

CCH British Tax Guide: Corporation Tax

Tony Jenkins



2014-15

British Tax Guide: Corporation Tax 2014–15



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About the author

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Tony Jenkins CTA has worked for over 35 years as a tax practitioner who deals with Corporation Tax and the wider aspects of owner-managed businesses covering all aspects of taxation. He was a senior manager in three accountancy firms including Ernst & Young. In addition to freelance lecturing and writing, he has his own consultancy business advising clients on business-related and personal tax matters.

Preface

The ninth edition of *British Tax Guide: Corporation Tax* provides clear, practical and accessible commentary on the tax issues likely to be of widespread interest to tax advisors dealing with their clients' 2014–15 corporation tax affairs. To achieve this aim, it has been necessary either to omit, or cover in summary form, some less mainstream topics. The author welcomes comments from readers about the scope and depth of the coverage.

The text is up to date to 31 July 2014 including most recent legislation, case law, HMRC statements of practice and extra statutory concessions. The provisions of the *Finance Act 2014* relevant to companies have been covered. Major developments covered are set out on the What's New pages.

The books in this series aim to provide clear, uncluttered, easy to read commentary on the main taxes rather than heavy reproduction of source material. Useful cross references are included and are generally provided in separate footnotes rather than in the body of the text. In the electronic versions of this work those references are live links to relevant annotated legislation, cases, HMRC Manuals and other reference materials. The full references to CCH's main tax databases also make these books an ideal desktop companion to those services.

Tony Jenkins

Winchester

August 2014

What's new?

There follows a series of summaries highlighting the main changes and developments relevant to Corporation Tax that have occurred since the last edition of *British Tax Guide Corporation Tax*.

Finance Act 2014 Changes

Subject matter	Section/Schedule of FA 2014	Paragraph reference
Charge for financial year 2015	s. 5 and Sch. 1	376-250
Small profits rate and fractions for Financial Year 2014	s. 6	377-700
Rates for ring fence profits and abolition of small profits rate for non-ring fence profits	s. 7	376-250
Temporary increase in annual investment allowance	s. 10	379-120
Release of debts: stabilisation powers under <i>Banking Act 2009</i>	s. 26	400-700
De-grouping charges (loan relationships, etc.)	s. 28	402-450
Disguised distribution arrangements involving derivative contracts	s. 29	402-450
Avoidance schemes involving the transfer of corporate profits	s. 30	402-450
R&D tax credits for small and or medium-sized enterprises	s. 31	403-810
Film tax relief	s. 32	403-860
Television tax relief: activities to be treated as separate trade	s. 33	403-860
Video games development	s. 34	403-860
Community amateur sports clubs	s. 35	403-860
Tax relief for theatrical production	s. 36	403-860
Changes in company ownership	s. 37	380-550
Tax treatment of financing costs and income	s. 39	401-500
Determination of beneficial entitlement for purpose of group relief	s. 40	391-100
Business Premises renovation allowance	s. 66	379-300
Partnerships	s. 74	407-250
Transfer pricing restriction on claims for compensation adjustments	s. 75	392-250
Controlled foreign companies	s. 293 and 294	399-550

Other changes

Subject	Paragraph reference	Summary
Associated Companies	376-250	<i>Ghelanis Superstore and Cash and Carry Ltd</i> TC 03251
Repayment claims for an earlier accounting period	377-700	www.hmrc.gov.uk/ct/accounting-period.htm
Reference numbers	377-700	www.hmrc.gov.uk/ct/accounting-period.htm
Repayment of VAT	378-600	<i>Shop Direct Group v HMRC</i> [2014] EWCA Civ 255
Consortium Relief: Advocate-General's Opinion	391-150	<i>Felixstowe Dock and Railway Co Ltd and others v HMRC</i> (C-80/12)
Consortium Relief: ECJ Decision	391-150	<i>Felixstowe Dock and Railway Company Ltd Case</i> (C-80/12)
Link Company for Consortium Relief	391-150	<i>Felixstowe Dock & Railway Company Ltd v HMRC</i> TC 03579
Eligibility for Group Relief	391-200	<i>Glapwell Football Club Ltd v HMRC</i> TC 02904
M&S Group Relief Claims	391-250	<i>HMRC v Marks and Spencer plc</i> [2014] UKSC 11
Transfers of Assets within a Group: Upper Tribunal	391-300	<i>DMWSHNZ Ltd v HMRC</i> [2014] BTC 509
Distributions in a close company	393-050	<i>Donovan & McLaren v HMRC</i> (2014) TC 3188
Loans to Participators	393-200	<i>RKW Ltd v HMRC</i> TC 03289
Loans to Participators	393-200	<i>Aspect Capital Ltd v HMRC</i> [2014] UKUT 0081 (TCC)
Investment Company Management Expenses	393-570	<i>Howden Joinery Group plc v HMRC</i> TC 03396
Intangibles Relief	397-400	<i>Armajaro Holdings Ltd v HMRC</i> TC 02960
Source of Interest	399-250	<i>Ardmore Construction Ltd v HMRC</i> TC 03580
OECD Base Erosion & Profit Shifting	399-350	www.oecd.org/ctp/BEPsActionPlan.pdf

Corporate debt and derivative contracts consultation document	401-150	www.gov.uk/government/uploads/system/uploads/attachment_data/file/205432/2013_06_05_Condoc_FINAL_FOR_PUBLICATION.pdf
Corporate Debt and Derivative Contracts technical note	401-150	www.hmrc.gov.uk/news/tech-note-corp-debt.pdf
Employee benefits trust	409-150	<i>Scotts Atlantic Management Ltd v HMRC</i> TC 02704

Key Data: Taxation of Companies

TAXATION OF COMPANIES

1-000 Rates of corporation tax

(Tax Reporter: ¶704-000ff.)

Financial year ⁽¹⁾	Main rate % ⁽²⁾⁽³⁾	Small profits rate % ⁽³⁾	Limit for small profits rate (lower limit) ⁽⁴⁾	Limit for marginal relief (upper limit) ⁽⁴⁾	Standard fraction for marginal relief ^{(2),(3)}	Special IP rate
2014	21	20	300,000	1,500,000	1/400	⁽⁵⁾
2013	23	20	300,000	1,500,000	3/400	⁽⁵⁾
2012	24	20	300,000	1,500,000	1/100	—
2011	26	20	300,000	1,500,000	3/200	—
2010	28	21	300,000	1,500,000	7/400	—
2009	28	21	300,000	1,500,000	7/400	—
2008	28	21	300,000	1,500,000	7/400	—
2007	30	20	300,000	1,500,000	1/40	—
2006	30	19	300,000	1,500,000	11/400	—

Notes

⁽¹⁾ A financial year begins on 1 April and ends on 31 March. The financial year 2014 began on 1 April 2014 and will end on 31 March 2015.

⁽²⁾ The main rate for financial year 2015 will be unified with the small profits rate at 20 per cent (*Finance Act 2013*).

⁽³⁾ 'Close investment holding companies' do not receive the benefit of the small profits rate or of marginal relief and so are taxable entirely at the main rate regardless of the level of their profits (CTA 2010, s. 18).

For companies with ring fence profits, the rates are as above except that:

- the small profits rate of tax is 19 per cent and the standard fraction is 11/400; and
- for financial years 2008 to 2014 the main rate is 30 per cent.

Special rules also apply to companies in liquidation and administration (CTA 2010, s. 628 and s. 630) and to open-ended investment companies and authorised unit trusts (CTA 2010, s. 614 and s. 618).

⁽⁴⁾ The lower and upper limits for the small profits rate and marginal relief are reduced proportionally:

- for accounting periods of less than 12 months; and
- in the case of associated companies, by dividing the limits by the total number of associated companies (CTA 2010, s. 24).

⁽⁵⁾ For accounting periods beginning on or after 1 April 2013, qualifying companies may elect that relevant intellectual property profits of a trade are chargeable at a lower rate of corporation tax (CTA 2010, s. 357A) (see 7-050).

Effective marginal rates

For marginal relief, there is an effective rate of tax in the margin, i.e. between the lower and upper limits given in the preceding table, which *exceeds* the main rate. These marginal rates are not prescribed by statute, but are derived from the appropriate corporation tax rates and fractions. The applicable rates are as follows:

Financial year	Marginal rate %
2014	21.25
2013	23.75
2012	25
2011	27.5
2010	29.75
2009	29.75
2008	29.75
2007	32.5
2006	32.75

Marginal relief

(CTA 2010, s. 19)

(Tax Reporter: ¶704-200)

$$\text{Deduction} = (\text{Upper Limit} - \text{Augmented Profits}) \times \frac{\text{Taxable Total Profits}}{\text{Augmented Profits}} \times \text{Standard Fraction}$$

‘Augmented Profits’ (formerly ‘Profits’) means a company’s taxable total profits *plus* franked investment income *excluding* franked investment income received from companies in the same group (CTA 2010, s. 32). Distributions are treated as coming from within the group if they are received from a company which is either a 51 per cent subsidiary or a consortium company (the recipient being a member of the consortium).

‘Franked investment income’ means a distribution in respect of which the company is entitled to a tax credit (CTA 2010, s. 1126). This includes a distribution which is exempt for the purposes of CTA 2009, Pt. 9A (CTA 2010, s. 1109).

‘Taxable Total Profits’ (formerly ‘Basic Profits’) means profits as finally computed for corporation tax purposes (CTA 2010, s. 4(2)).

Charge on loan to participators

(CTA 2010, s. 455)

(Tax Reporter: ¶776-900ff.)

The rate of charge is fixed at 25 per cent of the amount of the loan or advance until further notice.

The charge itself is separate from other liabilities, being treated as if it is an amount of corporation tax chargeable on the company.

1-010 Patent profits election

(CTA 2010, Pt. 8A)

(Tax Reporter: ¶705-000ff.)

The Patent Box enables companies to apply a lower rate of corporation tax to profits earned after 1 April 2013 from its patented inventions and certain other innovations. The lower rate of corporation tax to be applied is ten per cent. The relief is subject to a number of conditions.

A company must elect into the regime, the election must be in writing, and specify the first accounting period for which the election will apply. The election will apply for all subsequent accounting periods until the election is revoked by notice in writing.

Any revocation must be in writing, specifying the accounting period for which it is to take effect. Any new election will have no effect for any accounting period which begins less than five years after the last day of the accounting period following the period identified in the revocation notice.

In order to avoid complications where losses and other reliefs are claimed, the reduced 10 per cent rate is applied by subtracting an additional trading deduction from corporation tax profits as calculated below.

Additional deduction

$$RP \times FY\% \times \frac{(MR - IPR)}{MR}$$

where-

RP is the relevant IP (patent box) profits of the trade of the company,

FY% is the appropriate percentage for each financial year,

MR is the main rate of corporation tax, and

IPR is the special IP rate of corporation tax.

Financial year	Appropriate percentage
2013	60%
2014	70%
2015	80%
2016	90%
2017 and subsequent years	100%

1-020 Additional relief for research and development

(CTA 2009, Pt. 13)

(Tax Reporter: ¶715-000ff.)

Additional relief is available for companies incurring expenditure on qualifying research and development (R&D). The relief is subject to a number of conditions. SMEs with losses can claim a payable tax credit.

	Expenditure incurred on or after				
	1 April 2014	1 April 2013	1 April 2012	1 April 2011	1 August 2008
Additional deduction where SME qualifies for main or pre-trading relief	125%	125%	125%	100%	75%
Rate of payable tax credit (SMEs only)	14.5% ⁽²⁾	11%	11%	12.5%	14%
Additional deduction where R&D subcontracted to SME	30%	30%	30%	30%	30%
Additional deduction where expenditure of SME is subsidised or capped	30%	30%	30%	30%	30%
Additional deduction for non-SME	30%	30%	30%	30%	30%
R&D expenditure credit ⁽¹⁾	10%	10%	—	—	—

Notes

⁽¹⁾ With effect for expenditure incurred on or after 1 April 2013, large companies and some SMEs may claim a new R&D expenditure credit ('above-the-line credit') as an alternative to (not in addition to) the traditional enhanced deduction scheme of R&D relief. The ATL credit scheme is optional but once a company has started claiming ATL credits, it may not revert back to the enhanced deduction scheme. Companies that do not opt to claim the ATL credit will be able to continue claiming R&D relief under the current large company scheme until 31 March 2016, when the ATL credit will become mandatory. The credit is taxable but paid net of tax to companies with no corporation tax liability.

⁽²⁾ Rate per *Finance Act 2014*.

Limits applying for SMEs (expenditure incurred on or after 1 August 2008)

A company must pass the headcount test and either the turnover test or the Balance Sheet total test.

Staff headcount less than	500
Turnover not exceeding	€100m
Balance Sheet total not exceeding	€86m

1-030 Creative industry tax reliefs

(CTA 2009, Pt. 15, 15A, 15B and 15C)

(Tax Reporter: ¶714-000ff.)

Creative industry tax reliefs are a group of four corporation tax reliefs that allow qualifying companies to claim a larger deduction, or in some circumstances claim a payable tax credit when calculating their taxable profits. The reliefs work by increasing the amount of allowable expenditure, which may be surrendered in exchange for a payable tax credit if the company makes a loss.

From 1 January 2007, additional relief has been available for companies incurring expenditure on qualifying film production. The relief is subject to a number of conditions (in particular, that the film must be certified as culturally British to qualify).

From 1 April 2013, additional relief is available for companies incurring expenditure on animation and high-end television production and from 1 April 2014, a further relief for companies incurring expenditure on video games development.

Finance Act 2014 extends these reliefs further by introducing relief for companies incurring expenditure on theatrical productions from 1 September 2014, subject to state aid approval.

The creative industry tax reliefs are all subject to a number of conditions (in particular, that the film, animation, high-end television programme or game must be certified as culturally British to qualify).

	Rates from 1 April 2014 ⁽¹⁾	Rates pre 1 April 2014
Minimum UK expenditure (% of core expenditure)	10% ⁽¹⁾	25%
Additional deduction (% of qualifying core expenditure)		
Film: limited budget	100%	100%
Film: any other	80%	80%
Animation/television/video games development [theatrical productions] ⁽³⁾	100%	100%
Maximum qualifying core expenditure (% of total core expenditure)	80%	80%
Tax credits (% of surrendered loss)		
Film; first £20 million	25% ⁽¹⁾	—
Film: remainder	20% ⁽¹⁾	—
Film: limited budget ⁽²⁾	—	25%
Film: any other	—	20%
Animation/television/video games development [theatrical productions] ⁽³⁾	25%	25%

Notes

- ⁽¹⁾ Rates are per *Finance Act* 2014 and subject to State aid approval and, therefore, take effect from a date to be specified by Treasury order (which date may be before the order is made but not before 1 April 2014).
- ⁽²⁾ Limited-budget films are those with a total core expenditure of £20m or less.
- ⁽³⁾ Animation and Television reliefs were introduced from 1 April 2013 and Video games development relief from 1 April 2014. Theatrical productions relief remains prospective pending both state aid approval and the issue of secondary legislation to give it effect.

1-035 Gifts to the nation

(FA 2012, Sch. 14)

(Tax Reporter: ¶716-685ff.)

For accounting periods beginning on or after 1 April 2012, a reduction in corporation tax is available where a company makes a gift of per-eminent property to be held for the benefit of the public or the nation. The tax reduction is 20 per cent of the value of the gift. A gift offer must be made and registered in accordance with the scheme and relief is available against the company's liability for the accounting period in which the gift offer is registered.

Pre-eminent property includes any picture, book, manuscript, work of art, scientific object or other thing that is pre-eminent for its national, scientific, historic or artistic interest, collections of such items and any object kept in a significant building where it is desirable that it remain associated with the building.

1-040 Car hire

(CTA 2009, s. 56ff.)

(Tax Reporter: ¶707-860ff.)

Leased cars, where the lease begins from 1 April 2009, suffer a 15 per cent disallowance of relevant payments if CO₂ emissions exceed the limits set out below; otherwise no disallowance. This applies to all cars (not just those costing more than £12,000).

From 1 April 2013

1 April 2009 to 31 March 2013

CO₂ emissions

Over 130g/km

Over 160g/km

For leased cars, where the lease began before 1 April 2009, the restricted deduction for hire charges of motor cars with a retail price greater than £12,000 is calculated as follows:

$$\text{Allowable amount} = \frac{\text{£12,000} + \frac{1}{2}(\text{retail price} - \text{£12,000})}{\text{retail price}} \times \text{hire charge}$$

1-050 Annual tax on enveloped dwellings (ATED)

(FA 2013, Pt. 3)

(Tax Reporter: ¶807-800ff.)

From 1 April 2013, annual tax on enveloped dwellings (ATED) is a tax payable by companies and other corporate bodies (partnerships with corporate partners or other collective investment vehicle) that own UK residential property valued at over £2m.

The tax is charged for the chargeable period concerned. Chargeable periods are the period beginning 1 April 2013 and ending with 31 March 2014, and each subsequent 12-month period beginning with 1 April.

Residential property value		Annual charge ⁽¹⁾	
More than £	Less than £	2014–15 £	2013–14 £
⁽²⁾	2,000,000	0	0
2,000,000	5,000,000	15,400	15,000
5,000,000	10,000,000	35,900	35,000
10,000,000	20,000,000	71,850	70,000
20,000,000		143,750	140,000

Notes

⁽¹⁾ The annual charge will be increased by consumer prices index inflation each year.

⁽²⁾ *Finance Act 2014* introduces a new band from 1 April 2015 for properties with a value greater than £1m but not more than £2m with an annual charge of £7,000 (returns for persons falling within this band for the chargeable period 1 April 2015 to 31 March 2016 must be filed by 1 October 2015 and payment made by 31 October 2015) and a further new band from 1 April 2016 for properties with a value greater than £500,000 but not more than £1m with an annual charge of £3,500.

Reliefs	Reference
Property rental businesses	FA 2013, s. 133 (Tax Reporter: ¶807-922)
Rental property: preparation for sale, etc.	FA 2013, s. 134
Dwellings opened to the public	FA 2013, s. 137 (Tax Reporter: ¶807-923)
Property developers	FA 2013, s. 138

Reliefs	Reference
Property developers: exchange of dwellings	FA 2013, s. 139
Property traders	FA 2013, s. 141
Financial institutions acquiring dwellings in the course of lending	FA 2013, s. 143
Occupation by certain employees or partners	FA 2013, s. 145 (Tax Reporter: ¶807-924)
Farmhouses	FA 2013, s. 148 (Tax Reporter: ¶807-925)
Providers of social housing	FA 2013, s. 150
Exemptions	Reference
Charitable companies	FA 2013, s. 151 (Tax Reporter: ¶807-927)
Public bodies	FA 2013, s. 153 (Tax Reporter: ¶807-928)
Bodies established for national purpose	FA 2013, s. 154 (Tax Reporter: ¶807-929)
Dwelling conditionally exempt from inheritance tax	FA 2013, s. 155 (Tax Reporter: ¶807-930)

ADMINISTRATION

1-060 Filing deadlines

(FA 1998, Sch. 18, para. 14)

(Tax Reporter: ¶181-075)

The filing date for a return of profits (CT600) is generally the **later** of the dates outlined below:

- 12 months from the end of the return period;
- where the period of account is 18 months or less, 12 months from the end of the period of account;
- where the period of account is greater than 18 months, 30 months from the start of the period of account; and
- three months after the issue of a notice to deliver a corporation tax return.

Notes

Obligation to file a return is not automatic but is imposed by notice.

Every company which is chargeable to corporation tax in respect of any accounting period, and which has not made a return of its profits for that period, nor received a notice to make such a return, is under a duty to give notice to the inspector that it is so chargeable. The notice must be given not later than 12 months after the end of that accounting period.