Draft Order laid before the House of Commons under paragraphs 1 and 2 of Schedule 7 to the Scotland Act 1998 (c. 46), for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2024 No.

INCOME TAX

The Scottish Rates of Income Tax (Consequential Amendments) Order 2024

Made - - - - ***

Coming into force in accordance with article 1

The Treasury make this Order in exercise of the powers conferred by section 80G(1A), (2) and (4) of the Scotland Act 1998(**a**).

In accordance with paragraphs 1 and 2 of Schedule 7 to that Act(**b**), a draft of this Order has been laid before and approved by a resolution of the House of Commons.

Citation, commencement and effect

1.—(1) This Order may be cited as the Scottish Rates of Income Tax (Consequential Amendments) Order 2024 and comes into force on the day after the day on which it is made.

(2) The amendments made by this Order have effect for the tax year 2024-25 and subsequent tax years.

Amendment of the Income Tax (Trading and Other Income) Act 2005

2.—(1) Section 539 of the Income Tax (Trading and Other Income Act) 2005(**c**) (relief for deficiencies) is amended as follows.

(2) In subsection (1)(b), for "of the higher rate, the Scottish higher rate, the Welsh higher rate or the dividend upper rate" substitute "relevant rates".

(3) For subsection (5) substitute—

"(5) The amount of the tax reduction is calculated as follows.

Step 1

(**a**) 1998 c. 46. Section 80G was inserted by section 25(3) of the Scotland Act 2012 (c. 11). Subsection (1A) was inserted by paragraph 16(4) of Schedule 38 to the Finance Act 2014 (c. 26) and amended by section 13(11) of the Scotland Act 2016 (c. 11). Subsection (2) was amended by paragraph 16(5) of Schedule 38 to the Finance Act 2014.

(**b**) Paragraph 1 of Schedule 7 was relevantly amended by paragraph 16(10) of Schedule 38 to the Finance Act 2014.

(**c**) 2005 c. 5. Section 539 was substituted by sections 1027 and 1034 of, and paragraph 539 of Schedule 1 to, the Income Tax Act 2007 (c. 3) and relevantly amended by paragraph 58 of Schedule 1 to the Finance Act 2008 (c. 9), articles 1 and 9 of S.I. 2015/1810 and articles 1 and 10 of S.I. 2019/201.

Determine the amount of the individual's income for the tax year that is liable at each relevant rate.

Step 2

Attribute the amount or amounts determined at Step 1 to the deficiency, so far as possible.

Step 3

Calculate the amount of the individual's preliminary income tax liability for the tax year (see subsection (6)).

Step 4

Calculate the amount of the individual's preliminary income tax liability for the tax year again, on the assumption that each amount determined under Step 1, so far as attributed to the deficiency at Step 2, is liable at the appropriate lower rate.

Step 5

Deduct the amount found at Step 4 from the amount found at Step 3. The result is the amount of the tax reduction."

(4) For subsection (7) substitute—

"(7) In this section—

(a) "relevant rate" means a rate mentioned in the first column of the Table;

(b) "the appropriate lower rate", in relation to an amount of the individual's income for the tax year that is liable at a relevant rate, means the rate mentioned in the second column of the Table in the same row as that relevant rate.

(8) Here is the Table referred to in subsection (7)—

Relevant rate	**The appropriate lower rate**
the higher rate	the basic rate
the default higher rate	the default basic rate
the savings higher rate	the savings basic rate
the dividend upper rate	the dividend ordinary rate
the Scottish higher rate	the Scottish basic rate
the Scottish advanced rate	the Scottish basic rate
the Welsh higher rate	the Welsh basic rate

(9) Where—

(a) it is possible to carry out Step 2 in subsection (5) by attributing amounts in more than one way, and

(b) the tax reductions, calculated under that subsection by carrying out that Step in those ways, are of different amounts,

Step 2 is to be carried out in the way that results in the highest tax reduction."

Name
Name
Two of the Lords Commissioners of His Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 539 of the Income Tax (Trading and Other Income) Act 2005 in consequence of the introduction by the Scottish Parliament of the Scottish advanced rate of income tax from 6th April 2024. Section 539 provides for a relief for deficiencies which have arisen on certain policies or contracts coming to an end where the taxpayer had incurred an earlier gain on the policy or contract. The amendments in this Order simplify the construction of the legislation with the effect that deficiency relief is calculated by reference to income liable to tax at the relevant rate, including the Scottish advanced rate.

Article 1(2) provides that the amendments made by this Order have effect for the tax year 2024-25 and subsequent tax years. Authority for the retrospective effect of these amendments is provided for in section 80G(4) of the Scotland Act 1998.

A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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