



Finance Act 2008

2008 CHAPTER 9

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX_GENERAL

Employment matters

45 Homes outside UK owned through company etc

(1) In ITEPA 2003, after section 100 insert—

“100A Homes outside UK owned through company etc

- (1) This Chapter does not apply to living accommodation outside the United Kingdom provided by a company for a director or other officer of the company (“D”) or a member of D's family or household if—
- (a) the company is wholly owned by D or D and other individuals (and no interest in the company is partnership property), and
 - (b) the company has been the holding company of the property at all times after the relevant time.
- (2) The company is “the holding company of the property” when—
- (a) it owns a relevant interest in the property,
 - (b) its main or only asset is that interest, and
 - (c) the only activities undertaken by it are ones that are incidental to its ownership of that interest.
- (3) The company is also “the holding company of the property” when—
- (a) a company (“the subsidiary”) which is wholly owned by the company meets the conditions in paragraphs (a) to (c) of subsection (2),
 - (b) the company's main or only asset is its interest in the subsidiary, and
 - (c) the only activities undertaken by the company are ones that are incidental to its ownership of that interest.

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- (4) “Relevant interest in the property” means an interest under the law of any territory that confers (or would but for any inferior interest confer) a right to exclusive possession of the property at all times or at certain times.
- (5) “The relevant time” is the time the company first owned a relevant interest in the property; but this is subject to subsection (6).
- (6) If—
 - (a) none of D's interest in the company was acquired directly or indirectly from a person connected with D, and
 - (b) the company owned a relevant interest in the property at the time D first acquired an interest in the company,
 “the relevant time” is the time D first acquired such an interest.

100B Section 100A(1): exceptions

- (1) Section 100A(1) does not apply if subsection (2), (3) or (4) applies.
- (2) This subsection applies if—
 - (a) the company's interest in the property was acquired directly or indirectly from a connected company at an undervalue, or
 - (b) the company's interest in the property derives from an interest that was so acquired.
- (3) This subsection applies if, at any time after the relevant time—
 - (a) expenditure in respect of the property has been incurred directly or indirectly by a connected company, or
 - (b) any borrowing of the company directly or indirectly from a connected company has been outstanding (but see subsection (7)).
- (4) This subsection applies if the living accommodation is provided in pursuance of an arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax or national insurance contributions.
- (5) In subsection (2) references to the acquisition of an interest include the grant of an interest.
- (6) For the purposes of that subsection, an interest is acquired at an undervalue if the total consideration for it is less than that which might reasonably have been expected to be obtained on a disposal of the interest on the open market; and “consideration” here means consideration provided at any time (and, for example, includes payments by way of rent).
- (7) For the purposes of subsection (3)(b), no account is to be taken of—
 - (a) any borrowing at a commercial rate, or
 - (b) any borrowing which results in D being treated under Chapter 7 (taxable benefits: loans) as receiving earnings.
- (8) In subsection (4) “arrangement” includes any scheme, agreement or understanding, whether or not enforceable.
- (9) In this section “connected company” means—

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- (a) a company connected with D, with a member of D's family or with an employer of D, or
- (b) a company connected with such a company.”

(2) The amendment made by subsection (1) is treated as always having had effect.

(3) Section 145 of ICTA (living accommodation provided for employee) is to be treated as never having applied to living accommodation outside the United Kingdom provided in circumstances in which, had it been provided on or after 6 April 2003, section 100A(1) of ITEPA 2003 would cause Chapter 5 of Part 3 of ITEPA 2003 (taxable benefits: living accommodation) not to apply.

46 In-work and return to work credits and payments

(1) In section 677(1) of ITEPA 2003 (UK social security benefits wholly exempt from tax), in Part 1 of Table B (benefits payable under primary legislation), insert at the appropriate places—

“In-work credit	ETA 1973	Section 2
	ETA(NI) 1950	Section 1
In-work emergency discretion fund payment	ETA 1973	Section 2
In-work emergency fund payment	ETA(NI) 1950	Section 1”, and
“Return to work credit	ETA 1973	Section 2
	ETA(NI) 1950	Section 1”.

(2) In Part 1 of Schedule 1 to that Act (abbreviations of Acts etc), insert at the appropriate places—

“ETA(NI) 1950	The Employment and Training Act (Northern Ireland) 1950 (c. 29 (N.I.))”, and
“ETA 1973	The Employment and Training Act 1973 (c. 50)”.

(3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

47 Company cars: lower threshold for CO₂ emissions figure

^{F1}(1)

(2) In consequence of the amendment made by subsection (1), omit—

- (a) in FA 2003, section 138(3), and
- (b) in FA 2006, section 59(6).

(3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

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Textual Amendments

- F1** S. 47(1) omitted (with effect in accordance with Sch. 28 para. 10(1) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 28 para. 9**

48 Van fuel benefit

- (1) In section 239(3) of ITEPA 2003 (exemption in respect of payments and benefits connected with taxable cars and vans subject to section 149), insert at the end “ or section 160 (benefit of van fuel treated as earnings). ”
- (2) In section 269(2) of that Act (exemption in respect of non-cash vouchers and credit-tokens where benefits or money obtained in connection with taxable car or subject to section 149)—
 - (a) for “, but see section 149(3)” substitute “ or van, but see section 149(3) or section 160(3) ”, and
 - (b) after “earnings” insert “ or section 160 (benefit of van fuel treated as earnings) ”.

49 Employment-related securities etc: deductible amounts etc

- (1) In section 149AA of TCGA 1992 (restricted and convertible employment-related securities), after subsection (6) insert—
 - “(7) In subsection (1) the reference to any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 does not include any amount of exempt income (within the meaning of section 8 of that Act).”
- (2) ITEPA 2003 is amended as follows.
- (3) In section 428(2)(b) as originally enacted (conditional interests in shares: amount of charge), insert at the end “ (other than an amount of exempt income) ”.
- (4) In section 428(7)(b) (restricted securities: amount of charge), insert at the end “ (other than an amount of exempt income) ”.
- (5) In section 446T(3)(b) (securities acquired for less than market value: amount of charge), insert at the end “ (other than an amount of exempt income) ”.
- (6) In section 480(5)(a) (securities options: deductible amounts), insert at the end “ (other than an amount of exempt income) ”.

^{F2}(7)

^{F2}(8)

- (9) The amendment made by subsection (1) has effect in relation to disposals made on or after 12 March 2008.
- (10) The amendment made by subsection (3) has effect in relation to events within section 427(1)(a) or (b) of ITEPA 2003 (as originally enacted) occurring on or after that date.
- (11) The amendments made by subsections (4) and (6) have effect in relation to chargeable events occurring on or after that date.

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(12) The amendment made by subsection (5) has effect in relation to employment-related securities acquired (or treated as acquired) on or after that date.

^{F3}(13)

Textual Amendments

F2 S. 49(7)(8) 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)

F3 S. 49(13) 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)

50 Employment-related securities: repeal of obsolete provisions

- (1) In ICTA, omit sections 138 and 139 (share acquisitions by directors and employees: shares acquired before 26 October 1987).
- (2) In ITEPA 2003—
 - (a) in section 418 (other related provisions), omit subsection (4), and
 - (b) in Schedule 7 (transitionals and savings), omit paragraph 57.
- (3) The amendments made by this section have effect for the tax year 2008-09 and subsequent tax years.

51 Armed forces: the Council Tax Relief

- (1) In ITEPA 2003, after section 297A insert—

“297B Armed forces: the Council Tax Relief

- (1) No liability to income tax arises in respect of payments of the Council Tax Relief to members of the armed forces of the Crown.
 - (2) Payments of the Council Tax Relief are payments designated as such by the Secretary of State.”
- (2) The amendment made by subsection (1) has effect in relation to payments made on or after 1 April 2008.

52 Greater London Authority: severance payments

- (1) Section 291(2) of ITEPA 2003 (termination payments to MPs and others ceasing to hold office) is amended as follows.
- (2) In paragraph (ea), omit “or”.
- (3) At the end of paragraph (f) insert “, or
 - (g) made under section 26A of the Greater London Authority Act 1999 (payments on ceasing to hold office as Mayor of London or as a member of the London Assembly).”
- (4) The amendments made by this section have effect in relation to payments made on or after 6 April 2008.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)