



Finance Act 1981

1981 CHAPTER 35

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

19 Charge of income tax for 1981-82

- (1) Income tax for the year 1981-82 shall be charged at the basic rate of 30 per cent.; and
- (a) in respect of so much of an individual's total income as exceeds the basic rate limit at such higher rates as are specified in the Table below; and
 - (b) in respect of so much of the investment income included in an individual's total income as exceeds the investment income threshold at the additional rate of 15 per cent.

| <i>Higher rate bands</i> | <i>Higher rate</i> |
|--------------------------|--------------------|
| The first | 40 per cent. |
| The second | 45 per cent. |
| The third | 50 per cent. |
| The fourth | 55 per cent. |
| The fifth | 60 per cent. |

- (2) Section 24(4) of the Finance Act 1980 (increase of basic rate limit, higher rate bands and investment income threshold) shall not apply for the year 1981-82.

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20 Charge of corporation tax for financial year 1980

Corporation tax shall be charged for the financial year 1980 at the rate of 52 per cent.

21 Rate of advance corporation tax for financial year 1981

The rate of advance corporation tax for the financial year 1981 shall be three-sevenths.

22 Corporation tax: small companies

- (1) The small companies rate for the financial year 1980 shall be 40 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the Finance Act 1972 (marginal relief for small companies) shall be two twenty-fifths.
- (2) For the financial year 1980 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £70,000 of a reference to £80,000 and with the substitution for any reference to £130,000 of a reference to £200,000.
- (3) Where by virtue of subsection (2) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting periods and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

23 Personal reliefs

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1981-82.
- (2) In subsection (1) of section 18 of the Taxes Act (relief for one blind person) for the words following paragraph (b) there shall be substituted the words " he shall be entitled to a deduction of £360 from his total income. "
- (3) In subsection (2) of that section (relief for blind couple)—
 - (a) paragraph (c), together with the word " and " preceding it, shall be omitted;
 - (b) for the words following that paragraph there shall be substituted the words " he shall be entitled to a deduction of £720 from his total income. "
- (4) In subsection (6) of that section the definition of " tax-free disability payment" shall be omitted.

24 Relief for interest: limit for 1981-82

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) the references to £25,000 shall have effect for the year 1981-82 as well as for previous years of assessment.

25 Relief for interest: money borrowed for investment in partnership or co-operative

- (1) Schedule 1 to the Finance Act 1974 (conditions for interest relief) shall be amended as follows.

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- (2) In paragraph 12(a) (money borrowed for investment in partnership) for the words " the individual has personally acted in the conduct of the trade, profession or vocation carried on by the partnership " there shall be substituted the words " the individual has been a member of the partnership otherwise than as a limited partner ".
- (3) After paragraph 10 there shall be inserted—

“Loan applied in acquiring interest in co-operative

10A (1) Subject to the following provisions of this Part of this Schedule, interest is eligible for relief under section 75 of the Finance Act 1972 if it is interest on a loan to an individual to defray money applied—

- (a) in acquiring a share or shares in a body which is a co-operative within the meaning of this paragraph ; or
- (b) in lending money to any such body which is used wholly and exclusively for the purposes of the business of that body or of a subsidiary of that body; or
- (c) in paying off another loan interest on which would have been eligible for relief under section 75 of the Finance Act 1972 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);

and the conditions stated in paragraph 10B below are satisfied.

(2) In this paragraph and paragraphs 10B, 13 and 14 below " co-operative " means a common ownership enterprise or a co-operative enterprise as defined in section 2 of the Industrial Common Ownership Act 1976; and in this paragraph and paragraph 10B below "subsidiary" has the same meaning as for the purposes of that section.

10B The conditions referred to in paragraph 10A above are—

- (a) that, when the interest is paid, the body continues to be a co-operative ; and
- (b) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time as an employee of the body or of a subsidiary of the body ; and
- (c) that he shows that in that period he has not recovered any capital from the body, apart from any amount taken into account under paragraph 13 below.”

- (4) In paragraphs 13 and 14 after the words " the close company ", wherever they occur, there shall be inserted the word " co-operative " and in paragraph 14(1)(a) after the words " ordinary share capital of the company " and " that ordinary share capital " there shall be inserted the words " or of his share or shares in the co-operative ".
- (5) In paragraph 15 after the words "as the case may be " there shall be inserted " 10B " and after " 9(c)" there shall be inserted " 10A(c) ".
- (6) Subsection (2) above has effect in relation to interest paid after 10th March 1981 and subsections (3) to (5) above have effect in relation to interest on a loan made after that date.

26 Relief for interest: transitional provision for deduction in computing profits of trade

Paragraph 4 of Schedule 10 to the Finance Act 1972 (which provides that interest in respect of which relief is given under section 75 of that Act is not to be taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D for any year of assessment) shall not apply where—

- (a) the computation is for the year 1982-83 or a subsequent year of assessment; and
- (b) the relief under section 75 is given by virtue of section 19(4) of the Finance Act 1974.

27 Social security benefits

- (1) In subsection (1)(a) of section 219 of the Taxes Act (social security benefits charged to tax except for unemployment benefit and certain other benefits) for the words " unemployment benefit" there shall be substituted the words " earnings-related supplement of unemployment benefit ".
- (2) In subsection (2) of that section (payments of supplementary benefit not treated as income for purposes of Income Tax Acts) after " 1977 " there shall be inserted the words " (other than payments of supplementary allowance which are taxable by virtue of section 27 of the Finance Act 1981) ".
- (3) Subject to the following provisions of this section, payments to any person of supplementary allowance under the Supplementary Benefits Act 1976 in respect of any period shall (except so far as made by virtue of section 4 of that Act) be charged to income tax under Schedule E if during that period—
 - (a) his right to the allowance is subject to the condition mentioned in section 5 of the said Act of 1976 (registration and availability for employment); or
 - (b) he is within section 8 of the said Act of 1976 (trade disputes) and paragraph 10 of Schedule 2 to the Supplementary Benefit (Requirements) Regulations 1980 applies to him.
- (4) Where the amount of supplementary allowance paid to any person in respect of any week or part of a week exceeds the relevant amount for that period, the excess shall not be taxable.
- (5) For the purposes of subsection (4) above the relevant amount in respect of a week shall be equal—
 - (a) in a case where the supplementary allowance is paid to a person to whom subsection (3) (b) above applies, to the amount specified in the said paragraph 10;
 - (b) in a case not falling within paragraph (a) above where Regulation 6 of the said Regulations of 1980 (non-householders) has applied in the calculation of the amount of the supplementary allowance paid to the person concerned, to the amount specified in relation to a person of his description in Schedule 1 of the said Regulations of 1980;
 - (c) in a case not falling within paragraph (a) or (b) above where paragraph 3(1) of Schedule 1 to the said Act of 1976 has applied in the calculation of the amount of supplementary allowance (married and unmarried couples), to the aggregate of the weekly rate specified in paragraph 1 of Part I of Schedule 4 to

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- the Social Security Act 1975 and the increase for an adult dependant specified in paragraph 1(a) of Part IV of that Schedule; and
- (d) in any other case, to the said weekly rate;
- and the relevant amount in respect of part of a week shall be equal to one-sixth of the relevant amount in respect of a week multiplied by the number of days in the part.
- (6) Where payments of unemployment benefit and payments of supplementary allowance are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the relevant amount for that period within the meaning of subsection (4) above.
- (7) If any regulations referred to in this section are revoked or amended by statutory instrument, the Board may by regulations made by statutory instrument make such amendments to this section as they think fit for the purpose of enabling it to operate as it did before the revocation or amendment; and regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In its application in Northern Ireland this section shall have effect as if—
- (a) for the references to paragraph 1 of Part I and paragraph 1(a) of Part IV of Schedule 4 to the Social Security Act 1975 there were substituted respectively references to paragraph 1 of Part I and paragraph 1(a) of Part IV of Schedule 4 to the Social Security (Northern Ireland) Act 1975 ;
- (b) for the reference to the Supplementary Benefits Act 1976 there were substituted a reference to the Supplementary Benefit (Northern Ireland) Order 1977 and for the references to sections 4, 5 and 8 of and paragraph 3(1) of Schedule 1 to that Act there were substituted references to Articles 6, 7 and 12 of and paragraph 3(1) of Schedule 1 to that Order respectively ; and
- (c) for the references to regulation 6 of, Schedule 1 to and paragraph 10 of Schedule 2 to the Supplementary Benefit (Requirements) Regulations 1980 there were substituted references to regulation 6 of, Schedule 1 to and paragraph 7 of Schedule 2 to the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980.
- (9) In section 8(2)(b) of the Taxes Act (earned income for the purpose of wife's earned income relief) the word " and " at the end of sub-paragraph (i) shall be omitted and after sub-paragraph (ii) there shall be inserted the words "and
(iii) unemployment benefit,".
- (10) In section 530 of the Taxes Act (definition of " earned income ") in subsection (2)(c) after the word " Act" there shall be inserted the words " or section 27 of the Finance Act 1981 ".
- (11) This section has effect in relation to payments in respect of periods after 5th April 1982.

28 Notification of amount taxable under section 27

- (1) A benefit officer may by notice in writing notify a person who is taxable under section 27 above of the amount on which he is taxable and any such notification shall state the date on which it is issued and shall inform the person to whom it is given that he may object to the notification by notice in writing given within sixty days after the date of issue of the notification.
- (2) Where—

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- (a) no objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below); or
 - (b) an objection is made but is withdrawn by the objector by a notice in writing, that amount shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (3) Where an objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below) and the benefit officer and the objector come to an agreement that the amount notified should be varied in a particular manner and the benefit officer confirms the agreement to vary in writing, then, subject to subsection (4) below, that amount as so varied shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (4) Subsection (3) above shall not apply if within sixty days from the date when the agreement was come to the objector gives notice in writing to the benefit officer that he wishes to repudiate or resile from the agreement.
- (5) An objection to a notification may be made later than sixty days after the date of the issue of the notification if on an application for the purpose a benefit officer is satisfied that there was a reasonable excuse for not objecting within that time and the objection was made thereafter without unreasonable delay and he gives consent in writing; and if the benefit officer is not so satisfied he shall refer the application for determination by the General Commissioners for the division in which the objector ordinarily resides or, in a case where an appeal has been made against an assessment in respect of income including the amount in question, the General Commissioners or the Special Commissioners having jurisdiction in that appeal.
- (6) Where a benefit officer has notified an amount to a person under subsection (1) above, he may by another notice in writing notify the person of an alteration in the amount previously notified and, if he does so, the original notification shall be cancelled and this section shall apply to such a subsequent notification as it applies to the original notification.
- (7) In this section " benefit officer " means—
- (a) in Great Britain, the appropriate officer of the Department of Employment or of the Department of Health and Social Security, as the case may be; and
 - (b) in Northern Ireland, the appropriate officer of the Department of Health and Social Services.

29 Pay as you earn repayments

Without prejudice to the generality of section 204 of the Taxes Act, regulations under that section may provide that no repayment of income tax shall be made under that section to any person at any time if—

- (a) he has claimed unemployment benefit in respect of a period including that time ; or
- (b) he has claimed a payment of supplementary allowance under the Supplementary Benefits Act 1976 or the Supplementary Benefit (Northern Ireland) Order 1977 in respect of a period including that time and his right to the allowance is subject to the condition mentioned in section 5 of the said

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Act of 1976 or Article 7 of the said Order (registration and availability for employment); or

- (c) he is disqualified at the time from receiving unemployment benefit by virtue of section 19 of the Social Security Act 1975 or section 19 of the Social Security (Northern Ireland) Act 1975 (loss of employment due to stoppage of work) or would be so disqualified if he otherwise satisfied the conditions for entitlement,

and such regulations may make different provision with respect to persons falling within paragraph (c) above from that made with respect to other persons.

30 Sick pay

- (1) Where a person holding an employment is absent from work for any period by reason of sickness or disability, any sums which—

- (a) are paid to, or to the order or for the benefit of, that person (or a member of his family or household) in respect of his absence from work as aforesaid ; and
(b) are, by reason of his employment, paid as a result of any arrangements entered into by his employer,

shall be chargeable to income tax under Schedule E as emoluments of the employment for that period if, apart from this section, they would not be so chargeable for that or any other period.

- (2) Where the funds for making payments under any arrangements are attributable partly to contributions made by the employer and partly to contributions made by the persons employed by him subsection (1) above shall apply only to such part of the sums paid as a result of the arrangements as it is just and reasonable to regard as attributable to the employer's contributions.

- (3) Section 61 of the Finance Act 1976 (taxation of benefits in kind) shall not apply to any benefit consisting of the right to receive, or the prospect of receiving, any sums which would be chargeable to tax in accordance with subsection (1) above.

- (4) In this section " employment " means an office or employment whose emoluments fall to be assessed under Schedule E and related expressions shall be construed accordingly; and the reference to a person's family or household is to his spouse, his sons and daughters and their spouses, his parents and his dependants.

- (5) This section has effect—

- (a) in the case of sums not falling within paragraph (b) below, for the year 1982-83 and subsequent years of assessment;
(b) in the case of sums paid as a result of arrangements in force on 4th June 1981 for the year 1983-84 and subsequent years of assessment.

31 Payments for loss of employment etc.

- (1) In section 188(3) of the Taxes Act (tax on excess over £10,000 of payments for loss of employment etc.) for "£10,000", wherever it occurs, there shall be substituted " £25,000 ".

- (2) Paragraphs 3 to 5 of Schedule 8 to that Act (relief by reference to standard capital superannuation benefit) shall cease to have effect.

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- (3) In paragraph 7 of that Schedule (top-slicing relief) for sub-paragraph (c) and the words following it there shall be substituted the words " the amount to be deducted shall be half the difference between the amount ascertained at (a) and the amount ascertained at (b). "
- (4) Paragraph 8 of that Schedule (calculation of tax and income for purposes of relief under paragraph 7) shall cease to have effect.
- (5) In paragraph 12 of that Schedule (definition of payment chargeable under section 187) for the words " section 188(3)" there shall be substituted the words " section 188(2) or (3) ".
- (6) Subject to subsection (7) below, subsections (1) to (4) above have effect in relation to any payment which by virtue of section 187(4) of the Taxes Act is treated as income received on or after 6th April 1981; and where under the proviso to section 188(3) of that Act the sum there mentioned falls to be deducted from one or more payments treated as income received before, and one or more payments treated as income received on or after, that date only £10,000 of that sum shall be deducted from the first-mentioned payment or payments.
- (7) Where a payment is made in pursuance of an obligation incurred before 10th March 1981, the person chargeable to tax in respect of it may, by a notice in writing given to the inspector within six years after the year of assessment in which the payment is made, elect that Schedule 8 to the Taxes Act shall have effect in relation to the payment as if this Act had not been passed.
- (8) Subsection (5) above shall be deemed always to have had effect.

32 Occupational pension schemes

- (1) In subsection (2) of section 20 of the Finance Act 1970 (discretionary approval of occupational pension schemes which fall within paragraphs (a) to (f) of that subsection) after paragraph (f) there shall be inserted the words "or
 - (g) which provides in certain contingencies for securing benefits by means of an annuity contract with an insurance company of the employee's choice, being a contract which has for its main object the provision for the employee of a life annuity in old age and is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme."
- (2) After subsection (2) of the said section 20 there shall be inserted—
 - "(2A) In subsection (2)(g) above " insurance company " means a company to which Part II of the Insurance Companies Act 1974 applies."

33 Police provident benefits

- (1) In paragraph 12 of Schedule 3 to the Finance Act 1978 (relief for contribution to trade union for provision of provident benefits) after sub-paragraph (2) there shall be inserted—
 - "(2A) Sub-paragraphs (1) and (2) above shall apply also in relation to any payment made to an organisation of persons in police service but only

where the annual amount of the part of the payment attributable to the provision of the benefits in question is £20 or more.”

- (2) This section has effect for the year 1981-82 and subsequent years of assessment.

34 Savings certificates

- (1) Subject to the provisions of this section, income arising from savings certificates shall not be liable to tax.
- (2) Subsection (1) above does not apply to any savings certificates which are purchased by Or on behalf of a person in excess of the amount which a person is for the time being authorised to purchase under regulations made by the Treasury or, as respects Ulster Savings Certificates, by the Department of Finance for Northern Ireland.
- (3) Subsection (1) above does not apply to Ulster Savings Certificates unless—
- (a) the holder is resident and ordinarily resident in Northern Ireland when the certificates are repaid ; or
 - (b) the certificates were purchased by him and he was so resident and ordinarily resident when they were purchased.
- (4) A claim under this section in respect of Ulster Savings Certificates shall be made to the Board.
- (5) In this section " savings certificates " has the same meaning as in section 71 of the Capital Gains Tax Act 1979 and " Ulster Savings Certificates " means savings certificates issued or treated as issued under section 15 of the Exchequer and Financial Provisions Act (Northern Ireland) 1950.

35 Stock relief

- (1) Schedule 9 to this Act shall have effect instead of Schedule 5 to the Finance Act 1976 (stock relief) in relation to
- (a) any period of account beginning after 14th November 1980; and
 - (b) subject to the transitional provisions in Schedule 10 to this Act, any period of account which ends on or includes that date.
- (2) Where a period of account which begins before and ends on or after 14th November 1980 is longer than twelve months and at least twelve months of it falls before that date, subsection (1) above and Schedules 9 and 10 to this Act shall have effect as if the part of the period ending with 13th November 1980 and the part of the period beginning with 14th November 1980 were separate periods of account.
- (3) In subsections (1) and (2) above "period of account" means a period for which an account is made up for the trade, profession or vocation in question.
- (4) In relation to any period for which Schedule 9 to this Act has effect—
- (a) section 227(5)(aa) and (9) of the Taxes Act (retirement annuity relief); and
 - (b) section 28(7)(c) of the Finance Act 1978 (farming and market gardening) and paragraph 2(2)(d) of Schedule 4. to that Act (trade carried on abroad),
- shall have effect with the substitution for the words " Schedule 5 to the Finance Act 1976 " of the words " Schedule 9 or 10 to the Finance Act 1981 ".

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- (5) In relation to any period for which Schedule 9 to this Act has effect, section 30 of the said Act of 1978 (relief for losses in early years of trade) shall have effect with the following amendments—
- (a) after subsection (7)(e) there shall be inserted—
 - “(f) paragraph 8 of Schedule 9 to the Finance Act 1981.”;
 - (b) in subsection (9) for the words " paragraph 6 of Schedule 5. to the Finance Act 1976 " there shall be substituted the words " paragraph 8 of Schedule 9 to the Finance Act 1981 ".
- (6) There shall be made all such adjustments, whether by repayment of tax or the making or alteration of assessments, as may be required for giving effect to this section.

36 Relief for losses on unquoted shares in trading companies

- (1) Subsection (2) below has effect where a company which has subscribed for shares in a qualifying trading company incurs an allowable loss (for the purposes of corporation tax on chargeable gains) on the disposal of the shares in any accounting period and the company disposing of the shares—
- (a) is an investment company on the date of the disposal and either—
 - (i) has been an investment company for a continuous period of six years ending on that date ; or
 - (ii) has been an investment company for a shorter continuous period ending on that date and has not before the beginning of that period been a trading company or an excluded company ; and
 - (b) was not associated with, or a member of the same group as, the qualifying trading company at any time in the period beginning with the date when it subscribed for the shares and ending with the date of the disposal.
- (2) The company disposing of the shares may, within two years after the end of the accounting period in which the loss was incurred, make a claim requiring that the loss be set off for the purposes of corporation tax against income—
- (a) of that accounting period ; and
 - (b) if the company was then an investment company and the claim so requires, of preceding accounting periods ending within the time specified in subsection (3) below;
- and, subject to any relief for an earlier loss, the income of any of those periods shall then be treated as reduced by the amount of the loss or by so much of it as cannot be relieved under this subsection against income of a later accounting period.
- (3) The time referred to in subsection (2) above is the period of twelve months ending immediately before the accounting period in which the loss is incurred; but the amount of the reduction which may be made under that subsection in the income of an accounting period falling partly before that time shall not exceed a part of that income proportionate to the part of the accounting period falling within that time.
- (4) Relief under subsection (2) above shall be given before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of any description; and where relief is given under that subsection in respect of the amount of a loss no deduction shall be made in respect of that amount for the purposes of corporation tax on chargeable gains.

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- (5) For the purposes of subsection (1)(b) above companies are associated with each other if one controls the other or both are under the control of the same person or persons; and section 302(2) to (6) of the Taxes Act shall apply for the purposes of this subsection.
- (6) Subsections (3) and (5) to (12) of section 37 of the Finance Act 1980 (which gives to individuals a relief corresponding to that given to companies by subsection (2) above) shall have effect in relation to the foregoing provisions of this section as they have effect in relation to that section, taking references to an individual and capital gains tax as references to a company and corporation tax on chargeable gains.
- (7) In subsection (12) of the said section 37—
 - (a) in the definition of " group " and " holding company " for the words " 75 per cent, subsidiaries " there shall be substituted the words " 51 per cent, subsidiaries ";
 - (b) at the end of the definition of " investment company " there shall be inserted the words " except that it does not include the holding company of a trading group ".
- (8) This section has effect in relation to disposals on or after 1st April 1981.

37 Set-off of relief under section 36(2) against franked investment income

- (1) Section 254 of the Taxes Act (set-off against franked investment income) shall be amended as follows.
- (2) In subsection (2) after paragraph (d) there shall be inserted—
 - “(e) the setting of losses against income under section 36(2) of the Finance Act 1981.”
- (3) In subsection (4)—
 - (a) after the words " to section 74(3) of the Capital Allowances Act 1968 " there shall be inserted the words " or to section 36(2) of the Finance Act 1981 ";
 - (b) after the words " by section 74(4) of the Capital Allowances Act 1968 " there shall be inserted the words " or by section 36(3) of the Finance Act 1981 ".
- (4) In subsection (6) after paragraph (b) there shall be inserted the words “and
 - (c) in relation to relief given in respect of losses under section 36(2) of the Finance Act 1981;”
and to the words in brackets there shall be added " and, as respects the relief mentioned in paragraph (c), the reference to the purposes of section 177(1) of this Act being construed as a reference to the purposes of corporation tax on chargeable gains ".
- (5) In subsection (7) after paragraph (c) there shall be inserted—
 - “(d) if and so far as the purpose for which the claim is made is the setting of a loss against income under section 36(2) of the Finance Act 1981, two years from the end of the accounting period in which the loss was incurred.”

38 Interest charged to capital

- (1) The interest deductible under section 248 of the Taxes Act (allowance of charges on income) shall include any interest that would be so deductible if it had not been charged to capital.

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- (2) In subsection (5)(a) of that section for the words "the payment is charged to capital" there shall be substituted the words " the payment (not being interest) is charged to capital ".
- (3) In section 269 of the Taxes Act (interest charged to capital), paragraph (c) together with the word " and " immediately preceding it shall be omitted and for the words following that paragraph there shall be substituted the words "the sums so allowable under the said section 32 shall, subject to subsection (1A) below, include the amount of any interest on that borrowed money which is referable to a period or part of a period ending on or before the disposal.
- (1A) Subsection (1) above has effect subject to section 33 of the said Act of 1979 and does not apply to interest which is a charge on income.”.
- (4) This section has effect in relation to interest paid in any accounting period ending on or after 1st April 1981.

39 Exemption for interest on damages for personal injuries

- (1) In section 375A of the Taxes Act (exemption for interest included in judgment or interlocutor awarding damages for personal injuries) after subsection (1) there shall be inserted—
- “(1A) A payment in satisfaction of a cause of action, including a payment into court, shall not be regarded as income for any income tax purpose to the extent to which it is in respect of interest which would fall within subsection (1) above if included in a sum for which a judgment is given or if decree for payment of it were included in an interlocutor.”
- (2) This section has effect in relation to any payment made on or after 6th April 1981.

40 Group relief in case of consortium

- (1) The Tax Acts shall have effect with the following amendments, being amendments making group relief available under section 258(2) of the Taxes Act where a member of a consortium is the surrendering company.
- (2) For the said section 258(2) there shall be substituted—
- “(2) Group relief shall also be available in accordance with the said provisions in the case of a surrendering company and a claimant company where either of them is a member of a consortium and the other is—
- (a) a trading company which is owned by the consortium and which is not a 75 per cent, subsidiary of any company ; or
 - (b) a trading company—
 - (i) which is a 90 per cent, subsidiary of a holding company which is owned by the consortium ; and
 - (ii) which is not a 75 per cent subsidiary of a company other than the holding company ; or
 - (c) a holding company which is owned by the consortium and which is not a 75 per cent, subsidiary of any company:

Provided that a claim shall not be made by virtue of this subsection if the share in the consortium of the member in the relevant accounting period of the

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surrendering company (or, where that company is a trading company falling within paragraph (b) above, its holding company) is nil or if a profit on a sale of the share capital of the other company or its holding company which the member owns would be treated as a trading receipt of that member.”

(3) For section 259(8) of that Act there shall be substituted—

“(8) In applying any of the preceding subsections in the case of a claim made by virtue of section 258(2) above—

(a) where the claimant company is a member of a consortium only a fraction of the loss referred to in subsection (1) above, or of the excess referred to in subsection (2), (3) or (6) above, as the case may be, may be set off under the subsection in question ;

(b) where the surrendering company is a member of a consortium that loss or excess shall not be set off under the subsection in question against more than a fraction of the total profits of the claimant company;

and that fraction shall be equal to that member's share in the consortium in the accounting period referred to in section 258(2) above, subject to any further reduction under section 261(2) below.”

(4) In sections 263(5) and 264(2) of that Act for the words " by a company as a member of a consortium " there shall be substituted the words " by virtue of section 258(2) above ".

(5) In section 28(3)(a), (b) and (c) and (4) of the Finance Act 1973 for the words " the surrendering company " there shall be substituted the words " the surrendering or claimant company ".

(6) In section 29(2) of that Act—

(a) in paragraph (a) after the words " trading company " there shall be inserted the words " or a member of the consortium "; and

(b) in the words following paragraph (b) for the words " (as the surrendering company) fall within any of paragraphs (a) to (c) of subsection (2) of section 258 " there shall be substituted the words " (as the surrendering company or claimant company) fall within subsection (2) of section 258 ".

(7) This section has effect in relation to any accounting period of the surrendering company ending after 10th March 1981.

41 Insurance companies: restricted government securities

(1) This section applies where for any accounting period any division falls to be made between the pension business and any other kind of long-term business of an insurance company and any of the income or gains or losses of the company for that period relate to restricted government securities ; and where this section applies subsection (3) of section 323 of the Taxes Act shall have effect subject to the provisions of this section.

(2) All income, gains or losses of the company which relate to restricted government securities shall be referred to its pension business.

(3) Where the division of the other income, gains or losses of the company is made by reference to the liabilities at any time in the accounting period which are referable

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to pension business or to two or more kinds of business including pension business, those liabilities shall be treated as reduced by the appropriate amount.

- (4) In subsection (3) above " the appropriate amount" means—
- (a) in a case in which the total liabilities of the company at the time in question which are referable to long-term business are less than the market value at that time of the investments and deposits held by the company relating to all such business, such proportion of the market value of the restricted government securities held by the company at that time as those liabilities bear to the market value of those investments and deposits; and
 - (b) in any other case, the market value of the restricted government securities at that time.
- (5) In this section—
- " insurance company " has the same meaning as in the said section 323;
 - " long-term business " has the same meaning as in section 1(1) of the Insurance Companies Act 1981 ;
 - " pension business " has the same meaning as in the said section 323; and
 - " restricted government securities " means government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.

42 Sums paid to settlor otherwise than as income

- (1) Section 451 of the Taxes Act (sums paid to settlor otherwise than as income) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b) for the words " exceeds the amount of income available up to the end of that year but" there shall be substituted the words " is not by virtue of this subsection treated as his income for that year and "; and
 - (b) after the words " and so on " there shall be inserted the words " for each subsequent year, taking the reference in paragraph (b) to the year mentioned in paragraph (a) as a reference to that and any other year before the subsequent year in question. ";
 - (c) in paragraph (b) for the words "the next following year" there shall be inserted the words " the next following eleven years. "
- (3) In subsection (2)—
- (a) before paragraph (a) there shall be inserted—
 - “(aa) the amount of that income taken into account under subsection (1) above in relation to that sum in any previous year or years, and”;
 - (b) in paragraph (b) after " 448 above " there shall be inserted " or section 457 below ";
 - (c) after paragraph (d) there shall be inserted—
 - “(dd) any sums paid by virtue or in consequence of the settlement in that year or any previous year which have been treated as the income of the settlor by virtue of section 438(2)(b) above, and

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- (ddd) any sums included in the income arising under the settlement as amounts which have been or could have been apportioned to a beneficiary as mentioned in section 454(1)(b) below, and”;
 - (d) in paragraph (e)(ii) for " and (d)" there shall be substituted " , (d), (dd) and (ddd) ".
- (4) After subsection (3) there shall be inserted—
 - “(3A) Where the capital sum paid to the settlor is a sum paid by way of loan, then—
 - (a) if the whole of it is repaid, no part of that sum shall by virtue of subsection (1) above be treated as the settlor's income for any year of assessment after that in which the repayment occurs; and
 - (b) if one or more capital sums have previously been paid to him by way of loan and wholly repaid, the amount of that capital sum shall be treated as equal to its excess (if any) over so much of the sum or sums previously paid as has already fallen to be treated as his income by virtue of that subsection.
 - (3B) Where the capital sum paid to the settlor is a sum paid by way of complete repayment of a loan, then, if an amount not less than that sum is thereafter lent by the settlor to the trustees of the settlement, no part of that sum shall by virtue of subsection (1) above be treated as his income for any year of assessment after that in which the further loan is made.”
- (5) At the end of subsection (6) there shall be inserted the words " and there shall be set off against the tax charged on any amount treated by virtue of this section as income of the settlor for any year an amount equal to—
 - (a) the sum of tax at the basic rate and tax at the additional rate for that year on the amount so treated as his income; or
 - (b) so much of that sum as is equal to the tax charged,whichever is the less.
- (6) In subsection (8) (interpretation)—
 - (a) for the words "' capital sum' means " there shall be substituted the words " ' capital sum ' means, subject to subsection (9) below ";
 - (b) at the end there shall be inserted the words " or to the settlor (or the husband or wife of the settlor) jointly with another person ".
- (7) After subsection (8) there shall be inserted—
 - “(9) For the purposes of this section there shall be treated as a capital sum paid to the settlor by the trustees of the settlement any sum which—
 - (a) is paid by them to a third party at the settlor's direction or by virtue of the assignment by him of his right to receive it; or
 - (b) is otherwise paid or applied by them for the benefit of the settlor, and which would not apart from this subsection be treated as a capital sum paid to him.”
- (8) This section has effect in relation to any capital sum paid to the settlor on or after 6th April 1981 and section 451 (9)(a) as inserted by subsection (7) above shall not apply to any direction or assignment given or made before that date.

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43 Sums paid to settlor otherwise than as income: connected companies

- (1) In section 451 of the Taxes Act (sums paid to settlor otherwise than as income) subsection (4) (capital sums paid to settlor by body corporate connected with the settlement) shall be omitted.
- (2) After that section there shall be inserted—

“451A Capital sums paid by body connected with settlement.

- (1) Where—
- (a) a capital sum is paid to the settlor in a year of assessment by any body corporate connected with the settlement in that year; and
 - (b) an associated payment has been or is made directly or indirectly to that body by the trustees of the settlement,
- the capital sum shall, in accordance with subsection (2) below, be treated for the purposes of section 451 above as having been paid to the settlor by the trustees of the settlement.
- (2) A capital sum to which subsection (1) above applies shall—
- (a) to the extent to which the amount of that sum falls within the total of the associated payment or payments made up to the end of the year of assessment in which it is paid, be treated as having been paid to the settlor in that year;
 - (b) to the extent to which the amount of that sum is not treated as paid to the settlor in that year and falls within the total of the associated payment or payments made up to the end of the next following year (less what was taken into account under this subsection in relation to that sum in the previous year), be treated as having been paid to the settlor in the next following year,
- and so on for each subsequent year, taking the references in paragraph (b) to the year mentioned in paragraph (a) as references to that and any other year before the subsequent year in question.
- (3) In this section " associated payment", in relation to any capital sum paid to the settlor by a body corporate, means—
- (a) any capital sum paid to that body by the trustees of the settlement; and
 - (b) any other sum paid or asset transferred to that body by those trustees which is not paid or transferred for full consideration in money or money's worth,
- being a sum paid or asset transferred in the five years ending or beginning with the date on which the capital sum is paid to the settlor.
- (4) For the purposes of this section any capital sum paid by a body corporate, and any associated payment made to a body corporate, at a time when it is within the meaning of section 302 above associated with another body corporate may be treated as paid by or made to that other body corporate.
- (5) In this section " capital sum " has the same meaning as in section 451 above; and any question whether a capital sum has been paid to the settlor by a body corporate or to a body corporate by the trustees shall be determined in the same way as any question under that section whether a capital sum has been paid to the settlor by the trustees.

- (6) Subsection (1) above does not apply to any sum paid to the settlor by way of loan or repayment of a loan if—
- (a) the whole of the loan is repaid within twelve months of the date on which it was made; and
 - (b) the period for which amounts are outstanding in respect of loans made to the settlor by that or any other body corporate connected with the settlement, or by him to that or any other such body, in any period of five years does not exceed twelve months.
- (7) Where a capital sum is paid to the settlor in a year of assessment by a body corporate connected with the settlement in that year it shall be assumed until the contrary is shown that an associated payment of an amount not less than that of the capital sum has been made to that body by the trustees of the settlement.”
- (3) This section has effect in relation to any capital sum paid to the settlor on or after 6th April 1981.

44 Revocable settlements etc.

- (1) in paragraph (b) of section 454(1) of the Taxes Act (definition of income arising under a settlement to include income of body corporate that could have been apportioned if it were incorporated in " the United Kingdom) after the word " incorporated " there shall be inserted the words " and resident " and after that subsection there shall be inserted—
- “(1A) In subsection (1) above references to income that could have been apportioned to a person if a body corporate were incorporated and resident in any part of the United Kingdom include references to income that could have been apportioned to that person indirectly through any other body corporate if that other body had also been so incorporated and resident.”.
- (2) For section 454(4) of the Taxes Act (body corporate deemed to be connected with a settlement if the participators include the trustees of or a beneficiary under the settlement) there shall be substituted—
- “(4) For the purposes of this Chapter, a body corporate shall be deemed to be connected with a settlement in any year of assessment if at any time in that year—
- (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators then include the trustees of the settlement; or
 - (b) it is controlled within the meaning of section 534 below by a company falling within paragraph (a) above.”

45 Transfer of assets abroad: liability of non-transferors

- (1) This section has effect where—
- (a) by virtue or in consequence of a transfer of assets, either alone or in conjunction with associated operations, income becomes payable to a person resident or domiciled outside the United Kingdom ; and
 - (b) an individual ordinarily resident in the United Kingdom who is not liable to tax under section 478 of the Taxes Act (prevention of tax avoidance by transfers

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of assets abroad by reference to the transfer receives a benefit provided out of assets which are available for the purpose by virtue or in consequence of the transfer or of any associated operations.

(2) Subject to the provisions of this section, the amount or value of any such benefit as is mentioned in subsection (1) above, if not otherwise chargeable to income tax in the hands of the recipient, shall—

- (a) to the extent to which it falls within the amount of relevant income of years of assessment up to and including the year of assessment in which the benefit is received, be treated for all the purposes of the Income Tax Acts as the income of the individual for that year;
- (b) to the extent to which it is not by virtue of this subsection treated as his income for that year and falls within the amount of relevant income of the next following year of assessment, be treated for those purposes as his income for the next following year,

and so on for subsequent years, taking the reference in paragraph (b) to the year mentioned in paragraph (a) as a reference to that and any other year before the subsequent year in question.

(3) Subject to subsection (9) below and to section 46(1) below, the relevant income of a year of assessment, in relation to an individual, is any income which arises in that year to a person resident or domiciled outside the United Kingdom and which by virtue of or in consequence of the transfer or associated operations referred to in subsection (1) above can directly or indirectly be used for providing a benefit for the individual or for enabling a benefit to be provided for him.

(4) Income tax chargeable by virtue of this section shall be charged under Case VI of Schedule D.

(5) An individual who is domiciled outside the United Kingdom shall not, in respect of any benefit not received in the United Kingdom, be chargeable to tax under this section by reference to relevant income which is such that if he had received it he would not, by reason of his being so domiciled, have been chargeable to income tax in respect of it; and subsections (4) to (7) of section 122 of the Taxes Act (income applied outside the United Kingdom treated in certain cases as received in the United Kingdom) shall apply for the purposes of this subsection as they would apply for the purposes of subsection (3) of that section if the benefit were income arising from possessions outside the United Kingdom.

(6) Where—

- (a) the whole or part of the benefit received by an individual in a year of assessment is a capital payment within the meaning of section 80 or 81(2) below (because not falling within the amount of relevant income referred to in paragraph (a) of subsection (2) above); and
- (b) chargeable gains are by reason of that payment treated under either of those sections as accruing to him in that or a subsequent year,

paragraph (b) of that subsection shall apply in relation to any year of assessment ("a year of charge") after one in which chargeable gains have been so treated as accruing to him as if a part of the amount or value of the benefit corresponding to the amount of those gains had been treated under that subsection as his income for a year of assessment before the year of charge.

(7) Subsection (3) of section 478 of the Taxes Act (exemption from charge where transfer of assets is not for tax avoidance) shall apply in relation to this section as it applies in

relation to subsections (1) and (2) of that section; and subsections (4), (7), (8) and (9) of that section shall apply for the interpretation of this section.

- (8) Section 481 of the Taxes Act (information powers) shall have effect as if this section were included in Chapter III of Part XVII of that Act; and in section 31(3) (b) of the Taxes Management Act 1970 (assessments against which appeal lies to the Special Commissioners) after " 1972 " there shall be inserted the words " or under section 45 of the Finance Act 1981 ".
- (9) This section applies irrespective of when the transfer or associated operations referred to in subsection (1) above took place but applies only to benefits received and relevant income arising on or after 10th March 1981.

46 Transfer of assets abroad: other provisions

- (1) No amount of income shall be taken into account more than once in charging tax under the provisions of section 478 of the Taxes Act (prevention of tax avoidance by transfer of assets abroad) and section 45 above; and where there is a choice as to the persons in relation to whom any amount of income can be so taken into account—
- (a) it shall be so taken into account in relation to such of them, and if more than one in such proportions respectively, as appears to the Board to be just and reasonable; and
 - (b) the jurisdiction of the Special Commissioners on any appeal against an assessment charging tax under those provisions shall include jurisdiction to review any relevant decision taken by the Board under this subsection.
- (2) In subsection (1) above references to an amount of income taken into account in charging tax are—
- (a) in the case of tax which under section 478 is charged on income, to the amount of that income ;
 - (b) in the case of tax charged under that section by virtue of section 480(4) of the Taxes Act, to an amount of the income out of which the benefit is provided equal to the amount or value of the benefit charged;
 - (c) in the case of tax charged under section 45 above, to the amount of relevant income taken into account under subsection (2) of that section in charging the benefit.
- (3) In subsection (2) of the said section 478 for the words "' capital sum' means" there shall be substituted the words "'capital sum' means, subject to subsection (2A) of this section " and after that subsection there shall be inserted—
- “(2A) For the purposes of subsection (2) of this section there shall be treated as a capital sum which an individual receives or is entitled to receive any sum which a third person receives or is entitled to receive at the individual's direction or by virtue of the assignment by him of his right to receive it.
 - (2B) Income shall not by virtue of subsection (2) of this section be deemed to be that of an individual for any year of assessment by reason only of his having received a sum by way of loan if that sum has been wholly repaid before the beginning of that year.”
- (4) Subsection (2A) of the said section 478 as inserted by subsection (3) above shall not apply to any direction or assignment given or made before 6th April 1981.

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- (5) In subsection (5) of the said section 478 (definition of power to enjoy) for paragraph (d) there shall be substituted—
- “(d) the individual may, in the event of the exercise or successive exercise of one or more powers, by whomsoever exercisable and whether with or without the consent of any other person, become entitled to the beneficial enjoyment of the income, or”.
- (6) After subsection (8) of the said section 478 there shall be inserted—
- “(9) . Any amount which by virtue of subsection (8)(d) of this section is treated as the income of any person for the purposes of this section shall also be treated for those purposes as payable to that person.”
- (7) After section 480(2) of the Taxes Act there shall be inserted—
- “(2A) An individual who is domiciled outside the United Kingdom shall not be chargeable to tax in respect of any income deemed to be his by virtue of the preceding provisions of this Chapter if he would not, by reason of his being so domiciled, have been chargeable to tax in respect of it if it had in fact been his income.”
- (8) So much of section 27(5) of the Finance Act 1975 (capital transfer tax liability of beneficiaries) as provides for a reduction to be made for income tax borne in respect of income shall apply also to income tax borne by virtue of section 478 of the Taxes Act or section 45 above in respect of property other than income.

47 Transfer of assets of public corporations

Where by virtue of any enactment a Minister of the Crown or Northern Ireland department has power to give directions to a statutory body as to the disposal of assets belonging to, or to a subsidiary of, that body the existence of that power shall not be regarded as constituting (or as having at any time constituted) an arrangement within the meaning of section 92(9) of the Finance Act 1972 or section 29 of the Finance Act 1973 (which deny relief for advance corporation tax and losses within a group where certain arrangements exist).

48 Write-off of government investment: restriction of tax losses

- (1) This section has effect where on or after 10th March 1981 any amount of government investment in a body corporate is written-off.
- (2) An amount equal to the amount written-off shall be set off against the body's tax losses as at the end of the accounting period ending last before the write-off date and, to the extent to which that amount exceeds those losses, against the body's tax losses as at the end of the next accounting period and so on.
- (3) For the purposes of subsection (2) above a body's tax losses as at the end of an accounting period are—
- (a) any losses which under subsection (1) of section 177 of the Taxes Act are or, if a claim had been made under that subsection, would be available for relief against its trading income for the next accounting period;
- (b) in the case of an investment company, any expenses of management or charges on income which under section 304(2) of that Act are available for carry forward to the next accounting period;

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- (c) any allowances which under section 74(2) of the Capital Allowances Act 1968 are available for carry forward to the next accounting period;
 - (d) any amount paid by way of charges on income so far as it exceeds the company's profit for the period and is not taken into account under section 177(8) or 304(2) of the Taxes Act; and
 - (e) any allowable losses available under section 265 of the Taxes Act so far as not allowed in that or a previous accounting period.
- (4) The set off to be made under subsection (2) above for any accounting period shall be made first against the amounts in paragraphs (a) to (d) of subsection (3) above and, so far as it cannot be so made, against the amount in paragraph (e) of that subsection.
- (5) For the purposes of subsection (2) above there shall be excluded from a body's tax losses as at the end of the accounting period ending last before the write-off date any amounts in respect of which a claim has been made before the write-off date under section 177(2) or 258 of the Taxes Act or section 74(3) of the Capital Allowances Act 1968 but the body's tax losses as at the end of any subsequent accounting period shall be determined as if no such claim had been made on or after that date.
- (6) Any amount that could be set off under subsection (2) above against a body's tax losses as at the end of an accounting period (or could be so set off if that body then had any such losses) may be set off against the tax losses of any other body corporate which at the end of that period is a member of the same group as the first-mentioned body, or partly against the tax losses of one member of that group and partly against those of the other or any of the others, as may be just and reasonable.
- (7) Expenditure shall not be treated for the purposes of section 84 of the Capital Allowances Act 1968 or section 42 of the Capital Gains Tax Act 1979 as met by the Crown by reason only of the writing-off of any government investment in the body in question and a sum shall not by reason only of any such writing-off be treated as not having been deductible in computing the profits or gains of that body for the purposes of Case I or Case II of Schedule D.
- (8) For the purposes of this section an amount of government investment in a body corporate is written-off—
- (a) if its liability to repay any money lent to it out of public funds by a Minister of the Crown is extinguished ;
 - (b) if any of its shares for which a Minister of the Crown has subscribed out of public funds are cancelled; or
 - (c) if its commencing capital debt is reduced otherwise than by being paid off or its public dividend capital is reduced otherwise than by being repaid (including, in either case, a reduction to nil);
- and the amount written-off and the write-off date are the amount in respect of which the liability is extinguished and the date on which it is extinguished, the amount subscribed for, the shares that are cancelled and the date of cancellation or the amount of reduction in the commencing capital debt or public dividend capital and the date of the reduction, as the case may be.
- (9) In subsection (8) above " commencing capital debt" means any debt to a Minister of the Crown assumed as such under an enactment and " public dividend capital " means any amount paid by a Minister of the Crown under an enactment in which that amount is so described or under an enactment corresponding to an enactment in which a payment made on similar terms to another body is so described.

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- (10) This section shall not have effect in relation to any amount written-off if and to the extent to which it is replaced by money lent, or a subscription for shares or a payment made, out of public funds by a Minister of the Crown.
- (11) In this section "body corporate" means any body corporate which is a company for the purposes of corporation tax, "group" means a company having one or more 51 per cent subsidiaries and that or those subsidiaries, and "Minister of the Crown" includes a Northern Ireland department.

49 National Heritage Memorial Fund

- (1) The Trustees of the National Heritage Memorial Fund shall be treated for the purposes of section 248(9) of the Taxes Act (covenanted donations to charity by companies) as a body of persons established for charitable purposes only.
- (2) This section shall be deemed to have come into force on 1st April 1980.

50 Northern Ireland

- (1) In section 211(2) of the Taxes Act (tax exemptions for parliamentary pension funds) the word "and" at the end of paragraph (b) shall be omitted and after paragraph (c) there shall be inserted the words "and
- (d) the Assembly Contributory Pension Fund constituted under the Assembly Pensions (Northern Ireland) Order 1976"
- (2) Subsection (1) above shall be deemed to have come into force on 10th November 1976.
- (3) The Corporation Tax Acts shall have effect as if the trade carried on at any time before 1st April 1973 by any predecessor of the Northern Ireland Electricity Service had been carried on by the Service; and for that purpose the Service shall be deemed to have been in existence as from the time when the predecessor began to carry on its trade and anything done by, to or in relation to the predecessor shall be treated as if it had been done by, to or in relation to the Service.
- (4) In subsection (3) above references to a predecessor of the Northern Ireland Electricity Service are references to any body whose functions were transferred to the Service on the said 1st April and references to the trade of a predecessor are references to its activities in the discharge of the functions that were so transferred.

51 Exemption from interest on overdue tax where sums due to the taxpayer are delayed by civil service industrial action

- (1) Where an amount due to a person from a government department in connection with a business carried on by him remains unpaid for any period as a result of industrial action taken by civil servants after 8th March 1981 and that person withholds any tax—
- (a) which became due and payable by him after that date and before 6th April 1982 ; and
- (b) on which interest would, apart from this section, be chargeable under section 86 or 87 of the Taxes Management Act 1970,
- he may, for that period and for seven days after the end of it, claim exemption from interest under those sections on a corresponding amount of that tax less any reduction under subsection (2) below.

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- (2) Where for the whole or any part of the period mentioned in subsection (1) above the person in question withholds any amount for which he is accountable to the collector after the said 8th March
 - (a) in respect of income tax which he was liable to deduct in pursuance of section 204 of the Taxes Act (pay as you earn); or
 - (b) in respect of Class 1 contributions under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975,the amount of tax in respect of which exemption may be claimed under that subsection for that period or that part of it shall be reduced by the amount withheld by him as aforesaid.
- (3) The reference in subsection (1) above to an amount due to a person from a government department in connection with a business carried on by him is to any value added tax due to him from the Commissioners of Customs and Excise, to any grant or subsidy due to him from any other government department in respect of such a business and to any sum due to him from a government department under a contract entered into by him in the course of a business ; and for the purposes of this subsection " business " includes any trade, profession or vocation.
- (4) Any claim under this section shall be made to the Board.

CHAPTER II

RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES

52 The relief

- (1) This Chapter has effect for affording relief from income tax where—
 - (a) an individual who qualifies for the relief subscribes for ordinary shares in a new qualifying company ; and
 - (b) the shares are issued to him for the purpose of raising money for a new qualifying trade which is being carried on by the company or which it intends to carry on within the next twelve months.
- (2) The relief in respect of the amount subscribed by an individual for any shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.
- (3) The relief shall be given on a claim and shall not be allowed—
 - (a) unless and until the company has carried on the new trade for twelve months ; and
 - (b) if the company is not carrying on that trade at the time when the shares are issued, unless the company begins to carry it on within twelve months after that time or within such further period (not exceeding twelve months) as the Board may allow.
- (4) A claim for the relief may be allowed at any time after the end of the year of assessment in which the shares are issued (or, where the period mentioned in subsection (3) (a) above ends later, after the end of that period) if the conditions for the relief are then satisfied but subject, in the case of a claim allowed before the end of the relevant

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period, to the withdrawal of the relief if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.

- (5) In this Chapter "the relevant period", in relation to relief in respect of any shares issued by a company, means the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending—
- (a) five years ; or
 - (b) as respects sections 55, 56 and 65 below, three years,
- after the issue of the shares.
- (6) Where by reason of its being wound up, or dissolved without winding up, the company carries on the new trade for a period shorter than twelve months, subsection (3)(a) above shall have effect as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.
- (7) The relief shall be treated for the purposes of section 34(3) of the Finance Act 1971 (effect of deductions) as a deduction to be made under Chapter II of Part I of the Taxes Act after all other deductions under that Chapter and shall be disregarded for the purposes of section 204(3) of the Taxes Act (pay as you earn) and of calculating relief under section 400(2) of the Taxes Act, paragraph 3 of Schedule 3 to that Act, paragraph 7 of Schedule 8 to that Act in a case where an election has effect under section 31(7) above or paragraph 6(2) of Schedule 9 to this Act (top-slicing).
- (8) Where a claim is made in respect of shares issued in any year of assessment and the period mentioned in subsection (3)(a) above ends in a later year, then, if effect is given to the claim by a repayment of tax, section 47 of the Finance (No. 2) Act 1975 (repayment supplement) shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (4)(a) of that section are to be calculated were the end of that later year.
- (9) This section applies only where the shares are issued in the year 1981-82 or either of the next two years of assessment.

53 Limits on relief

- (1) Subject to section 66 below, the relief shall not be given in respect of any amount subscribed by an individual for shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the ordinary shares issued to him by the company in that year is £500 or more.
- (2) The relief shall not be given to the extent to which the amount or total amount subscribed by an individual for ordinary shares issued to him in any year of assessment (whether or not by the same company) exceeds £10,000.
- (3) The relief shall not be given in respect of shares issued by any company in any year of assessment (whether to one or more individuals) to the extent that the relief would result in more than 50 per cent, of the company's issued ordinary share capital at the end of that year (or, if earlier, at the dissolution of the company) consisting of shares in respect of which relief has been given.
- (4) If subsection (3) above requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be

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divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restriction, be eligible for the relief.

- (5) A claimant who is dissatisfied with the manner in which the available relief is divided under subsection (4) above between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (6) In subsection (5) above " the appropriate Commissioners " means—
- (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners unless all the claimants agree that the question shall be determined by the Special Commissioners;
 - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question shall be determined by the Special Commissioners ;
 - (c) in any other case, the Special Commissioners.
- (7) Where relief has been given in respect of any shares in a company and by reason of any event occurring—
- (a) after the end of the year of assessment in which they were issued; and
 - (b) before the end of the relevant period,
- more than 50 per cent, of the company's issued ordinary share capital consists of shares in respect of which relief has been given, so much of that relief shall be withdrawn as is necessary to secure that not more than 50 per cent, of the company's issued ordinary share capital consists of such shares ; and where the relief was given to two or more persons it shall be withdrawn from them in proportion to the amounts of relief respectively given to them.

54 Individuals qualifying for relief

- (1) An individual qualifies for the relief if he subscribes for the shares on his own behalf, is resident and ordinarily resident in the United Kingdom throughout the year of assessment in which they are issued and is not at any time in the relevant period connected with the company within the meaning of this section.
- (2) An individual is connected with the company if he, or an associate of his, is—
- (a) an employee of the company or of a partner of the company;
 - (b) a partner of the company ; or
 - (c) subject to subsection (3) below, a director of the company or of another company which is a partner of that company.
- (3) An individual is not connected with a company by reason only that he, or an associate of his, is a director unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from the company during the period of five years beginning with the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—
- (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director of the company ;

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- (b) any interest which represents no more than a reasonable commercial return on money lent to the company;
 - (c) any dividend or other distribution which does not exceed a normal return on the investment;
 - (d) any payment for the supply of goods which does not exceed their market value ; and
 - (e) any reasonable and necessary remuneration which—
 - (i) is paid for services rendered to the company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself); and
 - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.
- (4) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent, of—
- (a) the issued ordinary share capital of the company; or
 - (b) the loan capital and issued share capital of the company ; or
 - (c) the voting power, in the company.
- (5) For the purposes of subsection (4)(b) above the loan capital of a company shall be treated as including any debt incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company; or
 - (b) for any right to receive income created in favour of the company ; or
 - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (6) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive more than 30 per cent, of the assets of the company which would then be available for distribution to equity holders of the company, and for the purposes of this subsection—
- (a) the persons who are equity holders of the company; and
 - (b) the percentage of the assets of the company to which the individual would be entitled,
- shall be determined in accordance with paragraphs 1 and 3 of Schedule 12 to the Finance Act 1973, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (7) An individual is connected with a company if he has control of it within the meaning of section 534 of the Taxes Act.
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire; and there shall be attributed to any person any rights or powers of any other person who is an associate of his.

- (9) Where an individual subscribes for shares in a company with which he is not connected within the meaning of the foregoing provisions of this section he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which that or any other individual who is a party to the arrangement is connected within the meaning of those provisions.

55 New qualifying companies

- (1) A company is a qualifying company if it is incorporated in the United Kingdom and complies with the requirements of subsections (2) to (8) below and is a new company until the end of the period of five years beginning with the date of its incorporation or, if later, the date on which it commenced business.
- (2) The company must throughout the relevant period be resident in the United Kingdom and not resident elsewhere.
- (3) The company must throughout that period exist wholly, or substantially wholly, for the purpose of carrying on wholly or mainly in the United Kingdom one or more new qualifying trades.
- (4) Without prejudice to the generality of subsection (3) above but subject to subsection (5) below, a company ceases to comply with subsection (3) above if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act 1948 or the Companies Act (Northern Ireland) 1960, any other act is done for the like purpose) or the company is dissolved without winding up.
- (5) A company shall not be regarded as ceasing to comply with subsection (2) or (3) above if it does so by reason of being wound up or dissolved without winding up and—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
 - (b) the company's net assets, if any, are distributed to its members or dealt with as bona vacantia before the end of the relevant period or, in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (6) Where the relevant period begins after the incorporation of the company the requirements of subsection (3) above must have been complied with since its incorporation ; but for the purposes of subsections (2) and (3) above any interval between the incorporation of the company and the time when it commenced business shall be disregarded.
- (7) The company's share capital must not at any time in the relevant period include—
- (a) share capital other than ordinary share capital or fixed-interest preference share capital;
 - (b) classes of ordinary shares with different rights in respect of matters other than voting; or
 - (c) issued shares that are not fully paid up.
- (8) Subject to section 65 below, the company must not at any time in the relevant period—

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- (a) control (or together with any person connected with it control) another company or be under the control of another company (or of another company and any person connected with that other company); or
- (b) be a 51 per cent, subsidiary of another company or itself have a 51 per cent, subsidiary;

and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above.

56 New qualifying trades

- (1) A trade is a qualifying trade if it complies with the requirements of subsections (2) to (4) below and is a new trade if it complies with the other requirements of this section.
- (2) The trade must not at any time in the relevant period consist to any substantial extent of—
 - (a) dealing in commodities, shares, securities, land or futures; or
 - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution ; or
 - (c) banking, insurance, money-lending, debt-factoring, hire purchase financing or other financial activities; or
 - (d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees ; or
 - (e) providing legal or accountancy services ; or
 - (f) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of the foregoing paragraphs and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company.
- (3) For the purposes of paragraph (b) of subsection (2) above—
 - (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them or for processing and resale by them ;
 - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption ;

and in determining for the purposes of that paragraph whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the features mentioned in Schedule 11 to this Act, those in Part I being regarded as indications that the trade is such an ordinary trade and those in Part II being regarded as indications of the contrary.
- (4) The trade must from the time when it is commenced until the end of the relevant period be conducted on a commercial basis and with a view to the realisation of profits.
- (5) Subject to subsection (6) below, the trade must be a bona fide new venture.
- (6) A trade shall not be treated as not being a bona fide new venture by reason only that it was carried on as, or as part of, a trade by another person at any time in the five years before the issue of the shares in respect of which the relief is claimed.
- (7) Without prejudice to the generality of subsection (5) above, a trade carried on by a company is not a new venture if—
 - (a) a person having a controlling interest in that trade at any time in the period of twelve months beginning with the date on which the company begins to carry

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- it on has in that period (or has had in the period of twelve months ending with that date) a controlling interest in another trade—
- (i) which is being carried on at that date ; or
 - (ii) which was being carried on more than five years before the issue of the shares in respect of which the relief is claimed ; and
- (b) the trade carried on by the company, or a substantial part of it—
- (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities as the other trade; or
 - (ii) serves substantially the same or similar outlets, or markets as the other trade.
- (8) For the purposes of this section a person has a controlling interest in a trade—
- (a) in the case of a trade carried on by a company if—
 - (i) he controls the company ; or
 - (ii) the company is a close company for the purposes of the Corporation Tax Acts and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent, of the ordinary share capital of the company ; or
 - (iii) not less than half of the trade could in accordance with section 253(2) of the Taxes Act be regarded as belonging to him ;
 - (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (9) For the purposes of subsection (8) above there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (10) References in this section to a trade shall be construed without regard to so much of the definition of " trade" in section 526(5) of the Taxes Act as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in subsections (2)(f) or (6) to (8) to a trade carried on by a person other than the company and those references shall be construed as including references to any business, profession or vocation.

57 Disposal of shares

- (1) Where an individual disposes of any shares before the end of the relevant period, then—
- (a) if the disposal is otherwise than by way of a bargain made at arm's length, he shall not be entitled to any relief in respect of those shares ; and
 - (b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.
- (2) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, any disposal by him of ordinary shares in the company shall be treated for the purposes of this section as relating to those in respect of which the relief has been given rather than to others.
- (3) Where the relief has been given to an individual in respect of shares in a company which have been issued to him at different times any disposal by him of the shares

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shall be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.

- (4) Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in section 77(2)(a) of the Capital Gains Tax Act 1979 (not being an allotment for payment) fallen to be treated under section 78 of that Act as the same asset as a new holding—
- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares; and
 - (b) the new holding shall be treated for the purposes of subsection (2) above as shares in respect of which the relief has been given.

58 Value received from company

- (1) Where an individual who subscribes for shares in a company has received or subsequently before the end of the relevant period receives any value from the company within the meaning of this section the amount of the relief to which he is entitled in respect of the shares shall be reduced by the value received.
- (2) For the purposes of this section an individual receives value from the company if the company—
- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
 - (b) repays any debt owed to the individual other than a debt which was incurred by the company—
 - (i) on or after the date on which he subscribed for the shares in respect of which the relief is claimed; and
 - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
 - (c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section 54(3)(a) or (e) above or an ordinary trade debt) on its extinguishment ;
 - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person ;
 - (e) makes a loan or advance to the individual;
 - (f) provides a benefit or facility for the individual;
 - (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or
 - (h) makes to him any other payment except a payment of the kind mentioned in section 54(3)(a), (b), (c), (d) or (e) above or a payment in discharge of an ordinary trade debt.
- (3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 55(5) above.
- (4) The value received by an individual is—

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- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question ;
 - (b) in a case within paragraph (d) of that subsection, the amount of the liability ;
 - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance ;
 - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
 - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
 - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
 - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) Where by virtue of this section any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different times the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.
- (6) For the purposes of subsection (2)(d) above a company shall be treated as having released or waived a liability if the liability is not discharged within twelve months of the time when it ought to have been discharged.
- (7) For the purposes of subsection (2)(e) above there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company ; and
 - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (8) In this section " an ordinary trade debt" means any debt for goods supplied in the ordinary course of a trade or business where the credit given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (9) In this section—
- (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
 - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.

59 Prevention of misuse

- (1) An individual is not entitled to relief in respect of any shares unless the shares are subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

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- (2) The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (3) below if at any time in the relevant period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—
- (a) that individual; or
 - (b) another individual whose relief is thereby reduced by virtue of section 58(2)(a) above,
- or makes any payment to any such member for giving up his right to any of the company's share capital on its cancellation or extinguishment.
- (3) Where subsection (2) above applies the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question ; and where, apart from this subsection, two or more individuals would be entitled to relief the reduction shall be made in proportion to the amounts of relief to which they would, apart from this subsection, have been entitled.
- (4) Where at any time in the relevant period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of the provisions of section 53(3) and (7) and section 54(4) above in their application to any subsequent time—
- (a) the amount of the company's issued ordinary share capital; and
 - (b) the amount of the part of that capital which consists of the shares relevant to those provisions and the amount of the part consisting of the remainder,
- shall each be treated as reduced in accordance with subsection (5) below.
- (5) The amount of each of the parts mentioned in subsection (4)(b) above shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed ; and the amount of the issued share capital shall be treated as equal to the sum of the amounts treated under this subsection as the amount of those parts respectively.
- (6) In subsection (4)(b) above the reference to the part of the capital which consists of the shares relevant to the provisions there mentioned is a reference—
- (a) in relation to section 53(3), to the part consisting of shares in respect of which the relief has been given or is claimed;
 - (b) in relation to section 53(7), to the part consisting of shares in respect of which the relief has been given ;
 - (c) in relation to section 54(4), to the part consisting of shares which (within the meaning of that section) the individual directly or indirectly possesses or is entitled to acquire;
- and in subsection (5) above " the relevant value ", in relation to each of the parts there mentioned, means the value received by the member or members entitled to the shares of which that part consists.
- (7) For the purposes of subsection (4) above a member of a company receives or is entitled to receive value from the company in any case in which an individual would receive value from the company by virtue of paragraph (d), (e), (f), (g) or (h) of subsection (2) of section 58 above (but treating as excepted from paragraph (h) all payments made for full consideration) and the value received shall be determined as for the purposes of that section.

- (8) For the purposes of subsection (7) above a person shall be treated as entitled to receive anything which he is entitled to receive at a future date or will at a future date be entitled to receive.

60 Husband and wife

- (1) In the case of any amount subscribed by a married woman for shares issued to her at a time—

- (a) when she is living with her husband ; and
- (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,

the deduction under section 52(2) above shall, subject to subsection (2) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.

- (2) For the purposes of sections 38(2) and 39 of the Taxes Act (option for separate assessment) the relief shall be treated as a relief under Chapter II of Part I of that Act; and where—

- (a) an application under section 38(1) of the Taxes Act; or
- (b) an election under section 23 of the Finance Act 1971 (separate taxation of wife's earnings),

is in force for a year of assessment for which a deduction falls to be made under section 52(2) above in respect of an amount subscribed by the wife, section 39(1)(c) of the Taxes Act and paragraph 4 of Schedule 4 to the said Act of 1971 (allocation of reliefs between husband and wife) shall have effect as if references to relief under section 20 of the Taxes Act and to a payment made by the wife included references to relief under this Chapter and to a payment made by her as a subscription for shares.

- (3) For the purposes of subsection (7) of section 36 of the Finance Act 1976 (allocation of surplus deduction to other spouse in year of non-aggregation) the relief shall be treated as a deduction under a provision to which that subsection applies but, in the case of the wife, only as respects amounts subscribed by her for shares issued in the part of the year of assessment mentioned in that subsection.

- (4) The limits in section 53(1) and (2) above shall apply jointly to a husband and wife as respects amounts subscribed for shares issued at a time—

- (a) when they are married and living together; and
- (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;

but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.

- (5) Where any such application or election as is mentioned in subsection (2) above is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 53(2) above requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and the wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.

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- (6) Subsection (1) of section 57 above shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—
- (a) that subsection shall apply on the disposal of the shares by the transferee to a third person ; and
 - (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.
- (7) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under section 39(1) or (2) of the Taxes Act and of any allocation of the relief under section 36(7) of the Finance Act 1976.

61 Claims

- (1) A claim for the relief in respect of shares issued by a company in any year of assessment shall be made—
- (a) not earlier than the end of that year or, if later, the end of the period mentioned in section 52(3)(a) above ; and
 - (b) not later than two years after the end of that year or, if that period ends after the end of that year, not later than two years after the end of that period.
- (2) Where in any year of assessment shares are issued by a company to two or more individuals each of whom has subscribed at least £500 for his shares—
- (a) claims in respect of those shares may be made jointly by all or any of them ; and
 - (b) if they do not all make their claims jointly, a claim made by any of them shall not be allowed unless it is accompanied by a statement by each such individual not claiming jointly that he is aware of the making of the claim.
- (3) Where the relief given on a claim to any individual would by virtue of section 53(3) above require the withdrawal of the whole or part of any relief already given to another individual, the claim shall not be allowed unless it is accompanied by a statement by the other individual that he consents to the making of the claim.
- (4) A claim for relief in respect of shares in a company shall not be allowed unless it is accompanied by a statement by the company that the conditions for the relief, so far as applying to the company and the trade, are satisfied up to the date on which the claim is made.
- (5) Any statement under subsection (4) above shall contain such information as the Board may reasonably require, shall be in such form as the Board may direct and shall contain a declaration that it is correct to the best of the company's knowledge and belief; and if any such statement is made fraudulently or negligently the company shall be liable to a penalty not exceeding £250 or, in the case of fraud, £500.

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- (6) No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (application for postponement of payment of tax pending appeal) on the ground that the applicant is entitled to the relief unless a claim for the relief has been duly made by him.
- (7) For the purposes of section 86 of the said. Act of 1970 (interest on overdue tax) tax charged by an assessment—
- (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
 - (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;
- and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.

62 Assessments for withdrawing relief. 63. Information

- (1) Where any relief has been given which is subsequently found not to have been due it shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.
- (2) Subject to the following provisions of this section, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within six years after the end of the year of assessment in which that event occurs.
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 57(1)(a) above applies, disposed of all the ordinary shares issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 54 above.
- (5) Subsection (2) above is without prejudice to section 36 of the Taxes Management Act 1970 (fraud and wilful default) and section 37 of that Act (neglect).
- (6) In its application to an assessment made by virtue of this section, section 86 of the said Act of 1970 (interest on overdue tax) shall have effect as if the reckonable date were—
- (a) in the case of relief withdrawn by virtue of section 53(7), 54, 55, 56 or 59(2) in consequence of any event after the grant of the relief, the date of that event;
 - (b) in the case of relief withdrawn by virtue of section 57(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
 - (c) in the case of relief withdrawn by virtue of section 58 in consequence of a receipt of value after the grant of the relief, the date of the receipt;
 - (d) in (the case of relief withdrawn by virtue of section 59(1), the date on which the relief was granted.
- (7) For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.

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63 Information.

- (1) Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of section 54, 57, 58 or 60(6) above the individual shall within sixty days of his coming to know of the event give a notice in writing to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 53(7), 55, 56, 58 or 59 above—
 - (a) the company; and
 - (b) any person connected with the company who has knowledge of that matter, shall within sixty days of the event or, in the case of a person within paragraph (b) above of his coming to know of it, give a notice in writing to the inspector containing particulars of the event or payment.
- (3) Where a company is notified by the inspector that relief has been given in respect of any shares issued by the company on a specified date, then, if any shares in the company (whether or not shares in respect of which relief has been given) are transferred at any time in the period of five years beginning with that date, the company shall within sixty days of—
 - (a) coming to know of the transfer ; or
 - (b) receiving the notification from the inspector,whichever is the later, give a notice in writing to the inspector containing particulars of the transfer.
- (4) If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1), (2) or (3) above in respect of any event, the inspector may by notice in writing require that person to furnish him within such time, not being less than sixty days, as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Chapter.
- (5) Where the relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 54(9), 55(8) or 59(1) above, he may by notice in writing require any person concerned to furnish him within such time, not being less than sixty days, as may be specified in the notice with—
 - (a) a declaration in writing stating whether or not, according to information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;
 - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (6) References in subsection (5) above to the person concerned are, in relation to section 54(9) and 59(1), the claimant and, in relation to section 55(8) and 59(1), the company and any person controlling the company.
- (7) Where relief has been given in respect of shares in a company—
 - (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of section 58 or 59(4) above; and
 - (b) any person on whose behalf such a payment or asset is received,

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shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.
- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

64 Capital gains tax

- (1) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares in respect of which any relief has been given and not withdrawn shall be reduced—
 - (a) where paragraph (b) below does not apply, by an amount equal to one-half of the amount of the relief ;
 - (b) where those sums exceed the consideration, by an amount equal to—
 - (i) the whole amount of the relief ; or
 - (ii) the excess,whichever is the less ;but the foregoing provisions of this subsection shall not apply to a disposal falling within section 44(1) of the Capital Gains Tax Act 1979 (disposals between husband and wife).
- (2) Section 65 of the said Act of 1979 (pooling of shares etc.) shall not apply to shares in respect of which any relief has been given and not withdrawn; and any question whether a disposal relates to such shares or to other shares shall for the purposes of capital gains tax be determined as for the purposes of section 57 above.
- (3) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, then, if there is within the meaning of section 77 of the said Act of 1979 a reorganisation affecting those shares, section 78 of that Act shall apply separately to the shares in respect of which the relief has been given and to the other shares (so that the shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (4) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

65 Application to subsidiaries

- (1) A qualifying company may in the relevant period have one or more subsidiaries if—
 - (a) the conditions in subsection (2) below are satisfied in respect of the subsidiary or each subsidiary and, except as provided in subsection (3) below, continue to be so satisfied until the end of the relevant period ; and

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- (b) the subsidiary or each subsidiary was incorporated in the United Kingdom, did not commence business before the qualifying company did so and complies with the requirements of section 55(2) to (6) above.
- (2) The conditions referred to in subsection (1)(a) above are—
 - (a) that the qualifying company possesses all the issued share capital of, and all the voting power in, the subsidiary; and
 - (b) that no other person has control of the subsidiary within the meaning of section 534 of the Taxes Act; and
 - (c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) above could cease to be satisfied.
- (3) The conditions referred to in subsection (1)(a) above shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up or dissolved without winding up if—
 - (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
 - (b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (4) Where a qualifying company has one or more subsidiaries in the relevant period the foregoing provisions of this Chapter shall have effect subject to Schedule 12 to this Act.

66 Nominees and approved investment funds

- (1) Subject to the provisions of this section, shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.
- (2) Section 53(1) above shall not apply where the amount is subscribed as nominee for an individual by the person or persons having the management of an investment fund approved for the purposes of this section by the Board (" the managers of an approved fund ").
- (3) Any shares issued to the managers of an approved fund as nominee for an individual shall be treated for the purposes of section 53(4) above as shares in respect of which relief has been claimed (whether or not claimed in fact).
- (4) The managers of an approved fund may be treated for the purposes of section 53(5) and (6) above as the claimant in respect of shares issued to them as nominees for an individual.
- (5) Section 63(1) above shall apply to the managers of an approved fund as it would apply to an individual if relief had been given to him in respect of the shares held for him as nominee by the managers (whether or not given in fact).

67 Interpretation

- (1) In this Chapter—

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"associate " has the meaning given in subsection (3) of section 303 of the Taxes Act except that " relative " in that subsection shall not include a brother or sister ;

" control ", except in section 54(7) and section 65(2)(b), shall be construed in accordance with section 302(2) to (6) of that Act;

"director" shall be construed in accordance with section 303(5) of that Act;

" fixed-rate preference share capital" means share capital consisting of shares which—

- (a) are issued for consideration which is or includes new consideration; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
 - (i) are of a fixed amount or at a fixed rate per cent, of the nominal value of the shares, and
 - (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares; and
- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of The Stock Exchange ;

" market value " shall be construed in accordance with section 150 of the Capital Gains Tax Act 1979 ;

" new consideration " has the same meaning as in Part)(of the Taxes Act;

" ordinary shares " means shares forming part of a company's ordinary share capital;

" the relevant period " has the meaning given in section 52(5) above;

"the relief" or "relief" means relief under section 52 above and references to the amount of the relief shall be construed in accordance with subsection (2) of that section.

- (2) Section 533 of the Taxes Act (meaning of connected persons) applies for the purposes of the provisions of this Chapter other than section 54.
- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section 86(1) of the Capital Gains Tax Act 1979 as exchanging for other shares.
- (4) References in this Chapter to the reduction of any amount include references to its reduction to nil.

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CHAPTER III

BENEFITS IN KIND

68 Cars available for private use

- (1) Section 64 of the Finance Act 1976 (cars available for private use) shall be amended as follows.
- (2) In subsection (1) for the words following paragraph (b) there shall be substituted the words " then, for the purposes of the Income Tax Acts (and in particular section 204 of the Taxes Act (pay as you earn)) he shall be treated as being paid by his employer in that year an emolument of his employment of an amount equal to whatever is the cash equivalent of that benefit in that year ".
- (3) After subsection (2) there shall be inserted—
 - “(2A) Where in any year a person is taxable in respect of the benefit of a car under this section, he shall not be taxable—
 - (a) under section 181 of the Taxes Act in respect of the discharge of any liability of his in connection with the car;
 - (b) under section 36 or 36A of the Finance (No. 2) Act 1975 in respect of any voucher or credit-token to the extent that it is used by him—
 - (i) for obtaining money which is spent on goods or services in connection with the car, or
 - (ii) for obtaining such goods or services;
 - (c) under section 60 above in respect of any payment made by him in respect of expenses incurred by him in connection with the car.”.
- (4) At the end of subsection (5) there shall be inserted the words " but for the purposes of the said section 204 no adjustment to the cash equivalent shall be made by virtue of sub-paragraph (1) of paragraph 2 of Part II of that Schedule in a case in which sub-paragraph (2)(b) of that paragraph applies or by virtue of paragraphs 3 to 5 of that Part of that Schedule unless the inspector has notified the employer of the adjustment to be made ".
- (5) After subsection (5) there shall be inserted—
 - “(6) Regulations under the said section 204 may prescribe the time or times at which the employer is to be treated for the purposes of that section as making payments in respect of the amount referred to in subsection (1) above and, where several times are prescribed, the parts of that amount to be treated as paid at those times.
 - (7) Where, by reason of any insufficiency in the payments actually made by an employer to an employee to whom he is treated as paying an amount by virtue of this section, the employer is unable in any year to deduct and cannot otherwise recover from the employee all the income tax in respect of that amount which he is liable to pay to the Board under the said section 204, the employer shall be treated as having provided a benefit in that year for the employee of an amount equal to the amount of tax which he is unable to deduct or otherwise recover which shall be chargeable to tax under section 61 above.”.

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- (6) In paragraph 5 of Part II of Schedule 7 to the said Act of 1976 (increase of cash equivalent where use of car for business travel does not amount to more than 1,000 miles) for " 1,000 " there shall be substituted " 2,500 ".
- (7) Subsections (1) to (5) of this section have effect for the year 1982-83 and subsequent years of assessment and subsection (6) of this section has effect for the year 1981-82 and subsequent years of assessment.

69 Car fuel

- (1) After section 64 of the Finance Act 1976 there shall be inserted—

“64A Car fuel.

- (1) Where in any year in the case of a person employed in director's or higher-paid employment fuel is provided by reason of his employment for a car which is made available as mentioned in section 64 above, he shall be treated for the purposes of the Income Tax Acts (and in particular section 204 of the Taxes Act (pay as you earn)) as being paid by his employer in that year an emolument of his employment of an amount equal to whatever is the cash equivalent of that benefit in that year.
- (2) Subject to the following provisions of this section, the cash equivalent of that benefit shall be ascertained from Table A below where the car has an internal combustion engine with one or more reciprocating pistons and from Table B below in the case of other cars; and for the purposes of Table A below a car's cylinder capacity is the capacity of its engine calculated as for the purposes of the Vehicles (Excise) Act 1971 or the Vehicles (Excise) Act (Northern Ireland) 1972.

TABLE A

| Cylinder capacity of car in cubic centimetres | Cash equivalent |
|---|-----------------|
| 1300 or less | £270 |
| More than 1300, but not more than 1800 | £360 |
| More than 1800 | £540 |

TABLE B

| Original market value of car | Cash equivalent |
|--------------------------------------|-----------------|
| Less than £3,600 | £270 |
| £3,600 or more, but less than £5,100 | £360 |
| £5,100 or more | £540 |

- (3) Without prejudice to the generality of subsection (1) above, fuel is provided for a car if—
- (a) any liability in respect of the provision of fuel for the car is discharged ;

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- (b) a voucher within the meaning of section 36 of the Finance (No. 2) Act 1975 or a credit-token within the meaning of section 36A of that Act is used to obtain fuel for the car or money which is spent on such fuel; or
 - (c) any sum is paid in respect of expenses incurred in providing fuel for the car.
- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made (but not of any year earlier than 1983-84) substitute a different Table for either of the Tables in subsection (2) above.
- Orders under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where paragraph 2 or 3 of Part II of Schedule 7 to this Act applies to reduce the cash equivalent of the benefit of the car for which the fuel is provided, the same reduction shall be made to the cash equivalent of the benefit of the fuel ascertained under subsection (2) above.
- (6) If in the relevant year—
- (a) the employee is required to make good to the person providing the fuel the whole of the expense incurred by him in or in connection with the provision of fuel for his private use and he does so ; or
 - (b) the fuel is made available only for business travel,
- the cash equivalent is nil.
- (7) For the purposes of section 204 of the Taxes Act no alteration of the cash equivalent shall be made by virtue of sub-paragraph (1) of paragraph 2 of Part II of Schedule 7 to this Act in a case in which sub-paragraph (2) (b) of that paragraph applies or of paragraph 3 of that Part or of subsection (6)(a) above unless the inspector has notified the employer of the alteration to be made.
- (8) Subsections (6) and (7) of section 64 above shall apply in relation to the amount referred to in subsection (1) above as they apply to the amount referred to in subsection (1) of that section.”.
- (2) This section has effect for the year 1982-83 and subsequent years of assessment.

70 Transport vouchers

- (1) Section 36 of the Finance (No. 2) Act 1975 (benefits in kind: vouchers other than cash vouchers) shall be amended as follows.
- (2) After subsection (2) there shall be inserted—
- “(2A) The expense incurred as mentioned in subsection (1)(a) above by the person providing the voucher shall be treated as reduced by any part of that expense made good to that person by the employee.”.
- (3) At the end of subsection (4) (definition of "voucher") there shall be inserted the words " and includes a transport voucher. ".
- (4) After subsection (4) there shall be inserted—
- “(4A) In this section " transport voucher " means any ticket, other document or pass intended to enable a person in possession of it to obtain passenger transport

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services and, in relation to a transport voucher, references in this section to a voucher being exchanged for services shall be construed accordingly.”.

- (5) In subsection (5)—
- (a) for paragraph (a) there shall be substituted—
 - “(a) " employee " means the holder of any office or employment the emoluments in respect of which fall to be assessed under Schedule E, and related expressions shall be construed accordingly”; and
 - (b) in paragraph (d) the words "or family" shall be omitted and at the end there shall be inserted the words " or his parent or child or the spouse of his child or any dependant of the employee's ".
- (6) Subsection (2) of this section shall be deemed to have had effect since 6th April 1976 and the remaining provisions of this section have effect for the year 1982-83 and subsequent years of assessment but section 15 of the Taxes Management Act 1970 (returns of employees' emoluments etc.) shall have effect for the year 1981-82 as if all the amendments made by this section were in operation for that year.

71 Credit-tokens

- (1) After section 36 of the Finance (No. 2) Act 1975 there shall be inserted—

“36A Credit-tokens.

- (1) Subject to the provisions of this section, where a credit-token is provided for an employee by reason of his employment, then, for the purposes of the Income Tax Acts—
- (a) if the person providing the credit-token incurs any expense in or in connection with its provision, the employee shall be treated as having received in the year of assessment in which the expense is incurred an emolument from his employment of an amount equal to that expense;
 - (b) on each occasion that the employee uses the credit-token to obtain money, goods or services he shall be treated as having received an emolument from his employment of an amount equal to the expense incurred by the person providing the credit-token in or in connection with the provision of the money, goods or services obtained (including any interest paid in connection therewith); and
 - (c) any money, goods or services obtained by the employee by use of the credit-token shall be disregarded.
- (2) There shall be deductible under section 189, 192 or 194(3) of the Taxes Act (necessary expenses etc.) from the amount taxable under subsection (1) above such amounts if any as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.
- (3) The expense incurred by the person providing the credit-token as mentioned in paragraphs (a) and (b) of subsection (1) above shall be treated as reduced by any part of that expense made good to that person by the employee.
- (4) In this section " credit-token " does not include a voucher within the meaning of section 36 or a cash voucher within the meaning of section 37 of this Act,

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but subject to that shall be construed in accordance with section 14 of the Consumer Credit Act 1974 with the substitution for the words " an individual " wherever they occur in that section of the words " a person ".

- (5) Subsection (5) of section 36 of this Act shall apply for the purpose of this section (the references to a voucher being for this purpose read as references to a credit-token).
- (6) If a person furnishes to the inspector a statement of the cases and circumstances in which credit-tokens are provided for any employees (whether his own or those of anyone else) and the inspector is satisfied that no additional tax is payable under this section by reference to the credit-tokens mentioned in the statement, the inspector shall notify the person accordingly and nothing in this section shall apply to the provision of those credit-tokens or their use.
- (7) The inspector may, if in his opinion there is reason to do so, by notice in writing served on the person to whom the notification under subsection (6) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the notification under subsection (6) above had never been given or, as the case may be, it had ceased to have effect on the specified date.”.
- (2) In section 15(7)(a) of the Taxes Management Act 1970 (returns of employees' emoluments) and in section 69(2)(a) of the Finance Act 1976 (amounts included as emoluments for purposes of director's or higher-paid employment) after " 36 " there shall be inserted " , 36A. "
- (3) This section has effect for the year 1982-83 and subsequent years of assessment.

72 Medical insurance and treatment

- (1) At the end of section 62 of the Finance Act 1976 (exceptions from general charge) there shall be inserted—
 - “(8) Section 61 above does not apply where the benefit consists—
 - (a) in providing the employee with medical treatment outside the United Kingdom (including providing for him to be an in-patient) in a case where the need for the treatment arises while the employee is outside the United Kingdom for the purpose of performing the duties of his employment; or
 - (b) in providing insurance for the employee against the cost of such (treatment in such a case;
 and for the purpose of this subsection, medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity, or defect.”.
- (2) Section 68 of that Act (medical insurance) shall cease to have effect.
- (3) In section 15(7)(a) of the Taxes Management Act 1970 and in section 61(2) of the said Act of 1976 for the words "to 68 " there shall be substituted the words " to 67 ".

- (4) This section has effect for the year 1982-83 and subsequent years of assessment."

CHAPTER IV

CAPITAL ALLOWANCES

73 Industrial buildings etc.: increase of initial allowances

- (1) In section 1(2) of the Capital Allowances Act 1968 (rate of initial allowances) for "one-half" there shall be substituted "three-quarters" and the same amendment shall be made in paragraph 1 of Schedule 6 to the Finance Act 1978 and paragraph 1 of Schedule 13 to the Finance Act 1980 (which contain references to the rate specified in the said section 1 (2)).
- (2) A person other than a company may, in making a claim to an initial allowance at the rate applying by virtue of this section, require the initial allowance to be reduced to a specified amount; and a company may, by notice in writing given to the inspector not later than two years after the end of the chargeable period for which an initial allowance at that rate falls to be made, disclaim the allowance or require it to be reduced to a specified amount.
- (3) This section has effect in relation to expenditure incurred after 10th March 1981 and to expenditure which by virtue of section 5(1) of the said Act of 1968 (purchase of unused buildings or structures) is deemed to have been incurred after that date; but expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before trade begins).

74 Industrial buildings etc.: sales after cessation of use for qualifying purpose

- (1) Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of writing-down allowances and the making of balancing allowances and charges where a building or structure has ceased to be an industrial building or structure.
- (2) In section 2(3) of that Act (calculation of writing-down allowance where the relevant interest is sold while the building or structure is an industrial building or structure) for the words "while the building or structure is an industrial building or structure" there shall be substituted the words "and the sale is an event to which section 3(1) of this Act applies".
- (3) In section 3(1) of that Act (balancing allowance or charge on occurrence of certain events while the building or structure is an industrial building or structure)—
 - (a) after the words "while the building or structure is an industrial building or structure" there shall be inserted the words "or after it has ceased to be one";
 - (b) at the end of the proviso there shall be inserted the words "and where two or more events occur during a period when the building or structure is not an industrial building or structure no balancing allowance or balancing charge shall be made on the occurrence of any of those events except the first."

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- (4) In section 6 of that Act (manner of making allowances and charges) after subsection (6) there shall be inserted—

“(7) Where a balancing allowance or balancing charge falls to be made in the case of a building or structure which has ceased to be an industrial building or structure and the circumstances are such as are mentioned in paragraph (a) and (b) of subsection (2) of section 12 of this Act, the allowance or charge shall be made as provided in that subsection.”.

- (5) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (6) This section has effect where the sale referred to in section 2(3) of the said Act of 1968 or, as the case may be, the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of that Act occurs after 17th December 1980 but not where the sale is pursuant to a contract of sale made on or before that date or the event is a sale pursuant to such a contract.

75 Industrial buildings etc.: balancing adjustments in cases of use for non-qualifying purpose

- (1) Chapter I Of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of balancing allowances and charges where a building or structure has at any time been used otherwise than as an industrial building or structure or for scientific research.

- (2) For section 3(4) and (5) of that Act (calculation of balancing allowance and charge where no writing-down allowance has been made for part of the relevant period) there shall be substituted—

“(4) If for any part of the relevant period the building or structure was neither an industrial building or structure nor used for scientific research, subsections (4A) to (5) below shall have effect instead of subsections (2) and (3) above.

(4A) Subject to subsection (4C) below, where the sale, insurance, salvage or compensation moneys are not less than the capital expenditure, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the allowances given.

(4B) Subject to subsection (4C) below, where there are no sale, insurance, salvage or compensation moneys or where those moneys are less than the capital expenditure, then—

- (a) if the adjusted net cost of the building or structure exceeds the allowances given, a balancing allowance shall be made and the amount thereof shall be an amount equal to the excess;
- (b) if the adjusted net cost of the building or structure is less than the allowances given, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the shortfall.

(4C) No balancing charge or allowance shall be made under subsection (4A) or (4B) above on the occasion of a sale if by virtue of paragraph 4 of Schedule 7

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to this Act the building or structure is treated as having been sold for a sum equal to the residue of the expenditure on its construction immediately before the sale.

(5) In subsections (4) to (4B) above and in this subsection—

" the relevant period " means the period beginning at the time when the building or structure was first used for any purpose and ending with the event giving rise to the balancing allowance or balancing charge except that where there has been a sale of the building or structure after that time and before that event the relevant period shall begin on the day following that sale or, if there has been more than one such sale, the last such sale ;

" the capital expenditure " means—

(a) where paragraph (b) of this definition does not apply, the capital expenditure incurred (or by virtue of section 5 of this Act deemed to have been incurred) on the construction of the building or structure ;

(b) where the person to or on whom the balancing allowance or balancing charge falls to be made is not the person who incurred (or is deemed to have incurred) that expenditure, the residue of that expenditure at the beginning of the relevant period,

together (in either case) with any amount to be added to the residue of that expenditure by virtue of section 4(11) of this Act;

" the allowances given " means the allowances referred to in subsection (6) of this section ;

" the adjusted net cost " means—

(a) where there are no sale, insurance, salvage or compensation moneys, the capital expenditure ;

(b) where those moneys are less than that expenditure, the amount by which they are less, reduced (in either case) in the proportion that the part, or the aggregate of the parts, of the relevant period for which the building or structure was an industrial building or structure or used for scientific research bears to the whole of that period ;

" scientific research " has the same meaning as in Part II of this Act”

(3) After section 4(10) of that Act there shall be inserted—

“(10A) Where, on the occasion of a sale, a balancing charge is made under section 3(4B)(b) of this Act in respect of the expenditure and, apart from this subsection, the residue of the expenditure immediately after the sale would by virtue of subsection (10) above be deemed to be greater than the net proceeds of the sale, the residue immediately after the sale shall be deemed for the purposes of this Chapter to be equal to the net proceeds.”

(4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.

(5) This section has effect where the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of the said Act of 1968 occurs after 17th December 1980 but not where that event is a sale pursuant to a contract of sale made on or before that date.

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76 Transfers other than sales and transactions between connected persons

- (1) For the purposes of Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) and the other provisions of that Act which are relevant to that Chapter any transfer of the relevant interest in a building or structure otherwise than by way of sale shall be treated as a sale of the interest for a price other than that which it would have fetched if sold on the open market.
- (2) If Schedule 7 to the said Act of 1968 (special provisions as to certain sales) would not apart from this subsection have effect in relation to a transfer treated as a sale by virtue of subsection (1) above, that Schedule shall have effect in relation to it as if it were a sale falling within paragraph 1(1)(a) of that Schedule.
- (3) In section 78(1) of the said Act of 1968 and paragraph 1(1) of Schedule 7 to that Act—
 - (a) in paragraph (a) after the words " both of them " there shall be inserted the words " or the buyer and the seller are connected with each other within the meaning of section 533 of the principal Act ";
 - (b) in paragraph (b) after the words " the obtaining of an allowance or deduction " there shall be inserted the words " , the obtaining of a greater allowance or deduction or the avoidance or reduction of a charge ".
- (4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (5) This section has effect where the transfer or sale occurs after 10th March 1981 but not when the transfer or sale is pursuant to a contract for the carrying out of the transaction or sale made on or before that date.

77 Carry forward of unused allowances

- (1) Section 70 of the Capital Allowances Act 1968 (income tax allowances in taxing a trade etc.) shall be amended as follows.
- (2) In subsection (4) for the words following " as the case may be " there shall be substituted the words " shall be carried forward and, so far as may be, made as a deduction in charging the profits or gains of the trade in subsequent years of assessment. "
- (3) After that subsection there shall be inserted—

“(4A) Where the allowances in respect of which deductions can be made under this section for any year include allowances carried forward under subsection (4) above from a previous year the allowances shall, subject to paragraph 5 of Schedule 9 to the Finance Act 1981, be deducted in the following order—

 - (a) allowances other than those carried forward under subsection (4) above from an earlier year ;
 - (b) allowances carried forward as aforesaid from years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980;
 - (c) allowances carried forward as aforesaid from years of assessment earlier than those referred to in paragraph (b) above.”

- (4) This section has effect for the year of assessment for which the basis period ended on or included 14th November 1980 and for subsequent years of assessment.

CHAPTER V

CAPITAL GAINS

78 Extension of general relief for gifts

- (1) Section 79 of the Finance Act 1980 (general relief for gifts) shall apply in relation to a disposal to the trustees of a settlement as it applies in relation to a disposal to an individual; but a claim for relief under that section in respect of a disposal to the trustees of a settlement shall be made by the transferor alone (instead of by the transferor and the transferee).
- (2) In subsection (3)(a) of that section for the words " section 19(3)" there shall be substituted the words " any provision ".
- (3) In subsection (4) of that section, after the words " to an individual" there shall be inserted the words " or by an individual to the trustees of a settlement ".
- (4) This section applies to disposals after 5th April 1981.

79 Emigration of donee

- (1) If—
- (a) relief under section 79 of the Finance Act 1980 is given in respect of a disposal made after 5th April 1981 (" the relevant disposal "), and
 - (b) at a time when he has not disposed of the asset in question, the transferee becomes neither resident nor ordinarily resident in the United Kingdom,
- then, subject to the following provisions of this section, a chargeable gain shall be deemed to have accrued to the transferee immediately before that time, and its amount shall be equal to the held-over gain (within the meaning of the said section 79) on the relevant disposal.
- (2) For the purposes of subsection (1) above the transferee shall be taken to have disposed of an asset before the time there referred to only if he has made a disposal or disposals in connection with which the whole of the held-over gain on the relevant disposal was represented by reductions made in accordance with subsection (1)(b) of the said section 79 ; and where he has made a disposal in connection with which part of that gain was so represented, the amount of the chargeable gain deemed by virtue of this section to accrue to him shall be correspondingly reduced.
- (3) The disposals by the transferee that are to be taken into account under subsection (2) above shall not include any disposal to which section 44 of the Capital Gains Tax Act 1979 (disposals between spouses) applies; but where any such disposal is made by the transferee, disposals by his spouse shall be taken into account under subsection (2) above as if they had been made by him.
- (4) Where the relevant disposal was made to an individual, subsection (1) above shall not apply by reason of his becoming neither resident nor ordinarily resident more than six years after the end of the year of assessment in which the relevant disposal was made.

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- (5) Subsection (1) above shall not apply where the relevant disposal was made to an individual and—
- (a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
 - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he ceases to be so, without having meanwhile disposed of the asset in question;
- and accordingly no assessment shall be made by virtue of subsection (1) above before the end of the said period of three years in any case where the condition in paragraph (a) above is, and the condition of paragraph (b) above may be, satisfied.
- (6) For the purposes of subsection (5) above a person shall be taken to have disposed of an asset if he has made a disposal in connection with which the whole or part of the held-over gain on the relevant disposal would, had he been resident in the United Kingdom, have been represented by a reduction made in accordance with section 79(1)(b) of the Finance Act 1980; and subsection (3) above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) above.
- (7) Where an amount of tax assessed on a transferee by virtue of subsection (1) above is not paid within the period of twelve months beginning with the date when the tax becomes payable then, subject to subsection (8) below, the transferor may be assessed and charged (in the name of the transferee) to all or any part of that tax.
- (8) No assessment shall be made under subsection (7) above more than six years after the end of the year of assessment in which the relevant disposal was made.
- (9) Where the transferor pays an amount of tax in pursuance of subsection (7) above, he shall be entitled to recover a corresponding sum from the transferee.
- (10) Gains on disposals made after a chargeable gain has under this section been deemed to accrue by reference to a held-over gain shall be computed without any reduction under section 79(1) MM of the Finance Act 1980 in respect of that held-over gain.

80 Gains of non-resident settlements

- (1) This section applies to a settlement for any year of assessment (beginning on or after 6th April 1981) during which the trustees are at no time resident or ordinarily resident in the United Kingdom if the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom.
- (2) There shall be computed in respect of every year of assessment for which this section applies the amount on which the trustees would have been chargeable to tax under section 4(1) of the Capital Gains Tax Act 1979 if they had been resident or ordinarily resident in the United Kingdom in the year; and that amount, together with the corresponding amount in respect of any earlier such year so far as not already treated under subsection (3) or section 81(2) below as chargeable gains accruing to beneficiaries under the settlement, is in this section and sections 81 and 82 below referred to as the trust gains for the year.
- (3) Subject to the following provisions of this section, the trust gains for a year of assessment shall be treated as chargeable gains accruing in that year to beneficiaries

of the settlement who receive capital payments from the trustees in that year or have received such payments in any earlier year.

- (4) The attribution of chargeable gains to beneficiaries under subsection (3) above shall be made in proportion to, but shall not exceed, the amounts of the capital payments received by them.
- (5) A capital payment shall be left out of account for the purposes of subsections (3) and (4) above to the extent that chargeable gains have by reason of the payment been treated as accruing to the recipient in an earlier year.
- (6) A beneficiary shall not be charged to tax on chargeable gains treated by virtue of subsection (3) above as accruing to him in any year unless he is domiciled in the United Kingdom at some time in that year.
- (7) For the purposes of this section a settlement arising under a will or intestacy shall be treated as made by the testator or intestate at the time of his death.
- (8) Section 17 of the Capital Gains Tax Act 1979 shall not apply as respects chargeable gains accruing to the trustees of a settlement after 5th April 1981; and the references in subsections (3) and (4) above to capital payments received by beneficiaries do not include references to any payment received before 10th March 1981, or any payment received on or after that date so far as it represents a chargeable gain which accrued to the trustees before 6th April 1981.

81 Migrant settlements

- (1) Where a period of one or more years of assessment for which section 80 above applies to a settlement (in this section referred to as a "non-resident period") succeeds a period of one or more years of assessment in each of which the trustees were at some time resident or ordinarily resident in the United Kingdom (in this section referred to as a "resident period"), a capital payment received by a beneficiary in the resident period shall be disregarded for the purposes of section 80 if it was not made in anticipation of a disposal made by the trustees in the non-resident period.
- (2) Where—
 - (a) a non-resident period is succeeded by a resident period, and
 - (b) the trust gains for the last year of the non-resident period are not (or not wholly) treated as chargeable gains accruing in that year to beneficiaries,then, subject to subsection (3) below, those trust gains (or the outstanding part of them) shall be treated as chargeable gains accruing in the first year of the resident period to beneficiaries of the settlement who receive capital payments from the trustees in that year; and so on for the second and subsequent years until the amount treated as accruing to beneficiaries is equal to the amount of the trust gains for the last year of the nonresident period.
- (3) Subsections (4) and (6) of section 80 above shall apply in relation to subsection (2) above as they apply in relation to subsection (3) of that section.

82 Transfers between settlements

- (1) If in a year of assessment for which section 80 or 81(2) above applies to a settlement ("the transferor settlement") the trustees transfer all or part of the settled property

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to the trustees of another settlement (" the transferee settlement") then, subject to the following provisions—

- (a) if section 80 applies to the transferee settlement for the year, its trust gains for the year shall be treated as increased by an amount equal to the outstanding trust gains for the year of the transferor settlement or, where part only of the settled property is transferred, to a proportionate part of those trust gains;
 - (b) if section 81(2) applies to the transferee settlement for the year (otherwise than by virtue of paragraph (c) below), the trust gains referred to in section 81(2) shall be treated as increased by the amount mentioned in paragraph (a) above;
 - (c) if (apart from this paragraph) neither section 80 nor section 81(2) above applies to the transferee settlement for the year, section 81(2) shall apply to it as if the year were the first year of a resident period succeeding a non-resident period and the trust gains referred to in section 81(2) were equal to the amount mentioned in paragraph (a) above.
- (2) Subject to subsection (3) below, the reference in subsection (1)(a) above to the outstanding trust gains for the year of the transferor settlement is a reference to the amount of its trust gains for the year so far as they are not treated under section 80(3) above as chargeable gains accruing to beneficiaries in that year.
 - (3) Where section 81(2) above applies to the transferor settlement for the year, the reference in subsection (1)(a) above to the outstanding trust gains of the settlement is a reference to the trust gains referred to in section 81(2) so far as not treated as chargeable gains accruing to beneficiaries in that or an earlier year.
 - (4) This section shall not apply to a transfer so far as it is made for consideration in money or money's worth.

83 Provisions supplementary to sections 80 to 82

- (1) In sections 80 to 82 above " capital payment" means any payment which is not chargeable to income tax on the beneficiary or, in the case of a beneficiary who is neither resident nor ordinarily resident in the United Kingdom, any payment received otherwise than as income.
- (2) In subsection (1) above references to a payment include references to the transfer of an asset and the conferring of any other benefit, and to any occasion on which settled property becomes property to which section 46 of the Capital Gains Tax Act 1979 applies.
- (3) The fact that the whole or part of a benefit is by virtue of section 45 (2) (b) above treated as the recipient's income for a year of assessment after that in which it is received—
 - (a) shall not prevent the benefit or that part of it being treated for the purposes of sections 80 to 82 above as a capital payment in relation to any year of assessment earlier than that in which it is treated as his income; but
 - (b) shall preclude its being treated for those purposes as a capital payment in relation to that or any later year of assessment.
- (4) For the purposes of sections 80 to 82 above the amount of a capital payment made by way of loan, and of any other capital payment which is not an outright payment of money, shall be taken to be equal to the value of the benefit conferred by it.
- (5) For the purposes of sections 80 to 82 above a capital payment shall be regarded as received by a beneficiary from the trustees of a settlement if—

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- (a) he receives it from them directly or indirectly, or
 - (b) it is directly or indirectly applied by them in payment of any debt of his or is otherwise paid or applied for his benefit, or
 - (c) it is received by a third person at the beneficiary's direction.
- (6) Section 29(3) of the Capital Gains Tax Act 1979 (losses accruing to non-residents not to be allowable losses) shall not prevent losses accruing to trustees in a year of assessment for which section 80 above or section 17 of that Act applied to the settlement from being allowed as a deduction from chargeable gains accruing in any later year beginning after 5th April 1981 (so far as they have not previously been set against gains for the purposes of a computation under either of those sections or otherwise).

84 Power to obtain information for purposes of sections 80 to 82

- (1) The Board may by notice in writing require any person to furnish them within such time as they may direct, not being less than twenty-eight days, with such particulars as they think necessary for the purposes of sections 80 to 82 above.
- (2) Subsections (2) to (4) of section 481 of the Taxes Act shall have effect in relation to subsection (1) above as they have effect in relation to section 481(1), but in their application by virtue of this subsection—
- (a) references to Chapter III of Part XVII of the Taxes Act shall be construed as references to sections 80 to 82 above; and
 - (b) the expressions "settlement" and "settlor" have the same meanings as in those sections.

85 Non-resident trustees and non-resident companies

- (1) The persons treated by section 15 of the Capital Gains Tax Act 1979 as if a part of a chargeable gain accruing to a company had accrued to them shall include trustees owning shares in the company if when the gain accrues to the company the trustees are neither resident nor ordinarily resident in the United Kingdom.
- (2) This section applies to gains accruing to a company on or after 10th March 1981.

86 Transfers into settlement

- (1) In section 53 of the Capital Gains Tax Act 1979 (which provides that a gift in settlement is a disposal of the entire property settled notwithstanding that the donor is a beneficiary or trustee) for the words "gift in" and "donor" there shall be substituted the words "transfer into" and "transferor" respectively.
- (2) This section shall be deemed to have come into force on 10th March 1981.

87 Appointments to persons under disability

- (1) In section 54 of the Capital Gains Tax Act 1979 (deemed disposal for market value when a person becomes absolutely entitled to settled property) after subsection (2) there shall be added—
- “(3) References in this section to the case where a person becomes absolutely entitled to settled property as against the trustee shall be taken to include

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references to the case where a person would become so entitled but for being an infant or other person under disability.”

- (2) In section 56(1) of that Act (death of life tenant) after the word " becomes" there shall be inserted the words " (or would but for a disability become) ".
- (3) This section applies where the occasion concerned occurs on or after 10th March 1981.

88 Disposal of interests in non-resident settlements

- (1) Subsection (1) of section 58 of the Capital Gains Tax Act 1979 shall not apply to the disposal of an interest in settled property, other than one treated under subsection (2) of that section as made in consideration of obtaining the settled property, if at the time of the disposal the trustees are neither resident nor ordinarily resident in the United Kingdom.
- (2) If—
 - (a) a gain accrues to a person (" the transferor ") on the disposal by him of an interest in settled property but, by reason of section 58(1) of the Capital Gains Tax Act 1979, it is not a chargeable gain, and
 - (b) at any time after the disposal the trustees of the settlement become neither resident nor ordinarily resident in the United Kingdom,
 then, subject to subsection (3) below, a chargeable gain shall be deemed to have accrued to the trustees immediately before that time, and its amount shall be equal to that of the gain which accrued to the transferor.
- (3) Subsection (2) above shall not apply if, before the end of the year in which they become neither resident nor ordinarily resident, the trustees have disposed of all the assets which, when the transferor disposed of his interest, constituted the settled property in which the interest subsisted; and where under that subsection a chargeable gain is deemed to accrue to the trustees at any time its amount shall not exceed the market value at that time of such of those assets as have not been disposed of by the trustees before the end of that year.
- (4) For the purposes of subsection (3) above the trustees shall be regarded as not having disposed of an asset if and to the extent that they retain part of it, an interest in or right over it, or property derived from it.
- (5) Where an amount of tax assessed on trustees by virtue of this section is not paid within the period of twelve months beginning with the date when the tax becomes payable, the transferor may be assessed and charged (in the name of the trustees) to all or any part of that tax ; but no assessment may be made under this subsection after the end of the period of six years beginning with the date when the transferor disposed of his interest.
- (6) Where the transferor pays an amount of tax in pursuance of subsection (5) above, he shall be entitled to recover a corresponding sum from the trustees.
- (7) This section applies to disposals on or after 10th March 1981.

89 Trusts for the disabled

- (1) Paragraph 5 of Schedule 1 to the Capital Gains Tax Act 1979 (which extends to certain trusts for the disabled the £3,000 exemption given to individuals by section 5) shall be amended as follows.

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- (2) In sub-paragraph (1) for the words from "any of the property" to "that person" there shall be substituted the words—
- “(a) not less than half of the property which is applied is applied for the benefit of that person, and
 - (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person.”
- (3) After sub-paragraph (1) there shall be inserted—
- “(1A) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement) ; and the reference in that sub-paragraph to the lifetime of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.
- (1B) In relation to a settlement which is one of two or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 5 of this Act to £3,000 there were substituted references to £300 or, if it is more, to such amount as results from dividing £3,000 by the number of settlements in the group.
- (1C) For the purposes of sub-paragraph (1B) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
 - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (1D) If, in consequence of two or more persons being settlors in relation to it, a settlement is comprised in two or more groups comprising different numbers of settlements, sub-paragraph (1B) above shall apply to it as if the number by which the amount of £3,000 is to be divided were the number of settlements in the largest group.”
- (4) At the end of sub-paragraph (2) there shall be added the words " ; and " settlor " and " excluded settlement" have the same meanings as in paragraph 6 below " .
- (5) After sub-paragraph (2) there shall be added—
- “(3) An inspector may by notice in writing require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than twenty-eight days) with such particulars as he thinks necessary for the purposes of this paragraph.”
- (6) This section has effect for the year 1981-82 and subsequent years of assessment.

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90 Market value

(1) After section 29 of the Capital Gains Tax Act 1979 there shall be inserted—

“29A Disposals and acquisitions treated as made at market value.

- (1) Subject to the provisions of this Act, a person's acquisition or disposal of an asset shall for the purposes of this Act be deemed to be for a consideration equal to the market value of the asset—
- (a) where he acquires or, as the case may be, disposes of the asset otherwise than by way of a bargain made at arm's length, and in particular where he acquires or disposes of it by way of gift or on a transfer into settlement by a settlor or by way of distribution from a company in respect of shares in the company, or
 - (b) where he acquires or, as the case may be, disposes of the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other service rendered or to be rendered by him or another.
- (2) Except in the case specified in subsection (4) below, subsection (1) above shall not apply to the acquisition of an asset if—
- (a) there is no corresponding disposal of it, or the corresponding disposal is made by an excluded person, and
 - (b) there is no consideration in money or money's worth or the consideration is of an amount or value lower than the market value of the asset.
- (3) Where in the case of an acquisition within subsection (2) above there is a corresponding disposal by an excluded person, subsection (1) above shall not apply to that disposal.
- (4) The exception referred to in subsection (2) above is the acquisition by an individual of tangible movable property or currency in circumstances where there is a corresponding disposal by an individual who is neither resident nor ordinarily resident in the United Kingdom; and for this purpose " tangible movable property " does not include commodities of a kind dealt with on a terminal market, or a mere right in or over any property.
- (5) In this section " excluded person " means—
- (a) a person who is neither resident nor ordinarily resident in the United Kingdom; or
 - (b) a person who is wholly exempt from tax in respect of chargeable gains, or would be so exempt on making a claim for exemption ; or
 - (c) a charity ; or
 - (d) a registered friendly society ; or
 - (e) a person making the disposal for the purposes of—
 - (i) a fund to which section 218 or 226(6) of the Taxes Act or section 36 of the Finance Act 1980 applies, or
 - (ii) an exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970.”

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(2) In section 32 of the Capital Gains Tax Act 1979 (allowance of expenditure in computation of gains) after subsection (4) there shall be added—

“(5) Where—

- (a) a person acquires an asset for no consideration in money or money's worth or for a consideration of an amount or value lower than the market value of the asset, and is not treated under any provision of this Act as acquiring it for a consideration other than the actual consideration, and
- (b) there is a corresponding disposal of the asset by a person who is neither resident nor ordinarily resident in the United Kingdom, and
- (c) a charge to income tax, corporation tax or capital gains tax arises in respect of the acquisition,

the sums allowable under this section as a deduction in the computation made on the first-mentioned person's disposal of the asset shall include a sum equal to the amount in respect of which the charge arises.

(6) The condition in paragraph (c) of subsection (5) above shall be taken to be satisfied where under section 80(3) of the Finance Act 1981 chargeable gains are treated as accruing to a person in any year by reason of his acquisition of an asset in that or an earlier year; and the reference in subsection (5) above to the amount in respect of which the charge arises shall be taken to be a reference to the amount of the gains treated as accruing to him.”.

(3) Subsection (3) of section 19 of the Capital Gains Tax Act 1979 (which is superseded by this section) shall cease to have effect; and—

- (a) for the references to that subsection (or to a paragraph of it) in sections 49(5), 62(2), 90(3), 126(6), 146(2) and 149(2) of that Act and in section 47(1)(b)(ii) of the Finance Act 1980 there shall be substituted references to section 29A(1) of the said Act of 1979 ; and
- (b) in section 62(5) of that Act for the words " the amount of the consideration for the acquisition being" there shall be substituted the words " where the amount of the consideration for the acquisition is " .

(4) This section has effect in relation to acquisitions and disposals on or after 10th March 1981.

91 Consideration on reorganisation of share capital etc.

(1) In section 79 of the Capital Gains Tax Act 1979 at the end of subsection (1) there shall be added—

“Provided also that, in the case of a reorganisation on or after 10th March 1981, any consideration given for the new holding or any part of it otherwise than by way of a bargain made at arm's length shall be disregarded to the extent that its amount or value exceeds the relevant increase in value; and for this purpose "the relevant increase in value " means the amount by which the market value of the new holding immediately after the reorganisation exceeds the market value of the original shares immediately before the reorganisation.”.

(2) In consequence of subsection (1) above—

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- (a) in section 89(2) of the Capital Gains Tax Act 1979, for the word " proviso " there shall be substituted the word " provisos "; and
- (b) in section 37(12) of the Finance Act 1980, in the definition of " new consideration ", for the words " the proviso" there shall be substituted the words " the first proviso ".