

**2011 No. 0000**

**INCOME TAX**

**CAPITAL GAINS TAX**

**CORPORATION TAX**

**SOCIAL SECURITY**

The Finance Act 2009, Schedules 55 and 56 (Appointed Day  
and Consequential Provisions) Order 2011

*Made* - - - - [ ] 2011  
*Laid before Parliament* [ ] 2011  
*Coming into force* - - 6th April 2011

The Treasury make the following Order in exercise of the powers conferred by sections 106(2) to (6) and 107(2) to (6) of the Finance Act 2009<sup>(a)</sup>.

**Citation, commencement and interpretation**

**1.** This Order may be cited as the Finance Act 2009, Schedules 55 and 56 (Appointed Day and Consequential Provisions) Order 2011 and comes into force on 6th April 2011.

**2.** In this Order—

“HMRC” means Her Majesty’s Revenue and Customs;

“tax year” means a period that begins on 6th April and ends on the following 5th April.

**Appointed days**

**3.** The day appointed for the coming into force of Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) is 6th April 2011 in relation to a return or other document which—

- (a) is required to be made or delivered to HMRC in relation to any tax year ending after 5th April 2010, and
- (b) falls within item 1, 2 or 3 of the Table in paragraph 1 of that Schedule.

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<sup>(a)</sup> 2009 c.10.

4. The day appointed for the coming into force of Schedule 56 to the Finance Act 2009 (penalty for failure to make payments on time)(a) is 6th April 2011 in relation to an amount of tax which—

- (a) is payable in relation to any tax year ending after 5th April 2010, and
- (b) falls within—
  - (i) item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule, or
  - (ii) insofar as the tax falls within item 1 of that Table, item 17, 23 or 24 of that Table.

### Consequential amendments and repeals

#### *Taxes Management Act 1970*

5. The Taxes Management Act 1970(b) is amended as follows.

6. Omit section 59C (surcharges on unpaid income tax and capital gains tax)(c).

7. In section 69 (recovery of penalty, surcharge or interest)(d)—

- (a) for subsection (1)(b) substitute—

“(b) penalties imposed under any paragraph of Schedule 56 to the Finance Act 2009 in respect of an amount falling within any of the following items of the Table in paragraph 1 of that Schedule—

  - (i) item 1, 12, 18 or 19, or
  - (ii) insofar as the tax falls within item 1, item 17, 23 or 24;”;
- (b) in subsection (2) omit “, surcharge”; and
- (c) accordingly, in the heading omit “, surcharge”.

8. Omit—

- (a) section 93 (penalties for failure to make return for income tax and capital gains tax)(e); and
- (b) section 93A (failure to make partnership return)(f).

9. In section 100 (determination of penalties by officer of the Board)(g)—

- (a) omit subsection (2)(a); and
- (b) in subsection (6)(a) omit “section 93(2), (4) or (5) of this Act”.

10. In section 100B (appeals against penalty determinations)(h)—

- (a) in subsection (1) omit “sections 93 and 93A of this Act and”; and
- (b) in subsection (2) for “Subject to sections 93(8) and 93A(7) of this Act on” substitute “On”.

11.(1) — Section 107A (relevant trustees)(i) is amended as follows—

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- (a) Schedule 56 is amended by Schedule 11 to the Finance (No. 3) Act 2010 (c. 33).
  - (b) 1970 c. 9.
  - (c) Section 59C was inserted by sections 194 and 199 of the Finance Act 1994 (c.9) and has been amended by S.I. 2009/56, 2010/530.
  - (d) Section 69 was substituted by section 89 of the Finance Act 2001 (c. 9).
  - (e) 1970 c.9. Section 93 was substituted by sections 196 and 199 of, and paragraph 25 of Schedule 19 to, the Finance Act 1994 (c.9). Section 93 has been amended by sections 91 and 92 of the Finance Act 2007 (c.11), S.I. 2009/56, 2009/2035.
  - (f) Section 93A was inserted by sections 196 and 199 of, and paragraph 26 of Schedule 19 to, the Finance Act 1994 (c.9). Section 93A has been amended by section 123(8) to (11) of the Finance Act 1996 (c.8), sections 91, 92, 144 of, and part 5(3) of Schedule 27 to, the Finance Act 2007 (c.11), S.I. 2009/56.
  - (g) Section 100 was substituted by section 167 of the Finance Act 1989 (c.26).
  - (h) Section 100B was substituted by section 167 of the Finance Act 1989 (c. 26). Section 100B has been amended by sections 196 and 199 of, and paragraph 31 of Schedule 19 to, the Finance Act 1994 (c.9), section 115 of the Finance Act 1995 (c. 4). S.I. 2009/56, 2009/571.
  - (i) Section 107A was inserted by section 103 of the Finance Act 1995 (c. 4). Section 107A has been amended by section 113 of, and paragraphs 65 and 75 to Schedule 36 to, the Finance Act 2008 (c. 9), S.I 2009/571, 2010/530.

- (2) In subsection (2)—
  - (a) in paragraph (a)—
    - (i) omit “, 93”;
    - (ii) after “Schedule 41 to the Finance Act 2008” insert “or Schedule 55 to the Finance Act 2009”; and
    - (iii) for “section 103A of this Act” substitute “section 101 of the Finance Act 2009.”;
  - (b) for paragraph (c) substitute
    - “(c) to a penalty under Schedule 56 of the Finance Act 2009, or to interest under section 101 of that Act on such a penalty.”; and
  - (c) for “interest, payment or surcharge” substitute “interest or payment”.
- (3) In subsection (3)—
  - (a) for paragraph (a) substitute—
    - “(a) in relation to—
      - (i) a penalty under paragraph 4 of Schedule 55 to the Finance Act 2009 in respect of a return or other document falling within item 1, 2 or 3 of the Table in paragraph 1 of that Schedule, or
      - (ii) interest under section 101 of that Act on a penalty within sub-paragraph (i), the beginning of the penalty date as defined in paragraph 1(4) of that Schedule.”;
  - (b) in paragraph (b) for “section 103A of this Act” substitute “section 101 of the Finance Act 2009”; and
  - (c) for paragraph (c) substitute—
    - “(c) in relation to—
      - (i) a penalty under Schedule 56 to the Finance Act 2009 in respect of an amount falling within item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule,
      - (ii) a penalty under that Schedule in respect of an amount falling within item 17, 23 or 24 of that Table so far as the tax falls within item 1, or
      - (iii) interest under section 101 of that Act on a penalty within sub-paragraph (i) or (ii), the beginning of the penalty date as defined in paragraph 1(4) of that Schedule.”.
- (4) Omit subsection (4).

*Income and Corporation Tax Act 1988*

**12.** For section 824(1)(c) of the Income and Corporation Taxes Act 1988 (repayment supplements: surcharges) (a) substitute—

- “(c) a penalty imposed under any paragraph of Schedule 56 to the Finance Act 2009 in respect of an amount falling within any of the following items of the Table in paragraph 1 of that Schedule—
  - (i) item 1, 12, 18 or 19; or
  - (ii) insofar as the tax falls within item 1, item 17, 23 or 24; and”

*Finance Act 1989*

**13.** In section 178 of the Finance Act 1989 (setting of rates of interest)(a), in subsection (2)(f) omit “59C”.

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(a) 1988 c. 1. Section 824(1) was substituted by sections 196 and 199 of, and paragraph 41 of Schedule 19 to, the Finance Act 1994 (c. 9).

*Social Security Contributions and Benefits Act 1992*

**14.** In section 16(1) of the Social Security Contributions and Benefits Act 1992 (application of Income Tax Acts to class 4 contributions)(b) after paragraph (b), insert “, and (c) the provisions of Schedules 55 and 56 to the Finance Act 2009,”.

*Finance Act 1993*

**15.** In section 122 of the Finance Act 1993 (application of Income Tax Acts etc to public departments)(c), in subsection (2)—

- (a) after “Taxes Management Act 1970 (interest and penalties)” insert “and Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc)”;
- (b) for “that Act” substitute “the Taxes Management Act 1970”; and
- (c) for “of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988” substitute “for the purposes of those payments to which section 978 of the Income Tax Act 2007 (application to public departments) applies.”.

*Finance Act 2009*

**16.** In the Finance Act 2009(d)—

- (a) in section 68 (employment loss relief), omit subsection (4); and
- (b) in section 108 (suspension of penalties during currency of agreement for deferred payment), omit the first row of the Table in subsection (5).

*The Taxes (Interest Rate) Regulations 1989*

**17.** In the Taxes (Interest Rate) Regulations 1989(e), omit regulation 3(1)(aa).

**Savings**

**18.** Articles 5 to 16 have no effect in relation to—

- (a) a return or other document which is required to be made or delivered to HMRC, or
  - (b) an amount of tax which is payable,
- in relation to a tax year ending on or before 5th April 2010.

**19.** For the purposes of regulation 20 of the Stamp Duty Reserve Tax Regulations 1986(f) (which applies certain provisions of the Taxes Management Act 1970, in some cases subject to modifications, for the purposes of stamp duty reserve tax), articles 7, 8(a), 9(a) and 10 have no effect.

**Repeals and revocations**

**20.** The Schedule contains repeals and revocations.

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- (a) 1989 c. 26. Paragraph 178(2) (f) has been amended by sections 196 and 199 of, and paragraph 44 of Schedule 19 to, the Finance Act 1994 (c. 9), paragraph 13 of Schedule 18 to and part V of Schedule 41 to the Finance Act 1996 (c. 8), paragraph 1(3) of Schedule 4 to the Finance Act 1998 (c. 36), S.I. 1998/311.
  - (b) 1992 c.4. Paragraph 16(1) (b) was substituted by sections 196 and 199 of, and paragraph 45 of Schedule 19 to, the Finance Act 1994 (c. 9).
  - (c) 1993 c.34.
  - (d) 2009 c. 10.
  - (e) S.I. 1989/1297; relevant amending instruments are 1996/3187, 1998/310.
  - (f) S.I. 1986/1711; relevant amending instruments are [1988/835,1993/3110,1997/2430,1999/3264, 2009/56.]

Date

Two of the Lords Commissioners for Her Majesty's Treasury

*Name*

*Name*

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

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