



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Changes for facilitating self-assessment

117 Treatment of partnerships

- (1) Section 215 of the Finance Act 1994 (treatment of partnerships) shall have effect, and shall be deemed always to have had effect, as if—
- (a) for the section set out in subsection (1) of that section there were substituted the section set out in subsection (2) below;
 - (b) after the said subsection (1) there were inserted the subsection set out in subsection (3) below;
 - (c) in subsection (2) of section 215, the word “and” were inserted immediately after paragraph (a), and paragraph (c) and the word “and” immediately preceding that paragraph were omitted; and
 - (d) in subsection (3) of that section, in paragraph (a), for the words from “in subsection (3)” to the end there were substituted the words “subsections (3) and (4)”.
- (2) Subject to subsection (4) below, the section referred to in subsection (1)(a) above is as follows—

“111 Treatment of partnerships

- (1) Where a trade or profession is carried on by persons in partnership, the partnership shall not, unless the contrary intention appears, be treated for the purposes of the Tax Acts as an entity which is separate and distinct from those persons.

Status: This is the original version (as it was originally enacted).

- (2) So long as a trade or profession is carried on by persons in partnership, and any of those persons is chargeable to income tax, the profits or gains or losses arising from the trade or profession (“the actual trade or profession”) shall be computed for the purposes of income tax in like manner as if—
- (a) the partnership were an individual; and
 - (b) that individual were an individual resident in the United Kingdom.
- (3) A person’s share in the profits or gains or losses arising from the actual trade or profession which for any period are computed in accordance with subsection (2) above shall be determined according to the interests of the partners during that period.
- (4) Where a person’s share in any profits or gains or losses is determined in accordance with subsection (3) above, sections 60 to 63A shall apply as if—
- (a) that share of the profits or gains or losses derived from a trade or profession carried on by him alone;
 - (b) that trade or profession (“the deemed trade or profession”) had been set up and commenced by him at the time when he became a partner or, where the actual trade or profession was previously carried on by him alone, the time when the actual trade or profession was set up and commenced;
 - (c) as regards each year of assessment, any accounting date or accounting change of the actual trade or profession were also an accounting date or accounting change of the deemed trade or profession;
 - (d) subsection (2) of section 62 applied in relation to any accounting change of the deemed trade or profession if, and only if, on the assumption that the partnership were an individual, that subsection would apply in relation to the corresponding accounting change of the actual trade or profession; and
 - (e) the deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner or, where the actual trade or profession is subsequently carried on by him alone, the time when the actual trade or profession is permanently discontinued.
- (5) Where section 62(2) does not apply in relation to any accounting change of the deemed trade or profession which is made or treated as made in the year of assessment next following or next but one following the commencement year, sections 60(3)(a) and 61(2)(a) shall apply as if the old date in that year were the accounting date.
- (6) For the purpose of determining whether, on the assumption that the partnership were an individual, section 62(2) would apply in relation to an accounting change of the actual trade or profession—
- (a) a notice may be given under subsection (3) of section 62A; and
 - (b) an appeal may be brought under subsection (6) of that section,
- by such one of the partners as may be nominated by them for the purposes of this subsection.
- (7) Where—
- (a) subsections (2) and (3) above apply in relation to the profits or gains or losses of a trade or profession carried on by persons in partnership; and

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- (b) other income or other relieviable losses accrue to those persons by virtue of their being partners,
those subsections shall apply as if references to the profits or gains or losses arising from the trade or profession included references to that other income or those other relieviable losses.
- (8) Where a person's share in any untaxed income from one or more sources, or in any relieviable losses, is determined in accordance with subsection (3) as applied by subsection (7) above, sections 60 to 63A shall apply as if—
- (a) that share of that income or of those losses were profits or gains or losses of a trade or profession carried on by that person alone;
 - (b) that trade or profession ("the second deemed trade or profession") had been set up and commenced by him at the time when he became a partner;
 - (c) paragraphs (c) and (d) of subsection (4) and subsection (5) above applied in relation to the second deemed trade or profession as they apply in relation to the other deemed trade or profession;
 - (d) the second deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner; and
 - (e) each source of the income were treated as continuing until the second deemed trade or profession is treated as permanently discontinued.
- (9) Where—
- (a) the basis period for any year of assessment is given by section 62(2)
 - (b) in the case of a person's second deemed trade or profession, or such a trade or profession is treated as permanently discontinued in any year of assessment; and
 - (b) the amount falling to be deducted under subsection (1) or (3) of section 63A exceeds that person's share, as determined in accordance with subsection (3) as applied by subsection (7) above, in any untaxed income,
- the amount of the excess shall be deducted in computing that person's income for that year.
- (10) Subsections (1) to (3) above apply in relation to persons in partnership by whom a business which is not a trade or profession is carried on as they apply in relation to persons in partnership by whom a trade or profession is carried on.
- (11) In subsections (2) and (3) above as applied by subsection (10) above, references to the profits or gains or losses arising from the trade or profession shall have effect as references to any income or relieviable losses arising from the business.
- (12) In this section—
- "accounting change" and "the old date" have the meanings given by section 62(1);
 - "accounting date" has the meaning given by section 60(5);
 - "the commencement year", in relation to the deemed trade or profession or the second deemed trade or profession, means the year of assessment in which that trade or profession is deemed to have been set up and commenced;

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“income” means any income (whether or not chargeable under Schedule D);

“untaxed income” means income which is not—

- (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; or
- (c) income chargeable under Schedule F.

(13) In this section—

- (a) any reference to sections 60 to 63A includes a reference to those sections as applied in relation to losses by section 382(3) and (4) and section 385(1); and
- (b) any reference to a person becoming or ceasing to be a partner is a reference to his beginning or, as the case may be, ceasing to carry on the actual trade or profession in partnership with other persons.”

(3) The subsection referred to in subsection (1)(b) above is as follows—

“(1A) In subsection (2) of section 110 of that Act (interpretation of sections 103 to 109A), for the words from “any event” to the end there shall be substituted the following paragraphs—

- “(a) any event which, under section 113 or 337(1), is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation; or
- (b) in relation to a trade or profession carried on by a person in partnership with other persons, any event which, under subsection (4) of section 111, is to be treated as equivalent to the permanent discontinuance of his deemed trade or profession (within the meaning of that subsection)”.

(4) As respects the year 1994-95, the section set out in subsection (2) above shall have effect as if, in subsection (2) of that section, paragraph (b) and the word “and” immediately preceding that paragraph were omitted.

118 Loss relief: general

Section 209 of the Finance Act 1994 (loss relief: general) shall have effect, and shall be deemed always to have had effect, as if for subsection (7) (commencement of subsections (3) to (5)) there were substituted the following subsections—

“(7) Subsections (1), (2) and (6) above—

- (a) except in their application to a trade set up and commenced on or after 6th April 1994, have effect in relation to losses sustained in the year 1996-97 and subsequent years of assessment; and
- (b) in their application to a trade so set up and commenced, have effect in relation to losses sustained in the year 1994-95 and subsequent years of assessment.

(8) Subsections (3) to (5) above—

- (a) except in their application to a trade set up and commenced on or after 6th April 1994, have effect in relation to losses sustained in the year 1997-98 and subsequent years of assessment; and

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- (b) in their application to a trade so set up and commenced, have effect in relation to losses sustained in the year 1994-95 and subsequent years of assessment.

- (9) Any reference in subsection (7) or (8) above to a trade includes a reference to a profession, vocation or employment.”

119 Relief for losses on unquoted shares

Section 210 of the Finance Act 1994 (relief for losses on unquoted shares) shall have effect, and shall be deemed always to have had effect, as if, in subsection (2) (commencement), for the words “as respects” there were substituted the words “in relation to losses incurred in”.

120 Relief for pre-trading expenditure

- (1) In section 401 of the Taxes Act 1988 (relief for pre-trading expenditure)—
 - (a) in subsection (1), for the words from “treated” to the end there shall be substituted the words “treated as incurred on the day on which the trade, profession or vocation is first carried on by him”; and
 - (b) subsection (2) shall cease to have effect.
- (2) This section has effect as respects trades, professions and vocations which are set up and commenced on or after 6th April 1995.

121 Basis of apportionment for Cases I, II and VI of Schedule D

In section 72(2) of the Taxes Act 1988 (apportionments etc.

for purposes of Cases I, II and VI of Schedule D) for the words “months, or fractions of months,” there shall be substituted the word “days”.

122 Amendments of transitional provisions

- (1) Schedule 20 to the Finance Act 1994 (changes for facilitating self-assessment: transitional provisions and savings) shall be amended as follows.
- (2) In sub-paragraph (4) of paragraph 2 (Cases I and II of Schedule D), after the words “which arise” there shall be inserted the words “after the end of—
 - (a) the basis period for the year 1996-97; or
 - (b) in the case of a trade or profession carried on by a person in partnership with other persons, the basis period of the partnership for that year,and (in either case)”.
- (3) After that sub-paragraph there shall be inserted the following sub-paragraphs—
 - “(4A) In calculating the amount of the profits or gains of the basis period for the year 1997-98 which arise as mentioned in sub-paragraph (4) above, any deduction of a capital allowance and any addition of a balancing charge shall be ignored.

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- (4B) Sub-paragraph (4A) above does not apply in the case of a trade or profession carried on by persons who include both an individual and a company.”
- (4) At the beginning of sub-paragraph (5) of paragraph 10 (double taxation relief) there shall be inserted the words “Subject to sub-paragraph (5A) below,”.
- (5) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(5A) Where the period on the profits or gains of which income tax is chargeable under Case IV or V of Schedule D for the year 1995-96 is that year, sub-paragraph (5) above shall have effect as if for the words from “50 per cent.” to the end there were substituted the words “the amount of foreign tax paid on income arising, or (as the case may require) received in the United Kingdom, in that year”.”

123 Prevention of exploitation of transitional provisions

Schedule 22 to this Act shall have effect for preventing the exploitation of, and (in certain cases) penalising attempts to exploit, the transitional provisions set out in paragraphs 2(2) and (4), 4(2) and 6(2)(a) and (4) of Schedule 20 to the Finance Act 1994 (changes for facilitating self-assessment: transitional provisions and savings).