1) In relation to any tax charged by an assessment made under section 252(1) of the Taxes Act 1988 to recover corporation tax that becomes payable as a result of the making of a claim under section 240 of that Act, the reckonable date for the purposes of section 86 of the <sup>M16</sup>Taxes Management Act 1970 (in this section referred to as “section 86”) is the date which is given by paragraph 5 of the Table in subsection (4) of that section.
- (2) Subsections (3) and (4) below apply in any case where—
  - (a) there is in any accounting period of a company (in this section referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of the Taxes Act 1988, and
  - (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an earlier accounting period (in this section referred to as “the earlier period”), and

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- (c) if the claim under the said subsection (3) had not been made—
- (i) an amount of corporation tax assessed for the earlier period would carry interest in accordance with section 86, or
  - (ii) an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period.
- (3) In determining the amount of interest payable under section 86 on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from section 239(3) of the Taxes Act 1988 except so far as concerns interest for any time after the day following the expiry of nine months from the end of the later period.
- (4) Where, but for the claim under section 239(3) of the Taxes Act 1988, an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period, interest under section 86 shall be chargeable, in relation to any time not later than the day referred to in subsection (3) above, as if the claim had not been made and such an assessment had been made.
- (5) In relation to interest charged under section 86 by virtue of subsection (4) above, section 69 of the <sup>M17</sup>Taxes Management Act 1970 shall have effect with the substitution for the words following paragraph (c) of the words “as if it were tax charged and due and payable under an assessment”.
- (6) In this section—
- (a) subsection (1) above shall have effect where the claim under 240 of the Taxes Act 1988 is made on or after 14th March 1989, and
  - (b) subsections (2) to (5) above shall have effect where the claim under section 239(3) of that Act is made on or after that date,
- but this section shall not have effect in relation to corporation tax for any accounting period ending after the day which is the appointed day for the purposes of section 85 of the <sup>M18</sup>Finance (No.2) Act 1987.

#### Marginal Citations

**M16** 1970 c. 9.

**M17** 1970 c. 9.

**M18** 1987 c. 51.

### 158 Small amounts of interest.

- (1) In the Taxes Management Act 1970—
- (a) section 86(6) (remission of interest payable on overdue income tax, capital gains tax or corporation tax where interest would not exceed £30), and
  - (b) section 87(4) (no interest payable on overdue advance corporation tax or income tax on company payments where interest would not exceed £30),
- shall cease to have effect.
- (2) The words “of not less than £25” in—
- (a) [<sup>F195</sup>section 283(1) of the <sup>M19</sup>Taxation of Chargeable Gains Act 1992] (no repayment supplement where overdue repayment of capital gains tax less than £25), and

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- (b) section 824(1)(a) and (b) and (5) of the Taxes Act 1988 (no repayments supplement where overdue repayment of income tax etc. less than £25),
- and the words “of not less than £100” in section 825(2) of the Taxes Act 1988 (no repayment supplement where overdue repayment of company tax less than £100) shall cease to have effect.
- (3) Paragraph (a) of subsection (1) above shall have effect—
- (a) in relation to income tax under Schedule E, where the demand for the tax is made on or after the appointed day, and
  - (b) in any other case, where the tax is charged by an assessment notice of which is issued on or after the appointed day.
- (4) Paragraph (b) of that subsection shall have effect where the tax is charged by an assessment relating to an accounting period beginning on or after the appointed day.
- (5) Subsection (2) above shall have effect in relation to repayments of tax made on or after the appointed day.
- (6) In this section “the appointed day” means such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed for different enactments or for different purposes of the same enactment.

#### Textual Amendments

**F195** Words in s. 158(2)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 19(3)** (with ss. 60, 101(1), 201(3))

#### Marginal Citations

**M19** 1975 c. 45.

### [<sup>F196</sup>159 Interest on tax in case of failure or error.

- (1) Section 88 of the <sup>M20</sup>Taxes Management Act 1970 (interest on tax recovered to make good loss due to taxpayer’s fault) shall be amended as follows.
- (2) In subsection (1), for the words “the fraud, wilful default or neglect of any person” there shall be substituted the words—
  - “(a) a failure to give a notice, make a return or produce or furnish a document or other information required by or under the Taxes Acts, or
  - (b) an error in any information, return, accounts or other document delivered to an inspector or other officer of the Board.”.
- (3) The following subsection shall be added at the end—
  - “(7) In paragraph (a) of subsection (1) above the reference to a failure to do something includes, in relation to anything required to be done at a particular time or within a particular period, a reference to a failure to do it at that time or within that period; and, accordingly, section 118(2) of this Act shall not apply for the purposes of that paragraph.”



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- (4) This section shall have effect in relation to failures occurring, and errors in any information or documents delivered, on or after the day on which this Act is passed.]

#### Textual Amendments

**F196** S. 159 repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by [1996 c. 8, s. 205, Sch. 41 Pt. V\(8\)](#), note

#### Marginal Citations

**M20** [1970 c. 9](#).

### 160 Determinations under TMA s. 88.

<sup>F197</sup>[(1) In subsection (1) of section 88 of the Taxes Management Act 1970, for the words “shall carry” there shall be substituted the words “shall, if an inspector or the Board so determine, carry”.]

[<sup>F197</sup>(2) The following section shall be inserted after that section—

#### “ Determinations under section 88.

- (1) Notice of a determination under section 88 above shall be served on the person liable to pay the interest to which it relates and shall specify—
  - (a) the date on which it is issued,
  - (b) the amount of the tax which carries interest and the assessment by which that tax was charged,
  - (c) the date when for the purposes of section 88 above that tax ought to have been paid, and
  - (d) the time within which an appeal against the determination may be made.
- (2) After the notice of a determination under section 88 above has been served the determination shall not be altered except in accordance with this section.
- (3) A determination under section 88 above may be made at any time—
  - (a) within six years after the end of the chargeable period for which the tax carrying the interest is charged (or, in the case of development land tax, of the financial year in which the liability for that tax arose), or
  - (b) within three years after the date of the final determination of the amount of that tax.
- (4) An appeal may be brought against a determination under section 88 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (5) On an appeal against a determination under section 88 above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
  - (a) if it appears to them that the tax carries no interest under that section, set the determination aside,

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- (b) if the determination appears to them to be correct, confirm the determination, or
- (c) if the determination appears to them to be incorrect as to the amount of tax or the date on which the tax ought to have been paid, revise the determination accordingly.”]

<sup>F198</sup>(3) . . . . .

[<sup>F197</sup>(4) In section 113 of that Act (form of documents), the following subsection shall be inserted after subsection (1B)—

“(1C) Where an officer of the Board has decided that an amount of tax carries interest under section 88 of this Act and has taken the decisions needed for arriving at the date when for the purposes of that section that tax ought to have been paid, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the interest.”]

(5) In section 114 of that Act (want of form not to invalidate), after the word “assessment”, in each place where it occurs, there shall be inserted the words “or determination”.

[<sup>F199</sup>(6) In paragraph 5 of Schedule 3 to that Act (rules for assigning proceedings to Commissioners), the following entry shall be inserted in the first column after the entry relating to an appeal against an assessment to capital gain tax— “ An appeal against a determination under section 88 of this Act. ”]

**Textual Amendments**

**F197** S. 160(1)(2)(4) repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(8\)](#), note

**F198** S. 160(3) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

**F199** S. 160(6) repealed (29.4.1996 with effect as mentioned in [Sch. 22 para. 12](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(12\)](#), note

[<sup>F200</sup>**161 Tax carrying interest under TMA ss. 86 and 88.**

The following subsection shall be substituted for section 88(3) of the <sup>M21</sup>Taxes Management Act 1970—

“(3) Where it is finally determined that any tax carries interest under this section, the tax shall carry no interest under section 86 or 86A above (and, accordingly, any interest under either of those sections which has been paid before the final determination shall be set off against the amount of the interest under this section); and for the purposes of this subsection a determination that tax carries interest is not final until it can no longer be varied, whether by any Commissioners on appeal or by the order of any court.”]

**Textual Amendments**

**F200** S. 161 repealed (29.4.1996 with effect as specified in [Sch. 18 para. 17](#) of the amending Act) by 1996 c. 8, s. 205, [Sch. 41 Pt. V\(8\)](#), note

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**Marginal Citations**

M21 1970 c. 9.

*Penalties*

**F201 162 Failure to make return.**

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**Textual Amendments**

**F201** S. 162 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

**163 Incorrect return, accounts etc.**

- (1) In—
- <sup>F202</sup>(a) .....
- (b) section 96(1) of that Act (incorrect return etc. for corporation tax), for the words “the aggregate” onwards there shall be substituted the words “the amount of the difference specified in subsection (2) below.”
- (2) This section shall apply in relation to returns, statements, declarations or accounts delivered, made or submitted on or after the day on which this Act is passed.

**Textual Amendments**

**F202** S. 163(1)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 5(5)**

**164 Special returns, information etc.**

- (1) Section 98 of the Taxes Management Act 1970 (special returns, information etc.) shall be amended as follows.
- (2) In subsection (1) (initial and daily penalties)—
- (a) for the word “Where” there shall be substituted the words “Subject to section 98A below, where”, and
- (b) for the words “subsection (3)” onwards there shall be substituted the words “subsections (3) and (4) below—
- (i) to a penalty not exceeding £300, and
- (ii) if the failure continues after a penalty is imposed under paragraph (i) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (i) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).”
- (3) In subsection (2) (maximum penalty for information given fraudulently or negligently)
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- (a) for the word “Where” there shall be substituted the words “Subject to section 98A below, where”, and
  - (b) for the words “ £250, or, in the case of fraud, £500”there shall be substituted “ £3,000”.
- (4) The following subsections shall be substituted for subsection (3)—
- “(3) No penalty shall be imposed under subsection (1) above in respect of a failure within paragraph (a) of that subsection at any time after the failure has been remedied.
  - (4) No penalty shall be imposed under paragraph (ii) of subsection (1) above in respect of a failure within paragraph (b) of that subsection at any time after the failure has been remedied.”
- (5) In the Table—
- (a) in the first column, in the entry relating to Part III of the <sup>M22</sup>Taxes Management Act 1970, the words “, except sections 16 and 24(2)” shall be omitted;
  - <sup>F203</sup>(b) .....
  - (c) the entry relating to section 481(5)(k) of that Act shall be omitted from the first column and an entry relating to section 482(2) of that Act shall be inserted at the appropriate place in the second column.
- (6) In consequence of the amendment made by subsection (5)(a) above section 16(6) of the Taxes Management Act 1970 shall cease to have effect.
- (7) This section shall apply in relation to—
- (a) any failure to comply with a notice or to furnish information, give a certificate or produce a document or record beginning on or after the day on which this Act is passed, and
  - (b) the furnishing, giving, producing or making of any incorrect information, certificate, document, record or declaration on or after that day.

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**Textual Amendments**

**F203** S. 164(5)(b) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with [Sch. 9 paras. 1-9, 22](#))

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**Marginal Citations**

**M22** 1970 c.9.

**165 Special penalties in the case of certain returns.**

- (1) The following section shall be inserted after section 98 of the Taxes Management Act 1970—

**“98A Special penalties in the case of certain returns.**

- (1) Regulations under section 203(2) (PAYE) or 566(1) (sub-contractors) of the principal Act may provide that this section shall apply in relation to any specified provision of the regulations.

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- (2) Where this section applies in relation to a provision of regulations, any person who fails to make a return in accordance with the provision shall be liable—
- (a) to a penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this paragraph has already been imposed, and
  - (b) if the failure continues beyond twelve months, without prejudice to any penalty under paragraph (a) above, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year of assessment to which the return relates as remained unpaid at the end of 19th April after the end of that year.
- (3) For the purposes of subsection (2)(a) above, the relevant monthly amount in the case of a failure to make a return—
- (a) where the number of persons in respect of whom particulars should be included in the return is fifty or less, is £100, and
  - (b) where that number is greater than fifty, is £100 for each fifty such persons and an additional £100 where that number is not a multiple of fifty.
- (4) Where this section applies in relation to a provision of regulations, any person who fraudulently or negligently makes an incorrect return of a kind mentioned in the provision shall be liable to a penalty not exceeding the difference between—
- (a) the amount payable by him in accordance with the regulations for the year of assessment to which the return relates, and
  - (b) the amount which would have been so payable if the return had been correct.”
- [<sup>F204</sup>(2) In relation to a failure to make a return beginning before such day as the Treasury may by order made by statutory instrument appoint, section 98A(2) shall have effect with the substitution of the following paragraph for paragraph (a)—
- “(a) to—
- (i) a penalty not exceeding twelve times the relevant monthly amount, and
  - (ii) if the failure continues after a penalty is imposed under sub-paragraph (i) above, a further penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this sub-paragraph has already been imposed.”.]

#### Textual Amendments

**F204** S. 165(2) repealed (with effect in relation to failures beginning on or after 20.5.1995) by [Finance Act 1989 \(c. 26, SIF 63:1\)](#), ss. 165(2), 187(1), [Sch. 17 Pt. VIII](#) Note 7; [S.I. 1994/2508](#), [art. 2](#)

## 166 Assisting in preparation of incorrect return etc.

- (1) The following section shall be substituted for section 99 of the <sup>M23</sup>Taxes Management Act 1970—

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**“99 Assisting in preparation of incorrect return etc.**

Any person who assists in or induces the preparation or delivery of any information, return, accounts or other document which—

- (a) he knows will be, or is or are likely to be, used for any purpose of tax, and
- (b) he knows to be incorrect,

shall be liable to a penalty not exceeding £3,000.”

- (2) This section shall apply in relation to assistance and inducements occurring on or after the day on which this Act is passed.

**Marginal Citations**

**M23** 1970c. 9.

**167 Determination of penalties.**

The following sections shall be substituted for section 100 of the <sup>M24</sup>Taxes Management Act 1970—

**“100 Determination of penalties by officer of Board.**

- (1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below or a penalty has been imposed by the Commissioners under section 53 of this Act, an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.
- (2) Subsection (1) above does not apply where the penalty is a penalty under—
  - (a) section 93(1) above as it has effect before the amendments made by section 162 of the Finance Act 1989 or section 93(1)(a) above as it has effect after those amendments,
  - (b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No.2) Act 1987,
  - (c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments, or
  - (d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989.
- (3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within which an appeal against the determination may be made.
- (4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section or on appeal.

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- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.
- (6) In any case where—
- (a) a determination under this section is of a penalty under section 94(6) above, and
  - (b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,
- the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.

#### **100A Provisions supplementary to section 100.**

- (1) Where a person who has incurred a penalty has died, a determination under section 100 above which could have been made in relation to him may be made in relation to his personal representatives, and any penalty imposed on personal representatives by virtue of this subsection shall be a debt due from and payable out of his estate.
- (2) A penalty determined under section 100 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of determination.
- (3) A penalty determined under section 100 above shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

#### **100B Appeals against penalty determinations.**

- (1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (2) On an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but—
- (a) in the case of a penalty which is required to be of a particular amount, the Commissioners may—
    - (i) if it appears to them that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears to them to be correct, confirm the determination, or
    - (iii) if the amount determined appears to them to be incorrect, increase or reduce it to the correct amount,
  - (b) in the case of any other penalty, the Commissioners may—

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- (i) if it appears to them that no penalty has been incurred, set the determination aside,
  - (ii) if the amount determined appears to them to be appropriate, confirm the determination,
  - (iii) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
  - (iv) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (3) Without prejudice to section 56 of this Act, an appeal from a decision of the Commissioners against the amount of a penalty which has been determined under section 100 above or this section shall lie, at the instance of the person liable to the penalty, to the High Court or, in Scotland, to the Court of Session as the Court of Exchequer in Scotland; and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this section.

#### **100C Penalty proceedings before Commissioners.**

- (1) An officer of the Board authorised by the Board for the purposes of this section may commence proceedings before the General or Special Commissioners for any penalty to which subsection (1) of section 100 above does not apply by virtue of subsection (2) of that section.
- (2) Proceedings under this section shall be by way of information in writing, made to the Commissioners, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.
- (3) Any penalty determined by the Commissioners in proceedings under this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (4) An appeal against the determination of a penalty in proceedings under this section shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland—
  - (a) by any party on a question of law, and
  - (b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.
- (5) On any such appeal the court may—
  - (a) if it appears that no penalty has been incurred, set the determination aside,
  - (b) if the amount determined appears to be appropriate, confirm the determination,
  - (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate, or
  - (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.



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### **100D Penalty proceedings before court.**

- (1) Where in the opinion of the Board the liability of any person for a penalty arises by reason of the fraud of that or any other person, proceedings for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.
- (2) Proceedings under this section which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted—
  - (a) in England and Wales, in the name of the Attorney General,
  - (b) in Scotland, in the name of the Lord Advocate, and
  - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any proceedings under this section instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.
- (4) If in proceedings under this section the court does not find that fraud is proved but considers that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.”

**Marginal Citations**

M24 1970 c. 9.

### **168 Amendments consequential on section 167.**

- (1) In consequence of the amendment made by section 167 above the <sup>M25</sup>Taxes Management Act 1970 shall be amended in accordance with subsections (2) to (8) below.
- (2) In section 20A (power to call for papers of tax accountant)—
  - (a) in subsection (1), for the words “awarded against him a penalty incurred by” there shall be substituted the words “a penalty imposed on”,
  - (b) in subsection (2), for the word “award” in the first place where it occurs there shall be substituted the word “penalty” and for that word in the second place where it occurs there shall be substituted the word “imposition”, and
  - (c) in subsection (4), for the words “award against” there shall be substituted the words “imposition on” and for the word “award” there shall be substituted the word “penalty”.
- <sup>F205</sup>(3) .....
- (4) In section 102 (mitigation of penalties), for the words “recovery thereof” there shall be substituted the words “a penalty”.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)*

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- (5) In section 105 (evidence)—
- (a) the following paragraph shall be substituted for paragraph (a) of subsection (1)—
- “(a) pecuniary settlements may be accepted instead of a penalty being determined, or proceedings being instituted, in relation to any tax,”
- (b) in paragraph (b) of subsection (2), for the words “sum” onwards there shall be substituted the words “tax due from him”, and
- (c) after that paragraph there shall be inserted the words “and
- (c) any proceedings for a penalty or on appeal against the determination of a penalty.”
- (6) In section 112 (loss of documents etc.), the following subsection shall be added at the end—
- “(3) The references in subsection (1) above to assessments to tax include references to determinations of penalties; and in its application to such determinations the proviso to that subsection shall have effect with the appropriate modifications.”
- (7) In section 113 (form of documents)—
- (a) the following subsection shall be inserted after subsection (1C)—
- “(1D) Where an officer of the Board has decided to impose a penalty under section 100 of this Act and has taken all other decisions needed for arriving at the amount of the penalty, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the penalty.” and
- (b) in subsection (3)—
- (i) after the words “Every assessment,” there shall be inserted the words “determination of a penalty,”
- (ii) after the words “notice of assessment” there shall be inserted the words “, of determination”, and
- (iii) after the words “levying tax” there shall be inserted the words “or determining a penalty”.
- [<sup>F206</sup>(8) In paragraph 5 of Schedule 3 (rules for assigning proceedings to Commissioners), for the words “section 100(4)” there shall be substituted the words “section 100C or an appeal under section 100B against the determination of a penalty”.]
- (9) In section 41 of the <sup>M26</sup>Development Land Tax Act 1976 (administration of development land tax) the following subsection shall be inserted after subsection (1)—
- “(1A) Nothing in sections 167 to 169 of the Finance Act 1989 shall apply to penalties relating to development land tax.”

#### Textual Amendments

**F205** S. 168(3) repealed (1.9.1994) by S.I. 1994/1813, reg. 2(2), Sch. 2 Pt. I

**F206** S. 168(8) repealed (29.4.1996 with effect as mentioned in Sch. 22 para. 12 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(12), note

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 1989, Part II. (See end of Document for details)

**Marginal Citations**

- M25 1970 c.9.
- M26 1976 c. 24.

**169 Time limits.**

- (1) The following section shall be substituted for section 103 of the <sup>M27</sup>Taxes Management Act 1970—

**“103 Time limits for penalties.**

- (1) Subject to subsection (2) below, where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, the penalty may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the Commissioners or a court—
  - (a) at any time within six years after the date on which the penalty was incurred, or
  - (b) at any later time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be ascertained.
- (2) Where the tax was payable by a person who has died, and the determination would be made in relation to his personal representatives, subsection (1)(b) above does not apply if the tax was charged in an assessment made later than six years after the end of the chargeable period for which it was charged.
- (3) A penalty under section 99 of this Act may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within twenty years after the date on which the penalty was incurred.
- (4) A penalty to which neither subsection (1) nor subsection (3) above applies may be so determined, or proceedings for such a penalty may be commenced before the Commissioners or a court, at any time within six years after the date on which the penalty was incurred or began to be incurred.”

- (2) The amendment made by subsection (1) above shall not affect the application of section 103(4) of the <sup>M28</sup>Taxes Management Act 1970 to proceedings under section 100 of that Act as it has effect before the amendment made by section 167 above.

**Marginal Citations**

- M27 1970c. 9.
- M28 1970 c. 9.

**170 Up-rating of certain penalties.**

- [<sup>F207</sup>(1) In section 23(8) of the Taxes Act 1988 (maximum penalty for agents failing to make certain payments on behalf of principals), for “£50” there shall be substituted “£300”.]

- <sup>F208</sup>(2) .....

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*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, Part II. (See end of Document for details)*

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- <sup>F209</sup>(3) .....
- (4) In—
- <sup>F210</sup>(a) .....
- <sup>F210</sup>(b) .....
- (c) section 658(5) of that Act (maximum penalty for false statements or representations relating to purchased life annuities), for “£500” there shall be substituted “£3,000”.
- (5) In paragraph 2(4) of Schedule 19A to that Act and Schedule 16A to the <sup>M29</sup>Finance Act 1973 (maximum penalty for incorrect return by Lloyd’s agent), for the words “£500 in the case of fraud and £250 in the case of negligence” there shall be substituted “£3,000”.
- (6) This section shall apply in relation to things done or omitted on or after the day on which this Act is passed.

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**Textual Amendments**

- F207** S. 170(1) repealed (1.5.1995 with effect as mentioned in s. 39(4)(5) of the amending Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(1)**, note
- F208** S. 170(2) repealed (16.7.1992 with effect in accordance with s. 32 of the repealing Act) by Finance (No. 2) Act 1992 (c. 48), ss. 32, 82, **Sch. 18 Pt. VII(4)**
- F209** S. 170(3) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)
- F210** S. 170(4)(a)(b) repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)
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**Marginal Citations**

- M29** 1973 c. 51.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1989, Part II.