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STATUTORY INSTRUMENTS

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**2009 No. 2035**

**REVENUE AND CUSTOMS**

The Finance Act 2009, Schedule 47  
(Consequential Amendments) Order 2009

<i>Made</i>	- - - -	<i>21st July 2009</i>
<i>Laid before the House of Commons</i>	- - - -	<i>23rd July 2009</i>
<i>Coming into force</i>	- -	<i>13th August 2009</i>

The Treasury make the following Order in exercise of the powers conferred by section 95(2) to (5) of the Finance Act 2009<sup>(1)</sup>:

**Citation and commencement**

1. This Order may be cited as the Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 and comes into force on 13th August 2009.

**Consequential amendments**

2. The Schedule to this Order contains amendments and repeals of enactments in consequence of, or otherwise in connection with, Schedule 36 to the Finance Act 2008<sup>(2)</sup> (information and inspection powers) and Schedule 47 to the Finance Act 2009 (amendment of information and inspection powers).

21st July 2009

*Dave Watts*  
*Frank Roy*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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(1) 2009 c.10.  
(2) 2008 c.9.

## SCHEDULE

## Article 2

**Taxes Management Act 1970**

1. The Taxes Management Act 1970(3) is amended as follows.
2. Omit section 12 (return to include information about chargeable gains).
3. Omit section 12AA(7)(b)(4) (particulars to be included in partnership return) (and the “and” before it).
4. In section 12B(1)(5) (records to be kept for purposes of returns), omit the words “(or under any of those sections as extended by section 12 of this Act)”.
5. Omit section 22 (power to obtain additional particulars for “surtax”).
6. Omit section 28 (power to obtain information about non-resident companies from shareholders).
7. In section 93(1)(a) (failure to make return), omit the words “(or either of those sections as extended by section 12 of this Act)”.
- 8.—(1) In section 98 (special returns etc), the Table is amended as follows.
  - (2) In the first column—
    - (a) for the entry relating to section 217 of the Income and Corporation Taxes Act 1988(6) substitute “section 217(4);”;
    - (b) “section 226(4)”;
    - (c) for the entry relating to section 250(6) and (7) of that Act substitute “section 250(6)”;
    - (d) for the entry relating to paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989(7) substitute “paragraphs 3 and 4 of Schedule 12 to the Finance Act 1989”.
  - (3) In the first column, omit the entries relating to—
    - (a) sections 76ZE(5)(8), 246H(9), 272(7), 700(4), 708, 728, 755, 774(5) and 815 of the Income and Corporation Taxes Act 1988;
    - (b) paragraph 6 of Schedule 9 to that Act;
    - (c) paragraph 14(5) of Schedule 15 to that Act;
    - (d) paragraph 4 of Schedule 22 to that Act;
    - (e) section 32 of the Finance Act 1973(10);
    - (f) paragraph 15(1) of Schedule 14 to the Finance Act 1984(11);
    - (g) paragraph 6(1) of Schedule 22 to the Finance Act 1985(12);
    - (h) regulations under section 57 of the Finance Act 1989;
    - (i) regulations under section 33 of the Finance Act 1991(13);

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(3) 1970 c.9.

(4) Section 12AA was inserted by sections 184 and 189 of the Finance Act 1994 (c. 9); section 12AA(7)(b) was amended by paragraph 3 of Schedule 19 to the Finance Act 1998 (c. 36).

(5) Section 12B was inserted by paragraph 3 of Schedule 19 to the Finance Act 1994 (c. 9).

(6) 1988 c.1.

(7) 1989 c. 26.

(8) The entry for section 76ZE(5) was inserted by paragraph 307(2)(b) of Schedule 1 to the Corporation Tax Act 2009 (c. 4).

(9) The entry for section 246H was inserted by paragraph 10 of Schedule 16 to the Finance Act 1994.

(10) 1973 c. 51.

(11) 1984 c. 43.

(12) 1985 c. 54.

(13) 1991 c. 31.

- (j) sections 79(6), 169G(2)(14) and 235 of the Taxation of Chargeable Gains Act 1992(15);
  - (k) paragraph 14 of Schedule 4ZA(16) to that Act;
  - (l) paragraph 10 of Schedule 5 to that Act;
  - (m) regulations under section 589 of the Income Tax (Earnings and Pensions) Act 2003(17);
  - (n) sections 75(5), 128 and 305 of the Income Tax (Trading and Other Income) Act 2005(18);
  - (o) section 271(2) of the Income Tax Act 2007(19);
  - (p) regulations under section 330(5) of that Act;
  - (q) sections 703, 788 and 862 of that Act;
  - (r) paragraph 155(5) of Schedule 2 to that Act;
  - (s) sections 75(5), 126, 245 and 966(1) of the Corporation Tax Act 2009(20).
- (4) In the second column, omit the entries relating to—
- (a) paragraph 2 of Schedule 22 to the Income and Corporation Taxes Act 1988;
  - (b) paragraph 15(3) of Schedule 14 to the Finance Act 1984;
  - (c) regulations under section 57 of the Finance Act 1989;
  - (d) regulations under section 33 of the Finance Act 1991.
9. In Schedule 1A(21) (claims not made in returns), in paragraph 2(5)—
- (a) in paragraph (b), at the end insert “and”, and
  - (b) omit paragraph (c) (and the “and” before it).

### **Finance Act 1973**

10. Omit section 32 of the Finance Act 1973(22) (power to obtain information as to arrangements for transferring relief etc).

### **Income and Corporation Taxes Act 1988**

11. The Income and Corporation Taxes Act 1988(23) is amended as follows.

12. Omit section 76ZE(5) and (6)(24) (power to obtain information in connection with retraining or re-employment with life assurance companies).

13. Omit section 217(1) to (3) (power to obtain information about distributions on demerger).

14. Omit section 226(3) (power to obtain information about purchases of own shares by unquoted trading company).

15. In section 234(9) (power to obtain information relating to distributions), for “2 to” substitute “3 and”.

16. Omit section 250(7) (power to obtain information about certain share capital).

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(14) The entry for section 169G(2) was inserted by paragraph 1 of Schedule 21 to the Finance Act 2004 (c. 12).

(15) 1992 c. 12.

(16) The entry for paragraph 14 of Schedule 4ZA was inserted by paragraph 46 of Schedule 12 to the Finance Act 2006 (c. 25).

(17) 2003 c. 1.

(18) 2005 c. 5.

(19) 2007 c. 3.

(20) 2009 c. 4.

(21) Schedule 1A was inserted by paragraph 35 of Schedule 19 to the Finance Act 1994.

(22) 1973 c. 51.

(23) 1988 c. 1.

(24) Section 76ZE was inserted by paragraph 35 of Schedule 1 to the Corporation Tax Act 2009.

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17. Omit section 272(7) (power to obtain information about life policies).
18. Omit section 700(4) (power to obtain information from personal representative).
19. Omit section 708 (power to obtain information from companies liable to counteraction of corporation tax advantage).
20. Omit section 728 (power to obtain information about accrued income profits).
21. Omit section 754(2B) and (2C)(25) (power to obtain information for purpose of determining basis of apportionment of controlled foreign company's chargeable profits).
22. Omit section 774(5) (power to obtain information in relation to transactions between dealing company and associated company).
23. Omit section 815 (power to inspect documents).
24. In Schedule 15 (qualifying policies), omit paragraph 14(5) (power to obtain information about connected policies).

#### **Finance Act 1989**

25. In Schedule 12 to the Finance Act 1989(26), omit paragraph 2 (power to obtain information from close companies).

#### **Finance Act 1990**

26. In section 125 of the Finance Act 1990(27) (information for tax authorities in other member States), omit subsections (3), (4) and (6).

#### **Social Security Administration Act 1992**

27. In section 110ZA of the Social Security Administration Act 1992(28) (Class 1, 1A, 1B or 2 contributions: power to call for documents etc), in subsection (2)(d), for "35(4)(b), 36 and 37(2)" substitute "35(4A)(c), 36, 37(2), 37A and 37B".

#### **Social Security Administration (Northern Ireland) Act 1992**

28. In section 104ZA of the Social Security Administration (Northern Ireland) Act 1992(29) (Class 1, 1A, 1B or 2 contributions: power to call for documents etc), in subsection (2)(d), for "35(4)(b), 36 and 37(2)" substitute "35(4A)(c), 36, 37(2), 37A and 37B".

#### **Taxation of Chargeable Gains Act 1992**

29. The Taxation of Chargeable Gains Act 1992(30) is amended as follows.
30. In section 169E(1) (meaning of "settlor")—

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(25) Section 754(2A) and (2B) were inserted by paragraph 9 of Schedule 17 to the Finance Act 1998 (c. 36.).

(26) 1989 c. 26.

(27) 1990 c. 29.

(28) 1992 c. 5; section 110ZA was substituted by section 7 of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3) subsections (1) and (2) of section 110ZA were substituted by paragraph 84 of Schedule 36 to the Finance Act 2008. Paragraph 35(4) of Schedule 36 to the Finance Act 2008 was substituted by paragraph 10(3) of Schedule 47 to the Finance Act 2009; paragraphs 37A and 37B of Schedule 36 to the Finance Act 2008 were inserted by paragraph 12 of Schedule 47 to the Finance Act 2009.

(29) 1992 c. 8; section 104ZA was substituted by section 8 of the National Insurance Contributions and Statutory Payments Act 2004; subsections (1) and (2) of section 104ZA were substituted by paragraph 85 of Schedule 36 to the Finance Act 2008.

(30) 1992 c. 12. Sections 169E and 169G were inserted by paragraph 4 of Schedule 21 to the Finance Act 2004. Schedule 4ZA was inserted by paragraph 6(2) of Schedule 12 to the Finance Act 2006 (c. 25).

- (a) after “section” insert “and”, and
- (b) omit “and section 169G”.

**31.** Omit section 169G(2) to (5) (power to obtain information about gifts to settlor-interested settlements etc).

**32.** Omit section 235 (power to obtain information from trustees of employee share ownership trust).

**33.** In Schedule 1 (application of exempt amount etc in cases involving settled property), omit paragraphs 1(7) and 2(9) (powers to obtain information from party to settlement).

**34.** In Schedule 4ZA (sub-fund settlements), omit paragraphs 14 to 16 (power to obtain information).

**35.** In Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlement), omit paragraph 10 (power to obtain information).

#### **Finance Act 1998**

**36.** Schedule 18 to the Finance Act 1998<sup>(31)</sup> (company tax returns) is amended as follows.

**37.** Omit paragraph 13 (return to include information about chargeable gains).

**38.** In paragraph 77A(8) (claims in respect of overseas losses of non-resident companies), for “paragraph 27 (notice to produce documents etc for purposes of an enquiry)” substitute “paragraph 1 of Schedule 36 to the Finance Act 2008 (notice to taxpayer to produce documents etc)”.

#### **Finance Act 2002**

**39.** In Schedule 18 to the Finance Act 2002<sup>(32)</sup> (relief for community amateur sports clubs), omit paragraph 12 (power to obtain information etc).

#### **Income Tax (Earnings and Pensions) Act 2003**

**40.** In paragraph 37 of Schedule 7 to the Income Tax (Earnings and Pensions) Act 2003<sup>(33)</sup> (transitionals: retraining courses)—

- (a) in sub-paragraph (1)(c), omit “and (7)”, and
- (b) in sub-paragraph (2), for “and (7) apply as if section 588(6)” substitute “applies as if it”.

#### **Income Tax (Trading and Other Income) Act 2005**

**41.** The Income Tax (Trading and Other Income) Act 2005<sup>(34)</sup> is amended as follows.

**42.** Omit section 75(5) (power to obtain information from employers about retraining courses).

**43.** Omit section 128 (power to obtain information in connection with herd basis election).

**44.** Omit section 305 (power to obtain information about effective duration of lease).

**45.** In Schedule 2 (transitionals and savings), in paragraph 71(1) (lease premiums: rules for determining effective duration of lease granted before 13 June 1969), for “to 305” substitute “and 304”.

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<sup>(31)</sup> 1998 c. 36. Paragraph 77A of Schedule 18 was inserted by paragraph 8 of Schedule 1 to the Finance Act 2006.

<sup>(32)</sup> 2002 c. 23.

<sup>(33)</sup> 2003 c. 1.

<sup>(34)</sup> 2005 c. 5.

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### **Income Tax Act 2007**

- 46. The Income Tax Act 2007(35) is amended as follows.
- 47. Omit section 271(2) and (3) (power to obtain information about withdrawal or reduction of VCT relief).
- 48. Omit section 330(5) (power to make regulations for obtaining information about certain company reorganisations).
- 49. Omit section 703 (power to obtain information from persons liable to counteraction of income tax advantage).
- 50. Omit section 788 (power to obtain information relating to sales of occupation income).
- 51. Omit section 862 (power to inspect declarations made by deposit-taker or building society).
- 52. In Schedule 2 (transitionals and savings), omit paragraph 155(5) (power to obtain information from trustee of settlement).

### **Finance Act 2007**

- 53. In paragraph 2 of Schedule 11 to the Finance Act 2007(36) (technical provisions made by general insurers: enforcement), for sub-paragraphs (7) and (8) substitute—
  - “(7) The following provisions of Schedule 36 to FA 2008 (information and inspection powers) apply in relation to a notice under sub-paragraph (2) as they apply in relation to a taxpayer notice under that Schedule—
    - (a) paragraphs 29 and 32 (right to appeal), and
    - (b) Part 7 (penalties).”

### **Corporation Tax Act 2009**

- 54. The Corporation Tax Act 2009(37) is amended as follows.
- 55. Omit section 75(5) and (6) (power to obtain information about retraining courses).
- 56. Omit section 126 (power to obtain information in connection with herd basis election).
- 57. Omit section 245 (power to obtain information about effective duration of lease).
- 58. Omit section 966 (power to obtain information from personal representatives and beneficiaries).
- 59. In Schedule 2 (transitionals and savings)—
  - (a) in paragraph 137 (transitionals: training courses for employees), in sub-paragraphs (1)(c) and (2)(c), omit “and (7)”, and
  - (b) in paragraph 138 (transitionals: penalties), omit paragraph (b) (and the “and” before it) and the words “and (7)”.

### **Consequential repeals**

- 60. In consequence of the amendments made by this Schedule, omit—

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(35) 2007 c. 3.  
(36) 2007 c. 11.  
(37) 2009 c. 4.

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- (a) in the Administration of Justice Act 1985(**38**), in Schedule 2, in paragraph 36(3), the words “, and paragraph 14(5) of Schedule 15 to,” and “and 788(5) and (6)”;
- (b) in the Income and Corporation Taxes Act 1988, in Schedule 29, in the Table in paragraph 32, the entries relating to—
  - (i) section 12(5) of the Taxes Management Act 1970;
  - (ii) section 32(1)(b), 32(1)(c), 32(1)(d), 32(2) and 32(3) of the Finance Act 1973;
- (c) in the Finance Act 1989, sections 57(2) and 123(1)(b) and paragraph 5 of Schedule 12;
- (d) in the Finance Act 1990, section 90(2)(b) and paragraph 15 of Schedule 14;
- (e) in the Finance Act 1991(**39**), section 33(2);
- (f) in the Taxation of Chargeable Gains Act 1992, in Schedule 10—
  - (i) paragraph 2(5);
  - (ii) paragraph 2(10)(a)(iv) and (v);
- (g) in the Finance Act 1994(**40**), in Schedule 16, paragraph 10;
- (h) in the Financial Services and Markets Act 2000(**41**), in Schedule 20, paragraph 4(5);
- (i) in the Finance Act 2003(**42**), in Schedule 28, paragraphs 4(5) and 5(6);
- (j) in the Finance Act 2004(**43**), in Schedule 21, paragraph 1;
- (k) in the Commissioners for Revenue and Customs Act 2005(**44**), in Schedule 4, paragraph 133(1) and (3);
- (l) in the Income Tax (Trading and Other Income) Act 2005, in Schedule 1, paragraph 291(5);
- (m) in the Finance Act 2006, in Schedule 12, paragraph 46(1);
- (n) in the Income Tax Act 2007, in Schedule 1, paragraphs 160 and 163;
- (o) in the Legal Services Act 2007(**45**), in Schedule 21, paragraph 161;
- (p) in the Finance Act 2008, in Schedule 36, paragraph 83(b), (c) and (d);
- (q) in the Corporation Tax Act 2009, in Schedule 1, paragraph 307(2)(b).

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(38) 1985 c. 61. The reference to paragraph 14(5) of Schedule 15 to the Income and Corporation Taxes Act 1998 (c. 1) was inserted by paragraph 30 of Schedule 29 to that Act. The reference to section 788(5) and (6) of the Income Tax Act 2007 (c. 3) was inserted by paragraph 272 of Schedule 1 to that Act.

(39) 1991 c. 31.

(40) 1994 c. 9.

(41) 2000 c. 8.

(42) 2003 c. 14.

(43) 2004 c. 12.

(44) 2005 c. 11.

(45) 2007 c. 29.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under powers conferred by section 95(2) to (5) of the Finance Act 2009. The Schedule to the Order provides for the repeal of a range of powers under which officers of Her Majesty's Revenue and Customs can require information or documents and carry out inspections.

Schedule 36 to the Finance Act 2008 contains a new set of information and inspection powers that can be used to check a person's tax position for income tax, capital gains tax, corporation tax and VAT. With those powers applying from 1 April 2009 it is now possible to repeal a number of existing specialist information powers that apply to particular types of tax check. This avoids leaving unnecessary powers in place.

Most of the information powers being repealed by this Order have associated penalties for failure to comply which apply by virtue of the provision containing the power having an entry in the Table in section 98 of TMA 1970. Those entries are repealed by paragraph 8 of the Schedule to the Order. In addition, that paragraph repeals a number of other entries in the Table that are obsolete.

Paragraph 60 of the Schedule to the Order makes provision consequent on the repeals and amendments made by other paragraphs of the Schedule.

An impact assessment has not been prepared in respect of this instrument as no impact on the private or voluntary sectors is foreseen.