



# Finance Act 1990

## 1990 CHAPTER 29

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Miscellaneous*

#### **71 Relief for interest**

For the year 1990-91 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

#### **72 Capital gains: annual exempt amount for 1990-91**

For the year 1990-91 section 5 of the Capital Gains Tax Act 1979 (annual exempt amount) shall have effect as if the amount specified in subsection (1A) were £5,000; and accordingly subsection (1B) of that section (indexation) shall not apply for that year.

#### **73 Business expansion scheme: abolition of “locality rule”**

(1) In Schedule 4 to the Finance Act 1988 (business expansion scheme: private rented housing), in paragraph 13 (exclusion of expensive dwelling-houses)—

(a) in sub-paragraph (2) (assumptions to be made in arriving at value at the relevant date), for paragraph (a) there shall be substituted—

“(a) on the assumption that the dwelling-house was in the same state as at the valuation date;”;

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- (b) sub-paragraph (3) (which includes the assumption that the locality was in the same state as at the valuation date) shall be omitted.

(2) This section shall apply where the valuation date is on or after 20th March 1990.

#### **74 Debts of overseas governments etc**

After section 88 of the Taxes Act 1988 there shall be inserted—

##### **“88A Debts of overseas governments etc**

- (1) For any period of account of a company ending on or after 20th March 1990, section 88B shall have effect for the purpose of restricting the extent to which a debt to which subsection (2) below applies may be estimated to be bad for the purposes of section 74(j); and—
- (a) any deduction which may fall to be made in computing the company’s profits or gains for the period, and
  - (b) any addition which may fall to be so made (for example because the relevant percentage of the debt for the period is smaller than the amount estimated to be bad for an earlier period),
- shall be determined accordingly.
- (2) Subject to subsection (3) below, this subsection applies to any debt—
- (a) which is owed by an overseas State authority, or
  - (b) payment of which is guaranteed by an overseas State authority, or
  - (c) which is estimated to be bad for the purposes of section 74(j) wholly or mainly because due payment is or may be prevented, restricted or subjected to conditions—
    - (i) by virtue of any law of a State or other territory outside the United Kingdom or any act of an overseas State authority, or
    - (ii) under any agreement entered into in consequence or anticipation of such a law or act.
- (3) Subsection (2) above does not apply to interest on a debt or to a debt which represents the consideration for the provision of goods or services.
- (4) In this section “overseas State authority” means—
- (a) a State or other territory outside the United Kingdom,
  - (b) the government of such a State or territory,
  - (c) the central bank or other monetary authority of such a State or territory,
  - (d) a public or local authority in such a State or territory, or
  - (e) a body controlled by such a State, territory, government, bank or authority;
- and for this purpose “controlled” shall be construed in accordance with section 840.

##### **88B Section 88A debts: restriction on deductions under section 74(j)**

- (1) Where this section has effect in relation to a debt, no more than the relevant percentage of the debt shall be estimated to be bad for the purposes of section 74(j).

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- (2) The relevant percentage of a debt for any period of account of the company is such percentage (which may be zero) as may be determined in accordance with regulations by reference to the position at the end of that period.
- (3) Subsection (2) above has effect subject to the following provisions of this section, and in those provisions—
  - (a) “the base period” means the last period of account of the company ending before 20th March 1990, and
  - (b) “the base percentage”, in relation to a debt, means such percentage (which may be zero) as may be determined in accordance with regulations by reference to the position at the end of the base period.
- (4) If for any period of account of the company which ends less than two years after the base period the percentage provided for in subsection (2) above in relation to a debt is greater than the base percentage, the base percentage shall be the relevant percentage for the first-mentioned period.
- (5) If for any later period of account of the company the percentage provided for in subsection (2) above in relation to a debt is greater than the base percentage increased by five percentage points for each complete year (except the first) that has elapsed between—
  - (a) the end of the base period, and
  - (b) the end of the later period in question,then the base percentage as so increased shall be the relevant percentage for the later period.
- (6) In relation to a company which had no periods of account ending before 20th March 1990, the relevant percentage in relation to a debt shall be the same as it would have been on the assumption that the company had had such periods of account (and that any notional periods of account before its first actual period of account had been of one year each).
- (7) In this section “regulations” means regulations made by the Treasury; but the Treasury shall not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.

#### **88C Section 88A debts: restriction on other deductions**

- (1) Where—
  - (a) on or after 20th March 1990 a company incurs in respect of a debt a loss which would be allowed as a deduction in computing the amount of the company’s profits or gains under Case I or Case II of Schedule D,
  - (b) section 88A(2) applies to the debt,
  - (c) either—
    - (i) a deduction is made in respect of the debt in accordance with section 74(j) for any period of account of the company before that in which the loss is incurred, or
    - (ii) the debt was acquired by the company on or after 20th March 1990 for a consideration greater than the price which it might reasonably have been expected to fetch on a sale in the open market at the time of acquisition, and
  - (d) the amount of the loss is greater than 5 per cent. of the debt,

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then, subject to subsection (3) below, only such part of the loss as equals 5 per cent. of the debt shall be allowed as a deduction for the period of account in which the loss is incurred; but further parts calculated in accordance with subsection (2) below may be allowed for subsequent periods until the loss is exhausted.

- (2) The part of the loss allowed as a deduction for any period of account after that in which the loss is incurred shall not exceed such amount as, together with any parts allowed under this section for earlier periods, is equal to 5 per cent. of the debt for each complete year that has elapsed between—
  - (a) the beginning of the period in which the loss was incurred, and
  - (b) the end of the period in question.
- (3) Subsections (1) and (2) above shall not apply to a loss incurred on a disposal of the debt to an overseas State authority if the State or territory by reference to which it is an overseas State authority is the same as that by reference to which section 88A(2) applies to the debt.
- (4) References in subsections (1) and (2) above to the incurring of a loss in respect of a debt include references to the making of a deduction, otherwise than in accordance with section 74(j), in respect of a reduction in the value of a debt; and for the purposes of those subsections such a deduction shall be treated as made immediately before the end of the period of account for which it is made.”

## **75 Local enterprise agencies**

In section 79(11) of the Taxes Act 1988 (contributions to local enterprise agencies made before 1st April 1992 to be deductible as expenses), for “1992” there shall be substituted “1995”.

## **76 Training and enterprise councils and local enterprise companies**

After section 79 of the Taxes Act 1988 there shall be inserted—

### **“79A Contributions to training and enterprise councils and local enterprise companies**

- (1) Notwithstanding anything in section 74, but subject to the provisions of this section, where a person carrying on a trade, profession or vocation makes any contribution (whether in cash or in kind) to a training and enterprise council or a local enterprise company, any expenditure incurred by him in making the contribution may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax if it would not otherwise be so deductible.
- (2) Where any such contribution is made by an investment company any expenditure allowable as a deduction under subsection (1) above shall for the purposes of section 75 be treated as expenses of management.
- (3) Subsection (1) above does not apply in relation to a contribution made by any person if either he or any person connected with him receives or is entitled to receive a benefit of any kind whatsoever for or in connection with the making

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of that contribution, whether from the council or company concerned or from any other person.

- (4) In any case where—
- (a) relief has been given under subsection (1) above in respect of a contribution, and
  - (b) any benefit received in any chargeable period by the contributor or any person connected with him is in any way attributable to that contribution,

the contributor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D, or if he is not chargeable to tax under either of those Cases for that period under Case VI of Schedule D, on an amount equal to the value of that benefit.

- (5) In this section—
- (a) “training and enterprise council” means a body with which the Secretary of State has made an agreement (not being one which has terminated) under which it is agreed that the body shall carry out the functions of a training and enterprise council, and
  - (b) “local enterprise company” means a company with which an agreement (not being one which has terminated) under which it is agreed that the company shall carry out the functions of a local enterprise company has been made by the Scottish Development Agency, the Highlands and Islands Development Board, Scottish Enterprise or Highlands and Islands Enterprise.

(6) Section 839 applies for the purposes of subsections (3) and (4) above.

(7) This section applies to contributions made on or after 1st April 1990 and before 1st April 1995.”

## 77 Expenses of entertainers

The following section shall be inserted after section 201 of the Taxes Act 1988—

### “201A Expenses of entertainers

- (1) Where emoluments of an employment to which this section applies fall to be charged to tax for a year of assessment for which this section applies, there may be deducted from the emoluments of the employment to be charged to tax for the year—
- (a) fees falling within subsection (2) below, and
  - (b) any additional amount paid by the employee in respect of value added tax charged by reference to those fees.
- (2) Fees fall within this subsection if—
- (a) they are paid by the employee to another person,
  - (b) they are paid under a contract made between the employee and the other person, who agrees under the contract to act as an agent of the employee in connection with the employment,

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- (c) at each time any of the fees are paid the other person carries on an employment agency with a view to profit and holds a current licence for the agency,
  - (d) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and
  - (e) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned.
- (3) For the purposes of subsection (2) above—
- (a) “employment agency” means an employment agency within the meaning given by section 13(2) of the Employment Agencies Act 1973, and
  - (b) a person holds a current licence for an employment agency if he holds a current licence under that Act authorising him to carry on the agency.
- (4) The amount which may be deducted by virtue of this section shall not exceed 17.5 per cent. of the emoluments of the employment falling to be charged to tax for the year concerned.
- (5) This section applies to employment as an actor, singer, musician, dancer or theatrical artist.
- (6) This section applies for the year 1990–91 and subsequent years of assessment.”

## 78 Waste disposal

The following sections shall be inserted after section 91 of the Taxes Act 1988—

### “91A Waste disposal: restoration payments

- (1) This section applies where on or after 6th April 1989 a person makes a site restoration payment in the course of carrying on a trade.
- (2) Subject to subsection (3) below, for the purposes of income tax or corporation tax the payment shall be allowed as a deduction in computing the profits or gains of the trade for the period of account in which the payment is made.
- (3) Subsection (2) above shall not apply to so much of the payment as—
  - (a) represents expenditure which has been allowed as a deduction in computing the profits or gains of the trade for any period of account preceding the period of account in which the payment is made, or
  - (b) represents capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.
- (4) For the purposes of this section a site restoration payment is a payment made—
  - (a) in connection with the restoration of a site or part of a site, and
  - (b) in order to comply with any condition of a relevant licence, or any condition imposed on the grant of planning permission to use the site for the carrying out of waste disposal activities, or any term of a relevant agreement.

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- (5) For the purposes of this section waste disposal activities are the collection, treatment, conversion and final depositing of waste materials, or any of those activities.
- (6) For the purposes of this section a relevant licence is—
- (a) a disposal licence under Part I of the Control of Pollution Act 1974 or Part II of the Pollution Control and Local Government (Northern Ireland) Order 1978, or
  - (b) a waste management licence under Part II of the Environmental Protection Act 1990 or any corresponding provision for the time being in force in Northern Ireland.
- (7) For the purposes of this section a relevant agreement is an agreement made under section 52 of the Town and Country Planning Act 1971, section 50 of the Town and Country Planning (Scotland) Act 1972 or section 106 of the Town and Country Planning Act 1990 (all of which relate to agreements regulating the development or use of land) or under any provision corresponding to section 106 of the Town and Country Planning Act 1990 and for the time being in force in Northern Ireland.
- (8) For the purposes of this section a period of account is a period for which an account is made up.

### **91B Waste disposal: preparation expenditure**

- (1) This section applies where a person—
- (a) incurs, in the course of carrying on a trade, site preparation expenditure in relation to a waste disposal site (the site in question),
  - (b) holds, at the time the person first deposits waste materials on the site in question, a relevant licence which is then in force,
  - (c) makes a claim for relief under this section in such form as the Board may direct, and
  - (d) submits such plans and other documents (if any) as the Board may require;
- and it is immaterial whether the expenditure is incurred before or after the coming into force of this section.
- (2) In computing the profits or gains of the trade for a period of account ending after 5th April 1989, the allowable amount shall be allowed as a deduction for the purposes of income tax or corporation tax.
- (3) In relation to a period of account (the period in question) the allowable amount shall be determined in accordance with the formula—

$$(A - B) \times \frac{C}{C + D}$$

- (4) A is the site preparation expenditure incurred by the person at any time before the beginning of, or during, the period in question—
- (a) in relation to the site in question, and
  - (b) in the course of carrying on the trade;

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but this subsection is subject to subsections (5) and (9) below.

- (5) A does not include any expenditure—
- (a) which has been allowed as a deduction in computing the profits or gains of the trade for any period of account preceding the period in question, or
  - (b) which constitutes capital expenditure in respect of which an allowance has been, or may be, made under the enactments relating to capital allowances.
- (6) B is an amount equal to any amount allowed as a deduction under this section, if allowed—
- (a) in computing the profits or gains of the trade for any period of account preceding the period in question, and
  - (b) as regards expenditure incurred in relation to the site in question;
- and if different amounts have been so allowed as regards different periods, B is the aggregate of them.
- (7) C is the volume of waste materials deposited on the site in question during the period in question; but if the period is one beginning before 6th April 1989 C shall be reduced by the volume of any waste materials deposited on the site during the period but before that date.
- (8) D is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs at the end of the period in question.
- (9) Where any of the expenditure which would be included in A (apart from this subsection) was incurred before 6th April 1989, A shall be reduced by an amount determined in accordance with the formula—

$$E \times \frac{F}{F + G}$$

- (10) For the purposes of subsection (9) above—
- (a) E is so much of the initial expenditure (that is, the expenditure which would be included in A apart from subsection (9) above) as was incurred before 6th April 1989,
  - (b) F is the volume of waste materials deposited on the site in question before 6th April 1989, and
  - (c) G is the capacity of the site in question not used up for the deposit of waste materials, looking at the state of affairs immediately before 6th April 1989.
- (11) For the purposes of this section—
- (a) a waste disposal site is a site used (or to be used) for the disposal of waste materials by their deposit on the site,
  - (b) in relation to such a site, site preparation expenditure is expenditure on preparing the site for the deposit of waste materials (and may include expenditure on earthworks),
  - (c) in relation to such a site, “capacity” means capacity expressed in volume,
  - (d) “relevant licence” has the same meaning as in section 91A, and



- (e) a period of account is a period for which an account is made up.”

## **79 Priority share allocations for employees etc**

- (1) In section 68 of the Finance Act 1988 (which provides for the benefits derived from priority rights in share offers to be disregarded in certain circumstances), after subsection (3) there shall be inserted—

“(3A) The fact that the allocations of shares in the company to which persons who are not directors or employees of the company are entitled are smaller than those to which directors or employees of the company are entitled shall not be regarded for the purposes of subsection (2)(b) above as meaning that they are not entitled on similar terms if—

- (a) each of the first-mentioned persons is also entitled, by reason of his office or employment and in priority to members of the public, to an allocation of shares in another company or companies which are offered to the public (at a fixed price or by tender) at the same time as the shares in the company, and
- (b) in the case of each of those persons the aggregate value (measured by reference to the fixed price or the lowest price successfully tendered) of all the shares included in the allocations to which he is entitled is the same, or as nearly the same as is reasonably practicable, as that of the shares in the company included in the entitlement of a comparable director or employee of the company.”

- (2) This section applies to offers made on or after the day on which this Act is passed.

## **80 Broadcasting: transfer of undertakings of Independent Broadcasting Authority and Cable Authority**

Schedule 12 to this Act shall have effect.

## **81 Futures and options: exemptions**

- (1) The following section shall be inserted after section 468 of the Taxes Act 1988—

### **“468AA Authorised unit trusts: futures and options**

- (1) Trustees shall be exempt from tax under Case I of Schedule D in respect of income if—
- (a) the income is derived from transactions relating to futures contracts or options contracts, and
- (b) the trustees are trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period in which the income is derived.
- (2) For the purposes of subsection (1) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.
- (3) In this section—

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“authorised unit trust” has the same meaning as in section 468, and  
“unit trust scheme” has the same meaning as in section 469.”

- (2) The following section shall be inserted at the end of Part XIV of the Taxes Act 1988 (pension schemes etc.)—

**“659A Futures and options**

- (1) For the purposes of sections 592(2), 608(2)(a), 613(4), 614(3) and (4), 620(6) and 643(2)—
- (a) “investments” (or “investment”) includes futures contracts and options contracts, and
  - (b) income derived from transactions relating to such contracts shall be regarded as income derived from (or income from) such contracts, and paragraph 7(3)(a) of Schedule 22 to this Act shall be construed accordingly.
- (2) For the purposes of subsection (1) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.”
- (3) In section 149B of the Capital Gains Tax Act 1979 (miscellaneous exemptions) the following subsections shall be inserted after subsection (9)—
- “(10) In subsections (1)(g) and (h) and (2) above “investments” includes futures contracts and options contracts; and paragraph 7(3)(d) of Schedule 22 to the Taxes Act 1988 shall be construed accordingly.
- (11) For the purposes of subsection (10) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.”
- (4) Section 659 of the Taxes Act 1988 (financial futures and traded options) shall cease to have effect.
- (5) Subsections (1) and (2) above apply in relation to income derived after the day on which this Act is passed.
- (6) Subsection (3) above applies in relation to disposals made after the day on which this Act is passed.
- (7) Insofar as section 659 of the Taxes Act 1988 relates to provisions of that Act, subsection (4) above applies in relation to income derived after the day on which this Act is passed.
- (8) Insofar as section 659 of the Taxes Act 1988 relates to section 149B of the Capital Gains Tax Act 1979, subsection (4) above applies in relation to disposals made after the day on which this Act is passed.

## **82 Settlements: child's income**

- (1) In section 663 of the Taxes Act 1988 (child's income treated as settlor's) in subsection (4) (exception for income not exceeding £5) for "£5" there shall be substituted "£100".
- (2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

## **83 Loans to traders**

- (1) Section 136 of the Capital Gains Tax Act 1979 (relief in respect of loans to traders) shall be amended as follows.

- (2) The following subsections shall be inserted after subsection (5)—

“(5A) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to any person, and
- (b) the whole or any part of the amount of the payment mentioned in subsection (4)(b) is at any time recovered by him,

this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(5B) Where—

- (a) an allowable loss has been treated under subsection (3) above as accruing to a company (the first company), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (3)(a) is at any time recovered by a company (the second company) in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(5C) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to a company (the first company), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (4)(a), or the whole or any part of the amount of the payment mentioned in subsection (4)(b), is at any time recovered by a company (the second company) in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.”

- (3) In subsection (6) for “subsection (5)” there shall be substituted “subsections (5) to (5C)”.

- (4) The following subsection shall be inserted after subsection (9)—

“(9A) For the purposes of subsections (5B) and (5C) above two companies are in the same group if they were in the same group when the loan was made or have been in the same group at any subsequent time.”

(5) This section applies where an amount is recovered on or after 20th March 1990.

#### **84 Qualifying corporate bonds: relief**

The following sections shall be inserted after section 136 of the Capital Gains Tax Act 1979—

##### **“136A Relief for qualifying corporate bonds**

- (1) In this section “a qualifying loan” means a loan in the case of which—
  - (a) the borrower’s debt is a debt on a security as defined in section 82 above,
  - (b) but for that fact, the loan would be a qualifying loan within the meaning of section 136 above, and
  - (c) the security is a qualifying corporate bond.
- (2) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that one of the following three conditions is fulfilled, this Act shall have effect as if an allowable loss equal to the allowable amount had accrued to the claimant when the claim was made.
- (3) The first condition is that—
  - (a) the value of the security has become negligible,
  - (b) the claimant has not assigned his right to recover any outstanding amount of the principal of the loan, and
  - (c) the claimant and the borrower are not companies which have been in the same group at any time after the loan was made.
- (4) The second condition is that—
  - (a) the security’s redemption date has passed,
  - (b) all the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
  - (c) subsection (3)(b) and (c) above are fulfilled.
- (5) The third condition is that—
  - (a) the security’s redemption date has passed,
  - (b) part of the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
  - (c) subsection (3)(b) and (c) above are fulfilled.
- (6) In a case where the inspector is satisfied that the first or second condition is fulfilled, the allowable amount is the lesser of—
  - (a) the outstanding amount of the principal of the loan;
  - (b) the amount of the security’s acquisition cost;
 and if any amount of the principal of the loan has been recovered the amount of the security’s acquisition cost shall for this purpose be treated as reduced (but not beyond nil) by the amount recovered.

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- (7) In a case where the inspector is satisfied that the third condition is fulfilled, then—
- (a) if the security's acquisition cost exceeds the relevant amount, the allowable amount is an amount equal to the excess;
  - (b) if the security's acquisition cost is equal to or less than the relevant amount, the allowable amount is nil.
- (8) For the purposes of subsection (7) above the relevant amount is the aggregate of—
- (a) the amount (if any) of the principal of the loan which has been recovered, and
  - (b) the amount (if any) of the principal of the loan which has not been recovered but which in the inspector's opinion is recoverable.
- (9) Where an allowable loss has been treated under subsection (2) above as accruing to any person and the whole or any part of the relevant outstanding amount is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (10) Where—
- (a) an allowable loss has been treated under subsection (2) above as accruing to a company (the first company), and
  - (b) the whole or any part of the relevant outstanding amount is at any time recovered by a company (the second company) in the same group as the first company,
- this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (11) In subsections (9) and (10) above "the relevant outstanding amount" means—
- (a) the amount of the principal of the loan outstanding when the claim was allowed, in a case where the inspector was satisfied that the first or second condition was fulfilled;
  - (b) the amount of the part (or the greater or greatest part) arrived at by the inspector under subsection (5)(b) above, in a case where he was satisfied that the third condition was fulfilled.
- (12) This section applies if the security was—
- (a) issued on or after 15th March 1989, or
  - (b) issued before 15th March 1989 but held on 15th March 1989 by the person who made the loan.

### **136B Section 136A: supplementary**

- (1) In section 136A above "qualifying corporate bond" has the same meaning as in section 64 of the Finance Act 1984.
- (2) For the purposes of section 136A above a security's redemption date is the latest date on which, under the terms on which the security was issued, the company or body which issued it can be required to redeem it.

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- (3) For the purposes of section 136A above a security's acquisition cost is the amount or value of the consideration in money or money's worth given, by or on behalf of the person who made the loan, wholly and exclusively for the acquisition of the security, together with the incidental costs to him of the acquisition.
- (4) For the purposes of section 136A(10) above two companies are in the same group if they have been in the same group at any time after the loan was made.
- (5) Section 136(6) above shall apply for the purposes of section 136A(6) and (8) to (10) above as it applies for the purposes of section 136(5) above.
- (6) Section 136(7), (9) and (10)(c) above shall apply for the purposes of section 136A above and of this section as they apply for the purposes of section 136, ignoring for this purpose the words following "lender" in section 136(9)."

#### **85 Qualifying corporate bonds: reorganisations etc**

- (1) In Part II of Schedule 13 to the Finance Act 1984 (qualifying corporate bonds: reorganisations etc.) the following paragraph shall be inserted after paragraph 11—
  - "12 (1) This paragraph applies in a case where—
    - (a) the new asset mentioned in paragraph 10 above is a qualifying corporate bond in respect of which an allowable loss is treated as accruing under section 136A(2) of the principal Act, and
    - (b) the loss is treated as accruing at a time falling after the relevant transaction but before any actual disposal of the new asset subsequent to the relevant transaction.
  - (2) For the purposes of paragraph 10 above, a subsequent disposal of the new asset shall be treated as occurring at (and only at) the time the loss is treated as accruing."
- (2) This section applies whether the relevant transaction occurs before or on or after the day on which this Act is passed.

#### **86 Groups of companies**

- (1) In subsection (1F) of section 272 of the Taxes Act 1970 (application of Schedule 18 to Taxes Act 1988 for determining membership of groups for capital gains purposes), for the words "paragraph 7(1)(b) were omitted" there shall be substituted the words "paragraphs 5(3) and 7(1)(b) were omitted".
- (2) Subject to subsection (3) below, the amendment made by subsection (1) above shall be deemed always to have had effect.
- (3) If a company which (apart from this subsection) is the principal company of a group (within the meaning of section 272) at any time during the period beginning with 14th March 1989 and ending with 25th January 1990 so elects, in determining whether a company is a member of the group at any time during that period subsection (1F) of that section shall apply as if the amendment made by subsection (1) above did not have effect.

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- (4) An election under subsection (3) above shall be irrevocable and shall be made by notice in writing to the inspector at any time within two years after the end of the first accounting period of the principal company ending after 31st January 1990.
- (5) There may be made any such adjustment, whether by way of discharge or repayment of tax, the making of an assessment or otherwise, as is appropriate in consequence of an election under subsection (3) above.

## **87 Capital allowances: vehicles provided by employees**

- (1) In section 27 of the Capital Allowances Act 1990 (professions, employments, vocations etc.) in subsection (1) for the words “and (3)” there shall be substituted the words “to (3)”.
- (2) The following subsections shall be inserted after subsection (2) of that section—
  - “(2A) In the case of machinery to which this subsection applies, subsection (2)(a) above shall have effect with the omission of the word “necessarily”.
  - (2B) Subsection (2A) above applies to machinery if—
    - (a) it consists of a mechanically propelled road vehicle, and
    - (b) capital expenditure incurred on its provision is incurred partly for the purposes of the office or employment and partly for other purposes.
  - (2C) Section 24 in its application in accordance with this section to an office or employment shall have effect, where a person’s qualifying expenditure consists of expenditure incurred on the provision of machinery to which subsection (2A) above applies, with the modifications set out in subsections (2D) and (2E) below.
  - (2D) In subsection (2)(b) for the word “whole” there shall be substituted the words “appropriate fraction”.
  - (2E) The following subsection shall be inserted after subsection (2)—
    - “(2A) For the purposes of subsection (2)(b) above the appropriate fraction is—

$$\frac{A}{B}$$

where—

- A is the number of chargeable periods in the case of which—
- (a) the person has carried on the trade,
  - (b) the machinery or plant has belonged to him, and
  - (c) he has claimed an allowance falling to be made to him under this section by reference to expenditure incurred on the provision of the machinery or plant; and
- B is the number of chargeable periods in the case of which—
- (a) the person has carried on the trade,
  - (b) the machinery or plant has belonged to him, and

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*Status: This is the original version (as it was originally enacted).*

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(c) an allowance falls to be made to him under this section by reference to expenditure incurred on the provision of the machinery or plant.””

(3) Where—

- (a) at the beginning of the year 1990-91 machinery consisting of a mechanically propelled road vehicle is provided by a person for use in the performance of the duties of an office or employment held by him, and
- (b) the machinery was also provided by him at the end of the year 1989-90 for use in the performance of the duties of that office or employment but without that provision being necessary,

Part II of the Capital Allowances Act 1990 shall have effect as if he had incurred capital expenditure on the provision of the machinery for the purposes of the office or employment in the year 1990-91, the amount of that expenditure being taken as the price which the machinery would have fetched if sold in the open market on 6th April 1990, and the machinery being treated as belonging to him in consequence of his having incurred that expenditure.

(4) This section shall apply for the year 1990-91 and subsequent years of assessment.

**88 Capital allowances: miscellaneous amendments**

Schedule 13 to this Act shall have effect.

**89 Correction of errors in Taxes Act 1988**

Schedule 14 to this Act shall have effect.