



# Finance (No. 2) Act 1997

## 1997 CHAPTER 58

### PART III

#### INCOME TAX AND CORPORATION TAX

##### *Distributions, tax credits etc in and after 1999-00*

### **30 Tax credits**

- (1) Section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) shall be amended in accordance with subsections (2) to (7) below.
- (2) In subsection (1) (recipient of certain distributions to be entitled to tax credit equal to proportion of distribution corresponding to rate of ACT in force)—
  - (a) after “where” there shall be inserted “, in any year of assessment for which income tax is charged,”; and
  - (b) for “the rate of advance corporation tax in force for the financial year in which” there shall be substituted “the tax credit fraction in force when”.
- (3) After subsection (1) there shall be inserted—

“(1A) The tax credit fraction is one-ninth.”
- (4) Subsection (2) (payment of tax credit to company resident in UK) shall cease to have effect.
- (5) In subsection (3) (which includes provision for payment of excess of tax credit over income tax liability to person not being a company resident in the UK)—
  - (a) for “Subject to section 231A,” there shall be substituted “Subject to subsection (3AA) below,”; and
  - (b) the words “and subject to subsections (3A) and (3D) below where the credit exceeds that income tax, to have the excess paid to him” shall cease to have effect.
- (6) After subsection (3) there shall be inserted—

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“(3AA) For any year of assessment, the aggregate amount of the tax credits in respect of which claims are made under subsection (3) above by any person must not exceed the aggregate amount of the tax credits in respect of such qualifying distributions (if any) as are brought into charge to tax in the case of that person.”

- (7) In consequence of subsection (5) above, subsections (3A) to (3D) shall cease to have effect.
- (8) Section 231A of the Taxes Act 1988 (which is superseded by the foregoing provisions of this section) shall cease to have effect.
- (9) The amendments made by subsections (5) and (6) above do not affect the entitlement of a person who is not resident in the United Kingdom to payment in respect of a tax credit by virtue of arrangements having effect under section 788 of the Taxes Act 1988 (relief by agreement with other countries).
- (10) Where—
  - (a) arrangements having effect by virtue of section 788 of the Taxes Act 1988 confer on a person not resident in the United Kingdom the right to a tax credit under section 231 of the Taxes Act 1988 in respect of a dividend of a company resident in the United Kingdom, and
  - (b) the arrangements contain provision for permitting—
    - (i) tax to be charged or deducted, or
    - (ii) a reduction in the amount of the tax credit that is paid to be made, by reference to the aggregate of the dividend and the tax credit, and
  - (c) the amount of that tax or that reduction exceeds the amount of the tax credit, that provision shall only have the effect of reducing to nil the amount of the payment to which the person is entitled in respect of the tax credit.
- (11) This section has effect in relation to distributions made on or after 6th April 1999.

### **31 Rates of tax applicable to Schedule F income etc**

- (1) Section 1A of the Taxes Act 1988 (application of lower rate to income from savings and distributions) shall be amended in accordance with subsections (2) to (4) below.
- (2) In subsection (1) (certain savings and distribution income to be charged at the lower rate to the exclusion of basic rate) for “lower rate” there shall be substituted “rate applicable in accordance with subsection (1A) below”.
- (3) After subsection (1) there shall be inserted—
 

“(1A) The rate applicable in accordance with this subsection is—

  - (a) in the case of income chargeable under Schedule F, the Schedule F ordinary rate;
  - (b) in the case of equivalent foreign income falling within subsection (3) (b) below and chargeable under Case V of Schedule D, the Schedule F ordinary rate; and
  - (c) in the case of any other income, the lower rate.”
- (4) For subsection (5) (income to which section 1A applies to be treated as the highest part of a person’s income) there shall be substituted—

“(5) For the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts—

- (a) so much of any person’s income as comprises income to which this section applies shall be treated as the highest part of his income; and
- (b) so much of that part as consists of—
  - (i) income chargeable under Schedule F (if any), and
  - (ii) equivalent foreign income falling within subsection (3)(b) above and chargeable under Case V of Schedule D (if any),shall be treated as the highest part of that part.”

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

**“1B Rates of tax applicable to Schedule F income etc**

- (1) In the case of so much of an individual’s income which consists of—
  - (a) income chargeable under Schedule F (if any), and
  - (b) equivalent foreign income falling within section 1A(3)(b) and chargeable under Case V of Schedule D (if any),as is income falling within section 1(2)(b), income tax shall, by virtue of this subsection, be charged at the Schedule F upper rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(b).
- (2) In relation to any year of assessment for which income tax is charged—
  - (a) the Schedule F ordinary rate is 10 per cent., and
  - (b) the Schedule F upper rate is 32.5 per cent.,or, in either case, such other rate as Parliament may determine.”

(6) This section has effect in relation to distributions made on or after 6th April 1999.

**32 Trusts**

(1) Section 686 of the Taxes Act 1988 (income arising to trustees which is to be chargeable at the rate applicable to trusts) shall be amended as follows.

(2) In subsection (1) (income to which the section applies to be chargeable at the rate applicable to trusts instead of at the basic rate or, in accordance with section 1A, the lower rate)—

- (a) for “at the rate applicable to trusts” there shall be substituted “at the rate applicable in accordance with subsection (1AA) below”; and
- (b) after “at the lower rate” there shall be inserted “or the Schedule F ordinary rate”.

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

“(1AA) The rate applicable in accordance with this subsection is—

- (a) in the case of so much of any income to which this section applies as is Schedule F type income, the Schedule F trust rate; and
- (b) in the case of any other income to which this section applies, the rate applicable to trusts.”

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- (4) In subsection (1A) (the rate applicable to trusts etc) for the words from the beginning to “Parliament may determine” there shall be substituted—

“(1A) In relation to any year of assessment for which income tax is charged—

(a) the Schedule F trust rate shall be 25 per cent., and

(b) the rate applicable to trusts shall be 34 per cent.,

or, in either case, such other rate as Parliament may determine.”

- (5) In subsection (1A), so as to make the words following “as Parliament may determine” into a separate paragraph, for the words “and, for the purposes of assessments” there shall be substituted—

“For the purposes of assessments”.

- (6) In subsection (2AA) (income treated by s.689B as applied in defraying trustees' expenses to be taxed at the rate that would apply apart from s.686, instead of the rate applicable to trusts) after “instead of the rate applicable to trusts” there shall be inserted “or the Schedule F trust rate (as the case may be)”.

- (7) Before subsection (6) there shall be inserted—

“(5A) In this section “Schedule F type income”, in relation to trustees, means—

(a) income chargeable under Schedule F;

(b) income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D;

(c) a qualifying distribution whose amount or value is determined in accordance with section 233(1A);

(d) a non-qualifying distribution, within the meaning of section 233(1B);

(e) income treated as arising to the trustees by virtue of section 249(6)(b);

(f) income treated as received by the trustees by virtue of section 421(1)(a);

(g) any amount which, by virtue of section 686A, is treated for the purposes of the Tax Acts as if it were income to which this section applies.”

- (8) For the sidenote there shall be substituted “Accumulation and discretionary trusts: special rates of tax.”

- (9) After section 686 of the Taxes Act 1988 there shall be inserted—

**“686A Certain distributions to be treated as income to which section 686 applies**

- (1) This section applies where—

(a) a qualifying distribution is made to trustees;

(b) the trustees are not the trustees of a unit trust scheme; and

(c) the qualifying distribution falls within subsection (2) below.

- (2) A qualifying distribution falls within this subsection if it is a payment made by a company—

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- (a) on the redemption, repayment or purchase of its own shares; or
  - (b) on the purchase of rights to acquire its own shares.
- (3) The relevant part of the distribution shall be treated for the purposes of the Tax Acts as if it were income to which section 686 applies.
- (4) In subsection (3) above the reference to the relevant part of the distribution is a reference to so much (if any) of the distribution as—
  - (a) is not income falling within paragraph (a) of section 686(2);
  - (b) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;
  - (c) is not income arising under a trust established for charitable purposes; and
  - (d) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c).
- (5) Subsection (6) of section 686 shall apply for the purposes of this section as it applies for the purposes of that section.”
- (10) The amendment made by subsection (5) above has effect on and after 6th April 1999.
- (11) The other amendments made by this section have effect in relation to distributions made on or after 6th April 1999.

### **33 Estates of deceased persons in administration**

- (1) For section 698A of the Taxes Act 1988 (taxation at the lower rate of the income of beneficiaries) there shall be substituted—

**“698A Taxation of income of beneficiaries at lower rate or at rates applicable to Schedule F income**

- (1) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the lower rate, section 1A shall have effect as if that income were income to which that section applies otherwise than by virtue of the income being income chargeable under Schedule F.
- (2) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the Schedule F ordinary rate, that income shall be treated as if it were income chargeable under Schedule F.
- (3) Subsections (1) and (2) above shall not apply to income paid indirectly through a trustee and treated by virtue of section 698(3) as having borne income tax at the lower rate or the Schedule F ordinary rate; but, subject to section 686(1), section 1A shall have effect as if the payment made to the trustee were income of the trustee—
  - (a) to which section 1A applies by virtue of the income being chargeable under Schedule F, in the case of income treated as having borne tax at the Schedule F ordinary rate; and
  - (b) to which section 1A applies otherwise than by virtue of the income being chargeable under Schedule F, in any other case.”

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- (2) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended in accordance with subsections (3) to (6) below.
- (3) In subsection (1A) (which is inserted by section 21 of this Act and describes sums to which subsection (1)(a) and (b) of s.699A is deemed to apply) after “if it is a sum in respect of” there shall be inserted—
  - “(a) a distribution chargeable under Schedule F; or
  - (b)”.
- (4) In subsection (2) (determination whether any amount is a relevant amount) in paragraph (b) (application of the assumption in section 701(3A)(b)) for “assumption” there shall be substituted “assumptions”.
- (5) In subsection (4) (rate at which sums are assumed to bear tax) in paragraphs (a) and (c) for “lower rate” there shall be substituted “Schedule F ordinary rate”.
- (6) In subsection (6) (income represented by a relevant amount to be treated as not brought into charge to tax for the purposes of ss.348 and 349(1)) at the end there shall be added “except to the extent that the relevant amount is or would be paid out of sums in respect of a distribution chargeable under Schedule F”.
- (7) In section 701 of the Taxes Act 1988 (interpretation of Part XVI) subsection (3A) (which defines the “applicable rate” as basic rate or lower rate, according to the rate at which the income of the residue out of which the payment to the beneficiary is made bears tax) shall be amended in accordance with subsections (8) and (9) below.
- (8) For the words “or the lower rate”, in both places where they occur, there shall be substituted “, the lower rate or the Schedule F ordinary rate”.
- (9) In paragraph (b) (assumption that payments are made out of income bearing tax at the basic rate before income bearing tax at the lower rate)—
  - (a) after “it shall be assumed” there shall be inserted “(i)”;
  - (b) after “lower rate” there shall be inserted “or the Schedule F ordinary rate”; and
  - (c) at the end of the paragraph there shall be added “; and
    - (ii) that payments are to be made out of income bearing tax at the lower rate before they are made out of income bearing tax at the Schedule F ordinary rate.”
- (10) The amendment made by subsection (3) above has effect in relation to distributions made on or after 6th April 1999.
- (11) The amendments made by subsections (1) and (4) to (9) above have effect for the year 1999-00 and subsequent years of assessment.

### **34 Tax credits and taxation of distributions: miscellaneous provisions**

Schedule 4 to this Act (which contains provisions relating to tax credits and the taxation of distributions) shall have effect.

### **35 Transitional relief for charities etc**

- (1) In any case where—
  - (a) a qualifying distribution is made on or after 6th April 1999 and before 6th April 2004 by a company resident in the United Kingdom, and

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- (b) the recipient of the distribution is a section 505 body, and
- (c) if the section 505 body falls within neither paragraph (b) nor paragraph (c) of subsection (3) below, entitlement to exemption from tax by virtue of subsection (1)(c)(iii) of section 505 of the Taxes Act 1988 (charities) in respect of the distribution is not prevented by anything in that section,

the section 505 body, on a claim made under this section to the Board, shall be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

- (2) The amount referred to in subsection (1) above is an amount equal to—
  - (a) 21 per cent of the amount or value of the distribution if the distribution is made on or after 6th April 1999 and before 6th April 2000;
  - (b) 17 per cent of that amount or value if the distribution is made on or after 6th April 2000 and before 6th April 2001;
  - (c) 13 per cent of that amount or value if the distribution is made on or after 6th April 2001 and before 6th April 2002;
  - (d) 8 per cent of that amount or value if the distribution is made on or after 6th April 2002 and before 6th April 2003;
  - (e) 4 per cent of that amount or value if the distribution is made on or after 6th April 2003 and before 6th April 2004.
- (3) For the purposes of this section each of the following is a section 505 body—
  - (a) any charity (as defined in section 506(1) of the Taxes Act 1988);
  - (b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
  - (c) any Association of a description specified in section 508 of that Act (scientific research organisations).
- (4) Schedule 5 to this Act shall have effect to remove or restrict entitlement to payment under this section in certain circumstances.
- (5) For the purposes of Chapter I of Part XVII of the Taxes Act 1988 (cancellation of tax advantages) payment of an amount under this section shall be treated as repayment of tax.
- (6) Any entitlement of a section 505 body to a payment under subsection (1) above shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the distribution in question of section 703 of the Taxes Act 1988 (cancellation of tax advantages), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.
- (7) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.
- (8) An appeal may be brought against any decision of the Board under this section or under Schedule 5 to this Act by giving written notice to the Board within thirty days of receipt of written notice of the decision.
- (9) An appeal under this section shall lie to the Special Commissioners, and the provisions of the Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.

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- (10) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc of ACT or tax credit) as a payment of tax credit.

### **36 Foreign income dividends**

- (1) No election shall be made under section 246A of the Taxes Act 1988 (election for dividend to be treated as foreign income dividend) in respect of any distributions made on or after 6th April 1999.
- (2) No amount shall be shown as available for distribution as foreign income dividends in the distribution accounts of an authorised unit trust for a distribution period the distribution date for which falls on or after 6th April 1999.
- (3) No distribution made on or after 6th April 1999 shall be treated as a foreign income dividend by virtue of paragraph 2(1) of Schedule 7 to the Finance Act 1997 (Tax Acts to have effect as if qualifying distributions to which Schedule 7 applies were foreign income dividends).
- (4) Schedule 6 to this Act (which makes provision for and in connection with the repeal of provisions relating to foreign income dividends) shall have effect.
- (5) In subsection (2) above, “distribution accounts”, “distribution date” and “distribution period” shall be construed in accordance with section 468H of the Taxes Act 1988 (interpretation of sections 468I to 468R of that Act).