



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IV

PROVISIONS RELATING TO THE SCHEDULE D CHARGE

CHAPTER VIII

MISCELLANEOUS AND SUPPLEMENTAL

119 Rent etc. payable in connection with mines, quarries and similar concerns

- (1) Where rent is payable in respect of any land or easement, and either—
- (a) the land or easement is used, occupied or enjoyed in connection with any of the concerns specified in section 55(2); or
 - (b) the lease or other agreement under which the rent is payable provides for the recoupment of the rent by way of reduction of royalties or payments of a similar nature in the event of the land or easement being so used, occupied or enjoyed,

the rent shall, subject to section 122, be charged to tax under Schedule D, and, subject to subsection (2) below, shall be subject to deduction of income tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.

- (2) Where the rent is rendered in produce of the concern, it shall, instead of being treated as provided by subsection (1) above, be charged under Case III of Schedule D, and the value of the produce so rendered shall be taken to be the amount of the profits or income arising therefrom.

- (3) For the purposes of this section—

“easement” includes any right, privilege or benefit in, over or derived from land; and

“rent” includes a rent service, rentcharge, fee farm rent, feuduty or other rent, toll, duty, royalty or annual or periodical payment in the nature of rent, whether payable in money or money’s worth or otherwise.

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120 Rent etc. payable in respect of electric line wayleaves

- (1) Where rent is payable in respect of any easement enjoyed in the United Kingdom in connection with any electric, telegraphic or telephonic wire or cable (not being such an easement as is mentioned in section 119(1)), the rent shall be charged to tax under Schedule D, and, subject to subsections (2) to (5) below, shall be subject to deduction of income tax under section 348 or 349 as if it were a royalty or other sum paid in respect of the user of a patent.
- (2) Any payment of rent to which subsection (1) above applies which does not exceed £2.50 per year may, if the payer so elects, be treated as not affected by so much of that subsection as provides that the rent shall be subject to deduction of income tax, and shall in that event be made without deduction of income tax accordingly.
- (3) Any payment of rent to which subsection (1) above applies which is made without deduction of income tax, whether by virtue of subsection (2) above or otherwise, shall, unless income tax is assessed thereon under section 350, be chargeable to tax under Case III of Schedule D.
- (4) Any payment of rent to which subsection (1) above applies which is made subject to deduction of income tax shall, if it is paid by a person carrying on a trade which consists of or includes the provision of a radio relay service and the wire or cable in question is used by that person for the purposes of that service—
 - (a) be deductible (notwithstanding anything in section 74(q)) in computing the amount of the profits or gains of the trade to be charged under Case I of Schedule D, and
 - (b) be deemed for the purposes of sections 348 and 349 not to be payable out of profits or gains brought into charge to income tax.
- (5) In this section—
 - (a) “easement” and “rent” have the same meanings as in section 119;
 - (b) the reference to easements enjoyed in connection with any electric, telegraphic or telephonic wire or cable includes (without prejudice to the generality of that expression) references to easements enjoyed in connection with any pole or pylon supporting any such wire or cable, or with any apparatus (including any transformer) used in connection with any such wire or cable; and
 - (c) “radio relay service” means the retransmission by wire to their customers of broadcast programmes (which may or may not be television programmes) which the persons carrying on the service receive either by wire or by wireless from the British Broadcasting Corporation or from the persons outside the United Kingdom who broadcast the programmes in question.

121 Management expenses of owner of mineral rights

- (1) Where for any year of assessment rights to work minerals in the United Kingdom are let, the lessor shall, subject to subsection (2) below, be entitled, on making a claim for the purpose, to be repaid so much of the income tax paid by him by deduction or otherwise in respect of the rent or royalties for that year as is equal to the amount of the tax on any sums proved to have been wholly, exclusively and necessarily disbursed by him as expenses of management or supervision of those minerals in that year.
- (2) No repayment of tax shall be made under subsection (1) above if, or to such extent as, the expenses in question have been otherwise allowed as a deduction in computing income for the purposes of income tax.

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- (3) In computing for the purposes of corporation tax the income of a company for any accounting period from the letting of rights to work minerals in the United Kingdom, there may be deducted any sums disbursed by the company wholly, exclusively and necessarily as expenses of management or supervision of those minerals in that period.

122 Relief in respect of mineral royalties

- (1) Subject to the following provisions of this section, a person resident or ordinarily resident in the United Kingdom who in any year of assessment or accounting period is entitled to receive any mineral royalties under a mineral lease or agreement shall be treated—

- (a) for the purposes of income tax, or as the case may be for the purposes of corporation tax on profits exclusive of chargeable gains, as if the total of the mineral royalties receivable by him under that lease or agreement in that year or period and any management expenses available for set-off against those royalties in that year or period were each reduced by one-half; and
- (b) for the purposes of the 1979 Act or as the case may be for the purposes of corporation tax on chargeable gains, as if there accrued to him in that year or period a chargeable gain equal to one-half of the total of the mineral royalties receivable by him under that lease or agreement in that year or period;

and this section shall have effect notwithstanding any provision of section 119(1) making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D, but without prejudice to any provision of that section providing for any such royalties to be subject to deduction of income tax under section 348 or 349.

- (2) For the purposes of subsection (1)(a) above, “management expenses available for set-off” against royalties means—

- (a) where section 121 applies in respect of the royalties, any sum brought into account under subsection (1) of that section in determining the amount of the repayment of income tax in respect of those royalties or, as the case may be, deductible from those royalties under subsection (2) of that section in computing the income of a company for the purposes of corporation tax; and
- (b) if the royalties are chargeable to tax under Schedule A, any sums deductible under Part II as payments made in respect of management of the property concerned;

and if neither paragraph (a) nor paragraph (b) above applies, the reference in subsection (1)(a) above to management expenses available for set-off shall be disregarded.

- (3) The amount of the chargeable gain treated as accruing to any person by virtue of subsection (1)(b) above shall, notwithstanding anything in the enactments relating to the computation of chargeable gains, be the whole amount calculated in accordance with that subsection, and, accordingly, no reduction shall be made on account of expenditure incurred by that person or of any other matter whatsoever.
- (4) Where subsection (1) above applies in relation to mineral royalties receivable under a mineral lease or agreement by a person not chargeable to corporation tax in respect of those royalties, then, in so far as the amount of income tax paid, by deduction or otherwise, by him in respect of those mineral royalties in any year of assessment exceeds the amount of income tax for which he is liable in respect of those royalties by virtue of subsection (1)(a) above—

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- (a) the amount of the excess shall in the first instance be set against the tax for which he is chargeable by virtue of subsection (1)(b) above; and
 - (b) on the making of a claim in that behalf, he shall be entitled to repayment of tax in respect of the balance of that excess.
- (5) In this section references to mineral royalties refer only to royalties receivable on or after 6th April 1970, and the expression “mineral royalties” means so much of any rents, tolls, royalties and other periodical payments in the nature of rent payable under a mineral lease or agreement as relates to the winning and working of minerals; and the Board may by regulations—
- (a) provide whether, and to what extent, payments made under a mineral lease or agreement and relating both to the winning and working of minerals and to other matters are to be treated as mineral royalties; and
 - (b) provide for treating the whole of such payments as mineral royalties in cases where the extent to which they relate to matters other than the winning and working of minerals is small.
- (6) In this section—
- “minerals” means all minerals and substances in or under land which are ordinarily worked for removal by underground or surface working but excluding water, peat, top-soil and vegetation; and
- “mineral lease or agreement” means—
- (a) a lease, profit *à prendre*, licence or other agreement conferring a right to win and work minerals in the United Kingdom;
 - (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom; and
 - (c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966, other than an ancillary right within the meaning of that Act.
- (7) In the application of this section to Northern Ireland—
- (a) references to mineral royalties include references to periodical payments—
 - (i) of compensation under section 29 or 35 of the Mineral Development Act (Northern Ireland) 1969 (“the 1969 Act”) or under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964 (“the 1964 Act”); and
 - (ii) made as mentioned in section 37 of the 1969 Act or under section 55(4)(b) of that Act or under section 11 of the 1964 Act (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903); and
 - (b) in its application to any such payments as are mentioned in paragraph (a) above, references to the mineral lease or agreement under which mineral royalties are payable shall be construed as references to the enactment under which the payments are made.
- (8) In any case where, before the commencement of this section, for the purposes of the 1979 Act or of corporation tax on chargeable gains, a person was treated as if there had accrued to him in any year of assessment or accounting period ending before 6th April 1988 a chargeable gain equal to the relevant fraction, determined in accordance with section 29(3)(b) of the Finance Act 1970, of the total of the mineral royalties receivable by him under that lease or agreement in that year or period, subsection (1)(b) above shall have effect in relation to any mineral royalties receivable by him under

that lease or agreement in any later year or period with the substitution for the reference to one-half of a reference to the relevant fraction as so determined.

123 Foreign dividends

- (1) In this section—
 - (a) “foreign dividends” means any interest, dividends or other annual payments payable out of or in respect of the stocks, funds, shares or securities of any body of persons not resident in the United Kingdom (but not including any such payment to which section 348 or 349(1) applies) and references to dividends shall be construed accordingly;
 - (b) “relevant foreign dividends” means foreign dividends payable out of or in respect of stocks, funds, shares or securities which are not held in a recognised clearing system;
 - (c) “banker” includes a person acting as a banker; and
 - (d) references to coupons include, in relation to any dividends, warrants for or bills of exchange purporting to be drawn or made in payment of those dividends.
- (2) Where relevant foreign dividends are entrusted to any person in the United Kingdom for payment to any persons in the United Kingdom, they shall be assessed and charged to income tax under Schedule D by the Board, and Parts III and IV of Schedule 3 shall apply in relation to the income tax to be so assessed and charged.
- (3) Where—
 - (a) a banker or any other person in the United Kingdom, by means of coupons received from any other person or otherwise on his behalf, obtains payment of any foreign dividends elsewhere than in the United Kingdom, or
 - (b) any banker in the United Kingdom sells or otherwise realises coupons for foreign dividends, and pays over the proceeds to any person or carries them to his account, or
 - (c) any dealer in coupons in the United Kingdom purchases any such coupons otherwise than from a banker or another dealer in coupons,tax under Schedule D shall extend, in the cases mentioned in paragraph (a) above, to the dividends, and, in the cases mentioned in paragraphs (b) and (c) above, to the proceeds of the sale or other realisation, and income tax shall be assessed and charged and paid under this subsection in accordance with Parts III and IV of Schedule 3.
- (4) In the cases mentioned in subsections (2) and (3) above, no tax shall be chargeable if it is proved, on a claim in that behalf made to the Board, that the person owning the stocks, funds, shares or securities and entitled to the dividends or proceeds is not resident in the United Kingdom.
- (5) Where stocks, funds, shares or securities are held under a trust, and the person who is the beneficiary in possession under the trust is the sole beneficiary in possession and can, by means either of the revocation of the trust or the exercise of any power under the trust, call upon the trustees at any time to transfer the stocks, funds, shares or securities to him absolutely free from the trust, that person shall, for the purposes of subsection (4) above, be deemed to be the person owning the stocks, funds, shares or securities.
- (6) Where any income of any person is by virtue of any provision of the Tax Acts (and in particular, but without prejudice to the generality of the preceding words, Chapter

III of Part XVII) to be deemed to be income of any other person, that income is not exempt from tax by virtue of subsection (4) above by reason of the first mentioned person not being resident in the United Kingdom.

124 Interest on quoted Eurobonds

- (1) Section 349(2) shall not apply to interest paid on any quoted Eurobond where—
- (a) the person by or through whom the payment is made is not in the United Kingdom; or
 - (b) the payment is made by or through a person who is in the United Kingdom but either of the conditions mentioned in subsection (2) below is satisfied.
- (2) The conditions are—
- (a) that it is proved, on a claim in that behalf made to the Board, that the person who is the beneficial owner of the quoted Eurobond and is entitled to the interest is not resident in the United Kingdom;
 - (b) that the quoted Eurobond is held in a recognised clearing system.
- (3) In a case falling within subsection (1)(b) above the person by or through whom the payment is made shall deliver to the Board—
- (a) on demand by the Board an account of the amount of any such payment; and
 - (b) not later than 12 months after making any such payment, and unless within that time he delivers an account with respect to the payment under paragraph (a) above, a written statement specifying his name and address and describing the payment.
- (4) Where by virtue of any provision of the Tax Acts interest paid on any quoted Eurobond is deemed to be income of a person other than the person who is the beneficial owner of the quoted Eurobond, subsection (2)(a) above shall apply as if it referred to that other person.
- (5) Subsections (3) to (6) of section 123 shall apply in relation to interest on quoted Eurobonds as they apply to foreign dividends but with the following modifications—
- (a) subsection (4) shall apply as if it required a claim to have been made on or before the event by virtue of which tax would otherwise be chargeable; and
 - (b) paragraph 6(1) of Schedule 3 shall apply with the omission of paragraphs (a) and (b).
- (6) In this section—
- “quoted Eurobond” means a security which—
- (a) is issued by a company;
 - (b) is quoted on a recognised stock exchange;
 - (c) is in bearer form; and
 - (d) carries a right to interest; and
- “recognised clearing system” means any system for clearing quoted Eurobonds which is for the time being designated for the purposes of this section by order made by the Board, as a recognised clearing system.
- (7) An order under subsection (6) above—
- (a) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient; and
 - (b) may be varied or revoked by a subsequent order so made.

125 Annual payments for non-taxable consideration

- (1) Any payment to which this subsection applies shall be made without deduction of income tax, shall not be allowed as a deduction in computing the income or total income of the person by whom it is made and shall not be a charge on income for the purposes of corporation tax.
- (2) Subject to the following provisions of this section, subsection (1) above applies to any payment which—
 - (a) is an annuity or other annual payment charged with tax under Case III of Schedule D, not being interest; and
 - (b) is made under a liability incurred for consideration in money or money's worth all or any of which is not required to be brought into account in computing for the purposes of income tax or corporation tax the income of the person making the payment.
- (3) Subsection (1) above does not apply to—
 - (a) any payment which in the hands of the recipient is income falling within section 683(1)(a) or (c) or (6);
 - (b) any payment made to an individual under a liability incurred in consideration of his surrendering, assigning or releasing an interest in settled property to or in favour of a person having a subsequent interest;
 - (c) any annuity granted in the ordinary course of a business of granting annuities; or
 - (d) any annuity charged on an interest in settled property and granted at any time before 30th March 1977 by an individual to a company whose business at that time consisted wholly or mainly in the acquisition of interests in settled property or which was at that time carrying on life assurance business in the United Kingdom.
- (4) In the application of this section to Scotland the references in subsection (3) above to settled property shall be construed as references to property held in trust.
- (5) Subsection (1) above applies to a payment made after 5th April 1988 irrespective of when the liability to make it was incurred.

126 Treasury securities issued at a discount

- (1) Where a security to which this section applies is issued at a discount, tax shall not be charged in respect of the discount under Case III of Schedule D; but the discount shall not for that reason be regarded as annual profits or gains chargeable to tax under Case VI of Schedule D.
- (2) This section applies to all securities issued by the Treasury after 6th March 1973 except Treasury bills.

127 Enterprise allowance

- (1) This section applies to—
 - (a) payments known as enterprise allowance and made by the Manpower Services Commission in pursuance of arrangements under section 2(2)(d) of the Employment and Training Act 1973; and

- (b) corresponding payments made in Northern Ireland by the Department of Economic Development.
- (2) Any such payment which would (apart from this section) be charged to tax under Case I or II of Schedule D shall be charged to tax under Case VI of that Schedule.
- (3) Nothing in subsection (2) above shall prevent such a payment—
 - (a) being treated for the purposes of section 623(2)(c) or 833(4)(c) as immediately derived from the carrying on or exercise of a trade, profession or vocation; or
 - (b) being treated for the purposes of paragraph 1 of Schedule 19 as trading income.

128 Commodity and financial futures etc.: losses and gains

Any gain arising to any person in the course of dealing in commodity or financial futures or in qualifying options, which apart from this section would constitute profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, shall not be chargeable to tax under that Schedule.

In this section “commodity or financial futures” and “qualifying options” have the same meaning as in section 72 of the Finance Act 1985, and the reference to a gain arising in the course of dealing in commodity or financial futures includes any gain which is regarded as arising in the course of such dealing by virtue of subsection (2A) of that section.

129 Stock lending

- (1) Subject to subsection (4) below, this section applies where a person (“A”) has contracted to sell securities and, to enable him to fulfil the contract, he enters into an arrangement under which—
 - (a) another person (“B”) is to transfer securities to A or his nominee; and
 - (b) in return securities of the same kind and amount are to be transferred (whether or not by A or his nominee) to B or his nominee.
- (2) Subject to subsection (4) below, this section also applies where, to enable B to make the transfer to A or his nominee, B enters into an arrangement under which—
 - (a) another person (“C”) is to transfer securities to B or his nominee; and
 - (b) in return securities of the same kind and amount are to be transferred (whether or not by B or his nominee) to C or his nominee.
- (3) Any transfer made in pursuance of an arrangement mentioned in subsection (1) or (2) above shall not be taken into account for the purposes of the Tax Acts in computing the profits or losses of any trade carried on by the transferor or transferee.
- (4) The Treasury may provide by regulations that this section or any provision of it or section 149B(9) of the 1979 Act does not apply unless such conditions as are specified in the regulations are fulfilled; and the conditions may relate to the capacity in which any person involved in any arrangement is acting, the Board’s approval of any such person or of the arrangement, the nature of the securities or otherwise.
- (5) In this section “securities” includes stocks and shares.

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

- (6) This section applies to transfers made after such date as is specified for this purpose by regulations made under section 61 of the Finance Act 1986 or, if no such regulations have been made before 6th April 1988, under this section.

130 Meaning of “investment company” for purposes of Part IV

In this Part of this Act “investment company”, means any company whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom, but includes any savings bank or other bank for savings except any which, for the purposes of the Trustee Savings Bank Act 1985, is a successor or a further successor to a trustee savings bank.