



Finance Act 1988

1988 CHAPTER 39

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Tax rates and personal reliefs

^{F1}23 Charge and basic rate of income tax for 1988-89.

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Textual Amendments

^{F1} Ss. 23-25 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

^{F1}24 Higher and additional rates of income tax.

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Textual Amendments

^{F1} Ss. 23-25 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

^{F1}25 Personal reliefs.

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Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F1 Ss. 23-25 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

26 Charge and rate of corporation tax for financial year 1988.

Corporation tax shall be charged for the financial year 1988 at the rate of 35 per cent.

27 Corporation tax: small companies.

- (1) For the financial year 1988 the small companies rate shall be 25 per cent.
- (2) For the financial year 1988 the fraction mentioned in section 13(2) of the Taxes Act 1988, and in section 95(2) of the ^{M1}Finance Act 1972, (marginal relief for small companies) shall be one fortieth.

Marginal Citations

M1 1972 c. 41.

F228

Textual Amendments

F2 S. 28 repealed (6.8.1999 with effect as mentioned in Sch. 29 Pt. VIII(21) notes 4, 5 of the amending Act) by [1995 c. 4](#), s. 162, [Sch. 20 Pt. VIII\(21\)](#); S.I. 1999/2156, [art. 2\(b\)](#)

29 Life assurance premium relief.

- (1) In sections 266(5)(a) and 274(3)(a) of the Taxes Act 1988, and in paragraph 3(3)(a) of Schedule 14 to that Act, (rate of relief on premiums on life policies etc.) for the words “15 per cent.” wherever they occur there shall be substituted the words “ 12.5 per cent. ”.
- (2) This section shall have effect on and after 6th April 1989.

F330

Textual Amendments

F3 S. 30 repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by [1999 c. 16](#), s. 139, [Sch. 20 Pt. III\(4\)](#), note

Status: Point in time view as at 06/04/2008.

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31 Non-residents' personal reliefs.

(1) For the year 1990-91 and subsequent years of assessment section 278 of the Taxes Act 1988 (which with certain exceptions denies relief under Chapter I of Part VII to non-residents) shall have effect with the following amendments.

^{F4}(2)

(3) After subsection (2) there shall be inserted—

“(2A) Notwithstanding subsection (2) above, no relief shall be given under section 257D in a case where the husband is not resident in the United Kingdom.”

(4) Subsections (3) to (7) shall be omitted.

Textual Amendments

F4 S. 31(2) omitted (5.12.2005) by virtue of [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **60(2)**

Married couples

32 Abolition of aggregation of income.

Section 279 of the Taxes Act 1988 (which treats the income of a woman living with her husband as his income for income tax purposes) shall not have effect for the year 1990-91 or any subsequent year of assessment.

33 Personal allowance and married couple's allowance.

The Taxes Act 1988 shall have effect for the year 1990-91 and subsequent years of assessment with the substitution of the following sections for section 257—

“257 Personal allowance.

- (1) The claimant shall be entitled to a deduction from his total income of £2,605.
- (2) If the claimant proves that he is at any time within the year of assessment of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £3,180 (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that he is at any time within the year of assessment of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £3,310 (instead of the deduction provided for by subsection (1) or (2) above).
- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by two-thirds of the excess (but not so as to reduce those amounts below that specified in subsection (1) above).

Status: Point in time view as at 06/04/2008.

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257A Married couple's allowance.

- (1) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, he shall be entitled to a deduction from his total income of £1,490.
- (2) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £1,855 (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £1,895 (instead of the deduction provided for by subsection (1) or (2) above).
- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by—
 - (a) two-thirds of the excess, less
 - (b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section,

(but not so as to reduce the amounts so specified below the amount specified in subsection (1) above).
- (6) A man shall not be entitled by virtue of this section to more than one deduction for any year of assessment; and in relation to a claim by a man who becomes married in the year of assessment and has not previously in the year been entitled to relief under this section, this section shall have effect as if the amounts specified in subsections (1) to (3) above were reduced by one twelfth for each month of the year ending before the date of the marriage.

In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

257B Transfer of relief under section 257A.

- (1) Where —
 - (a) a man is entitled to relief under section 257A, but
 - (b) the amount which he is entitled to deduct from his total income by virtue of that section exceeds what is left of his total income after all other deductions have been made from it,

his wife shall be entitled to a deduction from her total income of an amount equal to the excess.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (2) In determining for the purposes of subsection (1)(b) above the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
 - (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
 - (b) under section 289.
- (3) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—
 - (a) shall be given not later than six years after the end of the year of assessment to which it relates,
 - (b) shall be in such form as the Board may determine, and
 - (c) shall be irrevocable.

257C Indexation of amounts in sections 257 and 257A.

- (1) If the retail prices index for the month of December preceding a year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, sections 257 and 257A shall apply for that year as if for each amount specified in them as they applied for the previous year (whether by virtue of this section or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index, and—
 - (a) if in the case of an amount specified in sections 257(5) and 257A(5) the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple;
 - (b) if in the case of any other amount the increase is not a multiple of £10, rounding the increase up to the nearest amount which is such a multiple.
- (2) Subsection (1) above shall not require any change to be made in the amounts deductible or repayable under section 203 between the beginning of a year of assessment and 5th May in that year.
- (3) The Treasury shall in each year of assessment make an order specifying the amounts which by virtue of subsection (1) above will be treated as specified for the following year of assessment in sections 257 and 257A.
- (4) This section shall have effect in relation to reliefs for the year 1990-91 (as well as for later years); and for that purpose it shall be assumed that sections 257 and 257A applied for the year 1989-90 as they apply, apart from this section, for the year 1990-91.

257D Transitional relief: husband with excess allowances.

- (1) Where—
 - (a) a husband and wife are living together for the whole or any part of the year 1990-91 and section 279 (but not section 287) applied in relation to them for the whole or any part of the year 1989-90, and
 - (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter exceed the aggregate mentioned in subsection (2) below,

Status: Point in time view as at 06/04/2008.

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the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.

- (2) The aggregate referred to in subsection (1) above is the aggregate of—
- (a) the husband's total income for the year 1990-91, and
 - (b) the deductions which the wife is entitled to make from her total income for that year under this Chapter (apart from this section).
- (3) Where—
- (a) a husband and wife are living together for the whole or any part of the year 1990-91 and for part of the year 1989-90 but section 279 did not apply in relation to them for any part of the year 1989-90, and
 - (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter, apart from section 257(6), exceed his total income for the year 1990-91,
- then, subject to subsection (4) below, the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.
- (4) If the deductions which the wife is entitled to make from her total income for the year 1990-91 under this Chapter (apart from this section) exceed the lesser of—
- (a) her total income for the year 1989-90, and
 - (b) the deductions which she was entitled to make from her total income for that year under this Chapter, apart from section 259, section 262 and section 280,
- the deduction provided for by subsection (3) above shall be reduced by an amount equal to the excess.
- (5) Where—
- (a) a husband and wife are living together for the whole or any part of the year 1991-92 or any subsequent year of assessment ("the year in question"), and
 - (b) they were also living together throughout the immediately preceding year of assessment and the wife made a deduction from her total income for that year under this section, and
 - (c) the deductions which the wife is entitled to make from her total income under this Chapter (apart from this section) are either no greater for the year in question than for the immediately preceding year, or greater by a margin which does not exceed the deduction referred to in paragraph (b) above, and
 - (d) the deductions which the husband is entitled to make from his total income for the year in question under this Chapter, apart from section 257A and section 265, exceed his total income for that year,
- the wife shall be entitled to a deduction from her total income for that year.
- (6) The amount of that deduction shall be equal to—
- (a) the deduction referred to in subsection (5)(b) above, reduced where applicable by an amount equal to the margin referred to in subsection (5)(c), or
 - (b) the excess referred to in subsection (5)(d),
- whichever is less.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (7) In determining for the purposes of subsection (5)(b) above whether the wife made a deduction from her total income for the immediately preceding year of assessment under this section, and the amount of any such deduction, it shall be assumed that a deduction under this section is made after all other deductions (except any deduction under section 289).
- (8) In determining for the purposes of this section a person's total income for a year of assessment there shall be disregarded any deduction made—
- (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
 - (b) under this Chapter or under section 289;
- and in determining for the purposes of subsection (1)(b) above the deductions which a man was entitled to make under this Chapter for the year 1989-90, any application under section 283 shall be disregarded.
- (9) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—
- (a) shall be given not later than six years after the end of the year of assessment to which it relates,
 - (b) shall be in such form as the Board may determine, and
 - (c) shall be irrevocable.
- (10) A notice given under subsection (9) above in relation to a year of assessment shall have effect also as a notice under section 257B(3) (and, where it is relevant, under section 265(5)).

257E Transitional relief: the elderly.

- (1) This section shall apply in relation to a claimant for any year of assessment for the whole or any part of which he has his wife living with him if he proves—
- (a) that for the year 1989-90 he was entitled to relief by virtue of section 257(2)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 65 throughout that year), or
 - (b) that for the year 1989-90 he was entitled to relief by virtue of section 257(3)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 80 throughout that year),
- and, in either case, that the amount of that relief exceeded the aggregate amount of any relief to which he would be entitled for the year 1990-91 under sections 257 and 257A (apart from this section).
- (2) Where this section applies, section 257 shall have effect—
- (a) in a case within subsection (1)(a) above, as if for the amount specified in subsection (1) of that section there were substituted £3,180, and
 - (b) in a case within subsection (1)(b) above, as if for the amounts specified in subsections (1) and (2) of that section there were substituted £3,310.
- (3) Section 257(5) shall have effect in relation to section 257(1) as modified by this section as it has effect in relation to section 257(2) and (3); and in all cases

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

the reference in section 257(5) to the amount specified in section 257(1) is a reference to the amount specified apart from this section.

- (4) The references in section 257C to the amounts specified in section 257 are references to the amounts specified apart from this section.
- (5) In determining for the purposes of this section the amount of any reliefs to which a person was entitled for the year 1989-90, any application under section 283 shall be disregarded.

257F Transitional relief: separated couples.

If the claimant proves—

- (a) that he and his wife ceased to live together before 6th April 1990 but that ever since they ceased to live together they have continued to be married to one another and she has been wholly maintained by him, and
- (b) that he is not entitled to make any deduction in respect of the sums paid for her maintenance in computing for income tax purposes the amount of his income for the year to which the claim relates, and
- (c) that he was entitled to a deduction for the year 1989-90 by virtue of section 257(1)(a) of this Act (as it had effect for that year) and, if the claim relates to a year later than 1990-91, that he has been entitled by virtue of this section to a deduction under section 257A for each intervening year,

sections 257A and 257E (but not section 257B or section 257D) shall have effect for the year to which the claim relates as if his wife were living with him.”

F534 Jointly held property.

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Textual Amendments

F5 S. 34 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

35 Minor and consequential provisions.

Schedule 3 to this Act (which makes provision consequential on sections 32 and 33 above and other minor amendments relating to the treatment for income tax purposes of husbands, wives, widowers and widows) shall have effect.

Annual payments

36 Annual payments.

- F6(1)
- F7(2)
- F7(3)
- F7(4)

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

^{F7}(5)

^{F7}(5A)

^{F7}(6)

Textual Amendments

F6 S. 36(1) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 27 Pt. 2(3)**

F7 S. 36(2)-(6) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

Modifications etc. (not altering text)

C1 S. 36(3) excluded (27.7.1999 with effect in relation to any payment falling due on or after 6.4.2000) by [1999 c. 16](#), **s. 36(7)(8)**

^{F8}**37** **Maintenance payments under existing obligations:**

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Textual Amendments

F8 S. 37 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

^{F9}**38** **Maintenance payments under existing obligations:**

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Textual Amendments

F9 S. 38 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

^{F10}**39**

Textual Amendments

F10 S. 39 repealed (27.7.1999 with effect in relation to any payment falling due on or after 6.4.2000) by [1999 c. 16](#), s. 139, **Sch. 20 Pt. III(6)**, note

^{F11}**40** **Provisions supplementary to sections 37 to 39.**

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Textual Amendments

F11 S. 40 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

Status: Point in time view as at 06/04/2008.

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Relief for interest

41 Qualifying maximum for loans.

For the year 1988-89 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.

F12 42

Textual Amendments

F12 S. 42 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7) note 4 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

F13 43

Textual Amendments

F13 S. 43 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7) note 4 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

F14 44

Textual Amendments

F14 S. 44 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7) note 4 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**

Benefits in kind

45 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

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Table A

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

| <i>Cylinder capacity of car in cubic centimetres</i> | <i>Age of car at end of relevant year of assessment</i> | |
|--|---|-----------------|
| | Under 4 years | 4 years or more |
| 1400 or less | £1,050 | £700 |
| More than 1400 but not more than 2000 | £1,400 | £940 |
| More than 2000 | £2,200 | £1,450 |

Table B

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

| <i>Original market value of car</i> | <i>Age of car at end of relevant year of assessment</i> | |
|--|---|-----------------|
| | Under 4 years | 4 years or more |
| Less than £6,000 | £1,050 | £700 |
| £6,000 or more but less than £8,500 | £1,400 | £940 |
| £8,500 or more but not more than £19,250 | £2,200 | £1,450 |

Table C

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

| <i>Original market value of car</i> | <i>Age of car at end of relevant year of assessment</i> | |
|---|---|---------------------|
| | Under 4 years | 4 years or more |
| More than £19,250 but not more than £29,000 | £2,900 | £1,940 |
| More than £29,000 | £4,600 | £3,060 ² |

(2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

^{F15} 46 Car parking facilities.

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Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F15 S. 46 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](#))

47 Entertainment: non-cash vouchers.

^{F16}(1)

- (2) In subsection (1) of section 36 of the ^{M2}Finance (No. 2) Act 1975 (vouchers other than cash vouchers), for the words “Subject to subsection (2) below” there shall be substituted the words “ Subject to the provisions of this section ”.
- (3) The provision set out in subsection (1) above shall be inserted after subsection (3A) of that section as subsection (3B) with the substitution—
- (a) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970; and
 - (b) for any reference to a non-cash voucher of a reference to a voucher.
- (4) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendments made by subsections (2) and (3) above shall have effect for the year 1987-88.

Textual Amendments

F16 S. 47(1) 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](#))

Marginal Citations

M2 1975 c. 45.

48 Entertainment: credit-tokens.

^{F17}(1)

- (2) The provision set out in subsection (1) above shall be inserted after subsection (3) of section 36A of the ^{M3}Finance (No. 2) Act 1975 (credit-tokens) as subsection (3A) with the substitution for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.
- (3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

Textual Amendments

F17 S. 48(1) 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](#))

Marginal Citations

M3 1975 c. 45.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

49 Entertainment of directors and higher-paid employees.

^{F18}(1)

(2) The provision set out in subsection (1) above shall be added at the end of section 62 of the ^{M4}Finance Act 1976 as subsection (9) with the substitution—

- (a) for the reference to section 154 of the Taxes Act 1988 of a reference to section 61 of the 1976 Act; and
- (b) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.

(3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

Textual Amendments

F18 S. 49(1) 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](#))

Marginal Citations

M4 1976 c. 40.

Business expansion scheme

^{F19}50

Textual Amendments

F19 S. 50 repealed (3.5.1994 with effect on 1.1.1994 as mentioned in Sch. 26 Pt. V(17) of the repealing Act) by [1994 c. 9](#), s. 258, [Sch. 26 Pt. V\(17\)](#), note

51 Restriction of relief.

(1) The Taxes Act 1988 shall have effect, and be deemed always to have had effect, with the following amendments, namely—

- (a) in section 289(12)(b), the substitution of the words “sections 290A, 293” for the words “ sections 293 ”; and
- (b) the insertion after section 290 of the following section—

“290A Restriction of relief where amounts raised exceed permitted maximum.

(1) Where—

- (a) a company raises any amount through the issue of eligible shares after 15th March 1988; and
- (b) the aggregate of that amount and of all other amounts (if any) so raised within the period mentioned in subsection (2) below exceeds £500,000,

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

the relief shall not be given in respect of the excess.

- (2) The period referred to in subsection (1) above is—
- (a) the period of 6 months ending with the date of the issue of the shares; or
 - (b) the period beginning with the preceding 6th April and ending with the date of that issue,
- whichever is the longer.
- (3) In determining the aggregate mentioned in subsection (1) above, no account shall be taken of any amount—
- (a) which is subscribed by a person other than an individual who qualifies for relief; or
 - (b) as respects which relief is precluded by section 290 or this section.
- (4) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
 - (b) that other person, or at least one of those other persons, is a company,

the reference to £500,000 in subsection (1) above shall have effect as if it were a reference to—

$$\frac{\pounds 500,000}{1+A,}$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which, during the relevant period, are members of any such partnership or parties to any such joint venture.

- (5) Where this section precludes the giving of relief on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from this section, be eligible for relief.
- (6) Where—
- (a) in the case of a company falling within subsection (2)(a) of section 293, the qualifying trade or each of the qualifying trades is a trade to which subsection (7) below applies;
 - (b) in the case of a company falling within subsection (2)(b)(i) of that section, the subsidiary or each of the subsidiaries is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades which or each of which is a trade to which subsection (7) below applies; or

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (c) in the case of a company falling within subsection (2)(b)(ii) of that section, the requirements mentioned in each of paragraphs (a) and (b) above are satisfied, subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £5 million.
- (7) This subsection applies to a trade if it consists, wholly or substantially wholly, of operating or letting ships, other than oil rigs or pleasure craft, and—
- (a) every ship operated or let by the company carrying on the trade is beneficially owned by the company;
 - (b) every ship beneficially owned by the company is registered in the United Kingdom;
 - (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
 - (d) the conditions mentioned in section 297(7) are satisfied in relation to every letting by the company.
- (8) Where—
- (a) any of the requirements mentioned in paragraphs (a) to (c) of subsection (7) above are not satisfied in relation to any ships; or
 - (b) any of the conditions referred to in paragraph (d) of that subsection are not satisfied in relation to any lettings,
- the trade shall not thereby be precluded from being a trade to which that subsection applies if the operation or letting of those ships, or, as the case may be, those lettings do not amount to a substantial part of the trade.
- (9) The Treasury may by order amend any of the foregoing provisions of this section by substituting a different amount for the amount for the time being specified there.
- (10) Where—
- (a) the issue of the eligible shares is made in pursuance of a prospectus published, or an offer in writing made, before 15th March 1988;
 - (b) the shares are issued after that date and before 6th April 1988; and
 - (c) subsection (6) above does not apply,
- subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £1 million.
- (11) In this section—
- “let” means let on charter and “letting” shall be construed accordingly;
- “oil rig” and “pleasure craft” have the same meanings as in section 297;
- “prospectus” has the meaning given by section 744 of the Companies Act 1985 or Article 2(3) of the Companies (Northern Ireland) Order 1986.”

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (2) Schedule 5 to the ^{M5}Finance Act 1983 shall be deemed always to have had effect as if—
 - (a) in paragraph 2(7), for the words “paragraphs 5” there had been substituted the words “ paragraphs 3A, 5 ”; and
 - (b) the provisions set out in subsection (1)(b) above had been inserted, with any necessary modifications, after paragraph 3 as paragraph 3A.

Marginal Citations

M5 1983 c. 28.

52 Valuation of interests in land.

- (1) In section 294 of the Taxes Act 1988 (companies with interests in land), after subsection (5) there shall be inserted—

“(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it.”

- (2) This section shall have effect in relation to valuations which fall to be made after the passing of this Act.

^{F20}**53 Approved investment funds.**

.....

Textual Amendments

F20 S. 53 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

Pensions etc.

^{F21}**54 Personal pension schemes: commencement.**

.....

Textual Amendments

F21 Ss. 54-56 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

^{F21}**55 Personal pension schemes: other amendments.**

.....

Textual Amendments

F21 Ss. 54-56 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

F21 56 Occupational pension schemes.

.....

Textual Amendments

F21 Ss. 54-56 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

F22 57 Lump sum benefits paid otherwise than on retirement.

.....

Textual Amendments

F22 S. 57 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)

Underwriters

58 Assessment and collection.

(1) For subsection (2) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—

“(2) The aggregate for any year of assessment of—

- (a) the profits or gains arising to a member from his underwriting business; and
- (b) the profits or gains arising to him from assets forming part of a premiums trust fund,

shall be chargeable to tax under Case I of Schedule D; but nothing in this subsection shall affect the manner in which the amount of those profits or gains is to be computed.

(2A) Schedule 19A shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with this section.”

(2) Section 39 of the ^{M6}Finance Act 1973 shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—

“(2) Schedule 16A to this Act shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with Schedule 16 to this Act.”

(3) In Schedule 16 to that Act (underwriters)—

- (a) the subsection (2) set out in subsection (1) above shall be inserted after paragraph 2 as paragraph 2A; and
- (b) paragraph 16 (assessment on agent) shall cease to have effect.

(4) The provisions set out in Schedule 5 to this Act shall be inserted—

- (a) after Schedule 19 to the Taxes Act 1988 as Schedule 19A; and
- (b) after Schedule 16 to the Finance Act 1973 as Schedule 16A.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (5) Subsections (1) and (4)(a) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2), (3) and (4)(b) above shall have effect for the years 1986-87 and 1987-88.

Marginal Citations

M6 1973 c. 51.

59 Reinsurance: general.

- (1) In subsection (4) of section 450 of the Taxes Act 1988 (underwriters), for paragraph (b) there shall be substituted—
- “(b) any insurance money payable to him under that insurance in respect of a loss shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment which corresponds to the underwriting year in which the loss arose;”
- (2) The amendment set out in subsection (1) above shall also be made in paragraph 4 of Schedule 16 to the Finance Act 1973 (underwriters).
- (3) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsection (2) above shall have effect for the years 1985-86, 1986-87 and 1987-88.

60 Reinsurance to close.

- (1) For subsection (5) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—
- “(5) Subsection (5A) below applies where—
- (a) in accordance with the rules or practice of Lloyd’s and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter’s business for an underwriting year so that the accounts of the business for that year may be closed; and
- (b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium (“the reinsured syndicate”) but also of the syndicate as a member of which the other member is entitled to receive it (“the reinsurer syndicate”).
- (5A) In any case where this subsection applies—
- (a) in computing for the purposes of income tax the profits or gains of the continuing member’s business as a member of the reinsured syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and
- (b) in computing for those purposes the profits or gains of his business as a member of the reinsurer syndicate, those profits or gains shall be reduced by an amount equal to any part of a premium which, by

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

virtue of paragraph (a) above, is not deductible as an expense of his as a member of the reinsured syndicate;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.”

- (2) The provisions set out in subsection (1) above, but renumbered as subsections (1) and (2) and with the substitution, in the provision renumbered as subsection (1), of the words “subsection (2)” for the words “subsection (5A)”, shall also be substituted for subsections (1) to (4) of section 70 of the ^{M7}Finance (No. 2) Act 1987 (underwriters); and in subsection (5) of that section, for the word “underwriter” there shall be substituted the word “member”.
- (3) In this section—
- (a) subsection (1) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1988-89 or any subsequent year of assessment; and
 - (b) subsection (2) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1985-86, 1986-87 or 1987-88.

Marginal Citations

M7 1987 c. 51.

61 Minor and consequential amendments.

- (1) In the Taxes Act 1988—
- ^{F23}(a)
 - (b) in section 451, in subsection (1), for paragraph (a) there shall be substituted—
 - “(a) for the assessment and collection of tax charged in accordance with section 450 (so far as not provided for by Schedule 19A);
 - (aa) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”
 - (c) after that subsection there shall be inserted—

“(1A) Regulations under subsection (1) above may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”; and
 - (d) in section 452(8), for the words “Case I of Schedule D” there shall be substituted the words “in accordance with section 450” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.
- (2) In Schedule 10 to the Taxes Act 1970, in paragraph 7(3), for the words “Case I of Schedule D” there shall be substituted the words “in accordance with Schedule 16 to ^{M8}Finance Act 1973” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (3) In section 87 of the ^{M9}Finance Act 1972, at the beginning of subsection (3) there shall be inserted the words “ Except as provided by Schedule 16 to Finance Act 1973 (underwriters) ”.
- (4) In Schedule 16 to the ^{M10}Finance Act 1973—
 - (a) in sub-paragraph (1) of paragraph 17, for paragraph (a) there shall be substituted—
 - “(a) for the assessment and collection of tax charged in accordance with the preceding provisions of this Schedule (so far as not provided for by Schedule 16A to this Act);
 - (aa) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”
 - (b) after that sub-paragraph, there shall be inserted—
 - “(1A) Regulations under this paragraph may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”
- (5) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2) to (4) above shall have effect for the years 1986-87 and 1987-88.

Textual Amendments

F23 S. 61(1)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

Marginal Citations

M8 1973 c. 51.
M9 1972 c. 41.
M10 1973 c. 51.

Oil licences

^{F24}**62**

Textual Amendments

F24 S. 62 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. 101\(1\), 201\(3\), 290, Sch. 11 paras. 22, 26\(2\), 27](#))

^{F25}**63**

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F25 S. 63 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F26 **64**

Textual Amendments

F26 S. 64 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Miscellaneous

65 Commercial woodlands.

Schedule 6 to this Act (which abolishes the charge to tax under Schedule B and makes other provision with respect to the occupation of commercial woodlands) shall have effect.

66 Company residence.

- (1) Subject to the provisions of Schedule 7 to this Act, a company which is incorporated in the United Kingdom shall be regarded for the purposes of the Taxes Acts as resident there; and accordingly, if a different place of residence is given by any rule of law, that place shall no longer be taken into account for those purposes.
- (2) For the purposes of the Taxes Acts, a company which—
 - (a) is no longer carrying on any business; or
 - (b) is being wound up outside the United Kingdom,shall be regarded as continuing to be resident in the United Kingdom if it was so regarded for those purposes immediately before it ceased to carry on business or, as the case may be, before any of its activities came under the control of a person exercising functions which, in the United Kingdom, would be exercisable by a liquidator.
- (3) In this section “the Taxes Acts” has the same meaning as in the ^{M11}Taxes Management Act 1970.
- (4) This section and Schedule 7 to this Act shall be deemed to have come into force on 15th March 1988.

Modifications etc. (not altering text)

C2 S. 66 excluded (27.7.1999) by [1999 c. 20](#), s. 20, **Sch. 3 para. 3(1)(2)** (with s. 15)

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Marginal Citations

M11 1970 c. 9.

[^{F27}66A [^{F28}Residence of SE or SCE]

[^{F29}(1) This section applies in relation to—

- (a) an SE which transfers its registered office to the United Kingdom (in accordance with Article 8 of Council Regulation (EC) 2157/2001 on the Statute for a European Company (Societas Europaea)), and
- (b) an SCE which transfers its registered office to the United Kingdom (in accordance with Article 7 of Council Regulation (EC) 1435/2003 on the Statute for a European Cooperative Society (SCE)).]

(2) Upon registration in the United Kingdom the SE [^{F30}or SCE] shall be regarded for the purposes of the Taxes Acts as resident in the United Kingdom; and accordingly, if a different place of residence is given by any rule of law, that place shall not be taken into account for those purposes.

(3) The SE [^{F31}or SCE] shall not cease to be regarded as resident in the United Kingdom by reason only of the subsequent transfer from the United Kingdom of its registered office.

(4) In this section “the Taxes Acts” has the same meaning as in the Taxes Management Act 1970.]

Textual Amendments

- F27** S. 66A inserted (with effect in accordance with s. 60(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 60(1)
- F28** S. 66A heading substituted (with effect in accordance with reg. 3(2) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), Sch. 2 para. 15(4)
- F29** S. 66A(1) substituted (with effect in accordance with reg. 3(2) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), Sch. 2 para. 15(2)
- F30** Words in s. 66A(2) inserted (with effect in accordance with reg. 3(2) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), Sch. 2 para. 15(3)
- F31** Words in s. 66A(3) inserted (with effect in accordance with reg. 3(2) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), Sch. 2 para. 15(3)

^{F32}67

Textual Amendments

- F32** S. 67 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(11) of the repealing Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(11) note

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

F³³68 Priority share allocations for employees etc.

.....

Textual Amendments

F33 S. 68 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](#))

F³⁴69 Share options: loans.

.....

Textual Amendments

F34 S. 69 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](#))

70 Charities: payroll deduction scheme.

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £120 the deductions attracting relief) for “£120” there shall be substituted “£240”.
- (2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

F³⁵71 Unit trusts: relief on certain payments.

.....

Textual Amendments

F35 S. 71 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

72 Entertainment of overseas customers.

- (1) Subsection (2) of section 577 of the Taxes Act 1988 (which excepts the entertainment of overseas customers from the general rule that entertainment expenses are not deductible for tax purposes) shall not have effect in relation to entertainment provided on or after 15th March 1988.
- (2) Subsection (1) above shall not apply where the expenses incurred or the assets used in providing the entertainment were incurred or used under a contract entered into before 15th March 1988.

73 Consideration for certain restrictive undertakings.

F³⁶(1)

- (2) Notwithstanding anything in section 74 of the Taxes Act 1988, [^{F37}any payment which is treated as earnings of an employee by virtue of section 225 of the Income Tax (Earnings and Pensions) Act 2003 (payments for restrictive undertakings)] , and

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

which is paid or treated as paid by a [^{F38}company] carrying on a trade, profession or vocation, may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of [^{F39}corporation tax] .

[^{F40}(3) Any payment which is treated as earnings of an employee by virtue of section 225 of the Income Tax (Earnings and Pensions) Act 2003—

- (a) if paid or treated as paid by company with investment business, shall be treated for the purposes of section 75 of the Taxes Act 1988 as an expense of management to the extent that it otherwise would not be;
- (b) if paid or treated as paid by a company in relation to which section 76 of that Act applies, shall be treated as expenses payable falling to be brought into account at Step 1 in subsection (7) of that section to the extent that it otherwise would not be.]

(4) This section has effect in relation to sums paid or treated as paid in respect of the giving of, or the total or partial fulfilment of, undertakings given on or after 9th June 1988.

Textual Amendments

- F36** S. 73(1) 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](#))
- F37** Words in s. 73(2) 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. 155\(2\)](#) (with [Sch. 7](#))
- F38** Word in s. 73(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 402\(a\)](#) (with [Sch. 2](#))
- F39** Words in s. 73(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 402\(b\)](#) (with [Sch. 2](#))
- F40** S. 73(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 41\(2\)](#)

Modifications etc. (not altering text)

- C3** s. 73(2) applied (31.7.1998 with effect as mentioned in s. 38 of [1998 c. 36](#)) by [1988 c. 1, s. 21A](#) (as substituted by [1998 c. 36, s. 138\(1\), Sch. 5 Pt. I paras. 4, 73, 76](#))
- C4** S. 73(2) modified (31.7.1998) by [1998 c. 36, s. 46\(3\), Sch. 7 para. 2](#)

^{F41}74

Textual Amendments

- F41** S. 74 repealed (31.7.1998 with effect on 6.4.1998 as mentioned in s. 58(4) of the repealing Act) by [1998 c. 36, s. 165, Sch. 27 Pt. III\(9\)](#) note

75 Premiums for leases etc.

Sections 39(3) and 780(5) of, and Schedule 2 to, the Taxes Act 1988 (top-slicing relief where premiums for leases etc. chargeable to income tax) shall not have effect for the year 1988-89 or any subsequent year of assessment.

Status: Point in time view as at 06/04/2008.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1988, Part III. (See end of Document for details)*

F42⁷⁶

Textual Amendments

F42 S. 76 repealed (29.4.1996 with effect as mentioned in Sch. 41 Pt. V(2) of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(2)** notes, Pt. V(19)

CHAPTER II

UNAPPROVED EMPLOYEE SHARE SCHEMES

Modifications etc. (not altering text)

C5 Pt. III Ch. II (ss. 77-89) applied (6.3.1992 with effect as mentioned in s. 289 of the applying Act) by **Taxation of Chargeable Gains Act 1992 (c. 12), ss. 120(1), 289**, (with ss. 60, 101(1), 171, 201(3))

Preliminary

F43⁷⁷ **Scope of Chapter.**

Textual Amendments

F43 Ss. 77-88 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)

Charges to tax

F43⁷⁸ **Charge where restrictions removed etc.**

Textual Amendments

F43 Ss. 77-88 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)

F43⁷⁹ **Charge for shares in dependent subsidiaries.**

Textual Amendments

F43 Ss. 77-88 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)

Status: Point in time view as at 06/04/2008.

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 1988, Part III. (See end of Document for details)*

F4380 Charge on special benefits.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

Miscellaneous

F4381 Changes in interest.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

F4382 Company reorganisations etc.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

F4383 Connected persons etc.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

F4384 Capital gains tax.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

F⁴³85 Information.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

Supplementary

F⁴³86 Meaning of “dependent subsidiary”.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

F⁴³87 Other interpretation provisions.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

F⁴³88 Transitional provisions.

.....

Textual Amendments

F43 Ss. 77-88 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](#))

89 Consequential amendments.

In relation to acquisitions of shares or interests in shares on or after 26th October 1987—

- (a) for the words from “section 138(1)(a)” to “value of the shares” in ^{F44}... section 186(2)(b) (approved profit sharing schemes) of the Taxes Act 1988, and

^{F45}(b)

there shall be substituted the words “ section 78 or 79 of the Finance Act 1988 in respect of the shares ”.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

- F44** Words in s. 89(a) 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)
- F45** S. 89(b) 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)

CHAPTER III

CAPITAL ALLOWANCES

F46⁹⁰

Textual Amendments

- F46** S. 90 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(4\)\(5\), Sch. 2.](#)

F47⁹¹

Textual Amendments

- F47** S. 91 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(4\)\(5\), Sch. 2.](#)

F48⁹²

Textual Amendments

- F48** S. 92 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(4\)\(5\), Sch. 2.](#)

F49⁹³

Textual Amendments

- F49** S. 93 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(4\)\(5\), Sch. 2.](#)

F50⁹⁴

Textual Amendments

- F50** S. 94 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(4\)\(5\), Sch. 2.](#)

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

F5195

Textual Amendments

F51 S. 95 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

CHAPTER IV

CAPITAL GAINS

Re-basing to 1982

F5296

Textual Amendments

F52 S. 96 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F5397

Textual Amendments

F53 S. 97 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Unification of rates of tax on income and capital gains

F5498

Textual Amendments

F54 S. 98 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F5599

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F55 S. 99 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

^{F56} **100**

Textual Amendments

F56 S. 100 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

^{F57} **101**

Textual Amendments

F57 S. 101 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

^{F58} **102**

Textual Amendments

F58 S. 102 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

^{F59} **103**

Textual Amendments

F59 S. 103 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Married couples

^{F60} **104**

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F60 S. 104 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Company migration

105 Deemed disposal of assets on company ceasing to be resident in U.K.

- F61(1)
- F61(2)
- F61(3)
- F61(4)
- F61(5)

(6) In section 765 of the Taxes Act 1988 and section 482 of the Taxes Act 1970, in subsection (1), paragraphs (a) and (b) shall cease to have effect and in paragraph (c) for the words “so resident” there shall be substituted the words “resident in the United Kingdom”; but nothing in this subsection shall affect the operation of either section in relation to—

- (a) an application for a Treasury consent made before the date of the coming into force of this section; or
- (b) such a consent granted on an application so made.

(7) This section and sections 106 and 107 below shall be deemed to have come into force on 15th March 1988.

Textual Amendments

F61 S. 105(1)-(5) repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F62**106**

Textual Amendments

F62 S. 106 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F63**107**

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

F63 S. 107 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

Miscellaneous

F64 **108**

Textual Amendments

F64 S. 108 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F65 **109**

Textual Amendments

F65 S. 109 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F66 **110**

Textual Amendments

F66 S. 110 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F67 **111**

Textual Amendments

F67 S. 111 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

F68 **112**

Status: Point in time view as at 06/04/2008.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1988, Part III. (See end of Document for details)*

Textual Amendments

F68 S. 112 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 101(1), 101(1), 201(3), 290, [Sch. 11](#) paras. 22, 26(2), 27)

F69 **113**

Textual Amendments

F69 S. 113 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 101(1), 201(3), 290, [Sch. 11](#) paras. 22, 26(2), 27)

F70 **114**

Textual Amendments

F70 S. 114 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 101(1), 201(3), 290, [Sch. 11](#) paras. 22, 26(2), 27)

F71 **115**

Textual Amendments

F71 S. 115 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 101(1), 201(3), 290, [Sch. 11](#) paras. 22, 26(2), 27)

F72 **116**

Textual Amendments

F72 S. 116 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch.12](#) (with ss. 101(1), 201(3), 290, [Sch. 11](#) paras. 22, 26(2), 27)

117 Definition of “investment trust”.

- (1) In section 842 of the Taxes Act 1988 (definition of “investment trust”)—
- (a) before paragraph (a) of subsection (1) there shall be inserted—
 - “(aa) that the company is resident in the United Kingdom; and”

Status: Point in time view as at 06/04/2008.

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 1988, Part III. (See end of Document for details)*

- (b) for paragraph (c) of that subsection there shall be substituted—
- “(c) that the shares making up the company’s ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on the Stock Exchange; and”;
- and
- (c) after that subsection there shall be inserted—
- “(1A) For the purposes of paragraph (b) of subsection (1) above and the other provisions of this section having effect in relation to that paragraph—
- (a) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company; and
- (b) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money;
- and for the purposes of this subsection “group” means a company and all companies which are its 51 per cent. subsidiaries.”
- (2) The repeal by the ^{M12}Finance (No. 2) Act 1987 of section 93 of the ^{M13}Finance Act 1972 shall be treated as not having extended to subsection (6) of that section (amendment of definition of “investment trust” in section 359 of the Taxes Act 1970).
- (3) [^{F73}For section 266(4) of the M3Companies Act 1985 there shall be substituted—
- “(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of subsection (2)(b) above as for those of subsection (1)(b) of that section.”; and for Article 274(4) of the M4Companies (Northern Ireland) Order 1986 there shall be substituted—
- (4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of paragraph (2)(b) as for those of subsection (1)(b) of that section.”]
- (4) Subsections (1) [^{F74}and (3)] above shall have effect for companies’ accounting periods ending after 5th April 1988 and subsection (2) above shall have effect for companies’ accounting periods ending on or before that date.

Textual Amendments

F73 S. 117(3) repealed (6.4.2008 for specified purposes) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pts. 1, 2](#) (with arts. 712)

F74 Words in s. 117(4) repealed (6.4.2008 for specified purposes) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 712)

Marginal Citations

M12 1987 c. 51.

M13 1972 c. 41.

Status: Point in time view as at 06/04/2008.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1988, Part III. (See end of Document for details)*

F75 **118**

Textual Amendments

F75 S. 118 repealed (6.3.1992 with effect as mentioned in s. 289 of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 101(1), 201(3), 290, Sch. 11 paras. 22, 26(2), 27)

CHAPTER V

MANAGEMENT

Assessment

119 Current year assessments.

(1) Section 29 of the ^{M14}Taxes Management Act 1970 (assessment procedure) shall have effect subject to the following amendments.

(2) In subsection (1), after paragraph (b) there shall be added—

“(c) where income tax is charged for a year of assessment in respect of income arising in that year, the inspector may make an assessment during that year to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other.”

(3) After subsection (1) there shall be inserted—

“(1A) Where an assessment is made by virtue of subsection (1)(c) above, any necessary adjustments shall be made after the end of the year (whether by way of assessment, repayment of tax or otherwise) to secure that tax is charged in respect of income actually arising in the year.”

Marginal Citations

M14 1970 c. 9.

Returns of income and gains

120 Notice of liability to income tax.

(1) For section 7 of the Taxes Management Act 1970 there shall be substituted—

“7 Notice of liability to income tax.

(1) Every person who is chargeable to income tax for any year of assessment and has neither—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (a) delivered a return of his profits or gains or his total income for that year, nor
 - (b) received a notice under section 8 of this Act requiring such a return, shall, subject to subsections (2) to (5) below, within twelve months from the end of that year, give notice to the inspector that he is so chargeable, specifying each separate source of income.
- (2) A source of income is excluded for the purposes of subsection (1) above in relation to any year of assessment if—
- (a) all payments of, or on account of, income from it during that year, and
 - (b) all income from it for that year which does not consist of payments, have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (3) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year has been assessed or has been taken into account—
- (a) in determining that person's liability to tax, or
 - (b) in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year is—
- (a) income from which income tax has been deducted;
 - (b) income from or on which income tax is treated as having been deducted or paid (not being income consisting of a payment to which section 559 of the principal Act applies); or
 - (c) income chargeable under Schedule F,
- and that person is not for that year liable to tax at a rate other than basic rate.
- (5) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if and to the extent that his total income for that year consists of income from sources—
- (a) which are excluded under subsections (2) to (4) above, or
 - (b) in respect of income from which he could not become liable to tax under assessments made more than twelve months after the end of that year.
- (6) If any person, for any year of assessment, fails to comply with subsection (1) above as respects any source of income, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of income from that source for that year, under assessments made more than twelve months after the end of that year.
- (7) In the case of a partner, the reference in subsection (6) above to the tax for which he is liable in respect of income from any source does not include a reference to tax assessable in the name of the partnership on so much of the income from that source as falls to be included in the total income of any other person.”
- (2) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

F76 **121**

Textual Amendments

F76 S. 121 repealed (31.7.1998 with effect as mentioned in s. 117 of the repealing Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28), note

122 Notice of liability to capital gains tax.

(1) Immediately before section 12 of the ^{M15}Taxes Management Act 1970 there shall be inserted—

“11A Notice of liability to capital gains tax.

(1) Every person who is chargeable to capital gains tax for any year of assessment and has neither—

- (a) delivered a return of his chargeable gains for that year, nor
- (b) received a notice under section 8 of this Act requiring such a return,

shall, within twelve months from the end of that year, give notice to the inspector that he is so chargeable; but a person all of whose chargeable gains for a year of assessment have been assessed shall not be required to give notice under this subsection in respect of that year.

(2) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of his chargeable gains for that year, under assessments made more than twelve months after the end of that year.

(3) In this section references to a person’s chargeable gains for a year of assessment include, if section 45(1) of the Capital Gains Tax Act 1979 applies in relation to him and his wife in that year, her chargeable gains for that year.”

(2) For subsection (1) of section 12 of that Act (information about chargeable gains) there shall be substituted—

“(1) Section 8 of this Act shall apply in relation to capital gains tax as it applies in relation to income tax, and subject to any necessary modifications.”

(3) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

Marginal Citations

M15 1970 c. 9.

Other returns and information

123 Three year time limit.

(1) At the end of section 13 of the ^{M16}Taxes Management Act 1970 (returns by persons in receipt of taxable income belonging to others) there shall be added—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- “(3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice.”
- (2) In section 17(1) of that Act (interest paid or credited by banks etc. without deduction of income tax) after the words “during a year” there shall be inserted the words “ of assessment ”.
- (3) In section 18 of that Act (particulars of interest paid without deduction of income tax) after subsection (3) there shall be inserted—
- “(3A) A notice under this section shall not require information with respect to interest paid in a year of assessment ending more than three years before the date of the giving of the notice.”
- (4) At the end of section 19 of that Act (information for the purposes of Schedule A etc.) there shall be added—
- “(4) A notice under this section shall not require information with respect to—
- (a) the terms applying to the lease, occupation or use of the land, or
 - (b) consideration given, or
 - (c) payments arising,
- in a year of assessment ending more than three years before the date of the giving of the notice.”
- (5) This section has effect with respect to notices given after the passing of this Act.

Marginal Citations

M16 1970 c. 9.

124 Returns of fees, commissions etc.

- (1) At the end of section 16 of the Taxes Management Act 1970 (fees, commissions etc.) there shall be added—
- “(8) In subsection (2) above references to a body of persons include references to any department of the Crown, any public or local authority and any other public body.”
- (2) This section has effect with respect to payments made in the year 1988-89 or any subsequent year of assessment.

125 Other payments and licences etc.

After section 18 of the Taxes Management Act 1970 there shall be inserted—

“**18A Other payments and licences etc.**

- (1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and
 - (b) the amount of the payment so made or received,
- and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.
- (2) Any person by whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
 - (a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and
 - (b) particulars of the licence or entry.
 - (3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.
 - (4) A notice is not to be given under this section unless (in the inspector's reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.
 - (5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist—
 - (a) before 6th April 1988; or
 - (b) in a year of assessment ending more than three years before the date of the giving of the notice.
 - (6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public or local authority whether in the United Kingdom or elsewhere or by any Community institution.”

Production of accounts, books etc.

126 Production of documents relating to a person's tax liability.

^{F77}(1)

(2) In subsection (7) of that section, for the words “this section”, in the first place where they occur, there shall be substituted the words “ subsection (1) or (3) above ”.

(3) After subsection (8) of that section there shall be inserted—

“(8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;
 - (b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;
 - (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
 - (d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.
- (8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice.”
- (4) In section 20B of that Act—
- (a) in subsection (1), for the words “section 20(1) or (3)” there shall be substituted the words “ section 20(1), (3) or (8A) ” and for the words “section 20(7)” there shall be substituted the words “ section 20(7) or (8A) ”; and
 - (b) in subsections (2), (4), (8) ^{F78} . . . , after the words “section 20(3)”, in each place where they occur, there shall be inserted the words “ or (8A) ”.
- (5) In consequence of the amendment made by subsection (1) above, at the end of section 12(3) of the ^{M17}National Savings Bank Act 1971 (provisions which override prohibition on disclosure of information) there shall be added the words “ and of section 20(4)(b) of that Act (persons who may be required to produce documents relating to liability of taxpayer arising from business) ”.
- (6) The amendments made by this section have effect with respect to notices given after the passing of this Act.

Textual Amendments

F77 S. 126(1) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by [Finance Act 1989 \(c. 26, SIF 63:1\)](#), s. 187(1), [Sch. 17 Pt. VIII](#) Note 2.

F78 Words in s. 126(4)(b) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by [Finance Act 1989 \(c. 26, SIF 63:1\)](#), s. 187(1), [Sch. 17 Pt. VIII](#) Note 2.

Marginal Citations

M17 1971 c. 29.

127 Production of computer records etc.

- (1) Any provision made by or under the Taxes Acts which requires a person—
- (a) to produce, furnish or deliver any document or cause any document to be produced, furnished or delivered; or
 - (b) to permit the Board, or an inspector or other officer of the Board—
 - (i) to inspect any document, or

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (ii) to make or take extracts from or copies of or remove any document, shall have effect as if any reference in that provision to a document [^{F79} were a reference to anything in which information of any description is recorded and any reference to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly].
- (2) In connection with tax, a person authorised by the Board to exercise the powers conferred by this subsection—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies; and
- (b) may require—
- (i) the person by whom or on whose behalf the computer is or has been so used, or
- (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus, or material,
- to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.
- (3) Subsection (2) above applies to any document [^{F80}, within the meaning given by subsection (1) above,] which a person is or may be required by or under any provision of the Taxes Acts—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or
- (b) to permit the Board, or an inspector or other officer of the Board, to inspect, make or take extracts from or copies of or remove.
- (4) Any person who—
- (a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or
- (b) fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,
- shall be liable to a penalty not exceeding £500.
- ^{F81}(5)
- (6) This section shall be construed as if it were contained in the ^{M18}Taxes Management Act 1970.

Textual Amendments

F79 Words in s. 127(1) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 13(2)** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

F80 Words in s. 127(3) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 13(3)** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

F81 S. 127(5) repealed (31.1.1997) by 1995 c. 38, s. 15, Sch. 1 para. 13(4), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

Marginal Citations

M18 1970 c. 9.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Interest and penalties

F82 128 Interest on overdue or overpaid PAYE.

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Textual Amendments

F82 S. 128 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](#))

129 Two or more tax-geared penalties in respect of same tax.

(1) After section 97 of the Taxes Management Act 1970 there shall be inserted—

“97A Two or more tax-geared penalties in respect of same tax.

Where two or more penalties—

- (a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or
- (b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined.”

(2) Section 97A(a) of that Act has effect with respect to the year 1988-89 or any subsequent year of assessment; and section 97A(b) has effect with respect to accounting periods ending after 31st March 1989.

Company migration

130 Provisions for securing payment by company of outstanding tax.

(1) The requirements of subsections (2) and (3) below must be satisfied before a company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.

(2) The requirements of this subsection are satisfied if the company gives to the Board—

- (a) notice of its intention to cease to be resident in the United Kingdom, specifying the time (“the relevant time”) when it intends so to cease;
- (b) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before that time; and
- (c) particulars of the arrangements which it proposes to make for securing the payment of that tax.

(3) The requirements of this subsection are satisfied if—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the relevant time; and
 - (b) those arrangements as so made are approved by the Board for the purposes of this subsection.
- (4) If any question arises as to the amount which should be regarded for the purposes of subsection (3) above as the amount of the tax which is or will be payable by the company in respect of periods beginning before the relevant time, that question shall be referred to the Special Commissioners, whose decision shall be final.
- (5) If any information furnished by the company for the purpose of securing the approval of the Board under subsection (3) above does not fully and accurately disclose all facts and considerations material for the decision of the Board under that subsection, any resulting approval of the Board shall be void.
- (6) In this section “Treasury consent” means a consent under section 765 of the Taxes Act 1988 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section.
- (7) In this section and sections 131 and 132 below any reference to the tax payable by a company includes a reference to—
- (a) any amount of tax which it is liable to pay under regulations made under section [F83 684 of the Income Tax (Earnings and Pensions) Act 2003] (PAYE);
 - (b) any income tax which it is liable to pay in respect of payments [F84 within section 946 of the Income Tax Act 2007 (collection of tax: deposit-takers, building societies and certain companies)] ;
 - (c) any amount representing income tax which it is liable to pay under—
 - F85(i)
 - F85(ii)
 - (iii) section [F86 966 of the Income Tax Act 2007] (entertainers and sportsmen);
 - (d) any amount which it is liable to pay under [F87 section 61 of the Finance Act 2004] (sub-contractors in the construction industry); and
 - (e) any amount which it is liable to pay under paragraph 4 of Schedule 15 to M19 Finance Act 1973 (territorial extension of charge of tax).
- (8) In this section and section 132 below any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest on the tax so payable, or on tax paid by it in respect of such periods, which it is liable to pay in respect of periods beginning before or after that time.
- (9) In this section and sections 131 and 132 below any reference to a provision of the Taxes Act 1988 shall be construed, in relation to any time before 6th April 1988, as a reference to the corresponding enactment repealed by that Act.
- [F88(9A) In this section any reference to a provision of the Income Tax (Earnings and Pensions) Act 2003 or the Income Tax Act 2007 shall be construed, in relation to any time at which a corresponding provision of the Taxes Act 1988 or an enactment repealed by that Act had effect, as a reference to that corresponding provision.]
- (10) This section and sections 131 and 132 below shall be deemed to have come into force on 15th March 1988.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

Textual Amendments

- F83** Words in s. 130(7)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 275\(2\)\(a\)](#) (with [Sch. 2](#))
- F84** Words in s. 130(7)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 275\(2\)\(b\)](#) (with [Sch. 2](#))
- F85** S. 130(7)(c)(i)(ii) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 275\(2\)\(c\)\(i\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F86** Words in s. 130(7)(c)(iii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 275\(2\)\(c\)\(ii\)](#) (with [Sch. 2](#))
- F87** Words in s. 130(7)(d) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 12\(2\)](#)
- F88** S. 130(9A) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 275\(3\)](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

- C6** S. 130(1)-(6) excluded (3.5.1994 with application as mentioned in s. 249(5) of the amending Act) by [1994 c. 9](#), [ss. 249, 250\(1\)](#)
- C7** S. 130(4) applied (with modifications) (20.11.2003) by [Transas Group Act 2003 \(c. v\)](#), [s. 7\(4\)](#)
- C8** S. 130(5) applied (with modifications) (20.11.2003) by [Transas Group Act 2003 \(c. v\)](#), [s. 7\(4\)](#)
- C9** S. 130(7)-(9) applied (with modifications) (20.11.2003) by [Transas Group Act 2003 \(c. v\)](#), [s. 7\(4\)](#)

Marginal Citations

- M19** [1973 c. 51](#).

131 Penalties for failure to comply with section 130.

- (1) If a company fails to comply with section 130 above at any time, it shall be liable to a penalty not exceeding the amount of tax which is or will be payable by it in respect of periods beginning before that time and which has not been paid at that time.
- (2) If, in relation to a company (“the migrating company”), any person does or is party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company failing to comply with section 130 above at any time and either—
 - (a) that person is a person to whom subsection (3) below applies; or
 - (b) the act in question is a direction or instruction given (otherwise than by way of advice given by a person acting in a professional capacity) to persons to whom that subsection applies,
 that person shall be liable to a penalty not exceeding the amount of tax which is or will be payable by the migrating company in respect of periods beginning before that time and which has not been paid at that time.
- (3) This subsection applies to the following persons, namely—
 - (a) any company which has control of the migrating company; and
 - (b) any person who is a director of the migrating company or of a company which has control of the migrating company.
- (4) In any proceedings against any person to whom subsection (3) above applies for the recovery of a penalty under subsection (2) above—

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (a) it shall be presumed that he was party to every act of the migrating company unless he proves that it was done without his consent or connivance; and
 - (b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company failing to comply with section 130 above was to his knowledge such an act.
- (5) References in this section to a company failing to comply with section 130 above are references to the requirements of subsections (2) and (3) of that section not being satisfied before the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent; and in this subsection “Treasury consent” has the same meaning as in that section.
- (6) In this section and section 132 below “director”, in relation to a company—
- (a) has the meaning given by subsection (8) of section 168 of the Taxes Act 1988 (read with subsection (9) of that section); and
 - (b) includes any person falling within subsection (5) of section 417 of that Act (read with subsection (6) of that section);
- and any reference to a person having control of a company shall be construed in accordance with section 416 of that Act.

Modifications etc. (not altering text)

C10 S. 131 applied (with modifications) (20.11.2003) by [Transas Group Act 2003 \(c. v\), s. 7\(5\)](#)

C11 S. 131(1)-(5) excluded (3.5.1994 with application as mentioned in [s. 249](#) of the amending Act) by [1994 c. 9, ss. 249, 250\(1\)](#)

132 Liability of other persons for unpaid tax.

- (1) This section applies where—
- (a) a company (“the migrating company”) ceases to be resident in the United Kingdom at any time; and
 - (b) any tax which is payable by the migrating company in respect of periods beginning before that time is not paid within six months from the time when it becomes payable.
- (2) The Board may, at any time before the end of the period of three years beginning with the time when the amount of the tax is finally determined, serve on any person to whom subsection (3) below applies a notice—
- (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable; and
 - (b) requiring that person to pay that amount within thirty days of the service of the notice.
- (3) This subsection applies to the following persons, namely—
- (a) any company which is, or within the relevant period was, a member of the same group as the migrating company; and
 - (b) any person who is, or within the relevant period was, a controlling director of the migrating company or of a company which has, or within that period had, control over the migrating company.

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

- (4) Any amount which a person is required to pay by a notice under this section may be recovered from him as if it were tax due and duly demanded of him; and he may recover any such amount paid by him from the migrating company.
- (5) A payment in pursuance of a notice under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (6) In this section—
- “controlling director”, in relation to a company, means a director of the company who has control of it;
- “group” has the meaning which would be given by section ^{F89}170 of the Taxation of Chargeable Gains Act 1992] if in that section ^{F90} . . . for references to 75 per cent. subsidiaries there were substituted references to 51 per cent. subsidiaries;
- “the relevant period” means—
- (a) where the time when the migrating company ceases to be resident in the United Kingdom is less than twelve months after 15th March 1988, the period beginning with that date and ending with that time;
- (b) in any other case, the period of twelve months ending with that time.

Textual Amendments

F89 Words in s. 132(6) substituted (6.3.1992 with effect as mentioned in s. 289 of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 16(6)** (with ss. 60, 101(1), 171, 201(3))

F90 Words in s. 132(6) repealed (28.7.2000 with effect in relation to cases in which the migrating company ceases to be resident in the United Kingdom on or after 1.4.2000) by 2000 c. 17, ss. 102, 156, **Sch. 29 Pt. II para. 15(1)(2)**, **Sch. 40 Pt. II(12)**, Note 1

Modifications etc. (not altering text)

C12 S. 132 applied (with modifications) (20.11.2003) by **Transas Group Act 2003 (c. v)**, s. 7(6)

Appeals etc.

133 Jurisdiction of General Commissioners.

^{F91}(1)

(2) For subsection (2) of that section there shall be substituted—

“(2) Where—

- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
- (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above.”

- (3) The amendment made by subsection (1) above shall have effect in relation to proceedings instituted on or after 1st January 1989; and the amendment made by subsection (2) above shall have effect in relation to proceedings instituted after the passing of this Act.

Textual Amendments

F91 S. 133(1) repealed (29.4.1996 with effect as mentioned in Sch. 41 Pt. V(12) of the repealing Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(12), note

134 General Commissioners for Northern Ireland.

- (1) In section 2 of the ^{M20}Taxes Management Act 1970 (General Commissioners)—
- (a) in subsection (1), after the words “who shall act for the same separate areas in Great Britain as heretofore” there shall be inserted the words “ or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor ”, and
 - (b) in subsection (2), after the words “England and Wales” there shall be inserted the words “ or Northern Ireland ”.

(2) Section 58(1) of that Act (references in Taxes Acts to General Commissioners to be taken in relation to proceedings in Northern Ireland as references to Special Commissioners or, where section 59 applies, a county court) and section 59 of that Act (right in Northern Ireland to bring before a county court certain proceedings which in Great Britain may be brought before General Commissioners) shall cease to have effect.

^{F92}(3)

^{F93}(4)

(5) Subject to the following provisions of this section, the preceding provisions of this section and section 135(2) below shall not affect any proceedings instituted before the day appointed under subsection (4) above.

(6) Subject to subsection (8) below, where—

- (a) before the day appointed under subsection (4) above proceedings in Northern Ireland have been instituted before the Special Commissioners but not determined by them, and
- (b) the proceedings might have been instituted before the General Commissioners if they had been proceedings in Great Britain,

they shall be transferred to the General Commissioners; and subsection (3) of section 58 of the ^{M21}Taxes Management Act 1970 shall apply for the purposes of this subsection as for those of that section (the reference to proceedings in Great Britain being construed accordingly).

(7) Section 44 of that Act shall apply in relation to proceedings transferred to the General Commissioners under subsection (6) above as it applies to proceedings instituted before them; and in the case of an appeal so transferred a notice of election under rule

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

3 or 5 of Schedule 3 to that Act may be given at any time before the end of the period of thirty days beginning with the day appointed under subsection (4) above.

- (8) Subsection (6) above shall not apply in relation to proceedings if—
- (a) before the end of that period an election that the proceedings be not transferred is made by any of the parties to the proceedings and written notice of the election is given to the other parties to the proceedings, or
 - (b) they are proceedings under section 100 of the Taxes Management Act 1970 (recovery of penalties);

but subsections (5A) to (5E) of section 31 of that Act shall apply in relation to an election under paragraph (a) of this subsection in respect of an appeal against an assessment or the decision of an inspector on a claim as they apply in relation to an election under subsection (4) of that section.

- (9) The Lord Chancellor may by order made by statutory instrument make provision supplementing or modifying the effect of subsections (5) to (8) above; and an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Subordinate Legislation Made

P1 S. 134(4) power fully exercised: 03.04.1989 appointed by [S.I. 1989/473](#), [art. 2](#).

Textual Amendments

F92 S. 134(3) repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by [1999 c. 16](#), [s. 139](#), [Sch. 20 Pt. III\(4\)](#), note

F93 S. 134(4) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [s. 148\(1\)](#), [Sch. 4 para. 197](#), [Sch. 18 Pt. 2](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 paras. 11\(r\)30\(b\)](#)

Commencement Information

I1 S. 134 wholly in force at 03.04.1989 see [s. 134\(4\)](#) and [S.I. 1989/473](#), [art. 2](#).

Marginal Citations

M20 [1970 c. 9](#).

M21 [1970 c. 9](#).

135 Cases stated in Northern Ireland.

^{F94}(1)

- (2) For subsection (3) of that section there shall be substituted—

“(3) For the purposes of this section—

- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;
- (b) proceedings under section 102, 113(5), 260(3), 281(4), 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given

Status: Point in time view as at 06/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, Part III. (See end of Document for details)

by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland,
and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section.”

Textual Amendments

F94 S. 135(1) repealed (1.9.1994) by S.I. 1994/1813, reg. 2(2), **Sch. 2 Pt. I**

Commencement Information

I2 S. 135 wholly in force at 03.04.1989 see s. 134(4) and S.I. 1989/473, **art. 2.**

Status:

Point in time view as at 06/04/2008.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1988, Part III.