Finance (No. 2) Act 1992

1992 CHAPTER 48

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Lower rate

19 Lower rate: further provisions

(1) In section 7(4) of the Taxes Management Act 1970 for "basic rate" there shall be substituted "the basic rate or the lower rate".

(2) In each of the provisions to which this subsection applies, after "basic rate" there shall be inserted "or the lower rate"; and this subsection applies to section 91(3)(c) of the Taxes Management Act 1970 and to sections 550(3) and 599A(7) of the Taxes Act 1988.

(3) In each of the provisions to which this subsection applies, after "all income tax" there shall be inserted "not chargeable at the lower rate"; and this subsection applies to sections 167(2A), 233(2), 353(5), 369(3B), 549(2), 683(2), 684(2), 689(2), 699(2) and 819(2) of the Taxes Act 1988 and to the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act.

(4) In each of the provisions to which this subsection applies, after "shall be treated" there shall be inserted "as income which is not chargeable at the lower rate and"; and this subsection applies to sections 233(1)(c), 249(4)(c) and 547(5)(c) of the Taxes Act 1988.

(5) In section 369 of the Taxes Act 1988 at the beginning of subsection (3) there shall be inserted "Subject to subsection (5A) below", and after subsection (5) there shall be inserted—

"(5A) In any case where—

(a) payments of relevant loan interest to which this section applies become due in any year, and

(b) the notional lower rate income of the borrower for that year exceeds the actual lower rate income of the borrower for that year,

the borrower shall be charged with tax at the lower rate (rather than the basic rate) for that year on so much of the income on which he is chargeable to tax by virtue of subsection (3) above as is equal to the excess.

(5B) For the purposes of subsection (5A) above—

(a) the notional lower rate income of a borrower for a year is the amount of his total income for the year which would be chargeable at the lower rate if the relevant deduction were not made;

(b) the actual lower rate income of a borrower for a year is the amount of his total income for the year which is actually chargeable at the lower rate;

and the relevant deduction is the deduction which, in computing the borrower's total income otherwise than for the purposes of excess liability, falls to be made on account of the payments referred to in subsection (5A)(a) above."

(6) In section 421(1)(c) of the Taxes Act 1988 for "shall, notwithstanding that paragraph, be treated" there shall be substituted "shall be treated as income which is not chargeable at the lower rate and, notwithstanding that paragraph, shall be treated".

(7) This section shall apply for the year 1992-93 and subsequent years of assessment.

Married couple's allowance etc.

20 Married couple's allowance etc

Schedule 5 to this Act (which makes provision in relation to the married couple's allowance) shall have effect.

Corporation tax charge and rate

21 Charge and rate of corporation tax for 1992

Corporation tax shall be charged for the financial year 1992 at the rate of 33 per cent.

22 Small companies

For the financial year 1992—

(a) the small companies' rate shall be 25 per cent., and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

Capital gains tax

23 Capital gains tax: rates

(1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) the following subsections shall be inserted after subsection (1)—

"(1A) If (after allowing for any deductions in accordance with the Income Tax Acts) an individual has no income for a year of assessment or his total income for the year is less than the lower rate limit, then—

(a) if the amount on which he is chargeable to capital gains tax does not exceed the relevant amount, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the lower rate;

(b) if the amount on which he is chargeable to capital gains tax exceeds the relevant amount, the rate of capital gains tax in respect of such gains accruing to him in the year as correspond to the relevant amount shall be equivalent to the lower rate.

(1B) For the purposes of subsection (1A) above the relevant amount is—

(a) an amount equal to the lower rate limit, where the individual has no income;

(b) an amount equal to the difference between his total income and that limit, in any other case."

(2) In section 6(1) of that Act—

(a) after "all income tax" there shall be inserted "not chargeable at the lower rate";

(b) after "otherwise than at the basic rate" in both places where the words occur there shall be inserted "or the lower rate";

(c) for "section 4(4)" in both places where the words occur there shall be substituted "section 4(1A), (1B) and (4)".

(3) This section shall apply for the year 1992-93 and subsequent years of assessment.

Groups etc.

24 Amendments relating to group relief etc

Schedule 6 to this Act (which contains amendments relating to group relief etc.) shall have effect.

25 Companies ceasing to be members of groups

(1) Sections 178 and 179 of the Taxation of Chargeable Gains Act 1992 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be deemed always to have had effect, with the substitution in subsection (1) of each of those sections of the words "in consequence of another member of the group ceasing to exist" for the words from "by being wound up" to the end of the subsection.

(2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to a company which ceases to be a member of a group of companies on or after 15th November 1991 section 278 of the Income and Corporation Taxes Act 1970 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be

deemed to have had effect, with the substitution in subsection (1) of the words "in consequence of another member of the group ceasing to exist" for the words from "by being wound up" to the end of the subsection.

Charities etc.

26 Donations to charity: minimum limits

(1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £600 after deducting income tax) for "£600" there shall be substituted "£400".

(2) In section 25 of the Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £600 to be a qualifying donation) for "£600" there shall be substituted "£400".

(3) Subsection (1) above shall apply in relation to payments made on or after 7th May 1992.

(4) Subsection (2) above shall apply in relation to gifts made on or after 7th May 1992.

27 Covenanted payments to charity

(1) In section 671 of the Taxes Act 1988 (revocable settlements allowing release of obligation) in subsection (2) (exceptions to sums payable under such settlements being income of settlor) after "shall not apply" there shall be inserted "in the case of a covenanted payment to charity so long as that power has not been exercised, and in any other case".

(2) This section shall apply in relation to—

(a) any covenant made on or after 7th May 1992;

(b) any covenant made before that day and in the case of which the power to revoke cannot be exercised before that day.

28 Powers of inspection

(1) Subsection (2) below applies if—

(a) an exempt body has made a claim for exemption from tax under section 505(1), 507 or 508 of the Taxes Act 1988, and

(b) the exemption results in, or (where it has yet to be granted or allowed) would if granted or allowed result in, the repayment of income tax or the payment of a tax credit.

(2) The Board may require the body to produce for inspection by an officer of the Board all such books, documents and other records in the possession, or under the control, of the body as contain information relating to the claim.

(3) For the purposes of subsection (1) above each of the following is an exempt body—

(a) any body of persons or trust established for charitable purposes only;

(b) each of the bodies mentioned in section 507 of the Taxes Act 1988 (heritage bodies);

(c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to produce documents etc.) at the end of the second column there shall be inserted—

	"Section 28(2) of the Finance (No.2) Act 1992."

(5) Section 94 of the Finance Act 1990 (donations to charity: inspection powers) shall cease to have effect.

(6) This section shall apply in relation to claims made after the day on which this Act is passed.

Interest, dividends and distributions

29 Returns of interest

(1) In section 17 of the Taxes Management Act 1970 (returns of interest) in subsection (4) (interest not required to be included in return if declaration that person beneficially entitled to interest not ordinarily resident in UK) the words from "and if a person" to the end of the subsection shall cease to have effect and after that subsection there shall be inserted the following subsections—

"(4A) If a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—

(a) has declared that the person beneficially entitled to the interest is a company not resident in the United Kingdom, and

(b) has requested that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include the interest in any such return.

(4B) Subsection (4C) below shall apply where—

(a) as a result of a declaration made under section 481(5)(k) of the principal Act and the operation of section 482(5) of that Act in relation to that declaration, there is no obligation under section 480A(1) of that Act to deduct a sum representing income tax out of any interest paid or credited in respect of any money received or retained in the United Kingdom, and

(b) the person who makes the declaration referred to in paragraph (a) above, by notice in writing served on the person paying or crediting the interest, requests that the interest shall not be included in any return under this section.

(4C) Where this subsection applies, the person paying or crediting the interest shall not be required to include the interest in any return under this section."

(2) This section shall apply to interest paid or credited after the day on which this Act is passed.

30 Foreign dividends

In section 123 of the Taxes Act 1988 (foreign dividends) the following subsections shall be inserted after subsection (6)—

"(7) In a case where—

(a) relevant foreign dividends referred to in subsection (2) above are dividends (as opposed to interest or other annual payments),

(b) they are entrusted by a company which at the time they are entrusted (the relevant time) is not resident in the United Kingdom,

(c) they are entrusted for payment to a company which at the relevant time is resident in the United Kingdom,

(d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and

(e) the relevant time falls on or after 1st January 1992,

subsection (2) above shall not apply.

(8) In a case where—

(a) foreign dividends referred to in subsection (3)(a) above are dividends (as opposed to interest or other annual payments),

(b) they are paid by a company which at the time of the payment (the relevant time) is not resident in the United Kingdom,

(c) payment is obtained on behalf of a company which at the relevant time is resident in the United Kingdom,

(d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and

(e) the relevant time falls on or after 1st January 1992,

subsection (3) above shall not apply."

31 Equity notes

(1) In section 209 of the Taxes Act 1988 (meaning of "distribution" for purposes of Corporation Tax Acts) in subsection (2)(e) after sub-paragraph (vi) there shall be inserted "or

(vii) equity notes issued by the company ("the issuing company") and held by a company which is associated with the issuing company or is a funded company;".

(2) In that section the following subsections shall be inserted after subsection (8)—

"(9) For the purposes of subsection (2)(e)(vii) above a security is an equity note if as regards the whole of the principal or as regards any part of it—

(a) the security's terms contain no particular date by which it is to be redeemed,

(b) under the security's terms the date for redemption, or the latest date for redemption, falls after the expiry of the permitted period,

(c) under the security's terms redemption is to occur after the expiry of the permitted period if a particular event occurs and the event is one

which (judged at the time of the security's issue) is certain or likely to occur, or

(d) the issuing company can secure that there is no particular date by which the security is to be redeemed or that the date for redemption falls after the expiry of the permitted period;

and the permitted period is the period of 50 years beginning with the date of the security's issue.

(10) For the purposes of subsection (2)(e)(vii) above and subsection (11) below a company is associated with the issuing company if—

(a) the issuing company is a 75 per cent. subsidiary of the other company,

(b) the other company is a 75 per cent. subsidiary of the issuing company, or

(c) both are 75 per cent. subsidiaries of a third company.

(11) For the purposes of subsection (2)(e)(vii) above a company is a funded company if there are arrangements involving the company being put in funds (directly or indirectly) by the issuing company or a company associated with the issuing company."

(3) In section 212 of the Taxes Act 1988 (exclusions from "distribution") in subsection (1) (b) after "(vi)" there shall be inserted "and (vii)".

(4) This section shall apply where the interest or other distribution is paid after 14th May 1992.

32 Information relating to distributions

(1) The following section shall be inserted after section 234 of the Taxes Act 1988—

"**234A Information relating to distributions: further provisions**

(1) This section applies where dividend or interest is distributed by a company which is—

(a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or

(b) a company created by letters patent or by or in pursuance of an Act.

(2) If the company makes a payment of dividend or interest to any person, and subsection (3) below does not apply, within a reasonable period the company shall send an appropriate statement to that person.

(3) If the company makes a payment of dividend or interest into a bank or building society account held by any person, within a reasonable period the company shall send an appropriate statement to either—

(a) the bank or building society concerned, or

(b) the person holding the account.

(4) In a case where—

(a) a statement is received by a person under subsection (2) or (3)(b) above,

(b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and

(c) the nominee makes a payment of the sum or part to the other person and subsection (5) below does not apply,

within a reasonable period the nominee shall send an appropriate statement to that person.

(5) In a case where—

(a) a statement is received by a person under subsection (2) or (3)(b) above,

(b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and

(c) the nominee makes a payment of the sum or part into a bank or building society account held by the other person,

within a reasonable period the nominee shall send an appropriate statement to either the bank or building society concerned or the other person.

(6) In the case of a payment of interest which is not a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—

(a) the gross amount which, after deduction of the income tax appropriate to the interest, corresponds to the net amount actually paid,

(b) the rate and the amount of income tax appropriate to such gross amount,

(c) the net amount actually paid, and

(d) the date of the payment.

(7) In the case of a payment of dividend or interest which is a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—

(a) the amount of the dividend or interest paid,

(b) the date of the payment, and

(c) the amount of the tax credit to which a person is entitled in respect of the dividend or interest, or to which a person would be so entitled if he had a right to a tax credit in respect of the dividend or interest.

(8) In this section "send" means send by post.

(9) If a person fails to comply with subsection (2), (3), (4) or (5) above, the person shall incur a penalty of £60 in respect of each offence, except that the aggregate amount of any penalties imposed under this subsection on a person in respect of offences connected with any one distribution of dividends or interest shall not exceed £600.

(10) The Board may by regulations provide that where a person is under a duty to comply with subsection (2), (3), (4) or (5) above, the person shall be taken to comply with the subsection if the person either—

(a) acts in accordance with the subsection concerned, or

(b) acts in accordance with rules contained in the regulations;

and subsection (9) above shall be construed accordingly.

(11) Regulations under subsection (10) above may make different provision for different circumstances."

(2) In section 234 of that Act—

(a) in subsection (1) for "subsections (3) and (4) below" there shall be substituted "section 234A";

(b) subsections (3) and (4) shall be omitted.

(3) In section 468(3) of that Act for "234(3) and (4)" there shall be substituted "234A".

(4) This section shall apply in relation to distributions begun after the day on which this Act is passed.

Securities and deposits

33 Deep gain securities

Schedule 7 to this Act (which contains provisions about deep gain securities) shall have effect.

34 Rights in pursuance of deposits

Schedule 8 to this Act (which contains provisions about arrangements relating to rights in pursuance of deposits) shall have effect.

35 Exchange of securities

(1) Section 135 of the Taxation of Chargeable Gains Act 1992 (exchange of securities for those in another company) shall have effect, and be deemed always to have had effect, with the insertion after subsection (1)(b) of "or

(c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B".

(2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to exchanges made on or after 1st January 1992 section 85 of the Capital Gains Tax Act 1979 (exchange of securities for those in another company) shall have effect, and be deemed to have had effect, with the insertion after subsection (1)(b) of "or

(c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B".

Employee shares

36 Employee share ownership trusts

(1) In section 69 of the Finance Act 1989 (chargeable events as regards employee share ownership trusts) the following shall be inserted after subsection (3)—

"(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992."

(2) This section applies in relation to exchanges made on or after 1st January 1992.

37 Employee share schemes: special benefits

(1) Section 80 of the Finance Act 1988 (unapproved employee share schemes: charge on special benefits) shall be amended as follows.

(2) The following subsections shall be substituted for subsection (2)—

"(1A) If when a benefit is received the company is a dependent subsidiary and its shares are of a single class, the benefit is a special benefit for the purposes of subsection (1) above.

(2) A benefit which does not fall within subsection (1A) above is a special benefit for the purposes of subsection (1) above unless—

(a) when it becomes available it is available to at least ninety per cent. of the persons who then hold shares of the same class as those which, or an interest in which, the person acquired, and

(b) any of the conditions in subsection (3) below is satisfied."

(3) In subsection (3) (other conditions) in paragraph (a) for "of the class concerned" there shall be substituted "in respect of which the benefit is received".

(4) In paragraph (c) of subsection (3) for "its shares are of a single class" there shall be substituted "the majority of its shares in respect of which the benefit is received are held otherwise than by or for the benefit of—

(i) directors or employees of the company,

(ii) a company which is an associated company of the company but is not its parent company, or

(iii) directors or employees of a company which is an associated company of the company".

(5) The following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of subsection (3)(c)(ii) above a company is another company's parent company if the second company is a subsidiary of the first."

(6) This section shall apply in relation to benefits received on or after 12th November 1991.

Business expansion scheme

38 No relief for shares issued after 1993

In section 289 of the Taxes Act 1988 (relief under the business expansion scheme) the words "and before the end of 1993" shall be inserted—

(a) in subsection (1)(a), after "5 April 1983",

(b) in subsection (1)(b), after "18th March 1986", and

(c) in subsection (1)(d), after "(25th July 1986)".

39 Extension of relief for private rented housing: property managing companies

Part I of Schedule 4 to the Finance Act 1988 (extension of business expansion scheme to private rented housing: modifications of the Taxes Act 1988) shall have effect, and be taken always to have had effect, with the substitution of the following paragraph for paragraph 11—

"11 (1) For subsection (1) of section 308 (application to subsidiaries) there shall be substituted—

"(1) A qualifying company may, in the relevant period, have one or more subsidiaries if the subsidiary or, as the case may be, each subsidiary is a subsidiary to which subsection (1A) or (1B) below applies.

(1A) This subsection applies to a subsidiary if—

(a) it is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities, and

(b) the conditions mentioned in subsection (2) below are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period.

(1B) This subsection applies to a subsidiary if—

(a) it is a property managing subsidiary, and

(b) reading each reference in subsection (2) below to 90 per cent. as a reference to 51 per cent., the conditions in that subsection are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period."

(2) In subsection (5) of that section, for paragraph (a) there shall be substituted—

"(a) a subsidiary is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding or managing (or holding and managing) a single block of flats and more than half of those flats are let by the qualifying company or any of its subsidiaries in the course of qualifying activities;"."

40 Extension of relief for private rented housing: lettings to former owner-occupiers

(1) In Part II of Schedule 4 to the Finance Act 1988 (extension of business expansion scheme to private rented housing: exclusion of certain dwelling-houses) paragraph 15 shall be amended as follows.

(2) In sub-paragraph (1), for "Section 50" there shall be substituted "Subject to sub-paragraphs (1A) to (1C) below, section 50".

(3) The following sub-paragraphs shall be inserted after sub-paragraph (1)—

"(1A) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(a) above if the arrangements there mentioned were for letting to a person who was an owner-occupier of the dwelling-house before the relevant date.

(1B) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(b) above if the letting there mentioned was to a person—

(a) who was an owner-occupier of the dwelling-house before the date of the letting, and

(b) to whom the dwelling-house or part is let on a qualifying tenancy by the company or any of its subsidiaries after the relevant date.

(1C) Section 50 of this Act is not precluded from applying to a dwelling-house by sub-paragraph (1)(c) above if the letting there mentioned was to a person—

(a) who was an owner-occupier of the dwelling-house before the relevant date, and

(b) to whom the dwelling-house or part is let on a qualifying tenancy by the company or any of its subsidiaries after the letting mentioned in sub-paragraph (1)(c).”

(4) The following sub-paragraphs shall be added after sub-paragraph (2)—

“(3) For the purposes of this paragraph, a person shall be taken to have been an owner-occupier of a dwelling-house before the relevant date or, as the case may be, the date mentioned in sub-paragraph (1B)(a) above if—

(a) at any time before that date, he occupied the dwelling-house as his only or principal home and had a freehold interest in it, or

(b) for a period of at least two years ending on that date, he occupied the dwelling-house as his only or principal home and had an interest in it under a lease for a term of years certain not less than twenty-one of which remained unexpired at that date.

(4) In the application of sub-paragraph (3) above to a dwelling-house in Scotland—

(a) for paragraph (a) there shall be substituted—

“(a) at any time before that date he occupied the dwelling-house and—

(i) was the absolute owner of it, or

(ii) was the owner of the *dominium utile* in it,”; and

(b) in paragraph (b) the word “certain” shall be omitted.

(5) In the application of sub-paragraph (3) above to a dwelling-house in Northern Ireland, any conveyance or assignment of an interest in it by way of mortgage shall be disregarded.”

(5) This section shall have effect where shares are issued on or after 10th March 1992.

Films

41 Relief for preliminary expenditure

(1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct the amount of any expenditure of a revenue nature payable by him in that or an earlier relevant period—

(a) which is expenditure to which this section applies,

(b) in respect of which no deduction has previously been made (whether under this section or otherwise) in computing for tax purposes the profits or gains accruing from the trade or business, and

(c) in respect of which no election has been made under section 68(9) of the 1990 Act.

(2) This section applies to any expenditure that—

(a) can reasonably be said to have been incurred with a view to enabling a decision to be taken as to whether or not to make a film,

(b) is payable before the first day of principal photography (where the decision that is taken is to make the film), and

(c) is not payable under any contract or other arrangement whereby it may fall to be repaid if the film is not made.

(3) A deduction shall not be made in respect of a film that has been completed unless the master negative of the film or any master tape or master disc of the film is a qualifying film, tape or disc.

(4) A deduction shall not be made in respect of a film that has not been completed unless it is reasonably likely that if the film were completed the master negative of the film or any master tape or master disc of the film would be a qualifying film, tape or disc.

(5) The total amount deducted under this section in respect of a film shall not exceed 20 per cent. of the budgeted total expenditure on the film, as calculated at the first day of principal photography.

(6) A claim under this section shall be made not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable.

(7) To the extent that a deduction has been made in respect of any expenditure under this section, no further deduction shall be made in respect of it in computing for tax purposes the profits or gains of the trade or business concerned.

(8) This section shall have effect in relation to expenditure payable on or after 10th March 1992.

42 Relief for production or acquisition expenditure

(1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct an amount in respect of any expenditure—

(a) which is expenditure to which subsection (2) or (3) below applies, and

(b) in respect of which no deduction has been made by virtue of subsections (3) to (6) of section 68 of the 1990 Act and no election has been made under subsection (9) of that section.

(2) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the production of a film—

(a) which was completed in the relevant period to which the claim relates or an earlier relevant period, and

(b) the master negative of which or any master tape or master disc of which is a qualifying film, tape or disc.

(3) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the acquisition of the master negative of a film or any master tape or master disc of a film where—

(a) the film was completed in the relevant period to which the claim relates or an earlier relevant period, and

(b) the master negative, tape or disc is a qualifying film, tape or disc.

(4) Any amount deducted for a relevant period under subsection (1) above shall not exceed—

(a) one third of the total expenditure incurred by the claimant on the production of the film concerned or the acquisition of the master negative or any master tape or master disc of it,

(b) one third of the sum obtained by deducting from the amount of that total expenditure the amount of so much of that total expenditure as has already been deducted by virtue of section 41 above, or

(c) so much of that total expenditure as has not already been deducted by virtue of section 68(3) to (6) of the 1990 Act, section 41 above or this section,

whichever is less.

(5) In relation to a relevant period of less than twelve months, the references to one third in subsection (4) above shall be read as references to a proportionately smaller fraction.

(6) A claim under this section shall be made not later than two years after the end of the relevant period to which the claim relates and shall be irrevocable.

(7) Where any expenditure is deducted by virtue of section 68(3) to (6) of the 1990 Act in computing the profits or gains of a trade or business for a relevant period, no deduction shall be made under this section for that relevant period in respect of expenditure incurred on the production or acquisition of the film concerned.

(8) This section does not apply to the profits or gains of a trade in which the film concerned constitutes trading stock, as defined in section 100(2) of the Taxes Act 1988.

(9) This section shall have effect in relation to expenditure incurred on films completed on or after 10th March 1992.

43 Interpretation of sections 41 and 42

(1) In sections 41 and 42 above and this section—

"expenditure of a revenue nature" has the meaning given in section 68(10) of the 1990 Act,

"master disc", in relation to a film, means the original master film disc or the original master audio disc of the film,

"master negative", in relation to a film, means the original master negative of the film and its soundtrack (if any),

"master tape", in relation to a film, means the original master film tape or the original master audio tape of the film,

"qualifying disc" means a master disc of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying disc for the purposes of section 68 of the 1990 Act,

"qualifying film" means a master negative of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying film for the purposes of section 68 of the 1990 Act,

"qualifying tape" means a master tape of a film certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying tape for the purposes of section 68 of the 1990 Act,

"relevant period" has the meaning given in section 68(3) of the 1990 Act, and

"the 1990 Act" means the Capital Allowances Act 1990.

(2) In sections 41 and 42 above and this section—

(a) any reference to a film shall be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985, and

(b) any reference to the acquisition of a master negative, master tape or master disc of a film includes a reference to the acquisition of any description of rights in it.

(3) For the purposes of sections 41 and 42 above a film is completed—

(a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or

(b) in a case within section 42 where the expenditure in question was incurred on the acquisition of the master negative of the film or any master tape or master disc of the film and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

Transfers of trade

44 Transfer of a UK trade: amendment of 1992 Act

The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following after section 140—

"Transfers concerning companies of different member States

140A Transfer of a UK trade

(1) This section applies where—

(a) a qualifying company resident in one member State (company A)

transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),

(b) the transfer is wholly in exchange for securities issued by company B to company A,

(c) a claim is made under this section by company A and company B,

(d) section 140B does not prevent this section applying, and

(e) the appropriate condition is met in relation to company B immediately after the time of the transfer.

(2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 10(3).

(3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

(4) Where this section applies—

(a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;

(b) section 25(3) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).

(5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(7) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

140B Section 140A: anti-avoidance

(1) Section 140A shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

45 Transfer of a non-UK trade: amendment of 1992 Act

The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following sections after section 140B—

"**140C Transfer of a non-UK trade**

(1) This section applies where—

(a) a qualifying company resident in the United Kingdom (company A)

transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,

(b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),

(c) the transfer is wholly or partly in exchange for securities issued by company B to company A,

(d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,

(e) a claim is made under this section by company A, and

(f) section 140D does not prevent this section applying.

(2) In a case where this section applies, this Act shall have effect in accordance with subsection (3) below.

(3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

(4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140.

(5) In a case where this section applies, section 815A of the Taxes Act shall also apply.

(6) For the purposes of subsection (1)(a) above—

(a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;

(b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(8) Section 442(3) of the Taxes Act (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A

on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.

(9) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

140D Section 140C: anti-avoidance

(1) Section 140C shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

46 Transfer of a trade: supplementary (1)

(1) The Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the following amendments.

(2) In section 35(3)(d)(i) (re-basing) after "139," there shall be inserted "140A,".

(3) In section 116(11) (qualifying corporate bonds) after "139," there shall be inserted "140A,".

(4) In section 140 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6)—

"(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140C."

(5) In section 174 (disposal or acquisition outside a group)—

(a) in subsection (2) after the word "section" (in the first place where it occurs) there shall be inserted "140A,";

(b) in subsection (3) after "section" there shall be inserted "140A,".

(6) In section 177(2) (dividend stripping) after "which section" there shall be inserted "140A,".

(7) In section 184(2) (indexation)—

(a) after the word "section" (in the first place where it occurs) there shall be inserted "140A,";

(b) for "either" there shall be substituted "one".

47 Transfer of a UK trade: amendment of 1970 Act

Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the Income and Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following after section 269—

"Transfers concerning companies of different member States

269A Transfer of a UK trade

(1) This section applies where—

(a) a qualifying company resident in one member State (company A)

transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),

(b) the transfer is wholly in exchange for securities issued by company B to company A,

(c) a claim is made under this section by company A and company B,

(d) section 269B below does not prevent this section applying, and

(e) the appropriate condition is met in relation to company B immediately after the time of the transfer.

(2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b) of the Taxes Act 1988.

(3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

(4) Where this section applies—

(a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;

(b) section 127(3) of the Finance Act 1989 (deemed disposal at market value) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).

(5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded

for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(7) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

269B Section 269A: anti-avoidance

(1) Section 269A above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

48 Transfer of a non-UK trade: amendment of 1970 Act

Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the Income and Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following sections after section 269B—

"**269C Transfer of a non-UK trade**

(1) This section applies where—

(a) a qualifying company resident in the United Kingdom (company A)

transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,

(b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),

(c) the transfer is wholly or partly in exchange for securities issued by company B to company A,

(d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,

(e) a claim is made under this section by company A, and

(f) section 269D below does not prevent this section applying.

(2) The Capital Gains Tax Act 1979 shall have effect in accordance with subsection (3) below.

(3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

(4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 268A above.

(5) In a case where this section applies, section 815A of the Taxes Act 1988 shall also apply.

(6) For the purposes of subsection (1)(a) above—

(a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;

(b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(8) Section 442(3) of the Taxes Act 1988 (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.

(9) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

269D Section 269C: anti-avoidance

(1) Section 269C above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

49 Transfer of a trade: supplementary (2)

(1) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, the enactments mentioned in this section shall be amended as there mentioned.

(2) In section 268A of the Income and Corporation Taxes Act 1970 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6) —

"(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 269C below."

(3) In section 275 of that Act (disposal or acquisition outside a group)—

(a) in subsection (1A) after the word "section" (in the first place where it occurs) there shall be inserted "269A,";

(b) in subsection (1B) after "section" there shall be inserted "269A,".

(4) In section 281(2) of that Act (dividend stripping) after "which section" there shall be inserted "269A,".

(5) In paragraph 10(2) of Schedule 13 to the Finance Act 1984 (qualifying corporate bonds) after paragraph (bb) there shall be inserted—

"(bc) section 269A of the Taxes Act (transfer of United Kingdom trade between companies of different member States); or".

(6) In section 68(7A)(b) of the Finance Act 1985 (indexation) after "267," there shall be inserted "269A,".

(7) In paragraph 1(3)(b) of Schedule 8 to the Finance Act 1988 (re-basing) after "267," there shall be inserted "269A,".

(8) In paragraph 5 of Schedule 11 to that Act (indexation)—

(a) after "section" there shall be inserted "269A,";

(b) the word "intra-group" shall be omitted;

(c) for "either" there shall be substituted "one".

(9) Subsections (3) and (4) above apply where the transfer referred to in section 269A takes effect on or after 1st January 1992.

(10) Subsections (5) to (7) above apply to any disposal by way of transfer where the transfer takes effect on or after 1st January 1992.

(11) Subsection (8) above applies where any disposal to which section 269A applies is by way of a transfer taking effect on or after 1st January 1992.

Double taxation relief

50 Transfer of a non-UK trade

The following section shall be inserted after section 815 of the Taxes Act 1988—

"**815A Transfer of a non-UK trade**

(1) This section applies where section 269C of the 1970 Act or section 140C of the Taxation of Chargeable Gains Act 1992 applies; and references in this section to company A, the transfer and the trade shall be construed accordingly.

(2) Where company A produces to the inspector an appropriate certificate given by the tax authorities of the relevant member State, this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount stated in the certificate in accordance with subsection (4)(b) below were tax payable under the law of the relevant member State.

(3) In any case where—

(a) company A is unable to obtain an appropriate certificate from the tax authorities of the relevant member State,

(b) the Board is satisfied that this is the case, and

(c) company A makes a claim to the Board under this subsection and provides the Board with such information and documents in connection with the claim as the Board may require,

the Board shall determine the amount which in their opinion is the amount of tax computed on the required basis which would have been payable under the law of the relevant member State in respect of the gains accruing to company A on the transfer but for the Mergers Directive; and this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount so determined were tax payable under the law of the relevant member State.

(4) For the purposes of this section, an appropriate certificate is one containing—

(a) a statement to the effect that gains accruing to company A on the transfer would have been chargeable to tax under the law of the relevant member State but for the Mergers Directive;

(b) a statement of the amount of tax which would have been payable under that law in respect of the gains so accruing but for that Directive; and

(c) a statement to the effect that that amount has been computed on the required basis.

(5) For the purposes of this section, the required basis is that—

(a) so far as permitted under the law of the relevant member State, any losses arising on the transfer are set against any gains so arising, and

(b) any relief available to company A under that law has been duly claimed.

(6) In this section—

"the Mergers Directive" means the Directive of the Council of the European Communities dated 23rd July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different member States (no. 90/434/EEC);

"relevant member State" means the member State in which, immediately before the time of the transfer, company A carried on the trade through a branch or agency."

51 The Arbitration Convention

(1) The following section shall be inserted after section 815A of the Taxes Act 1988—

"**815B The Arbitration Convention**

(1) Subsection (2) below applies if the Arbitration Convention requires the Board to give effect to—

(a) an agreement or decision, made under the Convention by the Board (or their authorised representative) and any other competent authority, on the elimination of double taxation, or

(b) an opinion, delivered by an advisory commission set up under the Convention, on the elimination of double taxation.

(2) The Board shall give effect to the agreement, decision or opinion notwithstanding anything in any enactment; and any such adjustment as is appropriate in consequence may be made (whether by way of discharge or repayment of tax, the making of an assessment or otherwise).

(3) Any enactment which limits the time within which claims for relief under any provision of the Tax Acts may be made shall not apply to a claim made in pursuance of an agreement, decision or opinion falling within subsection (1)(a) or (b) above.

(4) In this section "the Arbitration Convention" means the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, concluded on 23rd July 1990 by the parties to the treaty establishing the European Economic Community (90/436/EEC)."

(2) In section 816 of the Taxes Act 1988 (disclosure of information) the following subsection shall be inserted after subsection (2)—

"(2A) The obligation as to secrecy imposed by any enactment shall not prevent the Board, or any authorised officer of the Board, from disclosing information required to be disclosed under the Arbitration Convention in pursuance of a request made by an advisory commission set up under that Convention; and "the Arbitration Convention" here has the meaning given by section 815B(4)."

(3) The following section shall be inserted after section 182 of the Finance Act 1989 (disclosure of information)—

"**182A Double taxation: disclosure of information**

(1) A person who discloses any information acquired by him in the exercise of his functions as a member of an advisory commission set up under the Arbitration Convention is guilty of an offence.

(2) Subsection (1) above does not apply to any disclosure of information—

(a) with the consent of the person who supplied the information to the commission, or

(b) which has been lawfully made available to the public before the disclosure is made.

(3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence he believed that the information in

question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.

(4) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(5) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—

(a) by the Board, or

(b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.

(6) In this section—

"the Arbitration Convention" has the meaning given by section 815B(4) of the Taxes Act 1988;

"the Board" means the Commissioners of Inland Revenue."

52 Interest

(1) In the Taxes Act 1988 the following section shall be inserted after section 808—

"**808A Interest: special relationship**

(1) Subsection (2) below applies where any arrangements having effect by virtue of section 788—

(a) make provision, whether for relief or otherwise, in relation to interest (as defined in the arrangements), and

(b) make provision (the special relationship provision) that where owing to a special relationship the amount of the interest paid exceeds the amount which would have been paid in the absence of the relationship, the provision mentioned in paragraph (a) above shall apply only to the last-mentioned amount.

(2) The special relationship provision shall be construed as requiring account to be taken of all factors, including—

(a) the question whether the loan would have been made at all in the absence of the relationship,

(b) the amount which the loan would have been in the absence of the relationship, and

(c) the rate of interest and other terms which would have been agreed in the absence of the relationship.

(3) The special relationship provision shall be construed as requiring the taxpayer to show that there is no special relationship or (as the case may be) to show the amount of interest which would have been paid in the absence of the special relationship.

(4) In a case where—

(a) a company makes a loan to another company with which it has a special relationship, and

(b) it is not part of the first company's business to make loans generally,

the fact that it is not part of the first company's business to make loans generally shall be disregarded in construing subsection (2) above.

(5) Subsection (2) above does not apply where the special relationship provision expressly requires regard to be had to the debt on which the interest is paid in determining the excess interest (and accordingly expressly limits the factors to be taken into account)."

(2) This section shall apply in relation to interest (as defined in the arrangements) paid after 14th May 1992.

Miscellaneous

53 Car fuel: cash equivalents

(1) Section 158 of the Taxes Act 1988 (car fuel) shall be amended as follows.

(2) For subsection (2) (cash equivalents) there shall be substituted—

"(2) Subject to the provisions of this section, the cash equivalent of that benefit shall be ascertained from—

(a) Table A below where the car has an internal combustion engine with one or more reciprocating pistons and is not a diesel car;

(b) Table AB below where the car has an internal combustion engine with one or more reciprocating pistons and is a diesel car;

(c) Table B below where the car does not have an internal combustion engine with one or more reciprocating pistons.

TABLE A

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
1,400 or less	£500
More than 1,400 but not more than 2,000	£630
More than 2,000	£940

TABLE AB

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
2,000 or less	£460
More than 2,000	£590

TABLE B

ORIGINAL MARKET VALUE OF CAR	*CASH EQUIVALENT*
Less than £6,000	£500
£6,000 or more but less than £8,500	£630
£8,500 or more	£940

(2A) For the purposes of subsection (2) above a diesel car is a car which uses heavy oil as fuel; and "heavy oil" here means heavy oil as defined by section 1(4) of the Hydrocarbon Oil Duties Act 1979.

(2B) For the purposes of Tables A and AB in subsection (2) above a car's cylinder capacity is the capacity of its engine calculated as for the purposes of the Vehicles (Excise) Act 1971."

(3) In subsection (4) (Treasury orders) for "either" there shall be substituted "any".

(4) This section shall have effect for the year 1992-93 and subsequent years of assessment.

54 Foreign earnings

(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings: provisions supplemental to section 193(1)) after paragraph 1 there shall be inserted—

"Amount of emoluments

1A For the purposes of section 193(1) and this Schedule the amount of the emoluments for a year of assessment from any employment shall be taken to be the amount remaining after any capital allowance and after any deductions under section 192(3), 193(4), 194(1), 195(7), 198, 199, 201, 332, 592 or 594."

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

55 Oil extraction activities: extended transportation

(1) In section 502 of the Taxes Act 1988 (defined expressions for Chapter V of Part XII of that Act - petroleum extraction activities), in subsection (1), in the definition of "oil extraction activities", in paragraph (c)—

(a) the words "as far as dry land in the United Kingdom" shall be omitted; and

(b) after the words "so held" there shall be inserted "where the transportation is—

(i) to the place where the oil is first landed in the United Kingdom, or

(ii) to the place in the United Kingdom or, in the case of oil first landed in another country, the place in that or any other country (other than the United Kingdom) at which the seller in a sale at arm's length could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction".

(2) Subsection (1) above has effect with respect to chargeable periods ending after 27th November 1991.

(3) In so far as the amendments made by paragraph 3 of Schedule 15 to this Act amend the definitions of "initial storage" and "initial treatment" as they have effect, by virtue of section 502(2) of the Taxes Act 1988, for the purposes of Chapter V of Part XII of that Act, those amendments have effect with respect to chargeable periods ending after 27th November 1991.

56 Friendly societies

Schedule 9 to this Act (which makes provision in relation to friendly societies) shall have effect.

57 Rents or receipts between connected persons

(1) In the Taxes Act 1988, the following shall be inserted after section 33—

"Connected persons

33A Rents or receipts payable by a connected person

(1) Subsection (2) below applies where—

(a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,

(b) the person by whom they are payable is entitled to a deduction in respect of them in computing his profits or gains for tax purposes, and

(c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement under which they accrue.

(2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).

(3) For the purposes of this section, any rents or receipts shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction mentioned in subsection (1)(b) above.

(4) Section 839 (connected persons) shall apply for the purposes of this section.

33B Rents or receipts relating to land in respect of which a connected person makes payments to a third party

(1) Subsection (2) below applies where—

(a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,

(b) the land to which the rents or receipts relate is land in respect of which another person becomes entitled to a relevant tax deduction at any time before the rents or receipts become payable,

(c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement referred to in subsection (4) below, and

(d) section 33A(2) does not apply.

(2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).

(3) For the purposes of this section, any rents or receipts payable to the chargeable person shall be taken to accrue at the times at which, and in the amounts in which, they would be taken to accrue for the purposes of calculating a deduction in respect of them in computing his profits or gains for tax purposes if—

(a) they were payable by him instead of to him, and

(b) he were assessable to tax under Case I of Schedule D in respect of his profits or gains.

(4) In this section, "relevant tax deduction", in relation to a person and any land, means a deduction (in computing the person's profits or gains for tax purposes) in respect of any rents or other sums payable after they accrue under a lease or other agreement relating to the land or any part of it.

(5) For the purposes of this section—

(a) a person shall be regarded as becoming entitled to a relevant tax deduction when the rents or other sums to which the deduction relates accrue, and

(b) any rents or other sums to which a relevant tax deduction relates shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction.

(6) Section 839 (connected persons) shall apply for the purposes of this section."

(2) This section shall have effect in relation to rents or receipts accruing on or after 10th March 1992.

58 Rent etc. chargeable under Case VI

(1) In section 15(1) of the Taxes Act 1988 (Schedule A) the following paragraph shall be substituted for paragraph 4—

in a case where—

(a) a sum (whether rent or otherwise) is payable in respect of the use of premises (whether under a lease or otherwise),

(b) the tenant or other person entitled to the use of the premises is entitled to the use of furniture, and

(c) tax in respect of the payment for the use of the furniture is chargeable under Case VI of Schedule D,

tax in respect of the sum mentioned in sub-paragraph (a) above shall be charged under that Case instead of under this Schedule unless the person entitled to that sum elects that this paragraph shall not apply."

(2) This section shall apply in relation to chargeable periods beginning on or after 6th April 1992.

59 Furnished accommodation

Schedule 10 to this Act (which makes provision about furnished accommodation) shall have effect.

60 Deduction on account of certain payments

(1) In section 347A(5) of the Taxes Act 1988 and in section 38(9) of the Finance Act 1988 (no deduction on account of certain payments) after "section 65(1)(b)" there shall be inserted ", 68(1)(b) or 192(3)".

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

61 Qualifying maintenance payments: extension to member States

(1) In section 347B(1)(a) of the Taxes Act 1988 (payments under certain court orders or written agreements)—

(a) for "in the United Kingdom" there shall be substituted "in a member State";

(b) for "a part of the United Kingdom" there shall be substituted "a member State or of a part of a member State".

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

62 Qualifying maintenance payments: maintenance assessments etc

(1) In section 347B of the Taxes Act 1988 (qualifying maintenance payments), the following subsections shall be added at the end—

"(8) In subsections (1)(a) and (5)(a) above, the reference to an order made by a court in the United Kingdom includes a reference to a maintenance assessment.

(9) Where—

(a) any periodical payment is made under a maintenance assessment by one of the parties to a marriage (including a marriage which has been dissolved or annulled),

(b) the other party to the marriage is, for the purposes of the Child Support Act 1991 or (as the case may be) the Child Support (Northern Ireland) Order 1991, a parent of the child or children with respect to whom the assessment has effect,

(c) the assessment was not made under section 7 of the Child Support Act 1991 (right of child in Scotland to apply for maintenance assessment), and

(d) any of the conditions mentioned in subsection (10) below is satisfied,

this section shall have effect as if the payment had been made to the other party for the maintenance by that other party of that child or (as the case may be) those children.

(10) The conditions are that—

(a) the payment is made to the Secretary of State in accordance with regulations made under section 29 of the Child Support Act 1991, by virtue of subsection (3)(a)(ii) of that section;

(b) the payment is made to the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 29 of the Child Support (Northern Ireland) Order 1991, by virtue of paragraph (3)(a)(ii) of that Article;

(c) the payment is retained by the Secretary of State in accordance with regulations made under section 41 of that Act;

(d) the payment is retained by the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 38 of that Order.

(11) In this section "maintenance assessment" means a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991.

(12) Where any periodical payment is made to the Secretary of State or to the Department of Health and Social Services for Northern Ireland—

(a) by one of the parties to a marriage (including a marriage which has been dissolved or annulled), and

(b) under an order made under section 106 of the Social Security Administration Act 1992 or section 101 of the Social Security Administration (Northern Ireland) Act 1992 (recovery of expenditure on benefit from person liable for maintenance) in respect of income support claimed by the other party to the marriage,

this section shall have effect as if the payment had been made to the other party to the marriage to or for the benefit, and for the maintenance, of that other party or (as the case may be) to that other party for the maintenance of the child or children concerned."

(2) In section 36 of the Finance Act 1988 (annual payments), the following subsection shall be inserted after subsection (5)—

"(5A) The reference in subsection (4)(d) above to an order made by a court, and the reference in subsection (5)(b) above to an order, in each case includes a reference to a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991."

(3) In section 38 of the Finance Act 1988 (maintenance payments under existing obligations), the following subsection shall be inserted after subsection (8)—

"(8A) The reference in subsection (1)(a) above to an order made by a court includes a reference to a maintenance assessment made under the Child Support Act 1991 or under the Child Support (Northern Ireland) Order 1991."

(4) This section shall come into force on such date as the Secretary of State may by order provide.

(5) The power conferred by subsection (4) above shall be exercisable by statutory instrument.

(6) The provision made by this section shall have effect, so far as it concerns orders under section 106 of the Social Security Administration Act 1992 or section 101 of the Social Security Administration (Northern Ireland) Act 1992, only in relation to payments which fall due after the coming into force of this section.

63 Paying and collecting agents etc

Schedule 11 to this Act (which makes provision in relation to the payment of income tax on foreign dividends etc.) shall have effect.

64 Reduced and composite rate

(1) For the purposes of this section each of the following is a relevant order—

(a) the Income Tax (Reduced and Composite Rate) Order 1985 (which sets out 25.25 per cent. as the reduced rate for building societies and the composite rate for deposit-takers for the year 1986-87);

(b) the Income Tax (Reduced and Composite Rate) Order 1986 (which sets out 24.75 per cent. as the rate for the year 1987-88);

(c) the Income Tax (Reduced and Composite Rate) Order 1987 (which sets out 23.25 per cent. as the rate for the year 1988-89);

(d) the Income Tax (Reduced and Composite Rate) Order 1988 (which sets out 21.75 per cent. as the rate for the year 1989-90).

(2) If apart from this section a relevant order would not be so taken, it shall be taken to be and always to have been effective to determine the rate set out in the order as the reduced rate and the composite rate for the year of assessment for which the order was made.

65 Life assurance business: I minus E basis

(1) For the purposes of this section a claim is a relevant claim if it is made under or by virtue of any of the following provisions—

(a) section 393(1) of the Taxes Act 1988 (claim for carry forward of trading losses);

(b) section 393A(1) of the Taxes Act 1988 (claim for carry sideways and backwards of trading losses);

(c) section 402(2) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: group claim);

(d) section 402(3) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: consortium claim);

(e) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (d) above (whether directly or indirectly and whether with or without modification).

(2) For the purposes of this section the following are relevant provisions—

(a) section 434(2) of the Taxes Act 1988 (profits derived from investments of life assurance fund treated as profits of life assurance business in ascertaining loss on that business);

(b) section 715(1)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferor where transfer falls to be taken into account in computing profits or losses of trade);

(c) section 715(2)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferee where transfer falls to be taken into account in computing profits or losses of trade);

(d) section 83(1) of the Finance Act 1989 (investment income etc. from assets of long-term business fund taken into account as receipts of life assurance business);

(e) section 37(1) of the Taxation of Chargeable Gains Act 1992 (exclusion from consideration for disposal of asset of any money or moneys worth taken into account in computing profits or losses etc.);

(f) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (c) and (e) above (whether directly or indirectly and whether with or without modification).

(3) For the purposes of this section—

(a) the I minus E basis is the basis commonly so called (under which a company carrying on life assurance business is charged to tax in respect of that business otherwise than under Case I of Schedule D);

(b) life assurance business includes annuity business.

(4) Neither the making of a relevant claim in respect of a trading loss incurred by a company in an accounting period nor the application of any commercial or accounting principle or practice in computing that loss—

(a) shall prevent the I minus E basis being applied for that or any other accounting period in respect of the company's life assurance business;

(b) shall affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.

(5) The application of a relevant provision as regards a company for an accounting period shall not—

(a) prevent the I minus E basis being applied for that or any other accounting period in respect of its life assurance business;

(b) affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.

(6) This section—

(a) shall apply in relation to accounting periods beginning on or after the day on which this Act is passed;

(b) shall apply and be deemed always to have applied in relation to accounting periods beginning before that day.

66 Banks etc. in compulsory liquidation

Schedule 12 to this Act (which makes provision in relation to companies that are or have been carrying on a deposit-taking business and are in compulsory liquidation) shall have effect.

CHAPTER II

CAPITAL ALLOWANCES

67 Transfer of a UK trade

The following section shall be inserted after section 152A of the Capital Allowances Act 1990—

"**152B Transfer of a UK trade**

(1) References in this section to company A, company B and the transfer shall be construed in accordance with section 269A of the Income and Corporation Taxes Act 1970 or, as the case may be, section 140A of the Taxation of Chargeable Gains Act 1992.

(2) This section applies where—

(a) section 269A of the Income and Corporation Taxes Act 1970 or section 140A of the Taxation of Chargeable Gains Act 1992 applies, and

(b) if immediately after the time of the transfer company B is not resident in the United Kingdom, the condition in subsection (3) below is met.

(3) The condition is that immediately after the time of the transfer company B carries on in the United Kingdom through a branch or agency a trade which consists of or includes the trade, or the part of the trade, transferred by the transfer.

(4) Where this section applies the first and second rules set out in subsections (5) and (6) below shall have effect.

(5) The first rule is that the transfer itself shall not be treated as giving rise to any allowances or charges under the Capital Allowances Acts.

(6) The second rule applies with regard to anything done after the transfer in relation to the assets included in it; and the rule is that everything done to or by company A in relation to those assets before the transfer shall for the purposes of the Capital Allowances Acts be treated as having been done to or by company B (and not company A).

(7) Where for the purposes of subsection (6) above expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment shall be made in such manner as is just and reasonable.

(8) Any question which arises as to the manner in which an apportionment referred to in subsection (7) above is to be made shall be determined, for the purposes of the tax of both company A and company B—

(a) in a case where the same body of General Commissioners have jurisdiction with respect to both the companies, by those Commissioners, unless the companies agree that it shall be determined by the Special Commissioners;

(b) in a case where different bodies of General Commissioners have jurisdiction with respect to the companies, by such of those bodies

as the Board may direct, unless the companies agree that it shall be determined by the Special Commissioners;

(c) in any other case, by the Special Commissioners.

(9) The Commissioners by whom the question referred to in subsection (8) above falls to be determined shall make the determination in like manner as if it were an appeal except that company A and company B shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.

(10) In any case where this section applies, none of the following provisions shall apply—

(a) section 77;

(b) section 152A;

(c) section 157;

(d) section 158;

(e) section 343(2) of the principal Act."

68 Computer software

(1) In Part II of the Capital Allowances Act 1990 (machinery and plant) after section 67 there shall be inserted the following section—

"**67A Computer software**

(1) If a person carrying on a trade incurs capital expenditure in acquiring for the purposes of the trade a right to use or otherwise deal with computer software, then, for the purposes of this Part—

(a) the right and the software to which it relates shall be treated as machinery or plant;

(b) that machinery or plant shall be treated as provided for the purposes of the trade; and

(c) so long as he is entitled to the right, that machinery or plant shall be treated as belonging to him.

(2) In any case where—

(a) a person carrying on a trade incurs capital expenditure on the provision of computer software for the purposes of the trade, and

(b) in consequence of his incurring that expenditure, the computer software belongs to him, but

(c) the computer software does not constitute machinery or plant,

then for the purposes of this Part the computer software shall be treated as machinery or plant."

(2) In section 24 of that Act (writing-down allowances and balancing adjustments) in subsection (6) (disposal value) for the words "subsection (7)" there shall be substituted "subsections (6A) and (7)".

(3) After that subsection there shall be inserted the following subsection—

"(6A) In the case of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, the disposal value to be brought into account by a person for any chargeable period by virtue

of subsection (6) above shall also include the disposal value of all such machinery or plant—

(a) on the provision of which for the purposes of the trade he has incurred capital expenditure;

(b) which belongs to him at some time in the chargeable period or its basis period;

(c) in respect of which, in the chargeable period or its basis period, the following event occurs, namely, he grants to another person a right to use or otherwise deal with the whole or part of the computer software concerned in circumstances where the consideration in money for the grant constitutes (or if there were consideration in money for the grant would constitute) a capital sum; and

(d) in respect of which, whilst the machinery or plant belongs or belonged to him, no event falling within paragraph (iv) or (v) of subsection (6) (c) above has occurred before the event referred to in paragraph (c) above."

(4) In subsection (8) of that section for the words "subsection (7)" in both places where they occur there shall be substituted "subsections (6A) and (7)".

(5) In section 26 of that Act (disposal value) in subsection (1) after paragraph (e) there shall be inserted—

"(ea) if that event is the grant of a right to use or otherwise deal with computer software for a consideration not consisting or not wholly consisting in money, equals the consideration in money which would have been given if the right had been granted in the open market;

(eb) unless paragraph (ea)

above applies, if that event is the grant of a right to use or otherwise deal with computer software for no consideration or for a consideration in money lower than that which would have been given if the right had been granted in the open market, and otherwise than in circumstances such that—

(i) the grantee's expenditure on the acquisition of the right can be taken into account in making allowances to him under this Part or under Part VII and the grantee is not a dual resident investing company which is connected with the grantor within the terms of section 839 of the principal Act, or

(ii) there is a charge to tax under Schedule E,

equals the consideration in money which would have been given if the right had been granted in the open market;

(ec) if that event is the grant of a right to use or otherwise deal with computer software and neither paragraph (ea) nor paragraph (eb) above applies, equals the net consideration in money received by the grantor in respect of the grant, together with any insurance moneys received by him in respect of the computer software by reason of any event affecting the consideration obtainable on the grant and, so far as it consists of capital sums, any other compensation of any description so received;".

(6) After subsection (2) of that section there shall be inserted—

"(2AA) In deciding for the purposes of subsection (2) above whether the disposal value of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software exceeds the capital expenditure incurred by a person on its provision, the disposal value shall (for the purposes of that subsection only) be taken to be increased by the amount of any disposal value which, in respect of that person and that machinery or plant, falls or has fallen to be taken into account for the purposes of section 24 by virtue of any previous event falling within subsection (6A)(c) of that section."

(7) In section 37 of that Act (election for certain machinery or plant to be treated as short-life assets) in subsection (5) for the words "section 24(7)" there shall be substituted "section 24(6A) and (7)".

(8) Subsection (1) above shall apply in relation to expenditure incurred on or after 10th March 1992.

(9) Subsections (2) to (6) above shall apply in relation to rights granted on or after 10th March 1992.

(10) Subsection (7) above shall be deemed to have come into force on 10th March 1992.

69 Films etc

(1) Section 68 of the Capital Allowances Act 1990 (which excludes certain expenditure relating to films, tapes and discs from being treated as capital expenditure for the purposes of Part II of that Act and gives relief by providing for such expenditure and other expenditure of a revenue nature to be allocated to relevant periods) shall be amended as follows.

(2) After subsection (6) there shall be inserted—

"(6A) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 of the Finance (No. 2) Act 1992 (relief for production or acquisition expenditure), no allocation of that expenditure shall be made under subsections (3) to (6) above.

(6B) Where subsection (6A) above applies, no expenditure incurred on the production or acquisition of the film, tape or disc concerned shall be allocated under subsections (3) to (6) above to the relevant period referred to in subsection (6A)."

(3) In subsection (9) (expenditure to which section 68 does not apply) after "expenditure" there shall be inserted "in relation to which an election is made under this subsection and".

(4) After subsection (9) there shall be inserted—

"(9A) An election under subsection (9) above—

(a) shall relate to all expenditure incurred (or to be incurred) on the production or acquisition of the film, tape or disc in question,

(b) shall be made, by giving notice to the inspector in such form as the Board may determine, not later than two years after the end of the relevant period in which the film, tape or disc is completed, and

(c) shall be irrevocable.

(9B) For the purposes of subsection (9A)(b) above, a film, tape or disc is completed—

(a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or

(b) where the expenditure in question was incurred on the acquisition of the film, tape or disc and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

(9C) An election may not be made under subsection (9) above in relation to expenditure on a film, tape or disc if a claim has been made in respect of any of that expenditure under section 41 (relief for preliminary expenditure) or section 42 (relief for production or acquisition expenditure) of the Finance (No. 2) Act 1992."

(5) Subsections (3) and (4) above shall have effect in relation to films, tapes and discs completed on or after 10th March 1992.

70 Enterprise zones

Schedule 13 to this Act (which makes provision in relation to capital allowances in respect of buildings and structures in enterprise zones) shall have effect.

71 Expensive motor cars

(1) The Capital Allowances Act 1990 shall be amended as follows.

(2) In section 34 (writing-down allowances etc.) in subsection (1) for "£8,000" there shall be substituted "£12,000".

(3) In subsection (3) of that section for "£2,000" in each place where it occurs there shall be substituted "£3,000".

(4) In section 35 (contributions to expenditure and hiring of cars) in subsection (1) for "£8,000" and "£2,000" there shall be substituted "£12,000" and "£3,000" respectively.

(5) In subsection (2) of that section for "£8,000" in both places where it occurs there shall be substituted "£12,000".

(6) Subsections (2) and (3) above shall apply in relation to expenditure incurred or treated as incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.

(7) Subsection (4) above shall apply in relation to expenditure incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.

(8) Subsection (5) above shall apply in relation to expenditure on the hiring of a motor car under a contract entered into after 10th March 1992.