

Bill 5

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PART 1

COMPANIES WITH INVESTMENT BUSINESS

CHAPTER 1

INTRODUCTION

1 Overview of Part [j2009]

- (1) This Part contains special rules for companies with investment business.
[Origin: Drafting.](#)
- (2) Chapters 2 and 3 provide relief for certain expenses of a company with investment business that are not relieved elsewhere.
[Origin: Drafting.](#)
- (3) Chapter 4 contains some restrictions on the relief.
[Origin: Drafting.](#)
- (4) There are provisions imposing a charge to corporation tax in—
 - (a) section 12 (claw back of relief), and
 - (b) Chapter 5 (companies with investment business: receipts).
[Origin: Drafting.](#)

2 “Company with investment business” and “investment business” [j2000A]

- (1) In this Part “company with investment business” means a company whose business consists wholly or partly of making investments.
[Origin: ICTA s.130.](#)
- (2) But a credit union is not a company with investment business for the purposes of this Part.
[Origin: ICTA s.487\(4\); Annex 1, Change {jc346}.](#)
- (3) References in this Part to a company’s investment business are to be construed in accordance with section 3(2).
But this subsection does not affect the interpretation of the expression “company with investment business”.
[Origin: ICTA s.75\(4\).](#)

CHAPTER 2**MANAGEMENT EXPENSES***Relief for expenses of management***3 Expenses of management of a company's investment business [j2000]**

- (1) In calculating the total profits of a company with investment business a deduction is allowed for expenses of management of the company's investment business.

Origin: ICTA s.75(1).

- (2) For the purposes of this section expenses of management are expenses of management of a company's investment business so far as –
- (a) they are in respect of so much of the company's investment business as consists of making investments, and
 - (b) the investments concerned are not held for an unallowable purpose during the accounting period to which the expenses are referable (see sections 7 to 10).

Origin: ICTA s.75(4).

- (3) But –
- (a) no deduction is allowed under this section for expenses of a capital nature, and
 - (b) no deduction is allowed under this section for expenses so far as they are otherwise deductible in calculating income and chargeable gains.

There is an exception to paragraph (a) in section 4(1).

Origin: ICTA s.6(4), s.75(2), (3), s.834(2).

- (4) The deduction is allowed for the accounting period to which the expenses are referable.

Origin: ICTA s.75(1).

- (5) For the purposes of this section investments are held for an unallowable purpose during an accounting period so far as they are held during the period –
- (a) for a purpose that is not a business purpose or other commercial purpose of the company, or
 - (b) for the purpose of activities in respect of which the company is not within the charge to corporation tax.

Origin: ICTA s.75(5).

- (6) Any apportionment needed for the purposes of subsection (2) or (5) must be made on a just and reasonable basis.

Origin: ICTA s.75(10).

- (7) The amount deductible under subsection (1) may be reduced under section 5.

Origin: Drafting.

4 Amounts treated as expenses of management [j2000B]

- (1) Section 3(3)(a) (no deduction allowed for expenses of a capital nature) does not apply to amounts that are treated as expenses of management under –
- (a) Chapter 3 (amounts treated as expenses of management),
 - (b) [section 84A of ICTA] (deduction for costs of setting up share option scheme),
 - (c) [section 85A of ICTA] (deduction for costs of setting up employee share ownership trust),
 - (d) [paragraph 13 of Schedule 4AA to ICTA] (share incentive plans: corporation tax deductions),
 - (e) paragraph 4(1A) of Schedule 23A to ICTA (manufactured dividends and interest),
 - (f) [paragraphs 9 and 16 of Schedule 23 to FA 2003] (relief for employee share acquisitions), or
 - (g) section 196 of FA 2004 (employers' contributions to pension schemes).

Origin: ICTA s.75(3).

- (2) Amounts that are treated as expenses of management under any provision listed in subsection (3) are deductible under section 3 as if they were expenses of management of the company's investment business.

Origin: ICTA s.75(7), s.84A(2), s.85A(2), s.86(2), s.86A(2), s.88, s.90(1), s.579(3), s.588(4), s.589A(9); Annex 1, Change [jc348].

- (3) The provisions are –
- (a) [section 16 (excess capital allowances)],
 - (b) section 18 (employees seconded to charities and educational establishments),
 - (c) section 19 (payroll deduction schemes),
 - (d) section 20 (counselling and other outplacement services),
 - (e) section 21 (retraining courses),
 - (f) section 23 (redundancy payments and approved contractual payments),
 - (g) section 25 (additional payments),
 - (h) section 28 (payments to Export Credits Guarantee Department),
 - (i) [section 84A of ICTA] (deduction for costs of setting up share option scheme),
 - (j) [section 85A of ICTA] (deduction for costs of setting up employee share ownership trust).

Origin: ICTA s.75(7), s.84A(2), s.85A(2), s.86(2), s.86A(2), s.88, s.90(1), s.579(3), s.588(4), s.589A(9); Annex 1, Change [jc348].

5 Income from a source not charged to tax [j2019]

- (1) This section applies to a UK resident company if –
- (a) income arises to the company from a source not charged to tax,
 - (b) the company has the source in the course of carrying on its investment business, and
 - (c) the income is not franked investment income.

Origin: ICTA s.75(6).

- (2) This section applies to a non-UK resident company if—
- income arises to the company from a source not charged to tax,
 - the company has the source in the course of carrying on its investment business through a permanent establishment in the United Kingdom,
 - the source is property or rights used by, held by, or held for, that establishment, and
 - the income is not franked investment income.

Origin: ICTA s.75(6).

- (3) The amount of that income is deducted from the amount (if any) that would otherwise be deductible under section 3 for the accounting period in which the income arises.

Origin: ICTA s.75(6); drafting.

6 Carrying expenses forward [j2002]

- (1) This section applies if, in an accounting period of a company with investment business, the current total of expenses of management exceeds the amount of the profits from which those expenses are deductible.

Origin: ICTA s.75(8).

- (2) In subsection (1) “the current total of expenses of management” means the total of any expenses of management deductible for the period under section 3 (including any amounts carried forward to the period under this section).

Origin: ICTA s.75(8), (9).

- (3) The excess is treated for the purposes of section 3 as expenses of management deductible for the next accounting period.

Origin: ICTA s.75(9).

- (4) See also section 392A(3) of ICTA (which is about unused Schedule A losses).

Origin: Drafting.

Accounting period to which expenses are referable

7 Accounting period to which expenses are referable [j2003]

- (1) Sections 8 to 10 explain which is the accounting period to which expenses of management are referable.

Origin: ICTA s.75A(1); drafting.

- (2) But those sections do not affect any provision—

- in Chapter 3, or
- elsewhere in the Corporation Tax Acts,

which provides for amounts to be treated as expenses of management referable to an accounting period.

Origin: ICTA s.75A(9).

8 Accounts conforming with GAAP [j2003a]

- (1) If—
- (a) expenses of management are debited in accounts drawn up by a company for a period of account,
 - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, and
 - (c) the period of account coincides with an accounting period,
- the expenses of management are referable to that accounting period.

Origin: ICTA s.75A(2).

- (2) If—
- (a) expenses of management are debited in accounts drawn up by a company for a period of account, and
 - (b) the treatment of those expenses in those accounts is in accordance with generally accepted accounting practice, but
 - (c) the period of account does not coincide with an accounting period,
- the expenses of management are apportioned between any accounting periods that fall within the period of account (and are referable to accounting periods so far as they are apportioned to them).

Origin: ICTA s.75A(3), (4).

- (3) An apportionment under subsection (2) must be made—
- (a) on a time basis, or
 - (b) if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

Origin: ICTA s.75A(5); s.834(4).

9 Accounts not conforming with GAAP [j2003b]

- (1) Subsection (2) applies if—
- (a) a company incurs expenses of management, and
 - (b) the company draws up accounts for a particular period of account, and
 - (c) the expenses of management would have been debited in those accounts if they had been treated in those accounts in accordance with generally accepted accounting practice, but
 - (d) they are not debited in those accounts in accordance with generally accepted accounting practice.

Origin: ICTA s.75A(6).

- (2) The expenses of management are referable to the accounting period to which they would have been referable under section 8(1) or (2) if they had been debited in those accounts in accordance with generally accepted accounting practice.

Origin: ICTA s.75A(6).

10 Accounts not drawn up [j2003c]

- (1) If—

- (a) a company does not draw up accounts, or does not draw them up for a particular period, and
- (b) as a result, expenses of management are not referable to an accounting period under section 8 or 9,

take the following steps to determine the accounting period to which they are referable.

Origin: ICTA s.75A(7), (8); drafting.

(2) *Step 1*

Assume that for each accounting period of the company that does not coincide with, or fall within, any period of account there is a period of account that coincides with it.

Step 2

If it would be in accordance with UK generally accepted accounting practice to debit the expenses of management, or any part of them, in accounts drawn up by the company for that deemed period of account, assume that they are so debited.

Step 3

Making those assumptions, apply section 8(1).

Origin: ICTA s.75A(7), (8); drafting.

Claw back of relief

11 Credits that reverse debits [j2006]

For the purposes of sections 12 and 13, a credit reverses the whole or part of a debit in any case where –

- (a) the sum represented in whole or in part by the debit is paid and then wholly or partly repaid, or
- (b) the sum represented by the debit is never paid.

Origin: ICTA s.75B(11).

12 Claw back of relief [j2005]

(1) This section applies if –

- (a) a credit is brought into account by a company in a period of account (“the period of the credit”),
- (b) the credit reverses (in whole or in part) a debit brought into account in a previous period of account of the company,
- (c) the debit (or part of it) represents expenses of management deductible under section 3 for an accounting period (“the period of deductibility”) which ends before, or at the same time as, the period of the credit, and
- (d) the expenses of management are not deductible for that period by virtue of section 6 (expenses carried forward).

For cases involving an absence of accounts see also section 14.

Origin: ICTA s.75B(1); drafting.

(2) The reversal amount (see section 13) is dealt with in accordance with subsection (3) or (5).

Origin: ICTA s.75B(2).

- (3) If the period of the credit coincides with an accounting period of the company –
- (a) the reversal amount is, as far as possible, applied in reducing (but not below nil) the company’s expenses of management belonging to that period, and
 - (b) if not all of the amount can be applied in that way, the remainder is treated as income of the company, and charged to corporation tax for the accounting period.

Origin: ICTA s.75B(4), (7).

- (4) For the purposes of subsection (3), the expenses of management belonging to a period are the expenses of management that are deductible for that period, excluding any amounts carried forward under section 6.

Origin: ICTA s.75B(7).

- (5) If the period of the credit does not coincide with an accounting period of the company –
- (a) the reversal amount is apportioned between any accounting periods that fall within the period of the credit, and
 - (b) paragraphs (a) and (b) of subsection (3) are applied to any amount that is apportioned to an accounting period.

Origin: ICTA s.75B(5).

- (6) An apportionment under subsection (5) must be made –
- (a) on a time basis, or
 - (b) if it appears that that method would work unreasonably or unjustly, on a just and reasonable basis.

Origin: ICTA s.75B(6), s.834(4).

13 Meaning of “reversal amount” [j2007]

- (1) This section gives the meaning of “reversal amount” for the purposes of this Part.

Origin: Drafting.

- (2) If a credit reverses the whole or part of a debit, the reversal amount is found as follows.

Step 1

Take however much of the credit reverses the debit.

Step 2

Reduce that (if applicable) to however much of the credit reverses the part of the debit that represents expenses of management deductible under section 3.

Step 3

Reduce that (if applicable) to exclude any part of the credit that represents sums otherwise taken into account in calculating for corporation tax purposes the profits and losses of the company for the relevant accounting period or an earlier accounting period.

Origin: ICTA s.75B(3).

- (3) In this section “relevant accounting period” means the latest accounting period of the company that falls wholly or partly within the period of the credit (see section 12(1)(a)).

Origin: ICTA s.75B(3).

14 Absence of accounts [j2008]

- (1) This section sets out how section 12 operates if a company has an accounting period that neither coincides with nor falls within any period of account.

Origin: ICTA s.75B(9).

- (2) Section 12 operates as if –
- (a) there were a period of account of the company that coincides with that accounting period, and
 - (b) in calculating for accounting purposes the company’s profits and losses for that period of account, amounts were brought into account in accordance with UK generally accepted accounting practice.

Origin: ICTA s.75B(9), (10).

- (3) The references in section 32(3)(b) (car or motor cycle hire) to credits and debits include credits and debits that are deemed to be made by virtue of this section.

Origin: ICTA s.75B(1), (3), s.578A(4).

CHAPTER 3

AMOUNTS TREATED AS EXPENSES OF MANAGEMENT

Preliminary

15 Chapter applies to amounts not otherwise relieved [j2015]

The following provisions of this Chapter treat amounts as expenses of management only so far as the amounts –

- (a) would not otherwise be treated as expenses of management for the purposes of Chapter 2, and
- (b) are not otherwise deductible in calculating income and chargeable gains.

Origin: ICTA s.75(2), s.76B(1), s.79(2), s.79A(2), s.79B(2), s.86(1), s.86A(2), s.88, s.90(1), s.579(3), s.588(4), s.589A(8), (9); FA 1988 s.73(3).

Excess capital allowances

16 Excess capital allowances [j2001]

- (1) This section applies if a company with investment business is entitled to allowances by virtue of section 15(1)(g) of CAA 2001 (qualifying activities include managing investments).

Origin: ICTA s.75(7).

- (2) So far as effect cannot be given to the allowances under section 253(2) of CAA 2001, the allowances are treated for the purposes of Chapter 2—
 - (a) as expenses of management, and
 - (b) as referable to the accounting period for which the company is entitled to the allowances.

Origin: ICTA s.75(7).

Payments for restrictive undertakings

17 Payments for restrictive undertakings: expenses of management [j032401me]

- (1) This section applies if a payment—
 - (a) is treated as earnings of an employee by virtue of section 225 of ITEPA 2003 (payments for restrictive undertakings), and
 - (b) is made, or treated as made for the purposes of section 226 of that Act (valuable consideration given for restrictive undertakings), by a company with investment business.

Origin: FA 1988 s.73(3).

- (2) The payment is treated for the purposes of Chapter 2 as expenses of management.

Origin: FA 1988 s.73(3).

Seconded employees

18 Employees seconded to charities and educational establishments: expenses of management [j032501me]

- (1) This section applies if a company carrying on a business that consists wholly or partly of making investments (“the employer”) makes the services of a person employed for the purposes of the business available to—
 - (a) a charity, or
 - (b) an educational establishment,on a basis that is stated and intended to be temporary.

Origin: ICTA s.86(1), (3).

- (2) Expenses of the employer that are attributable to the employee’s employment during the period of the secondment are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.86(1), (2); Annex 1, Change 15 {jc028}.

- (3) In this section—

“educational establishment” means—

 - (a) in England and Wales, any of the bodies mentioned in section {j032502}(1),
 - (b) in Scotland, any of the bodies mentioned in section {j032502}(2), and
 - (c) in Northern Ireland, any of the bodies mentioned in section {j032502}(3), and

“the period of the secondment” means the period for which the employee’s services are made available to the charity or educational establishment.

Origin: ICTA s.86(1), (3).

Contributions to agents’ expenses

19 Payroll deduction schemes: expenses of management [j032601me]

- (1) This section applies if—
- (a) a company with investment business (“the employer”) is liable to make payments to an individual,
 - (b) income tax falls to be deducted from those payments as a result of PAYE regulations, and
 - (c) the employer withholds sums from those payments in accordance with an approved scheme and pays the sums to an approved agent.

Origin: ICTA s.86A(1), (2).

- (2) Expenses falling within subsection (3) are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.86A(2).

- (3) Expenses fall within this subsection if they are incurred by the employer in making a payment to the agent for expenses which—
- (a) have been incurred, or
 - (b) are to be incurred,
- by the agent in connection with the agent’s functions under the scheme.

Origin: ICTA s.86A(3).

- (4) In this section “approved agent” and “approved scheme” have the same meaning as in section 714 of ITEPA 2003.

Origin: ICTA s.86A(1A).

Counselling and retraining expenses

20 Counselling and other outplacement services: expenses of management [j032701me]

- (1) This section applies if—
- (a) a company with investment business (“the employer”) incurs counselling expenses,
 - (b) the expenses are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer, and
 - (c) the relevant conditions are met.

Origin: ICTA s.589A(1), (7), (8), (9).

- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.589A(8), (9).

- (3) In this section “counselling expenses” means expenses incurred –
- (a) in the provision of services to the employee in connection with the cessation of the office or employment,
 - (b) in the payment or reimbursement of fees for such provision, or
 - (c) in the payment or reimbursement of travelling expenses in connection with such provision.

Origin: ICTA s.589A(1).

- (4) In this section “the relevant conditions” means –
- (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (employment income exemptions: counselling and other outplacement services), and
 - (b) in the case of travel expenses, condition E for those purposes.

Origin: ICTA s.589A(1A).

21 Retraining courses: expenses of management [j032702me]

- (1) This section applies if –
- (a) a company with investment business (“the employer”) incurs retraining course expenses,
 - (b) they are incurred in relation to a person (“the employee”) who holds or has held an office or employment under the employer, and
 - (c) the relevant conditions are met.

Origin: ICTA s.588(1), (3), (4).

- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.588(4).

- (3) In this section –
- “retraining course expenses” means expenses incurred in the payment or reimbursement of retraining course expenses within the meaning given by section 311(2) of ITEPA 2003, and
- “the relevant conditions” means –
- (a) the conditions in subsections (3) and (4) of section 311 of ITEPA 2003 (employment income exemptions: retraining courses), and
 - (b) in the case of travel expenses, the conditions in subsection (5) of that section.

Origin: ICTA s.588(1), (3); Annex 1, Change 17 {jc256}.

- (4) If –
- (a) an employer’s liability to tax for an accounting period is determined on the assumption that a deduction for expenditure is allowed by virtue of this section, and
 - (b) the deduction would not otherwise have been allowed,
- subsections (2) to (6) of section [j032704] (retraining courses: recovery of tax) apply.

Origin: ICTA s.588(5), (6), (7).

*Redundancy payments etc***22 Redundancy payments and approved contractual payments: expenses of management [j032801me]**

- (1) Sections 23 to 25 apply if –
- (a) a company with investment business (“the employer”) makes a redundancy payment or an approved contractual payment to another person (“the employee”),
 - (b) the payment is in respect of the employee’s employment wholly in the employer’s investment business or partly in the employer’s investment business and partly in one or more other capacities, and
 - (c) expenses of management of the business are deductible under section 3.

Origin: ICTA s.579(3), (5).

- (2) For the purposes of this section and sections 23 to 26 “redundancy payment” means a redundancy payment payable under –
- (a) Part 11 of the Employment Rights Act 1996 (c. 18), or
 - (b) Part 12 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).

Origin: ICTA s.580(1); ERA 1996 s.166(2); ER(NI)O 1996 Art.201(2).

- (3) For the purposes of this section and those sections –
- “contractual payment” means a payment which, under an agreement, an employer is liable to make to an employee on the termination of the employee’s contract of employment, and
- a contractual payment is “approved” if, in respect of that agreement, an order is in force under –
- (a) section 157 of the Employment Rights Act 1996, or
 - (b) Article 192 of the Employment Rights (Northern Ireland) Order 1996.

Origin: ICTA s.580(1); ERA 1996 s.166(2); ER(NI)O 1996 Art.201(2).

23 Payments in respect of employment wholly in employer’s trade: expenses of management [j032802me]

- (1) This section applies if the payment is in respect of the employee’s employment wholly in the employer’s investment business.

Origin: ICTA s.579(3).

- (2) The amount of the payment is treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.579(3).

- (3) The deduction allowable by virtue of this section for an approved contractual payment must not exceed the amount which would have been due to the employee if a redundancy payment had been payable.

Origin: ICTA s.579(3), s.580(1).

- (4) If the payment is referable (see sections 7 to 10) to an accounting period beginning after the business has permanently ceased to be carried on, it is

treated as referable to the last accounting period in which the business was carried on.

Origin: ICTA s.579(3A); Annex 1, Change {jc349}.

24 Payments in respect of employment in more than one capacity: expenses of management [j032803me]

- (1) This section applies if the payment is in respect of the employee's employment with the employer –
 - (a) partly in the employer's investment business, and
 - (b) partly in one or more other capacities.

Origin: ICTA s.579(5).

- (2) The amount of the redundancy payment, or the amount which would have been due if a redundancy payment had been payable, is to be apportioned on a just and reasonable basis between –
 - (a) the employment in the investment business, and
 - (b) the employment in the other capacities.

Origin: ICTA s.579(5), s.580(1); Annex 1, Change 13 {jc218}.

- (3) The part of the payment apportioned to the employment in the investment business is treated as a payment in respect of the employee's employment wholly in the investment business for the purposes of section 23.

Origin: ICTA s.579(5).

25 Additional payments: expenses of management [j032804me]

- (1) This section applies if the employer's business, or part of it, ceases (permanently) to be carried on and the employer makes a payment to the employee in addition to –
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.

Origin: ICTA s.90(1), (4), s.580(1); Annex 1, Change 18 {jc029}.

- (2) If –
 - (a) the additional payment would not otherwise be deductible under section 3, but
 - (b) that is only because the business, or the part of the business, has ceased to be carried on,

the additional payment is deductible under section 3 as expenses of management.

Origin: ICTA s.90(1).

- (3) The deduction under this section is limited to 3 times the amount of –
 - (a) the redundancy payment, or
 - (b) if an approved contractual payment is made, the amount that would have been due if a redundancy payment had been payable.

Origin: ICTA s.90(2), (4), s.580(1).

- (4) If the payment is made after the business or the part of the business has ceased to be carried on, it is treated as referable to the last accounting period in which the business, or the part concerned, was carried on.

Origin: ICTA s.90(1); Annex 1, Change 18 {jc029}; Annex 1, Change {jc349}.

26 Payments made by the Government: expenses of management [j032805me]

- (1) This section applies if –
- (a) a redundancy payment or an approved contractual payment is payable by a company with investment business (“the employer”),
 - (b) a payment to which subsection (2) applies is made in respect of the payment, and
 - (c) expenses of management of the business are deductible under section 3.

Origin: ICTA s.579(3), (6), s.580(1).

- (2) This subsection applies to –
- (a) payments made by the Secretary of State under section 167 of the Employment Rights Act 1996 (c. 18), and
 - (b) payments made by the Department for Employment and Learning under Article 202 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).

Origin: ICTA s.579(6); Annex 1, Change 16 {jc273}.

- (3) So far as the employer reimburses the Secretary of State or Department for the payment, sections 23 to 25 apply as if the payment were –
- (a) a redundancy payment, or
 - (b) an approved contractual payment, made by the employer.

Origin: ICTA s.579(6).

Contributions to local enterprise organisations or urban regeneration companies

27 Contributions to local enterprise organisations or urban regeneration companies: expenses of management [j033101me]

- (1) This section applies if a company with investment business (“the contributor”) incurs expenses in making a contribution (whether in cash or in kind) –
- (a) to a local enterprise organisation, or
 - (b) to an urban regeneration company.

Origin: ICTA s.79(2), s.79A(2), s.79B(2).

- (2) The expenses are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.79(2), s.79A(2), s.79B(2).

- (3) But if, in connection with the making of the contribution, the contributor or a connected person –
- (a) receives a disqualifying benefit of any kind, or
 - (b) is entitled to receive such a benefit,

the amount of the deduction allowed for the expenses under section 3 by virtue of this section is restricted to the amount of the expenses less the value of the benefit.

Origin: ICTA s.79(3), s.79A(3), s.79B(3); Annex 1, Change 19 {jc032}.

- (4) For this purpose it does not matter whether a person receives, or is entitled to receive, the benefit –
- (a) from the local enterprise organisation or urban regeneration company concerned, or
 - (b) from anyone else.

Origin: ICTA s.79(3), s.79A(3), s.79B(3).

- (5) In this section “disqualifying benefit” means a benefit the expenses of obtaining which, if incurred by the contributor directly in a transaction at arm’s length, would not be deductible as expenses of management under section 3.

Origin: Annex 1, Change 19 {jc032}.

- (6) Sections {j033102} (meaning of “local enterprise organisation”) and {j033102a} (meaning of “urban regeneration company”) apply for the purposes of this section as they apply for the purposes of section {j033101}.

Origin: Drafting.

Export Credits Guarantee Department

28 Payments to Export Credits Guarantee Department: expenses of management {j033301me}

- (1) This section applies if –
- (a) a sum is payable by a company with investment business to the Export Credits Guarantee Department, and
 - (b) the sum is payable under an agreement entered into as a result of arrangements made under section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or with a view to entering into such an agreement.

Origin: ICTA s.88.

- (2) The sum is treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.88.

Levies under FISMA 2000

29 Levies under FISMA 2000: expenses of management {j2017}

- (1) Sums –
- (a) spent by a company with investment business in paying a levy, or
 - (b) paid by a company with investment business as a result of an award of costs under costs rules,
- are treated for the purposes of Chapter 2 as expenses of management.

Origin: ICTA s.76B(1).

- (2) In this section “costs rules” has the meaning given by section [{j030100fsa}](#)(2).
[Origin: ICTA s.76B\(4\); Annex 1, Change {jc345}](#).
- (3) In this section “levy” has the meaning given by section [{j030100fsa}](#)(3).
[Origin: ICTA s.76B\(3\); Annex 1, Change {jc345}](#).

CHAPTER 4

RULES RESTRICTING DEDUCTIONS

30 Introduction [\[j2010\]](#)

- (1) This Chapter contains provisions that restrict the deduction of expenses of management under section 3.
[Origin: Drafting.](#)
- (2) Other provisions that prohibit or restrict the deduction of expenses of management under section 3 include—
- section [{j031251g}](#) (employee benefit contributions: non-trades and non-property businesses),
 - section [{j031301g}](#) (business entertainment and gifts: non-trades and non-property businesses),
 - section [{j190203}](#) (social security contributions: non-trades etc),
 - section [{j190201}](#) (penalties, interest and VAT surcharges: non-trades etc),
 - section [{j032001g}](#) (crime-related payments: non-trades and non-property businesses),
 - section 200 of FA 2004 (no other relief for employers in connection with contributions),
 - section 246 of FA 2004 (restriction of deduction for non-contributory provision).
- [Origin: Drafting.](#)
- (3) See also section 196A of FA 2004 (employers’ contributions: power to restrict relief).

[Origin: Drafting.](#)

31 Unpaid remuneration: companies with investment business [\[j031201me\]](#)

- (1) This section applies if—
- an amount is charged in the accounts of a company with investment business in respect of employees’ remuneration, and
 - the amount would apart from this section be deductible under section 3 as expenses of management.

[Origin: FA 1989 s.44\(1\).](#)

- (2) No deduction is allowed for the expenses under section 3 unless the remuneration is paid.

[Origin: FA 1989 s.44\(1\).](#)

- (3) Section 3(4) (deduction allowed for the accounting period to which the expenses are referable) applies only if the remuneration is paid before the end of the period of 9 months immediately following the end of the period of account.

Origin: FA 1989 s.44(1); drafting.

- (4) If the remuneration is paid after the end of that 9 month period, the deduction for it is allowed for the period of account in which it is paid.

Origin: FA 1989 s.44(4).

- (5) Section [\[j031201a\]](#) (supplementary provision) applies for the purposes of this section as it applies for the purposes of section [\[j031201\]](#).

Origin: FA 1989 s.44(2), (3), (5), (6), (8).

32 Car or motor cycle hire: companies with investment business [\[j031401me\]](#)

- (1) Subsection (2) applies if, in calculating the total profits of a company with investment business, a deduction is allowed under section 3 for expenses incurred on the hiring of a car or motor cycle –
- (a) which is not a qualifying hire car or motor cycle, and
 - (b) the retail price of which when new exceeds £12,000.

Origin: ICTA s.578A(1), (2).

- (2) The amount of the deduction which would otherwise be allowable is reduced by multiplying the amount by the fraction –

$$\frac{\pounds 12,000 + RP}{2 \times RP}$$

where RP is the retail price of the car or motor cycle when new.

Origin: ICTA s.578A(3).

- (3) Subsection (4) applies if a deduction is reduced as a result of subsection (2), or a corresponding provision, and –
- (a) subsequently –
 - (i) there is a rebate (however described) of the hire charges, or
 - (ii) a debt in respect of any of the hire charges is released otherwise than as part of a statutory insolvency agreement, and
 - (b) a credit representing the rebate, or the amount released, reverses (in whole or in part) a debit representing the expenses for which the deduction was allowed.

Origin: ICTA s.75B(1), (3), s.578A(4); Annex 1, Change [\[jc347\]](#).

- (4) The amount given by step 2 of section 13(2) (the part of the credit that reverses the part of the debit representing deductible expenses of management) is found by reducing the amount found at step 1 of section 13(2) in the same way as the deduction was reduced under subsection (2) above or the corresponding provision.

Origin: ICTA s.75B(1), (3), s.578A(4); Annex 1, Change [\[jc347\]](#).

- (5) In this section “corresponding provision” means –

- (a) section [{j031401}](#)(2) (car or motor cycle hire: trade profits and property income),
- (b) section 48(2) of ITTOIA 2005 (car or motor cycle hire: trade profits and property income), or
- (c) section [578A of ICTA] (car or motor cycle hire: expenses of insurance companies).

Origin: ICTA s.578A(4).

- (6) The power under section 74(4) of CAA 2001 to increase or further increase the sums of money specified in Chapter 8 of Part 2 of CAA 2001 includes the power to increase or further increase the sum of money specified in subsection (1)(b) or (2).

Origin: ICTA s.578B(4).

- (7) Sections [{j031401a}](#) (meaning of “car or motor cycle” and other expressions) and [{j031402}](#) (hiring cars with low CO2 emissions before 1 April 2008) apply for the purposes of this section as they apply for the purposes of section [{j031401}](#).

Origin: ICTA s.578B(1), (2), (2A), (2B), (3); FA 2002 s.60(2); Annex 1, Change [{jc024}](#).

CHAPTER 5

COMPANIES WITH INVESTMENT BUSINESS: RECEIPTS

33 Industrial development grants: companies with investment business [{j033901me}](#)

- (1) This section applies if a company with investment business receives a payment by way of a grant under –
 - (a) section 7 or 8 of the Industrial Development Act 1982 (c. 52), or
 - (b) Article 7, 9 or 30 of the Industrial Development (Northern Ireland) Order 1982 (S.I. 1982/1083 (N.I. 15)).

Origin: ICTA s.93(1), (2).

- (2) Corporation tax is charged on the payment unless –
 - (a) the grant is designated as made towards the cost of specified capital expenditure,
 - (b) the grant is designated as compensation for the loss of capital assets, or
 - (c) the grant is for all or part of a corporation tax liability (including one that has already been met).

Origin: ICTA s.93(1), (2), (3).

- (3) But tax is not charged under this section if the payment is taken into account (under another provision) in calculating profits for the purposes of corporation tax.

Origin: ICTA s.93(1), (2); drafting.

34 Contributions to local enterprise organisations or urban regeneration companies: disqualifying benefits [j033101mer]

- (1) This section applies if—
- (a) a deduction has been made under section 3 by virtue of section 27 (contributions to local enterprise agencies or urban regeneration companies: expenses of management), and
 - (b) the contributor or a connected person receives a disqualifying benefit that is in any way attributable to the contribution.

Origin: ICTA s.79(9), s.79A(4), s.79B(4).

- (2) Corporation tax is charged on an amount equal to the value of the benefit (so far as not brought into account in determining the amount of the deduction).

Origin: ICTA s.79(9), s.79A(4), s.79B(4).

- (3) Tax under this section is charged for the accounting period in which the benefit is received.

Origin: ICTA s.79(9), s.79A(4), s.79B(4).

- (4) In this section “disqualifying benefit” has the same meaning as in section 27.

Origin: Annex 1, Change 19 [jc032].

35 Repayments under FISMA 2000 [j2018]

- (1) Corporation tax is charged on a payment which—
- (a) is made to a company with investment business as a result of a repayment provision, and
 - (b) is not brought into account as a receipt of a trade under section {j030100fsb}, or as a receipt of a property business as a result of section {j050202}.

Origin: ICTA s.76B(2).

- (2) In this section “repayment provision” means—
- (a) any provision made by virtue of section 136(7) or 214(1)(e) of FISMA 2000, or
 - (b) any provision made by scheme rules for fees to be refunded in specified circumstances.

Origin: ICTA s.76B(5).

- (3) In this section “scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to FISMA 2000.

Origin: ICTA s.76A(5).

36 Income charged [j2016]

Tax is charged under sections 33 and 35 on the full amount arising in the accounting period.

Origin: ICTA s.70(1).

CHAPTER 6

SUPPLEMENTARY

37 Meaning of some accounting terms [j2004]

- (1) Any reference in sections 8 to 10 to expenses of management being debited in accounts is to those expenses being brought into account as a debit in—
- (a) the company's profit and loss account or income statement, or
 - (b) a statement of total recognised gains and losses, statement of changes in equity or other statement of items brought into account in calculating the company's profits and losses for accounting purposes.

Origin: ICTA s.75A(10).

- (2) In section 12(1) "brought into account" means brought into account in—
- (a) the company's profit and loss account or income statement, or
 - (b) a statement of total recognised gains and losses, statement of changes in equity or other statement of items brought into account in calculating the company's profits and losses for accounting purposes.

Origin: ICTA s. 75B(8), (10); drafting.

- (3) In this Part—
- "credit" means an amount which for accounting purposes increases or creates a profit, or reduces a loss, for a period of account, and
 - "debit" means an amount which for accounting purposes reduces a profit, or increases or creates a loss, for a period of account.

Origin: ICTA s.75A(10), s.75B(12).

SCHEDULES

SCHEDULE 1

Section {j999996}

MINOR AND CONSEQUENTIAL AMENDMENTS [j2ME]

PART 1

INCOME AND CORPORATION TAXES ACT 1988 (ME (FEB))

- 1 The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.
- 2 Omit section 75 (expenses of management: companies with investment business).
- 3 Omit section 75A (accounting period to which expenses of management are referable).
- 4 Omit section 75B (amounts reversing expenses of management deducted: charge to tax).
- 5 In section 76(1) (expenses of insurance companies) for “section 75 is not to apply” substitute “sections 3 to 6 of [Bill 5] (expenses of management of a company’s investment business) do not apply”.
- 6 Omit section 76B (levies and repayments under the FISMA 2000: investment companies).
- 7 (1) Amend section 130 (meaning of “company with investment business” and “investment company” in Part 4) as follows.
 - (2) Omit ““company with investment business” means any company whose business consists wholly or partly in the making of investments”.
 - (3) For the sidenote substitute “Meaning of “investment company” in Part 4”.
- 8 (1) Amend section 392A (Schedule A losses) as follows.
 - (2) In subsection (3) for “section 75” substitute “Chapter 2 of Part [Companies with investment business] of [Bill 5]”.
 - (3) In subsection (4)(b) for “the same meaning as in Part IV” substitute “the meaning given by section 2 of [Bill 5]”.
- 9 In section 400(2) (write-off of government investment) –
 - (a) in paragraph (b) for the words from “Part 4” to the end substitute “Part [Companies with investment business] of [Bill 5], any excess that falls to be deducted under section 6(3) of that Act;”,
 - (b) in paragraph (bb) for “section 75” substitute “Chapter 2 of Part [Companies with investment business] of [Bill 5]”, and

- (c) in paragraph (d) for “section 75(3)” substitute “section 6(3) of [Bill 5]”.
- 10 In section 403ZD(4) (other amounts available by way of group relief) –
- (a) for “section 75(1) (expenses of management of a company with investment business)” substitute “section 3 of [Bill 5] (expenses of management of a company’s investment business)”, and
- (b) for “section 75(9) or 392A” substitute “section 392A above or section 6 of [Bill 5]”.
- 11 In section 403ZE(1)(b)(ii) (computation of gross profits) for “75(9) or 392A(3)” substitute “392A(3) above or section 6 of [Bill 5]”.
- 12 (1) Amend section 768B (change in ownership of company with investment business: deductions generally) as follows.
- (2) In subsection (6) for “section 75” substitute “Chapter 2 of Part [Companies with investment business] of [Bill 5] (companies with investment business)”.
- (3) In subsection (9) for “section 75” substitute “section 3 of [Bill 5] (expenses of management of a company’s investment business)”.
- (4) In subsection (14) for “Part IV” substitute “Part [Companies with investment business] of [Bill 5]”.
- 13 (1) Amend section 768C (deductions: asset transferred within group) as follows.
- (2) In subsection (7) for “section 75” substitute “section 3 of [Bill 5] (expenses of management of a company’s investment business)”.
- (3) In subsection (12) for “same meaning as in Part 4” substitute “meaning given by section 2 of [Bill 5]”.
- 14 In section 768D(8)(b) (change in ownership of company carrying on property business) for “same meaning as in Part 4” substitute “meaning given by section 2 of [Bill 5]”.
- 15 In section 768E(7) (change in ownership of company with unused non-trading loss on intangible fixed assets) for “same meaning as in Part 4” substitute “meaning given by section 2 of [Bill 5]”.
- 16 In section 779(13) (sale and lease-back: limitation on tax reliefs) –
- (a) in paragraph (d) leave out “75 or”, and
- (b) after paragraph (d) insert –
- “(da) a deduction under section 3 of [Bill 5] (expenses of management of a company’s investment business);”.
- 17 In section 781(4) (assets leased to traders and others) –
- (a) in paragraph (c) leave out “75 or”, and
- (b) after paragraph (c) insert –
- “(ca) a deduction under section 3 of [Bill 5] (expenses of management of a company’s investment business);”.
- 18 In section 842(1AC) (investment trusts) for the words from “falls” to the end substitute “is charged to corporation tax under section 12(3)(b) of [Bill 5] (claw back of relief for expenses of management)”.

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- 19 In Schedule 23A (manufactured dividends and interest) in paragraph 4(1A)(b) for “section 75” substitute “Part [Companies with investment business] of [Bill 5]”.
- 20 In Schedule 26 (reliefs against liability for tax in respect of chargeable profits) in paragraph 1(3)(c) for “section 75(1)” substitute “section 3(1) of [Bill 5]”.
- 21 In Schedule 27 (distributing funds) in paragraph 4(3)(b) for “section 75” substitute “section 3 of [Bill 5]”.
- 22 In paragraph 14(1) of Schedule 28AA (provision not at arm’s length) in paragraph (a) of the definition of losses for “section 75(9)” substitute “section 6 of [Bill 5]”.

PART 2

OTHER ENACTMENTS (ME (FEB))

Capital Allowances Act 2001(c. 2)

- 23 The Capital Allowances Act 2001 is amended as follows.
- 24 (1) Amend section 18 (managing investments of a company with investment business) as follows.
- (2) In subsection (1) for “section 75 of ICTA” substitute “section 3 of [Bill 5]”.
- (3) In subsection (2) for “section 130 of ICTA” substitute “section 2 of [Bill 5]”.
- 25 (1) Amend section 253 (companies with investment business) as follows.
- (2) In subsection (2) for “section 75(4) of ICTA” substitute “section 16 of [Bill 5]”.
- (3) In subsection (6) for “section 75(4) of ICTA” substitute “section 16 of [Bill 5]”.

The Finance Act 2004 (c. 12)

- 26 The Finance Act 2004 is amended as follows.
- 27 In section 196(3) (relief for employers in respect of contributions paid) for “section 75 of ICTA” substitute “Chapter 2 of Part [Companies with investment business] of [Bill 5]”.
- 28 In section 196A(4)(b) (power to restrict relief) for “section 75 of ICTA” substitute “section 3 of [Bill 5]”.
- 29 In section 199(2)(b) (deemed contributions) for “section 75 of ICTA” substitute “Chapter 2 of Part [Companies with investment business] of [Bill 5]”.

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

- 30 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.
- 31 (1) Amend section 31 (relationship between rules prohibiting and allowing deductions) as follows.

Origin: Annex 1, Change [jc355].

- (2) For subsection (1)(b) substitute –
 “(b) is subject to –
 (i) sections 36 and 37 (unpaid remuneration),
 (ii) sections 38 to 44 (employee benefit contributions),
 (iii) section 48 (car or motor cycle hire), and
 (iv) section 55 (crime-related payments).”
- (3) In subsection (3) –
 (a) for “sections 48 and 55” substitute “those mentioned in subsection (1)(b)”, and
 (b) in paragraph (a) after “prohibiting” insert “or deferring”.
- 32 (1) Amend section 48 (car or motor cycle hire) as follows.
Origin: Annex 1, Change {jc347}.
- (2) In subsection (3) for “the deduction is reduced as a result of subsection (2)” substitute “a deduction is reduced as a result of subsection (2), or a corresponding provision,”
- (3) In subsection (4)(a) omit “under section 97 (debts incurred and later released)”.
- (4) After subsection (4) insert –
 “(4A) In this section “corresponding provision” means –
 (a) section {j031401}(2) of [Bill 5] (car or motor cycle hire: trade profits and property income),
 (b) section 32(2) of [Bill 5] (car or motor cycle hire: expenses of management), or
 (c) section [578A of ICTA] (car or motor cycle hire: expenses of insurance companies).”
- 33 (1) Amend section 155 (levies and repayments under FISMA 2000) as follows.
Origin: Annex 1, Change {jc345}.
- (2) In subsection (1) omit the words from “carried” to the end.
- (3) For subsection (2) substitute –
 “(2) In calculating the profits of a trade, a deduction is allowed for any sum –
 (a) spent by the person carrying on the trade in paying a levy, or
 (b) paid by that person as a result of an award of costs under costs rules,
 so far as it is not otherwise allowable.”
- (4) In subsection (3) after “person” insert “carrying on the trade”.
- (5) After subsection (3) insert –
 “(3A) For the purposes of this section “costs rules” means –
 (a) rules made under section 230 of FISMA 2000, or
 (b) provision relating to costs contained in standard terms fixed under paragraph 18 of Schedule 17 to FISMA 2000.”

- (6) In subsection (4)(e) for the words from “(other” to the end substitute “(other than a sum paid as a result of an award of costs under costs rules)”.

SCHEDULE 2

Section {jref}

TRANSITIONALS AND SAVINGS ETC [MANAGEMENT EXPENSES] [j3ME]

PART 1

MANAGEMENT EXPENSES

Unpaid remuneration

- 1 (1) This paragraph applies for the purposes of section 31.

Origin: Drafting.

- (2) In relation to a period of account ending before 27 November 2002, an amount charged in the accounts in respect of employees’ remuneration includes an amount which is held by an intermediary with a view to its becoming employees’ remuneration.

Origin: FA 2003 Sch.24 paras.10(1), 11(1).

- (3) In relation to a period of account ending on or after 27 November 2002, an amount charged in the accounts in respect of employees’ remuneration includes an amount –

- (a) in respect of employee benefit contributions (within the meaning of sections {j031251} to {j031255}) made before that date, and
(b) which is held by an intermediary,
with a view to its becoming employees’ remuneration.

Origin: FA 2003 Sch.24 paras.10(1), 11(1).

SCHEDULE 3

Section {j999998}

REPEALS AND REVOCATIONS [J4ME]

REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Income and Corporation Taxes Act 1988 (c. 1)	Sections 75 to 75B. Section 76B. In section 130 the words ““company with investment business” means any company whose business consists wholly or partly in the making of investments”. In section 779(13)(d) the words “75 or”. In section 781(4)(c) the words “75 or”.
Financial Services and Markets Act 2000 (c. 8)	Section 411(2).

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629)	Article 16(6) to (8).
Finance Act 2004 (c. 12)	Sections 38 and 39. Section 45(1) to (3). In Schedule 6, paragraph 1.
Finance Act 2005 (c. 7)	In Schedule 4, paragraph 22.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In section 155(1) the words from “carried” to the end. In section 48(4)(a) the words “under section 97 (debts incurred and later released)”.