

Bill 6

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PART 1

RULES FOR SPECIAL TYPES OF COMPANY

CHAPTER 1

COMPANIES IN LIQUIDATION OR ADMINISTRATION

Introductory

1 Meaning of “final year”, “penultimate year” etc [\[j4406\]](#)

- (1) This section applies for the purposes of this Chapter.

[Origin: Drafting.](#)

- (2) In relation to a company that is being wound up –
“the final year” means the financial year in which the winding up of the company is completed, and
“the penultimate year” means the last financial year before the company’s final year.

[Origin: ICTA s.342\(1\).](#)

- (3) In relation to a company in administration –
“the final year” means the financial year in which the dissolution event in respect of the company occurs, and
“the penultimate year” means the last financial year before the company’s final year.

[Origin: ICTA s.342A\(1\).](#)

- (4) A reference in this Chapter to the “dissolution event” in respect of a company in administration is a reference –
(a) to the administrator sending a notice in respect of the company under paragraph 84(1) of Schedule B1 to the Insolvency Act 1986 (c. 45) (company moving from administration to dissolution), or
(b) if the company enters administration otherwise than under that Act, to the doing of any other act for a similar purpose.

[Origin: ICTA s.342A\(1\).](#)

- (5) “Profits” has the same meaning as in Part 2 of [the Corporation Tax Act 2009].

[Origin: ICTA s.6\(4\); drafting.](#)

2 Meaning of “rate of corporation tax” in case of small companies [j4402]

- (1) This section applies if corporation tax chargeable on profits of a company for a financial year –
- (a) is to be charged at the small companies’ rate (see section [j2031]), or
 - (b) is to be reduced by reference to the small companies’ fraction (see section [j2032]).

Origin: ICTA s.342(2), (3), s.342A(2), (3); drafting.

- (2) References in this Chapter to the “rate of corporation tax”, so far as relating to profits of the company for the financial year concerned, are to be taken –
- (a) as references to the small companies’ rate, or
 - (b) (as the case may be) as including references to the small companies’ fraction (and with references to a rate being “fixed” or “proposed” read accordingly as references to the fraction being fixed or proposed).

Origin: ICTA s.342(2), (3), s.342A(2), (3); drafting.

*Companies in liquidation***3 Company in liquidation: corporation tax rates [j4401]**

- (1) This section applies, in the case of a company that is being wound up, in relation to profits of the company arising in its final year (see subsections (2) to (5)) or its penultimate year (see subsections (6) and (7)).

Origin: Drafting.

- (2) The rate of corporation tax to be applied in assessing, before the winding up of the company is completed, the corporation tax chargeable on the profits of the company arising in the winding up in its final year is to be determined in accordance with subsections (3) to (5).

Origin: ICTA s.342(2), (3).

- (3) If the rate of corporation tax has been fixed for the final year, that fixed rate is to be applied.

Origin: ICTA s.342(2), (3).

- (4) If the rate of corporation tax has been proposed (but not yet fixed) for the final year, that proposed rate is to be applied.

Origin: ICTA s.342(2), (3).

- (5) If the rate of corporation tax has been neither fixed nor proposed for the final year, the rate fixed or proposed for the penultimate year is to be applied.

Origin: ICTA s.342(2).

- (6) Subsection (7) applies if –
- (a) the winding up of the company started before the company’s final year, and
 - (b) an assessment to corporation tax is made at a time when the rate of corporation tax for the company’s penultimate year is proposed (but not yet fixed).

Origin: ICTA s.342(8); drafting.

- (7) The rate of corporation tax proposed for the penultimate year may be applied in relation to the profits of the company arising in the winding up at any time in that year.

Origin: ICTA s.342(8); drafting.

4 Company in liquidation: making of assessment to tax [j4405]

- (1) This section applies if –
- (a) an assessment to corporation tax is made on the profits of a company that is being wound up, and
 - (b) the assessment is made before the date when the winding up is completed (“the actual winding up date”).

Origin: ICTA s.342(4), (5).

- (2) An assessment for an accounting period falling after the start of the winding up is not invalid because it is made before the end of the period.

Origin: ICTA s.342(4).

- (3) In applying section [13][j9014] of [the Corporation Tax Act 2009] (accounting periods of companies being wound up) for the purpose of determining when an accounting period of the company ends, the liquidator may make an assumption as to what the actual winding up date will be (“the assumed winding up date”).

Origin: ICTA s.342(5).

- (4) The company’s final and penultimate years are not changed if the assumption made under subsection (3) as to the actual winding up date is wrong.

Origin: ICTA s.342(6).

- (5) If the actual winding up date is later than the assumed winding up date –
- (a) an accounting period of the company ends on the assumed winding up date (“period A”), and
 - (b) a new accounting period of the company (“period B”) begins immediately after the end of period A.

Origin: ICTA s342(6).

- (6) Section [13][j9014] of [the Corporation Tax Act 2009] then applies as if the winding up of the company started at the time when period B begins.

Origin: ICTA s.342(6).

Companies in administration

5 Company in administration: corporation tax rates [j4404]

- (1) This section applies, in the case of a company in administration, in relation to profits of the company arising in its final year (see subsections (2) to (5)) or its penultimate year (see subsections (6) and (7)).

Origin: Drafting.

- (2) The rate of corporation tax to be applied in assessing, before the dissolution event in respect of the company, the corporation tax chargeable on the company's profits arising in the administration in its final year is to be determined in accordance with subsections (3) to (5).

Origin: ICTA s.342A(2), (3).

- (3) If the rate of corporation tax has been fixed for the final year, that fixed rate is to be applied.

Origin: ICTA s.342A(2), (3).

- (4) If the rate of corporation tax has been proposed (but not yet fixed) for the final year, that proposed rate is to be applied.

Origin: ICTA s.342A(2), (3).

- (5) If the rate of corporation has been neither fixed nor proposed for the final year, the rate fixed or proposed for the penultimate year is to be applied.

Origin: ICTA s.342A(2).

- (6) Subsection (7) applies if –

- (a) the company entered administration before its final year, and
- (b) an assessment to corporation tax is made at a time when the rate of corporation tax for the company's penultimate year is proposed (but not yet fixed).

Origin: ICTA s.342A(10); drafting.

- (7) The rate of corporation tax proposed for the penultimate year may be applied in relation to the profits of the company arising in the administration at any time in that year.

Origin: ICTA s.342A(10); drafting.

6 **Company in administration: making of assessment to tax [j4408]**

- (1) This section applies if –

- (a) an assessment to corporation tax is made on the profits of a company in administration, and
- (b) the assessment is made before the date of the dissolution event in respect of the company (“the actual dissolution date”).

Origin: ICTA s.342A(6), (7).

- (2) An assessment for an accounting period in which the company is in administration is not invalid because it is made before the end of the period.

Origin: ICTA s.342A(6).

- (3) In applying section [11][j9011](1) of [the Corporation Tax Act 2009] (time when accounting periods come to an end) for the purposes of determining when an accounting period of the company ends, the administrator may make an assumption as to what the actual dissolution date will be (“the assumed dissolution date”).

Origin: ICTA s.342A(7).

- (4) The company’s final and penultimate years are not changed if the assumption made under subsection (3) as to the actual dissolution date is wrong.

Origin: ICTA s.342A(8).

- (5) If the actual dissolution date is later than the assumed dissolution date—
- (a) an accounting period of the company ends on the assumed dissolution date (“period A”), and
 - (b) a new accounting period of the company (“period B”) begins immediately after the end of period A.

Origin: ICTA S.342A(8).

- (6) Section [11][j9011](1) of [the Corporation Tax Act 2009] then applies as if the company had entered administration at the beginning of period B.

Origin: ICTA s.342A(8).

Supplementary

7 Meaning of rate being “fixed” or “proposed” [j4403]

- (1) This section applies for the purposes of sections 3 and 5.

Origin: Drafting.

- (2) A rate of corporation tax is “fixed”—
- (a) in the case of a company that is being wound up, if the rate has been fixed by an Act passed before the completion of the winding up, and
 - (b) in the case of a company that is in administration, if the rate has been fixed by an Act passed before the dissolution event in respect of the company,

but this is subject to subsection (4).

Origin: ICTA s.342(7), s.342A(9).

- (3) A rate of corporation tax is “proposed” if the rate is proposed by a Budget resolution (whether or not subsequently fixed by an Act).

Origin: ICTA s.342(7), s.342A(9).

- (4) If a Budget resolution proposes to alter a rate of corporation tax that has been fixed, references in sections 3 and 5 to a fixed rate are references to that rate as proposed to be altered by the resolution.

Origin: ICTA s.342(7), s.342A(9).

- (5) In this section “Budget resolution” means a resolution of the House of Commons for fixing a rate of corporation tax.

Origin: ICTA s.342(7), s.342A(9).

8 Exemption for interest on overpaid tax in final accounting period [j4407]

- (1) This section applies if, in the final accounting period of a company that is being wound up or is in administration, interest within subsection (2) arises to the company.

Origin: ICTA s.342(3A), s.342A(4).

- (2) Interest within this subsection arises to a company if—
- (a) the interest is received or is receivable by the company under section 826 of ICTA (interest on tax overpaid), and
 - (b) the interest does not exceed £2000.

Origin: ICTA s.342(3A), s.342A(4).

- (3) The interest is excluded in calculating the company’s income for the purposes of the charge to corporation tax.

Origin: ICTA s.342(3A), s.342A(4).

- (4) In subsection (1) the “final accounting period” means—
- (a) in the case of a company being wound up, the accounting period which ends, in accordance with section [13][j9014] of [the Corporation Tax Act 2009] (accounting periods of companies being wound up), with the completion of the winding up, and
 - (b) in the case of a company in administration, the last accounting period of the company before the dissolution event in respect of the company.

Origin: ICTA s.342(3A), s.342A(5).

CHAPTER 2

BANKS IN COMPULSORY LIQUIDATION: TAXATION OF RECEIPTS

9 Overview [j4428]

This Chapter provides for the receipts of certain types of company being wound up to be charged to corporation tax or income tax.

Origin: Drafting.

10 Application [j4420]

- (1) This Chapter applies if—
- (a) a company is being or has been wound up by the court in the United Kingdom, and
 - (b) each of conditions A to C is met.

Origin: FA (No.2)A 1992 Sch.12 para.1(1).

- (2) Condition A is that the company was, at any time within the period mentioned in subsection (5), lawfully carrying on a business of accepting deposits as—
- (a) a person of the kind mentioned in paragraph (b) of the definition of “bank” in [section 840A(1) of ICTA] (persons with permission under Part 4 of FISMA 2000 to accept deposits), or
 - (b) a permitted EEA credit institution.

Origin: FA (No.2)A 1992 Sch.12 para.1(1).

- (3) Condition B is that the company has permanently ceased to carry on the trade that included the business of accepting deposits (the “deposit-taking trade”).

Origin: FA (No.2)A 1992 Sch.12 para.1(1).

- (4) Condition C is that the company is insolvent and –
- (a) was so when the winding up proceedings started, or
 - (b) became so at any time in the period of 12 months following the day on which those proceedings started.

Origin: FA (No.2)A 1992 Sch.12 para.1(1).

- (5) The period referred to in subsection (2) is the period of 12 months ending with the earlier of –
- (a) the day on which the winding up proceedings started, and
 - (b) the day on which the company permanently ceased to carry on the deposit-taking trade.

Origin: FA (No.2)A 1992 Sch.12 para.1(2).

- (6) In subsection (2)(b) a “permitted EEA credit institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (credit institutions authorised by home state regulator) which has permission to accept deposits under paragraph 15 of that Schedule.

Origin: FA (No.2)A 1992 Sch.12 para.1(1).

11 Charge to tax on winding up receipts [j4421]

- (1) Winding up receipts arising from the deposit-taking trade are chargeable to corporation tax or income tax.

Origin: F(No.2)A 1992 Sch.12 para.3(1), (2).

- (2) Subsection (1) applies in relation to a winding up receipt only so far as its value was not brought into account in calculating the profits of the trade of any period before the permanent cessation of the trade.

Origin: F(No.2)A 1992 Sch.12 para.3(2).

- (3) A “winding up receipt” means (subject to subsection (4)) a sum received by the company or its liquidator after –
- (a) the start of the winding up proceedings, or
 - (b) if later, the permanent cessation of the deposit-taking trade.

Origin: F(No.2)A 1992 Sch.12 para.3(1).

- (4) The following sums are not winding up receipts –
- (a) a sum received on behalf of a person entitled to the sum to the exclusion of the company and its liquidator,
 - (b) a sum realised by the transfer of trading stock (as defined by section [156][j035510] of [the Corporation Tax Act 2009]) the value of which is brought into account in accordance with Chapter 10 of that Act (valuation of stock).

Origin: F(No.2)A 1992 Sch.12 para.3(3).

- (5) So far as relating to corporation tax, subsection (1) has effect as an application of the charge to corporation tax on income.

Origin: F(No.2)A 1992 Sch.12 para.3(1).

12 Transfer of rights to payment [j4424]

- (1) This section applies if—
- (a) the company or its liquidator transfers for value to another person the right to receive a sum arising from the deposit-taking trade, and
 - (b) the sum is one which, if received by the company or its liquidator, would be a winding up receipt.

Origin: F(No.2)A 1992 Sch.12 para.5; drafting.

- (2) If the transfer is at arm's length, this Chapter has effect as if the amount or value of the consideration for the transfer were a winding up receipt arising from the deposit-taking trade.

Origin: F(No.2)A 1992 Sch.12 para.5; drafting.

- (3) If the transfer is not at arm's length, this Chapter has effect as if the value of the right transferred as between parties at arm's length were a winding up receipt arising from the deposit-taking trade.

Origin: F(No.2)A 1992 Sch.12 para.5; drafting.

13 Allowable deductions [j4423]

- (1) In calculating the amount on which tax is charged under this Chapter for a chargeable period, deductions are allowed in accordance with this section from the amount which would otherwise be chargeable to tax under this Chapter.

Origin: F(No.2)A 1992 Sch.12 para.4(1).

- (2) A deduction is allowed for the total sum of all losses, expenses and debits within subsection (3) that are incurred during or before the chargeable period (but subject to subsections (4) and (5)).

Origin: F(No.2)A 1992 Sch.12 para.4(1).

- (3) The losses, expenses and debits within this subsection are those which, if the company carrying on the deposit-taking trade had not permanently ceased to do so—

- (a) would have been deducted in calculating the profits of the trade for corporation or income tax purposes, or
- (b) would have been deducted from or set off against the profits of the trade for corporation or income tax purposes.

Origin: F(No.2)A 1992 Sch.12 para.4(2).

- (4) No deduction is allowed if the loss, expense or debit arises directly or indirectly from the cessation itself.

Origin: F(No.2)A 1992 Sch.12 para.4(2).

- (5) A loss, expense or debit is only within subsection (3) if incurred—
- (a) after the start of the winding up proceedings or, if later, the permanent cessation of the deposit-taking trade, or
 - (b) in the case of a loss, at or before the permanent cessation of the deposit-taking trade.

Origin: F(No.2)A 1992 Sch.12 para.4(2).

- (6) No deduction for an amount is allowed under this section if the amount has already been allowed (whether under this section or under any other provision of the Tax Acts).

Origin: F(No.2)A 1992 Sch.12 para.4(1).

14 Election to carry back [j4427]

- (1) This section applies if a winding up receipt arising from the deposit-taking trade is received in a chargeable period beginning no later than 6 years after the company permanently ceased to carry on the trade.

Origin: F(No.2)A 1992 Sch.12 para.6(1).

- (2) The company or its liquidator may elect that the tax chargeable under this Chapter in respect of the receipt is to be charged as if the receipt has been received on the date of the cessation.

Origin: F(No.2)A 1992 Sch.12 para.6(1).

- (3) The election must be made before the end of the chargeable period in which the receipt is received.

Origin: F(No.2)A 1992 Sch.12 para.6(1).

- (4) If an election is made under this section an assessment to tax must be made accordingly (regardless of anything in the Corporation Tax Acts).

Origin: F(No.2)A 1992 Sch.12 para.6(2); drafting.

15 Relationship of Chapter with other tax provisions [j4429]

- (1) If a winding up receipt arising from the deposit-taking trade is chargeable to tax under this Chapter it is not chargeable to corporation tax or income tax under any other provision.

Origin: F(No.2)A 1992 Sch.12 para.3(4).

- (2) This Chapter has effect for corporation tax purposes regardless of section [451][J0610805](1) of [the Corporation Tax Act 2009] (priority of loan relationship provisions).

Origin: F(No.2)A 1992 Sch.12 para.3(5).

16 Interpretation of Chapter [j4426]

- (1) This section applies for the purposes of this Chapter.

Origin: F(No.2)A 1992 Sch.12 para.2(1).

- (2) Winding up proceedings start against a company at the time when the petition for its winding up by the court is presented.

Origin: F(No.2)A 1992 Sch.12 para.2(3).

- (3) There is the permanent cessation of a company's trade if –
- the company ceases to carry on the trade, or
 - the company ceases to be within the charge to corporation tax in respect of the trade,

whether or not the trade is in fact ceased.

Origin: F(No.2)A 1992 Sch.12 para.2(4).

- (4) A company is insolvent at any time if at that time –
- (a) it is unable to pay its debts as they fall due, or
 - (b) the value of its assets is less than the amount of its liabilities (including its contingent and prospective liabilities).

Origin: F(No.2)A 1992 Sch.12 para.2(5).

- (5) “Company” means –
- (a) a company as defined in section 1(1) of the Companies Act 2006 (c. 46), or
 - (b) an unregistered company as defined in section 220 of the Insolvency Act 1986 (c. 45) or Article 184 of the Insolvency (Northern Ireland) Order 1989.

Origin: F(No.2)A 1992 Sch.12 para.2(2).

- (6) For the meaning of “deposit-taking trade” and “winding up receipt”, see sections 10(3) and 11(3) respectively.

Origin: Drafting.

SCHEDULES

SCHEDULE 1

Section [jref]

MINOR AND CONSEQUENTIAL AMENDMENTS [j2-s343ETC]

PART 1

INCOME AND CORPORATION TAXES ACT 1988 (S342ETC) [PGE]

- 1 The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.
- 2 Omit section 342 (tax on company in liquidation).
- 3 Omit section 342A (tax on companies in administration).

PART 2

OTHER ENACTMENTS (S342ETC) [PGE]

Finance (No. 2) Act 1992 (c. 48)

- 4 The Finance (No. 2) Act 1992 is amended as follows.
- 5 Omit section 66 (banks etc in compulsory liquidation).
- 6 Omit Schedule 12 (banks etc in compulsory liquidation).

Income Tax (Trading and Other Income) Act 2005 (c. 5)

- 7 In section 369 of the Income Tax (Trading and Other Income) Act 2005 (charge to tax on interest), after subsection (4) insert –
 - “(5) See also section 15(1) of [Bill 6] (which provides for the receipts of certain types of company being wound up to be charged to tax under Chapter [] of Part [] of that Act instead of under any other provision that would otherwise apply).”

SCHEDULE 2

Section [jref]

REPEALS [j4-s342ETC]

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988	Sections 342 and 342A.
Finance (No. 2) Act 1992 (c. 48)	Section 66.

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance (No. 2) Act 1992 (c. 48) – <i>cont.</i>	Schedule 12.