



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

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.

Status: Point in time view as at 31/07/1998.

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- (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.
- (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;

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- (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—
- “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.

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- (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."

88 Overseas life assurance business.

- (1) After section 553 of the Taxes Act 1988 (non-resident policies and off-shore capital redemption policies) there shall be inserted—

“553A Overseas life assurance business: life policies.

- (1) A policy of life insurance which, immediately before the happening of a chargeable event or a relevant event—
 - (a) is an overseas policy, but
 - (b) is not a new non-resident policy,
 shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new non-resident policy.
- (2) A policy of life insurance which, immediately before the happening of a relevant event—
 - (a) is an overseas policy, and
 - (b) is a new non-resident policy,
 shall, in relation to that event, be taken for the purposes of this Chapter not to be a qualifying policy.
- (3) Where a chargeable event happens in relation to a new non-resident policy, section 553(7) shall not have effect in relation to the gain treated as arising in connection with the policy on the happening of the chargeable event.
- (4) In this section—

“new non-resident policy” means a new non-resident policy as defined in paragraph 24 of Schedule 15 (and in subsections (2) and (3) above includes a policy treated as such by virtue of subsection (1) above);

“overseas policy” means a policy of life insurance which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company or friendly society;

“relevant event”, in relation to a policy of life insurance, means an event which would be a chargeable event in relation to that policy if the policy were assumed not to be a qualifying policy.
- (5) This section applies in relation to chargeable events and relevant events happening on or after 17th March 1998 in relation to policies of life insurance issued in respect of insurances made on or after that date.

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(6) A policy of life insurance issued in respect of an insurance made before 17th March 1998 shall be treated for the purposes of this section as issued in respect of one made on or after that date if it is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and any exercise of rights conferred by the policy shall be regarded for this purpose as a variation.”

(2) After section 553A of the Taxes Act 1988 there shall be inserted—

“553B Overseas life assurance business: capital redemption policies.

(1) A capital redemption policy which immediately before the happening of a chargeable event—

- (a) is an overseas policy, but
- (b) is not a new offshore capital redemption policy,

shall, in relation to that event, be treated for the purposes of this Chapter as if it were a new offshore capital redemption policy.

(2) In this section—

“new offshore capital redemption policy” has the same meaning as in section 553;

“overseas policy” means a capital redemption policy which, by virtue of section 431D(1)(a), forms part of the overseas life assurance business of an insurance company.

(3) This section applies in relation to capital redemption policies where the contract is made after the coming into force of the first regulations under section 458A in consequence of which capital redemption business forms part of the overseas life assurance business of an insurance company.”

89 Personal portfolio bonds.

In Chapter II of Part XIII of the Taxes Act 1988 (life policies, life annuities and capital redemption policies) after section 553B (which is inserted by section 88 above) there shall be inserted—

“553C Personal portfolio bonds.

(1) The Treasury may by regulations make provision imposing a yearly charge to tax in relation to personal portfolio bonds (“yearly” being construed for this purpose by reference to years as defined in section 546(4)).

(2) Subject to any provision to the contrary made by the regulations, any charge to tax under this section is in addition to any other charge to tax under this Chapter.

(3) The regulations may make provision with respect to or in connection with all or any of the following—

- (a) the method by which the charge to tax, or any relief, allowance or deduction against or in respect of the tax, is to be imposed or given effect;
- (b) the person who is to be liable for the tax;
- (c) the periods for or in respect of which the tax is to be charged;

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- (d) the amounts in respect of which, or by reference to which, the tax is to be charged;
 - (e) the period or periods by reference to which those amounts are to be determined;
 - (f) the rate or rates at which the tax is to be charged;
 - (g) any reliefs, allowances or deductions which are to be given or made against or in respect of the tax;
 - (h) the administration of the tax.
- (4) The provision that may be made by the regulations includes provision for imposing the charge to tax by a method which involves—
- (a) treating an event described in the regulations as if it were a chargeable event;
 - (b) treating an amount determined in accordance with the regulations as if it were a gain treated as arising on the happening of a chargeable event;
 - (c) deeming an amount determined in accordance with the regulations to be income of a person or body of persons (or to be part of the aggregate income of the estate of a deceased person); or
 - (d) applying section 740, with or without modification, in relation to an amount determined in accordance with the regulations.
- (5) The provision that may be made in the regulations includes provision for the amount or amounts in respect of which, or by reference to which, the tax is to be charged for periods beginning after the coming into force of the regulations to be determined in whole or in part by reference to periods beginning or ending, premiums paid, or events happening, before, on or after the day on which the Finance Act 1998 is passed.
- (6) The regulations may make provision excluding, or applying (with or without modification), other provisions of this Chapter in relation to policies or contracts which are also personal portfolio bonds.
- (7) In this section, “personal portfolio bond” means a policy of life insurance, contract for a life annuity or capital redemption policy under whose terms—
- (a) some or all of the benefits are determined by reference to the value of, or the income from, property of any description (whether or not specified in the policy or contract) or fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
 - (b) some or all of the property, or such an index, may be selected by, or by a person acting on behalf of, the holder of the policy or contract or a person connected with him (or the holder of the policy or contract and a person connected with him);
- but a policy or contract is not a personal portfolio bond if the only property or index which may be so selected is of a description prescribed for this purpose in the regulations.
- (8) The regulations may prescribe additional conditions which must be satisfied if a policy or contract is to be a personal portfolio bond.
- (9) The regulations—
- (a) may make different provision for different cases, different circumstances or different periods; and

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(b) may make incidental, consequential, supplemental or transitional provision.

(10) In this section, “holder”, in the case of a policy or contract held by two or more persons, includes a reference to any of those persons.

(11) Section 839 (connected persons) applies for the purposes of this section.”

90 Distributions to friendly societies.

(1) The repeal by section 30(4) of the ^{M1}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 ^{M2}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.

(3) In the case of any distribution falling within paragraph (b) of subsection (1) above, paragraph 12 of Schedule 3 to the ^{M3}Finance (No. 2) Act 1997 (which defers the coming into force of paragraphs 10 and 11 in relation to friendly societies) 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.

(4) Schedule 8 to the ^{M4}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.

Marginal Citations

- M1** 1997 c. 58.
- M2** 1997 c. 58.
- M3** 1997 c. 58.
- M4** 1997 c. 58.

91 Provisional repayments in connection with pension business.

(1) In Schedule 19AB to the Taxes Act 1988 (provisional repayments with respect to pension business) in paragraph 3 (recovery of excessive repayments) after sub-paragraph (1) there shall be inserted—

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“(1ZA) In its application by sub-paragraph (1) above, section 30 of the Management Act shall have effect as if, instead of the provision made by subsection (5), it provided that an assessment under that section by virtue of sub-paragraph (1) above is not out of time under section 34 of that Act if it is made no later than the end of the accounting period following that in which the assessment mentioned in paragraph (a) of that sub-paragraph is finally determined.”

- (2) The amendment made by subsection (1) above has effect in relation to accounting periods beginning at any time after 1st October 1992 and ending before the day appointed under section 199 of the ^{M5}Finance Act 1994.

Marginal Citations

M5 [1994 c. 9.](#)

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