



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Income tax charge, rates and reliefs

F1 25 Charge and rates for 1998-99.

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Textual Amendments

F1 S. 25 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F2 26

Textual Amendments

F2 S. 26 repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by [1999 c. 16](#), s. 139, [Sch. 20 Pt.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

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27 Married couple's allowance etc. in and after 1999-00.

(1) The Taxes Act 1988 shall have effect for the year 1999-00 and subsequent years of assessment with the following amendments—

^{F3}(a)

^{F4}(b)

(2) For the purposes only of applying section 257C of the Taxes Act 1988 (indexation) for the year 1999-00, the amounts specified for the year 1998-99 in subsections (2) and (3) of section 257A of that Act (married couple's allowance for persons of 65 or more) shall be taken to have been £4,965 and £5,025, respectively.

Textual Amendments

F3 S. 27(1)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 1 para. 6\(i\)](#)

F4 S. 27(1)(b) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 13](#) (with [Sch. 9 paras. 1-9, 22](#))

Corporation tax charge and rates

28 Charge and rates for financial year 1998.

(1) Corporation tax shall be charged for the financial year 1998 at the rate of 31 per cent.

^{F5}(2)

Textual Amendments

F5 S. 28(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

29 Charge and rates for financial year 1999.

(1) Corporation tax shall be charged for the financial year 1999 at the rate of 30 per cent.

^{F6}(2)

Textual Amendments

F6 S. 29(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Corporation tax: periodic payments etc

30 Corporation tax: due and payable date.

(1) After section 59DA of the ^{M1}Taxes Management Act 1970 there shall be inserted—

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“59E Further provision as to when corporation tax is due and payable.

- (1) The Treasury may by regulations make provision, in relation to companies of such descriptions as may be prescribed, for or in connection with treating amounts of corporation tax for an accounting period as becoming due and payable on dates which fall on or before the date on which corporation tax for that period would become due and payable apart from this section.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
 - (a) for or in connection with the determination of amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (b) for or in connection with the determination of the dates on which amounts of corporation tax are treated as becoming due and payable under the regulations;
 - (c) for or in connection with the making of payments to the Board in respect of amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (d) for or in connection with the determination of the amount of any such payments as are mentioned in paragraph (c) above;
 - (e) for or in connection with the determination of the dates on which any such payments as are mentioned in paragraph (c) above become due and payable;
 - (f) for or in connection with any assumptions which are to be made for any purposes of the regulations;
 - (g) for or in connection with the payment to the Board of interest on amounts of corporation tax which are treated as becoming due and payable under the regulations;
 - (h) for or in connection with the repayment of amounts paid under the regulations;
 - (i) for or in connection with the payment of interest by the Board on amounts paid or repaid under the regulations;
 - (j) with respect to the furnishing of information to the Board;
 - (k) with respect to the keeping, production or inspection of any books, documents or other records;
 - (l) for or in connection with the imposition of such requirements as the Treasury think necessary or expedient for any purposes of the regulations;
 - (m) for or in connection with appeals in relation to questions arising under the regulations.
- (3) Regulations under this section may make provision—
 - (a) for amounts of corporation tax for an accounting period to be treated as becoming due and payable on dates which fall within the accounting period;
 - (b) for payments in respect of any such amounts of corporation tax for an accounting period as are mentioned in paragraph (a) above to become due and payable on dates which fall within the accounting period.

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- (4) Where interest is charged by virtue of regulations under this section on any amounts of corporation tax for an accounting period which are treated as becoming due and payable under the regulations, the company shall, in such circumstances as may be prescribed, be liable to a penalty not exceeding twice the amount of that interest.
- (5) Regulations under this section—
- (a) may make such modifications of any provisions of the Taxes Acts, or
 - (b) may apply such provisions of the Taxes Acts,
- as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (6) Regulations under this section which apply any provisions of the Taxes Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (7) Regulations under this section—
- (a) may make different provision for different purposes, cases or circumstances;
 - (b) may make different provision in relation to companies or accounting periods of different descriptions;
 - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (8) Subject to subsection (9) below, regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (9) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the ^{M2}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (10) In this section—
- “modifications” includes amendments, additions and omissions;
- “prescribed” means prescribed by regulations made under this section.
- (11) Any reference in this section to corporation tax includes a reference—
- (a) to any amount due from a company under section 419 of the principal Act (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;
 - (b) to any sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”
- (2) The Treasury may by regulations make provision for or in connection with the payment to the Board of an amount or amounts determined by or under the regulations in any case where, on or after 25th November 1997 and before 30th June 2002, a company takes any action specified in the regulations which has the effect—

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- (a) of delaying the application, or
 - (b) of delaying or avoiding the full effect,
- in relation to the company of any regulations made under section 59E of the ^{M3}Taxes Management Act 1970.
- (3) Any amount determined by or under regulations under this section shall be computed as if it were interest on a sum determined by or under the regulations; and any amount so determined shall be treated for the purposes of the Tax Acts as if it were interest due to the Board.
 - (4) The action which may be specified in regulations under this section includes—
 - (a) a change by a company in the date or dates on which any of its accounting periods begin or end; or
 - (b) a transfer by a company of any property, rights or liabilities to a company which belongs to the same group as that company.
 - (5) In subsection (4) above “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries.
 - (6) Regulations under this section—
 - (a) may make different provision in relation to different cases or in relation to companies of different descriptions;
 - (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

Marginal Citations

- M1** 1970 c. 9.
- M2** 1994 c. 9.
- M3** 1970 c. 9.

31 Abolition of advance corporation tax.

- (1) No company resident in the United Kingdom shall be liable to pay advance corporation tax in respect of any qualifying distribution made on or after 6th April 1999.
- (2) For the purposes of the Tax Acts, no distribution made on or after 6th April 1999 shall be treated as giving rise to the making of a franked payment.
- (3) No franked investment income which is attributable to a distribution made on or after 6th April 1999 shall be used to frank any distributions of a company.
- (4) Section 238(3) of the Taxes Act 1988 shall apply for the purposes of subsection (3) above as it applies for the purposes of Chapter V of Part VI of that Act.
- (5) Schedule 3 to this Act (which makes provision for and in connection with the abolition of advance corporation tax) shall have effect.

32 Unrelieved surplus advance corporation tax.

- (1) The Treasury may by regulations make provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to corporation

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tax on profits charged to corporation tax for accounting periods ending on or after 6th April 1999 (and thus to discharge a corresponding amount of any such liability).

- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
- (a) for or in connection with imposing a limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against liability to corporation tax on profits charged to corporation tax for an accounting period;
 - (b) for or in connection with the carrying forward of unrelieved surplus advance corporation tax from earlier accounting periods to later accounting periods;
 - (c) for or in connection with the recovery of corporation tax from companies in prescribed circumstances where any such liability as is mentioned in paragraph (a) above is or has been discharged by the set-off of unrelieved surplus advance corporation tax;
 - (d) for or in connection with the reduction or extinguishment of unrelieved surplus advance corporation tax;
 - (e) for or in connection with treating notional amounts of advance corporation tax ("shadow ACT") as paid by companies in respect of distributions made on or after 6th April 1999;
 - (f) for or in connection with the determination of amounts of shadow ACT which are treated as paid by companies in respect of distributions made on or after 6th April 1999;
 - (g) in relation to the treatment of shadow ACT;
 - (h) in relation to the treatment of companies which have prescribed relationships or connections with each other;
 - (i) in relation to the treatment of prescribed events, arrangements or transactions involving companies with unrelieved surplus advance corporation tax.
- (3) The provision which may be made by regulations under this section includes provision—
- (a) for or in connection with treating shadow ACT as reducing any limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against any such liability as is mentioned in subsection (2)(a) above;
 - (b) for or in connection with the carrying forward of shadow ACT from earlier accounting periods to later accounting periods;
 - (c) for or in connection with the carrying back of shadow ACT from later accounting periods to earlier accounting periods;
 - (d) for or in connection with the transfer of shadow ACT between companies;
 - (e) for or in connection with the reduction or extinguishment of shadow ACT.
- (4) The provision which may be made by virtue of subsection (2)(c) above includes provision for or in connection with the recovery of corporation tax from a company which has a prescribed relationship or connection with a company whose liability to corporation tax is or has been discharged by the set-off of unrelieved surplus advance corporation tax.
- [^{F7}(5) The provision which may be made by regulations under this section includes provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to a sum charged at step 5 in section 371BC(1) of the Taxation (International and Other Provisions) Act 2010 (controlled foreign companies) as if it were an amount of corporation tax for an accounting period.]

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- (6) In this section “unrelieved surplus advance corporation tax” means the advance corporation tax (if any) which, apart from sub-paragraph (3) of [F8 paragraph 12] of Schedule 3 to this Act but otherwise in accordance with that paragraph, would be treated by virtue of section 239(4) of the Taxes Act 1988 as paid in respect of distributions made by a company in the first accounting period of the company to begin on or after 6th April 1999.
- (7) The reference in subsection (6) above to an accounting period beginning on or after 6th April 1999 includes a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins on 6th April 1999.
- (8) Regulations under this section—
- (a) may make such modifications of any provisions of the Tax Acts, or
 - (b) may apply such provisions of the Tax Acts,
- as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (9) Regulations under this section which apply any provisions of the Tax Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (10) Regulations under this section—
- (a) may make different provision for different purposes, cases or circumstances;
 - (b) may make different provision in relation to companies or accounting periods of different descriptions;
 - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (11) Regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (12) In this section—
- “modifications” includes amendments, additions and omissions;
 - “prescribed” means prescribed by regulations made under this section.

Textual Amendments

- F7** S. 32(5) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 16](#) (with [Sch. 20 para. 50\(9\)](#))
- F8** Words in s. 32(6) substituted (*retrospective to 31.7.1998*) by [1999 c. 16, s. 91\(4\)\(6\)](#)

33 Relief for interest payable under the Tax Acts.

- (1) Section 90 of the ^{M4}Taxes Management Act 1970 (interest on overdue tax to be paid without deduction of income tax and not to be allowed as a deduction in computing income, profits or losses) shall be amended as follows.
- (2) At the beginning there shall be inserted “(1)” and in the subsection (1) so formed—
- (a) after “Interest payable under this Part of this Act” there shall be inserted “ (a) ”. ^{F9} ...

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F⁹(b)

F¹⁰(3)

F¹⁰(4)

F¹⁰(5)

Textual Amendments

- F9** S. 33(2)(b) and preceding word repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))
- F10** S. 33(3)-(5) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

Marginal Citations

- M4** 1970 c. 9.

34 Charge to tax on interest payable under the Tax Acts.

- (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.
- (2) In subsection (5) (interest on overpaid tax to be paid without deduction of income tax and not to be brought into account in computing profits or income)—
 - (a) after “Interest paid under this section” there shall be inserted “ (a) ”; and
 - (b) after “and” there shall be inserted “ (b) ”.
- (3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (interest not to be brought into account in computing profits or income) there shall be inserted “subject to subsection (5A) below,”.
- (4) After subsection (5) there shall be inserted—

“(5A) Paragraph (b) of subsection (5) above does not apply in relation to interest payable to a company within the charge to corporation tax.”
- (5) The amendments made by subsections (3) and (4) above have effect in relation to interest payable by virtue of any paragraph of section 826(1) of the ^{M5}Taxes Act 1988 if the accounting period mentioned in that paragraph is one which ends on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

Marginal Citations

- M5** 1994 c. 9.

35 Further provision about interest payable under the Tax Acts.

Schedule 4 to this Act (which makes further amendments relating to interest payable under the Tax Acts by or to companies) shall have effect.

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^{F11}36 Arrangements with respect to payment of corporation tax.

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Textual Amendments

F11 S. 36 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 7 para. 82, Sch. 10 Pt. 12](#) (with [Sch. 9 paras. 1-9, 22](#))

Gilt-edged securities

37 Abolition of periodic accounting.

(1) Section 51B of the Taxes Act 1988 (which enables provision to be made requiring tax on interest on gilt-edged securities to be accounted for periodically) shall cease to have effect.

^{F12}(2)

(3) The preceding provisions of this section have effect in relation only to payments of interest falling due on or after such day as the Treasury may by order appoint.

Subordinate Legislation Made

P1 [S. 37\(3\)](#) power exercised (9.3.1999): 1.4.1999 appointed by [S.I. 1999/619, art. 2](#)

Textual Amendments

F12 [S. 37\(2\)](#) repealed (11.5.2001 with effect as mentioned in [s. 87](#) of the amending Act) by [2001 c. 9, ss. 87, 110, Sch. 33 Pt. II\(12\)](#) Note

Rents and other receipts from land

38 Taxation of rents and other receipts from land.

(1) The provisions of Schedule 5 to this Act have effect with respect to tax on rents and other receipts from land.

Part I contains amendments relating to the charge to tax under Schedule A or Case V of Schedule D on rents and other receipts from land.

Part II contains amendments about relief for losses incurred in a Schedule A business or overseas property business, and the relationship between such relief and other reliefs.

Part III contains minor and consequential amendments.

(2) So far as relating to income tax, the provisions of Parts I to III of that Schedule have effect for the year 1998-99 and subsequent years of assessment.

(3) So far as relating to corporation tax, the provisions of Parts I to III of that Schedule come into force on 1st April 1998, subject to the transitional provisions in Part IV of the Schedule.

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39 Land managed as one estate and maintenance funds for historic buildings.

Sections 26 and 27 of the Taxes Act 1988 (deductions from rent: land managed as one estate and maintenance funds for historic buildings) shall cease to have effect—

- (a) for income tax purposes, on and after 6th April 2001;
- (b) for corporation tax purposes, for accounting periods beginning on or after 1st April 2001.

F13 40 Treatment of premiums as rent.

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Textual Amendments

F13 S. 40 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

41 Tied premises: receipts and expenses treated as those of trade.

F14(1)

(2) In section 156 of the ^{M6}Taxation of Chargeable Gains Act 1992 (replacement of business assets: buildings and land), for subsection (4) substitute—

“(4) Where section 98 of the Taxes Act applies (tied premises: receipts and expenses treated as those of trade), the trader shall be treated, to the extent that the conditions in subsection (1) of that section are met in relation to premises, as occupying as well as using the premises for the purposes of the trade.”.

(3) The above amendments have effect on and after 17th March 1998, subject to the following transitional provisions.

In those provisions—

“before commencement” and “after commencement” mean, respectively, before 17th March 1998 and on or after that date; and

“the new section 98” means the section as substituted by subsection (1) above.

F15(4)

F15(5)

F15(6)

F15(7)

Textual Amendments

F14 S. 41(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

F15 S. 41(4)-(7) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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Marginal Citations

M6 1992 c. 12.

Computation of profits of trade, profession or vocation

F16 42 Computation of profits of trade, profession or vocation.

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Textual Amendments

F16 S. 42 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 452, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F17 43 Barristers and advocates in early years of practice.

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Textual Amendments

F17 S. 43 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 501, Sch. 3** (with Sch. 2)

F18 44

Textual Amendments

F18 S. 44 repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(8) Note 2 and Sch. 22 paras. 16, 17 of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(8)** Note 2

Modifications etc. (not altering text)

C1 S. 44 excluded (24.7.2002) by [2002 c. 23](#), s. **64(6)**

F19 45

Textual Amendments

F19 S. 45 repealed (24.7.2002) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(16)**

46 Minor and consequential provisions about computations.

F20(1)

F21(2)

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- (3) In the provisions of the Tax Acts which refer to the subject of the charge under Case I or II of Schedule D as “profits or gains” or “profits and gains” of a trade, profession or vocation—
 - (a) for “profits or gains” or “profits and gains”, wherever occurring, substitute “profits”, and
 - (b) for “arising or accruing”, in reference to such profits or gains, substitute “arising”.
- The provisions affected are listed in Schedule 7 to this Act.

Textual Amendments

F20 S. 46(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 453](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

F21 S. 46(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 453](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

Gifts to charities

F22 **47**

Textual Amendments

F22 S. 47 repealed (27.7.1999 with effect in relation to gifts made on or after 27.7.1999) by [1999 c. 16](#), ss. 55(2)(3), 139, [Sch. 20 Pt. III\(12\)](#), Note

F23 **48** **Gifts of money for relief in poor countries.**
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Textual Amendments

F23 S. 48 repealed (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 26 para. 2\(1\)](#)

Employee share incentives

F24 **49** **Employee share options.**
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Textual Amendments

F24 Ss. 49-53 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](#))

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F24 50 Conditional acquisition of shares.

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Textual Amendments

F24 Ss. 49-53 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](#))

F24 51 Convertible shares provided to directors and employees.

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Textual Amendments

F24 Ss. 49-53 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](#))

F24 52 Information powers.

.....

Textual Amendments

F24 Ss. 49-53 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](#))

F24 53 Provision supplemental to sections 50 to 52.

.....

Textual Amendments

F24 Ss. 49-53 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](#))

54 Amendments consequential on sections 50 to 53.

- (1) The ^{M7}Taxation of Chargeable Gains Act 1992 shall be amended as follows.
- (2) After subsection (5) of section 120 (increase of expenditure by reference to tax charged in relation to shares) there shall be inserted the following subsections—
 - “(5A) Where an amount is chargeable to tax under section 140A of the Taxes Act in respect of—
 - (a) the acquisition or disposal of any interest in shares, or
 - (b) any interest in shares ceasing to be only conditional,the relevant amount is a sum equal to the amount so chargeable.

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- (5B) Where an amount is chargeable to tax under section 140D of the Taxes Act in respect of the conversion of shares, the relevant amount is a sum equal to the amount so chargeable.”
- (3) In subsection (7) of that section—
- (a) after “(5),” there shall be inserted “, (5A), (5B) ”; and
 - (b) after “138” there shall be inserted “, 140A, 140D ”.
- (4) After that subsection there shall be inserted the following subsection—
- “(8) For the purposes of subsection (5A) above this section shall have effect as if references in this section to shares included anything referred to as shares in section 140A of the Taxes Act.”
- (5) After section 149A there shall be inserted the following section—
- “149B Employee incentive schemes: conditional interests in shares.**
- (1) Where—
- (a) an individual has acquired an interest in any shares or securities which is only conditional,
 - (b) that interest is one which for the purposes of section 140A of the Taxes Act is taken to have been acquired by him as a director or employee of a company, and
 - (c) by virtue of section 17(1)(b) the acquisition of that interest would, apart from this section, be an acquisition for a consideration equal to the market value of the interest,
- section 17 shall not apply for calculating the consideration.
- (2) Instead, the consideration for the acquisition shall be taken (subject to section 120) to be equal to the actual amount or value of the consideration given for that interest as computed in accordance with section 140B of the Taxes Act.
- (3) This section shall apply in relation only to the individual making the acquisition and, accordingly, shall be disregarded in calculating the consideration received by the person from whom the interest is acquired.
- (4) Expressions used in this section and in section 140A of the Taxes Act have the same meanings in this section as in that section.”
- (6) This section has effect in relation to disposals on or after 17th March 1998 of interests and shares acquired on or after that date.

Marginal Citations

M7 1992 c. 12.

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Construction industry workers

55 Construction workers supplied by agencies.

^{F25}(1)

^{F26}(2)

(3) Subsections (1) and (2) above have effect in relation to—

- (a) any payments made on or after 6th April 1998 other than any made in respect of services rendered before that date; and
- (b) any payments made before 6th April 1998 in respect of services to be rendered on or after that date.

Textual Amendments

- F25** S. 55(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](#))
- F26** S. 55(2) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)

56 Transitional provisions in connection with section 55.

(1) Subject to subsection (6) below, subsection (2) below applies if—

- (a) a construction trade is being carried on by a person (“the sub-contractor”) at the end of the year 1997-98; and
- (b) there are receipts of that trade which, but for section 134(5)(c) of the Taxes Act 1988, would have fallen to be treated for the year 1997-98 as the emoluments of an office or employment.

(2) Where this subsection applies, then, subject to subsections (4) and (5) below—

- (a) the trade shall be deemed to have been permanently discontinued at the end of the year 1997-98; and
- (b) to the extent (if any) that the trade includes activities in addition to the rendering of services falling by virtue of section 55 to be treated as the duties of an office or employment, a new trade shall be deemed to have been set up and commenced on 6th April 1998.

(3) Subsection (4) below applies if—

- (a) a construction trade (“the old trade”) is deemed by virtue of subsection (2)(a) above to have been permanently discontinued; and
- (b) a construction trade (“the new trade”)—
 - (i) is deemed by virtue of subsection (2)(b) above to have been set up and commenced; or
 - (ii) (where sub-paragraph (i) above does not apply) is actually set up and commenced in the year 1998-99.

(4) Where this subsection applies then, notwithstanding the deemed discontinuance, the old trade and the new trade shall be treated as the same for the purposes of [^{F27}section 83 of the Income Tax Act 2007] (carry-forward of losses against subsequent profits).

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- (5) An officer of the Board shall not become entitled by virtue of anything in this section to give a direction under paragraph 3(2) of Schedule 20 to the ^{M8}Finance Act 1994 (power to revise assessment so that made on the actual basis) in the case of a person whose trade is deemed under subsection (2) above to cease on 5th April 1998.
- (6) Subsection (2) above does not apply if the sub-contractor by notice to an officer of the Board otherwise elects.
- (7) An election under subsection (6) above—
- (a) if it relates to a trade carried on by an individual, must be included in a return under section 8 of the ^{M9}Taxes Management Act 1970 which is made and delivered in that individual's case on or before the day on which it is required to be made and delivered under that section; and
 - (b) if it relates to a trade carried on by persons in partnership, must be included in a return under section 12AA of that Act which is made and delivered in the partners' case, or in the case of any one or more of them, on or before the day specified in relation to that return under subsection (2) or (3) of that section.
- (8) In this section “construction trade” means a trade consisting in or including the rendering of services under contracts relating to construction operations (within the meaning of [^{F28}section 74 of the Finance Act 2004]).
- (9) Where at any time on or after 17th March 1998 and before the day on which this Act is passed any election corresponding to an election under subsection (6) above has been made under a resolution of the House of Commons having effect in accordance with the provisions of the ^{M10}Provisional Collection of Taxes Act 1968, this section has effect, on and after the day on which this Act is passed, as if that election were an election under subsection (6) above.

Textual Amendments

- F27** Words in s. 56(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 381](#) (with [Sch. 2](#))
- F28** Words in s. 56(8) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 15\(2\)](#)

Marginal Citations

- M8** 1994 c. 9.
M9 1970 c. 9.
M10 1968 c. 2.

^{F29}57 Sub-contractors in the construction industry.

.....

Textual Amendments

- F29** [S. 57](#) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)

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Payments and other benefits in connection with termination of employment etc.

F30 58 **Payments and other benefits in connection with termination of employment, etc.**

.....

Textual Amendments

F30 S. 58 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](#))

Benefits in kind

59 **Car fuel.**

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

“ TABLE A

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£1,010
More than 1,400 but not more than 2,000	£1,280
More than 2,000	£1,890

TABLE AB

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£1,280
More than 2,000	£1,890

TABLE B

<i>Description of car</i>	<i>Cash equivalent</i>
Any car	£1,890”

(2) This section shall have effect for the year 1998-99 and subsequent years of assessment.

F31 60 **Reductions for road fuel gas cars.**

.....

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Textual Amendments

F31 S. 60 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)

^{F32}61 Travelling expenses.

.....

Textual Amendments

F32 S. 61 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)

Profit-related pay

62 Provision preventing manipulation of profit periods.

Schedule 11 to this Act (which makes provision to prevent the manipulation of profit periods in relation to the phasing out of relief for profit-related pay) shall have effect.

Foreign earnings deduction

^{F33}63 Withdrawal except in relation to seafarers.

.....

Textual Amendments

F33 Ss. 63-69 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)

PAYE: non-cash benefits etc.

^{F33}64 Transitory provision relating to tradeable assets.

.....

Textual Amendments

F33 Ss. 63-69 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)

^{F33}65 Payment in the form of a readily convertible asset.

.....

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Textual Amendments

F33 Ss. 63-69 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)

^{F33} 66 Enhancing the value of an asset.

.....

Textual Amendments

F33 Ss. 63-69 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)

^{F33} 67 Gains from share options etc.

.....

Textual Amendments

F33 Ss. 63-69 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)

^{F33} 68 Vouchers and credit-tokens.

.....

Textual Amendments

F33 Ss. 63-69 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)

^{F33} 69 Intermediaries, non-UK employers, agencies etc.

.....

Textual Amendments

F33 Ss. 63-69 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)

The enterprise investment scheme and venture capital trusts

70 Qualifying trades for EIS and VCTs.

^{F34}(1)

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- F34(2)
- F35(3)
- F36(4)

Textual Amendments

F34 S. 70(1)(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with Sch. 2)

F35 S. 70(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F36 S. 70(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with Sch. 2)

F37 71 Pre-arranged exits from EIS.

.....

Textual Amendments

F37 S. 71 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with Sch. 2)

F38 72 Qualifying holdings for VCTs after 2nd July 1997.

.....

Textual Amendments

F38 S. 72 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

F39 73 Other changes to requirements for VCTs.

.....

Textual Amendments

F39 S. 73 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

74 Other changes to EIS etc.

- (1) Schedule 13 to this Act, which amends the provisions mentioned in subsection (2) below, shall have effect.
- (2) The provisions are—
 - F40(a)
 - (b) sections 150A and 150B of the ^{M11}Taxation of Chargeable Gains Act 1992 (EIS relief in respect of chargeable gains);
 - (c) Schedule 5B to that Act (EIS deferral of chargeable gains); and

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(d) that Chapter as it has effect in relation to shares issued before 1st January 1994 (BES income tax relief) and section 150 of that Act (BES relief in respect of chargeable gains).

(3) Unless the contrary intention appears, the amendments made by that Schedule have effect in relation to shares issued on or after 6th April 1998.

Textual Amendments

F40 S. 74(2)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

Marginal Citations

M11 1992 c. 12.

Individual savings accounts etc.

F4175 Use of PEPs powers to provide for accounts.

.....

Textual Amendments

F41 S. 75 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

76 Tax credits for accounts and for PEPs.

F42(1)

F42(2)

- (3) The Treasury may by regulations make provision for individuals who—
- (a) are not resident in the United Kingdom, but
 - (b) have made investments under plans for which provision is made by regulations under [^{F43}Chapter 3 of Part 6 of the [Income Tax \(Trading and Other Income\) Act 2005](#)],

to be treated in relation to any such investments as if they were so resident for the purposes of any enactment conferring an entitlement to, or to the payment of, tax credits.

F44(4)

F44(5)

Textual Amendments

F42 S. 76(1)(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F43 Words in s. 76(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 503](#) (with [Sch. 2](#))

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F44 S. 76(4)(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F45⁷⁷ The insurance element etc.

.....

Textual Amendments

F45 S. 77 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 27 Pt. 2\(7\)](#)

F46⁷⁸ Phasing out of TESSAs.

.....

Textual Amendments

F46 S. 78 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

Relief for interest and losses etc.

79 Relief for loan to acquire interest in a close company.

F47(1)

F48(2)

Textual Amendments

F47 S. 79(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F48 S. 79(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 13](#) (with [Sch. 9 paras. 1-9, 22](#))

F49⁸⁰ Relief for losses on unlisted shares in trading companies.

.....

Textual Amendments

F49 S. 80 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F50⁸¹

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Textual Amendments

F50 S. 81 repealed (*retrospectively*) by 2000 c. 17, ss. 100(5), 156, **Sch. 40 Pt. II(11)**

82 Carry forward of non-trading deficit on loan relationships.

^{F51}(1)

^{F52}(2)

^{F53}(3)

(4) The amendments made by this section shall be deemed always to have had effect.

Textual Amendments

F51 S. 82(1) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(12) Note of the amending Act) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(12)** Note

F52 S. 82(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010** (c. 8), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

F53 S. 82(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010** (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Capital allowances

^{F54}**83 First-year allowances for investment in Northern Ireland.**

.....

Textual Amendments

F54 Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

^{F55}**84 First-year allowances for small businesses etc.**

.....

Textual Amendments

F55 Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch 4**

^{F56}**85 First-year allowances: consequential amendments etc.**

.....

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Textual Amendments

F56 Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, Sch. 4

Insurance, insurance companies and friendly societies

86 Life policies etc.

Schedule 14 to this Act (which makes provision in relation to the taxation of life policies etc under Chapter II of Part XIII of the Taxes Act 1988) shall have effect.

87 Non-resident insurance companies: tax representatives.

After section 552 of the Taxes Act 1988 (duty of insurers to provide certain information) there shall be inserted—

“552A Tax representatives.

- (1) This section has effect for the purpose of securing that, where it applies to an overseas insurer, another person is the overseas insurer’s tax representative.
- (2) In this section “overseas insurer” means a person who is not resident in the United Kingdom who carries on a business which consists of or includes the effecting and carrying out of—
 - (a) policies of life insurance;
 - (b) contracts for life annuities; or
 - (c) capital redemption policies.
- (3) This section applies to an overseas insurer—
 - (a) if the condition in subsection (4) below is satisfied on the designated day; or
 - (b) where that condition is not satisfied on that day, if it has subsequently become satisfied.
- (4) The condition mentioned in subsection (3) above is that—
 - (a) there are in force relevant insurances the obligations under which are obligations of the overseas insurer in question or of an overseas insurer connected with him; and
 - (b) the total amount or value of the gross premiums paid under those relevant insurances is £1 million or more.
- (5) In this section “relevant insurance” means any policy of life insurance, contract for a life annuity or capital redemption policy in relation to which this Chapter has effect and in the case of which—
 - (a) the holder is resident in the United Kingdom;
 - (b) the obligations of the insurer are obligations of a person not resident in the United Kingdom; and
 - (c) those obligations are not attributable to a branch or agency of that person’s in the United Kingdom.

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- (6) Before the expiration of the period of three months following the day on which this section first applies to an overseas insurer, the overseas insurer must nominate to the Board a person to be his tax representative.
- (7) A person shall not be a tax representative unless—
- (a) if he is an individual, he is resident in the United Kingdom and has a fixed place of residence there, or
 - (b) if he is not an individual, he has a business establishment in the United Kingdom,
- and, in either case, he satisfies such other requirements (if any) as are prescribed in regulations made for the purpose by the Board.
- (8) A person shall not be an overseas insurer's tax representative unless—
- (a) his nomination by the overseas insurer has been approved by the Board; or
 - (b) he has been appointed by the Board.
- (9) The Board may by regulations make provision supplementing this section; and the provision that may be made by any such regulations includes provision with respect to—
- (a) the making of a nomination by an overseas insurer of a person to be his tax representative;
 - (b) the information which is to be provided in connection with such a nomination;
 - (c) the form in which such a nomination is to be made;
 - (d) the powers and duties of the Board in relation to such a nomination;
 - (e) the procedure for approving, or refusing to approve, such a nomination, and any time limits applicable to doing so;
 - (f) the termination, by the overseas insurer or the Board, of a person's appointment as a tax representative;
 - (g) the appointment by the Board of a person as the tax representative of an overseas insurer (including the circumstances in which such an appointment may be made);
 - (h) the nomination by the overseas insurer, or the appointment by the Board, of a person to be the tax representative of an overseas insurer in place of a person ceasing to be his tax representative;
 - (j) circumstances in which an overseas insurer to whom this section applies may, with the Board's agreement, be released (subject to any conditions imposed by the Board) from the requirement that there must be a tax representative;
 - (k) appeals to the Special Commissioners against decisions of the Board under this section or regulations under it.
- (10) The provision that may be made by regulations under subsection (9) above also includes provision for or in connection with the making of other arrangements between the Board and an overseas insurer for the purpose of securing the discharge by or on behalf of the overseas insurer of the relevant duties, within the meaning of section 552B.
- (11) Section 839 (connected persons) applies for the purposes of this section.
- (12) In this section—

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“the designated day” means such day as the Board may specify for the purpose in regulations;

“tax representative” means a tax representative under this section.

552B Duties of overseas insurers’ tax representatives.

- (1) It shall be the duty of an overseas insurer’s tax representative to secure (where appropriate by acting on the overseas insurer’s behalf) that the relevant duties are discharged by or on behalf of the overseas insurer.
- (2) For the purposes of this section “the relevant duties” are—
 - (a) the duties imposed by section 552,
 - (b) any duties imposed by regulations made under subsection (4A)(a) of that section, and
 - (c) any duties imposed by regulations made under subsection (4A)(b) of that section by virtue of subsection (4B) of that section,
 so far as relating to relevant insurances under which the overseas insurer in question has any obligations.
- (3) An overseas insurer’s tax representative shall be personally liable—
 - (a) in respect of any failure to secure the discharge of the relevant duties, and
 - (b) in respect of anything done for purposes connected with acting on the overseas insurer’s behalf,
 as if the relevant duties were imposed jointly and severally on the tax representative and the overseas insurer.
- (4) In the application of this section in relation to any particular tax representative, it is immaterial whether any particular relevant duty arose before or after his appointment.
- (5) This section has effect in relation to relevant duties relating to chargeable events happening on or after the day by which section 552A(6) requires the nomination of the overseas insurer’s first tax representative to be made.
- (6) Expressions used in this section and in section 552A have the same meaning in this section as they have in that section.”

^{F57}88 Overseas life assurance business.

.....

Textual Amendments

F57 S. 88 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

^{F58}89 Personal portfolio bonds.

.....

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Textual Amendments

F58 S. 89 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

90 Distributions to friendly societies.

- (1) The repeal by section 30(4) of the ^{M12}Finance (No. 2) Act 1997 of section 231(2) of the Taxes Act 1988 (payment of tax credit to a company resident in the UK) shall not have effect in relation to any distribution made to a friendly society before 6th April 2004 which is—
- (a) a distribution to a friendly society all of whose profits are exempt from corporation tax by virtue of section 460(1) of the Taxes Act 1988 (life or endowment business of friendly society); or
 - (b) a distribution not falling within paragraph (a) above in relation to which exemption is given under section 460(1) of that Act.
- (2) In relation to any distribution falling within paragraph (a) or (b) of subsection (1) above—
- (a) paragraph 3 of Schedule 4 to the ^{M13}Finance (No. 2) Act 1997 (which, from 6th April 1999, repeals certain provisions about claims for tax credits for accounting periods to which self-assessment applies) shall have effect as if the reference in sub-paragraph (2) of that paragraph to 6th April 1999 were a reference to 6th April 2004; and
 - (b) paragraph 2 of that Schedule (which repeals certain provisions about claims for tax credits for earlier periods) shall have no effect.
- ^{F59}(3)
- (4) Schedule 8 to the ^{M14}Finance (No. 2) Act 1997 (repeals), so far as it relates to any repeal referred to in the preceding provisions of this section, shall have effect subject to those provisions.

Textual Amendments

F59 S. 90(3) repealed (11.5.2001) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(12)**

Marginal Citations

M12 1997 c. 58.
M13 1997 c. 58.
M14 1997 c. 58.

^{F60}91 Provisional repayments in connection with pension business.

Textual Amendments

F60 S. 91 repealed (11.5.2001 with effect as mentioned in s. 87 of the amending Act) by 2001 c. 9, ss. 87, 110, **Sch. 33 Pt. II(12)** Note

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Pensions

F6192 Approved retirement benefit schemes etc.

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Textual Amendments

F61 S. 92 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F6293 Benefits received under non-approved retirement benefits scheme.

.....

Textual Amendments

F62 S. 93 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](#))

F6394 Approval of personal pension schemes.

.....

Textual Amendments

F63 [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F6395 Personal pensions: charge on withdrawal of approval.

.....

Textual Amendments

F63 [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F6396 Information relating to personal pension schemes etc.

.....

Textual Amendments

F63 [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

F6397 Notices to be given to scheme administrator.

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Textual Amendments

F63 Ss. 94-97 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

98 Assessments on scheme administrators.

^{F64}(1)

(2) In section 9 of the ^{M15}Taxes Management Act 1970 (self-assessment), in subsection (1), for “subsection (2)” there shall be substituted “ subsections (1A) and (2) ”; and after that subsection there shall be inserted the following subsection—

“(1A) The tax to be assessed on a person by a self-assessment shall not include any tax which, under Chapter I or IV of Part XIV of the principal Act, is charged on the administrator of a scheme (within the meaning of section 658A of that Act) and is assessable by the Board in accordance with that section.”

(3) Subsection (2) above shall have effect for the year 1998-99 and subsequent years of assessment and shall be deemed to have had effect for the years 1996-97 and 1997-98.

Textual Amendments

F64 S. 98(1) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

Marginal Citations

M15 1970 c. 9.

Futures and options

99 Extension of provisions relating to guaranteed returns.

^{F65}(1)

^{F66}(2)

^{F66}(3)

^{F67}(4)

^{F67}(5)

Textual Amendments

F65 S. 99(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

F66 S. 99(2)(3) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(13) Note of the amending Act) by [2002 c. 23](#), s. 141, [Sch. 40 Pt. 3\(13\)](#) Note

F67 S. 99(4)(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

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Securities

F68 100 Accrued income scheme.

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Textual Amendments
F68 S. 100 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

101 Dealers in securities etc.

- (1) Section 471 of the Taxes Act 1988 (exchange of securities in connection with conversion operations, nationalisation etc.) shall cease to have effect.
- (2) Section 472 of that Act (distribution of securities issued in connection with nationalisation etc.) shall cease to have effect.
- (3) Subsection (1) above applies in relation to exchanges made after the day on which this Act is passed.
- (4) Subsection (2) above applies in relation to issues of securities occurring after that day.

102 Manufactured dividends.

- F69 (1)
- F70 (2)
- (3) In section 737D of the Taxes Act 1988 (power by regulations to provide for manufactured payments to be eligible for relief) in subsection (2) (which defines manufactured payment as any manufactured dividend etc) the words “manufactured dividend” shall cease to have effect.
- (4) Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) shall be amended in accordance with subsections (5) to (8) below.
- F71 (5)
- (6) In paragraph 2(3) (manufactured dividends to which paragraph 2(2) does not apply) paragraph (a) (duty to account for notional ACT) shall cease to have effect.
- F72 (7)
- (8) In consequence of subsection (6) above, the following provisions shall also cease to have effect—
 - (a) in paragraph 2, sub-paragraphs (4) and (5) and, in sub-paragraph (6), paragraph (b) and the word “and” immediately preceding it; and
 - (b) in paragraph 2A (deductibility of manufactured payment in the case of the manufacturer) in sub-paragraph (1), the words “together with an amount equal to the notional ACT” and sub-paragraph (3).
- F73 (9)

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- (10) Subsections (2) to (8) above have effect in relation to manufactured dividends paid (or treated for the purposes of Schedule 23A to the Taxes Act 1988 as paid) on or after 6th April 1999.

Textual Amendments

- F69** S. 102(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F70** S. 102(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F71** S. 102(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F72** S. 102(7) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F73** S. 102(9) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

Double taxation relief

103 Restriction of relief on certain interest and dividends.

- (1) For section 798 of the Taxes Act 1988 there shall be substituted the following section—

“798 Restriction of relief on certain interest and dividends.

- (1) This section applies where—
- in any chargeable period the profits of a trade carried on by a qualifying taxpayer include an amount computed in accordance with section 795 in respect of foreign interest or foreign dividends;
 - the taxpayer is entitled in accordance with this Chapter to credit for foreign tax on the foreign interest or foreign dividends; and
 - in the case of foreign dividends, the foreign tax mentioned in paragraph (b) above is or includes underlying tax.
- (2) The amount of the credit for foreign tax referred to in subsection (1)(b) above which, in accordance with this Chapter, is to be allowed against income tax or corporation tax—
- shall be limited by treating the amount of the foreign interest or foreign dividends (as increased or reduced under section 798A) as reduced (or further reduced) for the purposes of this Chapter by an amount equal to the taxpayer’s financial expenditure in relation to the interest or dividends (as determined in accordance with section 798B); and
 - so far as the credit relates to foreign tax on interest or foreign tax on dividends which is not underlying tax, shall not exceed 15 per cent. of the interest or dividends, computed without regard to paragraph (a) above or to any increase or reduction under section 798A.
- (3) In this section and sections 798A and 798B—

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“interest”, in relation to a loan, includes any introductory or other fee or charge which is payable in accordance with the terms on which the loan is made or is otherwise payable in connection with the making of the loan;

“foreign dividends” means dividends payable out of or in respect of the stocks, funds, shares or securities of a body of persons not resident in the United Kingdom;

“foreign interest” means interest payable by a person not resident in the United Kingdom or by a government or public or local authority in a country outside the United Kingdom.

- (4) In this section and section 798B “qualifying taxpayer” means, subject to subsection (5) below, a person carrying on a trade which includes the receipt of interest or dividends and is not an insurance business.
- (5) Where a company which is connected or associated with a qualifying taxpayer is acting in accordance with a scheme or arrangement the purpose, or one of the main purposes, of which is to prevent or restrict the application of this section to the taxpayer—
- (a) the company shall be treated for the purposes of this section as a qualifying taxpayer; and
 - (b) any foreign interest or foreign dividends received in pursuance of the scheme or arrangement shall be treated for those purposes as profits of a trade carried on by the company.
- (6) For the purposes of this section and section 798B—
- (a) section 839 applies; and
 - (b) subsection (10) of section 783 applies as it applies for the purposes of that section.”
- (2) This section and sections 104 and 105 do not have effect in relation to foreign interest or foreign dividends paid before 1st January 1999 in pursuance of arrangements which were entered into before, and are not altered on or after, 17th March 1998.
- (3) Subject to subsection (2) above, this section and sections 104 and 105 have effect in relation to foreign interest or foreign dividends paid on or after 17th March 1998.

104 Adjustments of interest and dividends for spared tax etc.

After section 798 of the Taxes Act 1988 there shall be inserted the following section—

“798A Adjustments of interest and dividends for spared tax etc.

- (1) In a case where section 798 applies—
- (a) subsection (2) below applies if the foreign tax referred to in subsection (1)(b) of that section is or includes an amount of spared tax; and
 - (b) subsection (3) below applies if the foreign tax so referred to is or includes an amount of tax which is not spared tax.
- (2) For the purposes of income tax or corporation tax, the amount which apart from this subsection would be the amount of the foreign interest or foreign dividends shall be treated as increased by so much of the spared tax as does not exceed—

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- (a) the amount of the spared tax for which, in accordance with any arrangements applicable to the case in question, credit falls to be given as mentioned in section 798(1)(b); or
 - (b) if it is less, 15 per cent. of the interest or dividends, computed without regard to any increase under this subsection.
- (3) If the amount of tax which is not spared tax exceeds—
- (a) the amount of the credit which, by virtue of this Chapter (but disregarding subsection (2) of section 798), is allowed for that tax against income tax or corporation tax; or
 - (b) if it is less in the case of tax on foreign interest, 15 per cent. of the interest, computed without regard to any increase or reduction under this section or that subsection,
- then, for the purposes of income tax or corporation tax, the amount which, apart from this subsection, would be the amount of the foreign interest or foreign dividends shall be treated as reduced by a sum equal to the excess.
- (4) Subsection (2) above has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the ^{M16}Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act).
- (5) Nothing in subsection (2) above prejudices the operation of section 795 in relation to foreign tax which is not spared tax.
- (6) In this section “spared tax” means foreign tax which although not payable falls to be taken into account for the purposes of credit by virtue of section 788(5).”

Marginal Citations

M16 1996 c. 8.

105 Meaning of “financial expenditure”.

After section 798A of the Taxes Act 1988 there shall be inserted the following section—

“798B Meaning of “financial expenditure”.

- (1) For the purposes of section 798 “financial expenditure”, in relation to a qualifying taxpayer and any interest or dividends is, subject to the provisions of this section, the aggregate of—
- (a) so much of the financial expenses (consisting of interest, discounts or similar sums or qualifying losses) incurred by the taxpayer or a person connected or associated with him as—
 - (i) is properly attributable to the earning of the interest or dividends; and
 - (ii) falls to be taken into account in computing the taxpayer’s or person’s liability to income tax or corporation tax; and
 - (b) so much of any other sum paid by the taxpayer or a person connected or associated with him which—

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- (i) falls to be taken into account as mentioned in paragraph (a) above; and
 - (ii) would not, apart from this paragraph, be taken into account in determining the amount of the interest or dividends, as it is reasonable to regard as attributable to the earning of the interest or dividends (whether or not it would fall, in accordance with normal accountancy practice, to be so treated).
- (2) There shall be deducted from the aggregate given by subsection (1) above so much of the qualifying gains and profits accruing to the qualifying taxpayer or a person connected or associated with him as—
- (a) is properly attributable to the earning of the interest or dividends; and
 - (b) falls to be taken into account in computing the taxpayer’s or person’s liability to income tax or corporation tax.
- (3) In a case where the amount of a qualifying taxpayer’s financial expenditure in relation to the earning of the interest or dividends is not readily ascertainable—
- (a) that amount shall be taken, subject to subsection (4) below, to be such sum as it is just and reasonable to attribute to the earning of the interest or dividends; and
 - (b) in the case of interest, regard shall be had in particular to any market rates of interest by reference to which the rate of the interest is determined.
- (4) The Board may by regulations supplement subsection (3) above—
- (a) by specifying matters to be taken into account in determining such a just and reasonable attribution as is referred to in paragraph (a); and
 - (b) by making provision with respect to the determination of market rates of interest for the purposes of paragraph (b);
- and any such regulations may make different provision for different cases.
- (5) In this section “qualifying losses” means—
- (a) losses falling to be brought into account for the purposes of Chapter II of Part II of the ^{M17}Finance Act 1993 (exchange gains and losses) in accordance with sections 125 to 127 of that Act; and
 - (b) losses falling to be brought into account for the purposes of Chapter II of Part IV of the ^{M18}Finance Act 1994 (interest rate and currency contracts) in accordance with sections 155 to 158 of that Act;
- and “qualifying gains” and “qualifying profits” shall be construed accordingly.”

Marginal Citations

M17 1993 c. 34.

M18 1994 c. 9.

^{F74}**106** Underlying tax reflecting interest or dividends.

.....

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Textual Amendments

F74 Ss. 106, 107 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 1](#) (with [Sch. 9 paras. 1-9, 22](#))

^{F74}**107 Notification of foreign tax adjustment.**

.....

Textual Amendments

F74 Ss. 106, 107 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 1](#) (with [Sch. 9 paras. 1-9, 22](#))

Transfer pricing, FOREX and financial instruments

108 New regime for transfer pricing etc.

^{F75}(1)

^{F75}(2)

^{F76}(3)

(4) In the ^{M19}Finance Act 1996—

^{F76}(a)

(b) in paragraph 16 of Schedule 9 (imputed interest)—

(i) in sub-paragraph (1), for the words from “sections 770” to “that Act” there shall be substituted “ Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length) ”; and

(ii) in sub-paragraph (2), for “Those sections” there shall be substituted “ That Schedule ”.

(5) Subject to subsection (6) below, this section and Schedule 16 to this Act have effect (in relation to provision made or imposed at any time)—

(a) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the ^{M20}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions); and

(b) for the purposes of income tax, as respects any year of assessment ending on or after that day.

(6) The Schedule 28AA to the Taxes Act 1988 that is inserted by subsection (2) above shall not, in the case of any potentially advantaged person, apply as respects the consequences at any time of the difference between the actual provision and the arm’s length provision if—

(a) that time falls before 17th March 2001;

(b) the actual provision is a provision made or imposed by means of contractual arrangements entered into by that person before 17th March 1998;

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- (c) the requirements of paragraph 1(1)(b) of Schedule 28AA to that Act (control requirements) are satisfied in the case of the actual provision and that person by reference only to paragraph 4(2)(b) of that Schedule (joint ventures etc.);
- (d) the rights and obligations of that person by virtue of the actual provision are not ones that have been varied or continued in pursuance of any transaction entered into by that person in the period between 17th March 1998 and that time; and
- (e) that person is not a party, and has not been a party, to any transaction by virtue of which he could during that period have secured the variation or termination of those rights and obligations.

(7) Expressions used in subsection (6) above and in Schedule 28AA to the Taxes Act 1988 have the same meanings in that subsection as in that Schedule.

Textual Amendments

- F75** S. 108(1)(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with **Sch. 9 paras. 1-9, 22**)
- F76** S. 108(3)(4)(a) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [2002 c. 23, s. 141](#), **Sch. 40 Pt. 3(10)** Note 2

Marginal Citations

- M19** 1996 c. 8.
- M20** 1994 c. 9.

109^{F77}(1)

^{F77}(2)

^{F78}(3)

^{F79}(4)

^{F79}(5)

Textual Amendments

- F77** S. 109(1)(2) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [2002 c. 23, s. 141](#), **Sch. 40 Pt. 3(10)** Note 2
- F78** S. 109(3) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(13) Note 2 of the amending Act) by [2002 c. 23, s. 141](#), **Sch. 40 Pt. 3(13)** Note 2
- F79** S. 109(4)(5) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2, Pt. 3(13) Note 2 of the amending Act) by [2002 c. 23, s. 141](#), **Sch. 40 Pt. 3(10)** Note 2, Pt. 3(13) Note 2

^{F80}110 Determinations requiring the sanction of the Board.

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Textual Amendments

F80 S. 110 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 113, **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9, 22)

^{F81} 111 Notice to potential claimants.

.....

Textual Amendments

F81 S. 111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 114, **Sch. 10 Pt. 2** (with Sch. 9 paras. 1-9, 22)

Controlled foreign companies

112 Exempt activities.

- (1) Part II of Schedule 25 to the Taxes Act 1988 (exempt activities) shall be amended as follows.
- (2) In paragraph 9 (activities which constitute investment business) for sub-paragraph (1A) (definition of “intellectual property”) there shall be substituted—
“(1A) In sub-paragraph (1)(a) above “intellectual property” includes (in particular)
—
 - (a) any industrial, commercial or scientific information, knowledge or expertise;
 - (b) any patent, trade mark, registered design, copyright or design right;
 - (c) any licence or other right in respect of intellectual property;
 - (d) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (b) or (c) above.”
- (3) In paragraph 11(1) (activities which constitute wholesale, distributive or financial business) for paragraph (c) (banking or any similar business involving the receipt of deposits, loans or both and the making of loans or investments) there shall be substituted—
“(c) banking, deposit-taking, money-lending or debt-factoring, or any business similar to banking, deposit-taking, money-lending or debt-factoring;”.
- (4) In consequence of subsection (3) above—
 - (a) in paragraph 9(3), for “banking or any similar business” there shall be substituted “business”;
 - (b) in paragraph 11(3), for “banking or other business” there shall be substituted “business”.

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(5) This section has effect in relation to accounting periods of a controlled foreign company, within the meaning of Chapter IV of Part XVII of the Taxes Act 1988, beginning on or after 17th March 1998.

113 Miscellaneous amendments.

Schedule 17 to this Act (which makes provision in relation to controlled foreign companies) shall have effect.

Changes in company ownership

^{F82}**114 Postponed corporation tax.**

.....

Textual Amendments
F82 Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

^{F82}**115 Information powers where ownership changes.**

.....

Textual Amendments
F82 Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

^{F82}**116 Provisions supplemental to sections 114 and 115.**

.....

Textual Amendments
F82 Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Corporation tax self-assessment

117 Company tax returns, assessments and related matters.

- (1) The provisions of Schedule 18 to this Act have effect in place of—
 - (a) the provisions of Parts II and IV of the ^{M21}Taxes Management Act 1970 (returns, assessment and claims), so far as they relate to corporation tax,
 - (b) certain related provisions of Part X of that Act (penalties) [^{F83}and]
 - (c) Schedule 17A to the Taxes Act 1988 (group relief: claims),

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[^{F84} and also make provision in relation to claims for allowances under the Capital Allowances Act]

- (2) Schedule 18 to this Act, the ^{M22}Taxes Management Act 1970 and the Tax Acts shall be construed and have effect as if that Schedule were contained in that Act.
- (3) The enactments mentioned in Schedule 19 to this Act have effect with the amendments specified there, which are minor amendments and amendments consequential on Schedule 18.
- (4) Except as otherwise provided, the provisions of Schedules 18 and 19 to this Act have effect in relation to accounting periods ending on or after the self-assessment appointed day.
- (5) In this section “the self-assessment appointed day” means the day appointed by the Treasury under section 199 of the ^{M23}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

Textual Amendments

F83 Word in s. 117(1)(b) inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 100(1)**

F84 Words in s. 11(1) and preceding “and” substituted for s. 117(1)(d) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, **ss. 578, 579** Sch. 2 para. 100(2)

Marginal Citations

M21 1970 c. 9.

M22 1970 c. 9.

M23 1994 c. 9.

Telephone claims etc.

^{F85}**118 Claims for income tax purposes.**

.....

Textual Amendments

F85 S. 118 repealed (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 7 para. 88**, Sch. 10 Pt. 12 (with Sch. 9 paras. 1-9, 22)

^{F86}**119 Evidential provisions in PAYE regulations.**

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Textual Amendments

F86 S. 119 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

CHAPTER II

TAXATION OF CHARGEABLE GAINS

Rate for trustees

^{F87} 120 Rate of CGT for trustees etc.

.....

Textual Amendments

F87 S. 120 omitted (with effect in accordance with Sch. 2 para. 22 to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 21(c)(i)**

Taper relief and indexation allowance

121 Taper relief for CGT.

^{F88}(1)

^{F89}(2)

(3) Schedule 21 to this Act (which makes incidental and consequential provision in connection with the introduction of taper relief) shall have effect.

(4) This section and those two Schedules have effect for the year 1998-99 and subsequent years of assessment.

Textual Amendments

F88 S. 121(1) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 55(a)(i)**

F89 S. 121(2) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 55(a)(i)**

122 Freezing of indexation allowance for CGT.

^{F90}(1)

^{F90}(2)

^{F90}(3)

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(4) In section 13 of that Act (attribution of gains to non-resident companies), the following subsection shall be inserted after subsection (11)—

“(11A) For the purposes of this section the amount of the gain or loss accruing at any time to a company that is not resident in the United Kingdom shall be computed (where it is not the case) as if that company were within the charge to corporation tax on capital gains.”

^{F91}(5)

(6) Subject to subsection (7) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(7) This section does not affect the computation of the amount of so much of any gain as—

- (a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but
- (b) is taken for those purposes to be equal to the whole or any part of a gain that—
 - (i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or
 - (ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

Textual Amendments

F90 S. 122(1)-(3) omitted (with effect in accordance with Sch. 2 para. 83 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 82**

F91 S. 122(5) omitted (with effect in accordance with Sch. 2 para. 83 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 82**

Pooling and identification of shares etc.

123 Abolition of pooling for CGT.

^{F92}(1)

^{F93}(2)

(3) In subsection (3) of that section (interpretation), for “ “a new holding” is” there shall be substituted “ “a section 104 holding” is ”.

(4) For subsection (4) of that section there shall be substituted the following subsection—

“(4) For the purposes of this Chapter securities of a company which are held—

- (a) by a person who acquired them as an employee of the company or of any other person, and
- (b) on terms which for the time being restrict his right to dispose of them, shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force.”

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- (5) In the following enactments for the words “new holding”, wherever they occur, there shall be substituted “section 104 holding”, namely—
- ^{F94}(a)
- (b) in sections 104(6), 107 and 110 of the ^{M24}Taxation of Chargeable Gains Act 1992.
- (6) The preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).
- (7) The powers of the Treasury to make provision by regulations under one or [^{F95}more] of—
- (a) section 333 of the Taxes Act 1988 [^{F96}(investment plan regulations)],
- (a) section 151 of the ^{M25}Taxation of Chargeable Gains Act 1992 (capital gains tax and investment plans), [^{F97}and
- (c) Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005 (income from individual investment plans),]

shall include power to provide, to such extent as appears to them to be appropriate for purposes connected with the enactment of this section and section 124 below, for any provision contained in any such regulations to have effect retrospectively in relation to such times falling on or after 17th March 1998 as may be specified in the regulations.

Textual Amendments

- F92** S. 123(1) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 96\(a\)](#)
- F93** S. 123(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 96\(a\)](#)
- F94** S. 123(5)(a) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(i\)\(i\)](#)
- F95** Word in s. 123(7) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(a\)](#) (with Sch. 2)
- F96** Words in s. 123(7)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(b\)](#) (with Sch. 2)
- F97** S. 123(7)(c) and preceding word added (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(c\)](#) (with Sch. 2)

Marginal Citations

- M24** 1992 c. 12.
- M25** 1992 c. 12.

124 New identification rules for CGT.

- (1) After section 106 of the ^{M26}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“106A Identification of securities: general rules for capital gains tax.

- (1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.

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- (2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.
- (3) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
 - (a) by the disposal, or
 - (b) by a transfer or delivery giving effect to it;but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.
- (4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.
- (5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—
 - (a) with securities acquired by him within that period, rather than with other securities; and
 - (b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.
- (6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.
- (7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.
- (8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—
 - (a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and
 - (b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.
- (9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.
- (10) In this section—
 - “1982 holding” has the same meaning as in section 109;
 - “securities” means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.
- (11) For the purposes of this section securities of a company shall not be treated as being of the same class unless they are so treated by the practice of

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a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.”

- (2) In subsection (1) of section 105 of that Act (disposal and acquisition on the same day), for “The following provisions” there shall be substituted “ Paragraphs (a) and (b) below ”; and for subsection (2) of that section there shall be substituted the following subsection—

“(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

- (a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,
- (b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and
- (c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,

the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date.”

- (3) In section 107 of that Act (general identification rules) for subsections (1) and (2) there shall be substituted the following subsections—

“(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.

(1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.

(2) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—

- (a) by the disposal, or
- (b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity.”

- (4) In section 108 of that Act (relevant securities), at the beginning there shall be inserted the following subsection—

“(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company.”

- (5) In that section—

- (a) in subsections (2) and (7), for “person”, in each place where it occurs, there shall be substituted “ company ”; and
- (b) in subsection (2), for “him” and “he” there shall be substituted, respectively, “ the company ” and “ it ”.

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- (6) In each of section 151B(1) and (7) of that Act and paragraph 4(2) of Schedule 5C to that Act (disapplication of share pooling and identification rules in relation to shares in a VCT), for “107” there shall be substituted “ 106A ”.
- (7) Subject to subsection (8) below, the preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998.
- (8) For the purposes of capital gains tax for the year 1997-98 (but not for the purposes of corporation tax), the following provisions have effect in relation to any disposal of securities made on or after 17th March 1998 and before 6th April 1998, that is to say—
 - (a) the identification rule in subsection (5) of the section 106A of the ^{M27}Taxation of Chargeable Gains Act 1992 set out in subsection (1) above shall apply in accordance with subsections (3) and (4) of that section;
 - (b) that rule shall have priority over any other rule, except the one in section 105(1) of that Act; and
 - (c) section 104(1) of that Act shall not apply to any securities identified by virtue of this subsection with the securities disposed of.
- (9) In subsection (8) above “securities” means any securities within the meaning of section 104 of the ^{M28}Taxation of Chargeable Gains Act 1992 or any relevant securities within the meaning of section 108 of that Act.

Marginal Citations

M26 1992 c. 12.

M27 1992 c.12.

M28 1992 c. 12.

125 Indexation and share pooling etc.

- (1) In subsection (1) of section 110 of the ^{M29}Taxation of Chargeable Gains Act 1992 (indexation allowance for section 104 holdings), for “This” there shall be substituted “ For the purposes of corporation tax this ”.
- ^{F98}(2)
- ^{F99}(3)
- (4) Subject to subsection (5) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.
- (5) This section does not affect the computation of the amount of so much of any gain as—
 - (a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but
 - (b) is taken for those purposes to be equal to the whole or any part of a gain that—
 - (i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or
 - (ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

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Textual Amendments

- F98** S. 125(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**
- F99** S. 125(3) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**

Marginal Citations

- M29** 1992 c. 12.

Stock dividends

126 Capital gains on stock dividends.

- (1) For sections 141 and 142 of the ^{M30}Taxation of Chargeable Gains Act 1992 (stock dividends) there shall be substituted the following section—

“142 Capital gains on stock dividends.

- (1) This section applies where any share capital to which section 249 of the Taxes Act applies is issued as mentioned in subsection (4), (5) or (6) of that section in respect of shares in the company held by any person.
 - (2) The case shall not constitute a reorganisation of the company’s share capital for the purposes of sections 126 to 128.
 - (3) The person who acquires the share capital by means of its issue shall (notwithstanding section 17(1)) be treated for the purposes of section 38(1) (a) as having acquired that asset for a consideration equal to the appropriate amount in cash (within the meaning of section 251(2) to (4) of the Taxes Act).”
- (2) This section applies to any share capital issued on or after 6th April 1998.

Marginal Citations

- M30** 1992 c. 12.

Non-residents etc.

127 Charge to CGT on temporary non-residents.

- (1) After section 10 of the ^{M31}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“10A Temporary non-residents.

- (1) This section applies in the case of any individual (“the taxpayer”) if—
 - (a) he satisfies the residence requirements for any year of assessment (“the year of return”);

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- (b) he did not satisfy those requirements for one or more years of assessment immediately preceding the year of return but there are years of assessment before that year for which he did satisfy those requirements;
 - (c) there are fewer than five years of assessment falling between the year of departure and the year of return; and
 - (d) four out of the seven years of assessment immediately preceding the year of departure are also years of assessment for each of which he satisfied those requirements.
- (2) Subject to the following provisions of this section and section 86A, the taxpayer shall be chargeable to capital gains tax as if—
- (a) all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,
 - (b) all the chargeable gains which under section 13 or 86 would be treated as having accrued to him in an intervening year if he had been resident in the United Kingdom throughout that intervening year, and
 - (c) any losses which by virtue of section 13(8) would have been allowable in his case in any intervening year if he had been resident in the United Kingdom throughout that intervening year,
- were gains or, as the case may be, losses accruing to the taxpayer in the year of return.
- (3) Subject to subsection (4) below, the gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any gain or loss accruing on the disposal by the taxpayer of any asset if—
- (a) that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when he was neither resident nor ordinarily resident in the United Kingdom;
 - (b) that asset was so acquired otherwise than by means of a relevant disposal which by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued;
 - (c) that asset is not an interest created by or arising under a settlement; and
 - (d) the amount or value of the consideration for the acquisition of that asset by the taxpayer does not fall, by reference to any relevant disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).
- (4) Where—
- (a) any chargeable gain that has accrued or would have accrued on the disposal of any asset (“the first asset”) is a gain falling (apart from this section) to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or any part of another asset, and
 - (b) the other asset is an asset falling within paragraphs (a) to (d) of subsection (3) above but the first asset is not,
- subsection (3) above shall not exclude that gain from the gains which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return.

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- (5) The gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any chargeable gain or allowable loss accruing to the taxpayer in an intervening year which, in the taxpayer's case, has fallen to be brought into account for that year by virtue of section 10 or 16(3).
- (6) The reference in subsection (2)(c) above to losses allowable in an individual's case in an intervening year is a reference to only so much of the aggregate of the losses that would have been available in accordance with subsection (8) of section 13 for reducing gains accruing by virtue of that section to that individual in that year as does not exceed the amount of the gains that would have accrued to him in that year if it had been a year throughout which he was resident in the United Kingdom.
- (7) Where this section applies in the case of any individual, nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made shall prevent any such assessment for the year of departure from being made in the taxpayer's case at any time before the end of two years after the 31st January next following the year of return.
- (8) In this section—
 “intervening year” means any year of assessment which, in a case where the conditions in paragraphs (a) to (d) of subsection (1) above are satisfied, falls between the year of departure and the year of return;
 “relevant disposal”, means a disposal of an asset acquired by the person making the disposal at a time when that person was resident or ordinarily resident in the United Kingdom; and
 “the year of departure” means the last year of assessment before the year of return for which the taxpayer satisfied the residence requirements.
- (9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment if that year of assessment is one during any part of which he is resident in the United Kingdom or during which he is ordinarily resident in the United Kingdom.
- (10) This section is without prejudice to any right to claim relief in accordance with any double taxation relief arrangements.”
- (2) In section 9(3) of that Act (exclusion from charge of persons temporarily resident), for “section 10(1)” there shall be substituted “ sections 10(1) and 10A ”.
- (3) In section 96 of that Act (payments by and to companies), after subsection (9) there shall be inserted the following subsections—
 “(9A) For the purposes of this section an individual shall be deemed to have been resident in the United Kingdom at any time in any year of assessment which in his case is an intervening year for the purposes of section 10A.
 (9B) If—
 (a) it appears after the end of any year of assessment that any individual is to be treated by virtue of subsection (9A) above as having been resident in the United Kingdom at any time in that year, and

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- (b) as a consequence, any adjustments fall to be made to the amounts of tax taken to have been chargeable by virtue of this section on any person,
nothing in any enactment limiting the time for the making of any claim or assessment shall prevent the making of those adjustments (whether by means of an assessment, an amendment of an assessment, a repayment of tax or otherwise).”
- (4) This section has effect—
- (a) in any case in which the year of departure is the year 1998-99 or a subsequent year of assessment; and
- (b) in any case in which the year of departure is the year 1997-98 and the taxpayer was resident or ordinarily resident in the United Kingdom at a time in that year on or after 17th March 1998.

Marginal Citations

M31 1992 c. 12.

128 Disposal of interests in a settlement.

- (1) In section 76 of the ^{M32}Taxation of Chargeable Gains Act 1992 (disposal of interests in settled property)—
- (a) in subsection (1), at the beginning there shall be inserted “Subject to subsection (1A) below”;
- (b) after that subsection there shall be inserted the subsections set out in subsection (2) below; and
- (c) after subsection (2) there shall be inserted the subsection set out in subsection (3) below.
- (2) The subsections inserted after subsection (1) are as follows—
- “(1A) Subject to subsection (3) below, subsection (1) above does not apply if—
- (a) the settlement falls within subsection (1B) below; or
- (b) the property comprised in the settlement is or includes property deriving directly or indirectly from a settlement falling within that subsection.
- (1B) A settlement falls within this subsection if there has been a time when the trustees of that settlement—
- (a) were not resident or ordinarily resident in the United Kingdom; or
- (b) fell to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.”
- (3) The subsection inserted after subsection (2) is as follows—
- “(3) Subsection (1A) above shall not prevent subsection (1) above from applying where the disposal in question is a disposal in consideration of obtaining settled property that is treated as made under subsection (2) above.”
- (4) This section has effect in relation to any disposal on or after 6th March 1998.

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Marginal Citations

M32 1992 c. 12.

129 Attribution of gains to settlor in section 10A cases.

- (1) After section 86 of the ^{M33}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“86A Attribution of gains to settlor in section 10A cases.

- (1) Subsection (2) below applies in the case of a person who is a settlor in relation to any settlement (“the relevant settlement”) where—
- (a) by virtue of section 10A, amounts falling within section 86(1)(e) for any intervening year or years would (apart from this section) be treated as accruing to the settlor in the year of return; and
 - (b) there is an excess of the relevant chargeable amounts for the non-residence period over the amount of the section 87 pool at the end of the year of departure.
- (2) Only so much (if any) of—
- (a) the amount falling within section 86(1)(e) for the intervening year, or
 - (b) if there is more than one intervening year, the aggregate of the amounts falling within section 86(1)(e) for those years,
- as exceeds the amount of the excess mentioned in subsection (1)(b) above shall fall in accordance with section 10A to be attributed to the settlor for the year of return.
- (3) In subsection (1) above, the reference to the relevant chargeable amounts for the non-residence period is (subject to subsection (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) for the intervening year or years in respect of any capital payments received by them.
- (4) In subsection (1) above, the reference to the section 87 pool at the end of the year of departure is (subject to subsection (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of that section, fell in relation to the relevant settlement to be carried forward from the year of departure to be included in the amount of the trust gains for the year of assessment immediately following the year of departure.
- (5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or amount carried forward in accordance with section 87(2) as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of subsections (3) and (4) above.
- (6) Where any reduction falls to be made by virtue of subsection (2) above in any amount to be attributed in accordance with section 10A to any settlor for any year of assessment, the reduction to be treated as made for that year in

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accordance with section 87(3) in the case of the settlement in question shall not be made until—

- (a) the reduction (if any) falling to be made by virtue of that subsection has been made in the case of every settlor to whom any amount is so attributed; and
- (b) effect has been given to any reduction required to be made under subsection (7) below.

(7) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with subsection (2) above) any amount or amounts falling in accordance with section 10A to be attributed for any year of assessment to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with that section to be so attributed shall be applied in reducing the amount carried forward to that year in accordance with section 87(2).

(8) Where an amount or aggregate amount has been applied, in accordance with subsection (7) above, in reducing the amount which in the case of any settlement is carried forward to any year in accordance with section 87(2), that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year for making the reduction under section 87(3) in the case of that settlement.

(9) Expressions used in this section and section 10A have the same meanings in this section as in that section; and paragraph 8 of Schedule 5 shall apply for the construction of the references in subsection (5) above to property originating from the settlor as it applies for the purposes of that Schedule.”

(2) In section 97(1) to (5), (7) and (8) of that Act (interpretation of sections 87 to 96), for the words “sections 87”, wherever occurring, there shall be substituted “ sections 86A ”.

(3) This section has effect where the year of departure is the year 1997-98 or any subsequent year of assessment.

Marginal Citations

M33 1992 c. 12.

130 Charge on beneficiaries of settlements with non-resident settlors.

^{F100}(1)

(2) In subsection (1) of section 88 of that Act (charge on beneficiaries of a settlement treated as resident outside the United Kingdom if the settlor is or has been domiciled and resident in the United Kingdom)—

- (a) the word “and” shall be inserted at the end of paragraph (a); and
- (b) paragraph (c) and the word “and” immediately preceding it shall be omitted.

(3) Subject to subsection (4) below, the preceding provisions of this section apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

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F101(4)

Textual Amendments

F100 S. 130(1) omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

F101 S. 130(4) omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

131 Charge on settlors of settlements for grandchildren.

- (1) In paragraph 2 of Schedule 5 to the ^{M34}Taxation of Chargeable Gains Act 1992 (test whether settlor has interest)—
- (a) after sub-paragraph (3)(d) there shall be inserted the following paragraphs—
- “(da) any grandchild of the settlor or of the settlor’s spouse;
 (db) the spouse of any such grandchild;”
- (b) in sub-paragraph (3)(e), for “(d)” there shall be substituted “ (db) ”.
- (2) For sub-paragraph (7) of that paragraph, there shall be substituted the following sub-paragraph—
- “(7) In this paragraph—
 “child” includes a stepchild; and
 “grandchild” means a child of a child.”
- (3) Schedule 22 to this Act (which makes transitional provision and consequential amendments in connection with the provisions of this section) shall have effect.
- (4) The preceding provisions of this section and Schedule 22 to this Act apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

Marginal Citations

M34 1992 c. 12.

132 Charge on settlors of pre-19th March 1991 settlements.

- (1) In paragraph 9 of Schedule 5 to the ^{M35}Taxation of Chargeable Gains Act 1992 (which sets out when a settlement is a qualifying settlement for the purposes of the attribution of gains to the settlor), after sub-paragraph (1) there shall be inserted the following sub-paragraphs—
- “(1A) Subject to sub-paragraph (1B) below, a settlement created before 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—
- (a) the year 1999-00, and
 (b) subsequent years of assessment.
- (1B) Where a settlement created before 19th March 1991 is a protected settlement immediately after the beginning of 6th April 1999, that

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settlement shall be treated as a qualifying settlement for the purposes of section 86 and this Schedule in a year of assessment mentioned in sub-paragraph (1A)(a) or (b) above only if—

- (a) any of the five conditions set out in subsections (3) to (6A) below becomes fulfilled as regards the settlement in that year; or
 - (b) any of those five conditions became so fulfilled in any previous year of assessment ending after 19th March 1991.”
- (2) Sub-paragraph (2) of that paragraph shall not have effect for the purpose of determining whether any settlement is a qualifying settlement in the year 1999-00 or any subsequent year of assessment.
- (3) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraph—
- “(6A) The fifth condition is that the settlement ceases to be a protected settlement at any time on or after 6th April 1999.”
- (4) After sub-paragraph (10) of that paragraph there shall be inserted the following sub-paragraphs—
- “(10A) Subject to sub-paragraph (10B) below, a settlement is a protected settlement at any time in a year of assessment if at that time the beneficiaries of that settlement are confined to persons falling within some or all of the following descriptions, that is to say—
- (a) children of a settlor or of a spouse of a settlor who are under the age of eighteen at that time or who were under that age at the end of the immediately preceding year of assessment;
 - (b) unborn children of a settlor, of a spouse of a settlor, or of a future spouse of a settlor;
 - (c) future spouses of any children or future children of a settlor, a spouse of a settlor or any future spouse of a settlor;
 - (d) a future spouse of a settlor;
 - (e) persons outside the defined categories.
- (10B) For the purposes of sub-paragraph (10A) above a person is outside the defined categories at any time if, and only if, there is no settlor by reference to whom he is at that time a defined person in relation to the settlement for the purposes of paragraph 2(1) above.
- (10C) For the purposes of sub-paragraph (10A) above a person is a beneficiary of a settlement if—
- (a) there are any circumstances whatever in which relevant property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;
 - (b) there are any circumstances whatever in which relevant income which arises or may arise under the settlement is or will or may become applicable for his benefit or payable to him;
 - (c) he enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.
- (10D) In sub-paragraph (10C) above—
- “relevant property” means property originating from a settlor; and

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“relevant income” means income originating from a settlor.”

- (5) In construing section 86(1)(e) of the ^{M36}Taxation of Chargeable Gains Act 1992 (which specifies the amount by reference to which a charge arises under that section) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991 which—
- (a) is a qualifying settlement in the year 1999-00, but
 - (b) was not a qualifying settlement in any earlier year of assessment,
- no account shall be taken of disposals made before 6th April 1999 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).
- (6) Schedule 23 (which makes transitional provision in connection with the coming into force of this section) shall have effect.

Marginal Citations

M35 1992 c. 12.

M36 1992 c. 12.

Groups of companies etc.

133 Transfer within group to investment trust.

- (1) After section 101 of the ^{M37}Taxation of Chargeable Gains Act 1992, there shall be inserted the following section—

“101A Transfer within group to investment trust.

- (1) This section applies where—
- (a) an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
 - (b) at the time of the disposal the acquiring company was not an investment trust, and
 - (c) the conditions set out in subsection (2) below are satisfied by the acquiring company.
- (2) Those conditions are satisfied by the acquiring company if—
- (a) it becomes an investment trust for an accounting period beginning not more than 6 years after the time of the disposal,
 - (b) at the beginning of that accounting period, it owns, otherwise than as trading stock—
 - (i) the asset, or
 - (ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
 - (c) it has not been an investment trust for any earlier accounting period beginning after the time of the disposal, and
 - (d) at the time at which it becomes an investment trust, there has not been an event by virtue of which it falls by virtue of section 179(3)

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or 101C(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

- (3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.
 - (4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the end of the last accounting period to end before the beginning of the accounting period for which the acquiring company becomes an investment trust.
 - (5) For the purposes of this section a chargeable gain is carried forward from an asset to other property on a replacement of business assets if—
 - (a) by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and
 - (b) as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.
 - (6) For the purposes of this section an asset acquired by the acquiring company shall be treated as the same as an asset owned by it at a later time if the value of the second asset is derived in whole or in part from the first asset; and, in particular, assets shall be so treated where—
 - (a) the second asset is a freehold and the first asset was a leasehold; and
 - (b) the lessee has acquired the reversion.
 - (7) Where under this section a company is to be treated as having disposed of and reacquired an asset—
 - (a) all such recomputations of liability in respect of other disposals, and
 - (b) all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax,as may be required in consequence of the provisions of this section shall be carried out.
 - (8) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may be made at any time within 6 years after the end of the accounting period referred to in subsection (2)(a) above.”
- (2) In section 179 of that Act (company ceasing to be a member of a group), after subsection (2B) there shall be inserted the following subsection—
- “(2C) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101A(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.”
- (3) Subsections (1) and (2) above apply to any company which becomes an investment trust for an accounting period beginning on or after 17th March 1998.

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Marginal Citations

M37 1992 c. 12.

134 Transfer of company's assets to venture capital trust.

- (1) In subsection (4) of section 139 of the ^{M38}Taxation of Chargeable Gains Act 1992 (reconstruction or amalgamation involving transfer of a business), after "investment trust" there shall be inserted " or a venture capital trust. "
- (2) After the section 101A of that Act inserted by section 133 above there shall be inserted the following section—

"101B Transfer of company's assets to venture capital trust.

- (1) Where section 139 has applied on the transfer of a company's business (in whole or in part) to a company which at the time of the transfer was not a venture capital trust, then if—
 - (a) at any time after the transfer the company becomes a venture capital trust by virtue of an approval for the purposes of section 842AA of the Taxes Act; and
 - (b) at the time as from which the approval has effect the company still owns any of the assets of the business transferred,
 the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.
 - (2) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the time mentioned in subsection (1)(b) above.
 - (3) This section does not apply if at the time mentioned in subsection (1)(b) above there has been an event by virtue of which the company falls by virtue of section 101(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.
 - (4) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the approval mentioned in subsection (1)(a) above has effect as from the beginning of an accounting period, be made at any time within 6 years after the end of that accounting period.
 - (5) Where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out."
- (3) After subsection (1A) of section 101 of that Act there shall be inserted the following subsection—

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“(1B) This section does not apply if at the time at which the company becomes an investment trust there has been an event by virtue of which it falls by virtue of section 101B(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.”

- (4) Subsection (1) above applies to transfers made on or after 17th March 1998.
- (5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of [F102Part 6 of the Income Tax Act 2007] (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

Textual Amendments

F102 Words in s. 134(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 382](#) (with [Sch. 2](#))

Marginal Citations

M38 [1992 c. 12.](#)

135 Transfer within group to venture capital trust.

- (1) In section 171 of the ^{M39}Taxation of Chargeable Gains Act 1992 (transfers within a group), after the word “or” at the end of paragraph (c) of subsection (2) there shall be inserted the following paragraph—
- “(cc) a disposal by or to a venture capital trust; or”
- (2) After the section 101B of that Act inserted by section 134 above there shall be inserted the following section—

“101C Transfer within group to venture capital trust.

- (1) This section applies where—
- an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
 - at the time of the disposal the acquiring company was not a venture capital trust, and
 - the conditions set out in subsection (2) below are satisfied by the acquiring company.
- (2) Those conditions are satisfied by the acquiring company if—
- it becomes a venture capital trust by virtue of an approval having effect as from a time (the “time of approval”) not more than 6 years after the time of the disposal,
 - at the time of approval the company owns, otherwise than as trading stock—
 - the asset, or
 - property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
 - it has not been a venture capital trust at any earlier time since the time of the disposal, and

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- (d) at the time of approval, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101A(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.
- (3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.
- (4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the time of approval.
- (5) Subsections (5) to (7) of section 101A apply for the purposes of this section as they apply for the purposes of that section.
- (6) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the time of approval is the time at which an accounting period of the company begins, be made at any time within 6 years after the end of that accounting period.
- (7) Any reference in this section to an approval is a reference to an approval for the purposes of section 842AA of the Taxes Act.”
- (3) In section 179 of that Act (company ceasing to be a member of a group), after the subsection (2C) inserted by section 133 above there shall be inserted the following subsection—
- “(2D) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101C(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.”
- (4) Subsection (1) above applies to disposals made on or after 17th March 1998.
- (5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of [^{F103}Part 6 of the Income Tax Act 2007] (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

Textual Amendments

F103 Words in s. 135(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 383](#) (with [Sch. 2](#))

Marginal Citations

M39 [1992 c. 12.](#)

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136 Incorporated friendly societies.

- (1) In section 170(9) of the ^{M40}Taxation of Chargeable Gains Act 1992 (meaning of “company” in sections 170 to 181), after the word “and” at the end of paragraph (c) there shall be inserted the following paragraph—
 - “(cc) an incorporated friendly society within the meaning of the ^{M41}Friendly Societies Act 1992; and”.
- (2) In subsection (2) of section 171 of that Act (transfers within a group), after the word “or” at the end of the paragraph (cc) inserted by section 135 above there shall be inserted the following paragraph—
 - “(cd) a disposal by or to a qualifying friendly society; or”
- (3) After subsection (4) of that section there shall be inserted the following subsection—
 - “(5) In subsection (2)(cd) above “qualifying friendly society” means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits).”
- (4) Subsection (1) above applies for the purpose of determining, in relation to times on and after 17th March 1998, whether a friendly society is a company within the meaning of the provisions of sections 170 to 181 of the ^{M42}Taxation of Chargeable Gains Act 1992.
- (5) Subsections (2) and (3) above apply in relation to disposals made on or after 17th March 1998.

Marginal Citations

- M40** 1992 c. 12.
M41 1992 c. 40.
M42 1992 c. 12.

137 Pre-entry gains.

- ^{F104}(1)
- ^{F105}(2)
- (3) In subsection (3) of section 213 of that Act (carry back of losses in respect of deemed annual disposal by insurance companies)—
 - (a) at the beginning there shall be inserted “Subject to subsection (3A) below,”; and
 - (b) for the “and” at the end of paragraph (c) there shall be substituted—
 - “(ca) none of the intervening accounting periods is an accounting period in which the company joined a group of companies, and”.
 - ^{F106}(4)
 - ^{F107}(5)
 - (6) Subsection (3) above has effect in relation to any intervening period ending on or after 17th March 1998.

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F108(7)

Textual Amendments

- F104** S. 137(1) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(9)**
- F105** S. 137(2) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(9)**
- F106** S. 137(4) repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 8 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**
- F107** S. 137(5) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(9)**
- F108** S. 137(7) repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 8 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**

F109 138 Pre-entry losses.

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Textual Amendments

- F109** S. 138 repealed (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 10(b)**

139 De-grouping charges.

- (1) In section 179(2B) of the ^{M43}Taxation of Chargeable Gains Act 1992 (cases where there is a connection between groups successively left by a company)—
- (a) in paragraph (b), for the words from “company which” to “its” there shall be substituted “ person or persons who control the company mentioned in paragraph (a) above or who have had it under their ”;
 - (b) in paragraph (c), for the words from “company which has” to “its” there shall be substituted “ person or persons who have, at any time in that period, had under their ”; and
 - (c) in that paragraph, for “fallen”, wherever it occurs, there shall be substituted “ been a person falling ”.
- (2) Subsection (1) above has effect in relation to a company in any case in which the time of the company’s ceasing to be a member of the second group is on or after 17th March 1998.

Marginal Citations

M43 1992 c. 12.

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Abolition of reliefs

140 Phasing out of retirement relief.

- (1) In Schedule 6 to the ^{M44}Taxation of Chargeable Gains Act 1992 (retirement relief etc.), paragraph 13(1) (amount available for relief: basic rule) shall have effect, in relation to qualifying disposals in a year of assessment specified in the first column of the following Table, as if—
- (a) for the references to £250,000 there were substituted references to the amount specified in the second column of that Table; and
 - (b) for the reference to £1 million there were substituted a reference to the amount specified in the third column of that Table.

TABLE

<i>Year</i>	<i>£250,000</i>	<i>£1 million</i>
1999-00	£200,000	£800,000
2000-01	£150,000	£600,000
2001-02	£100,000	£400,000
2002-03	£50,000	£200,000

- (2) The following provisions, namely—
- (a) section 163 of that Act (relief for disposals by individuals on retirement from family business),
 - (b) section 164 of that Act (other retirement relief), and
 - (c) Schedule 6 to that Act,
- shall cease to have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.
- (3) In section 157 of that Act (trade carried on by family company), for the words “within the meaning of Schedule 6” there shall be substituted the words “that is to say, a company the voting rights in which are exercisable, as to not less than 5 per cent., by him”.
- (4) In subsection (8) of section 165 of that Act (relief for gifts of business assets), for paragraph (a) there shall be substituted the following paragraphs—
- “(a) “personal company”, in relation to an individual, means a company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;
 - (aa) “holding company”, “trading company” and “trading group” have the meanings given by paragraph 22 of Schedule A1; and”.

^{F110}(5)

- (6) Subsections (3) to (5) above have effect in relation to the year 2003-04 and subsequent years of assessment.

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Textual Amendments

F110 S. 140(5) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(ii)**

Marginal Citations

M44 1992 c. 12.

141 Abolition of certain other CGT reliefs.

- (1) The following provisions of the ^{M45}Taxation of Chargeable Gains Act 1992 shall cease to have effect, namely—
- (a) Chapter IA of Part V (roll-over relief on re-investment); and
 - (b) sections 254 and 255 (relief for debts on qualifying corporate bonds).
- (2) In subsection (1) above—
- (a) paragraph (a) has effect in relation to acquisitions made on or after 6th April 1998; and
 - (b) paragraph (b) has effect in relation to loans made on or after 17th March 1998.

Marginal Citations

M45 1992 c. 12.

Status:

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