



# Finance Act 1984

## 1984 CHAPTER 43

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [26th July 1984]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

### CHAPTER I

#### CUSTOMS AND EXCISE

#### **1 Duties on spirits, beer, wine, made-wine and cider**

- (1) In section 5 of the Alcoholic Liquor Duties Act 1979 (excise duty on spirits) for "£15.19" there shall be substituted " £15.48 ".
- (2) In section 36 of that Act (excise duty on beer) for " £21.60 " and " £0.72 " there shall be substituted " £24.00 " and " £0.80 " respectively.

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- (3) For the provisions of Schedule 1 to that Act (rates of excise duty on wine) there shall be substituted the provisions of Schedule 1 to this Act.
- (4) The rates of duty on made-wine shall be the same as those on wine and, accordingly, in section 55(1) of that Act for the words " Schedule 2" there shall be substituted the words " Schedule 1 " .
- (5) In section 62(1) of that Act (excise duty on cider) for " £9.69 " there shall be substituted " £14.28 " and in the definition of " cider " in section 1(6) of that Act for the words " less than 8.7 per cent." there shall be substituted the words " less than 8.5 per cent. " .
- (6) This section, and Schedule 1 to this Act, other than the paragraphs headed " Interpretation ", shall be deemed to have come into force on 14th March 1984.

## 2 Tobacco products

- (1) For the Table in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

“TABLE

1. Cigarettes	An amount equal to 21 per cent, of the retail price plus £24.97 per thousand cigarettes.
2. Cigars	£47.05 per kilogram.
3. Hand-rolling tobacco	£40.60 per kilogram.
4. Other smoking tobacco and chewing tobacco	£24.95 per kilogram.”

- (2) This section shall be deemed to have come into force on 16th March 1984.

## 3 Hydrocarbon oil

- (1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil) for "£0.1630" (light oil) and "£0.1382 " (heavy oil) there shall be substituted " £0.1716 " and " £0.1448 " respectively.
- (2) In section 11(1)(a) of that Act (rebate on kerosene, other than aviation turbine fuel) for the words " of £0.0022 a litre less than " there shall be substituted the words " equal to " .
- (3) This section shall be deemed to have come into force at 6 o'clock in the evening of 13th March 1984.

## 4 Vehicles excise duty

- (1) The Vehicles (Excise) Act 1971 and the Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.
- (2) For the provisions of Part II of Schedules 1 to 5 to each of those Acts (annual rates of duty) there shall be substituted the provisions set out in Part I of Schedule 2 to this Act.

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- (3) The provisions of Part I of Schedule 4 to each of those Acts (annual rates of duty on goods vehicles: general provisions) shall have effect subject to the amendments made by Part II of Schedule 2 to this Act.
- (4) In section 16 of the Act of 1971 (rates of duty for trade licences)—
- (a) in subsection (5), including that subsection as set out in paragraph 12 of Part I of Schedule 7 to that Act, for "£42" and "£8.50" there shall be substituted, respectively, "£44" and "£9"; and
  - (b) in subsection (8) the following definition shall be inserted at the appropriate place—  
“disabled vehicle” includes a vehicle which has been abandoned or is scrap;”.
- (5) In section 16 of the Act of 1972 (rates of duty for trade licences)—
- (a) in subsection (6), including that subsection as set out in paragraph 12 of Part I of Schedule 9 to that Act, for "£42" and "£8.50" there shall be substituted, respectively, "£44" and "£9"; and
  - (b) in subsection (10) the following definition shall be inserted at the appropriate place—  
“disabled vehicle” includes a vehicle which has been abandoned or is scrap;”.
- (6) The provisions of this section other than subsections (4)(b) and (5)(b) apply in relation to licences taken out after 13th March 1984.

## **5 Vehicles excise duty: recipients of mobility supplement**

- (1) Section 7 of the Vehicles (Excise) Act 1971 and section 7 of the Vehicles (Excise) Act (Northern Ireland) 1972 (exemption from vehicles excise duty) shall have effect with the following amendments.
- (2) In subsection (2) of that section of each Act (by virtue of which vehicles used by or for the purposes of persons in receipt of a mobility allowance are exempt from duty and vehicles are deemed to be registered in the names of such persons in certain circumstances)—
- (a) after the words "mobility allowance", in both places, there shall be inserted the words "or a mobility supplement"; and
  - (b) for the words from "a person appointed" to "powers" and the words "a person so appointed" there shall in each case be substituted the words "an appointee".
- (3) After subsection (2) of section 7 of the 1971 Act there shall be inserted—
- “(2A) In subsection (2) above—
- 'mobility supplement' means a mobility supplement under—
  - (a) a scheme made under the Personal Injuries (Emergency Provisions) Act 1939, or
  - (b) an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977,
- or any payment appearing to the Secretary of State to be of a similar kind and specified by him by order made by statutory instrument; and
- 'appointee' means—

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- (i) a person appointed pursuant to regulations under the Social Security Act 1975 to exercise any of the rights or powers of a person in receipt of a mobility allowance, or
- (ii) a person to whom a mobility supplement is paid for application for the benefit of another person in receipt of the supplement.

(2B) An order under subsection (2A) above may provide that it shall be deemed to have come into force on any date after 20th November 1983.”.

(4) After subsection (2A) of section 7 of the 1972 Act there shall be inserted—

“(2AA) In subsection (2)—

‘mobility supplement’ means a mobility supplement under—

- (a) a scheme made under the Personal Injuries (Emergency Provisions) Act 1939, or
- (b) an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977,

or any payment appearing to the Secretary of State to be of a similar kind and specified by him by order made by statutory instrument; and

‘appointee’ means—

- (i) a person appointed pursuant to regulations under the Social Security (Northern Ireland) Act 1975 to exercise any of the rights or powers of a person in receipt of a mobility allowance, or
- (ii) a person to whom a mobility supplement is paid for application for the benefit of another person in receipt of the supplement.

(2AB) An order under subsection (2AA) above may provide that it shall be deemed to have come into force on any date after 20th November 1983.”.

(5) This section shall be deemed to have come into force on 21st November 1983.

## 6 Gaming licence duty

(1) In section 14 of the Betting and Gaming Duties Act 1981 (rate of gaming licence duty), for the Table set out in subsection (1) there shall be substituted the following Table—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £375,000	2 1/2 per cent.
The next £1,875,000	12 1/2 per cent.
The next £2,250,000	25 per cent.
The remainder	33 1/3 per cent.”

(2) This section shall have effect in relation to gaming licences for any period beginning after 31st March 1984.

## **7 Gaming machine licence duty**

- (1) For the purpose of providing for gaming machine licences to be granted, in certain circumstances, in respect of gaming machines instead of in respect of premises and of providing for whole-year gaming machine licences granted in respect of premises to run from different dates in different parts of Great Britain, the Betting and Gaming Duties Act 1981 shall have effect subject to the amendments set out in Schedule 3 to this Act.
- (2) The amendments made by Part I of Schedule 3 shall not have effect in relation to any licence granted for a period beginning before 1st October 1984; and the Act of 1981 shall have effect subject to Part II of Schedule 3 (which makes transitional provision in relation to certain licences first having effect after 30th September 1984 but before 1st February 1986).

## **8 Free zones**

The provisions set out in Part I of Schedule 4 to this Act (which provide for special areas, to be known as free zones, to be designated for customs and excise purposes) shall be inserted in the Customs and Excise Management Act 1979 after Part VIII as a new Part VIIIA, and that Act shall have effect with the amendments specified in Part II of that Schedule (which also relate to free zones).

## **9 Entry of goods on importation**

- (1) The Customs and Excise Management Act 1979 shall have effect with the amendments specified in Schedule 5 to this Act, being amendments relating to the entry of goods on importation.
- (2) Paragraph 1 of that Schedule shall come into force on 1st January 1985.

# **CHAPTER II**

## **VALUE ADDED TAX**

## **10 Zero-rating**

- (1) Schedule 5 to the Value Added Tax Act 1983 (zero-rating) shall have effect subject to the modifications in Schedule 6 to this Act.
- (2) In Schedule 6 to this Act—
  - (a) Part I has effect with respect to supplies made on or after 1st May 1984 ; and
  - (b) Parts II and III have effect with respect to supplies made on or after 1st June 1984.

## **11 Refund of tax to Government departments etc. in certain cases**

After subsection (2) of section 27 of the Value Added Tax Act 1983 (application of value added tax legislation to the Crown) there shall be inserted the following subsections—

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“(2A) Where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a Government department and the supply or importation is not for the purpose—

- (a) of any business carried on by the department, or
- (b) of a supply by the department which, by virtue of a direction under subsection (2) above, is treated as a supply in the course or furtherance of a business,

then, if and to the extent that the Treasury so direct and subject to subsection (2B) below, the Commissioners shall, on a claim made by the department at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.

(2B) The Commissioners may make the refunding of any amount due under subsection (2A) above conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply or importation in question.”

## **12 Conditions imposed on discretionary registration**

(1) In paragraph 5 of Schedule 1 to the Value Added Tax Act 1983 (discretionary registration subject to conditions imposed by the Commissioners) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) Conditions under sub-paragraph (1) above—

- (a) may be imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph; and
- (b) may (whenever imposed) be subsequently varied by the Commissioners.”

(2) In paragraph 11 of Schedule 1 (discretionary registration subject to conditions imposed by the Commissioners) after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Conditions under sub-paragraph (1)(b) above—

- (a) may be imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph ; and
- (b) may (whenever imposed) be subsequently varied by the Commissioners.”

## **13 Certain zero-rated supplies and transactions**

In section 16 of the Value Added Tax Act 1983 (zero-rating) in subsection (5) (certain supplies outside the United Kingdom and other transactions to be treated as supplies of goods or services in the United Kingdom) the words " of a supply of goods or services outside the United Kingdom or " and " supply or " shall be omitted.

## CHAPTER III

### MISCELLANEOUS

#### 14 Reliefs from duty and value added tax in respect of imported legacies

- (1) For section 7 of the Customs and Excise Duties (General Reliefs) Act 1979 (relief from customs or excise duty on imported legacies) there shall be substituted—

**“7 Power to provide for reliefs from duty and value added tax in respect of imported legacies.**

- (1) The Commissioners may by order make provision for conferring reliefs from duty and value added tax in respect of goods imported into the United Kingdom by or for any person who has become entitled to them as legatee.
- (2) Any such relief may take the form either of an exemption from payment of duty and tax or of a provision whereby the sum payable by way of duty or tax is less than it would otherwise be.
- (3) The Commissioners may by order make provision supplementing any Community relief, in such manner as they think necessary or expedient.
- (4) An order under this section—
- (a) may make any relief for which it provides or any Community relief subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies ;
  - (b) may, in relation to any relief conferred by order made under this section, contain such incidental and supplementary provisions as the Commissioners think necessary or expedient; and
  - (c) may make different provision for different cases.

- (5) In this section—

" Community relief" means any relief which is conferred by a Community instrument and is of a kind, or of a kind similar to that, which could otherwise be conferred by order made under this section;

" duty " means customs or excise duty chargeable on goods imported into the United Kingdom and, in the case of excise duty, includes any addition to the duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 ;

" legatee " means any person taking under a testamentary disposition or donatio mortis causa or on an intestacy ; and

" value added tax" means value added tax chargeable on the importation of goods.”.

- (2) In section 17 of the Customs and Excise Duties (General Reliefs) Act 1979 (parliamentary control of orders and regulations), in subsection (3), after the figure " 4 " there shall be inserted " 7 ".
- (3) This section shall be deemed to have come into force on 1st July 1984.

## **15 Extension to certain Community reliefs of power to make supplementary provision**

- (1) Section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (orders providing for personal reliefs from duties etc.) shall be amended as provided by subsections (2) to (5) below.
- (2) After subsection (1) there shall be inserted the following subsection—
  - “(1A) The Commissioners may by order make provision supplementing any Community relief, in such manner as they think necessary or expedient.”.
- (3) In subsection (3)(a), after the word " provides " there shall be inserted the words " , or any Community relief, ".
- (4) In subsection (3)(b), after the word " may " there shall be inserted the words " , in relation to any relief conferred by order made under this section, ".
- (5) In subsection (4) there shall be inserted at the appropriate place—
  - “Community relief" means any relief which is conferred by a Community instrument and is of a kind, or of a kind similar to that, which could otherwise be conferred by order made under this section ;”.
- (6) In section 17 of the Customs and Excise Duties (General Reliefs) Act 1979 (parliamentary control of orders and regulations), in subsection (4), after the figure " 13 " there shall be inserted " (1) ".
- (7) In the Isle of Man Act 1979—
  - (a) in section 8 (removal of goods from Isle of Man to United Kingdom), in subsection (3), the words " or under any Community instrument" shall be inserted after the words " imported goods) " and the words " or under the Community instrument in question " shall be added at the end ; and
  - (b) in section 9 (removal of goods from United Kingdom to Isle of Man), in subsection (5), the words " or under any Community instrument " shall be added at the end.
- (8) This section shall be deemed to have come into force on 31st March 1984.

## **16 Unpaid car tax and value added tax: distress and pouding**

- (1) In paragraph 3(2)(a) and (b) of Schedule 1 to the Car Tax Act 1983 and in paragraph 6(4)(a) and (b) of Schedule 7 to the Value Added Tax Act 1983 (power by regulation to make provision for distress and pouding in connection with unpaid tax) there shall be inserted, after the word " regulations " the words " and for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations ".
- (2) Regulations 58 and 59 of the Value Added Tax (General) Regulations 1980 shall, so far as they relate to costs, charges, expenses and fees in connection with any distraining or pouding occurring after the commencement of this section, have effect as if paragraph 6(4) of Schedule 7 to the Act of 1983 and this section had been in force when those regulations were made.



## PART II

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

## CHAPTER I

### GENERAL

#### 17 Charge of income tax for 1984-85

- (1) Income tax for the year 1984-85 shall be charged at the basic rate of 30 per cent.; and in respect of so much of an individual's total income as exceeds the basic rate limit (£15,400) at such higher rates as are specified in the Table below :

TABLE

<i>Higher rate bands</i>	<i>Higher rate</i>
The first (£2,800)	40 per cent.
The second (£4,900)	45 per cent.
The third (£7,500)	50 per cent.
The fourth (£7,500)	55 per cent.
The fifth	60 per cent.

and paragraphs (a) and (b) of subsection (1) of section 32 of the Finance Act 1971 (charge of tax at the basic and higher rates) shall have effect accordingly.

- (2) The provisions of Schedule 7 to this Act shall have effect with respect to the additional rate for the year 1984-85 and subsequent years of assessment.
- (3) In accordance with the provisions of Schedule 7 to this Act, for the year 1984-85 any sum which, by virtue of any provision of Part III of the Finance Act 1973 or Chapter I of Part III of the Finance Act 1974, is chargeable at the additional rate, as defined for the purposes of that provision, shall be charged to income tax at the additional rate of 15 per cent.

#### 18 Corporation tax for financial years 1983 to 1986: charge, rates and consequential provisions

- (1) Corporation tax shall be charged for each of the financial years specified in the first column of the table in subsection (3) below at the rate specified in the second column of that table.
- (2) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of a company shall, for each of the financial years specified in the first column of the table in subsection (3) below, be the fraction specified in the third column of that table (instead of the fraction specified in section 10(1)(a) of the Finance Act 1974).
- (3) The table referred to in subsections (1) and (2) above is as follows:—

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TABLE

<i>Financial year</i>	<i>Rate of tax</i>	<i>Reducing fraction</i>
1983	50 per cent.	Two-fifths
1984	45 per cent.	One-third
1985	40 per cent.	One-quarter
1986	35 per cent.	One-seventh

(4) In section 310 of the Taxes Act, subsections (1), (2) and (4) (relief for insurance companies where rate of corporation tax exceeds 37.5 per cent.) shall not have effect with respect to the financial year 1986 or any subsequent financial year.

(5) After subsection (6) of the said section 310 there shall be inserted the following subsection:—

“(7) For the purposes of subsection (6) above, 'unrelieved income' means income which has not been excluded from charge to tax by virtue of any provision and against which no relief has been allowed by deduction or set-off”.

(6) With respect to the financial year 1986 and subsequent financial years, in paragraph 2(4) of Schedule 18 to the Finance Act 1972 (which refers to a particular part of unrelieved income) for the words from "subsection (4)" onwards there shall be substituted the words " subsection (7) of that section) from investments held in connection with the company's life assurance business ".

## 19 Rate of advance corporation tax for financial year 1984

The rate of advance corporation tax for the financial year 1984 shall be three-sevenths.

## 20 Corporation tax: other rates and fractions

(1) The small companies rate for each of the financial years 1983 to 1986 shall be 30 per cent.

(2) For each of the financial years specified in the first column of the table set out below the fraction mentioned in subsection (2) of section 95 of the Finance Act 1972 (marginal relief for small companies) shall be the fraction specified in the second column of that table:—

TABLE

<i>Financial year</i>	<i>Marginal relief fraction</i>
1983	One-twentieth
1984	Three-eightieths
1985	One-fortieth
1986	One-eightieth.

- (3) In section 10(3) of the Finance Act 1974 (which fixed for the purposes of section 96 of the Finance Act 1972 the special rate for certain industrial and provident societies, housing associations and building societies) after the words " subsequent years " there shall be inserted the words " up to and including the financial year 1984 " ; and the said section 96 shall not have effect with respect to the financial year 1985 or any subsequent financial year.
- (4) In any case where the said section 96 has effect in relation to one part of an accounting period of a body to which that section applies but, by virtue of subsection (3) above, does not have effect with respect to the other part—
- (a) those parts of that accounting period shall be treated for the purposes of that section as if they were separate accounting periods; and
  - (b) the income of the body for that period (as defined in that section) shall be apportioned between those parts.

## **21 Personal reliefs**

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1984-85.
- (2) In section 8 of the Taxes Act (personal reliefs)—
- (a) in subsection (1)(a) (married) for " £2,795 " there shall be substituted " £3,155 ";
  - (b) in subsection (1)(b) (single) and (2) (wife's earned income relief) for "£1,785 " there shall be substituted " £2,005 ";
  - (c) in subsection (1A) (age allowance) for " £3,755 " and " £2,360 " there shall be substituted " £3,955 " and " £2,490 " respectively ; and
  - (d) in subsection (1B) (income limit for age allowance) for " £7,600 " there shall be substituted " £8,100 ".

## **22 Relief for interest**

- (1) In paragraph 5 of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land)—
- (a) in sub-paragraph (1), for the words from " that is to say " to " reduced " there shall be substituted the words " that is to say, the qualifying maximum for the year of assessment, reduced " ; and
  - (b) in paragraph (b) of that sub-paragraph, for the words from " below " to " more " there shall be substituted the words " below is equal to or exceeds the qualifying maximum for the year of assessment " ; and
  - (c) after that sub-paragraph there shall be inserted the following sub-paragraph:—

“(1A) In this Schedule references to the qualifying maximum for any year of assessment are references to such sum as Parliament may determine for the purpose for that year.”
- (2) In paragraph 6 of that Schedule (continuing relief for an existing home loan where the borrower raises a new loan to purchase another home in which he takes up residence) after sub-paragraph (1) there shall be inserted the following sub-paragraph:—
- “(1A) Where Part I of Schedule 9 to the Finance Act 1972 continues to apply to a loan by virtue of sub-paragraph (1)(a) above, paragraph 5 above shall also

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continue to have effect in relation to the loan as if that Part applied to it by virtue of paragraph 4(1)(a) above.”

- (3) In paragraph 24 of that Schedule (loans to purchase life annuities), in subparagraph (3), for the amounts of money there specified (which, by virtue of section 3(2) of the Finance (No. 2) Act 1983, are £30,000 for the year 1983-84) there shall be substituted in both places the words " the qualifying maximum for the year of assessment " .
- (4) For the year 1984-85 the qualifying maximum referred to in paragraphs 5(1) and 24(3) of Schedule 1 to the Finance Act 1974 shall be £30,000.
- (5) Subsections (1) to (3) above have effect with respect to the year 1984-85 and subsequent years of assessment

### **23 Variation of terms of repayment of certain loans**

- (1) If, in a case where subsection (1) of section 28 of the Finance Act 1982 applies (variation of combined payments where loan interest payable under deduction of tax),
  - (a) on or after the date on which this Act is passed, the qualifying lender concerned gives notice to the qualifying borrower under subsection (2)(a) of that section, and
  - (b) the qualifying borrower gives a notice under subsection (2)(b) of that section, then subsection (4)(b) of that section (which determines the maximum amount of each combined payment where the qualifying borrower has given such a notice) shall have effect subject to the modifications in subsection (2) below.
- (2) The modifications of the said subsection (4)(b) referred to in subsection (1) above are—
  - (a) for the words " first combined payment payable by the borrower after the date referred to in subsection (1)(c) above " there shall be substituted the words " combined payment payable by the borrower on the effective date of the notice under subsection (2)(a) above "; and
  - (b) for the words " year 1983-84 " there shall be substituted the words " year of assessment in which that effective date falls " .
- (3) After subsection (4) of the said section 28 there shall be inserted the following subsection:—
 

“(4A) For the purposes of subsection (4)(b) above, the effective date of a notice under subsection (2)(a) above is the date which, in accordance with regulations, is the due date for the first combined payment which, in consequence of that notice and the notice under subsection (2)(b) above, is a net payment for the purposes of subsection (3)(b) above.”
- (4) In subsection (1) above " qualifying lender ", " qualifying borrower " and " combined payment " have the same meaning as in section 28 of the Finance Act 1982.

### **24 Relief for interest: money borrowed for investment in employee-controlled company**

- (1) Paragraph 10D of Schedule 1 to the Finance Act 1974 (loans applied in investing in employee-controlled companies) shall be amended as follows.

- (2) In sub-paragraph (2), for the words " at least 75 per cent." there shall be substituted the words " more than 50 per cent. ".
- (3) In sub-paragraph (3), for the words " 5 per cent. " there shall be substituted the words " 10 per cent. ".
- (4) After sub-paragraph (3) there shall be inserted the following sub-paragraph—
  - “(3A) Where an individual and his spouse are both full-time employees of the company, sub-paragraph (3) above shall apply in relation to them with the omission of the words ' or he and his spouse together own beneficially'.”.
- (5) Paragraph 10D shall have effect as if the amendments made by this section had been incorporated in that paragraph as originally enacted.

## **25 Self-employed persons living in job-related accommodation**

- (1) In paragraph 4A of Schedule 1 to the Finance Act 1974 (restrictions on relief for loans for purchase etc. of land: persons living in job-related accommodation) after sub-paragraph (3) there shall be inserted the following sub-paragraphs:—
  - “(3A) Subject to sub-paragraph (3B) below, living accommodation is also job-related for a person if, under a contract entered into at arm's length and requiring him or his spouse to carry on a particular trade, profession or vocation, he or his spouse is bound—
    - (a) to carry on that trade, profession or vocation on premises or other land provided by another person (whether under a tenancy or otherwise); and
    - (b) to live either on those premises or on other premises provided by that other person.
  - (3B) Sub-paragraph (3A) above does not apply if the living accommodation concerned is, in whole or in part, provided by—
    - (a) a company in which the borrower or his spouse has a material interest; or
    - (b) any person or persons together with whom the borrower or his spouse carries on a trade or business in partnership.”
- (2) The amendment effected by subsection (1) above has effect—
  - (a) with respect to interest paid on or after 6th April 1983 ; and
  - (b) so far as (by virtue of section 101(8) of the Capital Gains Tax Act 1979) it relates to relief from tax on capital gains, with respect to residence on and after that date in living accommodation which is job-related within the meaning of the said paragraph 4A.

## **26 Determination of reduced rate for building societies and composite rate for banks etc.**

- (1) In the year 1984-85 and in every subsequent year of assessment the Treasury shall by order made by statutory instrument determine a rate which shall, for the following year of assessment, be—
  - (a) the reduced rate for the purposes of section 343 of the Taxes Act (building societies); and

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- (b) the composite rate for the purposes of section 27 of this Act.
- (2) The order made under subsection (1) above in each year of assessment shall—
  - (a) be made before 31st December in that year; and
  - (b) be based only on information relating to periods before the end of the year of assessment in which the order is made.
- (3) Whenever they exercise their powers under this section the Treasury shall aim at securing that (assuming for the purposes of this subsection that the amounts payable by building societies under section 343 of the Taxes Act and by deposit-takers under section 27 of this Act are income tax) the total income tax becoming payable to, and not being repayable by, the Crown is (when regard is had to the operation of those sections) as nearly as may be the same in the aggregate as it would have been if those sections had not been enacted.
- (4) In relation to the exercise of their powers under this section at any time before the year 1988-89, the Treasury may regard subsection (3) above as directed only to amounts payable by building societies under section 343 and to the operation of that section.
- (5) In section 343(1) of the Taxes Act, the proviso and in paragraph (a) the words from " which takes " to " this section " shall cease to have effect as from 6th April 1985.
- (6) An order under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (7) For the purposes of enabling the Treasury to comply with the requirements of subsection (3) above, the Board may by notice in writing require any deposit-taker (within the meaning of paragraph 2 of Schedule 8 to this Act) or building society to furnish to the Board such information about its depositors as the Board may reasonably require for those purposes; and may so require any deposit-taker at any time before the year 1988-89 notwithstanding subsection (4) above.
- (8) The Table in section 98 of the Taxes Management Act 1970 (penalties) shall be amended by inserting at the end of the first column—

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“Section 26 of the Finance Act 1984.”.

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- (9) In subsection (7) above " depositors ", in relation to a building society, includes shareholders.

## **27 Interest paid on deposits with banks etc.**

- (1) Any deposit-taker making a payment of interest in respect of any relevant deposit shall be liable to account for and pay an amount representing income tax on that payment, calculated by applying the composite rate (determined in accordance with section 26 of this Act) to the grossed-up amount of the payment, that is to say to the amount which after deduction of tax at the composite rate would be equal to the amount actually paid.
- (2) Any payment of interest within subsection (1) above shall be treated as not being within section 54 of the Taxes Act (annual interest).
- (3) Schedule 8 to this Act shall have effect for the purpose of supplementing this section.
- (4) Subject to paragraph 6(1) of Schedule 8, this section applies in relation to payments made after 5th April 1985.

## **28 Accommodation allowances and expenditure of MPs**

- (1) An allowance—
  - (a) which is paid to a Member of the Commons House of Parliament in respect of any period after 31st March 1984, and
  - (b) for which provision is made by Resolution of that House, and
  - (c) which is expressed to be in respect of additional expenses necessarily incurred by the Member in staying overnight away from his only or main residence for the purpose of performing his parliamentary duties, either in the London area, as defined in such a Resolution, or in his constituency,shall not be regarded as income for any income tax purpose.
- (2) For the year 1984-85 and subsequent years of assessment,—
  - (a) no deduction shall be made under section 189 of the Taxes Act (relief for necessary expenses) in respect of expenditure incurred by a Member of the Commons House of Parliament in, or in connection with, the provision or use of residential or overnight accommodation to enable him to perform his duties as such a Member in or about the Palace of Westminster or his constituency ; and
  - (b) no allowance shall be made under Chapter I of Part III of the Finance Act 1971 (capital allowances) in respect of any expenditure so incurred.

## **29 Terminal grants to Representatives to the Assembly of the European Communities etc.**

- (1) Grants made under section 3 of the European Assembly (Pay and Pensions) Act 1979 (resettlement grants to persons ceasing to be Representatives) and payments under section 13 of the Parliamentary Pensions etc. Act 1984 (grants to persons ceasing to hold certain Ministerial and other offices) shall be exempt from income tax under Schedule E as emoluments, but without prejudice to their being taken into account, to the extent permitted by section 188(3) of the Taxes Act, under section 187 of that Act.
- (2) This section applies to grants and payments whenever made.

## **30 Reduction and abolition of reliefs in relation to foreign earnings and emoluments etc.**

- (1) Paragraphs 2 and 3 of Schedule 7 to the Finance Act 1977 (relief from income tax under Case I of Schedule E in relation to short or intermittent absences abroad and foreign employments) shall cease to apply in relation to years of assessment after the year 1984-85 ; and in relation to the year 1984-85 those paragraphs shall have effect with the substitution for the words " one-quarter " of the words " one-eighth ".
- (2) Section 27 of the Finance Act 1978 (relief from income tax under Case I or Case II of Schedule D in relation to short or intermittent absences abroad) shall cease to apply in relation to years of assessment after the year 1984-85 ; and in relation to the year 1984-85 paragraph 4 of Schedule 4 to that Act shall have effect with the substitution for the words " one-quarter " of the words " one-eighth ".
- (3) Subject to subsection (4) below, section 23(3) of the Finance Act 1974 (relief from income tax in respect of trade, profession or vocation carried on abroad) shall cease to apply in relation to any year of assessment after the year 1984-85.

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- (4) Section 23(3) of the Finance Act 1974 shall continue to have effect in relation to losses sustained before the year 1983-84 and capital allowances for any year of assessment before 1984-85 and shall have effect—
- (a) in relation to losses sustained in the year 1983-84, and capital allowances for the year 1984-85, with the substitution for the words " three-quarters " of the words " seven-eighths ";
  - (b) in relation to losses sustained after 5th April 1984, with the omission of the restriction of the relief given by subsection (2) of section 23 ; and
  - (c) in relation to any charge to tax for the year 1984-85, with the substitution for the words " one-quarter " of the words " one-eighth ".
- (5) Paragraph 35 of Schedule 9 to the Finance Act 1981 (reduction of stock relief where relief from income tax given under section 23(3) of the Finance Act 1974) shall have effect in relation to any relief under that Schedule for which the relevant year of assessment is the year 1984-85—
- (a) with the omission of the words " of one-quarter of the amount of that income " ; and
  - (b) with the substitution for the words " three-quarters " of the words " seven-eighths ";
- and where by virtue of that paragraph any relief is reduced in the year which is the relevant year of assessment for that relief, it shall be so reduced in any subsequent year in which effect is given to it.
- (6) For the purposes of subsection (4) above, any reference to capital allowances for a year of assessment shall be construed as a reference to those falling to be made in taxing the trade, profession or vocation for that year but excluding any part of the allowances carried forward from an earlier year.
- (7) Subject to subsection (8) below, section 188(2)(a) of the Taxes Act (relief from income tax in relation to payments on retirement or removal from certain foreign offices and employments) shall cease to apply in any case where the relevant date (within the meaning of section 188) falls after 13th March 1984.
- (8) Subsection (7) above does not apply where the payment is made before 1st August 1984 in pursuance of an obligation incurred before 14th March 1984.
- (9) Subject to subsection (10) below, paragraph 3 of Schedule 2 to the Finance Act 1974 (relief from income tax in relation to foreign emoluments chargeable under Case I or Case II of Schedule E) shall cease to apply in relation to years of assessment after the year 1983-84.
- (10) Subsection (9) above does not apply in relation to any year of assessment, before the year 1989-90, in which—
- (a) the conditions mentioned in subsection (11) below are satisfied in relation to the holder of the office or employment in question; and
  - (b) the deduction from emoluments would (by virtue of paragraph 3(2) of Schedule 2 and disregarding this section) be one-half.
- (11) The conditions referred to in subsection (10) above are—
- (a) that the person in question either held a foreign employment at any time in the period beginning with 6th April 1983 and ending with 13th March 1984 or did not hold a foreign employment in that period but, in fulfilment of an



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obligation incurred before 14th March 1984, performed duties of a foreign employment in the United Kingdom before 1st August 1984 ; and

- (b) that he has held a foreign employment in the year 1984-85 and in each subsequent year of assessment.

In this subsection " foreign employment" means an office or employment the emoluments of which are foreign emoluments chargeable under Case I or Case II of Schedule E.

- (12) Where by virtue of subsection (10) above paragraph 3(2) of Schedule 2 to the Finance Act 1974 continues to have effect in relation to the year 1987-88 or the year 1988-89, it shall do so with the substitution for the words " one-half " of the words " one-quarter ".
- (13) In section 23(4) of the Act of 1974, for the words from " in the charging " to " this section " there shall be substituted the words " falling within subsection (1) above ".
- (14) In section 31(2) of the Finance Act 1977—
- (a) the words from the beginning to " emoluments); and " shall cease to have effect; and
- (b) for the words " the said Schedule 2 " there shall be substituted the words " Schedule 2 to the Finance Act 1974 ".
- (15) Subsections (13) and (14) above shall have effect in relation to the year 1985-86 and subsequent years of assessment.

### **31 Scholarships**

- (1) In subsection (3) of section 62A of the Finance Act 1976 (scholarships)—
- (a) after paragraph (b) there shall be inserted—
- “; and
- (c) which would not be regarded, for the purposes of this Chapter, as provided by reason of a person's employment were subsection (2) above and section 72(3) below to be disregarded ;”;
- (b) for the words from " so held " to the end there shall be substituted the words " held as mentioned in paragraph (b) above is attributable to relevant scholarships. ".
- (2) In subsection (4) of section 62A—
- (a) after the word " section " where it first occurs, there shall be inserted—
- “relevant scholarship ' means a scholarship which is provided by reason of a person's employment (whether or not that employment is director's or higher-paid employment); and”;
- (b) at the end there shall be inserted—
- “For the purposes of the definition of relevant scholarship, ' employment' includes an office or employment whose emoluments do not fall to be assessed under Schedule E but would fall to be so assessed if the employee were resident, and ordinarily resident, and all the duties of the employment were performed wholly, in the United Kingdom.”.

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(3) In section 20 of the Finance Act 1983 (which inserts section 62A into the Act of 1976 and specifies the payments to which it applies), for subsection (3)(c) there shall be substituted—

“(c) in relation to payments made after 5th April 1989, the person holding the scholarship is receiving full-time instruction at the university, college, school or other educational establishment at which he was receiving such instruction on—

- (i) 15th March 1983, in a case where the first payment in respect of the scholarship was made before that date ; or
- (ii) the date on which the first such payment was made, in any other case.

(3A) For the purposes of subsection (3)(c) above, a payment made before 6th April 1989 in respect of any period beginning on or after that date shall be treated as made at the beginning of that period.”

(4) The amendments made by subsections (1) and (2) above shall have effect in relation to payments made on or after 6th April 1984 and those made by subsection (3) shall be deemed to have been incorporated in section 20 of the Finance Act 1983 as originally enacted.

### **32 Apportionment of income etc. of close companies**

(1) In paragraph 5(4) of Schedule 16 to the Finance Act 1972 (minimum amount on which an individual is to be assessed to income tax by virtue of apportionment), in paragraph (a), for the words " £200 " there shall be substituted the words " £1,000 ".

(2) This section has effect in relation to accounting periods ending on or after 6th April 1984.

### **33 Employees seconded to charities: extension of relief to individual traders etc.**

Section 28 of the Finance Act 1983 (relief in cases where a company secondes an employee to a charity) shall have effect and be deemed always to have had effect with the insertion, after subsection (2), of the following subsections:—

“(2A) In any case where a person (" the employer ") who is not a company makes available to a charity, on a basis which is expressed and intended to be of a temporary nature, the services of a person who is in his employment for the purposes of a trade carried on by the employer, subsections (1) and (2) above apply as if references therein to a company were references to the employer.

(2B) This section applies in relation to a profession or vocation as it applies in relation to a trade, taking the reference in subsection (2) above to Case I of Schedule D as a reference to Case II of that Schedule.”

### **34 Building societies: interest to be payable gross on certain deposits**

(1) In paragraph (iii) of the proviso to subsection (3) of section 343 of the Taxes Act (arrangements for payment of income tax on interest etc. paid by building societies) after the words " certificate of deposit" there shall be inserted the words " or on any qualifying time deposit ".

- (2) After subsection (8A) of that section there shall be inserted the following subsection—
- “(8B) In subsection (3) above " qualifying time deposit" means a deposit which is made with the society concerned by way of loan and which—
- (a) is in sterling and for an amount which is not less than £50,000;
  - (b) is made on terms requiring repayment of the loan at the end of a specified period which expires before the end of the period of twelve months beginning on the date on which the deposit is made; and
  - (c) is not made on terms which make provision for the transfer of the right to repayment.”
- (3) This section has effect in relation to interest on qualifying time deposits (as defined above) which is or was payable after 30th September 1983.

### **35 Interest on quoted Eurobonds**

- (1) Section 54 of the Taxes Act (deduction of income tax from certain interest payments) shall not apply to interest paid on any quoted Eurobond where—
- (a) the person by or through whom the payment is made is not in the United Kingdom ; or
  - (b) the payment is made by or through a person who is in the United Kingdom but either of the conditions mentioned in subsection (2) below is satisfied.
- (2) The conditions are—
- (a) that it is proved, on a claim in that behalf made to the Board, that the person who is the beneficial owner of the quoted Eurobond and is entitled to the interest is not resident in the United Kingdom;
  - (b) that the quoted Eurobond is held in a recognised clearing system.
- (3) In a case falling within subsection (1)(b) above, the person by or through whom the payment is made shall deliver to the Board—
- (a) on demand by the Board, an account of the amount of any such payment; and
  - (b) not later than 12 months after making any such payment, and unless within that time he delivers an account with respect to the payment under paragraph (a) above, a written statement specifying his name and address and describing the payment.
- (4) In section 248 of the Taxes Act (allowance of charges on company's income), the following paragraph shall be inserted after paragraph (a) of subsection (4)—
- “(aa) by virtue of section 35 of the Finance Act 1984 (interest on quoted Eurobonds), section 54 of this Act does not apply to the payment; or”.
- (5) Where by virtue of any provision of the Tax Acts interest paid on any quoted Eurobond is deemed to be income of a person other than the person who is the beneficial owner of the quoted Eurobond, subsection (2)(a) above shall apply as if it referred to that other person.
- (6) Subsections (3) to (6) of section 159 of the Taxes Act (assessment and charge to tax etc. in respect of foreign dividends) shall apply in relation to interest on quoted Eurobonds as they apply in relation to foreign dividends but with the following modifications—

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- (a) subsection (4) shall apply as if it required a claim to have been made on or before the event by virtue of which tax would otherwise be chargeable; and
  - (b) paragraph 6 of Schedule 5 to that Act shall apply with the omission of paragraphs (a) and (b).
- (7) In this section—
- " quoted Eurobond " means a security which—
    - (a) is issued by a company;
    - (b) is quoted on a recognised stock exchange (within the meaning of section 535 of the Taxes Act);
    - (c) is in bearer form ; and
    - (d) carries a right to interest; and
  - " recognised clearing system " means any system for clearing quoted Eurobonds which is for the time being designated for the purposes of this section, by order made by the Board, as a recognised clearing system.
- (8) An order under subsection (7) above—
- (a) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient; and
  - (b) may be varied or revoked by a subsequent order so made.
- (9) In the Table in section 98 of the Taxes Management Act 1970, at the end of the second column there shall be inserted—

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“Section 35(3) of the Finance Act 1984.”.

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- (10) This section has effect in relation to payments of interest made after the passing of this Act.

### **36 Deep discount securities**

- (1) Schedule 9 to this Act shall have effect with respect to the treatment, for the purposes of income tax, corporation tax and capital gains tax, of deep discount securities.
- (2) For the purposes of this section—
- " the amount payable on redemption " does not include any amount payable by way of interest;
  - " a deep discount", in relation to any redeemable security, means a discount which—
    - (a) represents more than 15 per cent, of the amount payable on redemption of that security ; or
    - (b) is 15 per cent, or less, but exceeds half Y per cent., of the amount so payable (where Y is the number of complete years between the date of issue of the security and the redemption date);
  - " a deep discount security " means any redeemable security which has been issued by a company at a deep discount, other than—
    - (a) a share in the company ;
    - (b) a security in respect of which the amount payable on redemption is determined by reference to the movement of the retail prices index (within the meaning of section 24 of the Finance Act 1980) or any similar

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- general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom ; or
- (c) a security, the whole or any part of which falls, by virtue of section 233(2)(c) of the Taxes Act, within the meaning of " distribution " in the Corporation Tax Acts;
- " a discount" means any amount by which the issue price of a redeemable security is less than the amount payable on redemption of that security; and
- " the redemption date" in relation to any redeemable security, means the earliest date on which, under the terms on which the security is issued, the holder of the security will be entitled to require it to be redeemed by the company which issued it.
- (3) Where securities which were issued on or before 13th March 1984 have been exchanged, at any time after that date, for new securities which would be deep discount securities but for this subsection, the new securities shall not be treated as deep discount securities if—
- (a) the old securities would not have been deep discount securities if they had been issued after 13th March 1984;
- (b) the date which is the redemption date in relation to the new securities is not later than the date which was the redemption date in relation to the old securities ; and
- (c) the amount payable on redemption of the new securities does not exceed the amount which would have been payable on redemption of the old securities.
- (4) For the purposes of this section, a security comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the security conferred by the letter or instrument remains provisional until accepted, and there has been no acceptance.
- (5) Subject to paragraph 3(8) of Schedule 9 to this Act, this section shall have effect in relation to securities issued after 13th March 1984.

### **37 Business expansion scheme**

- (1) In paragraph 6(2) of Schedule 5 to the Finance Act 1983 (trades which are excluded from being qualifying trades for purposes of business expansion scheme) there shall be added, at the end, the words " or of farming ".
- (2) After that paragraph there shall be inserted—
- “(2A) A trade shall not be treated as failing to comply with this paragraph by reason only of its consisting to a substantial extent of receiving royalties or licence fees if—
- (a) the company carrying on the trade is engaged throughout the relevant period in the production of films; and
- (b) all royalties and licence fees received by it in that period are in respect of films produced by it or sound recordings in relation to such films or other products arising from such films.
- (2B) In this paragraph—
- ' film' means an original master negative of a film, an original master film disc or an original master film tape; and

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' sound recording' means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape.”.

- (3) Subsection (1) of this section has effect in relation to shares issued after 13th March 1984.

### **38 Approved share option schemes**

- (1) The provisions of this section shall apply where, on or after 6th April 1984, an individual obtains a right to acquire shares in a body corporate—
- (a) by reason of his office or employment as a director or employee of that or any other body corporate ; and
  - (b) in accordance with the provisions of a scheme approved under Schedule 10 to this Act.
- (2) Subject to subsection (5) below, tax shall not be chargeable under any provision of the Tax Acts in respect of the receipt of the right.
- (3) If the conditions mentioned in subsection (4) below are satisfied and he exercises the right in accordance with the provisions of the scheme at a time when it is approved under Schedule 10—
- (a) tax shall not be chargeable under any provision of the Tax Acts in respect of the exercise nor under section 79(4) of the Finance Act 1972 in respect of an increase in the market value of the shares ;
  - (b) section 29A(1) of the Capital Gains Tax Act 1979 (assets deemed to be acquired at market value) shall not apply in calculating the consideration for the acquisition of the shares by him or for any corresponding disposal of them to him.
- (4) The conditions are that—
- (a) the period beginning with his obtaining the right and ending with his exercising it is not less than three, nor greater than ten, years ;
  - (b) the right is not exercised within three years of the date on which he last exercised (in circumstances in which paragraphs (a) and (b) of subsection (3) above apply) any right obtained under the scheme or under any other scheme approved under Schedule 10 (any such right exercised on the same day as the right in question being disregarded).
- (5) Where the aggregate of—
- (a) the amount or value of any consideration given by him for obtaining the right; and
  - (b) the price at which he may acquire the shares by exercising the right;
- is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (6) For the purposes of section 32(1)(a) of the Capital Gains Tax Act 1979 (computation of chargeable gains: allowable expenditure), the consideration given for shares acquired in the exercise of the right shall be taken to have included that part of any amount

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on which income tax is payable in accordance with subsection (5) above which is attributable to the shares disposed of.

This subsection applies whether or not the exercise is in accordance with the provisions of the scheme and whether or not the scheme is approved at the time of the exercise.

- (7) Subsections (8) and (9) below apply where he is chargeable to tax under subsection (5) above on any amount ("the amount of the discount") and subsequently, in circumstances in which subsection (3) above does not apply—
- (a) is chargeable to tax under section 186 of the Taxes Act (directors and employees of companies granted rights to acquire shares: charge to tax under Schedule E); or
  - (b) is treated by virtue of section 67 of the Finance Act 1976 (benefits in kind: employee shareholdings) as having had the benefit of a notional interest-free loan.
- (8) In a case falling within subsection (7)(a) above the amount of the gain on which he is chargeable to tax under section 186 shall be reduced by that part of the amount of the discount which is attributable to the shares in question.
- (9) In a case falling within subsection (7)(b) above the amount of the notional loan initially outstanding shall be reduced by that part of the amount of the discount which is attributable to the shares in question.
- (10) The Table in section 98 of the Taxes Management Act 1970 (penalties) shall be amended by inserting at the end of the first column—

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“Paragraph 14 of Schedule 10 to the Finance Act 1984.”.

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### **39 Share options**

- (1) In section 47(1)(b)(ii) of the Finance Act 1980 (section 29A(1) of the Capital Gains Tax Act 1979 not to apply in calculating consideration for acquisition of shares under savings-related share option scheme), the words "by him or any corresponding disposal of them to him" shall be added at the end.
- (2) In Schedule 10 to that Act, in paragraph 1(1) (conditions for approval of such schemes) the following paragraphs shall be inserted after paragraph (a)—
- “(aa) if they are satisfied that there are no features of the scheme (other than any which are included to satisfy requirements of this Schedule) which have or would have the effect of discouraging any of the persons who fulfil the conditions in paragraph 20(1)(a) to (c) below from actually participating in the scheme; and
  - (ab) where the company concerned is a member of a group of companies, if they are satisfied that the scheme does not and would not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of the higher or highest levels of remuneration; and”.
- (3) In paragraph 1 of that Schedule the following sub-paragraph shall be inserted after sub-paragraph (1):—

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- “(1A) In sub-paragraph (1)(ab) above, a group of companies means a company and any other companies of which it has control.”
- (4) In paragraph 3(1) of that Schedule, for the words from " any of the conditions " to " ceases to be satisfied " there shall be substituted the words " they cease to be satisfied as mentioned in paragraph 1 above ".
- (5) In paragraph 13 the words " (not exceeding £50 monthly) " shall be omitted and at the end there shall be inserted—
- “(2) Subject to sub-paragraph (3) below, the scheme must not—
- (a) permit the aggregate amount of a person's contributions under certified contractual savings schemes linked to schemes approved under this Schedule to exceed £100 monthly, nor
- (b) impose a minimum on the amount of a person's contributions which exceeds £10 monthly.
- (3) The Treasury may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament, amend sub-paragraph (2) above by substituting for any amount for the time being specified in that sub-paragraph such amount as may be specified in the order.”
- (6) In paragraph 20 of that Schedule (conditions as to persons eligible to participate)—
- (a) at the end of sub-paragraph (1) there shall be added the words " and those who do participate in the scheme must actually do so on similar terms "; and
- (b) at the end of sub-paragraph (2) there shall be added the words " or do not actually do so ".
- (7) In section 40 of the Finance Act 1982 (share options), subsections (4) and (5) (payment of tax by instalments) shall cease to have effect in relation to any right to acquire shares which is obtained after 5th April 1984.
- (8) In relation to any such right which is obtained before 6th April 1984 and exercised after 5th April 1983, section 40 of the Act of 1982 shall be amended as follows—
- (a) in subsections (4) and (5) (payment of tax by instalments)—
- (i) for the word " three ", in each place where it occurs, there shall be substituted the word " five "; and
- (ii) for the word " third ", in each place where it occurs, there shall be substituted the word " fifth "; and
- (b) for paragraph (c) of subsection (4) there shall be substituted the following paragraph:—
- “(c) the second, third and fourth instalments shall be due on such dates as will secure, so far as may be, that the interval between any two consecutive instalments is the same”.
- (9) Subsection (1) above shall apply to acquisitions and disposals made after 14th November 1980, subsection (5) above shall come into force on such day as the Treasury may by order made by statutory instrument appoint for the purposes of this subsection, and the amendments made by this section to Schedule 10 to the 1980 Act shall apply in relation to schemes whenever approved.



#### **40 Share incentive schemes: shares in authorised unit trusts**

(1) In section 79 of the Finance Act 1972 (share incentive schemes) in subsection (2) (exemptions from the income tax charge on increase in value) at the end of paragraph (b) there shall be inserted the following paragraph:—

“(bb) the acquisition was an acquisition of an interest in shares and that interest consists of shares in an authorised unit trust (hereafter in this section referred to as " units ") and—

- (i) prior to the acquisition the unit trust was approved by the Board for the purposes of this section and, at the time of the acquisition, continues to be so approved, and
- (ii) the condition in subsection (2B) below is fulfilled with respect to the body corporate (in that subsection referred to as " the relevant company "), directorship of or employment by which gave rise to the right or opportunity by virtue of which the acquisition was made ; or ””

(2) After subsection (2A) of that section there shall be inserted the following subsection:

—  
“(2B) The condition referred to in subsection (2)(bb) above is fulfilled with respect to the relevant company if, for no continuous period of one month or more, throughout which any director or employee of the relevant company either—

- (a) has, by virtue of his office or employment, any such right or opportunity as is referred to in subsection (1) above to acquire units in the unit trust, or
- (b) retains any beneficial interest in any units in the unit trust which he acquired in pursuance of such a right or opportunity,

do investments in the relevant company and in any other company in relation to which the relevant company is an associated company make up more than 10 per cent. by value of the investments subject to the trusts of the unit trust.”

(3) After subsection (4) of that section there shall be inserted the following subsection:—

“(4A) In any case where subsection (4) above applies and the acquisition was an acquisition of units,—

- (a) any reference in that subsection or in subsections (5), (6), (9) and (11) below to shares shall be construed as a reference to units ; and
- (b) any reference in those subsections to an interest in shares shall be omitted.”

(4) In Part VII of Schedule 12 to the Finance Act 1972 (provisions supplementary to sections 77 to 79 of that Act) after paragraph 3 there shall be inserted the following paragraph:—

“3A The Board may by notice in writing require the managers or trustees of any unit trust scheme which is an authorised unit trust approved by the Board for the purposes of section 79 of this Act to furnish to the Board, within such time as they may direct (but not being less than thirty days), such information as the Board think necessary for the purposes of enabling them—

- (a) to determine whether the condition in subsection (2B) of that section is being or has at any time been fulfilled; and

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- (b) to determine the liability to tax of any unit holder whose rights were acquired as mentioned in subsection (1) of that section.”
- (5) In paragraph 6 of that Schedule (interpretation) after the definition of " associated company " there shall be inserted—
  - “‘ authorised unit trust' and ' unit holder' have the meaning assigned to them by section 358 of the Taxes Act;”
- (6) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) in the entry in the second column which begins " Paragraph 3 of Part VII of Schedule 12 to the Finance Act 1972 " after the words " Paragraph 3 " there shall be inserted the words " or paragraph 3A " .
- (7) This section applies to acquisitions on or after 6th April 1984.

#### **41 Share incentive schemes: exemption for certain acquisitions**

- (1) After subsection (1) of section 79 of the Finance Act 1972 (share incentive schemes) there shall be inserted—
  - “(1A) Where—
    - (a) a director or employee of a body corporate acquires shares in pursuance of an opportunity to acquire shares of that class offered to directors and employees of the body in their capacity as such (' the discount offer '); and
    - (b) the discount offer is made in conjunction with an offer to the public (' the main offer ') under which shares of the same class may be acquired on the same terms, except that a discount in price is offered to directors and employees ; and
    - (c) the director or employee is chargeable to tax under Schedule E on an amount equal to the discount in the price of the shares acquired by him ; and
    - (d) at least 75 per cent, of the aggregate number of shares of the class in question which are acquired in pursuance of the discount offer and the main offer taken together are shares acquired in pursuance of the main offer,
 he shall be treated for the purposes of subsection (1) above as acquiring the shares in pursuance of an offer to the public.
  - (1B) Where a director or an employee acquires an interest in shares, subsection (1A) above shall apply as if the references in that subsection to the acquisition of shares were references to the acquisition of an interest in shares.”.
- (2) In paragraph 3 of Part VII of Schedule 12 to that Act (furnishing of information) there shall be inserted at the end—
  - “(2) For the purposes of this paragraph subsections (1A) and (1B) of section 79 shall be disregarded.”

## **42 Discounts on bills of exchange drawn by trading companies etc.**

- (1) This section applies in any case where—
  - (a) a bill of exchange drawn by a company is or was accepted by a bank and discounted by that or any other bank or by a discount house ; and
  - (b) the bill becomes or became payable on or after 1st April 1983; and
  - (c) the discount suffered by the company is not (apart from this section) deductible in computing the company's profits or any description of those profits for purposes of corporation tax.
- (2) Subject to subsection (3) below, in computing, in a case where this section applies, the corporation tax chargeable for the accounting period of the company in which the bill of exchange is paid, an amount equal to the discount referred to in subsection (1)(c) above shall be allowed as a deduction against the total profits for the period as reduced by any relief other than group relief and, except for the purposes of an allowance under section 248(1) of the Taxes Act, that amount shall be treated for the purposes of the Corporation Tax Acts as a charge on income.
- (3) Subsection (2) above shall not apply if the discount is not ultimately suffered by the company and shall not apply unless—
  - (a) the company exists wholly or mainly for the purpose of carrying on a trade ; or
  - (b) the bill is drawn to obtain funds which are wholly and exclusively expended for the purposes of a trade carried on by the company ; or
  - (c) the company is an investment company, as defined by section 304(5) of the Taxes Act.
- (4) Where an amount falls to be allowed as mentioned in subsection (2) above, there may be deducted, in computing the profits or gains of the company to be charged under Case I of Schedule D, the incidental costs incurred on or after 1st April 1983 in securing the acceptance of the bill by the bank; and those incidental costs shall be treated for the purposes of section 304 of the Taxes Act as expenses of management.
- (5) For the purposes of subsection (4) above " incidental costs" means fees, commission and any other expenditure wholly and exclusively incurred for the purpose of securing the acceptance of the bill.
- (6) In this section " bank " means a bank carrying on a bona fide banking business in the United Kingdom and "discount house " means a person bona fide carrying on the business of a discount house in the United Kingdom.

## **43 Incidental costs of obtaining loan finance**

- (1) In section 38 of the Finance Act 1980 (incidental costs of obtaining loan finance)—
  - (a) at the beginning of subsection (1) there shall be inserted the words " Subject to subsection (3B) below ";
  - (b) in subsection (2) for the words " Subject to subsection (3)" there shall be substituted the words " Subject to subsections (3) and (3A) ";
  - (c) at the beginning of subsection (3) there shall be inserted the words " Except as provided by subsection (3A) below ".
- (2) After subsection (3) of that section there shall be inserted the following subsections:—
  - “(3A) A loan or loan stock—
    - (a) which carries such a right as is referred to in subsection (3) above, and

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- (b) which, by virtue of that subsection, is not a qualifying loan or qualifying loan stock,

shall, nevertheless be regarded as a qualifying loan or qualifying loan stock, as the case may be, if the right is not, or is not wholly, exercised before the expiry of the period of three years from the date when the loan was obtained or the stock was issued.

- (3B) For the purposes of the application of subsection (1) above in relation to a loan or loan stock which is a qualifying loan or qualifying loan stock by virtue of subsection (3A) above—

- (a) if the right referred to in paragraph (a) of subsection (3A) above is exercised as to part of the loan or stock within the period referred to in that subsection, only that proportion of the incidental costs of obtaining finance which corresponds to the proportion of the stock in respect of which the right is not exercised within that period shall be taken into account; and
- (b) in so far as any of the incidental costs of obtaining finance are incurred before the expiry of the period referred to in subsection (3A) above they shall be treated as incurred immediately after that period expires.”

- (3) The amendments effected by this section have effect in relation to expenditure incurred on or after 1st April 1983.

#### **44 Trustee savings banks**

- (1) For the purposes of sections 256 to 264 (group income and group relief) and 272 to 281 (groups of companies) of the Taxes Act, a trustee savings bank as defined in section 54(1) of the Trustee Savings Banks Act 1981 shall be deemed to be a body corporate.

- (2) In section 272(2) of the Taxes Act (meaning of "company" in provisions relating to transfer of assets within a group of companies) the following shall be added at the end—

“; and

- (d) a trustee savings bank as defined in section 54(1) of the Trustee Savings Banks Act 1981.”.

- (3) Subsection (1) above, so far as it applies to sections 256 and 257 of the Taxes Act, has effect in relation to dividends paid, and other payments made, after the passing of this Act and, so far as it applies to sections 258 to 264 of that Act, has effect in relation to any accounting period of the surrendering company ending on or after 20th November 1982.

- (4) Subsection (2) above, and subsection (1) above so far as it applies to sections 272 to 281, shall be deemed to have come into force on 21st November 1982.

#### **45 Pension funds etc.: extension of tax exemptions to dealings in financial futures and traded options**

- (1) For the purpose of each of the enactments specified in subsection (2) below (which confer on certain pension funds and schemes either exemption from income tax in

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respect of income derived from investments or exemption from capital gains tax in respect of gains accruing on the disposal of investments) a contract entered into in the course of dealing in financial futures or traded options shall be regarded as an investment.

- (2) The enactments referred to in subsection (1) above are—
  - (a) sections 211(2), 214(2), 216(2), 217(2), and 226(6) of the Taxes Act;
  - (b) subsections (2) and (7) of section 21 of the Finance Act 1970; and
  - (c) subsections (2)(a) and (3) of section 36 of the Finance Act 1980.
- (3) In this section "traded option" means an option which is for the time being quoted on a recognised stock exchange, within the meaning of section 535 of the Taxes Act, or on the London International Financial Futures Exchange.

#### **46 Consortia: group income and relief**

- (1) With respect to dividends and other payments paid or made after 31st December 1984, in section 256 of the Taxes Act (group income) in subsection (6)(c) (which provides that, for the purposes of that section, a company is owned by a consortium if, among other conditions, three-quarters of the company's ordinary share capital is beneficially owned by five or fewer companies resident in the United Kingdom) the words "five or fewer" shall be omitted.
- (2) In section 258 of the Taxes Act (group relief) for subsection (8) (company owned by a consortium) there shall be substituted the following subsection:—
  - (8) For the purposes of this and the following sections of this Chapter, a company is owned by a consortium if three-quarters or more of the ordinary share capital of the company is beneficially owned between them by companies of which none beneficially owns less than one-twentieth of that capital, and those companies are called the members of the consortium."
- (3) Subject to subsections (4) and (5) below, subsection (2) above has effect with respect to accounting periods of the surrendering company (within the meaning of the said section 258) ending after the passing of this Act.
- (4) In any case where, immediately before the passing of this Act,—
  - (a) for the purposes of sections 258 onwards of Chapter I of Part XI of the Taxes Act, a company was owned by a consortium, and
  - (b) any of the members of that consortium beneficially owned less than one-twentieth of the ordinary share capital of the company,then, as respects accounting periods of the company ending on or before 31st March 1986, if and so long as all the ordinary share capital of the company continues to be beneficially owned between them by five or fewer companies which include a member falling within paragraph (b) above, the ordinary share capital which is beneficially owned by that member shall be deemed for the purposes of subsection (8) of section 258 of the Taxes Act (as set out in subsection (2) above) to constitute not less than one-twentieth of that capital.
- (5) In any case where section 258(8) of the Taxes Act is relevant to the question whether two companies are associated with one another for the purposes of Part II of the Oil Taxation Act 1975 (by virtue of the definition in section 19(3) of that Act), without prejudice to subsection (4) above, subsection (2) above has effect in relation to any

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allowance or distribution made, interest paid or other thing done after the passing of this Act.

#### **47 Group relief: apportionment**

- (1) In section 262 of the Taxes Act (companies joining or leaving group or consortium) subsection (2) (true accounting period to be treated as two or more separate accounting periods with profits and losses etc. apportioned) shall be amended as follows:—
- (a) in paragraph (a), the words " on a time basis according to their lengths " shall be omitted ; and
  - (b) in paragraph (b), the word " so " shall be omitted ; and
  - (c) at the end there shall be added the words " and an apportionment under this subsection shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other method shall be used as appears just and reasonable. "
- (2) At the end of subsection (4) of the said section 262 (application of subsections (2) and (3) to consortia) there shall be added the words " except that in a case where—
- (a) the surrendering company is owned by a consortium and two or more members of the consortium claim relief in respect of losses or other amounts of the surrendering company, or
  - (b) the claimant company is owned by a consortium and claims relief in respect of losses or other amounts of two or more members of the consortium,
- the basis of apportionment which is adopted under subsection (2) above in relation to the losses or other amounts or, as the case may be, the total profits of the true accounting period of the company owned by the consortium shall be the same on each of the claims."
- (3) Subsections (1) and (2) above apply in any case where—
- (a) the occasion giving rise to the apportionment under subsection (2) of the said section 262 occurs after 13th March 1984; and
  - (b) the true accounting period referred to in that subsection begins after 7th November 1983.

#### **48 Ending of stock relief**

- (1) No relief shall be given and no charge shall be made under Schedule 9 to the Finance Act 1981 in respect of any period of account beginning after 12th March 1984.
- (2) The following provisions of that Schedule shall have effect as if any period of account beginning on or before and ending after 12th March 1984 ended on that date—
- (a) paragraph 3(1), (2) and (4) (entitlement to relief from income tax);
  - (b) paragraph 4(1), (3) and (4) (recovery of income tax relief on cessation of trade etc.);
  - (c) paragraph 12(1), (2) and (4) (entitlement to relief from corporation tax);
  - (d) paragraph 13(1) and (3) (recovery of corporation tax relief on cessation of trade etc.);
  - (e) paragraph 19 (new businesses);
  - (f) paragraph 20 (successions: transfers between related traders);

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- and accordingly no relief shall be given or charge made under those provisions in respect of any such period of account by virtue of any event occurring after that date.
- (3) Subsection (2) above shall not affect the date on which trading stock is to be valued for the purposes of sub-paragraph (2)(a) of paragraph 19 of that Schedule.
- (4) No obligation shall arise under paragraph 1 of that Schedule to prepare and publish the all stocks index for any month after March 1984.
- (5) Where there is a change in the persons carrying on a trade, profession or vocation after 12th March 1984 and (apart from this subsection) sub-paragraph (2) of paragraph 21 of that Schedule (successions: changes in persons carrying on trades) would apply—
- (a) sub-paragraphs (1) to (4) of that paragraph shall not apply; and
  - (b) sub-paragraph (5) shall apply with the omission of paragraph (a).
- (6) An election for the herd basis made under paragraph 2 of Schedule 6 to the Taxes Act after the passing of this Act but not later than two years after the end of the first period of account of the person making the election commencing on or after 13th March 1984 shall be valid notwithstanding that it is not made within the time required by paragraph 2(3) or 6(2) of that Schedule.
- (7) An election which is valid by virtue only of subsection (6) above shall have effect only for the first relevant chargeable period and for subsequent chargeable periods.
- (8) For the purposes of subsection (7) above the first relevant chargeable period is—
- (a) in a case where the election so specifies, the first chargeable period for which the profits or gains or losses of the trade in question are computed by reference to the facts of the period of account commencing on or before and ending after 12th March 1984, or
  - (b) in any other case, the first chargeable period for which that computation is by reference to the facts of the first period of account commencing on or after 13th March 1984.
- (9) In this section " period of account" means any period for which an account is made up for the trade, profession or vocation in question.

#### **49 Stock relief: houses taken in part exchange**

- (1) This section applies in any case where—
- (a) a person carrying on a trade which consists of or includes the construction or substantial reconstruction of dwelling-houses (in this section referred to as a " builder ") disposes to an individual or two or more individuals of his interest in a dwelling-house, and
  - (b) immediately before the disposal, that interest formed part of the builder's trading stock, otherwise than by virtue of this section, and
  - (c) the consideration which the builder receives for the disposal consists of or includes an interest in another dwelling-house which, immediately before the disposal, was occupied by the individual or, as the case may be, at least one of the individuals referred to in paragraph (a) above or by a relative, and
  - (d) the individual or individuals referred to in paragraph (a) above intends or intend that the dwelling-house should be occupied by himself or, as the case may be, by at least one of them or by a relative.

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- (2) Notwithstanding anything in paragraph 28(2) of Schedule 9 to the Finance Act 1981 (which provides that land cannot be trading stock unless it is developed by the person carrying on the trade) in a case where this section applies, the interest referred to in subsection (1)(c) above shall form part of the builder's trading stock.
- (3) In this section—
- (a) " dwelling-house " means a building or part of a building which is used or intended to be used as a dwelling ;
  - (b) " relative " means—
    - (i) the husband or wife of a relevant individual, or
    - (ii) the parent or remoter forebear, child or remoter issue, or brother or sister of a relevant individual or of the husband or wife of a relevant individual,

" relevant individual " meaning, for this purpose, the individual referred to in subsection (1)(a) above or, as the case may be, one of the individuals there referred to; and
  - (c) " trading stock " has the same meaning as in Schedule 9 to the Finance Act 1981.
- (4) This section applies in any case where the disposal referred to in subsection (1)(a) above occurred or occurs on or after 15th March 1983.

## **50      Furnished holiday lettings**

- (1) Schedule 11 to this Act shall have effect with respect to the treatment for the purposes of income tax, corporation tax and capital gains tax of the commercial letting of furnished holiday accommodation in the United Kingdom.
- (2) For the purposes of this section a letting—
- (a) is a commercial letting if it is on a commercial basis and with a view to the realisation of profits; and
  - (b) is of furnished accommodation if the tenant is entitled to the use of furniture.
- (3) Accommodation shall not be treated as holiday accommodation for the purposes of this section unless—
- (a) it is available for commercial letting to the public generally as holiday accommodation for periods which amount, in the aggregate, to not less than 140 days ;
  - (b) the periods for which it is so let amount, in the aggregate, to at least 70 days ; and
  - (c) for a period comprising at least seven months (which need not be continuous but includes any months in which it is let as mentioned in paragraph (b) above) it is not normally in the same occupation for a continuous period exceeding 31 days.
- (4) Any question whether accommodation let by any person other than a company is, at any time in a year of assessment, holiday accommodation shall be determined—
- (a) if the accommodation was not let by him as furnished accommodation in the preceding year of assessment but is so let in the following year of assessment, by reference to the 12 months beginning with the date on which he first so let it in the year of assessment;



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- (b) if the accommodation was let by him as furnished accommodation in the preceding year of assessment but is not so let in the following year of assessment, by reference to the 12 months ending with the date on which he ceased so to let it in the year of assessment ; and
  - (c) in any other case, by reference to the year of assessment.
- (5) Any question whether accommodation let by a company is at any time in an accounting period holiday accommodation shall be determined—
  - (a) if the accommodation was not let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is so let in the period of 12 months immediately following the accounting period, by reference to the 12 months beginning with the date in the accounting period on which it first so let it;
  - (b) if the accommodation was let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is not so let by it in the period of 12 months immediately following the accounting period, by reference to the 12 months ending with the date in the accounting period on which it ceased so to let it; and
  - (c) in any other case, by reference to the period of 12 months ending with the last day of the accounting period.
- (6) Where, in any year of assessment or accounting period, a person lets furnished accommodation which is treated as holiday accommodation for the purposes of this section in that year or period (" the qualifying accommodation "), he may make a claim under this subsection, within two years after that year or period, for averaging treatment to apply for that year or period to that and any other accommodation specified in the claim which was let by him as furnished accommodation during that year or period and would fall to be treated as holiday accommodation in that year or period if paragraph (b) of subsection (3) were satisfied in relation to it.
- (7) Where a claim is made under subsection (6) above in respect of any year of assessment or accounting period, any such other accommodation shall be treated as being holiday accommodation in that year or period if the number of days for which the qualifying accommodation and any other such accommodation was let by the claimant as mentioned in paragraph (a) of subsection (3) above during the year or period amounts on average to at least 70.
- (8) Qualifying accommodation may not be specified in more than one claim in respect of any one year of assessment or accounting period.
- (9) For the purposes of this section a person lets accommodation if he permits another person to occupy it, whether or not in pursuance of a lease ; and " letting " and " tenant " shall be construed accordingly.
- (10) This section has effect—
  - (a) for the purposes of income tax for the year 1982-83 and subsequent years of assessment;
  - (b) for the purposes of capital gains tax and corporation tax on chargeable gains—
    - (i) in so far as it applies in relation to sections 115 to 120 of the Capital Gains Tax Act 1979, where the acquisition of, or of the interest in, the new assets takes place on or after 6th April 1982, and
    - (ii) otherwise, in relation to disposals made on or after that date ; and

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- (c) for the purposes of corporation tax, otherwise than on chargeable gains, in relation to accounting periods commencing in the financial year 1982 and subsequent periods.

## **51 Taxation of woodlands**

- (1) In section 92 of the Taxes Act, after subsection (3) (meaning of " occupier" for purposes of Schedule B), there shall be inserted the following subsection—

“(4) A person who, in connection with any trade carried on by him, has the use of any woodlands wholly or mainly for the purpose of—

- (a) felling, processing or removing timber ; or  
 (b) clearing or otherwise preparing the lands, or any part of them, for replanting ;

shall not be treated as an occupier of the lands for the purposes of Schedule B and subsections (1) and (2) above.”.

- (2) This section has effect in relation to any use commencing after 13th March 1984.

## **52 Carry back of surplus ACT**

- (1) In section 85 of the Finance Act 1972 (payments of advance corporation tax to be set against a company's liability to corporation tax), in subsection (3), for the words " two years", in the second place where they occur, there shall be substituted the words " six years ".

- (2) Subject to subsection (3) below, subsection (1) above has effect with respect to accounting periods ending on or after 1st April 1984 in which there is an amount of surplus advance corporation tax.

- (3) Notwithstanding the amendment made by subsection (1) above, if a company claims under subsection (3) of the said section 85 to have any surplus advance corporation tax of an accounting period (in this subsection referred to as " the basis period ") treated for the purposes of that section as if it were advance corporation tax paid in respect of distributions made by the company in an accounting period—

- (a) which ends before 1st April 1984, and  
 (b) which begins outside the two years preceding the basis period,

the amount of that surplus advance corporation tax which may be so treated shall be limited to so much of that surplus as was paid by the company (and not repaid) in respect of distributions actually made in the basis period.

## **53 Double taxation relief to be applied before advance corporation tax**

- (1) In section 100 of the Finance Act 1972 (double taxation relief) in subsection (3) for the words " to (6) " there shall be substituted the words " and (5) " ;  
 in subsection (4) for the words " subsections (5) and (6) " there shall be substituted the words " subsection (5) " ; and in subsection (6), for paragraphs (a) and (b) and the following words, there shall be substituted the following:—

“(a) so far as that liability relates to the relevant income, it shall be taken to be reduced by the amount of the credit for foreign tax attributable to that income, as determined in accordance with subsections (4) and (5) above; and

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- (b) subject to paragraph (c) below, the company may for the purposes of this section allocate that advance corporation tax in such amounts and to the corporation tax attributable for that period as it thinks fit; and
- (c) the amount of advance corporation tax which may be allocated to the corporation tax attributable to the relevant income shall not exceed the amount of corporation tax which remains so attributable after the reduction under paragraph (a) above;

and if the limit which is imposed by paragraph (c) above on the amount of advance corporation tax which may be set against the company's liability to corporation tax on its relevant income is lower than the limit which would apply under section 85(2) above if the relevant income were the company's only income for the relevant accounting period, the limit in paragraph (c) above shall apply in relation to the relevant income and section 85(2) above shall have effect in relation only to so much of the income of the company chargeable to corporation tax for that period as does not include the relevant income."

- (2) In section 85(3) of that Act (surplus advance corporation tax) after the words " subsection (2) above" there shall be inserted the words " or section 100(6) below ".
- (3) This section applies to accounting periods ending on or after 1st April 1984.

#### **54 Exemption from tax of regional development grants**

- (1) A regional development grant—
  - (a) which is made to a person carrying on a trade, and
  - (b) which, apart from this subsection, would be taken into account as a receipt in computing the profits of that trade,shall not be taken into account as a receipt in computing the profits of the trade which are chargeable under Case I of Schedule D.
- (2) A regional development grant which is made to an investment company as defined in subsection (5) of section 304 of the Taxes Act—
  - (a) shall not be taken into account as a receipt in computing its profits under Case VI of Schedule D; and
  - (b) shall not be deducted, by virtue of the proviso to subsection (1) of that section, from the amount treated as expenses of management.
- (3) In this section " regional development grant" means a payment by way of grant under Part II of the Industrial Development Act 1982 (regional development grants).
- (4) This section applies in relation to a profession or vocation as it applies to a trade, taking the reference in subsection (1) above to Case I of Schedule D as a reference to Case II of that Schedule.

#### **55 Grants to assist industry in Northern Ireland**

- (1) In section 42 of the Finance Act 1980 (certain payments by way of grant to be taken into account as receipts in computing profits) in subsection (2), at the end of paragraph (b) there shall be inserted "or
  - (c) any of Articles 7, 9 and 30 of the Industrial Development (Northern Ireland) Order 1982";

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and at the end of the subsection there shall be added the words " and other than a grant falling within subsection (3) below ".

(2) At the end of the said section 42 there shall be added the following subsection:—

“(3) A payment by way of grant which is made—  
 (a) under Article 7 of the Order referred to in subsection (2)(c) above, and  
 (b) in respect of a liability for corporation tax (including a liability which has already been met),  
 shall not be taken into account as mentioned in subsection (1) above, whether by virtue of this section or otherwise.”

(3) This section has effect with respect to payments made on or after 1st April 1984.

## 56 **Certain reliefs extended to Northern Ireland housing associations and societies**

(1) Section 341A of the Taxes Act (tax exemptions for self-build societies) shall extend to Northern Ireland and in subsection (11) (definitions) after the words " Part I of the Housing Act 1974 " there shall be inserted the words " or, in Northern Ireland, Part VII of the Housing (Northern Ireland) Order 1981 " and at the end of the section there shall be added the following subsection:—

“(12) In the application of this section to Northern Ireland—  
 (a) any reference in subsections (4) to (6) above to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland;  
 (b) the reference in subsection (4)(a) to the Industrial and Provident Societies Act 1965 shall be construed as a reference to the Industrial and Provident Societies Act (Northern Ireland) 1969 ; and  
 (c) in subsection (6) any reference to a statutory instrument shall be construed as a reference to a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and for the words from " annulment" onwards there shall be substituted the words " negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.”

(2) In consequence of the amendments effected by subsection (1) above, in section 29 of the Finance Act 1982 (supplementary regulations as to deduction of tax from certain loan interest) subsection (1)(b) (self-build societies) shall be amended as follows:—

(a) after the words "Part I of the Housing Act 1974" there shall be added the words " or, in Northern Ireland, Part VII of the Housing (Northern Ireland) Order 1981 "; and  
 (b) at the end there shall be added the words " or Northern Ireland ".

(3) After section 342A of the Taxes Act there shall be inserted the following section—

### **“342B Disposals by Northern Ireland housing associations.**

(1) In any case where—  
 (a) a registered Northern Ireland housing association disposes of any land to another such association, or

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- (b) in pursuance of a direction of the Department of the Environment for Northern Ireland given under Chapter II of Part VII of the Housing (Northern Ireland) Order 1981 requiring it to do so, a registered Northern Ireland housing association disposes of any of its property, other than land, to another such association,
- both parties to the disposal shall be treated for the purposes of corporation tax in respect of chargeable gains as if the land or property disposed of were acquired from the association making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that association.
- (2) In subsection (1) above " registered Northern Ireland housing association" means a registered housing association within the meaning of Part VII of the Order referred to in paragraph (b) of that subsection."
- (4) Subsection (1) above has effect for the year 1984-85 and subsequent years of assessment and subsection (3) above has effect with respect to disposals on or after 6th April 1984.

## **57 Proceedings in magistrates' courts and county courts**

- (1) In section 65 of the Taxes Management Act 1970 (recovery of assessed tax in magistrates' courts)—
- (a) in subsection (1) for " £50" in each place where it occurs there shall be substituted " £250 ";
- (b) in subsection (4) for the words from " in the manner " to the end there shall be substituted the words " in proceedings under Article 62 of the Magistrates' Courts (Northern Ireland) Order 1981 "; and
- (c) at the end of that section there shall be added the following subsection—
- “(5) The Treasury may by order made by statutory instrument increase the sums specified in subsection (1) above; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (2) In section 66 of that Act (recovery of assessed tax in county courts) for subsection (2) there shall be substituted the following subsection—
- “(2) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section in a county court in England and Wales.”

## **CHAPTER II**

### **CAPITAL ALLOWANCES**

## **58 Withdrawal of initial and first year allowances**

- (1) Each of the following allowances in respect of capital expenditure, namely,—
- (a) initial allowances under section 1 of the Capital Allowances Act 1968 (industrial buildings and structures),

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- (b) first-year allowances under section 41 of the Finance Act 1971 (machinery and plant), and
- (c) initial allowances under Schedule 12 to the Finance Act 1982 (dwelling-houses let on assured tenancies),

shall be progressively withdrawn in accordance with Part I of Schedule 12 to this Act.

- (2) Part II of Schedule 12 to this Act shall have effect—
- (a) to provide transitional relief in respect of certain capital expenditure incurred in connection with projects in development areas and Northern Ireland; and
  - (b) with respect to the treatment of certain capital expenditure incurred in the financial years 1984 and 1985 under contracts entered into after 13th March 1984 and on or before 31st March 1986.
- (3) In paragraph 8 of Schedule 8 to the Finance Act 1971 (special rules for new ships) in sub-paragraph (2)(b) for the words " the expenditure to which the allowance relates " there shall be substituted the words " so much of the expenditure as is equal to the whole allowance. "
- (4) Nothing in subsection (1)(a) above or in paragraph 1 of Schedule 12 to this Act affects the continuing operation of—
- (a) paragraph 1 of Schedule 6 to the Finance Act 1978 (20 per cent. initial allowance for capital expenditure in respect of hotels); or
  - (b) paragraph 1 of Schedule 13 to the Finance Act 1980 (100 per cent. initial allowance for capital expenditure in respect of industrial buildings etc. in enterprise zones and for capital expenditure incurred before 27th March 1985 in respect of small workshops);

and paragraph 5 of Schedule 12 to this Act does not apply to expenditure in respect of which the rate of initial allowance is determined by the provision referred to in paragraph (b) above.

## **59 Disclaimer of writing-down and first-year allowances**

- (1) In section 44 of the Finance Act 1971 (writing-down allowances in respect of expenditure on machinery or plant) after subsection (2) there shall be inserted the following subsection:—
- “(2A) For any chargeable period ending after 13th March 1984 for which a company has qualifying expenditure, the company may, by notice in writing given to the inspector not later than two years after the end of that period, either disclaim a writing-down allowance or require that the allowance be reduced to an amount specified in that behalf in the notice”;
- and, in subsection (4) of that section, after " (2)" there shall be inserted " (2A) "
- (2) With respect to expenditure incurred after 13th March 1984, sub-paragraph (1) of paragraph 8 of Schedule 8 to the Finance Act 1971 (special rules for new ships) shall be amended by substituting for the words from " require the postponement " onwards the words—
- “(a) require the postponement of the whole allowance or, in the case of a company, disclaim it, or
  - (b) require that the amount of the allowance be reduced to an amount specified in the notice, or

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- (c) require the postponement of so much of the allowance as is so specified,

and a notice which contains a requirement under paragraph (b) above may also contain a requirement under paragraph (c) above with respect to the reduced amount of the allowance”.

- (3) In consequence of the amendment made by subsection (2) above, the said paragraph 8 shall also be amended, with respect to expenditure incurred after 13th March 1984, as follows—

- (a) in sub-paragraph (2) for the words " in respect" there shall be substituted the words " requiring the postponement of the whole or part "; and
- (b) at the end there shall be added the following sub-paragraph:—

“(6) In any case where a notice under sub-paragraph (1) above contains requirements under both paragraphs (b) and (c) of that sub-paragraph, any reference in sub-paragraphs (2) to (5) above to the first-year allowance is a reference to the reduced amount of that allowance as specified in the notice.”

- (4) In any case where—

- (a) after 13th March 1984, a company carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) apart from any disclaimer of the allowance, a first-year allowance would fall to be made for any chargeable period in respect of that expenditure, and
- (c) the company disclaims the allowance by notice under section 41(3) of the Finance Act 1971 or (in the case of new ships) under paragraph 8(1)(a) of Schedule 8 to that Act,

then, for the purposes of section 44 of that Act, that expenditure shall not, by virtue of sub-paragraph (ii) of paragraph (a) of subsection (4) of that section, be excluded from the capital expenditure referred to in that paragraph.

- (5) In any case where—

- (a) after 13th March 1984, a person carrying on a trade, but not being a company, incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) if a claim were made in that behalf, a first-year allowance would fall to be made in respect of that expenditure for the chargeable period related to the incurring of it, and
- (c) no claim is so made but, by notice in writing given to the inspector not later than two years after the end of that chargeable period, the person concerned elects that this subsection shall apply,

then, for the purposes of section 44 of the Finance Act 1971, that expenditure shall not, by virtue of sub-paragraph (ii) of paragraph (a) of subsection (4) of that section, be excluded from the capital expenditure referred to in that paragraph.

- (6) In any case where—

- (a) after 13th March 1984, a person (whether a company or not) carrying on a trade has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade, and

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- (b) a first-year allowance falls to be made to that person in respect of that expenditure (and, in the case of a person other than a company, a claim is made for that allowance), and
  - (c) for the chargeable period related to the incurring of that expenditure, the amount of that first-year allowance or, as the case may be, the aggregate amount of that and other first-year allowances which fall to be made to that person is required to be reduced by virtue of section 41(3) of the Finance Act 1971 or (in the case of new ships) paragraph 8(1)(b) of Schedule 8 to that Act,
- then, for the purposes of section 44 of that Act, an amount equal to the relevant portion of so much of the expenditure giving rise to the first-year allowance or allowances referred to in paragraph (c) above as was incurred after 13th March 1984 shall be treated as expenditure in respect of which no first-year allowance is or could be made for the chargeable period in question.
- (7) In subsection (6) above " the relevant portion " of expenditure giving rise to a first-year allowance or allowances and incurred after 13th March 1984 is that which bears to the whole of that expenditure the same proportion as the amount of the reduction mentioned in paragraph (c) of that subsection bears to what the amount of the allowance or allowances would have been apart from that reduction.
  - (8) Subsections (2) to (7) above shall be construed as if they were contained in Chapter I of Part III of the Finance Act 1971.

## **60 Transfers under Oil and Gas (Enterprise) Act 1982**

- (1) This section shall have effect in relation to any transfer of assets made pursuant to a direction under section 11 of the Oil and Gas (Enterprise) Act 1982 by the British Gas Corporation or any relevant subsidiary, within the meaning of that section, other than a transfer of assets made on any transfer of a trade to which section 252 of the Taxes Act applies.
- (2) The transfer shall not give rise to any allowance or charge provided for by Chapter I of Part III of the Finance Act 1971 (capital allowances and charges in respect of machinery and plant) or the Capital Allowances Act 1968.
- (3) Paragraph 3 of Schedule 8 to the 1971 Act and section 78 of, and Schedule 7 to, the 1968 Act (special rules for sales between connected persons) shall not apply in relation to the transfer.
- (4) In respect of any chargeable period beginning after the transfer there shall be made in accordance with the provisions mentioned in subsection (2) above all such further allowances and charges in respect of the assets transferred by the transfer as would have fallen to be made if—
  - (a) everything done to or by the transferor in relation to the assets (other than the transfer) had been done to or by the transferee;
  - (b) the trade carried on by the transferee, in relation to which the assets are first used by it after the transfer, were the same trade as the trade in relation to which the transferor used the assets at the time of the transfer; and
  - (c) that trade had been carried on by the transferee since the transferor began to carry it on.
- (5) This section has effect in relation to transfers whenever made.



## **61 First year allowances: recipients of mobility supplement**

- (1) In section 43(3) of the Finance Act 1971 (by virtue of which restrictions on the making of first-year allowances for vehicles do not apply to vehicles provided wholly or mainly for the use of persons in receipt of certain mobility allowances) and in subsection (12) of section 64 of the Finance Act 1980 (by virtue of which the provisions of that section excluding such allowances for certain leased assets do not apply to such vehicles)—
- (a) the words from " a mobility allowance " onwards shall become paragraph (a); and
  - (b) after that paragraph there shall be inserted—
    - “(b) a mobility supplement under a scheme made under the Personal Injuries (Emergency Provisions) Act 1939; or
    - (c) a mobility supplement under an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977 ; or
    - (d) any payment appearing to the Treasury to be of a similar kind and specified by them by order made by statutory instrument. An order made under paragraph (d) above may provide that it has effect in relation to expenditure incurred on or after 21st November 1983 (expenditure being taken to be incurred for this purpose on the date when the sums in question become payable).”.
- (2) The amendment made by paragraph (b) of subsection (1) above applies in relation to expenditure incurred on or after 21st November 1983 and for the purposes of this subsection expenditure is incurred on the date when the sums in question become payable.

## **62 Expenditure on production or acquisition of films etc.**

- (1) Section 72 of the Finance Act 1982 (expenditure on production and acquisition of films etc.) shall be amended in accordance with the provisions of this section.
- (2) In subsection (3) (expenditure to be allocated to relevant periods in accordance with subsection (4)) for the words " subsection (4)", in both places where they occur, there shall be substituted the words " subsections (4) to (4B) " and at the beginning of subsection (4) there shall be inserted the words " Subject to subsection (4A) below ".
- (3) After subsection (4) there shall be inserted the following subsections:—
- “(4A) In addition to any expenditure which is allocated to a relevant period in accordance with subsection (4) above, if a claim is made in that behalf not later than two years after the end of that period, there shall also be allocated to that period so much of the unallocated expenditure as is specified in the claim and does not exceed the difference between—
    - (a) the amount allocated to that period in accordance with subsection (4) above ; and
    - (b) the value of the film, tape or disc which is realised in that period (whether by way of income or otherwise).

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- (4B) As respects any relevant period, ' the unallocated expenditure' referred to in subsection (4A) above is that expenditure falling within subsection (3) above—
- (a) which does not fall to be allocated to that period in accordance with subsection (4) above ; and
  - (b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or subsection (4A) above.”
- (4) In subsection (5) (exclusion of trading stock) for the words " and (4) " there shall be substituted the words " to (4B) ".
- (5) In subsection (7) (which, as amended by section 32(1) of the Finance Act 1983, provides transitional relief for certain expenditure incurred on or before 31st March 1987) the words " on or before 31st March 1987 " shall cease to have effect.
- (6) In subsection (8) (conditions for certification) after the words " this section " there shall be inserted the words " unless, by notice in writing given by the person incurring the expenditure, he is requested to do so and ".

### CHAPTER III

#### CAPITAL GAINS

#### **63 Capital gains tax: small gifts, instalments and monetary limits for reliefs etc.**

- (1) In the Capital Gains Tax Act 1979,—
- (a) section 6 (gains accruing to an individual on gifts of assets not exceeding £100 in any year not to be chargeable gains), and
  - (b) sections 8 and 9 (postponement of payment of tax),
- shall cease to have effect.
- (2) In section 107 of that Act (small part disposals of land) in each of paragraphs (a) and (b) of subsection (3) (the monetary limits) for " £10,000 " there shall be substituted " £20,000 ".
- (3) In section 80 of the Finance Act 1980 (exemption for gains on letting of private residences) in subsection (1)(b) (the monetary limit) for "£10,000" there shall be substituted " £20,000 ".
- (4) In section 124 of the Capital Gains Tax Act 1979 (relief for transfer of business on retirement) in subsection (3) (the monetary limits)—
- (a) in paragraph (a) for " £50,000 ", there shall be substituted " £100,000 "; and
  - (b) in paragraph (b) for " £10,000 ", in each place where it occurs, there shall be substituted " £20,000 ".
- (5) Subsection (1) above has effect with respect to disposals on or after 6th April 1984 and subsections (2) to (4) above have effect with respect to disposals on or after 6th April 1983.

#### **64 Exemption for qualifying corporate bonds**

- (1) Part I of Schedule 13 to this Act shall have effect for the purpose of—

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- (a) providing, in relation to qualifying corporate bonds, an exemption from capital gains tax and corporation tax on chargeable gains similar to that provided in relation to gilt-edged securities by Part IV of the Capital Gains Tax Act 1979 ; and
  - (b) making corresponding amendments of other enactments.
- (2) For the purposes of this section, a " corporate bond " is a security, as defined in section 82(3) (b) of the Capital Gains Tax Act 1979,—
- (a) which, from the time of its issue, has been quoted on a recognised stock exchange in the United Kingdom or dealt in on the Unlisted Securities Market or which was issued by a body of which, at the time of the issue, any other share, stock or security was so quoted or dealt in; and
  - (b) the debt on which represents and has at all times represented a normal commercial loan, as defined in paragraph 1(5) of Schedule 12 to the Finance Act 1973 ; and
  - (c) which is expressed in sterling and in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.
- (3) For the purposes of subsection (2)(c) above,—
- (a) a security shall not be regarded as expressed in sterling if the amount of sterling falls to be determined by reference to the value at any time of any other currency or asset; and
  - (b) a provision for redemption in a currency other than sterling but at the rate of exchange prevailing at redemption shall be disregarded.
- (4) Subject to subsection (6) below, for the purposes of this section and Schedule 13 to this Act, a corporate bond—
- (a) is a " qualifying " corporate bond if it is issued after 13th March 1984 ; and
  - (b) becomes a " qualifying " corporate bond if, having been issued on or before that date, it is acquired by any person after that date and that acquisition is not as a result of a disposal which is excluded for the purposes of this subsection.
- (5) Where a person disposes of a corporate bond which was issued on or before 13th March 1984 and, before the disposal, the bond had not become a qualifying corporate bond, the disposal is excluded for the purposes of subsection (4) above if, by virtue of any enactment,—
- (a) the disposal is treated for the purposes of the Capital Gains Tax Act 1979 as one on which neither a gain nor a loss accrues to the person making the disposal; or
  - (b) the consideration for the disposal is treated for the purposes of that Act as reduced by an amount equal to the held-over gain on that disposal, as defined for the purposes of section 126 of that Act or section 79 of the Finance Act 1980.
- (6) A security which is issued by a member of a group of companies to another member of the same group is not a qualifying corporate bond for the purposes of this section or Schedule 13 to this Act; and references in this subsection to a group of companies or to a member of a group shall be construed in accordance with section 272 of the Taxes Act.
- (7) Part II of Schedule 13 to this Act shall have effect in any case where a transaction occurs of such a description that, apart from the provisions of that Schedule,—

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- (a) sections 78 to 81 of the Capital Gains Tax Act 1979 would apply by virtue of any provision of Chapter II of Part IV of that Act; and
- (b) either the original shares would consist of or include a qualifying corporate bond and the new holding would not, or the original shares would not and the new holding would consist of or include such a bond ;

and in paragraph (b) above " the original shares " and " the new holding " have the same meaning as they have for the purposes of the said sections 78 to 81.

- (8) For the purposes of this section, in any case where—
  - (a) a security is comprised in a letter of allotment or similar instrument, and
  - (b) the right to the security thereby conferred remains provisional until accepted, the security shall not be treated as issued until there has been acceptance.

## **65 Traded options**

- (1) In section 137(4)(aa) of the Capital Gains Tax Act 1979 (abandonment of traded option to buy or sell shares in a company) and section 138(1)(aa) of that Act (restriction of allowable expenditure in relation to such an option) the words " to buy or sell shares in a company " shall be omitted.
- (2) At the end of section 137(9) of that Act (definition of " traded option ") there shall be added the words " or on the London International Financial Futures Exchange ".
- (3) This section has effect in relation to any abandonment or other disposal on or after 6th April 1984.

## **66 Disposals and acquisitions treated as made at market value: removal of certain exceptions**

- (1) In section 29A of the Capital Gains Tax Act 1979 (certain disposals and acquisitions treated as made at market value) in subsection (2) (which, among other things, excludes certain acquisitions where the corresponding disposal is made by an excluded person) the words " Except in the case specified in subsection (4) below " and, in paragraph (a), the words " or the corresponding disposal is made by an excluded person " shall be omitted.
- (2) For subsections (3) and (4) of the said section 29A there shall be substituted the following subsections:—

“(3) In any case where—

- (a) apart from this subsection, subsection (1) above would apply to the acquisition of an asset, and
- (b) the condition in subsection (2)(b) above is fulfilled with respect to the acquisition, and
- (c) the corresponding disposal is made on or after 6th April 1983 and before 6th April 1985, and
- (d) the corresponding disposal is made by an excluded person who is within the charge to capital gains tax or corporation tax in respect of any chargeable gain accruing to him on the disposal,

then, if the person acquiring the asset and the excluded person so elect by notice in writing given to the Board within the period of two years beginning at the end of the chargeable period in which the corresponding disposal is made,

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subsection (1) above shall not apply to the acquisition or the corresponding disposal.

- (4) There shall be made all such adjustments of capital gains tax or corporation tax (in respect of chargeable gains), whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the making of an election under subsection (3) above.”
- (3) Subsections (5) and (6) of section 32 of the Capital Gains Tax Act 1979 (special rules as to sums allowable on account of expenditure in certain cases of disposals by non-residents) shall not apply where the disposal by the person who is neither resident nor ordinarily resident in the United Kingdom is made on or after 6th April 1985.
- (4) Subsections (1) and (2) above have effect in relation to acquisitions and disposals on or after 6th April 1983.

## 67 Parallel pooling

- (1) Schedule 6 to the Finance Act 1983 (election for pooling) shall have effect, and be deemed always to have had effect, with the amendments set out in the following provisions of this section.
- (2) In paragraph 1 (interpretation) at the end of sub-paragraph (2) (which excludes certain assets from being qualifying securities for the purposes of that Schedule) there shall be added the words “nor
- (c) securities which are, or have at any time after the expiry of the period which, in relation to a disposal of them, would be the qualifying period, been material interests in a non-qualifying offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984”.
- (3) In sub-paragraph (5) of paragraph 3 (effect of election: time when the holding comes into being) in paragraph (b) for the words " on 1st April 1982 " there shall be substituted the words " immediately before 1st April 1982 ".
- (4) In paragraph 9 (transfers on a no gain/no loss basis) for sub-paragraphs (2) and (3) there shall be substituted the following sub-paragraphs:—
- “(2) The disposal referred to in sub-paragraph (1) above shall be regarded for the purposes of this Schedule as an operative event.
- (3) Notwithstanding anything in paragraph 2 of Schedule 13 to the 1982 Act, the amount which, on the disposal referred to in sub-paragraph (1) above, is to be regarded as the consideration given by the second company for the acquisition of the securities (and, accordingly, the amount which is to be added to that company's unindexed pool of expenditure on the disposal) shall not include the indexation allowance on that disposal.
- (4) Nothing in sub-paragraph (3) above affects the amount which, by virtue of paragraph 2(3) of Schedule 13 to the 1982 Act, is to be treated as the consideration received by the first company on the disposal referred to in sub-paragraph (1) above, and it shall be that amount (rather than the smaller amount referred to in sub-paragraph (3) above) which, on that disposal, shall be added to the second company's indexed pool of expenditure.

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(5) Paragraph 3 of Schedule 13 to the 1982 Act shall not apply on any subsequent disposal of the holding in which the securities referred to in sub-paragraph (1) above are comprised.”

#### **68 Maintenance funds for historic buildings**

In consequence of the operation of section 79 of the Finance Act 1980 (general relief for gifts) section 148 of the Capital Gains Tax Act 1979 (specific relief in the case of certain disposals relating to maintenance funds for historic buildings) shall cease to have effect with respect to disposals made on or after 6th April 1984.

#### **69 Foreign currency accounts**

(1) At the end of subsection (4) of section 18 of the Capital Gains Tax Act 1979 (location of assets) there shall be added the following paragraph—

“(j) a debt which—

- (i) is owed by a bank, and
- (ii) is not in sterling, and
- (iii) is represented by a sum standing to the credit of an account in the bank of an individual who is not domiciled in the United Kingdom,

is situated in the United Kingdom if and only if that individual is resident in the United Kingdom and the branch or other place of business of the bank at which the account is maintained is itself situated in the United Kingdom.”

(2) Subsection (1) above shall be deemed to have come into force on 6th April 1983.

#### **70 Postponement of tax due from beneficiaries on gains of non resident trustees**

(1) The provisions of Schedule 14 to this Act have effect in any case where,—

- (a) before 6th April 1981, a chargeable gain accrued to the trustees of a settlement in such circumstances that section 17 of the Capital Gains Tax Act 1979 (non-resident trust) applies as respects that chargeable gain ; and
- (b) by virtue of that section a beneficiary under the settlement is treated for the purposes of that Act as if, in the year 1983-84 or any earlier year of assessment, an amount determined by reference to the chargeable gain which accrued to the trustees or, as the case may be, the whole or part of that gain had been a chargeable gain accruing to the beneficiary; and
- (c) at 29th March 1983 some or all of the capital gains tax payable in respect of the chargeable gain accruing to the beneficiary had not been paid.

(2) In subsection (3)(b) of the said section 17 (which relates to capital payments which are made in the exercise of a discretion, which are received at any time and which represent a chargeable gain to which that section applies) after the words " after the chargeable gain accrues " there shall be inserted the words " but before 6th April 1984 ".

(3) In consequence of the amendment made by subsection (2) above, in section 80 of the Finance Act 1981 (new provisions as to gains of non-resident settlements) in subsection (8) (which, among other things, excludes from the scope of that section

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payments received on or after 10th March 1981 so far as they represent chargeable gains accruing to the trustees before 6th April 1981) after the words "received on or after that date" there shall be inserted the words " and before 6th April 1984 ".

- (4) In this section and Schedule 14 to this Act " settlement", " settlor " and " settled property " have the same meaning as in section 17 of the Capital Gains Tax Act 1979.

## **71 Non-resident settlements: definition of " settlement " and " settlor "**

- (1) At the end of section 83 of the Finance Act 1981 (definitions etc. for provisions relating to gains of non-resident settlements) there shall be added the following subsection—

“(7) In sections 80 to 82 above and in the preceding provisions of this section—  
" settlement " and " settlor " have the meaning given by section 454(3) of the Taxes Act and " settlor " includes, in the case of a settlement arising under a will or intestacy, the testator or intestate ;  
and  
" settled property " shall be construed accordingly.”

- (2) This section has effect for the year 1984-85 and subsequent years of assessment.

## **CHAPTER IV**

### **INSURANCE**

## **72 Withdrawal of life assurance premium relief**

- (1) Relief shall not be granted under section 19 of the Taxes Act (premium relief on post-1916 life policies etc.) in respect of premiums payable under any policy issued in respect of an insurance made after 13th March 1984, except where the relief relates to part only of any such payment as falls within paragraph 11 of Schedule 3 to the Finance Act 1978 (part payments to friendly societies).
- (2) A policy which was issued in the course of industrial assurance business, within the meaning of the Industrial Assurance Act 1923 or, as the case may be, the Industrial Assurance (Northern Ireland) Order 1979, and which was so issued in respect of an insurance made after 13th March 1984 shall be treated for the purposes of this section as issued in respect of an insurance made on or before that date if—
- the proposal form for the policy was completed on or before that date, and
  - on or before 31st March 1984 the policy was prepared for issue by the company or society concerned, and
  - on or before 31st March 1984 and in accordance with the normal business practice of the company or society a permanent record of the preparation of the policy was made in any book or by any other means kept or instituted by the company or society for the purpose.
- (3) For the purposes of subsection (1) above, a policy of life insurance which was issued in respect of an insurance made on or before 13th March 1984 shall be treated as issued in respect of an insurance made after that date if the policy is varied after that date so as to increase the benefits secured or to extend the term of the insurance.
- (4) If a policy of life insurance which was issued as mentioned in subsection (3) above confers on the person to whom it was issued an option to have another policy

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substituted for it or to have any of its terms changed, then, for the purposes of that subsection and subsection (1) above, any change in the terms of the policy which is made in pursuance of the option shall be deemed to be a variation of the policy.

- (5) In subsection (8) of section 7 of the Finance Act 1975 (early surrender or conversion of life policies), after the word " apply " in the second place where it occurs, and in subsection (5) of section 8 of that Act (surrender etc. of policies after four years), after the word " apply ", there shall be inserted—

“(a) to a policy in respect of the premiums on which relief under section 19 of that Act is not available, by virtue of section 72 of the Finance Act 1984 ; or

(b)”.

- (6) In any case where—

- (a) one policy is replaced by another in such circumstances that the provisions of subsection (1) of section 34 of the Finance Act 1982 apply (variation in life or lives assured), and
- (b) the earlier policy was issued in respect of an insurance made on or before 13th March 1984, and
- (c) the later policy confers on the life or lives assured thereby benefits which are substantially equivalent to those which would have been enjoyed by the life or lives assured under the earlier policy, if that policy had continued in force,

then, for the purposes of subsection (1) above, the insurance in respect of which the later policy is issued shall be deemed to have been made before 13th March 1984; and in this subsection " the earlier policy " and " the later policy " have the same meaning as in the said section 34.

- (7) In any case where—

- (a) there is a substitution of policies falling within sub-paragraph (1) or sub-paragraph (3) of paragraph 2 of Schedule 15 to this Act, and
- (b) the old policy was issued in respect of an insurance made on or before 13th March 1984,

then, for the purposes of subsection (1) above, the insurance in respect of which the new policy is issued shall be deemed to have been made before 13th March 1984 ; and in this subsection " the old policy " and " the new policy " have the same meaning as in paragraph 9 of Schedule 1 to the Taxes Act.

- (8) In any case where, before the passing of this Act—

- (a) an individual, in exercise of the right conferred on him by paragraph 5(a) of Schedule 4 to the Finance Act 1976, has deducted an amount from a payment in respect of a premium falling within subsection (1) above, and
- (b) in accordance with paragraphs 4(1) and 5(b) of that Schedule, the Board have made good to the person to whom that payment was made the deficiency arising from that deduction,

then, without prejudice to any other power of the Board to recover sums which have been paid to make good any such deficiency (being a deficiency which would not have arisen if this Act had been in force on the date referred to in subsection (1) above), those sums may be recovered by the Board by deduction from any further sums which, after the passing of this Act, fall to be paid to the person concerned in accordance with the said paragraphs 4(1) and 5(b).



- (9) The aggregate of any amounts which, as mentioned in subsection (8)(a) above, an individual has deducted from payments in respect of premiums falling within subsection (1) above may be recovered by the person to whom those payments were made as if it were an additional premium due under the policy on 5th August 1984; but no account shall be taken of that additional premium—
- (a) in determining whether the policy is a qualifying policy within the meaning of Schedule 1 to the Taxes Act; or
  - (b) for the purposes of section 334 of that Act (conditions for tax exempt business); or
  - (c) for the purposes of section 395 of that Act or paragraph 9 of Schedule 2 to the Finance Act 1975 (chargeable events legislation).

### **73 Insurance business of registered friendly societies**

- (1) In relation to registered friendly societies, references to tax exempt life or endowment business, as defined in section 337(3) of the Taxes Act, shall be construed in accordance with subsections (2) and (3) below.
- (2) In so far as the profits of a registered friendly society from life or endowment business relate to contracts made after 13th March 1984, the references in subsections (2) and (3) of section 332 of the Taxes Act (business exempt from income tax and corporation tax) to £500 and £104 (the basic limits for gross sums assured and annuities) shall have effect as references to £750 and £156 respectively.
- (3) Subsection (5) of the said section 332 (which, in the case of certain registered friendly societies, increases the tax exempt limits in subsections (2) and (3) of that section to £2,000 and £416) shall not have effect with respect to sums assured or annuities granted under contracts made after 13th March 1984.
- (4) In consequence of the preceding provisions of this section and subsection (5) below, in section 1 of the Friendly Societies Act (Northern Ireland) 1970 and section 7 of the Friendly Societies Act 1974 (societies which may be registered),—
- (a) paragraph (a) of subsection (3), and
  - (b) subsection (3A),
- shall not have effect with respect to benefits secured by contracts made after 13th March 1984.
- (5) In the following enactments which specify, in relation to tax exempt life or endowment business, maximum benefits which may be provided for members, and persons claiming through members, of registered friendly societies, namely,—
- (a) subsection (1) of section 55 of the Friendly Societies Act (Northern Ireland) 1970; and
  - (b) subsection (1) of section 64 of the Friendly Societies Act 1974,
- in paragraph (a) for " £2,000 " there shall be substituted " £750 " and in paragraph (b) for "£416" there shall be substituted " £156 ".
- (6) The amendments made by subsection (5) above have effect—
- (a) in relation to benefits secured by contracts made after 13th March 1984; and
  - (b) in relation to the aggregate of the benefits secured by contracts made after that day and those secured by contracts made on or before that day.

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- (7) If, after 13th March 1984, the committee of a registered society or branch whose rules make provision for it to carry on life or endowment business resolve to accept, in respect of any contract falling within subsection (8) below, premiums of amounts arrived at by deducting 15 per cent, from the premiums provided for by the rules of the society or branch (that is to say by deducting the same amount as, apart from section 72 above, would have been deductible by way of relief under section 19 of the Taxes Act),—
- (a) the resolution shall be deemed to be permitted by the principal Act and the rules of the society or branch; and
  - (b) nothing in the principal Act shall require the registration of the resolution ; and
  - (c) together with the annual return of the society or branch for the year of account ending 31st December 1984, the society or branch shall send a copy of the resolution to the registrar.
- (8) Subsection (7) above applies to any contract entered into by a registered society or branch—
- (a) which is for the assurance under life or endowment business of any gross sum ; and
  - (b) which is entered into pursuant to a proposal received by the society or branch on or before 13th March 1984; and
  - (c) which is one which the society might lawfully have entered into on that date ; and
  - (d) which is entered into after 13th March 1984 and before 1st May 1984.
- (9) In subsection (7) above " the principal Act " means, according to the enactment under which the society or branch is registered,—
- (a) the Friendly Societies Act (Northern Ireland) 1970 ; or
  - (b) the Friendly Societies Act 1974 ;
- and subsections (7) and (8) shall be construed as one with the principal Act.

#### **74 Disqualification of certain life insurance policies**

- (1) In section 30 of the Finance Act 1980 (in this section referred to as the " principal section ")—
- (a) in subsection (1) (certain life insurance policies not to be qualifying policies) for the words " the terms of which " there shall be substituted the words " and the terms of either policy " ; and
  - (b) in subsection (3) (definition of " policy " by reference to ordinary long-term insurance business) for the words from " ordinary " to " and " there shall be substituted the words " long term business, as defined in section 1 of the Insurance Companies Act 1982, and " .
- (2) Subsections (6) and (7) of the principal section (commencement) shall have effect in relation to the principal section as amended by subsection (1) above as if for the words " 26th March 1980 ", in each place where they occur, there were substituted the words " 23rd August 1983 " ; but nothing in this subsection affects the operation of the principal section in relation to a policy to which it would have applied apart from subsection (1) above.
- (3) In any case where payments made—
- (a) after 22nd August 1983, and

(b) by way of premium or other consideration in respect of a policy issued in respect of an insurance made before that date, exceed £5 in any period, of twelve months, the policy shall be treated for the purposes of the principal section as if it were issued in respect of an insurance made after 22nd August 1983 ; but nothing in that section shall apply with respect to any premium paid in respect of it before that date.

- (4) In subsections (2) and (3) above " policy " means a policy issued in the course of ordinary long-term insurance business as defined in section 96(1) of the Insurance Companies Act 1982 and includes any such policy issued outside the United Kingdom.

## **75 Life policies: chargeable events**

- (1) In section 394 of the Taxes Act (chargeable events in relation to life policies) in subsection (3) (maturity of a policy not a chargeable event in certain cases where a new policy is issued in the exercise of an option conferred by the maturing policy) for the words from " if" to " unless" there shall be substituted the words "if—

- (a) a new policy is issued in consequence of the exercise of an option conferred by the maturing policy, and
- (b) the whole of the sums becoming payable under the maturing policy are retained by the company with whom the insurance was made and applied in the payment of one or more premiums under the new policy,

unless the circumstances are such that”.

- (2) Subsection (1) above has effect, and shall be deemed to have had effect, in any case where the option concerned is exercised after 13th March 1984.

## **76 Insurance policies issued outside the United Kingdom**

- (1) After paragraph 1 of Schedule 2 to the Finance Act 1975 (certification of qualifying insurance policies) there shall be inserted the paragraph set out in Part I of Schedule 15 to this Act.
- (2) In connection with the amendment made by subsection (1) above, Schedule 1 to the Taxes Act and Schedule 2 to the Finance Act 1975 shall have effect subject to the modifications set out in Part II of Schedule 15 to this Act.
- (3) In paragraph 9(3)(a) of Schedule 1 to the Taxes Act (circumstances in which a policy substituted for a policy issued outside the United Kingdom may be a qualifying policy) for the words " person in respect of whom the new insurance is made " there shall be substituted the words " policy holder under the new policy ".
- (4) The provisions of Chapter III of Part XIV of the Taxes Act (additional charges to tax on chargeable events in relation to life insurance policies etc.) shall have effect subject to the modifications set out in Part III of Schedule 15 to this Act, being modifications in relation to—
- (a) insurance policies affected by the amendment made by subsection (1) above ; and
  - (b) new offshore capital redemption policies, as defined in subsection (5) below.

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- (5) In subsection (4)(b) above and Part III of Schedule 15 to this Act, a " new offshore capital redemption policy " means a capital redemption policy, as defined in section 393(3) of the Taxes Act, which—
- (a) is issued in respect of an insurance made after 22nd February 1984; and
  - (b) is so issued by a company resident outside the United Kingdom.
- (6) Subsection (3) above applies where the new policy referred to in paragraph 9(2)(c) of Schedule 1 to the Taxes Act is issued after 22nd February 1984.

## CHAPTER V

### OIL AND GAS INDUSTRY

#### **77 Termination of repayments of ACT under Oil Taxation Act 1975**

- (1) No advance corporation tax shall be repaid to a company under section 17(3) of the Oil Taxation Act 1975 (advance corporation tax which cannot be set off in an accounting period because the income limit has been reduced by the deduction of payments of petroleum revenue tax) if it is advance corporation tax paid by the company in respect of a distribution made in an accounting period of the company ending on or after 1st April 1984.
- (2) The reference in subsection (1) above to advance corporation tax paid by the company in respect of a distribution in a particular accounting period is a reference to—
- (a) advance corporation tax which is actually paid by the company in respect of such a distribution ; and
  - (b) advance corporation tax which, by virtue of section 85(4) or section 92(2) of the Finance Act 1972 (tax carried forward or surrendered to a subsidiary), is treated as paid by the company in respect of such a distribution.

#### **78 Transfers of interests in oil fields: capital allowances**

- (1) This section applies where,—
- (a) there is, for the purposes of Schedule 17 to the Finance Act 1980, a transfer by a participator in an oil field of the whole or part of his interest in the field ; and
  - (b) in pursuance of that transfer, the old participator disposes of, and the new participator acquires, machinery or plant used, or expected to be used, in connection with the field, or a share in such machinery or plant.
- (2) In the application of Chapter I of Part III of the Finance Act 1971 (capital allowances) to expenditure incurred by the new participator in the acquisition referred to in subsection (1)(b) above, there shall be disregarded so much (if any) of that expenditure as exceeds—
- (a) the disposal value to be brought into account by the old participator under section 44 of that Act (balancing adjustments etc.) by reason of the disposal; or
  - (b) if subsection (2) of section 41 of that Act applies in relation to the old participator (machinery or plant disposed of before being brought into use), the amount of the expenditure in respect of which, but for that subsection, a first year allowance would have been made (and not withdrawn).
- (3) In this section—

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- (a) "machinery or plant" has the same meaning as in Chapter I of Part III of the Finance Act 1971 (capital allowances);
- (b) subsection (7) of section 50 of that Act applies to any reference to a share in machinery or plant; and
- (c) "the old participator" and "the new participator" have the same meaning as in Schedule 17 to the Finance Act 1980;

and, subject thereto, expressions used in subsection (1) above have the same meaning as in Part I of the Oil Taxation Act 1975 and expressions used in subsection (2) above have the same meaning as in Chapter I of Part III of the Finance Act 1971.

- (4) Nothing in this section affects the operation of paragraph 3 of Schedule 8 to the Finance Act 1971 (which restricts allowable expenditure on sales between connected persons etc.).
- (5) This section applies where the acquisition referred to in subsection (1)(b) above occurs on or after 13th March 1984.

## **79 Gains on certain disposals**

- (1) This section applies where, on or after 13th March 1984 and in pursuance of a transfer by a participator in an oil field of the whole or part of his interest in the field, there is—
  - (a) a disposal of an interest in oil to be won from the oil field; or
  - (b) a disposal of an asset used in connection with the field;and section 12 of the Oil Taxation Act 1975 (interpretation of Part I of that Act) applies for the interpretation of this subsection and the reference to the transfer by a participator in an oil field of the whole or part of his interest in the field shall be construed in accordance with paragraph 1 of Schedule 17 to the Finance Act 1980.
- (2) In this section "disposal" has the same meaning as in the Capital Gains Tax Act 1979 and "material disposal" means—
  - (a) a disposal falling within paragraph (a) or paragraph (b) of subsection (1) above ; or
  - (b) the sale of an asset referred to in subsection (3) of section 278 of the Taxes Act (company ceasing to be a member of a group: notional sale and repurchase of asset acquired from another member) where the asset was acquired by the chargeable company (within the meaning of that section) on a disposal falling within one of those paragraphs.
- (3) For any chargeable period (within the meaning of the Taxes Act) in which a chargeable gain or allowable loss accrues to any person (in the following provisions of this section referred to as "the chargeable person") on a material disposal (whether taking place in that period or not), subject to subsection (7) below there shall be aggregated—
  - (a) the chargeable gains accruing to him in that period on such disposals, and
  - (b) the allowable losses accruing to him in that period on such disposals,and the lesser of the two aggregates shall be deducted from the other to give an aggregate gain or, as the case may be, an aggregate loss for that chargeable period.
- (4) For the purposes of capital gains tax and corporation tax in respect of capital gains,—
  - (a) the several chargeable gains and allowable losses falling within paragraphs (a) and (b) of subsection (3) above shall be left out of account; and
  - (b) the aggregate gain or aggregate loss referred to in that subsection shall be treated as a single chargeable gain or allowable loss accruing to the chargeable

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- person in the chargeable period concerned on the notional disposal of an asset;  
and
- (c) if in any chargeable period there is an aggregate loss, then, except as provided by subsection (6) below, it shall not be allowable as a deduction against any chargeable gain arising in that or any later period, other than an aggregate gain treated as accruing in a later period by virtue of paragraph (b) above (so that the aggregate gain of that later period shall be reduced or extinguished accordingly); and
  - (d) if in any chargeable period there is an aggregate gain, no loss shall be deducted from it except in accordance with paragraph (c) above ; and
  - (e) without prejudice to any indexation allowance which was taken into account in determining an aggregate gain or aggregate loss under subsection (3) above, no further indexation allowance shall be allowed on a notional disposal referred to in paragraph (b) above.
- (5) Where, in accordance with subsection (3) above, the chargeable person has an aggregate gain, that gain (reduced in the case of companies in accordance with section 93 of the Finance Act 1972) and his ring fence income (if any) for the chargeable period concerned together constitute, for the purposes of this section, his ring fence profits for that period and, in relation to the chargeable person, in subsections (2), (3) and (5) of section 13 and in section 15 of the Oil Taxation Act 1975 (limitations on losses and charges etc. to be set against income) any reference to income arising from oil extraction activities or from oil rights shall be construed, except in relation to relief under section 168 of the Taxes Act and section 71 of the Capital Allowances Act 1968, as a reference to his ring fence profits.
- (6) In any case where—
- (a) by virtue of subsection (4)(b) above, an aggregate loss is treated as accruing to the chargeable person in any chargeable period, and
  - (b) before the expiry of the period of two years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection,
- the whole, or such portion as is specified in the claim, of the aggregate loss shall be treated for the purposes of capital gains tax or corporation tax, as the case may be, as an allowable loss arising in that chargeable period otherwise than on a material disposal.
- (7) In any case where a loss accrues to the chargeable person on a material disposal made to a person who is connected with him (within the meaning of section 63 of the Capital Gains Tax Act 1979)—
- (a) the loss shall be excluded from those referred to in paragraph (b) of subsection (3) above and, accordingly, shall not be aggregated under that subsection; and
  - (b) except as provided by subsection (8) below, section 62 of that Act shall apply in relation to the loss as if, in subsection (3) of that section (losses on disposals to a connected person to be set only against gains on disposals made to the same person at a time when he is a connected person), any reference to a disposal were a reference to a disposal which is a material disposal; and
  - (c) to the extent that the loss is set against a chargeable gain by virtue of paragraph (b) above, the gain shall be excluded from those referred to in paragraph (a) of subsection (3) above and, accordingly, shall not be aggregated under that subsection.
- (8) In any case where—

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- (a) the losses accruing to the chargeable person in any chargeable period on material disposals to a connected person exceed the gains accruing to him in that chargeable period on material disposals made to that person at a time when they are connected persons, and
- (b) before the expiry of the period of two years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection,

the whole, or such part as is specified in the claim, of the excess referred to in paragraph (a) above shall be treated for the purposes of section 62 of the Capital Gains Tax Act 1979 as if it were a loss accruing on a disposal in that chargeable period, being a disposal which is not a material disposal and which is made by the chargeable person to the connected person referred to in paragraph (a) above.

- (9) Where a claim is made under subsection (6) or subsection (8) above, all such adjustments shall be made, whether by way of discharge or repayment of tax (including capital gains tax) or otherwise, as may be required in consequence of the operation of that subsection.
- (10) In subsection (5) above " ring fence income " means income arising from oil extraction activities or oil rights, within the meaning of Part II of the Oil Taxation Act 1975.

## **80 Replacement of business assets used in connection with oil fields**

- (1) If the consideration which a person obtains on a material disposal is applied, in whole or in part, as mentioned in subsection (1) of section 115 or section 116 of the Capital Gains Tax Act 1979 (replacement of business assets), that section shall not apply unless the new assets are taken into use, and used only, for the purposes of the ring fence trade.
- (2) Subsection (1) above has effect notwithstanding subsection (7) of the said section 115 (which treats two or more trades as a single trade for certain purposes).
- (3) Where the said section 115 or the said section 116 applies in relation to any of the consideration on a material disposal, the asset which constitutes the new assets for the purposes of that section shall be conclusively presumed to be a depreciating asset, and section 117 of the Capital Gains Tax Act 1979 (special rules for depreciating assets) shall have effect accordingly, except that—
  - (a) the reference in subsection (2)(b) of that section to a trade carried on by the claimant shall be construed as a reference solely to his ring fence trade ; and
  - (b) subsections (3) to (6) of that section shall be omitted.
- (4) In any case where sections 115 to 117 of the Capital Gains Tax Act 1979 have effect in accordance with the preceding provisions of this section, the operation of section 276 of the Taxes Act (replacement of business assets by members of a group) shall be modified as follows:—
  - (a) only those members of a group which actually carry on a ring fence trade shall be treated for the purposes of those sections as carrying on a single trade which is a ring fence trade ; and
  - (b) only those activities which, in relation to each individual member of the group, constitute its ring fence trade shall be treated as forming part of that single trade.
- (5) In this section—

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- (a) " material disposal" has the meaning assigned to it by section 79 above ; and
- (b) " ring fence trade " means a trade consisting of either or both of the activities mentioned in paragraphs (a) and (b) of subsection (1) of section 13 of the Oil Taxation Act 1975.

**81 Disposals by non-residents etc. of assets used in connection with exploration and exploitation activities**

(1) Section 38 of the Finance Act 1973 (territorial extension of charge to income tax, capital gains tax and corporation tax) shall be amended in accordance with this section.

(2) After subsection (3) there shall be inserted the following subsections:—

“(3A) Gains accruing on the disposal of—

- (a) exploration or exploitation assets which are situated in a designated area, or
- (b) unquoted shares deriving their value or the greater part of their value directly or indirectly from exploration or exploitation assets situated in the United Kingdom or a designated area or from such assets and exploration or exploitation rights taken together,

shall be treated for the purposes of the Capital Gains Tax Act 1979 as gains accruing on the disposal of assets situated in the United Kingdom.

(3B) For the purposes of this section, an asset disposed of is an exploration or exploitation asset if either—

- (a) it is not a mobile asset and it is being or has at some time within the period of two years ending at the date of the disposal been used in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area; or
- (b) it is a mobile asset which, at some time within the period of two years ending at the date of the disposal, has been used in connection with exploration or exploitation activities so carried on and is dedicated to an oil field in which the person making the disposal, or a person connected with him within the meaning of section 533 of the Taxes Act, is or has been a participator ;

and expressions used in paragraphs (a) and (b) above have the same meaning as if those paragraphs were included in Part I of the Oil Taxation Act 1975.

(3C) In paragraph (b) of subsection (3A) above "unquoted shares" means shares other than those which are quoted on a recognised stock exchange (within the meaning of the Corporation Tax Acts); and references in subsections (4) and (5) below to exploration or exploitation assets include references to unquoted shares falling within that paragraph.”

(3) In subsection (4) (which, among other things, provides that certain gains are to be treated as gains accruing on the disposal of trade assets) after the words " such rights " there shall be inserted the words " or of exploration or exploitation assets ".

(4) In subsection (5) (inter-company disposals) after the word " rights " there shall be inserted the words " or exploration or exploitation assets ".

(5) This section has effect in relation to disposals on or after 13th March 1984.



## CHAPTER VI

### CONTROLLED FOREIGN COMPANIES

#### **82 Imputation of chargeable profits and creditable tax of controlled foreign companies**

- (1) If the Board have reason to believe that in any accounting period a company—
  - (a) is resident outside the United Kingdom, and
  - (b) is controlled by persons resident in the United Kingdom, and
  - (c) is subject to a lower level of taxation in the territory in which it is resident, and the Board so direct, the provisions of this Chapter shall apply in relation to that accounting period.
- (2) A company which falls within paragraphs (a) to (c) of subsection (1) above is in this Chapter referred to as a " controlled foreign company ".
- (3) Where, by virtue of a direction under subsection (1) above, the provisions of this Chapter apply in relation to an accounting period of a controlled foreign company, the chargeable profits of that company for that period and its creditable tax (if any) for that period shall each be apportioned in accordance with section 87 below among the persons (whether resident in the United Kingdom or not) who had an interest in that company at any time during that accounting period.
- (4) Where, on such an apportionment of a controlled foreign company's chargeable profits for an accounting period as is referred to in subsection (3) above, an amount of those profits is apportioned to a company resident in the United Kingdom then, subject to subsection (5) below,—
  - (a) a sum equal to corporation tax at the appropriate rate on that apportioned amount of profits, less the portion of the controlled foreign company's creditable tax for that period (if any) which is apportioned to the resident company, shall be assessed on and recoverable from the resident company as if it were an amount of corporation tax chargeable on that company ; and
  - (b) if, apart from this paragraph, section 478 of the Taxes Act would deem any sum forming part of the company's chargeable profits for that accounting period to be the income of an individual for the purposes of the Income Tax Acts, that section shall not apply to such portion of that sum as corresponds to the portion of those chargeable profits which is apportioned to companies which are resident in the United Kingdom and which, by virtue of paragraph (a) above, have a liability to tax in respect thereof;and for the purposes of paragraph (a) above " the appropriate rate" means the rate of corporation tax applicable to profits of that accounting period of the resident company in which ends the accounting period of the controlled foreign company to which the direction under subsection (1) above relates or, if there is more than one such rate, the average rate over the whole of that accounting period of the resident company.
- (5) Tax shall not, by virtue of subsection (4) above, be assessed on and recoverable from a company resident in the United Kingdom unless, on the apportionment in question, the aggregate of—
  - (a) the amount of the controlled foreign company's chargeable profits for the accounting period in question which is apportioned to the resident company, and

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(b) any amounts of those chargeable profits which are apportioned to persons who are connected or associated with the resident company, is at least 10 per cent, of the total of those chargeable profits.

(6) In relation to a company resident outside the United Kingdom—

- (a) any reference in this Chapter to its chargeable profits for an accounting period is a reference to the amount which, on the assumptions in Schedule 16 to this Act, would be the amount of the total profits of the company for that period on which, after allowing for any deductions available against those profits, corporation tax would be chargeable ; and
- (b) any reference in this Chapter to profits does not include a reference to chargeable gains but otherwise (except as provided by paragraph (a) above) has the same meaning as it has for the purposes of corporation tax.

### **83 Limitations on direction-making power**

(1) No direction may be given under section 82(1) above with respect to an accounting period of a controlled foreign company if—

- (a) in respect of that period the company pursues, within the meaning of Part I of Schedule 17 to this Act, an acceptable distribution policy ; or
- (b) throughout that period the company is, within the meaning of Part II of that Schedule, engaged in exempt activities; or
- (c) the public quotation condition set out in Part III of that Schedule is fulfilled with respect to that period ; or
- (d) the chargeable profits of the accounting period do not exceed £20,000 or, if the accounting period is less than twelve months, a proportionately reduced amount.

(2) Without prejudice to any right of appeal, nothing in subsection (1) above prevents the Board from giving a direction with respect to an accounting period after the end of that period but before it is known whether the company has paid such a dividend as establishes that it is pursuing an acceptable distribution policy in respect of the profits arising in that period.

(3) Notwithstanding that none of paragraphs (a) to (d) of subsection (1) above applies to an accounting period of a controlled foreign company, no direction may be given under section 82(1) above with respect to that accounting period if it appears to the Board that—

- (a) in so far as any of the transactions the results of which are reflected in the profits arising in that accounting period, or any two or more of those transactions taken together, achieved a reduction in United Kingdom tax, either the reduction so achieved was minimal or it was not the main purpose or one of the main purposes of that transaction or, as the case may be, of those transactions taken together to achieve that reduction, and
- (b) it was not the main reason or, as the case may be, one of the main reasons for the company's existence in that accounting period to achieve a reduction in United Kingdom tax by a diversion of profits from the United Kingdom,

and Part IV of Schedule 17 to this Act shall have effect with respect to the preceding provisions of this subsection.

## 84 Residence and interests

- (1) Subject to subsections (2) and (4) below, in any accounting period in which a company is resident outside the United Kingdom, it shall be regarded for the purposes of this Chapter as resident in that territory in which, throughout that period, it is liable to tax by reason of domicile, residence or place of management.
- (2) If, in the case of any company, there are in any accounting period two or more territories falling within subsection (1) above, the company shall in that accounting period be regarded for the purposes of this Chapter as resident in only one of them, namely,—
  - (a) if, throughout the accounting period, the company's place of effective management is situated in one of those territories only, in that territory; and
  - (b) if, throughout the accounting period, the company's place of effective management is situated in two or more of those territories, in that one of them in which, at the end of the accounting period, the greater amount of the company's assets is situated ; and
  - (c) if neither paragraph (a) nor paragraph (b) above applies, in that one of the territories falling within subsection (1) above in which, at the end of the accounting period, the greater amount of the company's assets is situated ; and
  - (d) if paragraph (a) above does not apply and neither paragraph (b) nor paragraph (c) above produces one, and only one, of those territories, in that one of them which may be specified in a direction under section 82(1) above relating to that accounting period.
- (3) If, in the case of any company, there is in any accounting period no territory falling within subsection (1) above, then, for the purposes of this Chapter, it shall be conclusively presumed that the company is in that accounting period resident in a territory in which it is subject to a lower level of taxation.
- (4) In any case where it becomes necessary for the purposes of subsection (2) above to determine in which of two or more territories the greater amount of a company's assets is situated at the end of an accounting period, account shall be taken only of those assets which, immediately before the end of that period, are situated in those territories and the amount of them shall be determined by reference to their market value at that time.
- (5) For the purposes of this Chapter, the following persons have an interest in a controlled foreign company,—
  - (a) any person who possesses, or is entitled to acquire, share capital or voting rights in the company,
  - (b) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption,
  - (c) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for his benefit, and
  - (d) any other person who, either alone or together with other persons, has control of the company,

and for the purposes of paragraph (b) above the definition of " distribution " in Part X of the Taxes Act shall be construed without any limitation to companies resident in the United Kingdom.

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- (6) References in subsection (5) above to being entitled to do anything apply where a person is presently entitled to do it at a future date, or will at a future date be entitled to do it; but a person whose entitlement to secure that any income or assets of the company will be applied as mentioned in paragraph (c) of that subsection is contingent upon a default of the company or any other person under any agreement shall not be treated as falling within that paragraph unless the default has occurred.
- (7) Without prejudice to subsection (5) above, the Board may, if they think it appropriate, treat a loan creditor of a controlled foreign company as having an interest in the company for the purposes of this Chapter.

## **85 Lower level of taxation**

- (1) Without prejudice to subsection. (3) of section 84 above, a company which, by virtue of subsection (1) or subsection (2) of that section, is to be regarded as resident in a particular territory outside the United Kingdom shall be considered to be subject to a lower level of taxation in that territory if the amount of tax (in this section referred to as " the local tax ") which is paid under the law of that territory in respect of the profits of the company which arise in any accounting period is less than one half of the corresponding United Kingdom tax on those profits.
- (2) For the purposes of this Chapter, the amount of the corresponding United Kingdom tax on the profits arising in an accounting period of a company resident outside the United Kingdom is the amount of corporation tax which, on the assumptions set out in Schedule 16 to this Act and subject to subsection (3) below, would be chargeable in respect of the chargeable profits of the company for that accounting period.
- (3) In determining the amount of corporation tax which, in accordance with subsection (2) above, would be chargeable in respect of the chargeable profits of an accounting period of a company resident outside the United Kingdom—
  - (a) it shall be assumed for the purposes of Schedule 16 to this Act—
    - (i) that a direction has been given under section 82(1) above in respect of that period ; and
    - (ii) that the Board have made any declaration which they could have made under sub-paragraph (3) of paragraph 11 of that Schedule and of which they gave notice in writing as mentioned in that sub-paragraph ; and
  - (b) there shall be disregarded so much of any relief from corporation tax in respect of income as would be attributable to the local tax and would fall to be given by virtue of any provision of Part XVIII of the Taxes Act (double taxation relief) other than section 515 (postponement of capital allowances to secure relief); and
  - (c) there shall be deducted from what would otherwise be the amount of that corporation tax—
    - (i) any amount which (on the assumptions set out in Schedule 16 to this Act) would fall to be set off against corporation tax by virtue of section 240(5) of the Taxes Act (sums received under deduction of income tax); and
    - (ii) any amount of income tax or corporation tax actually charged in respect of any of those chargeable profits.

- (4) The references in subsection (3)(c) above to an amount falling to be set off or an amount actually charged do not include so much of any such amount as has been or falls to be repaid to the company whether on the making of a claim or otherwise.

## **86 Accounting periods and creditable tax**

- (1) For the purposes of this Chapter, an accounting period of a company resident outside the United Kingdom shall begin—
- (a) whenever the company comes under the control of persons resident in the United Kingdom;
  - (b) whenever the company, not being the subject of an earlier direction under section 82(1) above, commences to carry on business; and
  - (c) whenever an accounting period of the company ends without the company then ceasing either to carry on business or to have any source of income whatsoever;

and for the purposes of paragraph (a) above a company which is under the control of persons resident in the United Kingdom immediately before this Chapter comes into force shall be treated as coming under their control immediately after it comes into force.

- (2) For the purposes of this Chapter, an accounting period of a company resident outside the United Kingdom shall end if and at the time when—
- (a) the company ceases to be under the control of persons resident in the United Kingdom ; or
  - (b) the company becomes, or ceases to be, liable to tax in a territory; or
  - (c) the company ceases to have any source of income whatsoever ;

and for the purposes of paragraph (b) above " liable to tax " means liable to tax by reason of domicile, residence or place of management.

- (3) Without prejudice to subsections (1) and (2) above, subsections (3), (5) and (7) of section 247 of the Taxes Act (end of accounting periods and provisions as to winding up) shall apply for the purposes of this Chapter as they apply for the purposes of corporation tax, but with the omission of so much of those provisions as relates to a company coming or ceasing to be within the charge to corporation tax.
- (4) Where it appears to the Board that the beginning or end of any accounting period of a company resident outside the United Kingdom is uncertain, a direction under section 82(1) above may specify as an accounting period of the company such period, not exceeding twelve months, as appears to the Board to be appropriate, and that period shall be treated for the purposes of this Chapter as an accounting period of the company unless the direction is subsequently amended under subsection (5) below.
- (5) If, on further facts coming to the knowledge of the Board after the making of a direction (including facts emerging on an appeal against notice of the making of the direction), it appears to the Board that any accounting period specified in the direction is not the true accounting period, the Board shall amend the direction so as to specify the true period.
- (6) In this Chapter, in relation to an accounting period of a controlled foreign company in respect of which a direction is given under section 82(1) above, the creditable tax means the aggregate of—

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- (a) the amount of any relief from corporation tax in respect of income which (on the assumptions set out in Schedule 16 to this Act and assuming the company to be liable for corporation tax on the chargeable profits of that accounting period) would fall to be given to the company by virtue of any provision of Part XVIII of the Taxes Act (double taxation relief) in respect of foreign tax attributable to any income which is brought into account in determining those chargeable profits; and
- (b) any amount which (on those assumptions) would fall to be set off against corporation tax on those chargeable profits by virtue of section 240(5) of the Taxes Act (sums received under deduction of income tax); and
- (c) the amount of any income tax or corporation tax actually charged in respect of the chargeable profits of that accounting period, less any of that tax which has been or falls to be repaid to the company, whether on the making of a claim or otherwise.

## **87 Apportionment of chargeable profits and creditable tax**

- (1) Where a direction has been given under section 82(1) above in respect of an accounting period of a controlled foreign company, then, subject to subsections (2) and (3) below, the apportionment of the company's chargeable profits and creditable tax (if any) for that period shall be made among, and according to the respective interests of, the persons who at any time during that period had interests in the company.
- (2) In determining for the purposes of this Chapter the respective interests of persons who (in accordance with section 84 above) have interests in a controlled foreign company, the Board may, if it seems to them just and reasonable to do so, attribute to each of those persons an interest corresponding to his interest in the assets of the company available for distribution among those persons in the event of a winding up or in any other circumstances.
- (3) Where the controlled foreign company is not a trading company, the Board may, if it seems to them just and reasonable to do so, treat a loan creditor as having for the purposes of this section an interest in the company to the extent to which the income of the company has been, or is available to be, expended in redemption, repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.
- (4) Subject to subsections (5) and (7) below, as between persons each of whom has an unvarying holding of shares of the same class throughout a particular accounting period of a controlled foreign company, the amount of the company's chargeable profits and creditable tax which is apportioned to each of them by virtue of his holding of those shares shall be in direct proportion to the numbers of shares comprised in each of their holdings; and similar principles shall apply in relation to an apportionment among other persons each of whom holds an interest of the same description in the controlled foreign company.
- (5) Where the same interest in a controlled foreign company is held directly by one person and indirectly by another or others (as in a case where one company has a shareholding in the controlled foreign company and the first company is controlled by a third company or by two or more persons together) then, subject to subsection (6) below, the Board, in apportioning the company's chargeable profits and creditable tax, may treat that interest as held solely by a person who holds that interest indirectly or, as the case may be, by two or more persons (in this subsection referred to as " holders

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) who, taken together, hold that interest indirectly and, in particular, if that person or one or more of those holders is resident in the United Kingdom, may treat the interest as held solely by that person or, as the case may be, those holders.

- (6) In a case where the same interest is held directly by one person and indirectly by another and the circumstances are as set out in any of paragraphs (a) to (c) below, the Board shall treat the interest as held solely by the company which is described in the paragraph concerned as " the assessable company "—
- (a) where the interest is held directly by a company resident in the United Kingdom, that company is the assessable company; and
  - (b) where the interest is held directly by a person resident outside the United Kingdom and indirectly by only one company resident in the United Kingdom, that company is the assessable company ; and
  - (c) where the interest is held directly by a person resident outside the United Kingdom and indirectly by two or more companies resident in the United Kingdom, the assessable company is that one of those companies which so holds the interest by virtue of holding directly an interest in a foreign holding company ;

and for the purposes of paragraph (c) above a foreign holding company is a company resident outside the United Kingdom which holds directly or indirectly the interest in the controlled foreign company.

- (7) Without prejudice to subsection (5) above, in any case where an interest in a controlled foreign company is held in a fiduciary or representative capacity in such circumstances that there is or are an identifiable beneficiary or beneficiaries, the Board may treat the interest as held by that beneficiary or, as the case may be, as apportioned among those beneficiaries ; and any such apportionment shall be made on such basis as seems to the Board to be just and reasonable.
- (8) Subject to the preceding provisions of this section, the apportionment of the chargeable profits and creditable tax of a controlled foreign company for any accounting period shall be made on such basis as seems to the Board to be just and reasonable.

## **88 Notices and appeals**

- (1) Where the Board have given a direction under section 82(1) above with respect to an accounting period of a controlled foreign company, notice of the making of the direction shall be given to every company resident in the United Kingdom which appears to the Board to have had an interest in the controlled foreign company at any time during that period.
- (2) A notice under subsection (1) above shall—
- (a) specify the date on which the direction was made and the controlled foreign company to which it relates ;
  - (b) specify the accounting period to which the direction relates and the amount of the chargeable profits and creditable tax computed for that period;
  - (c) specify the reliefs (if any) which it has been assumed that the company has claimed by virtue of paragraph 4(1) of Schedule 16 to this Act;
  - (d) specify, in a case where paragraph (d) of subsection (2) of section 84 above applies, the territory which, by virtue of that paragraph, was specified in the direction and, in any other case, specify the territory (if any) in which, by virtue of that section, the Board consider that the company is to be regarded as resident for the purposes of this Chapter;

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- (e) inform the recipient of the notice of the right of appeal conferred on him by subsection (4) below and of the right to give notice under paragraph 4(2) of Schedule 16 to this Act; and
  - (f) specify any declaration with respect to the accounting period concerned which was made prior to or at the same time as the notice by virtue of paragraph 11(3) of Schedule 16 to this Act or paragraph 3(2) of Schedule 17 to this Act;
- and, in the case of a notice given after the direction concerned has been amended by virtue of section 86(5) above, the notice shall specify the date of the amendment and (so far as paragraphs (b) and (c) above are concerned) shall relate to the position resulting from the amendment.
- (3) Where, by virtue of section 86(5) above, the Board have amended a direction so as to specify a revised accounting period, notice of the making of the amendment shall be given to every company which was previously given notice of the making of the direction; and a notice under this subsection—
- (a) shall identify the direction which is amended and state the effect of the amendment, including the extent to which the matters specified in the notice of the making of the direction are superseded ; and
  - (b) shall contain the provisions required, by virtue of paragraphs (b) to (f) of subsection (2) above, to be included in a notice under subsection (1) above.
- (4) Any company to which notice is given under subsection (1) or subsection (3) above may, by giving notice of appeal in writing to the Board within sixty days of the date of the notice given to the company, appeal to the Special Commissioners against that notice on all or any of the following grounds,—
- (a) that the direction should not have been given or, where the direction has been amended, that the amendment should not have been made ;
  - (b) that the amount of chargeable profits or creditable tax specified in the notice is incorrect;
  - (c) that the company did not have an interest in the controlled foreign company concerned at any time during the accounting period in question ;
  - (d) that, if the notice specifies a declaration made by virtue of sub-paragraph (3) of paragraph 11 of Schedule 16 to this Act, the condition for the making of that declaration in sub-paragraph (5) of that paragraph was not fulfilled; and
  - (e) that, if the notice specifies a declaration made by virtue of paragraph 3(2) of Schedule 17 to this Act, the condition for the making of that declaration was not fulfilled ;
- and the notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (5) If, after the time at which notice is given under subsection (1) above with respect to an accounting period of a controlled foreign company, the Board make a declaration by virtue of—
- (a) paragraph 11(3) of Schedule 16 to this Act, or
  - (b) paragraph 3(2) of Schedule 17 to this Act,

then, unless the effect of the declaration is such that a notice (which, among other matters, will specify the declaration) will be required to be given under subsection (3) above, the Board shall give notice specifying the declaration to every company which was previously given notice of the making of the direction ; and subsection (4) above



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shall apply in relation to a notice under this subsection as it applies in relation to a notice under subsection (3) above, but with the omission of paragraphs (a) to (c).

- (6) If it appears to the inspector that the amount of the chargeable profits or creditable tax specified in a notice under subsection (1) or subsection (3) above is incorrect, he shall give notice of the revised amount to every company to which notice was given under subsection (1) or subsection (3) above and, except where the revised amount results from—

- (a) an appeal under this section, or
- (b) a notice given to the Board under paragraph 4(2) of Schedule 16 to this Act or by virtue of paragraph 13 of that Schedule,

any company to which notice is given under this subsection may, by giving notice of appeal in writing to the Board within sixty days of the date of the notice given to the company, appeal to the Special Commissioners against the revised amount specified in the notice.

- (7) The jurisdiction of the Special Commissioners on an appeal under this section shall include jurisdiction to review any decision of the Board or the inspector which is relevant to a ground of the appeal.

- (8) The Board may make regulations—

- (a) as respects the conduct of appeals under this section ;
- (b) entitling any person who has received, or is connected or associated with a person who has received, a notice under subsection (1) above with respect to a particular accounting period of a controlled foreign company to appear on an appeal brought by another person who has received such a notice ; and
- (c) with respect to the joinder of appeals brought by different persons with respect to the same direction or the same amount of chargeable profits or creditable tax ;

and any such regulations shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

## **89 Assessment, recovery and postponement of tax**

- (1) Subject to the following provisions of this section, the provisions of section 82(4) (a) above relating to assessment and recovery of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

- (2) For the purposes of the Taxes Acts, any sum assessable and recoverable under section 82(4)(a) above shall be regarded as corporation tax which falls to be assessed for the accounting period in which ends that one of the controlled foreign company's accounting periods the chargeable profits of which give rise to that sum; and a notice of assessment relating to such a sum shall (in addition to any other matter required to be contained in such a notice) specify separately—

- (a) the total amount of those chargeable profits and of any creditable tax which has been apportioned to persons falling within each of paragraphs (a) to (d) of subsection (5), or within subsection (7), of section 84 above, and

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- (b) where there is more than one class of shares in the controlled foreign company, the total amount apportioned to persons holding shares of each class, but such a notice shall not identify any particular person (other than the person assessed) as having an interest of any description in the controlled foreign company.
- (3) In subsection (3) of section 31 of the Taxes Management Act 1970 (appeals to Special Commissioners) after paragraph (c) there shall be inserted “or
- (d) is an assessment to tax under section 82(4)(a) of the Finance Act 1984”;
- and, on an appeal against an assessment to tax under section 82(4)(a) above, the jurisdiction of the Special Commissioners shall include jurisdiction to review any relevant decision taken by the Board under section 87 above in connection with the apportionment of chargeable profits or creditable tax.
- (4) No appeal may be brought against an assessment to tax under section 82(4)(a) above on a ground on which an appeal has or could have been brought under subsection (4) or subsection (6) of section 88 above.
- (5) At the end of subsection (1) of section 55 of the Taxes Management Act 1970 (recovery of tax not postponed) there shall be added the following paragraph—
- “(g) a notice under subsection (1) or subsection (3) of section 88 of the Finance Act 1984 where, before the appeal is determined, the appellant is assessed to tax under section 82(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice”.
- (6) Where an appeal is brought against an assessment to tax under section 82(4)(a) above as well as against a notice under subsection (1) or subsection (3) of section 88 above, section 55 of the Taxes Management Act 1970 shall have effect as follows:—
- (a) an application under subsection (3) of that section may relate to matters arising on both appeals and, in determining the amount of tax the payment of which should be postponed, the Commissioners shall consider matters so arising together; and
- (b) if the Commissioners have determined the amount of tax the payment of which should be postponed solely in relation to one of the appeals, the bringing of the other appeal shall be taken to be a change of circumstances falling within subsection (4) of that section; and
- (c) any reference in that section to the determination of the appeal shall be construed as a reference to the determination of the two appeals, but the determination of one before the other shall be taken to be a change of circumstances falling within subsection (4) of that section.
- (7) Schedule 18 to this Act shall have effect with respect to the reliefs which may be claimed by a company resident in the United Kingdom which has a liability for tax in respect of an amount of chargeable profits; and no reliefs other than those provided for by that Schedule shall be allowed against any such liability.
- (8) In any case where—
- (a) the whole or any part of the tax assessed on a company (in this section referred to as the “ assessable company ”) by virtue of section 87(6) above is not paid before the date on which it is due and payable in accordance with the Taxes Act or, as the case may be, the Taxes Management Act 1970, and
- (b) the Board serve a notice of liability to tax under this subsection on another company (in this section referred to as the “ responsible company”) which is

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resident in the United Kingdom and holds or has held (whether directly or indirectly) the same interest in the controlled foreign company as is or was held by the assessable company,

the tax assessed on the assessable company or, as the case may be, so much of it as remains unpaid shall be payable by the responsible company upon service of the notice.

- (9) Where a notice of liability is served under subsection (8) above,—
- (a) any interest due on the tax assessed on the assessable company and not paid, and
  - (b) any interest accruing due on that tax after the date of service,
- shall be payable by the responsible company.
- (10) In any case where—
- (a) a notice of liability is served on the responsible company under subsection (8) above, and
  - (b) the relevant tax and any interest payable by the responsible company under subsection (9) above is not paid by that company before the expiry of the period of three months beginning on the date of service of the notice,
- that tax and interest may, without prejudice to the right of recovery from the responsible company, be recovered from the assessable company.
- (11) In this section " the Taxes Acts " has the same meaning as in the Taxes Management Act 1970.

## **90 Information relating to controlled foreign companies**

- (1) Where it appears to the Board that a company resident outside the United Kingdom (in this section referred to as a " foreign subsidiary ") may be a controlled foreign company, the Board may, by notice in writing given to any company which appears to them to be a controlling company of the foreign subsidiary, require that company to give to the Board, within such time (not being less than thirty days) as may be specified in the notice, such particulars (which may include details of documents) as may be so specified with respect to any matter concerning the foreign subsidiary, being particulars required by the Board for the purposes of this Chapter as being relevant to the affairs of the controlling company, the foreign subsidiary or any connected or associated company.
- (2) In this section " controlling company ", in relation to a foreign subsidiary or any other company, means a company which is resident in the United Kingdom and has, alone or together with other persons so resident, control of the foreign subsidiary or, as the case may be, that other company.
- (3) The Board may by notice in writing given to a company which appears to them to be a controlling company in relation to a foreign subsidiary require that company to make available for inspection any relevant books, accounts or other documents or records whatsoever of the company itself or, subject to subsection (6) below, of any other company, including the foreign subsidiary, in relation to which it appears to the Board to be a controlling company.
- (4) In subsection (3) above " relevant " means relevant to—
- (a) the computation of any profits of the foreign subsidiary ; or

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- (b) the question whether a direction should be given under section 82(1) above with respect to the foreign subsidiary or a connected or associated company or whether any such direction should be amended ; or
  - (c) any question as to the amount of the chargeable profits or creditable tax for any accounting period of the foreign subsidiary or a connected or associated company ; or
  - (d) any question as to the sum which, in accordance with section 82(4)(a) above, should be assessed on and recoverable from any person.
- (5) In subsections (1) and (4) above " connected or associated company " means a controlled foreign company with which the foreign subsidiary or the controlling company is connected or associated.
- (6) In any case where—
- (a) under subsection (3) above a company is by notice required to make available for inspection any books, accounts, documents or records of a company other than itself, and
  - (b) it appears to the Board, on the application of the company, that the circumstances are such that the requirement ought not to have effect,
- the Board shall direct that the company need not comply with the requirement.
- (7) If, on an application under subsection (6) above, the Board refuse to give a direction under that subsection, the company concerned may, by notice in writing given to the Board within thirty days after the refusal, appeal to the Special Commissioners who, if satisfied that the requirement in question ought in the circumstances not to have effect, may determine accordingly.
- (8) In the Table in section 98 of the Taxes Management Act 1970 (penalties), at the end of the first column there shall be added—

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“Section 90 of the Finance Act 1984.”

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## **91 Interpretation, construction and commencement of Chapter VI**

- (1) In this Chapter " trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades.
- (2) For the purposes of this Chapter—
- (a) section 533 of the Taxes Act (connected persons) applies ; and
  - (b) subsection (10) of section 494 of that Act (associated persons) applies as it applies for the purposes of that section.
- (3) The following provisions of Chapter III of Part XI of the Taxes Act (close companies) apply for the purposes of this Chapter as they apply for the purposes of that Chapter,—
- (a) section 302 (meaning of " control "); and
  - (b) subsections (7) and (8) of section 303 (meaning of " loan creditor ");
- but, in the application of subsection (6) of section 302 for the purposes of this Chapter, for the words " five or fewer participators " there shall be substituted the words " persons resident in the United Kingdom ".
- (4) This Chapter shall be deemed to have come into force on 6th April 1984.

## CHAPTER VII

### OFFSHORE FUNDS

#### *Material interests in non-qualifying funds*

#### **92 Disposal of material interests in non-qualifying offshore funds**

- (1) This Chapter applies to a disposal by any person of an asset if—
  - (a) the disposal occurs on or after 1st January 1984 and, at the time of the disposal, the asset constitutes a material interest in an offshore fund which is or has at any material time been a non-qualifying offshore fund; or
  - (b) paragraph (a) above does not apply but the disposal occurs on or after 1st January 1985 and the conditions in subsection (7) below are fulfilled.
- (2) Subject to the following provisions of this section and section 93 below, there is a disposal of an asset for the purposes of this Chapter if there would be such a disposal for the purposes of the Capital Gains Tax Act 1979 (in this Chapter referred to as "the principal Act").
- (3) Notwithstanding anything in subsection (1)(b) of section 49 of the principal Act (general provisions applicable on death: no deemed disposal by the deceased) where a person dies on or after 1st January 1984 and the assets of which he was competent to dispose include an asset which is or has at any time been a material interest in a non-qualifying offshore fund, then, for the purposes of this Chapter, other than section 93 below,—
  - (a) immediately before the acquisition referred to in subsection (1)(a) of that section, that interest shall be deemed to be disposed of by the deceased for such a consideration as is mentioned in that subsection; but
  - (b) nothing in this subsection affects the determination, in accordance with subsection (1) above, of the question whether that deemed disposal is one to which this Chapter applies.
- (4) Subject to subsection (3) above, section 49 of the principal Act applies for the purposes of this Chapter as it applies for the purposes of that Act, and the reference in subsection (3) above to the assets of which a deceased person was competent to dispose shall be construed in accordance with subsection (10) of that section.
- (5) Notwithstanding anything in section 85 of the principal Act (exchange of securities for those in another company) in any case where—
  - (a) the company which is company B for the purposes of subsection (1) of that section is or was at a material time a non-qualifying offshore fund and the company which is company A for those purposes is not such a fund, or
  - (b) under section 86 of that Act (reconstruction or amalgamation involving issue of securities) persons are to be treated, in consequence of an arrangement, as exchanging shares, debentures or other interests in or of an entity which is or was at a material time a nonqualifying offshore fund for assets which do not constitute interests in such a fund,

then, unless the exchange or arrangement is effected before 1st January 1985 and the shares, debentures or interests which are acquired as a result of the exchange or arrangement are shares, debentures or interests in or of a company resident in the United Kingdom, subsection (3) of the said section 85 (which applies provisions of

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that Act treating transactions as not being disposals and equating original shares with a new holding in certain cases) shall not apply for the purposes of this Chapter.

- (6) In any case where, apart from subsection (5) above, section 85(3) of the principal Act would apply, the exchange concerned of shares, debentures or other interests in or of a non-qualifying offshore fund shall for the purposes of this Chapter constitute a disposal of interests in the offshore fund for a consideration equal to their market value at the time of the exchange.
- (7) The conditions referred to in subsection (1)(b) above are—
- (a) that at the time of the disposal the asset constitutes an interest in a company resident in the United Kingdom or in a unit trust scheme, as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958, the trustees of which are at that time resident in the United Kingdom; and
  - (b) that at a material time after 31st December 1984 the company or unit trust scheme was a non-qualifying offshore fund and the asset constituted a material interest in that fund;

and for the purpose of determining whether the asset disposed of falls within paragraph (b) above, section 78 of the principal Act (equation of original shares and new holding) shall have effect as it has effect for the purposes of that Act.

- (8) For the purposes of this section, a material time, in relation to the disposal of an asset, is any time on or after 1st January 1984 or, if it is later, the earliest date on which any relevant consideration was given for the acquisition of the asset; and for this purpose "relevant consideration" means consideration which, assuming the application to the disposal of Chapter II of Part II of the principal Act, would fall to be taken into account in determining the amount of the gain or loss accruing on the disposal, whether that consideration was given by or on behalf of the person making the disposal or by or on behalf of a predecessor in title of his whose acquisition cost represents, directly or indirectly, the whole or any part of the acquisition cost of the person making the disposal.

### **93 Offshore fund operating equalisation arrangements**

- (1) For the purposes of this Chapter, an offshore fund operates equalisation arrangements if, and at a time when, arrangements are in existence which have the result that where—
- (a) a person acquires by way of initial purchase a material interest in the fund at some time during a period relevant to the arrangements, and
  - (b) the fund makes a distribution for a period which begins before the date of his acquisition of that interest,

the amount of that distribution which is paid to him (assuming him still to retain that interest) will include a payment of capital which is debited to an account maintained under the arrangements (in this Chapter referred to as "the equalisation account") and which is determined by reference to the income which had accrued to the fund at the date of his acquisition.

- (2) For the purposes of this section, a person acquires an interest in an offshore fund by way of initial purchase if—
- (a) his acquisition is by way of subscription for or allotment of new shares, units or other interests issued or created by the fund ; or

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- (b) his acquisition is by way of direct purchase from the persons concerned with the management of the fund and their sale to him is made in their capacity as managers of the fund.
- (3) Without prejudice to section 92(1) above, this Chapter applies, subject to the following provisions of this section, to a disposal by any person of an asset if—
- (a) the disposal occurs on or after 6th April 1984 and, at the time of the disposal, the asset constitutes a material interest in an offshore fund which at the time of the disposal is operating equalisation arrangements ; and
  - (b) the fund is not and has not at any material time, within the meaning of section 92 above, been a non-qualifying offshore fund; and
  - (c) the proceeds of the disposal do not fall to be taken into account as a trading receipt.
- (4) This Chapter does not, by virtue of subsection (3) above, apply to a disposal if—
- (a) it takes place during such a period as is mentioned in subsection (1)(a) above, and
  - (b) throughout so much of that period as precedes the disposal, the income of the offshore fund concerned has been of such a nature as is referred to in paragraph 3(1) of Schedule 19 to this Act.
- (5) An event which, apart from section 78 of the principal Act (re-organisations etc.), would constitute a disposal of an asset shall constitute such a disposal for the purpose of determining whether, by virtue of subsection (3) above, there is a disposal to which this Chapter applies.
- (6) The reference in subsection (5) above to section 78 of the principal Act includes a reference to that section as applied by section 85 of that Act (exchange of securities) but not as applied by section 82 of that Act (conversion of securities).

#### **94 Material interests in offshore funds**

- (1) In this Chapter references to a material interest in an offshore fund are references to such an interest in any of the following, namely—
- (a) a company which is resident outside the United Kingdom ;
  - (b) a unit trust scheme, as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958, the trustees of which are not resident in the United Kingdom ; and
  - (c) any arrangements which do not fall within paragraph (a) or paragraph (b) above, which take effect by virtue of the law of a territory outside the United Kingdom and which, under that law, create rights in the nature of co-ownership (without restricting that expression to its meaning in the law of any part of the United Kingdom) ;
- and any reference in this Chapter to an offshore fund is a reference to any such company, unit trust scheme or arrangements in which any person has an interest which is a material interest.
- (2) Subject to the following provisions of this section, a person's interest in a company, unit trust scheme or arrangements is a material interest if, at the time when he acquired the interest, it could reasonably be expected that, at some time during the period of seven years beginning at the time of his acquisition, he would be able to realise the value of the interest (whether by transfer, surrender or in any other manner).

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- (3) For the purposes of subsection (2) above, a person is at any time able to realise the value of an interest if at that time he can realise an amount which is reasonably approximate to that portion which the interest represents (directly or indirectly) of the market value at that time of the assets of the company or, as the case may be, of the assets subject to the scheme or arrangements.
- (4) For the purposes of subsections (2) and (3) above—
- (a) a person is able to realise a particular amount if he is able to obtain that amount either in money or in the form of assets to the value of that amount; and
  - (b) if at any time an interest in an offshore fund has a market value which is substantially greater than the portion which the interest represents, as mentioned in subsection (3) above, of the market value at that time of the assets concerned, the ability to realise such a market value of the interest shall not be regarded as an ability to realise such an amount as is referred to in that subsection.
- (5) An interest in a company, scheme or arrangements is not a material interest if—
- (a) it is an interest in respect of any loan capital or debt issued or incurred for money which, in the ordinary course of a business of banking, is lent by a person carrying on that business; or
  - (b) it is a right arising under a policy of insurance.
- (6) Shares in a company falling within subsection (1)(a) above (in this subsection referred to as an "overseas company") do not constitute a material interest if—
- (a) the shares are held by a company and the holding of them is necessary or desirable for the maintenance and development of a trade carried on by the company or a company associated with it; and
  - (b) the shares confer at least 10 per cent, of the total voting rights in the overseas company and a right, in the event of a winding-up, to at least 10 per cent, of the assets of that company remaining after the discharge of all liabilities having priority over the shares ; and
  - (c) not more than ten persons hold shares in the overseas company and all the shares in that company confer both voting rights and a right to participate in the assets on a winding-up ; and
  - (d) at the time of its acquisition of the shares, the company had such a reasonable expectation as is referred to in subsection (2) above by reason only of the existence of—
    - (i) an arrangement under which, at some time within the period of seven years beginning at the time of acquisition, that company may require the other participators to purchase its shares; or
    - (ii) provisions of either an agreement between the participators or the constitution of the overseas company under which the company will be wound up within a period which is, or is reasonably expected to be, shorter than the period referred to in subsection (2) above; or
    - (iii) both such an arrangement and such provisions ;
 and in this paragraph "participators" means the persons holding shares falling within paragraph (c) above.
- (7) For the purposes of subsection (6)(a) above, a company is associated with another company if one of them has control of the other within the meaning of section 302



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of the Taxes Act or both of them are under the control, within the meaning of that section, of the same person or persons.

- (8) An interest in a company falling within subsection (1)(a) above is not a material interest at any time when the following conditions are satisfied, namely,—
- (a) that the holder of the interest has the right to have the company wound up ; and
  - (b) that, in the event of a winding up, the holder is, by virtue of the interest and any other interest which he then holds in the same capacity, entitled to more than 50 per cent, of the assets remaining after the discharge of all liabilities having priority over the interest or interests concerned.
- (9) The market value of any asset for the purposes of this Chapter shall be determined in like manner as it would be determined for the purposes of the principal Act except that, in the case of an interest in an offshore fund for which there are separate published buying and selling prices, subsection (4) of section 150 of that Act (meaning of " market value " in relation to rights of unit holders in a unit trust scheme) shall apply with any necessary modifications for determining the market value of the interest for the purposes of this Chapter.

## **95 Non-qualifying offshore funds**

- (1) For the purposes of this Chapter, an offshore fund is a non-qualifying fund except during an account period of the fund in respect of which the fund is certified by the Board as a distributing fund.
- (2) An offshore fund shall not be certified as a distributing fund in respect of any account period unless, with respect to that period, the fund pursues a full distribution policy, within the meaning of Part I of Schedule 19 to this Act.
- (3) Subject to Part II of Schedule 19 to this Act, an offshore fund shall not be certified as a distributing fund in respect of any account period if, at any time in that period,—
- (a) more than 5 per cent, by value of the assets of the fund consists of interests in other offshore funds; or
  - (b) subject to subsections (4) and (5) below, more than 10 per cent, by value of the assets of the fund consists of interests in a single company ; or
  - (c) the assets of the fund include more than 10 per cent, of the issued share capital of any company or of any class of that share capital; or
  - (d) subject to subsection (6) below, there is more than one class of material interest in the offshore fund and they do not all receive proper distribution benefits, within the meaning of subsection (7) below.
- (4) For the purposes of subsection (3)(b) above, in any account period the value, expressed as a percentage of the value of all the assets of an offshore fund, of that portion of the assets of the fund which consists of an interest in a single company shall be determined as at the most recent occasion (whether in that account period or an earlier one) on which the fund acquired an interest in that company for consideration in money or money's worth; but for this purpose there shall be disregarded any occasion—
- (a) on which the interest acquired constituted the "new holding " for the purposes of section 78 of the principal Act (equation of original shares and new holding), including that section as applied by any later provision of Chapter II of Part IV of that Act (reorganisation of share capital, conversion of securities, etc.); and

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- (b) on which no consideration fell to be given for the interest acquired, other than the interest which constituted the " original shares " for the purposes of the said section 78.
- (5) Except for the purpose of determining the total value of the assets of an offshore fund, an interest in a company shall be disregarded for the purposes of subsection (3)(b) above if—
- (a) the company carries on (in the United Kingdom or elsewhere) a banking business providing current or deposit account facilities in any currency for members of the public and bodies corporate ; and
  - (b) the interest consists of a current or deposit account provided in the normal course of the company's banking business.
- (6) There shall be disregarded for the purposes of subsection (3)(d) above any interests in an offshore fund—
- (a) which are held solely by persons employed or engaged in or about the management of the assets of the fund ; and
  - (b) which carry no right or expectation to participate directly or indirectly, in any of the profits of the fund; and
  - (c) which, on a winding up or on redemption, carry no right to receive anything other than the return of the price paid for the interests.
- (7) If in any account period of an offshore fund there is more than one class of material interests in the fund, the classes of interest do not, for the purposes of subsection (3) (d) above, all receive proper distribution benefits unless, were each class of interests and the assets which that class represents interests in and assets of a separate offshore fund, each of those separate funds would, with respect to that period, pursue a full distribution policy, within the meaning of Part I of Schedule 19 to this Act.
- (8) For the purposes of this Chapter, an account period of an offshore fund shall begin—
- (a) whenever the fund begins to carry on its activities or, if it is later, on 1st January 1984 ; and
  - (b) whenever an account period of the fund ends without the fund then ceasing to carry on its activities.
- (9) For the purposes of this Chapter, an account period of an offshore fund shall end on the first occurrence of any of the following—
- (a) the expiration of twelve months from the beginning of the period;
  - (b) an accounting date of the fund or, if there is a period for which the fund does not make up accounts, the end of that period ; and
  - (c) the fund ceasing to carry on its activities.
- (10) For the purposes of this Chapter,—
- (a) an account period of an offshore fund which is a company falling within section 94(1)(a) above shall end if, and at the time when, the company ceases to be resident outside the United Kingdom ; and
  - (b) an account period of an offshore fund which is a unit trust scheme falling within section 94(1)(b) above shall end if, and at the time when, the trustees of the scheme become resident in the United Kingdom.
- (11) The provisions of Part III of Schedule 19 to this Act shall have effect with respect to the procedure for and in connection with the certification of an offshore fund as a

distributing fund, and the supplementary provisions in Part IV of that Schedule shall have effect.

*Charge to tax of offshore income gains*

**96 Charge to income or corporation tax of offshore income gain**

- (1) If a disposal to which this Chapter applies gives rise, in accordance with section 93 above or Schedule 20 to this Act, to an offshore income gain, then, subject to the provisions of this section, the amount of that gain shall be treated for all the purposes of the Tax Acts as income arising at the time of the disposal to the person making the disposal and as constituting profits or gains chargeable to tax under Case VI of Schedule D for the chargeable period in which the disposal is made.
- (2) Subject to subsection (3) below, sections 2 and 12 of the principal Act (persons chargeable to tax in respect of chargeable gains) and section 246(2)(b) of the Taxes Act (chargeable gains accruing to certain companies not resident in the United Kingdom) shall have effect in relation to income tax or corporation tax in respect of offshore income gains as they have effect in relation to capital gains tax or corporation tax in respect of chargeable gains.
- (3) In the application of section 12 of the principal Act in accordance with subsection (2) above, paragraphs (a) and (b) of subsection (1) of that section (which define the assets on the disposal of which chargeable gains are taxable) shall have effect with the omission of the words " situated in the United Kingdom and ".
- (4) In a case where section 12 of the principal Act has effect as modified by subsection (3) above, section 246 of the Taxes Act shall have effect as if, in subsection (2)(b), the words " situated in the United Kingdom " were omitted.
- (5) In the case of individuals resident or ordinarily resident but not domiciled in the United Kingdom, section 14 of the principal Act (which provides for taxation on a remittance basis) shall have effect in relation to income tax chargeable by virtue of subsection (1) above on an offshore income gain as it has effect in relation to capital gains tax in respect of gains accruing to such individuals from the disposal of assets situated outside the United Kingdom.
- (6) Section 360(2) of the Taxes Act (exemption for charities from tax on chargeable gains by reference to section 145 of the principal Act) shall apply in relation to income tax chargeable by virtue of subsection (1) above on an offshore income gain as it applies in relation to tax on chargeable gains.
- (7) In any case where—
  - (a) a disposal to which this Chapter applies is a disposal of settled property, within the meaning of the principal Act, and
  - (b) for the purposes of the principal Act, the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom,subsection (1) above shall not apply in relation to any offshore income gain to which the disposal gives rise.

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- (8) In Schedule 10 to the Finance Act 1975 (capital transfer tax: valuation) in paragraph 9 (value transferred on death) at the end of sub-paragraph (1) there shall be added the words “and
- (e) allowance shall be made for a liability for income tax in respect of an offshore income gain, within the meaning of Chapter VII of Part II of the Finance Act 1984, arising on a disposal which is deemed to occur on the death by virtue of section 92(3) of that Act.”

## **97 Offshore income gains accruing to persons resident or domiciled abroad**

- (1) Section 15 of the principal Act (chargeable gains accruing to certain non-resident companies) shall have effect in relation to offshore income gains subject to the following modifications—
- (a) for any reference to a chargeable gain there shall be substituted a reference to an offshore income gain;
- (b) for the reference in subsection (7) to capital gains tax there shall be substituted a reference to income tax or corporation tax ; and
- (c) paragraphs (b) and (c) of subsection (5) and subsection (8) shall be omitted.
- (2) Subject to subsections (3) and (4) below, sections 80 to 84 of the Finance Act 1981 (gains of non-resident settlements) shall have effect in relation to offshore income gains subject to the following modifications,—
- (a) for any reference to chargeable gains, other than the reference in section 80(5), there shall be substituted a reference to offshore income gains ;
- (b) in section 80(2) for the words " tax under section 4(1) of the Capital Gains Tax Act 1979" there shall be substituted the words " income tax by virtue of section 96 of the Finance Act 1984 ";
- (c) in section 80(6) the reference to tax shall be construed as a reference to income tax or corporation tax ; and
- (d) sections 80(8) and 83(6) shall be omitted.
- (3) In subsection (5) of section 80 of the Finance Act 1981, both as originally enacted and as applied by subsection (2) above, the reference to chargeable gains shall be construed as including a reference to offshore income gains.
- (4) If, in any year of assessment,—
- (a) under subsection (3) of section 80 of the Finance Act 1981, as originally enacted, a chargeable gain falls to be attributed to a beneficiary, and
- (b) under that subsection, as applied by subsection (2) above, an offshore income gain also falls to be attributed to him,
- subsection (4) of that section (gains attributed in proportion to capital payments received) shall have effect as if it required offshore income gains to be attributed before chargeable gains.
- (5) Subject to subsection (6) below, for the purpose of determining whether an individual ordinarily resident in the United Kingdom has a liability for income tax in respect of an offshore income gain which arises on a disposal to which this Chapter applies where the disposal is made by a person resident or domiciled outside the United Kingdom, the following enactments (which relate to the avoidance of tax by the transfer of assets abroad)—
- (a) section 478 of the Taxes Act, and

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- (b) section 45 of the Finance Act 1981,  
shall apply as if the offshore income gain arising to the person resident or domiciled outside the United Kingdom constituted income becoming payable to him and, accordingly, any reference in those enactments to income of (or payable or arising to) such a person includes a reference to the offshore income gain arising to him by reason of the disposal to which this Chapter applies.
- (6) To the extent that an offshore income gain is treated, by virtue of subsection (1) or subsection (2) above, as having accrued to any person resident or ordinarily resident in the United Kingdom, that gain shall not be deemed to be the income of any individual for the purposes of—
- (a) either of the enactments referred to in subsection (5) above; or
  - (b) any provision of Part XVI of the Taxes Act (settlements).

## **98 Deduction of offshore income gain in determining capital gain**

- (1) The provisions of this section apply where a disposal to which this Chapter applies gives rise to an offshore income gain; and, if that disposal also constitutes the disposal of the interest concerned for the purposes of the principal Act, then that disposal is in the following provisions of this section referred to as " the 1979 Act disposal ".
- (2) So far as relates to an offshore income gain which arises on a material disposal, within the meaning of Part I of Schedule 20 to this Act, subsections (3) and (4) below shall have effect in relation to the 1979 Act disposal in substitution for section 31(1) of the principal Act (deduction of consideration chargeable to tax on income).
- (3) Subject to the following provisions of this section, in the computation under Chapter II of Part II of the principal Act of any gain accruing on the 1979 Act disposal, a sum equal to the offshore income gain shall be deducted from the sum which would otherwise constitute the amount or value of the consideration for the disposal.
- (4) Where the 1979 Act disposal is of such a nature that, by virtue of section 35 of the principal Act (part disposals) an apportionment falls to be made of certain expenditure, no deduction shall be made by virtue of subsection (3) above in determining, for the purposes of the fraction in subsection (2) of that section, the amount or value of the consideration for the disposal.
- (5) If the 1979 Act disposal forms part of a transfer to which section 123 of the principal Act applies (roll-over relief on transfer of business in exchange wholly or partly for shares) then, for the purposes of subsection (4) of that section (determination of the amount of the deduction from the gain on the old assets) " B " in the fraction in that subsection (the value of the whole of the consideration received by the transferor in exchange for the business) shall be taken to be what it would be if the value of the consideration other than shares so received by the transferor were reduced by a sum equal to the offshore income gain.
- (6) Where the disposal to which this Chapter applies constitutes such a disposal by virtue of section 92(6) or section 93(5) above, the principal Act shall have effect as if an amount equal to the offshore income gain to which the disposal gives rise were given (by the person making the exchange concerned) as consideration for the new holding, within the meaning of section 79 of that Act (consideration given or received for new holding on a reorganisation).
- (7) In any case where—

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- (a) a disposal to which this Chapter applies by virtue of subsection (3) of section 93 above is made otherwise than to the offshore fund concerned or the persons referred to in subsection (2)(b) of that section, and
- (b) subsequently, a distribution which is referable to the asset disposed of is paid either to the person who made the disposal or to a person connected with him, and
- (c) the disposal gives rise (in accordance with Part II of Schedule 20 to this Act) to an offshore income gain,

then, for the purposes of the Tax Acts, the amount of the first distribution falling within paragraph (b) above shall be taken to be reduced or, as the case may be, extinguished by deducting therefrom an amount equal to the offshore income gain referred to in paragraph (c) above and, if that amount exceeds the amount of that first distribution, the balance shall be set against the second and, where necessary, any later distribution falling within paragraph (b) above, until the balance is exhausted.

- (8) Section 533 of the Taxes Act (connected persons) applies for the purposes of subsection (7)(b) above.

## **99 Offshore income gains of insurance companies**

- (1) An offshore income gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated for the purposes of sections 310 (rate relief: investment income reserved for policy holders) and 315 (foreign life assurance funds) of the Taxes Act as if it were income from investments held in connection with that business.
- (2) Income attributable to offshore income gains shall be left out of account in computing under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits) the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2)(a) of section 313 of the Taxes Act (general annuity business) after the words " development gains" there shall be inserted the words " or offshore income gains, within the meaning of Chapter VII of Part II of the Finance Act 1984 ".
- (3) In section 316 of the Taxes Act (overseas life insurance companies: charge on investment income) in subsection (1A) (exclusion of income attributable to development gains) after the words " development gains " there shall be inserted the words " or offshore income gains, within the meaning of Chapter VII of Part II of the Finance Act 1984 ".
- (4) Section 323 of the Taxes Act (interpretation of Chapter II of Part XII of that Act) has effect in relation to this section as if it were included in that Chapter.

## **100 Offshore income gains of trustees**

- (1) Income arising in a year of assessment by virtue of section 96(1) above to trustees shall be chargeable to income tax at a rate equal to the sum of the basic rate and the additional rate for that year.
- (2) In section 17 of the Finance Act 1973 (payments under discretionary trusts), in subsection (3) (amounts to be set against tax assessable on trustees in connection with such payments), at the end of paragraph (e) there shall be inserted the words "and

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- (f) the amount of any tax on income arising to the trustees by virtue of section 96(1) of the Finance Act 1984 (offshore income gains) and charged at a rate equal to the sum of the basic rate and the additional rate by virtue of section 100(1) of that Act”.
- (3) Where an offshore income gain accrues in respect of a disposal of assets made by a person holding them as trustee for a person who would be absolutely entitled as against the trustee but for being an infant, the income which by virtue of section 96(1) above is treated as arising by reference to that gain shall for the purposes of Chapter II of Part XVI of the Taxes Act (settlements on children) be deemed to be paid to the infant; and in this subsection " infant", in relation to Scotland, means a pupil or minor.

### PART III

#### CAPITAL TRANSFER TAX

#### 101 Reduction of tax

- (1) Section 91(1) of the Finance Act .1982 (indexation of rate bands) shall not apply to chargeable transfers made in the year beginning with 6th April 1984.
- (2) For the Tables in section 37(3) of the Finance Act 1975 there shall be substituted the Tables set out below.

FIRST TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	64,000	Nil
64,000	85,000	30
85,000	116,000	35
116,000	148,000	40
148,000	185,000	45
185,000	232,000	50
232,000	285,000	55
285,000	—	60

SECOND TABLE

Portion of value		Rate of tax
Lower limit	Upper limit	Per cent.
£	£	
0	64,000	Nil

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Portion of value		Rate of tax
64,000	85,000	15
85,000	116,000	17 1/2
116,000	148,000	20
148,000	185,000	22 1/2
185,000	232,000	25
232,000	285,000	27 1/2
285,000	—	30

- (3) Subsection (2) above applies to any chargeable transfer made on or after 13th March 1984.

## 102 Special discretionary trusts: excluded property

- (1) In section 113 of the Finance Act 1982 (charge to tax in respect of property leaving temporary charitable trusts), the following subsection shall be inserted after subsection (6) and will accordingly be applied by sections 114 (accumulation and maintenance trusts), 116 (property leaving employee trusts and newspaper trusts) and 118 (protective trusts and trusts for disabled persons) of that Act—

“(6A) Where the whole or part of the amount on which tax is charged under this section is attributable to property which was excluded property at any time during the relevant period then, in determining the rate at which tax is charged under this section in respect of that amount or part, no quarter throughout which that property was excluded property shall be counted.”.

- (2) In subsection (7) of section 113 (which defines " relevant period " for the purposes of subsection (6)) for the words " subsection (6) " there shall be substituted the words " subsections (6) and (6A) " .
- (3) This section has effect in relation to events on or after 9th March 1982.

## 103 Discretionary trusts: distributions made within two years of testator's death

- (1) After subsection (1A) of section 47 of the Finance Act 1975 (certain distributions made within two years of testator's death to be treated as made under his will) there shall be inserted the following subsection—

“(1AA) This Part of this Act shall also apply as mentioned in subsection (1A)(b) above in any case where the circumstances are as mentioned in subsection (1A) but the event in question is one on which tax would be so chargeable apart from—

- (a) section 115 of the Finance Act 1982 (property becoming subject to employee trusts);
- (b) section 119 of that Act (property becoming held for charitable purposes or by exempt bodies); or
- (c) paragraph 1(1) of Schedule 16 to that Act (property becoming comprised in maintenance funds for historic buildings).”

- (2) This section has effect in relation to deaths occurring on or after 13th March 1984.



#### **104 Property moving between settlements**

- (1) In section 121 of the Finance Act 1982 (property moving between settlements), the following subsection shall be added at the end—

“(3) Subsection (1) above does not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the other settlement before 10th December 1981.”.

- (2) In paragraph 3 of Schedule 7 to the Finance Act 1975 (certain government securities to be excluded property if person beneficially entitled is domiciled and ordinarily resident abroad) the following sub-paragraph shall be inserted after sub-paragraph (2A)—

“(2AA) Sub-paragraph (2A) above does not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the second settlement before 10th December 1981.”.

- (3) This section has effect in relation to events on or after 15th March 1983.

#### **105 Adjustment of tax**

- (1) In paragraph 23(3) of Schedule 4 to the Finance Act 1975 (adjustment of tax in cases of fraud, wilful default or neglect), for the words " a person liable for the tax, the period " there shall be substituted the words “any of the following—

- (a) a person liable for the tax ; and
- (b) in the case of tax chargeable under Chapter II of Part IV of the Finance Act 1982, the person who is the settlor in relation to the settlement;

the period”.

- (2) With effect from 1st April 1983, subsection (8) of section 114 of the Finance Act 1976 (transfers reported late) shall cease to have effect.
- (3) Subsection (1) above has effect in relation to any fraud, wilful default or neglect coming to the knowledge of the Board on or after 1st April 1983.

#### **106 Recovery of tax**

- (1) In Schedule 4 to the Finance Act 1975, after paragraph 22 there shall be inserted—

“22A —In Scotland, tax and interest on tax may, without prejudice to any other remedy, and if the amount of the tax and interest does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971, be sued for and recovered in the sheriff court.

22B An officer of the Board who is authorised by the Board to do so may address the court in any proceedings in a county court or sheriff court for the recovery of tax or interest on tax.”

- (2) After paragraph 36 of that Schedule there shall be inserted—

“36A In any proceedings for the recovery of tax or interest on tax, a certificate by an officer of the Board—

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- (a) that the tax or interest is due, or
  - (b) that, to the best of his knowledge and belief, it has not been paid,
- shall be sufficient evidence that the sum mentioned in the certificate is due or, as the case may be, unpaid; and a document purporting to be such a certificate shall be deemed to be such a certificate unless the contrary is proved.”

### **107 Relief for stud farms**

- (1) For the purposes of Schedule 14 to the Finance Act 1981 (capital transfer tax: relief for agricultural property) the breeding and rearing of horses on a stud farm and the grazing of horses in connection with those activities shall be taken to be agriculture and any buildings used in connection with those activities to be farm buildings.
- (2) In paragraph 12 of Schedule 10 to the Finance Act 1975 (farm cottages) the existing provisions shall become sub-paragraph (1) and at the end there shall be inserted—
  - “(2) Expressions used in sub-paragraph (1) above and in Schedule 14 to the Finance Act 1981 have the same meaning in that sub-paragraph as in that Schedule.”
- (3) In section 97 of the Finance Act 1981 (grant of tenancies of agricultural property) for subsection (2) there shall be substituted—
  - “(2) Expressions used in subsection (1) above and in Schedule 14 to this Act have the same meaning in that subsection as in that Schedule.”
- (4) This section has effect in relation to transfers of value and other events occurring on or after 10th March 1981.

### **108 Pre-consolidation amendments**

Schedule 21 to this Act (which contains amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the law relating to capital transfer tax) shall have effect.

## **PART IV**

### STAMP DUTY

### **109 Reduction of duty on conveyances and transfers**

- (1) In subsection (1) of section 55 of the Finance Act 1963 and subsection (1) of section 4 of the Finance Act (Northern Ireland) 1963 for paragraphs (a) to (e) there shall be substituted the following paragraphs:—
  - “(a) where the amount or value of the consideration is £30,000 or under and the instrument is certified, as described in section 34(4) of the Finance Act 1958, at £30,000, nil;
  - (b) where paragraph (a) above does not apply and the amount or value of the consideration does not exceed £500, the rate of 50p for every £50 or part of £50 of the consideration ; and

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- (c) where paragraph (a) above does not apply and the amount or value of the consideration exceeds £500, the rate of £1 for every £100 or part of £100 of the consideration”;
- and in subsection (2) of each of those sections for the words from " as if " onwards there shall be substituted the words " as if paragraph (a) and, in paragraphs (b) and (c), the words "; paragraph (a) above does not apply and " were omitted ".
- (2) Part III of Schedule 11 to the Finance Act 1974 (saving for certain transfers of stock or marketable securities) shall cease to have effect.
- (3) Subject to subsection (4) below, subsections (1) and (2) above apply—
- (a) to instruments executed on or after 20th March 1984; and
  - (b) to instruments executed on or after 13th March 1984 which are stamped on or after 20th March 1984;
- and, for the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within paragraph (b) above shall be deemed to be that as varied in accordance with subsections (1) and (2) above.
- (4) In the case of an instrument giving effect to a stock exchange transaction, as denned in section 4 of the Stock Transfer Act 1963, subsections (1) to (3) above do not apply unless the transaction takes place on or after 12th March 1984 and is one in respect of which settlement is due on or after 13th March 1984.
- (5) This section shall be deemed to have come into force on 20th March 1984.

## **110 Extension of stamp duty relief on sales at discount**

- (1) Section 107 of the Finance Act 1981 (sales of houses at discount by local authorities etc.) shall be amended in accordance with the following provisions of this section.
- (2) At the end of subsection (3) of that section (which lists the bodies a conveyance or transfer by which is affected by the section) there shall be added the following paragraph:—
- “(n) the United Kingdom Atomic Energy Authority”.
- (3) After subsection (3) of that section there shall be added the following subsection:—
- “(3A) This section also applies to any conveyance or transfer on sale of a dwelling house where the conveyance or transfer is made pursuant to a sub-sale made at a discount by a body falling within subsection (3)(f) above.”
- (4) Subsections (2) and (3) above have effect with respect to instruments—
- (a) executed on or after 20th March 1984, or
  - (b) executed on or after 13th March 1984 and stamped on or after 20th March 1984,

and, for the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within paragraph (b) above shall be deemed to be that as varied in accordance with subsections (2) and (3) above.

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- (5) With respect to instruments executed on or after the passing of this Act, at the end of subsection (3) of that section, and after the paragraph inserted by subsection (2) above, there shall be added the following paragraph:—
- “(o) such other body as the Treasury may, by order made by statutory instrument, prescribe for the purposes of this section”.

## **111 Agreements for leases**

- (1) In section 75 of the Stamp Act 1891 (agreements for leases for terms not exceeding 35 years to be stamped as if they were leases) in subsection (1) the words "not exceeding thirty-five years " shall be omitted and for subsection (2) (5 pence stamp on lease in conformity with duly stamped agreement) there shall be substituted the following subsection:—

- “(2) Where duty has been duly paid on an agreement for a lease or tack and, subsequent to that agreement, a lease or tack is granted which either—
- (a) is in conformity with the agreement, or
- (b) relates to substantially the same property and term as the agreement,
- then the duty which would otherwise be charged on the lease or tack shall be reduced (or, as the case may be, extinguished) by the deduction therefrom of the duty paid on the agreement.”

- (2) In any case where—
- (a) an interest in land is conveyed or transferred subject to an agreement for a lease or tack for a term exceeding 35 years, or
- (b) a lease or tack is granted subject to an agreement for a lease or tack for a term exceeding 35 years,

then, whether or not the conveyance, transfer, lease or tack is expressed to be so subject, it shall not be taken to be duly stamped unless there is denoted upon the conveyance, transfer, lease or tack the duty paid on the agreement; and section 11 of the Stamp Act 1891 shall have effect for this purpose as if the duty chargeable on the conveyance, transfer, lease or tack depended on the duty paid on the agreement.

- (3) For the purposes of subsection (2) above, an interest conveyed or transferred or, as the case may be, a lease or tack granted is not to be regarded as subject to an agreement for a lease or tack if that agreement is directly enforceable against another interest in the land in relation to which the interest conveyed or transferred or, as the case may be, the lease or tack granted is a superior interest.
- (4) In section 15 of the Stamp Act 1891 (stamping of instruments after execution) in the Table following paragraph (d) of subsection (2) (instruments as to which certain special provisions apply), after the entry beginning " lease or tack ", there shall be inserted:—

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“Agreement for lease or tack chargeable under section 75.	The person contracting for the lease or tack to be granted to him or another.”
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- (5) This section applies to any agreement for a lease or tack entered into on or after 20th March 1984 and shall be deemed to have come into force on that date.

## 112 Sub-sales

- (1) In subsection (4) of section 58 of the Stamp Act 1891 (in case of a sub-sale to a single purchaser, duty chargeable only on consideration moving from the sub-purchaser) after the words " conveyed immediately to the sub-purchaser " there shall be inserted the words " then, except where—
  - (a) the chargeable consideration moving from the sub-purchaser is less than the value of the property immediately before the contract of sale to him, and
  - (b) the conveyance is not one to which section 107 of the Finance Act 1981 (sales of houses at discount by local authorities etc.) applies ".
- (2) In subsection (5) of section 58 of the Stamp Act 1891 (in case of a sub-sale in parts or parcels to different sub-purchasers, each conveyance chargeable with duty only on consideration moving from the sub-purchaser) after the words " to different persons in parts or parcels " there shall be inserted the words " then, except where the aggregate of the chargeable consideration for the sale of all such parts or parcels is less than the value of the whole of the property immediately before the contract for their sale or, as the case may be, the first contract for the sale of any of them ".
- (3) At the end of the said section 58 there shall be inserted the following subsection:—

“(7) Any reference in subsection (4) or subsection (5) of this section to chargeable consideration is a reference to consideration which falls to be brought into account in determining the duty (if any) chargeable on the conveyance to the sub-purchaser or, as the case may be, on the conveyance of each of the parts or parcels in question; and in any case where it is necessary for the purposes of either of those subsections to determine the value of any property, that value shall be determined as for the purposes of section 74 of the Finance (1909-10) Act 1910 (gifts inter vivos).”
- (4) This section applies where the contract for the sub-sale or, as the case may be, the first contract for sub-sale of a part or parcel is entered into on or after 20th March 1984, and shall be deemed to have come into force on that date.

## PART V

### OIL TAXATION

## 113 Restriction on PRT reliefs

- (1) Subject to subsection (3) below, in determining whether any abortive exploration expenditure or exploration and appraisal expenditure is allowable in the case of a participator in an oil field under section 5 or section 5A of the principal Act, no account shall be taken of any expenditure incurred before his qualifying date.
- (2) Subject to subsection (3) below, in determining whether any unrelievable field losses are allowable in the case of a participator in an oil field under section 6 of that Act, no account shall be taken of any allowable loss which, in the case of any other oil field from which the winning of oil has permanently ceased, has accrued as mentioned in subsection (1) of that section unless the date on which the winning of oil from that other field permanently ceased fell on or after his qualifying date.

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- (3) Subsections (1) and (2) above do not apply in the case of a participator in an oil field if his qualifying date falls before 14th September 1983 or before the end of the first chargeable period in relation to the field.
- (4) In this section " qualifying date ", in relation to a participator in an oil field, means whichever of the following dates is applicable in his case or (if there is more than one) the earliest of them—
- (a) the date on which the participator first qualified in respect of any licensed area, being an area which is wholly or partly included in the field ;
  - (b) if the participator is a company, the date on which another company first satisfied both of the following conditions, that is to say—
    - (i) it qualified in respect of any licensed area, being an area which is wholly or partly included in the field; and
    - (ii) it was connected with the participator; and
  - (c) if he is a participator in the field by reason of an arrangement between him and another company, being an arrangement to which paragraph 5 of Schedule 3 to the principal Act applies (transfer of rights etc. to associated company), the date on which the arrangement was made or, if later, the date on which that other company first qualified in respect of any licensed area, being an area which is wholly or partly included in the field.
- (5) For the purposes of subsection (4) above, a person qualifies in respect of a licensed area when, in respect of that area—
- (a) he is, or is one of those, entitled to the benefit of a licence, or
  - (b) he enjoys rights under an agreement, being an agreement which has been approved by the Board and certified by the Secretary of State to confer on him rights which are the same as, or similar to, those conferred by a licence.
- (6) Where (apart from this section) expenditure would be allowable under section 5 or section 5A of the principal Act in the case of a participator in an oil field (in this subsection referred to as " the new participator ") by virtue only of paragraph 16 or paragraph 16A of Schedule 17 to the Finance Act 1980 (transfers of interests in oil fields) then, for the purpose of determining whether the expenditure is allowable in his case in accordance with this section, the date which was the qualifying date in relation to the old participator (within the meaning of that Schedule) is an applicable date to be taken into account for the purposes of subsection (4) above in the case of the new participator.
- (7) For the purposes of subsection (2) above the date on which the winning of oil from an oil field has permanently ceased is the date stated in a decision (whether of the Board or on appeal from the Board) under Schedule 8 to the principal Act to be that date.
- (8) For the purposes of this section, one company is connected with another if—
- (a) one is a 51 per cent, subsidiary of the other and the other is not a 51 per cent, subsidiary of any company; or
  - (b) each of them is a 51 per cent, subsidiary of a third company which is not itself a 51 per cent, subsidiary of any company;
- and section 532 of the Taxes Act (subsidiaries) applies for the purposes of this subsection.
- (9) In this section—
- (a) " company " means any body corporate ; and

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- (b) any reference to the winning of oil from an oil field permanently ceasing includes a reference to the permanent cessation of operations for the winning of oil from the field.

- (10) This section shall have effect in relation to any expenditure or losses in respect of which a claim is made after 13th September 1983.

#### **114 Sales of gas: treatment of certain payments**

- (1) This section applies only in relation to oil consisting of gas and references in the following provisions of this section to oil shall be construed accordingly.

- (2) In any case where, under a contract for the sale of oil won from an oil field, the consideration includes any sum—

- (a) which is payable by the buyer in respect of a quantity of oil to be delivered at a specified time or in a specified period, and
- (b) which is payable whether or not the buyer takes delivery of the whole of the oil at that time or in that period, and
- (c) which, in the event that the buyer does not take delivery of the whole of the oil, entitles the buyer to delivery of oil free of charge at a later time or in a later period,

then, to the extent that the sum is payable in respect of oil which is not delivered at the time or in the period in question, the sum shall be treated for the purposes of the principal Act as an advance payment for the oil to be delivered free of charge and, accordingly, that oil shall be treated for those purposes as sold for a price which (subject to any additional element arising under the following provisions of this section) is equal to that advance payment.

- (3) Where, in a case falling within subsection (2) above, an amount of oil is delivered free of charge in pursuance of the entitlement referred to in paragraph (c) of that subsection, the proportion of the advance payment referred to in that subsection which is to be attributed to that amount of oil shall be that which that amount of oil bears to the total quantity of oil of which the buyer is entitled to delivery free of charge by virtue of the payment of the sum in question.

- (4) In any case where—

- (a) by virtue of subsection (2) above a sum falls to any extent to be treated as an advance payment for oil to be delivered free of charge, but
- (b) at the latest date at which oil could be delivered free of charge in pursuance of the entitlement referred to in paragraph (c) of that subsection, the whole or any part of the oil to which that entitlement relates has not been so delivered,

then at that latest date, one tonne of oil shall be deemed to be delivered as mentioned in paragraph (b) above and so much of the advance payment as has not, under subsection (3) above, been attributed to oil actually delivered shall be attributed to that one tonne.

- (5) Where, under a contract for the sale of oil won from an oil field, the consideration includes any sums (in this section referred to as "capacity payments")—

- (a) which are payable by the buyer at specified times or in respect of specified periods, and

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- (b) which, though they may vary in amount by reference to deliveries of oil or other factors, are payable whether or not oil is delivered under the contract at particular times or in particular periods, and
- (c) which do not, under the terms of the contract or by virtue of subsection (2) above, fall to be treated, in whole or in part, as advance payments for oil to be delivered at some time after the times or periods at or in respect of which the sums are payable,

then, in so far as they would not do so apart from this subsection, the capacity payments shall be treated for the purposes of the principal Act as an additional element of the price received or receivable for the oil sold under the contract.

- (6) For the purpose of determining, in a case where there are capacity payments under a contract for the sale of oil won from an oil field, the assessable profit or allowable loss accruing in a particular chargeable period to the participator by whom oil is sold under the contract, each capacity payment shall be treated as an additional element of the price received or receivable for the oil delivered by him under the contract in the chargeable period in which the capacity payment is paid or payable; and if no oil is in fact so delivered in a chargeable period in which a capacity payment is paid or payable, one tonne of oil shall be deemed to be so delivered in that period and, accordingly, the capacity payment shall be treated for the purposes of the principal Act as the price for which that tonne is sold.
- (7) If, by virtue of subsection (4) or subsection (6) above, one tonne of oil is deemed to be delivered in any chargeable period of the oil field referred to in subsection (2) or, as the case may be, subsection (5) above, a return for that period by the participator concerned under paragraph 2 of Schedule 2 to the principal Act shall give the like information in relation to that tonne as in relation to any other oil falling within subparagraph (2)(a) of that paragraph.

## **115 Information relating to sales at arm's length and market value of oil**

- (1) The Board may, by notice in writing given to a company which is or has been a participator in an oil field, require that company to give to the Board, within such time (not being less than thirty days) as may be specified in the notice, such particulars (which may include details of relevant documents) as may be so specified of any related transaction which appears to the Board to be relevant for the purpose of—
  - (a) determining whether a disposal of any oil is a sale at arm's length, or
  - (b) ascertaining the market value of any oil.
- (2) For the purposes of a notice under subsection (1) above a transaction is a related transaction if, but only if, it is one to which the company to whom the notice is given or a company associated with that company was a party ; and for the purposes of this subsection two companies are associated with one another if—
  - (a) one is under the control of the other; or
  - (b) both are under the control of the same person or persons;
 and in this subsection " control" has the meaning given by section 534 of the Taxes Act.
- (3) In any case where a company (in this subsection and subsection (4) below referred to as " the participator company ") is or has been a participator in an oil field and—
  - (a) the participator company is a 51 per cent. subsidiary of another company, or
  - (b) another company is a 51 per cent. subsidiary of the participator company, or



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- (c) the participator company and another company are both 51 per cent, subsidiaries of a third company,  
the Board may, by notice in writing given to any company referred to in paragraphs (a) to (c) above which is resident in the United Kingdom, require it to make available for inspection any relevant books, accounts or other documents or records whatsoever of the company itself or, subject to subsection (5) below, of any other company which is its 51 per cent, subsidiary.
- (4) In subsection (3) above "relevant" means relating to any transaction which is relevant for the purpose of—
- (a) determining whether a disposal of any oil by the participator company is a sale at arm's length ; or
  - (b) ascertaining the market value of oil won by the participator company.
- (5) In any case where—
- (a) under subsection (3) above a company is by notice required to make available for inspection any books, accounts, documents or records of one of its 51 per cent, subsidiaries which is resident outside the United Kingdom, and
  - (b) it appears to the Board, on the application of the company, that the circumstances are such that the requirement ought not to have effect,
- the Board shall direct that the company need not comply with the requirement.
- (6) If, on an application under subsection (5) above, the Board refuse to give a direction under that subsection, the company concerned may, by notice in writing given to the Board within thirty days after the refusal, appeal to the Special Commissioners who, if satisfied that the requirement in question ought in the circumstances not to have effect, may determine accordingly.
- (7) In this section—
- "company" means any body corporate ; and
  - "51 per cent, subsidiary" shall be construed in accordance with section 532 of the Taxes Act (subsidiaries).

## **116 Offences relating to section 115**

- (1) Where a company has been required by notice under subsection (1) or subsection (3) of section 115 above to give any particulars or, as the case may be, to make available for inspection any books, accounts, documents or records and fails to comply with the notice, the company shall be liable, subject to subsection (3) below—
- (a) to a penalty not exceeding £500 ; and
  - (b) if the failure continues after it has been declared by the court or the Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £100 for each day on which the failure so continues.
- (2) Where a company fraudulently or negligently furnishes, gives, produces or makes any incorrect information, document or record of a kind mentioned in subsection (1) or subsection (3) of section 115 above, the company shall be liable to a penalty not exceeding £2,500 or, in the case of fraud on its part, £5,000.
- (3) A company shall not be liable to any penalty incurred under subsection (1) above for failure to comply with a notice if the failure is remedied before proceedings for the recovery of the penalty are commenced.

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- (4) In this section " company " has the same meaning as in section 115 above.

## PART VI

### MISCELLANEOUS AND SUPPLEMENTARY

#### *National insurance surcharge*

#### **117 Abolition of national insurance surcharge**

The surcharge payable under the National Insurance Surcharge Act 1976 is hereby abolished—

- (a) with respect to earnings paid on or after 6th April 1985, in the case of secondary Class 1 contributions payable by any of the bodies mentioned in section 143(4) of the Finance Act 1982 ; and
- (b) with respect to earnings paid on or after 1st October 1984, in any other case.

#### *Development land tax*

#### **118 Increase of exemption from £0,000 to £5,000**

With respect to financial years ending after 31st March 1984, in the following provisions of the Development Land Tax Act 1976 (which provide for, or relate to, the exemption for the first £50,000 of realised development value) for " £50,000 ", in each place where it occurs, there shall be substituted " £75,000 " —

- (a) section 12 (the exemption itself); and
- (b) in Part II of Schedule 8 (notification) paragraphs 35(1) and 38(3).

#### **119 Deferred liability**

- (1) In section 19A of the Development Land Tax Act 1976 (which, in the case of certain deemed disposals before 1st April 1984, defers liability to tax in relation to development for the owner's use) the words " and before 1st April 1984 " shall be omitted.
- (2) In section 27 of that Act (deferred liability for tax) in subsection (2), at the beginning of paragraph (b) (liability to arise at the time of the operative disposal) there shall be inserted the words " except as provided by subsection (2A) below ".
- (3) After subsection (2) of the said section 27 there shall be inserted the following subsection:—
  - “(2A) If the operative disposal does not fall within the period of twelve years beginning on the date of the deemed disposal, any liability for development land tax on the accrued development value shall be extinguished with effect from the expiry of that period.”
- (4) At the end of the said section 27 there shall be added the following subsection:—
  - “(8) The extinguishment of any deferred liability for development land tax on the accrued development value shall not affect the operation of any enactment

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(whether passed before or after this Act) which, before the liability was extinguished, had effect in relation to that liability or the accrued development value.”

- (5) In Schedule 8 to that Act, after paragraph 38 there shall be inserted the following paragraph:—

“38A A person who becomes chargeable to development land tax by virtue of a disposal—

- (a) which is the operative disposal for the purposes of section 27 of this Act or which is a further disposal falling within subsection (5) of that section, and
- (b) of which he is not required to give notice by virtue of any of the preceding provisions of this Part of this Schedule,

shall give notice of it to the Board not later than the end of the financial year following that in which the disposal occurred.”

- (6) In that Schedule, in paragraph 41 (penalties) in sub-paragraph (1)(a), after the words " 35(1) or" there shall be inserted the words " paragraph 38A or ".

## **120 Extension of relief for Housing Corporation and registered housing associations**

- (1) In section 26 of the Development Land Tax Act 1976 (provisions relating to the Housing Corporation and certain housing associations) in subsection (1) (exemption from tax on realised development value accruing on deemed disposals by approved co-operative housing associations and self-build societies) for paragraphs (a) and (b) there shall be substituted—

“(a) the Housing Corporation, or  
(b) a registered housing association, or  
(c) an approved co-operative housing association not falling within paragraph (b) above, or  
(d) an unregistered self-build society”;

and for the words " by that association or society " there shall be substituted the words " by that body ".

- (2) In consequence of the amendments made by subsection (1) above, subsection (2) of the said section 26 (cases where tax liability was deferred) and, in subsection (3) of that section, the words " or subsection (2) " shall be omitted.
- (3) This section has effect with respect to deemed disposals on or after 13th March 1984.

## **121 Deduction of tax from consideration for disposals by non residents**

- (1) Section 40 of the Development Land Tax Act 1976 (deduction on account of tax from consideration for disposals by non-residents) shall be amended in accordance with this section.
- (2) In subsection (1) the words " which, at that time, is development land " shall be omitted.
- (3) In subsection (2) (no deduction where consideration does not exceed £50,000) for " £50,000 " there shall be substituted " £75,000 or such other limit as may be specified by regulations under subsection (7) below ".

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- (4) In subsection (3) (the amount of the deduction) for the words " one half " there shall be substituted the words " subject to any provision made by regulations under subsection (7) below, two fifths ".
- (5) In subsection (7) (regulations of the Board) in paragraph (b) after the word " vary " there shall be inserted the words " the limit in subsection (2) above or " and after the word " section " there shall be inserted the words " either generally or ".
- (6) Subsection (8) (meaning of " development land") shall be omitted.
- (7) Except in so far as relates to the making of regulations—
  - (a) subsection (3) above has effect in relation to any disposal on or after 1st April 1984 ; and
  - (b) the other provisions of this section have effect in relation to any disposal on or after 6th August 1984.

## **122 Operations relating to telecommunications**

In section 47 of the Development Land Tax Act 1976 (interpretation) in subsection (1A) (which was inserted by section 14 of the Finance (No. 2) Act 1983 and provides that " developedoes not include certain operations relating to telecommunications which are begun on or before 31st December 1984) the words " are begun on or before 31st December 1984 and " shall be omitted.nt "

## **123 Payment by instalments and postponement**

- (1) For the purpose of extending the period during which development land tax may, in certain cases, be paid by instalments from eight to ten years and of restricting those instalments to annual instalments, the following amendments shall be made in Schedule 8 to the Development Land Tax Act 1976—
  - (a) the word " ten " shall be substituted for the word " eight " , in each of paragraphs 45(5) and (7)(b) and 50(1) and (4), and for the words from " eight " onwards in paragraph 45(2)(b);
  - (b) in paragraph 45(3)(c), for the word " nine " there shall be substituted the word " eleven " ; and
  - (c) in paragraph 44(1) for the words from " instalments " onwards there shall be inserted the words " yearly instalments ".
- (2) In section 114(6)(b) of the Finance Act 1980 (application of paragraph 45 of Schedule 8 to the Act of 1976 in relation to advance assessment of tax on deemed disposals), for the words from " nine years " onwards there shall be substituted the words " ' eleven years ' there were substituted the words ' ten years' ".
- (3) In paragraph 52 of Schedule 8 to the Act of 1976 (postponement of tax on incorporation disposal), in sub-paragraphs (4) and (6) for the word " eight " there shall be substituted the word " ten ".
- (4) In section 86A of the Taxes Management Act 1970 (interest on development land tax unpaid on reckonable date)—
  - (a) in subsection (1), for the words " and (3) " there shall be substituted the words " (3) and (3A) " ; and
  - (b) after subsection (3) there shall be inserted the following subsection—

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“(3A) Subsection (1) above shall have effect, in relation to any tax postponed under paragraph 52 of Schedule 8 to the Act of 1976 (postponement on incorporation disposal) as if the reference to the reckonable date were a reference to the date determined in accordance with sub-paragraphs (4) to (6) of paragraph 52.”

- (5) This section has effect in relation to disposals made, and events occurring, on or after 6th August 1983 ; but where, in relation to any such disposal made, or event occurring, before the commencement of this section a person has duly elected to pay development land tax by half-yearly instalments he shall be entitled to continue to pay by such instalments and the Act of 1976 shall have effect accordingly.

### *Miscellaneous*

#### **124 Recovery of certain tax assessed on non-residents**

- (1) In paragraph 4 of Schedule 15 to the Finance Act 1973 (provisions supplementing the territorial extension of charge to tax under section 38 of that Act), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(3) A payment in pursuance of a notice under this paragraph shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”

- (2) After that paragraph, there shall be inserted the following paragraph—

“4A (1) Subject to the following provisions of this Schedule, the power of the Board under paragraph 4 above to serve a notice in respect of tax remaining unpaid as there mentioned shall also apply where—

- (a) tax is assessed on any person not resident in the United Kingdom as mentioned in paragraph 4(1)(a) or (b) but more than one licence under the Petroleum (Production) Act 1934 is the basis for the assessment; or
- (b) tax assessed on any such person includes, but is not limited to, tax assessed on him as so mentioned (whether by reference to one or to more than one such licence);

but in any such case the amount the holder of any licence in question may be required to pay by a notice under that paragraph shall be the amount of the tax remaining unpaid under the assessment which is attributable to the profits or gains in respect of which that licence was the basis for the assessment, together with a corresponding proportion of any interest due as mentioned in paragraph 4(1).

- (2) For the purposes of sub-paragraph (1) above the amount of the tax remaining unpaid under the assessment which is attributable to the profits or gains in respect of which any licence in question was the basis for the assessment is such part of the total amount of that tax as bears to that total amount the same proportion as the proportion borne by the amount of the profits or gains in respect of which that licence was the basis for the assessment to the total amount of the profits or gains in respect of which the assessment was made.”

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- (3) In paragraph 6 of that Schedule, after the word " apply " there shall be inserted the words " in relation to the holder of any licence " .
- (4) In paragraph 7 of that Schedule, at the end there shall be added the words " or, if the certificate is cancelled under paragraph 8 below, to any such tax which becomes due after the cancellation of the certificate in respect of profits or gains arising while the certificate is in force (referred to below in this Schedule as pre-cancellation profits or gains) " .
- (5) After paragraph 7 of that Schedule, there shall be inserted the following paragraph—
- “7A (1) Paragraph 7 above is subject to the following provisions of this paragraph in any case where—
- (a) after the cancellation of a certificate issued to the holder of a licence under that paragraph tax is assessed as mentioned in paragraph 4(1)(a) or (b) above on the person who applied for the certificate ; and
- (b) the relevant profits or gains include (but are not limited to) pre-cancellation profits or gains.
- (2) In this paragraph " the relevant profits or gains " means—
- (a) in a case where the amount of the tax remaining unpaid under the assessment which, but for paragraph 7 above, the holder of the licence could be required to pay by a notice under paragraph 4 above (referred to below in this paragraph as the amount otherwise applicable in his case) is the whole of the amount remaining unpaid, all the profits or gains in respect of which the assessment was made; or
- (b) in a case where the amount otherwise applicable in his case falls under paragraph 4A above to be determined by reference to profits or gains in respect of which the licence was the basis for the assessment, the profits or gains in question.
- (3) In any case to which this paragraph applies, the amount the holder of the licence may be required to pay by a notice under paragraph 4 shall be the amount otherwise applicable in his case reduced by the amount of the tax remaining unpaid under the assessment which is attributable to the pre-cancellation profits or gains, together with a corresponding proportion of any interest due as mentioned in paragraph 4(1).
- (4) For the purposes of sub-paragraph (3) above the amount of the tax remaining unpaid under the assessment which is attributable to the pre-cancellation profits or gains is such part of the amount otherwise applicable in the case of the holder of the licence as bears to the whole of the amount otherwise so applicable the same proportion as the proportion borne by the amount of the pre-cancellation profits or gains to the total amount of the relevant profits or gains.”
- (6) After paragraph 8 of that Schedule, there shall be inserted the following paragraph—
- “8A (1) For the purposes of paragraphs 4A and 7A above and this paragraph, profits or gains in respect of which an assessment is made as mentioned in paragraph 4(1)(a) or (b) above are profits or gains in respect of which

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

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any licence in question was the basis for the assessment if those profits or gains fall within paragraph 4(1)(a) or (b) by reference to that licence.

(2) In determining—

- (a) for the purposes of paragraph 4A(2) or 7A(4) above, the amount of the profits or gains in respect of which any licence was the basis for an assessment; or
- (b) for the purposes of paragraph 7A(4) above, the amount of any pre-cancellation profits or gains;

the Board shall compute that amount as if for the purposes of making a separate assessment in respect of those profits or gains on the person on whom the assessment was made, making all such allocations and apportionments of receipts, expenses, allowances and deductions taken into account or made for the purposes of the actual assessment as appear to the Board to be just and reasonable in the circumstances.

(3) A notice under paragraph 4 above as it applies by virtue of paragraph 4A or 7A above shall give particulars of the manner in which the amount required to be paid was determined.

(4) References in paragraphs 4A, 7 and 7A above and in this paragraph to profits or gains include chargeable gains.”

(7) In section 3(4) of the Oil Taxation Act 1975 (items excluded from allowable expenditure under that section for any oil field)—

- (a) the word " or" at the end of paragraph (d) shall be omitted; and
- (b) after paragraph (e) there shall be inserted the following words—

“or

- (f) any payment made in pursuance of a notice under paragraph 4 of Schedule 15 to the Finance Act 1973 (provisions supplementing the territorial extension of charge to tax under section 38 of that Act).”

(8) Schedule 15 to the Finance Act 1973 shall apply as modified by subsections (2) and (3) above in any case where a period of thirty days relevant for the purposes of the service of a notice under paragraph 4 of that Schedule in relation to any tax expires on or after 12th March 1984.

## **125 Local loans**

(1) For section 4 of the National Loans Act 1968: (power to make local loans) there shall be substituted the following section—

### **“4 Limit for local loans.**

(1) The aggregate of—

- (a) any commitments of the Loan Commissioners outstanding in respect of undertakings entered into by them to grant local loans; and
- (b) any amount outstanding in respect of the principal of any local loans ;

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

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shall not at any time exceed £28,000 million or such other (lower or higher) sum, not exceeding £35,000 million, as the Treasury may from time to time specify by order made by statutory instrument

(2) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.”

(2) In section 3 of that Act—

- (a) in subsection (5), the words from " and" to " future Act" shall be omitted ; and
- (b) in subsection (11), for the words from the beginning to "those " there shall be substituted the words " Subject to the limit in this Act, the Loan Commissioners may make loans of the descriptions ".

## **126 Tax exemptions in relation to designated international organisations**

(1) Where—

- (a) the United Kingdom or any of the Communities is a member of an international organisation ; and
- (b) the agreement under which it became a member provides for exemption from tax, in relation to the organisation, of the kind for which provision is made by this section;

the Treasury may, by order made by statutory instrument, designate that organisation for the purposes of this section.

(2) Where an organisation has been so designated, the provisions mentioned in subsection (3) below shall, with the exception of any which may be excluded by the designation order, apply in relation to that organisation.

(3) The provisions are—

- (a) a person not resident in the United Kingdom shall not be liable to income tax in respect of income from any security issued by the organisation if he would not be liable but for the fact that—
  - (i) the security or income is issued, made payable or paid in the United Kingdom or in sterling ; or
  - (ii) the organisation maintains an office or other place of business in the United Kingdom ;
- (b) any security issued by the organisation shall be taken, for the purposes of capital transfer tax and capital gains tax, to be situated outside the United Kingdom; and
- (c) no stamp duty shall be chargeable under the heading " Bearer Instrument" in Schedule 1 to the Stamp Act 1891 on the issue of any instrument by the organisation or on the transfer of the stock constituted by, or transferable by means of, any instrument issued by the organisation.

## **127 Special and General Commissioners**

(1) Schedule 22 to this Act shall have effect for the purpose of making provision in relation to the Special and General Commissioners.

(2) This section and Part XIII of Schedule 23 to this Act shall come into operation on such day as the Lord Chancellor may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.



**128 Short title, interpretation, construction and repeals**

- (1) This Act may be cited as the Finance Act 1984.
- (2) In this Act "the Taxes Act" means the Income and Corporation Taxes Act 1970.
- (3) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with the Capital Gains Tax Act 1979.
- (4) Part III of this Act shall be construed as one with Part III of the Finance Act 1975.
- (5) Part V of this Act shall be construed as one with Part I of the Oil Taxation Act 1975 and references in Part V of this Act to the principal Act are references to that Act.
- (6) The enactments specified in Schedule 23 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

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

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### WINE AND MADE-WINE

Description of wine or made-wine	Rates of duty per hectolitre
	£
Wine or made-wine of a strength of less than 15 per cent. and not being sparkling	90.50
Sparkling wine or sparkling made-wine of a strength of less than 15 per cent	149.40
Wine or made-wine of a strength of not less than 15 per cent. but not exceeding 18 per cent	157.50
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent	183.30
Wine or made-wine of a strength exceeding 22 per cent	183.30 plus
	£15.48 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.

#### *Interpretation*

- 1 (1) Subject to sub-paragraph (3) below, for the purposes of this Act, wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20° C, is not less than 1 bar in excess of atmospheric pressure.
- (2) For the purposes of this Act, wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within sub-paragraph (1) above.
- (3) Notwithstanding anything in sub-paragraph (1) above, wine or made-wine which is for the time being in a closed container shall not be regarded as sparkling for the purposes of the rates of duty set out above, if—
- (a) the container does not have a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening ; and
  - (b) the pressure in the container, measured at a temperature of 20° C, is less than 3 bars in excess of atmospheric pressure.
- 2 For the purposes of this Act, wine or made-wine shall be regarded as having been rendered sparkling if—

- (a) as a result of aeration, fermentation or any other process, it either falls within paragraph 1(1) above or takes on such characteristics as are referred to in paragraph 1(2) above; or
- (b) being sparkling wine or made-wine which, by virtue only of paragraph 1(3) above, was not chargeable to duty as sparkling wine or made-wine, it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

SCHEDULE 2

Section 4.

VEHICLES EXCISE DUTY

**PART I**

PROVISIONS SUBSTITUTED IN PART II OF SCHEDULES 1 TO 5 TO THE VEHICLES (EXCISE) ACT 1971 AND THE VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

- 1 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 1—

“Description of vehicle	Rate of duty
	£
1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres .....	9.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger.....	18.00
3. Bicycles and tricycles not in the foregoing paragraphs	36.00”

- 2 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 2—

“Description of vehicle	Rate of duty
	£
Hackney carriages	45.00

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

## “Description of vehicle

## Rate of duty

with an additional 90p for each person above 20 (excluding the driver) for which the vehicle has seating capacity.”

- 3 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 3—

## “Weight unladen of vehicle

## Rate of duty

1.	2.	3.	4.	5.
Description of vehicle	Exceeding	Not exceeding	Initial	Additional for each ton or part of a ton in excess of the weight in column 2
			£	£
1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines; fishermen's tractors.	—	—	15.00	—
2. Haulage vehicles, being showmen's vehicles.	—	7 1/4 tons	144.00	—
	7 1/4 tons	8 tons	172.00	—
	8 tons	10 tons	203.00	—
	10 tons	—	203.00	31.00
3. Haulage vehicles, not being showmen's vehicles.	—	2 tons	171.00	—
	2 tons	4 tons	308.00	—
	4 tons	6 tons	445.00	—
	6 tons	7 1/4 tons	581.00	—
	7 1/4 tons	8 tons	710.00	—
	8 tons	9 tons	831.00	—
	9 tons	10 tons	951.00	—
	10 tons	11 tons	1,088.00	—
11 tons	—	1,088.00	136.00”	

- 4 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 4—

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

“TABLE A

RATES OF DUTY ON RIGID GOODS VEHICLES  
 EXCEEDING 12 TONNES PLATED GROSS WEIGHT

GENERAL RATES

Plated gross weight of vehicle		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	410	320	320
13	14	530	340	340
14	15	640	340	340
15	17	850	340	340
17	19	—	460	340
19	21	—	610	340
21	23	—	780	490
23	25	—	1,250	690
25	27	—	—	930
27	29	—	—	1,200
29	30.49	—	—	2,100

TABLE A(1)

RATES OF DUTY ON RIGID GOODS VEHICLES  
 EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR FARMERS' GOODS VEHICLES

Plated gross weight of vehicle		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	140	125	125
13	14	150	125	125
14	15	155	125	125
15	17	195	135	125
17	19	—	145	125

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

Plated gross weight of vehicle			Rate of duty	
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
19	21	—	160	135
21	23	—	170	145
23	25	—	230	160
25	27	—	—	190
27	29	—	—	225
29	30.49	—	—	360

TABLE A(2)

RATES OF DUTY ON RIGID GOODS VEHICLES  
EXCEEDING 12 TONNES PLATED GROSS WEIGHT

RATES FOR SHOWMEN'S GOODS VEHICLES

Plated gross weight of vehicle			Rate of duty	
1.	2.	3.	4.	5.
Exceeding	Not exceeding	Two axle vehicle	Three axle vehicle	Four or more axle vehicle
tonnes	tonnes	£	£	£
12	13	140	125	125
13	14	150	125	125
14	15	155	125	125
15	17	195	135	125
17	19	—	145	130
19	21	—	170	145
21	23	—	185	170
23	25	—	270	190
25	27	—	—	230
27	29	—	—	280
29	30.49	—	—	455

TABLE B

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
VEHICLES OVER 12 TONNES USED FOR DRAWING  
TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

GENERAL RATES

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

Gross weight of trailer		Duty supplement
Exceeding	Not exceeding	
tonnes	tonnes	£
4	8	75
8	10	95
10	12	120
12	14	170
14	—	330

TABLE B(1)

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
 VEHICLES OVER 12 TONNES USED FOR DRAWING  
 TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

RATES FOR FARMERS' GOODS VEHICLES

Gross weight of trailer		Duty supplement
Exceeding	Not exceeding	
tonnes	tonnes	£
4	8	75
8	10	95
10	12	120
12	14	170
14	—	330

TABLE B(2)

SUPPLEMENTARY RATES OF DUTY ON RIGID GOODS  
 VEHICLES OVER 12 TONNES USED FOR DRAWING  
 TRAILERS EXCEEDING 4 TONNES PLATED GROSS WEIGHT

RATES FOR SHOWMEN'S GOODS VEHICLES

Gross weight of trailer		Duty supplement
Exceeding	Not exceeding	
—	—	tonnes
		75

TABLE C

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

GENERAL RATES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	470	420	420
14	16	590	440	440
16	18	690	440	440
18	20	810	440	440
20	22	940	550	440
22	23	1,000	620	440
23	25	1,150	780	440
25	26	1,150	870	530
26	28	1,150	1,090	720
28	29	1,210	1,210	820
29	31	1,680	1,680	1,050
31	33	2,450	2,450	1,680
33	34	2,450	2,450	2,250
34	36	2,750	2,750	2,750
36	38	3,100	3,100	3,100

TABLE C(1)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

RATES FOR FARMERS' GOODS VEHICLES



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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	145	140	140
14	16	160	140	140
16	18	170	140	140
18	20	175	140	140
20	22	185	145	140
22	23	190	155	140
23	25	210	165	145
25	26	210	170	155
26	28	210	190	175
28	29	210	205	185
29	31	280	280	220
31	33	395	395	320
33	34	750	750	750
34	36	905	905	905
36	38	1,020	1,020	1,020

TABLE C(2)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING ONLY 2 AXLES

RATES FOR SHOWMEN'S GOODS VEHICLES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	145	140	140
14	16	160	140	140
16	18	170	140	140
18	20	180	155	155
20	22	205	165	165
22	23	220	170	170
23	25	250	190	175
25	26	250	205	185
26	28	250	240	215
28	29	260	260	230
29	31	355	355	275
31	33	495	495	405
33	34	925	925	925
34	36	1,125	1,125	1,125
36	38	1,265	1,265	1,265

TABLE D

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

GENERAL RATES

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£
12	14	420	420	420
54	20	440	440	440
20	22	550	440	440
22	23	620	440	440
23	25	780	440	440
25	26	870	440	440
26	28	1,090	440	440
28	29	1,210	520	440
29	31	1,680	640	440
31	33	2,450	970	440
33	34	2,450	1,420	550
34	36	2,450	2,030	830
36	38	2,730	2,730	1,240

TABLE D(1)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
 PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

RATES FOR FARMERS' GOODS VEHICLES

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
12	20	140	140	140
20	22	145	140	140
22	23	150	140	140
23	25	165	140	140
25	26	170	145	140
26	23	190	170	155
28	29	205	180	165
29	31	280	215	195
31	33	395	315	230
33	34	470	470	285
34	36	670	670	430
36	38	900	900	650

TABLE D(2)

RATES OF DUTY ON TRACTOR UNITS EXCEEDING 12 TONNES  
PLATED TRAIN WEIGHT AND HAVING 3 OR MORE AXLES

RATES FOR SHOWMEN'S GOODS VEHICLES

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
tonnes	tonnes	£	£	£
12	18	140	140	140
18	20	145	145	140

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

Plated train weight of tractor unit		Rate of duty		
1.	2.	3.	4.	5.
Exceeding	Not exceeding	For a tractor unit to be used with semi-trailers with any number of axles	For a tractor unit to be used only with semi- trailers with not less than two axles	For a tractor unit to be used only with semi- trailers with not less than three axles
20	22	165	160	140
22	23	170	165	140
23	25	190	170	155
25	26	205	180	165
26	28	240	210	180
28	29	260	225	200
29	31	355	270	240
31	33	495	395	290
33	34	580	580	355
34	36	830	830	540
36	38	1,115	1,115	805”

5 The following are the provisions substituted in the Act of 1971 and the Act of 1972 for Part II of Schedule 5—

“Description of vehicle	Rate of duty
1. Any vehicle first registered under the Roads Act 1920 before 1st January 1947, or which, if its first registration for taxation purposes had been effected in Northern Ireland, would have been so first registered under the Act as in force in Northern Ireland	£ 60.00
2. Other vehicles	90.00”

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

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## PART II

### AMENDMENT OF PART I OF SCHEDULE 4 TO THE VEHICLES (EXCISE) ACT 1971 AND THE VEHICLES (EXCISE) ACT (NORTHERN IRELAND) 1972

#### *AMENDMENTS MADE IN BOTH ACTS*

- 6 (1) Part I of Schedule 4 to the Act of 1971 and the Act of 1972 (annual rates of duty on goods vehicles: general provisions) shall be amended as follows.
- (2) In paragraph 1(1), for " £150" there shall be substituted " £130 ".
- (3) In paragraph 2, for " £320 " there shall be substituted " £290 ".
- (4) In paragraph 6(1), for " £63 " there shall be substituted " £67 ".
- (5) In paragraph 7, for " £85 " there shall be substituted " £90 ".

## SCHEDULE 3

Section 7.

### GAMING MACHINE LICENCE DUTY

## PART I

### SPECIAL LICENCES AND STAGGERED STARTING DATES FOR WHOLE-YEAR LICENCES IN RESPECT OF PREMISES

- 1 The Betting and Gaming Duties Act 1981 shall be amended as follows.
- 2 For section 21 there shall be substituted—

**“21 Gaming machine licences.**

- (1) Except in the cases specified in Part I of Schedule 4 to this Act, no gaming machine (other than a two-penny machine) shall be provided for gaming on any premises situated in Great Britain unless there is for the time being in force—
- (a) a licence granted under this Part of this Act with respect to the premises ; or
  - (b) a licence so granted with respect to the machine.
- (2) A licence of either kind granted under this Part of this Act shall be known as a gaming machine licence; and in this Part " ordinary licence " means a licence falling within subsection (1)(a) above and " special licence" means one falling within subsection (1)(b).
- (3) A special licence may be a whole-year or half-year licence and an ordinary licence may be a whole-year, half-year or quarter-year licence ; and the period for which a gaming machine licence is to be granted shall be determined by reference to the following Table.

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

TABLE

<i>Type of licence</i>	<i>Period for which licence is to be granted</i>
1. Whole-year special licence ...	Twelve months beginning with 1st October.
2. Half-year special licence ...	Six months beginning with 1st April or 1st October.
3. Whole-year ordinary licence in respect of premises situated in—	
(a) The first region	Twelve months beginning with 1st December.
(b) The second region	Twelve months beginning with 1st February.
(c) The third region	Twelve months beginning with 1st June.
(d) The fourth region	Twelve months beginning with 1st August.
4. Half-year ordinary licence ...	Six months beginning with 1st April or 1st October.
5. Quarter-year ordinary licence	Three months beginning with 1st January, 1st April, 1st July or 1st October.

In this Table any reference to a named region is a reference to that part of Great Britain which has been designated by the Commissioners, for the purposes of this Act, as that named region.

(4) For the purposes of this Part of this Act, any premises which consist of a means of transport shall be treated as being situated in the fourth region except in any case where the Commissioners direct that they are to be treated as being situated in another named region.”.

3 After section 21 there shall be inserted the following section—

**“21A Special licences.**

- (1) No special licence shall authorise more than one machine.
- (2) An application for a special licence shall only be granted if—
  - (a) the Commissioners are satisfied that at least nine other special licences will be granted to the applicant, for the period to which that application relates, on applications made together with that application ; or
  - (b) at least ten special licences, granted for that period and for the time being in force, are held by the applicant.
- (3) A special licence shall be taken not to be in force with respect to a gaming machine at any time when either that machine is provided for gaming

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

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on premises which are not at that time treated by section 22 below as having local authority approval under the Gaming Acts or the licence is not displayed in such manner as may be prescribed by regulations made by the Commissioners.”.

- 4 In section 22(1), for paragraphs (a) and (b) there shall be substituted—
- “(a) in the case of an ordinary licence—
- (i) to whether the premises in respect of which the licence is granted have or have not local authority approval under the Gaming Acts ; and
- (ii) to the number of machines which, it authorises; and
- (b) in any case, to whether the licence authorises the provision of machines chargeable at the lower or higher rate.”.
- 5 In section 23(1)(a), after the word " apply " there shall be inserted " to special licences and shall apply to ordinary licences ".
- 6 In section 24—
- (a) subsection (1) shall cease to have effect;
- (b) in subsection (2), for the words "gaming machine" there shall be substituted " whole-year ordinary licence, one half-year ordinary licence and one quarter-year " and after the word "one", in the second and fourth place, there shall be inserted " of each such ";
- (c) in subsection (3), after the word "licence" there shall be inserted " or licences " and at the end there shall be added " ; but any gaming machine with respect to which there is in force a special licence shall be disregarded for the purposes of this subsection. ";
- (d) in subsection (4), there shall be added at the end " or there are special licences in force with respect to those machines ";
- (e) in subsections (5) and (6), in each case after the words " contravention of " there shall be inserted " section 21(1) above or " ; and
- (f) in subsection (6)(a)(ii), for the words "gaming machine" there shall be substituted " ordinary ".
- 7 (1) Part II of Schedule 4 shall be amended as follows.
- (2) In paragraphs 6 and 8(2), the words " in respect of any premises " shall, in each case, be omitted.
- (3) For sub-paragraph (3) of paragraph 7 there shall be substituted—
- “(3) A gaming machine licence shall expire at the end of the period for which it is granted.”.
- (4) In paragraph 8(1), for the words from " transfer" to the end there shall be substituted—
- “(a) transfer an ordinary licence to respect of any premises to a successor in title to the interest in those premises of the person to whom the licence was granted ; and
- (b) where—
- (i) a person holding special licences so requests; and
- (ii) the proper officer is satisfied that it is appropriate to do so and will not result in any person holding any number of special licences less than ten,



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transfer such number of special licences to such other person, as may be specified in the request”.

- (5) In paragraph 9—
- (a) for the words " a gaming machine " there shall be substituted " an ordinary " ;
  - (b) in paragraph (a), after the word "licence" there shall be inserted " or, in the case of a whole-year licence, substituting premises in a different named region (within the meaning of section 21(3) of this Act) " ; and
  - (c) in paragraph (b), for the word "licence", where it first occurs, there shall be substituted " ordinary licence for the same period " and for the word "the", where it last occurs, there shall be substituted " any such " .
- (6) In paragraph 10, in sub-paragraph (1), for the words "a gaming machine" there shall be substituted " an ordinary " and in sub-paragraph (3) the words from "except" to the end shall be omitted.
- (7) For sub-paragraphs (1) and (2) of paragraph 11 there shall be substituted the following sub-paragraphs—
- “(1) Where the holder of a gaming machine licence surrenders it to the proper officer at a time when the licence has at least three months to run, he shall, subject to any provision made by regulations under paragraph 11A below, be entitled to a repayment of duty equal to the appropriate fraction of the duty paid on the grant of the licence, the appropriate fraction being—
    - (a) in the case of a half-year licence, 5/11ths;
    - (b) in the case of a whole-year licence surrendered not more than three months after the date on which the period for which it was granted began, 7/10ths;
    - (c) in the case of a whole-year licence surrendered more than three, but not more than six, months after that date, 9/20ths; and
    - (d) in the case of a whole-year licence surrendered more than six months after that date, 3/20ths.
  - (2) A special licence shall not be surrendered unless the Commissioners are satisfied that, if it is surrendered, its holder will (having regard to any other licences surrendered at the same time) hold at least ten, or cease to hold any, special licences.”.
- (8) In sub-paragraph (3) of paragraph 11 for the words "Sub-paragraph (2)" there shall be substituted " Sub-paragraph (1) " and for the words " that section " there shall be substituted the words " section 21(1) or 24 of this Act " .
- (9) After paragraph 11 there shall be inserted—

*“Reduction of duty in certain cases*

- 11A (1) For the purpose of giving credit, on the taking out of a gaming machine licence in certain circumstances where duty has been paid on one or more previous licences, the Commissioners may make regulations providing that, in prescribed cases, the amount of duty payable on a gaming machine licence shall, subject to prescribed conditions, be reduced by a prescribed amount.

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- (2) Regulations under this paragraph may make provision modifying, or excluding, the application of paragraph 11 above in cases in which duty is reduced in accordance with the regulations.”.
- (10) In paragraph 12, for the words " a gaming machine " there shall be substituted " , an ordinary " .
- (11) In paragraph 13, for the words from " gaming machines provided " to " in force " there shall be substituted—
- “(a) gaming machines provided on any premises in respect of which an ordinary licence is in force ; and
- (b) gaming machines in respect of which special licences are in force”.
- (12) In paragraph 17(1), for the words " section 24 " there shall be substituted " section 21(1) or 24 " .
- (13) In paragraph 18, for the words from "either" to the end of paragraph (b) there shall be substituted
- “the officer is satisfied, having regard to the number and description of—
- (a) those machines which are authorised by the ordinary licence or licences produced to him ; and
- (b) those machines displaying special licences ;
- that there has been a contravention of section 21(1) or 24 of this Act.”.

## PART II

### TRANSITIONAL PROVISIONS

#### *Whole-year licences during transitional period*

- 8 (1) A whole-year ordinary licence in respect of any premises shall, if first having effect after 30th September 1984 but before the latest date specified (in relation to the region in which the premises are situated) in the second column of the following Table, be granted for a period determined by reference to the Table.

TABLE

Region in which premises are situated	Date on which licence first has effect	Period for which licence is to be granted
1. First.	(a) Before 1st May 1985.	Seven months beginning with 1st October 1984.
	(b) After 30th April 1985 but before 1st December 1985.	Seven months beginning with 1st May 1985.
2. Second.	(a) Before 1st June 1985.	Eight months beginning with 1st October 1984.
	(b) After 31st May 1985 but before 1st February 1986.	Eight months beginning with 1st June 1985.

References in this Table to named regions shall be construed as in section 21 of the Betting and Gaming Duties Act 1981.

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Region in which premises are situated	Date on which licence first has effect	Period for which licence is to be granted
3. Third.	Before 1st June 1985.	Eight months beginning with 1st October 1984.
4. Fourth.	Before 1st August 1985.	Ten months beginning with 1st October 1984.

References in this Table to named regions shall be construed as in section 21 of the Betting and Gaming Duties Act 1981.

- (2) Where, by virtue of sub-paragraph (1) above, a whole-year licence is granted for a period of 7, 8 or 10 months, the duty payable on the licence shall be 7/12ths, 8/12ths or, as the case may be, 10/12ths of the appropriate amount set out in the relevant Table in section 23 of the Act of 1981.
- (3) In relation to a whole-year licence falling within sub-paragraph (1) above, paragraph 11 of Schedule 4 to the Act of 1981 shall have effect as if—
- in a case falling within paragraph 11(1)(b), the appropriate fraction were 17/35ths for a seven-month licence, 11/20ths for an eight-month licence and 16/25ths for a ten-month licence;
  - in a case falling within paragraph 11(1)(c), the appropriate fraction were 2/35ths for a seven-month licence, 7/40ths for an eight-month licence and 17/50ths for a ten-month licence; and
  - in a case falling within paragraph 11(1)(d), no provision were made for repayment of duty.

## SCHEDULE 4

Section 8.

### FREE ZONES

#### PART I

PROVISIONS INSERTED IN CUSTOMS AND EXCISE MANAGEMENT ACT 1979 AS PART VIIIA

#### “PART VIIIA

#### FREE ZONES

##### **100A Designation of free zones.**

- (1) The Treasury may by order designate any area in the United Kingdom as a special area for customs purposes.
- (2) An area so designated shall be known as a " free zone ".
- (3) An order under subsection (1) above—
  - (a) shall have effect for such period as shall be specified in the order;
  - (b) may be made so as to take effect, in relation to the area or any part of the area designated by a previous order under this section, on the expiry of the period specified in the previous order;

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- (c) shall appoint one or more persons as the responsible authority or authorities for the free zone;
  - (d) may impose on any responsible authority such conditions or restrictions as may be specified ; and
  - (e) may be revoked if the Commissioners are satisfied that there has been a failure to comply with any condition or restriction.
- (4) The Treasury may by order—
- (a) from time to time vary—
    - (i) the conditions or restrictions imposed by a designation order; or
    - (ii) with the agreement of the responsible authority, the area designated; or
  - (b) appoint one or more persons as the responsible authority or authorities for a free zone either in addition to or in substitution for any person appointed as such by a designation order.
- (5) In this Act " designation order " means an order made under subsection (1) above.
- (6) Any order under this section shall be made by statutory instrument.

#### **100B Free zone regulations.**

- (1) The Commissioners may by regulations (in this Act referred to as " free zone regulations ") make provision with respect to the movement of goods into, and the removal of goods from, any free zone and the keeping, securing and treatment of goods which are within a free zone.
- (2) Subject to any provision of the regulations, references In this Act to " free zone goods " are references to goods which are within a free zone.

#### **100C Free zone goods: customs duties, etc.**

- (1) Subject to any contrary provision made by any directly applicable Community provision, goods which are chargeable with any customs duty or agricultural levy, or in respect of which any negative monetary compensatory amount is payable, may be moved into a free zone and may remain as free zone goods without payment of that duty, levy or amount.
- (2) Except in such cases as may be specified in free zone regulations, subsection (1) above shall not apply in relation to goods which are chargeable with any excise duty unless that duty has been paid and not repaid.
- (3) Without prejudice to the generality of section 100B above, free zone regulations may make provision—
  - (a) for enabling the Commissioners to allow goods to be removed from a free zone without payment of customs duty, agricultural levy, or any negative monetary compensatory amount, in such circumstances and subject to such conditions as they may determine;
  - (b) for determining, where any customs duty, agricultural levy or negative monetary compensatory amount becomes payable in respect of goods which cease to be free zone goods—
    - (i) the rates of any duty, levy or monetary compensatory amount applicable; and
    - (ii) the time at which those goods cease to be free zone goods;

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- (c) for determining, for the purpose of enabling customs duty or agricultural levy to be charged or any negative monetary compensatory amount to be paid in respect of free zone goods in a case where a person wishes to pay that duty or levy or to receive the negative monetary compensatory amount notwithstanding that the goods will continue to be free zone goods, the rate of duty, levy or negative monetary compensatory amount to be applied; and
  - (d) permitting free zone goods to be destroyed without payment of any customs duty, agricultural levy or negative monetary compensatory amount in such circumstances and subject to such conditions as the Commissioners may determine.
- (4) Without prejudice to the generality of section 100B above, free zone regulations may make provision—
- (a) for relief from the whole or part of any value added tax chargeable on the importation of goods into the United Kingdom in such circumstances as they may determine;
  - (b) in place of, or in addition to, any provision made by section 4 or 5 of the Value Added Tax Act 1983 or any other enactment, for determining the time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to value added tax; and
  - (c) as to the treatment, for the purposes of value added tax, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.
- (5) In this section—
- "agricultural levy" means any tax or charge, not being a customs duty, provided for under the common agricultural policy or under any special arrangements which, pursuant to Article 235 of the EEC Treaty, are applicable to goods resulting from the processing of agricultural products ;
- " negative monetary compensatory amount" means an amount granted on importation under the Regulation of the Commission of the European Communities dated 19th May 1981 No. 1371/81 or any Community provision for the time being amending or replacing that Regulation.

#### **100D Free zone regulations: supplemental.**

- (1) Without prejudice to the generality of section 100B above, free zone regulations may make provision—
- (a) specifying the circumstances in which goods which are within a free zone are to be treated, for the purposes of this Act and the regulations, as not being free zone goods ;
  - (b) specifying the circumstances in which goods which are not within a free zone are to be treated, for those purposes, as being within a free zone ;
  - (c) requiring any goods which are within a free zone to be produced to, or made available for inspection by, an officer on request by him ;
  - (d) imposing, or providing for the Commissioners to impose by direction, conditions and restrictions to which free zone goods are to be subject;
  - (e) prohibiting the carrying out on free zone goods of operations other than those prescribed by, or allowed under, the regulations ;

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- (f) requiring any permitted operations to be carried out in such manner and subject to such conditions and restrictions as may be imposed by or under the regulations ;
  - (g) imposing, or providing for the Commissioners to impose by direction, obligations on responsible authorities in relation to the security of free zones and in respect of conditions and restrictions imposed by designation orders;
  - (h) enabling the Commissioners to recover from any responsible authority expenditure incurred by the Commissioners in consequence of any failure by that authority to comply with any requirements imposed by or under the regulations ;
  - (i) imposing, or providing for the Commissioners to impose by direction, requirements on the occupier of any premises, or proprietor of any goods, within a free zone to keep and preserve records relating to his business as such an occupier or proprietor and to produce them to an officer when required to do so for the purpose of allowing him—
    - (i) to inspect them ;
    - (ii) to copy or take extracts from them ; or
    - (iii) to remove them at a reasonable time and for a reasonable period;
  - (j) imposing, or providing for the Commissioners to impose by direction, on the responsible authority requirements in connection with any provision made by virtue of paragraph (i) above ;
  - (k) providing for the Commissioners to specify by direction the information which must be given to them in connection with free zone goods and the form in which, persons by whom and time within which, it must be given ;
  - (l) for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of paragraph (f) above or in the event of the carrying out of any operation on free zone goods which is not by virtue of paragraph (e) above permitted to be carried out on such goods.
- (2) Free zone regulations may make different provision for goods or services of different classes or descriptions or for goods or services of the same class or description in different circumstances.
- (3) If any person fails to comply with any free zone regulation or with any condition, restriction or requirement imposed under a free zone regulation he shall be liable on summary conviction to a penalty of level 3 on the standard scale together with a penalty of £20 for each day on which the failure continues.

#### **100E Control of trading in free zones.**

- (1) No person shall carry on any trade or business in a free zone unless he is authorised to do so by the Commissioners.
- (2) An authorisation under this section may be granted for such period and subject to such conditions as the Commissioners consider appropriate.
- (3) The Commissioners may at any time for reasonable cause revoke, or vary the terms of, any authorisation under this section.
- (4) If any person—
  - (a) contravenes subsection (1) above, or
  - (b) fails to comply with any condition imposed under subsection (2) above,

he shall be liable on summary conviction to a penalty of level 3 on the standard scale.

### **100F Powers of search.**

- (1) Any person entering or leaving a free zone shall answer such questions as any officer may put to him with respect to any goods and shall, if required by the officer, produce those goods for examination at such place as the Commissioners may direct.
- (2) At any time while a vehicle is entering or leaving a free zone, any officer may board the vehicle and search any part of it.
- (3) Any officer may at any time enter upon and inspect a free zone and all buildings and goods within the zone.”.

## **PART II**

### FURTHER AMENDMENTS OF 1979 ACT

- 1 In section 1 (interpretation) the following definitions shall be inserted at the appropriate places—
  - “designation order' has the meaning given by section 100A(5);
  - ' free zone' has the meaning given by section 100A(2);
  - ' free zone goods' has the meaning given by section 100B(2);
  - 'free zone regulations' has the meaning given by section 100B(1);”.
- 2 In section 31(1) (power to make regulations controlling the movement of goods)—
  - (a) in paragraph (a) after the words " clearance out of charge of such goods " there shall be inserted the words " , a free zone "; and
  - (b) after paragraph (a) there shall be inserted—
    - “(aa) the movement of goods between—
      - (i) a free zone and a place approved by the Commissioners for the clearance out of charge of such goods,
      - (ii) such a place and a free zone, and
      - (iii) a free zone and another free zone;”
- 3 In section 37 (entry of goods on importation)—
  - (a) in subsection (2), the following paragraph shall be inserted after paragraph (a)—
    - “(aa) free zone goods (other than goods which are chargeable with any excise duty);”;
  - (b) in subsection (3), the following paragraph shall be inserted after paragraph (a)—
    - “(aa) in the case of goods which are chargeable with any excise duty, as free zone goods;”.
- 4 In section 119(1) (delivery of imported goods on giving of security for duty) after "warehouse" there shall be inserted the words " or free zone ".
- 5 In section 159 (power to examine and take account of goods), in subsection (1) there shall be inserted after paragraph (b)—
  - “(bb) which are in a free zone; or”.

- 6 In section 164 (power to search persons) in subsection (4) there shall be inserted after paragraph (e)—

“(ee) any person in, entering or leaving a free zone ;”.

## SCHEDULE 5

Section 9.

### ENTRY ON IMPORTATION: AMENDMENT OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

- 1 In paragraph (d) of subsection (3) of section 37 (entry of goods on importation for inward processing) after the words " inward processing " there shall be inserted the words " or other processing under Community arrangements ".

- 2 The following sections shall be inserted after section 37—

#### **“37A Initial and supplementary entries.**

- (1) Without prejudice to section 37 above, a direction under that section may—
- (a) provide that where the importer is authorised for the purposes of this section, the entry may consist of an initial entry and a supplementary entry; and
  - (b) may make such supplementary provision in connection with entries consisting of initial and supplementary entries as the Commissioners think fit.
- (2) Where an initial entry of goods has been accepted the goods may, on the importer giving security by deposit of money or otherwise to the satisfaction of the Commissioners for payment of the unpaid duty, be delivered without payment of any duty chargeable in respect of the goods, but any such duty shall be paid within such time as the Commissioners may direct.
- (3) An importer who makes an initial entry shall complete the entry by delivering the supplementary entry within such time as the Commissioners may direct
- (4) For the purposes of the customs and excise Acts an entry of goods shall be taken to have been delivered when an initial entry of the goods has been delivered, and accepted when an initial entry has been accepted.

#### **37B Postponed entry.**

- (1) The Commissioners may, if they think fit, direct that where—
- (a) such goods as may be specified in the direction are imported by an importer authorised for the purposes of this subsection ;
  - (b) the importer has delivered a document relating to the goods to the proper officer, in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct; and
  - (c) the document has been accepted by the proper officer,
- the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.



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- (2) The Commissioners may, if they think fit, direct that where—
- (a) such goods as may be specified in the direction are imported by an importer authorised for the purposes of this subsection ;
  - (b) the goods have been removed from the place of importation to a place approved by the Commissioners for the clearance out of charge of such goods; and
  - (c) the conditions mentioned in subsection (3) below have been satisfied,
- the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.
- (3) The conditions are that—
- (a) on the arrival of the goods at the approved place the importer delivers to the proper officer a notice of the arrival of the goods in such form and containing such particulars as may be required by the directions;
  - (b) within such time as may be so required the importer enters such particulars of the goods and such other information as may be so required in a record maintained by him at such place as the proper officer may require ; and
  - (c) the goods are kept secure in the approved place for such period as may be required by the directions.
- (4) The Commissioners may direct that the condition mentioned in subsection (3)(a) above shall not apply in relation to any goods specified in the direction and such a direction may substitute another condition.
- (5) No goods shall be delivered under this section unless the importer gives security by deposit of money or otherwise to the satisfaction of the Commissioners for the payment of any duty chargeable in respect of the goods which is unpaid.
- (6) Where goods of which no entry has been made have been delivered under this section, the importer shall deliver an entry of the goods under section 37(1) above within such time as the Commissioners may direct.
- (7) For the purposes of section 43(2)(a) below such an entry shall be taken to have been accepted—
- (a) in the case of goods delivered by virtue of a direction under subsection (1) above, on the date on which the document mentioned in that subsection was accepted ; and
  - (b) in the case of goods delivered by virtue of a direction under subsection (2) above, on the date on which particulars of the goods were entered as mentioned in subsection (3)(b) above.

### **37C Provisions supplementary to ss. 37A and 37B.**

- (1) The Commissioners may, if they think fit—
- (a) authorise any importer for the purposes of section 37A, or 37B(1) or (2) above ; and
  - (b) suspend or cancel the authorisation of any importer where it appears to them that he has failed to comply with any requirement imposed

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on him by or under this Part of this Act or that there is other reasonable cause for suspension or cancellation.

- (2) The Commissioners may give directions—
- (a) imposing such requirements as they think fit on any importer authorised under this section ; or
  - (b) varying any such requirements previously imposed.
- (3) If any person without reasonable excuse contravenes any requirement imposed by or under section 37A, 37B or this section he shall be liable on summary conviction to a penalty of level 4 on the standard scale.”

3 In section 171 (general provisions as to offences and penalties) after subsection (2) there shall be inserted the following subsection—

- “(2A) In this Act " the standard scale " has the meaning assigned to it by section 75 of the Criminal Justice Act 1982 and for the purposes of this subsection—
- (a) section 37 of that Act; and
  - (b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sums specified in subsection (2) of section 37,
- shall extend to Northern Ireland, and section 75 of the 1982 Act shall have effect as if after the words " England and Wales " there were inserted the words " or Northern Ireland”.

## SCHEDULE 6

Section 10.

### MODIFICATIONS OF SCHEDULE 5 TO VALUE ADDED TAX ACT 1983

#### PART I

##### FOOD

- 1 In Group 1 (Food), in Note (3) (which provides that a supply in the course of catering includes a supply for consumption on the premises) after the word " includes " there shall be inserted " (a) " and at the end of the Note there shall be added “and
- (b) any supply of hot food for consumption off those premises; and for the purpose of paragraph (b) above ' hot food' means food which, or any part of which,—
    - (i) has been heated for the purpose of enabling it to be consumed at a temperature above the ambient air temperature; and
    - (ii) is at the time of the supply above that temperature”.

#### PART II

##### CONSTRUCTION OF BUILDINGS ETC.

- 2 Group 8 (construction of buildings etc.) shall be amended in accordance with this Part of this Schedule.

- 3 In item 2 (supply of services in the course of certain operations relating to buildings and civil engineering works), for paragraphs (a) and (b) there shall be substituted the words " in the course of the construction or demolition of ".
- 4 In item 3 (supply, by a person supplying services within item 2 and in connection with those services, of certain materials etc. and services relating to them) after the words " item 2 " there shall be inserted the words " of this Group or of Group 8A below ".
- 5 After Note (1) there shall be inserted the following Note:—
- “(1A) Any reference in item 2 or the following Notes to the construction of any building or the construction of any civil engineering work does not include a reference to the conversion, reconstruction, alteration or enlargement of any existing building or civil engineering work, and the reference in item 1 to a person constructing a building shall be construed accordingly.”
- 6 (1) In Note (2) (matters excluded from item 2), for paragraph (a) (which excluded repair or maintenance and is rendered unnecessary by the removal from item 2 of the reference to alteration) there shall be substituted the following paragraph:—
- “(a) the supply of any services in the course of the construction of any building ("the secondary building") within the grounds or garden of another building ("the main building ") which is used or to be used wholly or mainly as a private residence except—
- (i) where the secondary building is itself to be so used; or
- (ii) where the secondary building is a garage which is to be used and occupied together with another building which is being constructed at the same time as the secondary building and which is either the main building or another secondary building which is to be used wholly or mainly as a private residence.”
- (2) In that Note—
- (a) in paragraph (b), the words " or alteration ", and
- (b) paragraph (c) (supply of services otherwise than in the course or furtherance of a business),
- shall be omitted.
- 7 After Note (2) there shall be inserted the following Note:—
- “(2A) In item 3, the goods referred to in paragraph (a) do not include—
- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens; or
- (b) materials for the construction of fitted furniture, other than kitchen furniture; or
- (c) domestic electrical or gas appliances, other than those designed to provide space heating or water heating or both.”

### PART III

#### PROTECTED BUILDINGS

- 8 After Group 8 there shall be inserted the following—

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*“GROUP 8A—PROTECTED BUILDINGS*

**1 Item No.**

The granting, by a person substantially reconstructing a protected building, of a major interest in, or in any part of, the building or its site.

The supply, in the course of an approved alteration of a protected building, of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.

*Notes*

*Notes*

- (1) ' Protected building' means a building which is—
- (a) a listed building, within the meaning of—
    - (i) the Town and Country Planning Act 1971 ; or
    - (ii) the Town and Country Planning (Scotland) Act 1972; or
    - (iii) the Planning (Northern Ireland) Order 1972 ; or
  - (b) a scheduled monument, within the meaning of—
    - (i) the Ancient Monuments and Archaeological Areas Act 1979 ; or
    - (ii) the Historic Monuments Act (Northern Ireland) 1971.
- (2) For the purposes of item 1, a protected building shall not be regarded as substantially reconstructed unless the reconstruction is such that at least one of the following conditions is fulfilled when the reconstruction is completed—
- (a) that, of the works carried out to effect the reconstruction, at least three-quarters, measured by reference to cost, are of such a nature that the supply of services (other than excluded services) materials and other items to carry out the works, would, if supplied by a taxable person, be within either item 2 of this Group or item 3 of Group 8 above, as it applies to a supply by a person supplying services within item 2 of this Group ; and
  - (b) that the reconstructed building incorporates no more of the original building (that is to say, the building as it was before the reconstruction began) than the external walls, together with other external features of architectural or historic interest;
- and in paragraph (a) above ' excluded services' means the services of an architect, surveyor or other person acting as consultant or in a supervisory capacity.
- (3) ' Approved alteration' means,—
- (a) in the case of a protected building which is an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works in question, any works of alteration ; and
  - (b) in the case of a protected building which is a scheduled monument within the meaning of the Historic Monuments Act (Northern Ireland) 1971 and in respect of which a protection order, within

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- the meaning of that Act, is in force, works of alteration for which consent has been given under section 10 of that Act; and
- (c) in any other case, works of alteration which may not, or but for the existence of a Crown interest or Duchy interest could not, be carried out unless authorised under, or under any provision of,—
- (i) Part IV of the Town and Country Planning Act 1971,
  - (ii) Part IV of the Town and Country Planning (Scotland) Act 1972,
  - (iii) Part V of the Planning (Northern Ireland) Order 1972, or
  - (iv) Part I of the Ancient Monuments and Archaeological Areas Act 1979,
- and for which, except in the case of a Crown interest or Duchy interest, consent has been obtained under any provision of that Part; and in paragraph (c) above 'Crown interest' and 'Duchy interest' have the same meaning as in section 50 of the said Act of 1979.
- (4) For the purposes of paragraph (a) of Note (3), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (5) Where the benefit of the consideration for the grant of a major interest as described in item 1 accrues to the person substantially reconstructing the protected building but that person is not the grantor, he shall be treated for the purposes of that item as the person making the grant.
- (6) In item 2 'alteration' does not include repair or maintenance ; and where any work consists partly of an approved alteration and partly of other work, an apportionment shall be made to determine the supply which falls within item 2.
- (7) Note (2) to Group 8 above applies in relation to item 2 of this Group as it applies in relation to item 2 of that Group."

## SCHEDULE 7

Section 17.

### THE ADDITIONAL RATE

- 1 In subsection (1) of section 32 of the Finance Act 1971, for the words following paragraph (b) there shall be substituted the words " and, in relation to any year of assessment, any reference in the Income Tax Acts to the additional rate is a reference to a rate determined by subtracting the basic rate for that year from the rate of tax which, for that year, is applicable to the second higher rate band ".
- 2 (1) In the definition of " excess liability" or, as the case may be, "excess amount" wherever it appears in the enactments specified in sub-paragraph (2) below, the words " or additional" shall be omitted.
- (2) The enactments referred to in sub-paragraph (1) above are the following, namely—
- (a) sections 30(3), 36(1), 403(1), 424(c), 430(1), 457(1) and 458(1) of the Taxes Act;

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- (b) section 87(6) of and paragraph 5(6A) of Schedule 16 to the Finance Act 1972 ; and
  - (c) paragraph 19(1A) of Schedule 2 to the Finance Act 1975.
- 3 (1) In the Taxes Act, in section 38(2), the words from " and in determining " to " investment income " shall be omitted.
- (2) In the Finance Act 1971, sections 32(3) and (4) and 34(4) and, in paragraph 2(2) of Schedule 7, the words "or additional" shall be omitted.
- (3) In the Finance Act 1973, in section 44, the words " or additional " and, in section 59(2), the words from " the additional rate " to " them, and " shall be omitted.
- (4) In the Finance Act 1974, there shall be omitted—
- (a) section 15;
  - (b) in section 16(1), the words following " subsection (2) below";
  - (c) in section 43(1), the words from " In this subsection" onwards ; and
  - (d) in Schedule 7, paragraph 1 and, in paragraph 9(5), the words from " and " onwards.
- (5) In section 24(3) of the Finance Act 1980, for the word " amounts" there shall be substituted the word " amount " ; and the words from "or over which" to "additional rate", the word "respectively", where it first occurs, and the words "and the investment income threshold " shall be omitted.

## SCHEDULE 8

Section 27(3).

### INTEREST PAID ON DEPOSITS WITH BANKS ETC

#### *General*

- 1 (1) In this Schedule "the principal section" means section 27 of this Act
- (2) Any amount which is credited as interest in respect of a relevant deposit shall, for the purposes of the principal section and (his Schedule, be treated as a payment of interest

#### *Meaning of " deposit-taker "*

- 2 (1) In the principal section and in this Schedule "deposit-taker " means any of the following—
- (a) the Bank of England ;
  - (b) any recognised bank, licensed institution or municipal bank (within die meaning of the Banking Act 1979);
  - (c) the Post Office;
  - (d) any trustee savings bank within the meaning of the Trustee Savings Banks Act 1981 ;
  - (e) any bank formed under the Savings Bank (Scotland) Act 1819; and
  - (f) any person or class of person which receives deposits in the course of his business or activities and which is for the time being prescribed by order made by the Treasury by statutory instrument for the purposes of this section.

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- (2) Where the Treasury makes an order under sub-paragraph (1)(f) above, the order shall have effect from the beginning of the first year of assessment which begins after the date on which the order is made.
- (3) An order under sub-paragraph (1)(f) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

*Meaning of " deposit" and " relevant deposit"*

- 3 (1) In the principal section and in this Schedule " deposit" means a sum of money paid on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made.
- (2) For the purposes of the principal section and this Schedule, a deposit is a " relevant deposit" if, but only if—
  - (a) the person who is beneficially entitled to any interest in respect of the deposit is an individual or, where two or more persons are so entitled, all of them are individuals ; or
  - (b) the person entitled to any such interest receives it as a personal representative in his capacity as such ;and the deposit is not prevented from being a relevant deposit by sub-paragraph (3) below.
- (3) A deposit is not a relevant deposit if—
  - (a) a qualifying certificate of deposit has been issued in respect of it or it is a qualifying time deposit;
  - (b) it is a debt on a debenture (" debenture " having the meaning given in section 455 of the Companies Act 1948) issued by the deposit-taker ;
  - (c) it is a loan made by a deposit-taker in the ordinary course of his business or activities ;
  - (d) it is a debt on a security which is listed on a recognised stock exchange (within the meaning of section 535 of the Taxes Act);
  - (e) it is made by a Stock Exchange money broker (recognised by the Bank of England) in the course of his business as such a broker;
  - (f) in the case of a deposit-taker resident in the United Kingdom for the purposes of income or corporation tax, it is held at a branch of his situated outside the United Kingdom ;
  - (g) in the case of a deposit-taker who is not so resident, it is held otherwise than at a branch of his situated in the United Kingdom ; or
  - (h) the appropriate person has declared in writing to the deposit-taker liable to pay interest in respect of the deposit that—
    - (i) at the time when the declaration is made, the person who is beneficially entitled to the interest is not, or, as the case may be, all of the persons who are so entitled are not, ordinarily resident in the United Kingdom ;
    - (ii) in a case falling within sub-paragraph (2)(b) above, the deceased was, immediately before his death, not ordinarily resident in the United Kingdom.

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- (4) A declaration under sub-paragraph (3)(h)(i) shall contain an undertaking by the person making it that if the person, or any of the persons, in respect of whom it is made becomes ordinarily resident in the United Kingdom he will notify the deposit-taker accordingly.
- (5) A deposit-taker shall, on being so required by notice given to him in writing by an inspector, make all declarations which have been made to him under sub-paragraph (3) above available for inspection by the inspector or by a named officer of the Board.
- (6) Where a notice has been given to a deposit-taker under sub-paragraph (5) above, the declarations shall be made available within such time as may be specified in the notice; and the person to whom they are to be made available may take copies of, or extracts from, them.
- (7) A deposit-taker shall treat every deposit made with him as a relevant deposit unless satisfied that it is not a relevant deposit; but where he has satisfied himself that a deposit is not a relevant deposit he shall be entitled to continue to so treat it until such time as he is in possession of information which can reasonably be taken to indicate that the deposit is, or may be, a relevant deposit.
- (8) In sub-paragraph (3) above—
- " appropriate person", in relation to a deposit, means any person who is beneficially entitled to any interest in respect of the deposit or entitled to receive any such interest as a personal representative in his capacity as such or to whom any such interest is payable ;
- " qualifying certificate of deposit" means a certificate of deposit, as defined in section 55(3) of the Finance Act 1968, which is issued by a deposit-taker and under which—
- (a) the amount payable by the deposit-taker, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made); and
- (b) the obligation of the deposit-taker to pay that amount arises after a period of not less than 28 days beginning with the date on which the deposit is made ; and
- " qualifying time deposit" means a deposit which is made by way of loan for an amount which is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made) and on terms which—
- (a) prevent repayment of the deposit before the expiry of the period of 28 days beginning with the date on which the deposit is made, but which require repayment at the end of a specified period ;
- (b) do not make provision for the transfer of the right to repayment; and
- (c) prevent partial withdrawals of, or additions to, the deposit.
- (9) For the purposes of sub-paragraph (3)(f) and (g) above, a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.



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*Assessments to income tax etc.*

- 4 (1) Where in relation to any payment of interest (the "payment ") a deposit-taker is liable to account for and pay an amount under the principal section—
- (a) subject to sub-paragraph (2) below, no assessment to income tax shall be made on, and no repayment of income tax shall be made to, the person receiving or entitled to the payment in respect of it;
  - (b) the payment shall, in computing the total income of the person entitled to it, be treated as income for that year received by him after deduction of income tax at the basic rate from a corresponding gross amount; and
  - (c) the payment (and no more) shall, in applying sections 52 and 53 of the Taxes Act to other payments be treated as profits or gains which have been brought into charge to income tax.
- (2) Sub-paragraph (1)(a) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate.
- (3) For the purpose of determining whether any or what amount of tax is, by virtue of sub-paragraph (1)(b) above, to be taken into account as having been deducted from a gross amount in the case of an individual whose total income is reduced by any deductions, so much only of that gross amount shall be taken into account as is part of his total income as so reduced.

*Collection*

- 5 (1) Any payment of interest in respect of which an amount is payable under the principal section shall be a relevant payment for the purposes of Schedule 20 to the Finance Act 1972 (collection of income tax on company payments which are not distributions) whether or not the deposit-taker making the payment is resident in the United Kingdom.
- (2) Schedule 20 to that Act shall apply in relation to any payment which is a relevant payment by virtue of sub-paragraph (1) above—
- (a) with the substitution for any reference to a company of a reference to a deposit-taker ;
  - (b) as if any amount payable under the principal section were payable as income tax ;
  - (c) as if paragraph 5 (set-off of income tax on deposit-taker's income against liability under the principal section) applied only in relation to payments received by the deposit-taker after 5th April 1985 and falling to be taken into account in computing his income chargeable to corporation tax; and
  - (d) as if in paragraph 7 (amounts set-off under paragraph 5 not to be set-off also under section 240(5) of the Taxes Act) the reference to section 240(5) included a reference to sections 53 and 246(3) of that Act.
- (3) In relation to any deposit-taker who is not a company Schedule 20 shall have effect as if—
- (a) paragraph 5 were omitted ; and
  - (b) references to accounting periods were references to periods for which the deposit-taker makes up his accounts.

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*Transitional provisions*

- 6 (1) Any deposit denominated in a foreign currency shall not be treated, at any time before 6th April 1986, as a relevant deposit.
- (2) A certificate of deposit, as defined in section 55(3) of the Finance Act 1968, which was issued before 13th March 1984 on terms which provide for interest to be payable on the deposit at any time after 5th April 1985 (whether or not interest is payable on it before that date) shall, if it is not a qualifying certificate of deposit, be treated for the purposes of paragraph 3(3) of this Schedule as if it were a qualifying certificate of deposit.
- (3) Any deposit which was made before 6th July 1984 but which is not a qualifying time deposit shall, where it is made on terms which—
- (a) do not make provision for the transfer of the right to repayment;
  - (b) prevent partial withdrawals of, or additions to, the deposit; and
  - (c) require—
    - (i) the deposit-taker to repay the sum at the end of a specified period which ends after 5th April 1985 ; or
    - (ii) in a case where interest is payable only at the time of repayment of the deposit, the deposit-taker to repay the sum on demand or on notice ;
- be treated, for the purposes of paragraph 3(3) of this Schedule, as if it were a qualifying time deposit.
- (4) A declaration made before 6th July 1984 under section 17(4) of the Taxes Management Act 1970 which contains an undertaking of the kind referred to in sub-paragraph (4) of paragraph 3 of this Schedule shall, at all times before 6th April 1988, be treated as a declaration made for the purposes of that paragraph.
- (5) Where a deposit which is a source of income of any person (the " lender") is not a composite rate deposit but at any time becomes such a deposit, section 121 of the Taxes Act (special rules where source of income ceases) shall apply as if the deposit were a source of income which the lender ceased to possess immediately before it became a composite rate deposit.
- (6) Where a deposit becomes a composite rate deposit on 6th April 1985, section 121 of the Taxes Act shall apply in relation to it with the omission from subsection (1)(b) of the words from " and shall" to " this provision ".
- (7) Where a deposit which is a source of income of any person ceases to be a composite rate deposit, section 120(3) of the Taxes Act shall apply as if the deposit were a new source of income acquired by him immediately after it ceased to be a composite rate deposit.
- (8) For the purposes of sub-paragraphs (5) to (7) above a deposit is at any time a composite rate deposit if, were the person holding it to make a payment of interest in respect of it at that time, he would be liable to account for and pay an amount on that payment under the principal section.

*Penalties*

- 7 The Table in section 98 of the Taxes Management Act 1970 (penalties) shall be amended by inserting at the end of the first column—

“Paragraph 3(3)(h) and (5) of Schedule 8 to the Finance Act 1984”.

SCHEDULE 9

Section 36(1).

DEEP DISCOUNT SECURITIES

*Charge to tax*

- 1 (1) On the disposal by any person of any deep discount security—
- (a) an amount which represents the accrued income attributable to the period between his acquisition and disposal of the security (the "period of ownership") shall be treated as income chargeable to tax under Case III or, as may be, Case IV of Schedule D ;
  - (b) the tax shall (notwithstanding anything in sections 119 to 121 or, as may be, 122 to 124 of the Taxes Act but subject to sub-paragraph (5) below) be computed on the income so arising from any disposal made in the year of assessment ; and
  - (c) in computing the gain accruing on the disposal for the purposes of capital gains tax—
    - (i) section 31 of the Capital Gains Tax Act 1979 shall not apply but the consideration for the disposal shall be treated as reduced by the amount mentioned in paragraph (a) above ; and
    - (ii) where that amount exceeds the consideration for the disposal, the amount of the excess shall be treated as expenditure within section 32(1)(b) of that Act incurred by him on the security immediately before the disposal.
- (2) The amount which represents the accrued income attributable to any period of ownership is the aggregate of the income elements for each income period or part of an income period in the period of ownership.
- (3) In relation to any security, the income element for any income period shall be determined by applying the formula—

$$\left( \frac{A \times B}{100} \right) - C$$

where

- A is the adjusted issue price ;
- B is the yield to maturity; and
- C is the amount of interest (if any) attributable to the income period.

- (4) The income element for any period (the "short period") falling within an income period shall be determined by applying the formula—

$$\frac{P}{Y} \times I$$

where

- I is the income element for the income period in which the short period falls ;

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P is the number of days in the short period ; and  
Y is the number of days in that income period.

(5) Where—

- (a) by virtue of sub-paragraph (1) above income tax is chargeable under Case IV of Schedule D, and
- (b) the person making the disposal satisfies the Board, on a claim in that behalf, that he is not domiciled in the United Kingdom, or that, being a British subject or a citizen of the Republic of Ireland, he is not ordinarily resident in the United Kingdom,

the tax shall be computed on the amounts, if any, received in the United Kingdom in the year of assessment in question in respect of the sum mentioned in sub-paragraph (1)(a) above (any such amounts being treated as income arising when they are received in the United Kingdom).

(6) For the purposes of subsection (5) above—

- (a) there shall be treated as received in the United Kingdom all amounts paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom ; and
- (b) subsections (4) to (7) of section 122 of the Taxes Act shall apply as they apply for the purposes of subsection (3) of that section.

(7) In this Schedule—

" adjusted issue price ", in relation to any security in a particular income period, is the aggregate of the issue price of the security and the income elements for all previous income periods;

" income period " means—

- (a) in the case of a security carrying a right to interest, any period to which a payment of interest which falls to be made in respect of the security is attributable; and
- (b) in any other case, any year ending immediately before the anniversary of the issue of the security or any period of less than a year which begins on such an anniversary and ends on the redemption date ;

"yield to maturity", in relation to any security, means a rate (expressed as a percentage) such that if a sum equal to the issue price of the security were to be invested at that rate on the assumption that—

- (a) the rate would be applied on a compounding basis at the end of each income period ; and
- (b) the amount of any interest attributable to an income period would be deducted after applying the rate, the value of that sum at the redemption date would be equal to the amount payable on redemption of the security.

(8) Every company which issues deep discount securities shall cause to be shown on the certificate of each such security the income element for each income period between the date of issue of the security and the redemption date.

(9) Sections 52 to 54 of the Taxes Act (deduction of income tax by persons making certain payments) and section 159 of that Act (foreign dividends) shall not apply to so much of the proceeds of redemption of a deep discount security as represents income chargeable to tax under Case III or, as may be, Case IV of Schedule D.

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*Meaning of "disposal"*

- 2 (1) Subject to sub-paragraph (2) and paragraph 8 below, there is a disposal of a deep discount security for the purposes of this Schedule if there would be such a disposal for the purposes of the Capital Gains Tax Act 1979.
- (2) Notwithstanding anything in section 49(1)(b) of the Act of 1979 (no deemed disposal on death), where the assets of which a deceased person was competent to dispose include any deep discount security that security shall, for the purposes of this Schedule, be deemed to have been disposed of by the deceased immediately before his death.

*Deduction of income element from total profits  
of company and allowance as charge on income*

- 3 (1) In computing the corporation tax chargeable for any accounting period of a company which has issued any deep discount security, the income element in respect of that security for any income period ending in or with that accounting period shall be allowed as a deduction against the total profits of the company for the accounting period as reduced by any relief other than group relief.
- (2) The income element for any income period ending in or with an accounting period of a company which has issued a deep discount security shall be treated for the purposes of the Corporation Tax Acts, other than those of section 248(1) of the Taxes Act (which makes provision, in relation to charges, similar to that made by sub-paragraph (1) above) as a charge on income paid by the company in the accounting period.
- (3) No income element in respect of any deep discount security shall be so allowed or treated unless—
- (a) the cost of paying so much of the amount payable on redemption as represents the discount is ultimately borne by the company;
  - (b) the income element would not otherwise be deductible in computing the issuing company's profits or any description of those profits for purposes of corporation tax ; and
  - (c) one or more of the conditions mentioned in sub-paragraph (4) below are satisfied.
- (4) The conditions are that—
- (a) the company exists wholly or mainly for the purpose of carrying on a trade ;
  - (b) the deep discount security was issued wholly and exclusively to raise money for purposes of a trade carried on by the company;
  - (c) the company is an investment company, as defined by section 304(5) of the Taxes Act.
- (5) Where, on redemption of any deep discount security any part of the amount payable on redemption is, by virtue of section 233(2)(d) of the Taxes Act, a distribution of the company for the purposes of the Corporation Tax Acts, sub-paragraphs (1) and (2) above shall not apply to any income element in respect of that security.
- (6) Without prejudice to its application apart from this paragraph section 38 of the Finance Act 1980 (incidental costs of obtaining loan finance to be deductible in computing profits or gains to be charged under Case I or Case II of Schedule D and to be treated for certain purposes as expenses of management) shall apply in relation

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to any qualifying security as it applies in relation to loan stock the interest on which is deductible as mentioned in subsection (2) of that section.

- (7) In sub-paragraph (6) above, " qualifying security " means any deep discount security in respect of which the income elements are deductible under sub-paragraph (1) above in computing the total profits of the company by which the incidental costs in question are incurred.
- (8) Sub-paragraphs (6) and (7) above shall have effect in relation to expenditure incurred after 13th March 1984.
- (9) Relief shall not be given under any provision of the Tax Acts in respect of any income element if (at any time) a scheme has been effected or arrangements have been made such that the sole or main benefit that might be expected to accrue to the company from the issue of the security in question is the obtaining of a reduction in tax liability by means of that relief.
- (10) Subsections (2) and (3) of section 38 of the Finance Act 1976 (restriction of relief for payment of interest) shall apply in relation to sub-paragraph (9) above as they apply in relation to subsection (1) of that section.
- 4 (1) Section 15 of the Oil Taxation Act 1975 (oil extraction activities etc. ; charges on income) shall apply in relation to income elements in respect of deep discount securities and paragraph 3 above as it applies in relation to interest and section 248 of the Taxes Act (allowance of charges on income).
- (2) In the application of section 15 to any deep discount security, subsection (2)(b) shall have effect as if the references to the rate at which interest was payable were references to the aggregate of the rate of interest payable and the amount of any income element in respect of the security for the period in question.

*Securities issued and owned by associated companies or companies belonging to same group*

- 5 (1) Where a deep discount security issued by a company is at any time beneficially owned by another company which is—
- (a) an associated company (within the meaning of section 302 of the Taxes Act) of the issuing company ; or
  - (b) a member of a group of companies of which the issuing company is also a member;
- sub-paragraphs (1) and (2) of paragraph 3 of this Schedule shall apply to any linked income element with the addition, after the words " the accounting period ", of the words " in which the security is redeemed ".
- (2) In this paragraph " linked income element " means the income element in respect of the security in question for any income period in which the security is at any time beneficially owned by the other company.
- (3) For the purposes of this paragraph, two companies shall be deemed to be members of a group of companies if one is a 51 per cent subsidiary of the other or both are 51 per cent, subsidiaries of a third company.

*Close companies*

- 6 (1) Where a deep discount security issued by a close company is at any time beneficially owned by—

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- (a) a participator in the company ;
- (b) an associate of such a participator ; or
- (c) a company of which such a participator has control,

sub-paragraphs (1) and (2) of paragraph 3 of this Schedule shall apply to any linked income element with the addition, after the words " the accounting period ", of the words " in which the security is redeemed ".

- (2) In sub-paragraph (1) above " linked income element" means the income element in respect of the security in question for any income period in which the security is at any time beneficially owned by a person mentioned in that sub-paragraph.
- (3) Any amount which a close company is allowed, by virtue of paragraph 3(1) of this Schedule, to deduct from its total profits for any accounting period shall be treated for the purposes of paragraph 3A of Schedule 16 to the Finance Act 1972 (apportionment amongst participators of interest paid by close company as if it were income of the company) as if it were interest paid by the company in that period.
- (4) In this paragraph—
  - "associate" has the meaning given in section 303(3) of the Taxes Act;
  - " control " shall be construed in accordance with section 302(2) to (6) of that Act; and
  - " participator " means a person who is, in relation to a company, a participator for the purposes of Chapter III of Part XI of the Taxes Act (by virtue of section 303 of that Act) other than a person who is a participator for those purposes by virtue only of his holding a deep discount security issued by the company.
- (5) In determining whether a person who carries on a business of banking is a participator in a company for the purposes of this paragraph, there shall be disregarded any securities of the company acquired by him in the ordinary course of his business.

#### *Early redemption*

- 7 (1) Where any deep discount security is redeemed before the redemption date by the company which issued it, the preceding paragraphs shall have effect subject to the provisions of this paragraph.
- (2) The accrued income attributable to the period between the acquisition of the security by the person who, immediately before its redemption, was the beneficial owner of the security and its redemption shall be the amount paid to him on redemption of the security less the issue price of the security or, in a case where he did not acquire it on its issue, less the aggregate of—
  - (a) the issue price; and
  - (b) the accrued income attributable to the period beginning with the issue, and ending with his acquisition, of the security.
- (3) The deduction allowed under paragraph 3(1) above in relation to the accounting period in which the deep discount security is redeemed shall be the amount paid by the company on redemption less the aggregate of—
  - (a) the issue price of the security; and
  - (b) the accrued income attributable to the period beginning with the issue of the security and ending with the last income period to end in or with the

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accounting period of the company which precedes that in which the security is redeemed.

- (4) Where paragraph 5 or 6 above has applied to the deep discount security at any time, the amount mentioned in sub-paragraph (3)(b) above shall not include any linked income element (within the meaning of that paragraph).
- (5) Where the aggregate mentioned in sub-paragraph (3) above exceeds the amount paid by the company on redemption of the security, the amount of the excess or, if it is less, the amount mentioned in paragraph (b) of that sub-paragraph shall be treated as income of the company—
  - (a) arising in the accounting period in which the security is redeemed; and
  - (b) chargeable to tax under Case VI of Schedule D.
- (6) Where a resolution is passed, an order made or any other act takes place for the winding up of a company which has issued a deep discount security before the security is redeemed, this paragraph shall have effect in relation to any payment made in respect of the security in the course of the winding up as if the payment were made on redemption.

*Reorganisations, conversions, reconstructions and amalgamations*

- 8 (1) This paragraph applies where—
  - (a) there is a conversion of securities to which section 82 of the Capital Gains Tax Act 1979 applies and those securities include deep discount securities ; or
  - (b) securities including deep discount securities are exchanged (or by virtue of section 86(1) of that Act are treated as exchanged) for other securities in circumstances in which section 85(3) of that Act applies.
- (2) Where this paragraph applies—
  - (a) the securities converted or exchanged shall (subject to sub-paragraph (3) below and notwithstanding section 78 of the Act of 1979) be treated for the purposes of the charge to tax under paragraph 1 of this Schedule as having been disposed of immediately before the time of the conversion, or, as the case may be, exchange, by the person who was the beneficial owner of the securities at that time ;
  - (b) sub-paragraph (1)(c) of that paragraph and section 31 of the Act of 1979 shall not apply, but any sum payable to the beneficial owner of the deep discount securities by way of consideration for their disposal (in addition to his new holding) shall be treated for the purposes of capital gains tax as reduced by the amount of the accrued income on which he is chargeable to income tax by virtue of paragraph (a) above ; and
  - (c) where that amount exceeds any such sum, the excess shall be treated as expenditure within section 32(1)(b) of that Act incurred by him on the security immediately before that time.
- (3) Where a person would (but for this sub-paragraph) be treated by sub-paragraph (2)(a) above as having, for the purposes of paragraph 1 of this Schedule, disposed of deep discount securities which are converted into, or exchanged for, other deep discount securities—
  - (a) he shall not be so treated—



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- (i) if the date which is the redemption date in relation to the new securities is not later than the date which was the redemption date in relation to the converted or exchanged securities ; and
  - (ii) no consideration is given for the conversion or exchange other than the new securities ; but
- (b) the amount of the accrued income attributable to his period of ownership of the converted or exchanged securities (including any amount added by virtue of the previous operation of this paragraph) shall be added to the amount of the accrued income attributable to his period of ownership of the new securities.

*Disposals on a no-gain J no-loss basis*

- 9 Where a disposal of a deep discount security is to be treated for the purposes of capital gains tax as one on which neither a gain nor a loss accrues to the person making the disposal, the consideration for which the person acquiring the security would, apart from this paragraph, be treated for the purposes of capital gains tax as having acquired the security shall be increased by the amount mentioned in paragraph 1(1)(a) of this Schedule.

*Time of disposal and acquisition where securities disposed of under contract*

- 10 (1) Where any deep discount security is disposed of and acquired under a contract, the time at which the disposal and acquisition is made is the time at which the contract is made (and not, if different, the time at which the security is transferred).
- (2) If the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the disposal and acquisition is made is the time when the condition is satisfied.

*Identification of securities disposed of*

- 11 (1) The rules contained in sections 88 and 89 of the Finance Act 1982 (identification, for the purposes of capital gains tax, of securities disposed of) shall apply for the purposes of this Schedule as they apply for the purposes of capital gains tax.
- (2) In paragraph 1(2) of Schedule 6 to the Finance Act 1983 (exclusion of certain securities from provisions relating to election for pooling for purposes of capital gains tax), there shall be added, after paragraph (a)—

“; nor

- (aa) deep discount securities (within the meaning of section 36 of the Finance Act 1984)”.

*Exemption for charities*

- 12 Section 360(2) of the Taxes Act (exemption for charities from tax on chargeable gains) shall apply in relation to tax chargeable by virtue of paragraph 1 above as it applies in relation to tax on chargeable gains.

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*Consequential amendments*

- 13 In section 254 of the Taxes Act (losses and charges etc. for which claim to set-off against surplus of franked investment income may be made), the words " or paragraph 3 of Schedule 9 to the Finance Act 1984 " shall be inserted—
- (a) at the end of paragraph (b) in subsection (2); and
  - (b) after the words " 248 of this Act " in subsection (7)(b).
- 14 In Schedule 10 to the Finance Act 1975 (capital transfer tax: valuation) in paragraph 9 (value transferred on death) at the end of sub-paragraph (1) there shall be added the words "and
- (f) allowance shall be made for any liability to income tax arising under paragraph 1 of Schedule 9 to the Finance Act 1984 (deep discount securities) on a disposal which is deemed to occur by virtue of paragraph 2(2) of that Schedule."

SCHEDULE 10

Section 38(1).

APPROVED SHARE OPTION SCHEMES

*Approval of schemes*

- 1 (1) On the application of a body corporate (in this Schedule referred to as " the grantor ") which has established a share option scheme, the Board shall approve the scheme if they are satisfied that it fulfils the requirements of this Schedule; but shall not approve it if it appears to them that there are features of the scheme which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of rights to acquire shares.
- (2) An application under sub-paragraph (1) above shall be made in writing and contain such particulars and be supported by such evidence as the Board may require.
- (3) Where the grantor has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control and in this Schedule a scheme which is expressed so to extend is referred to as a " group scheme ".
- (4) In relation to a group scheme the expression "participating company" means the grantor or any other company to which for the time being the scheme is expressed to extend.
- (5) Where the provisions of a scheme are approved in pursuance of an application made under this paragraph before 1st January 1985, section 38 of this Act shall apply in relation to any right obtained before 1st July 1985 as if the scheme containing those provisions had always been approved.
- 2 (1) If, at any time after the Board have approved a scheme, any of the requirements of this Schedule cease to be satisfied or the grantor fails to provide information requested by the Board under paragraph 14 below, the Board may withdraw the approval with effect from that time or such later time as the Board may specify.

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- (2) If an alteration is made in the scheme at any time after the Board have approved the scheme, the approval shall not have effect after the date of the alteration unless the Board have approved the alteration.
- 3 If the grantor is aggrieved by—
- (a) the failure of the Board to approve the scheme or to approve an alteration in the scheme ; or
  - (b) the withdrawal of approval;
- it may, by notice in writing given to the Board within thirty days from the date on which it is notified of the Board's decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

#### *Eligibility*

- 4 (1) The scheme must not provide for any person to be eligible to participate in it, that is to say to obtain and exercise rights under it—
- (a) unless he is a full-time director or qualifying employee of the grantor or, in the case of a group scheme, of a participating company;
  - (b) at any time when he has, or has within the preceding twelve months had, a material interest in a close company within the meaning of Chapter III of Part XI of the Taxes Act, which is—
    - (i) a company the shares of which may be acquired pursuant to the exercise of rights obtained under the scheme; or
    - (ii) a company which has control of such a company or is a member of a consortium which owns such, a company.
- (2) Notwithstanding sub-paragraph (1)(a) above, the scheme may provide that a person may exercise rights obtained under it despite having ceased to be a full-time director or qualifying employee.
- (3) In determining whether a company is a close company for the purposes of sub-paragraph (1) above, section 282(1)(a) of the Taxes Act (exclusion of companies not resident in United Kingdom) and section 283 of that Act (exclusion of certain companies with quoted shares) shall be disregarded.
- (4) In determining for the purposes of this paragraph whether a person has or has had a material interest in a company, subsection (6) of section 285 of the Taxes Act (interest paid to directors and directors' associates) and paragraph (ii) of the proviso to section 303 (3) of that Act (meaning of " associate ") shall have effect with the substitution for the references in those provisions to 5 per cent, of references to 10 per cent.

#### *Limitation of rights*

- 5 (1) The scheme must provide that no person shall obtain rights under it which would, at the time they are obtained, cause the aggregate market value of the shares which he may acquire in pursuance of rights obtained under the scheme or under any other scheme approved under this Schedule and established by the grantor or by any associated company of the grantor (and not exercised) to exceed or further exceed the appropriate limit.
- (2) The appropriate limit is the greater of—

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- (a) £100,000; or
  - (b) four times the amount of the relevant emoluments for the current or preceding year of assessment (whichever of those years gives the greater amount).
- (3) Where there were no relevant emoluments for the preceding year of assessment, sub-paragraph (2) above shall apply with the following paragraph substituted for paragraph (b)—
- “(b) four times the amount of the relevant emoluments for the period of twelve months beginning with the first day during the current year of assessment in respect of which there are relevant emoluments”.
- (4) For the purposes of sub-paragraph (1) above, the market value of shares shall be calculated as at the time when the rights in relation to those shares were obtained or, in a case where an agreement relating to them has been made under paragraph 13 below, such earlier time or times as may be provided in the agreement.
- (5) For the purposes of sub-paragraph (2) above the relevant emoluments are such of the emoluments of the office or employment by virtue of which the person in question is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 204 of the Taxes Act (pay-as-you-earn), after deducting from them amounts included by virtue of Chapter II of Part III of the Finance Act 1976.

#### *Scheme shares*

- 6 The scheme must provide for directors and employees to obtain rights to acquire shares (in this Schedule referred to as "scheme shares") which satisfy the requirements of paragraphs 7 to 11 below.
- 7 Scheme shares must form part of the ordinary share capital of—
- (a) the grantor ; or
  - (b) a company which has control of the grantor ; or
  - (c) a company which either is, or has control of, a company which—
    - (i) is a member of a consortium owning either the grantor or a company having control of the grantor; and
    - (ii) beneficially owns not less than three twentieths of the ordinary share capital of the company so owned.
- 8 Scheme shares must be—
- (a) shares of a class quoted on a recognised stock exchange ; or
  - (b) shares in a company which is not under the control of another company ; or
  - (c) shares in a company which is under the control of a company (other than a company which is, or would if resident in the United Kingdom be, a close company within the meaning of section 282 of the Taxes Act) whose shares are quoted on a recognised stock exchange.
- 9 Scheme shares must be—
- (a) fully paid up;
  - (b) not redeemable ; and
  - (c) not subject to any restrictions other than restrictions which attach to all shares of the same class.

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- 10 (1) In determining for the purposes of paragraph 9(c) above whether scheme shares which are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or of any interest in them or of the proceeds of their sale or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantage to him or to a person connected with him.
- (2) Sub-paragraph (1) above does not apply to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Rules set out in the Model Code for Securities Transactions by Directors of Listed Companies issued by the Stock Exchange in April 1981.
- 11 Except where scheme shares are in a company whose ordinary share capital consists of shares of one class only, the majority of the issued shares of the same class must be held by persons other than—
- (a) persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the grantor or any other company and not in pursuance of an offer to the public ;
  - (b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares as mentioned in paragraph (a) above; and
  - (c) in a case where the shares fall within sub-paragraph (c) and do not fall within sub-paragraph (a) of paragraph 8 above, companies which have control of the company whose shares are in question or of which that company is an associated company.

#### *Transfer of rights*

- 12 (1) The scheme must not permit any person obtaining rights under it to transfer any of them but may provide that if such a person dies before exercising them, they may be exercised after, but not later than one year after, the date of his death.
- (2) Where the scheme contains the provision permitted by sub-paragraph (1) above and any rights are exercised—
- (a) after the death of the person who obtained them ; but
  - (b) before the expiry of the period of ten years beginning with his obtaining them ;
- subsection (3) of section 38 of this Act shall apply with the omission of the reference to the conditions mentioned in subsection (4).

#### *Share price*

- 13 The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme must be stated at the time the right is obtained and must not be manifestly less than the market value of shares of the same class at that time or, if the Board and the grantor agree in writing, at such earlier time or times as may be provided in the agreement, but the scheme may provide for such variation of the price so stated as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

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### *Information*

- 14 The Board may by notice in writing require any person to furnish them, within such time as the Board may direct (not being less than thirty days), with such information as the Board think necessary for the performance of their functions under this Schedule, and as the person to whom the notice is addressed has or can reasonably obtain, including in particular information—
- (a) to enable the Board to determine—
    - (i) whether to approve a scheme or withdraw an approval already given; or
    - (ii) the liability to tax, including capital gains tax, of any person who has participated in a scheme ; and
  - (b) in relation to the administration of a scheme and any alteration of the terms of a scheme.

### *Interpretation*

- 15 (1) In this Schedule—
- " associated company " has the same meaning as in section 302 of the Taxes Act;
  - " control" has the same meaning as in section 534 of the Taxes Act;
  - " grantor " has the meaning given by paragraph 1(1) ;
  - " group scheme" and, in relation to such a scheme, " participating company" have the meanings given by paragraph 1;
  - " market value " has the same meaning as in Part VIII of the Capital Gains Tax Act 1979 ;
  - " qualifying employee" in relation to a company, means an employee of the company (other than one who is a director of the company or, in the case of a group scheme, of a participating company) who is required, under the terms of his employment, to work for the company for at least twenty hours a week;
  - " scheme shares " has the meaning given by paragraph 6 ; and
  - " shares " includes stock.
- (2) Section 303(3) of the Taxes Act (meaning of "associate") shall have effect in a case where the scheme is a group scheme, with the substitution of a reference to all the participating companies for the first reference to the company in paragraph (ii) of the proviso to that subsection.
- (3) Section 533 of the Taxes Act (connected persons) shall apply for the purposes of this Schedule.
- (4) For the purposes of this Schedule a company is a member of a consortium owning another company if it is one of a number of companies which between them beneficially own not less than three-quarters of the other company's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

SCHEDULE 11

Section 50(1).

FURNISHED HOLIDAY LETTINGS

*Treatment of lettings as a trade for certain purposes*

- 1 (1) Subject to the provisions of this Schedule, for the purposes of the provisions mentioned in sub-paragraph (2) below—
- (a) the commercial letting of furnished holiday accommodation in respect of which the profits or gains are chargeable under Case VI of Schedule D shall be treated as a trade; and
  - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.
- (2) The provisions mentioned in sub-paragraph (1) above are—
- (a) section 4(2) of the Taxes Act (payment of income tax in two equal instalments);
  - (b) sections 168 to 175 and 177 to 178 of the Taxes Act and section 30 of the Finance Act 1978 (relief for losses) ;
  - (c) subsection (9)(c) of section 226 of the Taxes Act (retirement annuity contracts);
  - (d) subsection (1)(c) of section 530 of that Act (earned income) ;
  - (e) Chapter I of Part III of the Finance Act 1971 (capital allowances) ;
  - (f) sections 115 to 120 of the Capital Gains Tax Act 1979 (roll over relief for replacement of business assets) ;
  - (g) section 124 of that Act (transfer of business on retirement) ;
  - (h) section 126 of that Act (relief for gifts of business assets);
  - (i) section 136 of that Act (relief in respect of loans to traders) ; and
  - (j) section 39 of the Finance Act 1980 (relief for pre-trading expenditure).

*Losses and pre-trading expenditure*

- 2 (1) In their application by virtue of paragraph 1 above section 175(1) of the Taxes Act (treatment of interest as a loss for purposes of carry-forward and carry-back) and section 39(1) of the Finance Act 1980 shall have effect as if for the references in those sections to Case I of Schedule D there were substituted references to Case VI of that Schedule.
- (2) No relief shall be given to an individual under section 30 of the Finance Act 1978, as it applies by virtue of paragraph 1 above, in respect of a loss sustained in any year of assessment, if any of the accommodation in respect of which the trade is carried on in that year was first let by him as furnished accommodation more than three years before the beginning of that year of assessment.
- (3) Relief shall not be given for the same loss or the same portion of a loss both under any of the provisions mentioned in paragraph 1(2)(b) above, as they apply by virtue of this Schedule, and under any other provision of the Tax Acts.

*Expenditure*

- 3 In computing the profits or gains arising from the commercial letting of furnished holiday accommodation which are chargeable to tax under Case VI of Schedule D,

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such expenditure may be deducted as would be deductible if the letting were a trade and those profits or gains were accordingly to be computed in accordance with the rules applicable to Case I of that Schedule.

*Capital gains tax*

- 4 (1) Subject to sub-paragraph (2) below, for the purposes of the provisions mentioned in sub-paragraph (2)(f) to (i) of paragraph 1 above as they apply by virtue of that paragraph, where in any year of assessment a person makes a commercial letting of furnished holiday accommodation—
- (a) the accommodation shall be taken to be used in that year only for the purposes of the trade of making such lettings ; and
  - (b) that trade shall be taken to be carried on throughout that year.
- (2) Sub-paragraph (1) above does not apply to any period in a year of assessment during which the accommodation is neither let commercially nor available to be so let unless it is prevented from being so let or available by any works of construction or repair.

5 Where—

- (a) a gain to which section 101 of the Capital Gains Tax Act 1979 (relief on disposal of private residence) applies accrues to any individual on the disposal of an asset; and
- (b) by virtue of paragraph 1 above the amount or value of the consideration for the acquisition of the asset is treated as reduced under section 115 or 116 of that Act,

the gain to which section 101 applies shall be reduced by the amount of the reduction mentioned in paragraph (b) above.

*Power to make apportionments*

- 6 Where there is a letting of accommodation only part of which is holiday accommodation such apportionments shall be made for the purposes of this Schedule as appear to the inspector, or on appeal the Commissioners, to be just and reasonable.

*Adjustments of tax charged*

- 7 Where a person has been charged to income tax, corporation tax or capital gains tax otherwise than in accordance with the provisions of this Schedule, such assessment, reduction or discharge of an assessment or, where a claim for repayment is made, such repayment, shall be made as may be necessary to give effect to those provisions.



SCHEDULE 12

Section 58.

INITIAL ALLOWANCES AND FIRST-YEAR ALLOWANCES

PART I

WITHDRAWAL OF ALLOWANCES

*Initial allowances for industrial buildings and structures*

- 1 (1) In section 1(2) of the Capital Allowances Act 1968 (rate of initial allowances for capital expenditure on the construction of industrial buildings or structures) for the words " three-quarters" there shall be substituted,—
- (a) with respect to capital expenditure incurred after 13th March 1984 and before 1st April 1985, the words " one half" ; and
  - (b) with respect to capital expenditure incurred on or after 1st April 1985 and before 1st April 1986, the words "one quarter " ;
- and no initial allowance shall be made in respect of expenditure incurred on or after 1st April 1986.
- (2) Nothing in sub-paragraph (1) above applies to capital expenditure which—
- (a) is incurred after 13th March 1984 and before 1st April 1987 ; and
  - (b) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure.
- (3) Sub-paragraphs (1) and (2) above shall be construed as if they were contained in Part I of the Capital Allowances Act 1968 except that—
- (a) expenditure shall not be treated for the purposes of those sub-paragraphs as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before a trade begins); and
  - (b) expenditure falling within subsection (1)(b) of section 5 of that Act (purchase price of building or structure bought unused) shall be treated for the purposes of those sub-paragraphs as having been incurred at the latest time when any expenditure falling within subsection (1)(a) of that section (expenditure on the construction of the building or structure) was incurred.

*First-year allowances for machinery and plant*

- 2 (1) In section 42(1) of the Finance Act 1971 (rate of first-year allowance for capital expenditure incurred on provision of machinery or plant) for the words " the whole " there shall be substituted,—
- (a) with respect to capital expenditure incurred after 13th March 1984 and before 1st April 1985, the words "three-quarters" ; and
  - (b) with respect to capital expenditure incurred on or after 1st April 1985 and before 1st April 1986, the words "one half " ;
- and no first-year allowance shall be made in respect of expenditure incurred on or after 1st April 1986.
- (2) Nothing in sub-paragraph (1) above applies to capital expenditure which—
- (a) is incurred after 13th March 1984 and before 1st April 1987 ; and

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- (b) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure or by a person whose contractual obligations that person has assumed with a view to entering into leasing arrangements.
- (3) For the purposes of sub-paragraph (2)(b) above, a person incurring expenditure on the provision of machinery or plant (in this sub-paragraph referred to as " the lessor ") shall be taken to have assumed, with a view to entering into leasing arrangements, the contractual obligations of a person who entered into a contract for the provision of that machinery or plant (in this sub-paragraph referred to as " the lessee ") if, and only if,—
- (a) arrangements exist under which the lessor will lease the machinery or plant to the lessee ; and
- (b) the obligations of the lessee under the contract either have been taken over by the lessor or have been discharged on the lessor's entering into a new contract for the provision of the machinery or plant concerned ;
- and, where there is such a new contract as is referred to in paragraph (b) above, sums paid under that contract shall be treated for the purposes of sub-paragraph (2) (b) above and Part II of this Schedule as paid under the contract referred to in that sub-paragraph.
- (4) Sub-paragraphs (1) to (3) above shall be construed as if they were contained in Chapter I of Part III of the Finance Act 1971, except that expenditure shall not be treated for the purposes of those sub-paragraphs as having been incurred after the date on which it was in fact incurred by reason only of so much of section 50(4) of that Act as relates to expenditure incurred before a trade begins.

*Initial allowances in respect of dwelling-houses let on assured tenancies*

- 3 (1) In paragraph 1(2) of Schedule 12 to the Finance Act 1982 (rate of initial allowance in respect of qualifying dwelling-house on the construction of which capital expenditure is incurred) for the words " three-quarters " there shall be substituted,—
- (a) with respect to capital expenditure incurred after 13th March 1984 and before 1st April 1985, the words " one half " ; and
- (b) with respect to capital expenditure incurred on or after 1st April 1985 and before 1st April 1986, the words " one quarter " ;
- and no initial allowance shall be made in respect of expenditure incurred on or after 1st April 1986.
- (2) Nothing in sub-paragraph (1) above applies to capital expenditure which—
- (a) is incurred after 13th March 1984 and before 1st April 1987 ; and
- (b) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure.
- (3) Sub-paragraphs (1) and (2) above shall be construed as if they were contained in Schedule 12 to the Finance Act 1982 except that expenditure falling within sub-paragraph (1)(b) of paragraph 8 of that Schedule (purchase price of building bought unused) shall be treated for the purposes of those sub-paragraphs as having been incurred at the latest time when any expenditure falling within sub-paragraph (1)(a) of that paragraph (expenditure on the construction of the building) was incurred.

## PART II

### SUPPLEMENTARY

#### *Transitional relief for regional projects*

- 4 (1) The provisions of Part I of this Schedule do not apply to so much of any expenditure as is certified by the Secretary of State for the purposes of this paragraph to be expenditure which, in his opinion, qualifies for a regional development grant or a grant under Part IV of the relevant Order and consists of the payment of sums on a project—
- (a) either in an area which on 13th March 1984 was a development area, within the meaning of the Industrial Development Act 1982, or in Northern Ireland ; and
  - (b) in respect of which a written offer of financial assistance under section 7 or section 8 of that Act was made on behalf of the Secretary of State in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of which a written offer of financial assistance was made in that period by the Highlands and Islands Development Board.
- (2) The provisions of Part I of this Schedule do not apply to so much of any expenditure as is certified by the Department of Economic Development in Northern Ireland for the purposes of this paragraph to be expenditure which, in the opinion of that Department, qualifies for a grant under Part IV of the relevant Order and consists of the payment of sums on a project—
- (a) in Northern Ireland ; and
  - (b) in respect of which a written offer of financial assistance under Article 7 or Article 8 of the relevant Order was made on behalf of a Department of the Government of Northern Ireland in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of which a written offer of financial assistance was made in that period by the Local Enterprise Development Unit.
- (3) In this paragraph—
- "regional development grant" means a grant under Part II of the Industrial Development Act 1982 ;
  - " the relevant Order" means the Industrial Development (Northern Ireland) Order 1982 ; and any reference to a particular provision of that Act or Order includes a reference to the corresponding provision of any Act or Order which was in force before and repealed by the said Act or Order of 1982.

#### *Spreading of expenditure under certain contracts*

- 5 (1) Where in circumstances falling within paragraph 8 below a person incurs such capital expenditure as is referred to in section 1 of the Capital Allowances Act 1968 under a contract—
- (a) which is entered into after 13th March 1984 and on or before 31st March 1986, and
  - (b) which either specifies no date on or by which the contractual obligations must be fully performed or specifies such a date which is after 31st March 1985,

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Chapter I of Part I of that Act shall have effect in relation to the capital expenditure so incurred subject to the following provisions of this paragraph.

- (2) In this Part of this Schedule, in relation to a contract falling within sub-paragraph (1) above,—
- " the contract date " means the date on which the contract is entered into;
- " the contract price " means the total capital expenditure on the construction of the building or structure concerned which the person referred to in sub-paragraph (1) above is to incur pursuant to the contract;
- " the completion date " means the date specified as mentioned in sub-paragraph (1)(b) above or, if no date is so specified, 31st March 1987 ; and
- " the maximum allowable expenditure " shall be construed in accordance with paragraph 9 below.
- (3) In respect of capital expenditure incurred in either of the financial years 1984 and 1985 under a contract falling within sub-paragraph (1) above, the initial allowance under section 1 of the Capital Allowances Act 1968 shall not exceed the fraction appropriate under paragraph 1 above of the maximum allowable expenditure for that year.
- (4) So much (if any) of the capital expenditure incurred in the financial year 1984 under a contract falling within sub-paragraph (1) above as exceeds the maximum allowable expenditure for that year shall be deemed for all purposes of Chapter I of Part I of the Capital Allowances Act 1968 to be incurred on 1st April 1985.
- (5) So much (if any) of the aggregate of—
- (a) the capital expenditure incurred in the financial year 1985 under a contract falling within sub-paragraph (1) above, and
- (b) any excess relating to that contract which, by virtue of sub-paragraph (4) above, is deemed to be incurred in that financial year,
- as exceeds the maximum allowable expenditure for that financial year shall be deemed for all purposes of Chapter I of Part I of the Capital Allowances Act 1968 to be incurred on 1st April 1986.
- (6) This paragraph shall be construed as if it were contained in Chapter I of Part I of the Capital Allowances Act 1968 except that—
- (a) expenditure shall not be treated for the purposes of this paragraph as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act; and
- (b) expenditure falling within subsection (1)(b) of section 5 of that Act shall be treated for the purposes of this paragraph as having been incurred at the latest time when any expenditure falling within subsection (1)(a) of that section was incurred.
- 6 (1) Where in circumstances falling within paragraph 8 below a person carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes of that trade under a contract—
- (a) which is entered into after 13th March 1984 and on or before 31st March 1986, and
- (b) which provides that he shall or may become the owner of the machinery or plant on or before the performance of the contract, and

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- (c) which either specifies no date on or by which the contractual obligations must be fully performed or specifies such a date which is after 31st March 1985,

Chapter I of Part III of the Finance Act 1971 shall have effect in relation to the capital expenditure so incurred subject to the following provisions of this paragraph.

- (2) In this Part of this Schedule, in relation to a contract falling within sub-paragraph (1) above,—
- " the contract date " means the date on which the contract is entered into ;
  - " the contract price " means the total capital expenditure on the provision of the machinery or plant which the person referred to in sub-paragraph (1) above is to incur pursuant to the contract;
  - " the completion date " means the date specified as mentioned in sub-paragraph (1)(c) above or, if no date is so specified, 31st March 1987 ; and
  - " the maximum allowable expenditure " shall be construed in accordance with paragraph 9 below.
- (3) The provisions of this paragraph do not apply in relation to capital expenditure to which section 45(1)(b) of the Finance Act 1971 (machinery and plant on hire-purchase etc.) applies.
- (4) In respect of capital expenditure incurred in either of the financial years 1984 and 1985 under a contract falling within sub-paragraph (1) above, the first-year allowance under section 42(1) of the Finance Act 1971 shall not exceed the fraction appropriate under paragraph 2 above of the maximum allowable expenditure for that year.
- (5) So much (if any) of the capital expenditure incurred in the financial year 1984 under a contract falling within sub-paragraph (1) above as exceeds the maximum allowable expenditure for that year shall be deemed for all purposes of Chapter I of Part III of the Finance Act 1971 to be incurred on 1st April 1985.
- (6) So much (if any) of the aggregate of—
- (a) the capital expenditure incurred in the financial year 1985 under a contract falling within sub-paragraph (1) above, and
  - (b) any excess relating to that contract which, by virtue of sub-paragraph (5) above, is deemed to be incurred in that financial year,
- as exceeds the maximum allowable expenditure for that financial year shall be deemed for all purposes of Chapter I of Part III of the Finance Act 1971 to be incurred on 1st April 1986.
- (7) This paragraph shall be construed as if it were contained in Chapter I of Part III of the Finance Act 1971 except that expenditure shall not be treated for the purposes of this paragraph as having been incurred after the date on which it was in fact incurred by reason only of so much of section 50(4) of that Act as relates to expenditure incurred before a trade began.
- 7 (1) Where in circumstances falling within paragraph 8 below an approved body incurs such capital expenditure as is referred to in paragraph 1(1) of Schedule 12 to the Finance Act 1982 under a contract—
- (a) which is entered into after 13th March 1984 and on or before 31st March 1986, and

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- (b) which either specifies no date on or by which the contractual obligations must be fully performed or specifies such a date which is after 31st March 1985,

that Schedule shall have effect in relation to the capital expenditure so incurred subject to the following provisions of this paragraph.

- (2) In this Part of this Schedule, in relation to a contract falling within sub-paragraph (1) above,—
- " the contract date " means the date on which the contract was entered into;
- " the contract price " means the total capital expenditure on the construction of the building concerned which the approved body referred to in sub-paragraph (1) above is to incur pursuant to the contract;
- " the completion date " means the date specified as mentioned in sub-paragraph (1)(b) above or, if no date is so specified, 31st March 1987 ; and
- " the maximum allowable expenditure " shall be construed in accordance with paragraph 9 below.
- (3) In respect of capital expenditure incurred in either of the financial years 1984 and 1985 under a contract falling within sub-paragraph (1) above, the initial allowance under paragraph 1 of Schedule 12 to the Finance Act 1982 shall not exceed the fraction appropriate under paragraph 3 above of the maximum allowable expenditure for that year.
- (4) So much (if any) of the capital expenditure incurred in the financial year 1984 under a contract falling within sub-paragraph (1) above as exceeds the maximum allowable expenditure for that year shall be deemed for all purposes of Schedule 12 to the Finance Act 1982 to be incurred on 1st April 1985.
- (5) So much (if any) of the aggregate of—
- (a) the capital expenditure incurred in the financial year 1985 under a contract falling within sub-paragraph (1) above, and
- (b) any excess relating to that contract which, by virtue of sub-paragraph (4) above, is deemed to be incurred in that financial year,
- as exceeds the maximum allowable expenditure for that financial year shall be deemed for all purposes of Schedule 12 to the Finance Act 1982 to be incurred on 1st April 1986.
- (6) This paragraph shall be construed as if it were contained in Schedule 12 to the Finance Act 1982 except that expenditure falling within sub-paragraph (1)(b) of paragraph 8 of that Schedule shall be treated for the purposes of this paragraph as having been incurred at the latest time when any expenditure falling within sub-paragraph (1)(a) of that paragraph was incurred.
- 8 (1) The circumstances referred to in sub-paragraph (1) of each of paragraphs 5 to 7 above is that the sole or main benefit which (apart from this Part of this Schedule) might have been expected to be gained by incurring the expenditure at the time at which it was incurred was either—
- (a) the securing of an initial allowance or first-year allowance in respect of the expenditure, rather than a writing-down allowance ; or
- (b) the securing of a higher rate of initial or first-year allowance in respect of the expenditure.
- (2) In sub-paragraph (1) above—

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" initial allowance " means an initial allowance under section 1 of the Capital Allowances Act 1968 or Schedule 12 to the Finance Act 1982 ; and

" first-year allowance " means a first-year allowance under section 41 of the Finance Act 1971.

- 9 (1) References in paragraphs 5 to 7 above to the maximum allowable expenditure for each of the financial years 1984 and 1985 shall be construed in accordance with this paragraph.
- (2) For each contract falling within sub-paragraph (1) of any of paragraphs 5 to 7 above, the maximum allowable expenditure shall be that fraction of the contract price of which—
- (a) the numerator,—
- (i) for the financial year 1984, is the number of complete months in the period beginning on the contract date and ending on 31st March 1985 ; and
- (ii) for the financial year 1985, is 12 or, if it is less, the number of complete months in the period beginning on the contract date and ending on 31st March 1986; and
- (b) the denominator is the number of complete months in the period beginning on the contract date and ending on the completion date or, if it is earlier, 31st March 1987.
- 10 (1) Where, by virtue of paragraph 5(4), paragraph 6(5) or paragraph 7(4) above, a portion of any expenditure which is incurred by any person in the financial year 1984 is deemed to be incurred on 1st April 1985, so much of that expenditure as is not deemed to be incurred on that date shall be apportioned to the chargeable periods or their basis periods which begin or end in the financial year 1984 on a time basis according to the respective lengths of those periods which fall within that financial year.
- (2) Where, by virtue of paragraph 5(5), paragraph 6(6) or paragraph 7(5) above, a portion of the aggregate of any capital expenditure incurred and deemed to be incurred by any person in the financial year 1985 is deemed to be incurred on 1st April 1986, so much of that aggregate expenditure as is not deemed to be incurred on that date shall be apportioned to the chargeable periods or their basis periods which begin or end in the financial year 1985 on the like time basis as is specified in sub-paragraph (1) above.

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## SCHEDULE 13

Section 64.

### QUALIFYING CORPORATE BONDS

#### PART I

##### APPLICATION OF PROVISIONS RELATING TO GILT-EDGED SECURITIES

###### *Capital Gains Tax Act 1979*

1        In section 64 of the Capital Gains Tax Act 1979 (interpretation provisions relating to shares and securities) after the definition of " gilt-edged securities " there shall be inserted—

“qualifying corporate bonds' has the meaning given by section 64 of the Finance Act 1984”.

2        In section 67(1) of that Act after the words " gilt-edged securities " there shall be added the words " or qualifying corporate bonds ".

3        (1) In section 70 of that Act, in subsection (1) after the words " gilt-edged securities " there shall be inserted the words " or, subject to subsection (1A) below, qualifying corporate bonds ".

(2) After subsection (1) of that section there shall be inserted the following subsection:—

“(1A) This section does not apply in relation to a disposal of qualifying corporate bonds if the disposal is such that section 58 of the Finance (No. 2) Act 1975 applies but, subject to that, any reference in the following provisions of this section to gilt-edged securities includes a reference to qualifying corporate bonds.”

###### *Other enactments*

4        In section 270(3) of the Taxes Act (groups of companies: gilt-edged securities) after the words " specified securities " there shall be inserted the words " or qualifying corporate bonds as defined in section 64 of the Finance Act 1984 ".

5        In Schedule 16 to the Finance Act 1973 (underwriters) at the end of paragraph 7 (exclusion of gilt-edged securities) there shall be added the words " or of qualifying corporate bonds as defined in section 64 of the Finance Act 1984 ".

6        In Schedule 6 to the Finance Act 1983 (election for pooling) in paragraph 1(2) (definition of qualifying securities) after paragraph (a) there shall be inserted—

“(aa) qualifying corporate bonds, as defined in section 64 of the Finance Act 1984 ; nor”.

#### PART II

##### REORGANISATIONS, CONVERSIONS, RECONSTRUCTIONS ETC.

7        (1) In this Part of this Schedule " relevant transaction " means a reorganisation, conversion of securities or other transaction such as is mentioned in subsection (7) of section 64 of this Act.



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- (2) Where the qualifying corporate bond referred to in paragraph (b) of that subsection would constitute the original shares for the purposes of sections 78 to 81 of the principal Act, it is in this Part of this Schedule referred to as " the old asset" and the shares or securities which would constitute the new holding for those purposes are referred to as " the new asset " .
  - (3) Where the qualifying corporate bond referred to in section 64(7)(b) of this Act would constitute the new holding for the purposes of sections 78 to 81 of the principal Act, it is in this Part of this Schedule referred to as " the new asset" and the shares or securities which would constitute the original shares for those purposes are referred to as " the old asset " .
  - (4) In this Part of this Schedule " the principal Act" means the Capital Gains Tax Act 1979.
- 8
- (1) So far as the relevant transaction relates to the old asset and the new asset, sections 78 to 81 of the principal Act shall not apply in relation to it.
  - (2) In accordance with sub-paragraph (1) above, the new asset shall not be treated as having been acquired on any date other than the date of the relevant transaction or, subject to sub-paragraphs (3) and (4) below, for any consideration other than the market value of the old asset as determined immediately before that transaction.
  - (3) If, on the relevant transaction, the person concerned receives, or becomes entitled to receive, any sum of money which, in addition to the new asset, is by way of consideration for the old asset, that sum shall be deducted from the consideration referred to in sub-paragraph (2) above.
  - (4) If, on the relevant transaction, the person concerned gives any sum of money which, in addition to the old asset, is by way of consideration for the new asset, that sum shall be added to the consideration referred to in sub-paragraph (2) above.
- 9
- In any case where—
- (a) the old asset consists of a qualifying corporate bond, and
  - (b) the relevant transaction takes place at such a time that, if there were then a disposal of the old asset, it would be a disposal within section 67 of the principal Act,
- then, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of that Act as a disposal of the old asset and an acquisition of the new asset.
- 10
- (1) Except in a case falling within paragraph 9 above, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of the principal Act as not involving any disposal of the old asset but—
    - (a) there shall be calculated the chargeable gain or allowable loss that would have accrued if, at the time of the relevant transaction, the old asset had been disposed of for a consideration equal to its market value immediately before that transaction; and
    - (b) subject to paragraph 11 below, the whole or a corresponding part of the chargeable gain or allowable loss mentioned in paragraph (a) above shall be deemed to accrue on a subsequent disposal of the whole or part of the new asset (in addition to any gain or loss that actually accrues on that disposal); and

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- (c) if that subsequent disposal is within section 67 of the principal Act, that section shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss which is deemed to accrue by virtue of paragraph (b) above.
- (2) Paragraphs (b) and (c) of sub-paragraph (1) above shall not apply to any disposal falling within the provisions of—
- (a) section 44(1) of the principal Act (disposals between husband and wife); or
  - (b) section 49(4) of that Act (disposals by personal representatives to legatees); or
  - (c) section 273(1) of the Taxes Act (disposals within a group of companies);
- but a person who has acquired the new asset on a disposal falling within those provisions (and without there having been a previous disposal falling within those provisions or a devolution on death) shall be treated for the purposes of paragraphs (b) and (c) of sub-paragraph (1) above as if the new asset had been acquired by him at the same time and for the same consideration as, having regard to paragraph 8 above, it was acquired by the person making the disposal.
- 11 (1) In any case where—
- (a) on the calculation under paragraph 10(1)(a) above, a chargeable gain would have accrued, and
  - (b) the consideration for the old asset includes such a sum of money as is referred to in paragraph 8(3) above,
- then, subject to sub-paragraph (2) below, the proportion of that chargeable gain which that sum of money bears to the market value of the old asset immediately before the relevant transaction shall be deemed to accrue at the time of that transaction.
- (2) If the inspector is satisfied that the sum of money referred to in sub-paragraph (1)(b) above is small, as compared with the market value of the old asset immediately before the relevant transaction, and so directs, sub-paragraph (1) above shall not apply.
- (3) In a case where sub-paragraph (1) above applies, the chargeable gain which, apart from this paragraph, would by virtue of paragraph 10(1)(b) above be deemed to accrue on a subsequent disposal of the whole or part of the new asset shall be reduced or, as the case may be, extinguished by deducting therefrom the amount of the chargeable gain which, by virtue of sub-paragraph (1) above, is deemed to accrue at the time of the relevant transaction.

## SCHEDULE 14

Section 70.

### BENEFICIARY'S LIABILITY FOR TAX ON GAINS OF NON-RESIDENT TRUSTEES

#### *Interpretation*

- 1 (1) In this Schedule—
- "attributed gain", in relation to the beneficiary, means the chargeable gain which, as mentioned in paragraph (b) of subsection (1) of the principal section, is treated as accruing to him;
- "the beneficiary" means the beneficiary referred to in that paragraph and paragraph (c) of that subsection ;

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- " claim " means a claim under paragraph 2(1) below ;
- " close relative ", in relation to any person, means his spouse or a child or remoter descendant of his ;
- "ineligible gain" shall be construed in accordance with paragraph 2(3) below;
- " offshore income gain " has the same meaning as in Chapter VII of Part II of this Act;
- " the principal Act" means the Capital Gains Tax Act 1979 ;
- " the principal section " means section 70 of this Act;
- " related settlement" shall be construed in accordance with paragraph 5(6) below;
- " relevant benefit" shall be construed in accordance with paragraph 5 below; and
- " the relevant year of assessment", in relation to an attributed gain, means the year of assessment in which the gain is treated as accruing to the beneficiary.
- (2) Subject to subsection (4) of the principal section, section 83 of the Finance Act 1981 (meaning of "capital payment" etc.) applies for the purposes of this Schedule as it applies for the purposes of sections 80 to 82 of that Act.
- (3) In any case where the beneficiary is a married woman, any reference in the following provisions of this Schedule to the payment of capital gains tax by the beneficiary shall be construed as including a reference to the payment by her husband of capital gains tax which, under subsection (1) of section 45 of the principal Act, is assessed and charged on him.

#### *Claims for postponement of tax*

- 2 (1) Subject to sub-paragraph (3) below, in a case falling within the principal section, the provisions of this Schedule have effect to determine whether, on a claim made to the Board, payment of any of the capital gains tax referable to an attributed gain may be postponed and, if so, to what extent and for how long.
- (2) A claim must be made before 1st July 1985 or, if it is later, the expiry of the period of thirty days beginning with the date of the issue of a notice of assessment requiring the payment of an amount of capital gains tax assessed, in whole or in part, by reason of an attributed gain to which the claim relates.
- (3) The provisions of this Schedule do not have effect to allow postponement of the payment of the capital gains tax referable to an attributed gain if the capital gains tax chargeable on the gain—
- (a) has previously been postponed under section 17(4)(b) of the principal Act (pre-6th April 1965 settlements); or
- (b) subject to sub-paragraph (4) below, carries interest, by virtue of section 88(1) of the Taxes Management Act 1970 (interest on tax recovered to make good tax lost due to fraud, wilful default or neglect), from the date on which the tax ought to have been paid until payment;
- and an attributed gain falling within paragraph (a) or paragraph (b) above is in this Schedule referred to as an ineligible gain.

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- (4) Sub-paragraph (3)(b) above does not apply where the tax carries interest by reason only of the neglect of any person and that neglect is remedied before 1st July 1985.
- (5) In relation to a claim, any reference in this Schedule to an attributed gain to which the claim relates is a reference to such a gain—
- (a) which is specified in the claim, and
  - (b) which is not an ineligible gain, and
  - (c) in respect of which the claim is not out of time by virtue of sub-paragraph (2) above,
- and any reference to the settlement to which the claim relates is a reference to the settlement under which the beneficiary is a beneficiary and to the trustees of which accrued the chargeable gain which gives rise to the attributed gain or gains to which the claim relates.
- (6) In a case where a claim relates to attributed gains accruing to the beneficiary by virtue of more than one settlement, the provisions of this Schedule shall have effect as if there were separate claims, each relating to the attributed gain or gains accruing by virtue of a single settlement
- (7) Without prejudice to the application of sub-paragraph (2) above in a case where the personal representatives of the beneficiary receive a notice of assessment requiring the payment by them of an amount of capital gains tax assessed, in whole or in part, by reason of an attributed gain, if—
- (a) before his death the beneficiary or, where paragraph 1(3) above applies, the beneficiary's husband received a notice of assessment requiring the payment by him of such an amount of capital gains tax, and
  - (b) at the time of his death the period within which he might make a claim in respect of any of the tax assessed by that notice had not expired,
- a claim by his personal representatives relating to that tax may be made at any time before the expiry of the period of six months beginning on the date of the death of the beneficiary or, as the case may be, her husband (or, if it is later, before 1st July 1985).
- (8) In relation to any claim by the personal representatives of the beneficiary, references in this Schedule to the postponement of the payment of any tax shall be construed as references to the discharge of that tax and, accordingly, paragraphs 11 and 12 below do not apply where a claim is made by the personal representatives.

*Tax referable to attributed gains*

- 3 Any reference in this Schedule to the tax referable to an attributed gain is a reference to the amount determined by multiplying the total capital gains tax on chargeable gains accruing to the beneficiary in the relevant year of assessment by a fraction—
- (a) of which the numerator is the amount of the attributed gain; and
  - (b) the denominator is the total of the chargeable gains accruing to the beneficiary in the relevant year of assessment.

*Initial calculations relevant to tax which may be postponed*

- 4 (1) Where a claim is made, the determination referred to in paragraph 2(1) above shall, in the first instance, be made (in accordance with paragraph 6 below) by reference to—
- (a) the amount defined in sub-paragraph (4) below as the unpaid tax;

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- (b) the amount defined in sub-paragraph (5) below as the tax already paid; and
  - (c) the aggregate value of any relevant benefits which, by virtue of paragraph 5 below, fall to be taken into account in relation to the claim.
- (2) Subject to sub-paragraph (3) below, in this paragraph and paragraph 5 below "the base year" means the year of assessment which precedes the relevant year of assessment in relation to the attributed gain or, as the case may be, the earliest of the attributed gains to which the claim relates.
- (3) Where the relevant year of assessment referred to in sub-paragraph (2) above is the year 1965-66, the base year is also that year of assessment.
- (4) In relation to a claim, " the unpaid tax " means the amount of tax—
- (a) which is referable to the attributed gain (or attributed gains) to which the claim relates; and
  - (b) which remains unpaid at the date of the claim.
- (5) In relation to a claim, " the tax already paid" means the amount of tax—
- (a) which has been paid at the date of the claim, excluding any tax which was so paid, or is or was otherwise borne, by the trustees of the settlement to which the claim relates; and
  - (b) which is referable to any attributed gains—
    - (i) which have accrued to the beneficiary by virtue of the settlement to which the claim relates; and
    - (ii) for which the relevant year of assessment is, or is later than, the base year ; and
    - (iii) which are not ineligible gains.

#### *Relevant benefits*

- 5 (1) The provisions of this paragraph have effect to determine what are the relevant benefits to be taken into account (as mentioned in paragraph 4(1)(c) above) in relation to a claim; and in the following provisions of this paragraph "the calculation period" means the period beginning at the beginning of the base year and ending on 9th March 1981.
- (2) Subject to sub-paragraph (3) below, if, under or by reference to the settlement to which the claim relates or a related settlement, the beneficiary received a capital payment from the trustees of the settlement—
- (a) at any time in the calculation period, or
  - (b) after the end of that period but before 6th April 1984, in so far as that payment represented a chargeable gain which, before 6th April 1981, accrued to the trustees of the settlement to which the claim relates,
- the amount of that capital payment is a relevant benefit.
- (3) In any case where, apart from this sub-paragraph, sub-paragraph (2) above would bring into account, as a relevant benefit in relation to a claim, a capital payment received under or by reference to a related settlement, and either—
- (a) on a claim relating to the related settlement, the payment falls to be taken into account under this paragraph as a relevant benefit, or
  - (b) it appears to the Board to be likely that the payment will fall to be so taken into account on a claim relating to the related settlement,

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the payment shall not be taken into account as a relevant benefit in relation to the claim referred to in sub-paragraph (2) above except to the extent that it constitutes a surplus benefit by virtue of paragraph 6(5) below.

- (4) If, at any time in the period beginning at the beginning of the base year and ending at the beginning of the year of assessment in which the claim is made, the beneficiary disposed of his interest in the settlement to which the claim relates in circumstances such that, by virtue of section 58(1) of the principal Act, no chargeable gain could accrue on the disposal, then the amount or value of the consideration for the disposal is a relevant benefit.
- (5) Where the disposal referred to in sub-paragraph (4) above was made before 6th April 1984, the reference in that sub-paragraph to the consideration for the disposal shall be construed as a reference only to such consideration (if any) as was actually given for the disposal.
- (6) For the purposes of this Schedule, a settlement is a related settlement in relation to the settlement to which a claim relates if, by the exercise in the base year or later (whether before or after the making of the claim) of a power conferred by one of the settlements, or by the combination of such an exercise and any other transactions, property of any description forming part of the settled property of one of the settlements is at any time appointed to the other settlement or otherwise dealt with so as to increase the value of the settled property of the other settlement.

*The basic rules as to postponement*

- 6 (1) Unless on a claim the aggregate of—
  - (a) the unpaid tax (as defined in paragraph 4(4) above), and
  - (b) the tax already paid (as defined in paragraph 4(5) above),
 exceeds 30 per cent. of the aggregate of the relevant benefits referred to in paragraph 4(1)(c) above, there is no postponement of the payment of any of the capital gains tax referable to the attributed gains to which the claim relates.
- (2) Subject to the following provisions of this Schedule, the amount of capital gains tax payment of which is, on a claim, postponed by virtue of this Schedule is whichever is the smaller of—
  - (a) the unpaid tax ; and
  - (b) the amount of the excess referred to in sub-paragraph (1) above;
 and, where the amount in paragraph (b) above is the smaller, payment of tax assessed for a later year shall be postponed in priority to payment of tax assessed for an earlier year.
- (3) Without prejudice to paragraph 2(8) above, if at any time after a claim is made the beneficiary dies, any tax the payment of which would, by virtue of this Schedule, still be postponed at the date of his death shall be discharged on that date.
- (4) Notwithstanding anything in Part IX of the Taxes Management Act 1970 (interest on overdue tax), where payment of an amount of capital gains tax is postponed by virtue of this Schedule none of that tax shall carry interest (or be taken to have carried interest) for any period before the time when the tax becomes payable in accordance with paragraph 11 below.
- (5) In any case where, by virtue of sub-paragraph (1) above, there is on a claim no postponement of the payment of capital gains tax, there shall be determined—

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- (a) whether there would still be no postponement if there were left out of account all relevant benefits (if any) referable to capital payments received under or by reference to a related settlement, and
- (b) if so, what is the excess of all the other relevant benefits over  $3\frac{1}{3}$  times the aggregate of the tax referred to in paragraphs (a) and (b) of sub-paragraph (1) above,

and so much of those other relevant benefits as are referable to capital payments falling within sub-paragraph (2) of paragraph 5 above and equal (or do not exceed) that excess shall be regarded as a surplus benefit for the purposes of sub-paragraph (3) of that paragraph.

*Effect of subsequent capital payments received by the beneficiary*

- 7 (1) The provisions of this paragraph apply if—
- (a) on a claim there would, in accordance with paragraph 6(2) above, be an amount of capital gains tax payment of which is postponed by virtue of this Schedule ; but
  - (b) before the beginning of the year of assessment in which the claim is made, the beneficiary has received from the trustees of the settlement to which the claim relates or a related settlement a capital payment which is not a relevant benefit and has not been brought into account under subsections (3) and (4) of section 80 of the Finance Act 1981 (new provisions as to gains of non-resident settlements) in determining whether chargeable gains or offshore income gains should be attributed to the beneficiary by reference to any trust gains for any previous year of assessment.
- (2) If the amount of capital gains tax referred to in paragraph (a) of sub-paragraph (1) above exceeds 30 per cent. of the aggregate of the amount of the capital payments which fall within paragraph (b) of that sub-paragraph, then, subject to paragraph 9 below, the amount of capital gains tax payment of which is postponed by virtue of this Schedule is an amount equal to that excess.
- (3) If the amount of capital gains tax referred to in paragraph (a) of sub-paragraph (1) above is less than or equal to 30 per cent. of the aggregate of the amount of the capital payments which fall within paragraph (b) of that sub-paragraph, then there is no postponement of the payment of any of that capital gains tax.
- (4) In any case where—
- (a) the amount of capital gains tax referred to in sub-paragraph (1)(a) above equals or exceeds 30 per cent. of the aggregate of those capital payments falling within sub-paragraph (1)(b) above which the beneficiary has received from the trustees of the settlement to which the claim relates, and
  - (b) apart from this paragraph, those capital payments would fall to be brought into account under subsections (3) and (4) of section 80 of the Finance Act 1981 (new provisions as to gains of non-resident settlements) in determining whether chargeable gains or offshore income gains should be attributed to the beneficiary by reference to any trust gains for the year of assessment in which the claim is made,
- then, as respects that year of assessment and any subsequent year, those capital payments shall be left out of account for the purposes of the said subsections (3) and (4).
- (5) In any case where—

- (a) the condition in sub-paragraph (4)(a) above is not fulfilled, but
- (b) the condition in sub-paragraph (4)(b) above is fulfilled,

then, as respects the year of assessment in which the claim is made and any subsequent year, so much of the capital payments referred to in sub-paragraph (4) above as is equal to times the amount of capital gains tax referred to in sub-paragraph (1)(a) above shall be left out of account for the purposes of subsections (3) and (4) of section 80 of the Finance Act 1981.

- (6) Where, by virtue of sub-paragraph (4) or sub-paragraph (5) above, the whole or any part of a capital payment falls to be left out of account as mentioned in that sub-paragraph,—
  - (a) the payment shall to the same extent be left out of account for the purposes of the application on any other occasion of any provision of paragraphs 7 to 12 of this Schedule ; and
  - (b) section 45 of the Finance Act 1981 (transfer of assets abroad: liability of non-transferors) shall have effect in relation to a benefit received by the beneficiary which, in whole or in part, consists of that payment as if, in the year of assessment in which the claim is made, chargeable gains equal to so much of that payment as falls to be so left out of account were, by reason of that payment, treated under section 80 of that Act as accruing to the beneficiary.
- (7) Where any capital payments falling within sub-paragraph (1)(b) above which the beneficiary has received from the trustees of the settlement to which the claim relates are not such as are referred to in sub-paragraph (4)(b) above, sub-paragraph (6)(a) above shall apply to each of those payments in like manner as if it had been such a payment as is referred to in sub-paragraph (4)(b) above and the amount of it to be left out of account had been determined accordingly under sub-paragraph (4) or sub-paragraph (5) above.
- 8 (1) The provisions of this paragraph apply if, in a case where paragraph 7 above applies, the amount of capital gains tax referred to in sub-paragraph (1)(a) of that paragraph exceeds 30 per cent. of the aggregate of those capital payments falling within sub-paragraph (1)(b) of that paragraph which the beneficiary has received from the trustees of the settlement to which the claim relates.
- (2) In the following provisions of this paragraph—
  - (a) the capital payments falling within sub-paragraph (1)(b) of paragraph 7 above which the beneficiary has received otherwise than from the trustees of the settlement to which the claim relates are referred to as " related payments " ; and
  - (b) any of those related payments which, apart from this paragraph, would fall to be brought into account as mentioned in sub-paragraph (4)(b) of paragraph 7 above is referred to as a " related section 80 payment".
- (3) If sub-paragraph (2) of paragraph 7 above applies, then—
  - (a) as respects the year of assessment in which the claim is made and any subsequent year, any related section 80 payment shall be left out of account for the purposes of sub-paragraphs (3) and (4) of section 80 of the Finance Act 1981 ; and
  - (b) all the related payments shall be left out of account for the purposes of the application on any other occasion of any provision of paragraphs 7 to 12 of this Schedule.



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- (4) If sub-paragraph (3) of paragraph 7 above applies, then—
- (a) as respects the year of assessment in which the claim is made and any subsequent year, so much of any related section 80 payment as is equal to 3J times the amount of capital gains tax released by that payment shall be left out of account for the purposes of subsections (3) and (4) of section 80 of the Finance Act 1981 ; and
  - (b) so much of each of the related payments as is equal to 3J times the amount of capital gains tax released by the payment shall be left out of account for the purposes mentioned in sub-paragraph (3)(b) above.
- (5) For the purposes of sub-paragraph (4) above, the amount of capital gains tax released by a related payment shall be determined by the formula—

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

where—

" A " is the capital gains tax referred to in sub-paragraph (1)(a) of paragraph 7 above ;

" B " is an amount equal to 30 per cent. of the aggregate of those capital payments falling within sub-paragraph (1)(b) of that paragraph which the beneficiary has received from the trustees of the settlement to which the claim relates ;

" C " is the related payment in question ; and

" D " is the aggregate of all the related payments.

- (6) Where, by virtue of sub-paragraph (3)(a) or sub-paragraph (4)(a) above, the whole or any part of a related section 80 payment falls to be left out of account as mentioned in that sub-paragraph, section 45 of the Finance Act 1981 shall have effect in relation to the benefit received by the beneficiary which, in whole or in part, consists of that payment as if, in the year of assessment in which the claim is made, chargeable gains equal to so much of that payment as falls to be so left out of account were, by reason of that payment, treated under section 80 of that Act as accruing to the beneficiary.

*Effect of related benefits derived from payments received by close relatives of the beneficiary*

- 9 (1) The provisions of this paragraph apply if,—
- (a) on a claim, payment of an amount of capital gains tax determined in accordance with paragraph 6(2) or paragraph 7(2) above would, apart from this paragraph, be postponed by virtue of this Schedule ; and
  - (b) as a result of a capital payment received by a close relative of the beneficiary, there is, in accordance with paragraph 10 below, a related benefit which falls to be taken into account in relation to the claim.
- (2) If the amount of capital gains tax referred to in sub-paragraph (1)(a) above exceeds 30 per cent. of the aggregate of the related benefits which fall to be taken into account in relation to the claim, then the amount of capital gains tax payment of which is postponed by virtue of this Schedule is an amount equal to that excess.
- (3) If the amount of capital gains tax referred to in sub-paragraph (1)(a) above is less than or equal to 30 per cent. of the aggregate of the related benefits which fall to

be taken into account in relation to the claim, then there is no postponement of the payment of any of that capital gains tax.

*Related benefits*

- 10 (1) The provisions of this paragraph have effect to determine what are, in relation to a claim, the related benefits which are to be taken into account under paragraph 9 above.
- (2) If, on or after 6th April 1984 and before the beginning of the year of assessment in which the claim is made, a close relative of the beneficiary has received from the trustees of the settlement to which the claim relates or a related settlement a capital payment which has not been brought into account under subsections (3) and (4) of section 80 of the Finance Act 1981 in determining whether chargeable gains or offshore income gains should be attributed to the close relative by reference to any trust gains for any previous year of assessment, then, subject to sub-paragraphs (3) and (4) below, that capital payment is a related benefit which falls to be taken into account in relation to the claim.
- (3) A capital payment falling within sub-paragraph (2) above is not a related benefit which falls to be taken into account as mentioned in that sub-paragraph to the extent that it has already been taken into account on any previous operation of sub-paragraph (4) or sub-paragraph (5) of paragraph 7 above on the occasion of a claim in respect of which the close relative himself or a close relative of his or a person whose close relative he is was the beneficiary.
- (4) A capital payment falling within sub-paragraph (2) above is not a related benefit which falls to be taken into account as mentioned in that sub-paragraph if the Board so direct on the grounds that it appears likely that the payment will fall to be taken into account, either as giving rise to a relevant benefit or under paragraph 7 above, in relation to such a claim as is referred to in sub-paragraph (3) above.
- (5) Sub-paragraphs (3) to (6) of paragraph 8 above shall have effect for the purposes of this paragraph—
- (a) as if any reference to a provision of paragraph 7 above were a reference to the corresponding provision of paragraph 9 above ; and
  - (b) as if any reference to a related payment were a reference to a related benefit which falls to be taken into account as mentioned in sub-paragraph (2) above ; and
  - (c) as if any reference to a related section 80 payment were a reference to a related benefit which falls to be taken into account as mentioned in sub-paragraph (2) above and which, apart from this paragraph, would fall to be taken into account under sub-paragraphs (3) and (4) of section 80 of the Finance Act 1981 in determining whether chargeable gains or offshore income gains should be attributed to the close relative concerned by reference to any trust gains for the year of assessment in which is made the claim referred to in sub-paragraph (2) above ; and
  - (d) as if " B " in the formula in sub-paragraph (5) were nil; and
  - (e) as if any reference in sub-paragraph (6) to the beneficiary were a reference to the close relative concerned.

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

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*Time when postponed tax becomes payable*

- 11 (1) The provisions of this paragraph apply where, as a result of a claim, payment of an amount of capital gains tax, determined in accordance with paragraphs 6 to 9 above, is postponed by virtue of this Schedule ; and, subject to sub-paragraph (6) below, any reference in the following provisions of this paragraph to postponed tax is a reference to tax the payment of which is so postponed.
- (2) Postponed tax shall become payable in accordance with sub-paragraph (5) below if, at any time in the year of assessment in which the claim is made or any later year, the beneficiary disposes of his interest in the settlement to which the claim relates in circumstances such that, by virtue of section 58(1) of the principal Act, no chargeable gain could accrue on the disposal; and in sub-paragraph (5) below " the relevant consideration " means the amount or value of the consideration for such a disposal.
- (3) Subject to paragraph 12 below, postponed tax shall become payable in accordance with sub-paragraph (5) below if, in the year of assessment in which the claim is made or any later year, the beneficiary or a close relative of his receives a capital payment from the trustees of the settlement to which the claim relates or a related settlement.
- (4) In the following provisions of this paragraph and paragraph 12 below, any reference to a material year of assessment is a reference to one in which the beneficiary disposes of his interest as mentioned in sub-paragraph (2) above or in which sub-paragraph (3) above applies.
- (5) For any material year of assessment, so much of the postponed tax as does not exceed 30 per cent. of the aggregate of—
- (a) the relevant consideration in respect of any disposal in that year, and
  - (b) subject to paragraph 12 below, the capital payments received in that year as mentioned in sub-paragraph (3) above,
- shall become payable as if it were capital gains tax assessed in respect of gains accruing in that year.
- (6) If, for any material year of assessment, the amount of the postponed tax exceeds 30 per cent. of the aggregate referred to in sub-paragraph (5) above, only the excess shall continue after the end of that year to be postponed tax for the purposes of this paragraph, but without prejudice to the subsequent operation of this paragraph in relation to a later year of assessment which is a material year.
- (7) Where part, but not the whole, of any postponed tax becomes payable in accordance with sub-paragraph (5) above, tax assessed for an earlier year shall be regarded as becoming so payable before tax assessed for a later year.

*Balance of capital payments*

- 12 (1) If any capital payments received in any year of assessment as mentioned in paragraph 11(3) above fall to be brought into account for that year for the purposes of subsections (3) and (4) of section 80 of the Finance Act 1981, those capital payments shall be disregarded for the purposes of sub-paragraph (5) or, as the case may be, sub-paragraph (6) of paragraph 11 above except to the extent that the aggregate of those payments exceeds the chargeable gains and offshore income gains which in that year are treated under the said section 80 as accruing to the beneficiary or, as the case may be, the close relative ; and any such excess is in the following provisions of this paragraph referred to as the balance of section 80 payments for that year.

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- (2) Subject to the following provisions of this paragraph, as respects any year of assessment subsequent to a material year of assessment for which there is a balance of section 80 payments there shall be left out of account for the purposes of subsections (3) and (4) of section 80 of the Finance Act 1981 so much of the capital payments as made up that balance.
- (3) If paragraph 11(6) above did not apply for any material year of assessment for which there is a balance of section 80 payments then, as respects years of assessment subsequent to that year, sub-paragraph (2) above shall apply only to so much of the capital payments mentioned therein as is equal to 3J times the amount of postponed tax released by that balance.
- (4) For any material year of assessment, the amount of postponed tax released by a balance of section 80 payments for that year shall be determined by the formula:—
- $$(E - F) \times \frac{G}{H}$$
- where
- "E" is the postponed tax, within the meaning of paragraph 11 above ;
- "F" is an amount equal to 30 per cent. of any consideration for that year which falls within sub-paragraph (5)(a) of that paragraph ;
- "G" is the balance of the section 80 payments for that year ; and
- "H" is the aggregate of the capital payments (including that balance) taken into account under sub-paragraph (5)(b) of that paragraph for that year.
- (5) If, in a case where sub-paragraph (2) above applies in accordance with sub-paragraph (3) above, there were, for the material year of assessment concerned,—
- (a) a balance of section 80 payments derived from payments received by the beneficiary, and
  - (b) another such balance derived from payments received by a close relative of his,
- sub-paragraph (2) above shall apply (in accordance with sub-paragraph (3) above) to the capital payments which made up the balance derived from payments received by the beneficiary in priority to Capital payments which made up the other balance.
- (6) Subject to sub-paragraph (5) above, where there is more than one capital payment to which sub-paragraph (2) above applies, the proportion of each of them which is left out of account as mentioned in that sub-paragraph shall be the same.
- (7) Where, by virtue of the preceding provisions of this paragraph, the whole or any part of a capital payment falls to be left out of account as mentioned in sub-paragraph (2) above, section 45 of the Finance Act 1981 shall have effect in relation to a benefit which is received by the beneficiary or, as the case may be, a close relative of his and which, in whole or in part, consists of that payment as if, in the material year of assessment concerned, chargeable gains equal to so much of that payment as falls to be so left out of account were, by reason of that payment, treated under section 80 of that Act as accruing to the beneficiary or, as the case may be, the close relative.
- 13 (1) Where, by virtue of sub-paragraph (2) of paragraph 12 above, the whole or any part of a capital payment falls to be left out of account as mentioned in that sub-paragraph, it shall to the same extent be left out of account for the purposes of the application on any other occasion of any provision of paragraphs 7 to 12 of this Schedule.

- (2) Where sub-paragraph (6) of paragraph 11 above applies for any material year of assessment, any capital payments which—
  - (a) fall to be taken into account under sub-paragraph (5)(b) of that paragraph for that year, and
  - (b) are not such as to fall within paragraph 12(1) above,shall be left out of account for the purposes referred to in sub-paragraph (1) above.
- (3) Where sub-paragraph (6) of paragraph 11 above does not apply for any material year of assessment, so much of any capital payment falling within paragraphs (a) and (b) of sub-paragraph (2) above as is equal to  $3 \frac{1}{3}$  times the amount of postponed tax released by that payment shall be left out of account for the purposes referred to in sub-paragraph (1) above.
- (4) The amount of postponed tax released by a capital payment shall be determined for the purposes of sub-paragraph (3) above by the formula in paragraph 12(4) above, except that, in applying that formula for those purposes, " G " shall be the amount of the capital payment in question.
- (5) In this paragraph, " material year of assessment " shall be construed in accordance with paragraph 11(4) above.

*Second and later claims*

- 14 (1) This paragraph applies where—
  - (a) as a result of a claim (in this paragraph referred to as " the earlier claim "), payment of an amount of capital gains tax (in this paragraph referred to as " the original tax "), determined in accordance with paragraph 6 or paragraph 7 above, is or was postponed by virtue of this Schedule ; and
  - (b) after the making of the earlier claim, another claim (in this paragraph referred to as " the later claim ") is made in relation to an attributed gain to which the earlier claim did not relate; and
  - (c) the settlement to which the earlier and the later claims relate is the same.
- (2) If the year of assessment which is the relevant year of assessment in relation to any attributed gain to which the later claim relates is earlier than the earliest year of assessment which is the relevant year of assessment in relation to any attributed gain to which the earlier claim related, then,—
  - (a) the earlier claim and the postponement resulting from it shall be set aside ; and
  - (b) the provisions of this Schedule shall have effect as if (notwithstanding paragraph 2(2) above) the attributed gains to which the later claim relates included the attributed gains to which the earlier claim related.
- (3) Where sub-paragraph (2) above does not apply and, at the time the later claim is made, payment of any of the original tax remains postponed by virtue of this Schedule, then, subject to sub-paragraph (4) below,—
  - (a) paragraphs 4 to 10 above shall not apply in relation to the later claim ; and
  - (b) payment of the tax referable to the attributed gain or gains to which the later claim relates shall be postponed by virtue of this Schedule ; and
  - (c) paragraphs 11 and 12 above shall apply as if the payment of that tax had been postponed as a result of the earlier claim and, accordingly, that tax shall be added to the original tax.

- (4) If, in a case where sub-paragraph (3) above applies, the relevant year of assessment in relation to an attributed gain (in this sub-paragraph referred to as "the later gain") to which the later claim relates is the same as the relevant year of assessment in relation to an attributed gain to which the earlier claim related,—
- (a) paragraph 3 above shall not apply in relation to the later gain ; and
  - (b) in relation to the later gain, the references in sub-paragraph (3) above to the tax referable to the gain shall be construed as references to the capital gains tax assessed by reason of the gain.
- (5) Where sub-paragraph (2) above does not apply and, at the time the later claim is made, there is no longer any postponement of the payment of any of the original tax, then, in the application of the provisions of this Schedule in relation to the later claim, paragraph 4(2) above shall not apply and " the base year " for the purposes of paragraphs 4 and 5 above shall be that year of assessment which was the base year in relation to the earlier claim.

#### *Information*

- 15 (1) The Board may by notice in writing require any person to furnish them, within such time as they may direct, not being less than twenty-eight days, with such particulars as they think necessary for the purposes of section 70 of this Act and this Schedule.
- (2) Subsections (2) to (5) of section 481 of the Taxes Act shall have effect in relation to sub-paragraph (1) above as they have effect in relation to subsection (1) of that section ; but, in the application of those subsections by virtue of this sub-paragraph, references to Chapter III of Part XVII of the Taxes Act shall be construed as references to section 70 of this Act and this Schedule.
- (3) In any case where—
- (a) a claim has been made, and
  - (b) as a result of the claim, payment of an amount of capital gains tax was postponed by virtue of this Schedule, and
  - (c) at a time when any of that tax remains unpaid, there is a disposal to which paragraph 11(2) above applies or the beneficiary or a close relative of his receives such a capital payment as is referred to in paragraph 11(3) above,
- then, not later than three months after the end of the year of assessment in which the disposal occurs or the payment is received, the beneficiary shall inform the Board of the disposal or receipt, as the case may be.
- (4) The Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.) shall be amended as follows—
- (a) at the end of the first column there shall be inserted—
- 
- “Paragraph 15(1) of Schedule 14 to the Finance Act 1984”; and
- 
- (b) at the end of the second column there shall be inserted—
- 
- “Paragraph 15(3) of Schedule 14 to the Finance Act 1984”.
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#### *Consequential relief from C.T.T*

- 16 In any case where—

- (a) payment of an amount of capital gains tax is postponed by virtue of this Schedule, and
- (b) any of that tax becomes payable in accordance with paragraph 11 above by reason of the receipt of a capital payment by a close relative of the beneficiary, as mentioned in sub-paragraph (3) of that paragraph, and
- (c) all or part of the tax becoming so payable is paid by the close relative, the payment by the close relative shall be treated for the purposes of capital transfer tax as made in satisfaction of a liability of his.

SCHEDULE 15

Section 72(7) and 76.

OFFSHORE LIFE ASSURANCE: NEW NON-RESIDENT POLICIES

**PART I**

PARAGRAPH TO BE INSERTED IN PART I OF SCHEDULE 2 TO FINANCE ACT 1975

- “1A (1) The provisions of this paragraph apply to a policy of life insurance—
- (a) which is issued in respect of an insurance made after 17th November 1983 ; and
  - (b) which is so issued by a company resident outside the United Kingdom;
- and in the following provisions of this paragraph such a policy is referred to as a " new non-resident policy " and the company by which it is issued is referred to as " the issuing company " .
- (2) Notwithstanding anything in paragraph 1 above—
- (a) a new non-resident policy shall not be certified under sub-paragraph (1)(a) of that paragraph, and
  - (b) a new non-resident policy which conforms with such a form as is mentioned in sub-paragraph (1)(b) of that paragraph shall not be a qualifying policy, until such time as the conditions in either sub-paragraph (3) or sub-paragraph (4) below are fulfilled with respect to it.
- (3) The conditions first referred to in sub-paragraph (2) above are—
- (a) that the issuing company is lawfully carrying on in the United Kingdom life assurance business (as defined in section 323(2) of the Taxes Act); and
  - (b) that the premiums under the policy are payable to a branch in the United Kingdom of the issuing company, being a branch through which the issuing company carries on its life assurance business ; and
  - (c) the premiums under the policy form part of those business receipts of the issuing company which arise through that branch.
- (4) The conditions secondly referred to in sub-paragraph (2) above are—
- (a) that the policy holder is resident in the United Kingdom ; and
  - (b) that the income of the issuing company from the investments of its life assurance fund is, by virtue of section 316 of the Taxes Act, charged to corporation tax under Case III of Schedule D ;

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and expressions used in paragraph (b) above have the same meaning as in subsection (1) of the said section 316.”

## PART II

### MODIFICATIONS OF PROVISIONS RELATING TO QUALIFYING POLICIES

- 1        In this Part of this Schedule—
- " Schedule 1 " means Schedule 1 to the Taxes Act (qualifying conditions etc.);
- " Schedule 2 " means Schedule 2 to the Finance Act 1975 (certification of qualifying policies etc.) ; and
- " the old policy" and " the new policy " have the same meaning as in paragraph 9 of Schedule 1.
- 2        (1) In the application of paragraph 9 of Schedule 1 (substitutions) in any case where—
- (a) the old policy was issued in respect of an insurance made after 17th November 1983 and could not be a qualifying policy by virtue of paragraph 1A of Schedule 2, and
- (b) the new policy is not a new non-resident policy, as defined in the said paragraph 1A,
- the rules for the determination of the question whether the new policy is a qualifying policy shall apply with the modifications in sub-paragraph (2) below.
- (2) The modifications referred to in sub-paragraph (1) above are as follows:—
- (a) if, apart from paragraph 1A of Schedule 2, the old policy and any related policy (within the meaning of sub-paragraph (2)(b) of paragraph 9 of Schedule 1) of which account falls to be taken would have been, or would have been capable of being certified qualifying policy under paragraph 1 of Schedule 2, that policy shall be assumed to have been a qualifying policy for the purposes of paragraph 9(2) of Schedule 1 ; and
- (b) if, apart from this paragraph, the new policy would be, or would be capable of being certified as, a qualifying policy, it shall not be such a policy or, as the case may be, be capable of being so certified unless the circumstances are as specified in paragraph 9(3) of Schedule 1 ; and
- (c) in paragraph 9(3)(b) of Schedule 1 the words "either by a branch or agency of theirs outside the United Kingdom or " shall be omitted.
- (3) In the application of paragraph 9 of Schedule 1 in any case where—
- (a) the old policy is a qualifying policy which was issued in respect of an insurance made on or before 17th November 1983 but, if the insurance had been made after that date, the policy could not have been a qualifying policy by virtue of paragraph 1A of Schedule 2, and
- (b) the new policy is issued after 17th November 1983 and is not a new non-resident policy, as defined in the said paragraph 1A,
- the rules for the determination of the question whether the new policy is a qualifying policy shall apply with the modification in sub-paragraph (2)(c) above.
- 3        If, in the case of a substitution of policies falling within sub-paragraph (1) or sub-paragraph (3) of paragraph 2 above, the new policy confers such an option as results in the application to it of sub-paragraph (3) of paragraph 3 of Schedule 2 (amendment of qualifying conditions) the new policy shall be treated for the



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purposes of that sub-paragraph as having been issued in respect of an insurance made on the same day as that on which was made the insurance in respect of which the old policy was issued.

- 4 (1) For the purposes of Schedule 1 and Part I of Schedule 2, a policy of life insurance which was issued—
- (a) in respect of an insurance made on or before 17th November 1983, and
  - (b) by a company resident outside the United Kingdom,
- shall be treated as issued in respect of an insurance made after that date if the policy is varied after that date so as to increase the benefits secured or to extend the term of the insurance.
- (2) If a policy of life insurance which was issued as mentioned in paragraphs (a) and (b) of sub-paragraph (1) above confers on the person to whom it is issued an option to have another policy substituted for it or to have any of its terms changed, then for the purposes of that sub-paragraph any change in the terms of the policy which is made in pursuance of the option shall be deemed to be a variation of the policy.

### PART III

#### MODIFICATIONS OF CHARGEABLE EVENTS LEGISLATION

- 5 In this Part of this Schedule—
- (a) "chargeable event" has, subject to paragraph 6 below, the meaning assigned to it by section 394 of the Taxes Act (life policies) or, as the case may be, section 398 of that Act (capital redemption policies); and
  - (b) "new non-resident policy" has the meaning assigned to it by paragraph 1A of Schedule 2 to the Finance Act 1975.
- 6 If, in the case of a substitution of policies falling within sub-paragraph (1) or sub-paragraph (3) of paragraph 2 above, the new policy is a qualifying policy, section 394 of the Taxes Act shall have effect with the following modifications—
- (a) the surrender of the rights conferred by the old policy shall not be a chargeable event; and
  - (b) the new policy shall be treated as having been issued in respect of an insurance made on the day referred to in paragraph 3 above.
- 7 If at any time neither the conditions in sub-paragraph (3) nor the conditions in sub-paragraph (4) of paragraph 1A of Schedule 2 to the Finance Act 1975 are fulfilled with respect to a new non-resident policy which has previously become a qualifying policy, then, from that time onwards, Chapter III of Part XIV of the Taxes Act shall apply in relation to the policy as if it did not fall within subsection (2) of section 394 of that Act (qualifying policies).
- 8 (1) On the happening of a chargeable event in relation to a new non-resident policy or a new offshore capital redemption policy, the amount which, apart from this paragraph, would by virtue of section 395 of the Taxes Act be treated as a gain arising in connection with the policy shall be reduced by multiplying it by a fraction of which—
- (a) the denominator is the number of days in the period for which the policy has run before the happening of the chargeable event; and
  - (b) the numerator is the number of days in the period referred to in paragraph (a) above on which the policy holder was resident in the United Kingdom.

- (2) The calculation of the number of days in the period referred to in sub-paragraph (1) above shall be made in like manner as is provided in the second paragraph of subsection (3) of section 400 of the Taxes Act (substituting a reference to the number of days for the reference in that paragraph to the number of years).
- 9 (1) Subject to sub-paragraph (2) below, where, under section 395 of the Taxes Act, a gain (reduced in accordance with paragraph 8 above) is to be treated as arising in connection with a new non-resident policy or a new offshore capital redemption policy—
- (a) section 399 of that Act shall have effect, in relation to the gain, as if subsection (4) were omitted ; and
- (b) the gain shall be chargeable to tax under Case VI of Schedule D ;
- but any relief under section 400 of the Taxes Act shall be computed as if this paragraph had not been enacted.
- (2) Paragraphs (a) and (b) of sub-paragraph (1) above do not apply to a gain arising in connection with a new non-resident policy if the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 1A of Schedule 2 to the Finance Act 1975 are fulfilled at all times between the date on which the policy was issued and the date on which the gain is treated as arising.
- 10 Where a claim is made under section 400 of the Taxes Act in respect of the amount of a gain treated as arising in connection with a new non-resident policy or a new offshore capital redemption policy (with or without other amounts), the " appropriate fraction " which, in accordance with subsection (2) of that section, is to be applied to that amount shall be modified by deducting from the number of complete years referred to in subsection (3) of that section any complete years during which the policy holder was not resident in the United Kingdom.
- 11 Paragraph 18 of Schedule 2 to the Finance Act 1975 (which modifies the operation of section 400(3) of the Taxes Act when there is more than one chargeable event of a particular description) shall not apply in relation to a new non resident policy or a new offshore capital redemption policy.

SCHEDULE 16

Sections 82(6), 85(2) and 86(6).

ASSUMPTIONS FOR CALCULATING CHARGEABLE PROFITS, CREDITABLE  
TAX AND CORRESPONDING UNITED KINGDOM TA)( OF FOREIGN COMPANIES

*General*

- 1 (1) The company shall be assumed to be resident in the United Kingdom.
- (2) Nothing in sub-paragraph (1) above requires it to be assumed that there is any change in the place or places at which the company carries on its activities.
- (3) For the avoidance of doubt, it is hereby declared that, if any sums forming part of the company's profits for an accounting period have been received by the company without any deduction of or charge to tax by virtue of section 99 or section 100 of the Taxes Act (securities held by non-residents), the effect of the assumption in sub-paragraph (1) above is that those sums are to be brought within the charge to tax

for the purposes of calculating the company's chargeable profits or corresponding United Kingdom tax.

- (4) In any case where—
- (a) it is at any time necessary for any purpose of this Act to determine the chargeable profits of the company for an accounting period, and
  - (b) at that time no direction has been given under section 82(1) of this Act with respect to that or any earlier accounting period of the company,
- it shall be assumed, for the purpose of any of the following provisions of this Schedule which refer to the first accounting period in respect of which a direction is given under that section, that such a direction has been given for that period (but not for any earlier period).
- (5) Nothing in this Schedule affects any liability for, or the computation of, corporation tax in respect of a trade which is carried on by a company resident outside the United Kingdom through a branch or agency in the United Kingdom.
- 2 (1) The company shall be assumed to have become resident in the United Kingdom (and, accordingly, within the charge to corporation tax) at the beginning of the first accounting period in respect of which a direction is given under section 82(1) of this Act and that United Kingdom residence shall be assumed to continue throughout subsequent accounting periods of the company (whether or not a direction is given in respect of all or any of them) until the company ceases to be controlled by persons resident in the United Kingdom.
- (2) Except in so far as the following provisions of this Schedule otherwise provide, for the purposes of calculating a company's chargeable profits or corresponding United Kingdom tax for any accounting period which is not the first such period referred to in sub-paragraph (1) above (and, in particular, for the purpose of applying any relief which is relevant to two or more accounting periods), it shall be assumed that a calculation of chargeable profits or, as the case may be, corresponding United Kingdom tax has been made for every previous accounting period throughout which the company was, by virtue of sub-paragraph (1) above, assumed to have been resident in the United Kingdom.
- 3 The company shall be assumed not to be a close company.
- 4 (1) Subject to sub-paragraph (2) below, where any relief under the Corporation Tax Acts is dependent upon the making of a claim or election, the company shall be assumed to have made that claim or election which would give the maximum amount of relief and to have made that claim or election within any time limit applicable to it
- (2) If, by notice in writing given to the Board at any time not later than the expiry of the time for the making of an appeal under section 88 of this Act or within such longer period as the Board may in any particular case allow, the United Kingdom resident company which has or, as the case may be, any two or more United Kingdom resident companies which together have, a majority interest in the company so request, the company shall be assumed—
- (a) not to have made any claim or election specified in the notice; or
  - (b) to have made a claim or election so specified, being different from one assumed by sub-paragraph (1) above but being one which (subject to compliance with any time limit) could have been made in the case of a company within the charge to corporation tax ; or
  - (c) to have disclaimed or required the postponement, in whole or in part, of an allowance if (subject to compliance with any time limit) a company within

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the charge to corporation tax could have disclaimed the allowance or, as the case may be, required such a postponement.

- (3) For the purposes of this paragraph, a United Kingdom resident company has, or two or more United Kingdom resident companies together have, a majority interest in the company if on the apportionment of the company's chargeable profits for the relevant accounting period under subsection (3) of section 82 of this Act, more than half of the profits—
- (a) which are apportioned to United Kingdom resident companies, and
  - (b) which give rise to an assessment on any such companies under subsection (4) (a) of that section,
- are apportioned to the United Kingdom resident company or companies concerned.
- (4) In sub-paragraph (3) above " the relevant accounting period " means the accounting period or, as the case may be, the first accounting period in which the relief in question is or would be available in accordance with sub-paragraph (1) above.

*Group relief, etc.*

- 5           The company shall be assumed to be neither a member of a group of companies nor a member of a consortium for the purposes of any provision of the Tax Acts.
- 6           (1) In relation to section 256 of the Taxes Act (group income) it shall be assumed—
- (a) that the conditions for the making of an election under subsection (1) are not fulfilled with respect to dividends paid or received by the company ; and
  - (b) that the conditions for the making of an election under subsection (2) are not fulfilled with respect to payments made or received by the company.
- (2) References in sub-paragraph (1) above to dividends or payments received by the company apply to any received by another person on behalf of or in trust for the company, but not to any received by the company on behalf of or in trust for another person.
- 7           The company shall be assumed not to be a subsidiary to which the benefit of any advance corporation tax may be surrendered under section 92 of the Finance Act 1972.

*Company reconstructions*

- 8           Without prejudice to the operation of section 252 of the Taxes Act (company reconstructions without change of ownership) in a case where the company is the predecessor, within the meaning of that section, and a company resident in the United Kingdom is the successor, within the meaning of that section, the assumption that the company is resident in the United Kingdom shall not be regarded as requiring it also to be assumed that the company is within the charge to tax in respect of a trade for the purposes of section 252 of the Taxes Act and, accordingly, except in so far as the company is actually within that charge (by carrying on the trade through a branch or agency in the United Kingdom), it shall be assumed that the company can never be the successor, within the meaning of that section, to another company (whether resident in the United Kingdom or not).

*Losses in pre-direction accounting periods*

- 9 (1) Subject to sub-paragraph (2) below, this paragraph applies in any case where the company incurred a loss in a trade in an accounting period—
- (a) which precedes the first accounting period in respect of which a direction is given under section 82(1) of this Act (in this paragraph referred to as " the starting period "); and
  - (b) which ended less than six years before the beginning of the starting period ; and
  - (c) in which the company was not resident in the United Kingdom ;
- and in this paragraph any such accounting period is referred to as a " pre-direction period ".
- (2) This paragraph does not apply in any case where a declaration is made under paragraph 11(3) below specifying an accounting period of the company which begins before, or is the same as, the first pre-direction period in which the company incurred a loss as mentioned in sub-paragraph (1) above.
- (3) If a claim is made for the purpose by the United Kingdom resident company or companies referred to in paragraph 4(2) above, the chargeable profits (if any) of the company for accounting periods beginning with that pre-direction period which is specified in the claim and in which a loss is incurred as mentioned in sub-paragraph (1) above shall be determined (in accordance with the provisions of this Schedule other than this paragraph) on the assumption that that pre-direction period was the first accounting period in respect of which a direction was given under section 82(1) of this Act.
- (4) A claim under sub-paragraph (3) above shall be made by notice in writing given to the Board within sixty days of the date of the notice under subsection (1) or subsection (3) of section 88 of this Act relating to the starting period or within such longer period as the Board may in any particular case allow.
- (5) For the purposes of a claim under sub-paragraph (3) above, it shall be assumed that Chapter VI of Part II of this Act was in force before the beginning of the first of the pre-direction periods.
- (6) In determining for the purposes of this paragraph which accounting period of the company is the starting period, no account shall be taken of the effect of any declaration under paragraph 11(3) below.

*Capital allowances*

- 10 (1) Subject to paragraphs 11 and 12 below, if, in an accounting period falling before the beginning of the first accounting period in respect of which a direction is given under section 82(1) of this Act, the company incurred any capital expenditure on the provision of machinery or plant for the purposes of its trade, that machinery or plant shall be assumed, for the purposes of section 44 of the Finance Act 1971 (writing-down allowances and balancing adjustments), not to have been brought into use for the purposes of that trade until the beginning of that first accounting period, and paragraph 7 of Schedule 8 to that Act (expenditure treated as equivalent to market value at the time the machinery or plant is brought into use) shall apply accordingly.
- (2) This paragraph shall be construed as one with Chapter I of Part III of the Finance Act 1971.

- 11 (1) This paragraph applies in any case where it appears to the Board that the reason why no direction was given under section 82(1) of this Act in respect of an accounting period which precedes the starting period was that the effect of any allowance which would be assumed for that preceding period by virtue of this Schedule would be such that—
- (a) the company would not have been considered, to be subject in that accounting period to a lower level of taxation in the territory in which it was resident; or
  - (b) the company would have had no chargeable profits for that accounting period; or
  - (c) the chargeable profits of the company for that accounting period would not have exceeded £20,000 or such smaller amount as was appropriate in accordance with section 83(1)(d) of this Act.
- (2) In this paragraph " the starting period" means the first accounting period in respect of which a direction is given under section 82(1) of this Act and, in a case where a claim is made under sub-paragraph (3) of paragraph 9 above, no account shall be taken of the effect of that sub-paragraph in determining which accounting period is the starting period for the purposes of this paragraph.
- (3) If, in a case where this paragraph applies, the Board so declare by notice in writing given to every company to which, in accordance with section 88(1) of this Act, notice of the making of the direction relating to the starting period is required to be given, the chargeable profits of that period and every subsequent accounting period and the corresponding United Kingdom tax for every subsequent accounting period shall be determined (in accordance with the provisions of this Schedule other than this paragraph) on the assumption that the accounting period specified in the declaration was the first accounting period in respect of which a direction was given and, accordingly, as if allowances had been assumed in respect of that accounting period and any subsequent accounting period which precedes the starting period.
- (4) Nothing in sub-paragraph (3) above affects the operation of paragraph 9(3) above in a case where the accounting period specified in a claim under the said paragraph 9(3) begins before the period specified in a declaration under sub-paragraph (3) above.
- (5) Subject to sub-paragraph (6) below, the Board shall not make a declaration under sub-paragraph (3) above with respect to an accounting period which precedes the starting period unless the facts are such that—
- (a) assuming the company to have been subject in that period to a lower level of taxation in the territory in which it was resident, and
  - (b) assuming the company to have had in that period chargeable profits of such an amount that the condition in section 83(1)(d) of this Act would not be fulfilled,
- a direction could have been given in respect of that period under section 82(1) of this Act.
- (6) In its application to a company falling within section 84(3) of this Act, sub-paragraph (5) above shall have effect with the omission of paragraph (a).
- (7) In this paragraph "allowance" means an allowance under Chapter I of Part I of the Capital Allowances Act 1968 or Chapter I of Part III of the Finance Act 1971.
- 12 (1) Notwithstanding anything in the preceding provisions of this Schedule, if it appears that the transaction by which an asset was acquired by the company had as its sole

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or main purpose the reduction of the amount of the company's chargeable profits or, as the case may be, corresponding United Kingdom tax for any accounting period (by virtue of the assumption of a relevant allowance in respect of that asset), it shall be assumed that no relevant allowance is available to the company in respect of expenditure incurred on the acquisition of that asset.

- (2) In sub-paragraph (1) above " relevant allowance " means—
- (a) an initial allowance under Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures); or
  - (b) a first-year allowance, as defined in section 41 of the Finance Act 1971.

*Unremittable overseas income*

- 13 For the purposes of the application of section 418 of the Taxes Act (relief for unremittable income) to the company's income it shall be assumed—
- (a) that any reference in paragraph (a) or paragraph (b) of subsection (1) of that section to the United Kingdom is a reference to both the United Kingdom and the territory in which the company is in fact resident; and
  - (b) that a notice under subsection (2) of that section (expressing a wish to be assessed in accordance with that subsection) may be given on behalf of the company by the United Kingdom resident company or companies referred to in paragraph 4(2) above.

SCHEDULE 17

Section 83.

CASES EXCLUDED FROM DIRECTION-MAKING POWERS

**PART I**

ACCEPTABLE DISTRIBUTION POLICY

- 1 The provisions of this Part of this Schedule have effect for the purposes of paragraph (a) of subsection (1) of section 83 of this Act.
- 2 (1) Subject to sub-paragraph (2) below, a controlled foreign company pursues an acceptable distribution policy in respect of a particular accounting period if, and only if—
- (a) a dividend which is not paid out of specified profits is paid for that accounting period or for some other period which, in whole or in part, falls within that accounting period : and
  - (b) the dividend is paid during, or not more than eighteen months after the expiry of, the period for which it is paid or at such later time as the Board may in any particular case allow; and
  - (c) the proportion of the dividend or, if there is more than one, of the aggregate of those dividends which is paid to persons resident in the United Kingdom represents at least 50 per cent. of the company's available profits for the accounting period referred to in paragraph (a) above or, where sub-paragraph (4) or sub-paragraph (5) below applies, of the appropriate portion of those profits ;

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and for the purposes of this sub-paragraph a dividend which is not paid for a specified period shall be treated as paid for the period or periods the profits of which are, in relation to the dividend, the relevant profits for the purposes of section 506 of the Taxes Act (computation of underlying tax on dividends).

- (2) In the case of a controlled foreign company which is not a trading company, sub-paragraph (1) above shall have effect with the substitution of 90 per cent. for 50 per cent.
- (3) For the purposes of this Part of this Schedule, a dividend represents those profits of the controlled foreign company in question which in relation to that dividend are the relevant profits for the purposes of section 506 of the Taxes Act and, accordingly, where those profits are the profits of a period which falls partly within and partly outside an accounting period of that company, the necessary apportionment shall be made to determine what proportion of those profits is attributable to that accounting period.
- (4) This sub-paragraph applies where—
- (a) throughout the accounting period in question all the issued shares of the controlled foreign company are of a single class, and
  - (b) at the end of that accounting period some of those shares are held by persons resident outside the United Kingdom, and
  - (c) at no time during that accounting period does any person have an interest in the company other than an interest derived from the issued shares of the company,

and in a case where this sub-paragraph applies the appropriate portion for the purposes of sub-paragraph (1)(c) above is the fraction of which the denominator is the total number of the issued shares of the company at the end of the accounting period in question and, subject to sub-paragraph (8) below, the numerator is the number of those issued shares by virtue of which persons resident in the United Kingdom have interests in the company at that time.

- (5) This sub-paragraph applies where—
- (a) throughout the accounting period in question there are only two classes of issued shares of the controlled foreign company and, of those classes, one (in this paragraph referred to as " non-voting shares ") consists of non-voting fixed-rate preference shares and the other (in this paragraph referred to as " voting shares ") consists of shares which carry the right to vote in all circumstances at general meetings of the company, and
  - (b) at the end of that accounting period some of the issued shares of the company are held by persons resident outside the United Kingdom, and
  - (c) at no time during that accounting period does any person have an interest in the company other than an interest derived from non-voting shares or voting shares,

and in a case where this sub-paragraph applies the appropriate portion of the profits referred to in sub-paragraph (1)(c) above is the amount determined in accordance with sub-paragraph (6) below.

- (6) The amount referred to in sub-paragraph (5) above is that given by the formula—

$$\frac{P \times Q}{R} + \frac{(X - P) \times Y}{Z}$$



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where—

P is the amount of any dividend falling within paragraphs (a) and (b) of sub-paragraph (1) above which is paid in respect of the non-voting shares or, if there is more than one such dividend, of the aggregate of them;

Q is, subject to sub-paragraph (8) below, the number of the nonvoting shares by virtue of which persons resident in the United Kingdom have interests in the company at the end of the accounting period in question;

R is the total number at that time of the issued non-voting shares;

X is the available profits for the accounting period in question ;

Y is, subject to sub-paragraph (8) below, the number of voting shares by virtue of which persons resident in the United Kingdom have interests in the company at the end of that accounting period ; and

Z is the total number at that time of the issued voting shares.

- (7) For the purposes of sub-paragraph (5)(a) above, non-voting fixed-rate preference shares are shares—
- (a) which are fixed-rate preference shares as defined in paragraph 1 of Schedule 12 to the Finance Act 1973 ; and
  - (b) which either carry no right to vote at a general meeting of the company or carry such a right which is contingent upon the non-payment of a dividend on the shares and which has not in fact become exercisable at any time prior to the payment of a dividend for the accounting period in question.
- (8) In any case where the immediate interests held by persons resident in the United Kingdom who have indirect interests in a controlled foreign company at the end of a particular accounting period do not reflect the proportion of the shares or, as the case may be, shares of a particular class in the company by virtue of which they have those interests (as in a case where they hold, directly or indirectly, part of the shares in a company which itself holds, directly or indirectly, some or all of the shares in the controlled foreign company) the number of those shares shall be treated as reduced for the purposes of sub-paragraph (4) or, as the case may be, sub-paragraph (6) above to such number as may be appropriate having regard to—
- (a) the immediate interests held by the persons resident in the United Kingdom; and
  - (b) any intermediate shareholdings between those interests and the shares in the controlled foreign company.
- (9) The definition of " profits " in section 82(6)(b) of this Act does not apply to any reference in this paragraph to specified profits or to relevant profits for the purposes of section 506 of the Taxes Act
- 3 (1) Subject to sub-paragraph (2) below, for the purposes of this Part of this Schedule, the available profits of a controlled foreign company for any accounting period shall be ascertained, subject to sub-paragraph (5) below, by—
- (a) determining what would be the relevant profits of that period for the purposes of section 506 of the Taxes Act if a dividend were paid for that period ; and
  - (b) deducting so much of those relevant profits as consists of an excess of capital profits over capital losses.
- (2) If, for any accounting period of the controlled foreign company which—
- (a) is of less than twelve months' duration, and

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(b) is not an accounting period which, but for the coming into operation of this Chapter on 6th April 1984, would have begun before that date and been of at least twelve months' duration,

the available profits, as ascertained under sub-paragraph (1) above, are less than the chargeable profits (determined on the additional assumptions in section 85(3)(a) of this Act), then, if the Board so declare, for the purposes of this Part of this Schedule the available profits for the accounting period shall be those chargeable profits.

(3) The definition of " profits " in section 82(6)(b) of this Act does not apply to the reference in sub-paragraph (1)(a) above to relevant profits for the purposes of section 506 of the Taxes Act

(4) In sub-paragraph (1)(b) above " capital profits " means gains—

- (a) which accrue on the disposal of assets ; and
- (b) which, if the company were within the charge to corporation tax in respect of the activities giving rise to those disposals, would not be taken into account as receipts in computing the company's income or profits or gains or losses for the purposes of the Income Tax Acts ;

and the expression " capital losses " shall be construed accordingly.

(5) In any case where—

- (a) a controlled foreign company pays a dividend for any period out of specified profits, and
- (b) those specified profits represent dividends received by the company, directly or indirectly, from another controlled foreign company,

so much of those specified profits as is equal to the dividend referred to in paragraph (a) above shall be left out of account in determining, for the purposes of this Part of this Schedule, the available profits of the controlled foreign company referred to in that paragraph for any accounting period.

4 (1) For the purposes of this Part of this Schedule, where—

- (a) a controlled foreign company pays a dividend (in this paragraph referred to as " the initial dividend") to another company which is also not resident in the United Kingdom, and
- (b) that other company or another company which is related to it pays a dividend (in this paragraph referred to as " the subsequent dividend ") to a United Kingdom resident, and
- (c) the subsequent dividend is paid out of profits which are derived, directly or indirectly, from the whole or part of the initial dividend,

so much of the initial dividend as is represented by the subsequent dividend shall be regarded as paid to the United Kingdom resident

(2) For the purposes of this paragraph, one company is related to another if the other—

- (a) controls directly or indirectly, or
- (b) is a subsidiary of a company which controls directly or indirectly,

at least 10 per cent. of the voting power in the first-mentioned company ; and where one company is so related to another and that other is so related to a third company, the first company is for the purposes of this paragraph related to the third, and so on where there is a chain of companies, each of which is related to the next

## PART II

### EXEMPT ACTIVITIES

- 5 (1) The provisions of this Part of this Schedule have effect for the purposes of paragraph (b) of subsection (1) of section 83 of this Act.
- (2) In the case of a controlled foreign company—
- (a) which is, by virtue of section 84(3) of this Act, presumed to be resident in a territory in which it is subject to a lower level of taxation, and
  - (b) the business affairs of which are, throughout the accounting period in question, effectively managed in a territory outside the United Kingdom other than one in which companies are liable to tax by reason of domicile, residence or place of management,
- references in the following provisions of this Part of this Schedule to the territory in which that company is resident shall be construed as references to the territory falling within paragraph (b) above or, if there is more than one, to that one of them which may be notified to the Board by the United Kingdom resident company or companies referred to in paragraph 4(2) of Schedule 16 to this Act.
- 6 (1) Throughout an accounting period a controlled foreign company is engaged in exempt activities if, and only if, each of the following conditions is fulfilled,—
- (a) that, throughout that accounting period, the company has a business establishment in the territory in which it is resident ; and
  - (b) that, throughout that accounting period, its business affairs in that territory are effectively managed there ; and
  - (c) that any of sub-paragraphs (2) to (4) below applies to the company.
- (2) This sub-paragraph applies to a company if,—
- (a) at no time during the accounting period in question does the main business of the company consist of either—
    - (i) investment business, or
    - (ii) dealing in goods for delivery to or from the United Kingdom or to or from connected or associated persons ; and
  - (b) in the case of a company which is mainly engaged in wholesale, distributive or financial business in that accounting period, less than 50 per cent. of its gross trading receipts from that business is derived directly or indirectly from connected or associated persons.
- (3) This sub-paragraph applies to a company which is a holding company if at least 90 per cent. of its gross income during the accounting period in question is derived directly from companies which it controls and which, throughout that period,—
- (a) are resident in the territory in which the holding company is resident; and
  - (b) are not themselves holding companies, but otherwise are, in terms of this Schedule, engaged in exempt activities ;
- and a holding company to which this sub-paragraph applies is in this Part of this Schedule referred to as a " local holding company ".
- (4) This sub-paragraph applies to a company which is a holding company, but not a local holding company, if at least 90 per cent. of its gross income during the accounting period in question is derived directly from companies which it controls and which, throughout that period,—
- (a) are local holding companies; or

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- (b) are not themselves holding companies (whether local or not), but otherwise are, in terms of this Schedule, engaged in exempt activities.
- (5) Any reference in sub-paragraph (3) or sub-paragraph (4) above to a company which a holding company controls includes a reference to a trading company in which the holding company holds the maximum amount of ordinary share capital which is permitted under the law of the territory—
  - (a) in which the trading company is resident; and
  - (b) from whose laws the trading company derives its status as a company.
- (6) The following provisions of this Part of this Schedule have effect in relation to sub-paragraphs (1) to (4) above.
- 7 (1) For the purposes of paragraph 6(1)(a) above, a "business establishment", in relation to a controlled foreign company, means premises—
  - (a) which are, or are intended to be, occupied and used with a reasonable degree of permanence ; and
  - (b) from which the company's business in the territory in which it is resident is wholly or mainly carried on.
- (2) For the purposes of sub-paragraph (1) above, the following shall be regarded as premises,—
  - (a) an office, shop, factory or other building or part of a building ; or
  - (b) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources ; or
  - (c) a building site or the site of a construction or installation project;
 but such a site as is referred to in paragraph (c) above shall not be regarded as "premises" unless the building work or the project, as the case may be, has a duration of at least twelve months.
- 8 (1) Subject to sub-paragraph (4) below, the condition in paragraph 6(1)(b) above shall not be regarded as fulfilled unless—
  - (a) the number of persons employed by the company in the territory in which it is resident is adequate to deal with the volume of the company's business ; and
  - (b) any services provided by the company for persons resident outside that territory are not in fact performed in the United Kingdom.
- (2) For the purposes of sub-paragraph (1)(a) above, persons who are engaged wholly or mainly in the business of the company and whose remuneration is paid by a person connected with, and resident in the same territory as, the company shall be treated as employed by the company.
- (3) In the case of a holding company, sub-paragraph (2) above shall apply with the omission of the words "wholly or mainly".
- (4) For the purposes of sub-paragraph (1)(b) above, no account shall be taken—
  - (a) of services provided through a branch or agency of the controlled foreign company if the profits or gains of the business carried on through the branch or agency are within the charge to tax in the United Kingdom ; or
  - (b) of services provided through any other person whose profits or gains from the provision of the services are within the charge to tax in the United Kingdom and who provides the services for a consideration which is, or which is not dissimilar from what might reasonably be expected to be, determined under a contract entered into at arm's length ; or

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- (c) of services which are no more than incidental to services provided outside the United Kingdom.
- 9 (1) Subject to sub-paragraph (3) below, for the purposes of paragraph 6(2)(a)(i) above, each of the following activities constitutes investment business,—
- (a) the holding of securities, patents or copyrights;
  - (b) dealing in securities, other than in the capacity of a broker ;
  - (c) the leasing of any description of property or rights ; and
  - (d) the investment in any manner of funds which would otherwise be available, directly or indirectly, for investment by or on behalf of any person (whether resident in the United Kingdom or not) who has, or is connected or associated with a person who has, control, either alone or together with other persons, of the controlled foreign company in question.
- (2) In sub-paragraph (1)(b) above "broker" includes any person offering to sell securities to, or purchase securities from, members of the public generally.
- (3) For the purposes of paragraph 6(2) above, in the case of a company which is mainly engaged in banking or any similar business falling within paragraph 11(1)(c) below, nothing in sub-paragraph (1) above shall require the main business of the company to be regarded as investment business.
- 10 Goods which are actually delivered into the territory in which the controlled foreign company is resident shall not be taken into account for the purposes of paragraph 6(2)(a)(ii) above.
- 11 (1) For the purposes of paragraph 6(2)(b) above, each of the following activities constitutes wholesale, distributive or financial business,—
- (a) dealing in any description of goods wholesale rather than retail;
  - (b) the business of shipping or air transport, as defined in section 514(1) of the Taxes Act;
  - (c) banking or any similar business involving the receipt of deposits, loans or both and the making of loans or investments ;
  - (d) the administration of trusts;
  - (e) dealing in securities in the capacity of a broker, as defined in paragraph 9(2) above ;
  - (f) dealing in commodity or financial futures; and
  - (g) insurance business which is long-term business or general business, as defined in section 1 of the Insurance Companies Act 1982.
- (2) In a case where the gross trading receipts of a company include an amount in respect of the proceeds of sale of any description of property or rights, the cost to the company of the purchase of that property or those rights shall be a deduction in calculating the company's gross trading receipts for the purposes of paragraph 6(2)(b) above.
- (3) In the case of a controlled foreign company engaged in a banking or other business falling within sub-paragraph (1)(c) above, no payment of interest received from a company resident in the United Kingdom shall be regarded for the purposes of paragraph 6(2)(b) above as a receipt derived directly or indirectly from connected or associated persons, but it shall be conclusively presumed that the condition in paragraph 6(2)(b) above is not fulfilled if, at any time during the accounting period in question, the amount by which the aggregate value of the capital interests in the company held directly or indirectly by—

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- (a) the persons who have control of the company, and
  - (b) any person connected or associated with those persons,
- exceeds the value of the company's fixed assets is 15 per cent. or more of the amount by which the company's outstanding capital exceeds that value.
- (4) For the purposes of this paragraph, in relation to a controlled foreign company,—
- (a) "capital interest" means an interest in the issued share capital or reserves of the company or in a loan to or deposit with the company or the liability of a guarantor under a guarantee given to or for the benefit of the company;
  - (b) except in the case of the liability of a guarantor, the value of a capital interest is its value as shown in the company's accounts ;
  - (c) in the case of the liability of a guarantor, the value shall be taken to be the market value of the benefit which the controlled foreign company derives from the provision of the guarantee ;
  - (d) the value of the company's fixed assets means the value, as shown in the company's accounts, of the plant, premises and trade investments employed in the company's business ; and
  - (e) "outstanding capital" means the total value of all the capital interests in the company, less the value, as shown in the company's accounts, of any advances made by the company to persons resident outside the United Kingdom and falling within paragraph (a) or paragraph (b) of sub-paragraph (3) above.
- (5) For the purposes of sub-paragraph (4) above—
- (a) "trade investments", in relation to a controlled foreign company, means securities any profit on the sale of which would not be brought into account as a trading receipt in computing the chargeable profits of an accounting period in which that profit arose ; and
  - (b) the reference in paragraph (e) to advances made to a person by the controlled foreign company includes, in the case of a company which is a person resident outside the United Kingdom and falling within paragraph (a) or paragraph (b) of sub-paragraph (3) above, any securities of that company which are held by the controlled foreign company but are not trade investments, as defined in paragraph (a) above ;
- and in this sub-paragraph " securities " includes stocks and shares.
- (6) In the application of paragraph 6(2)(b) above in the case of a controlled foreign company engaged in insurance business of any kind—
- (a) the reference to gross trading receipts which are derived directly or indirectly from connected or associated persons is a reference to those which, subject to sub-paragraph (7) below, are attributable, directly or indirectly, to liabilities undertaken in relation to any of those persons or their property;
  - (b) the only receipts to be taken into account are commissions and premiums received under insurance contracts;
  - (c) so much of any such commission or premium as is returned is not to be taken into account; and
  - (d) when a liability under an insurance contract is reinsured, in whole or in part, the amount of the premium which is attributable, directly or indirectly, to that liability shall be treated as reduced by so much of the premium under the reinsurance contract as is attributable to that liability.

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- (7) In determining, in relation to a controlled foreign company to which sub-paragraph (6) above applies, the gross trading receipts referred to in paragraph (a) of that sub-paragraph, there shall be left out of account any receipts under a local reinsurance contract which are attributable to liabilities which—
- (a) are undertaken under an insurance contract made in the territory in which the company is resident; and
  - (b) are not reinsured under any contract other than a local reinsurance contract; and
  - (c) relate either to persons who are resident in that territory and are neither connected nor associated with the company or to property which is situated there and belongs to persons who are not so connected or associated ;
- and in paragraph (a) above " insurance contract" does not include a reinsurance contract.
- (8) In sub-paragraph (7) above " local reinsurance contract" means a reinsurance contract—
- (a) which is made in the territory in which the controlled foreign company is resident; and
  - (b) the parties to which are companies which are resident in that territory.
- (9) For the purposes of sub-paragraphs (7) and (8) above, any question as to the territory in which a company is resident shall be determined in accordance with section 84 of this Act and, where appropriate, paragraph 5(2) above ; and, for the purpose of the application of those provisions in accordance with this sub-paragraph, the company shall be assumed to be a controlled foreign company.
- 12 (1) Subject to sub-paragraph (2) below, in paragraphs 6 and 8(3) above and sub-paragraphs (4) and (5) below " holding company " means—
- (a) a company the business of which consists wholly or mainly in the holding of shares or securities of companies which are either local holding companies and its 90 per cent. subsidiaries or trading companies and either its 51 per cent. subsidiaries or companies falling within paragraph 6(5) above ; or
  - (b) a company which would fall within paragraph (a) above if there were disregarded so much of its business as consists in the holding of property or rights of any description for use wholly or mainly by companies which it controls and which are resident in the territory in which it is resident.
- (2) In determining whether a company is a holding company for the purposes of paragraph 6(3) above (and, accordingly, whether the company is or may be a local holding company), sub-paragraph (1) above shall have effect with the omission from paragraph (a) thereof of the words " either local holding companies and its 90 per cent. subsidiaries or ".
- (3) In its application for the purposes of this paragraph, section 532 of the Taxes Act shall have effect with the omission—
- (a) from subsection (1)(a) of the words " or indirectly "; and
  - (b) of subsection (2).
- (4) For the purposes of sub-paragraph (3) or, as the case may be sub-paragraph (4) of paragraph 6 above, as it applies in relation to a holding company part of whose business consists of activities other than the holding of shares or securities or the holding of property or rights as mentioned in paragraph (a) or paragraph (b) of sub-

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paragraph (1) above, the company's gross income during any accounting period shall be determined as follows—

- (a) there shall be left out of account so much of what would otherwise be the company's gross income as is derived from any activity which, if it were the business in which the company is mainly engaged, would be such that paragraph 6(2) above would apply to the company ; and
- (b) to the extent that the receipts of the company from any other activity include receipts from the proceeds of sale of any description of property or rights, the cost to the company of the purchase of that property or those rights shall (to the extent that the cost does not exceed the receipts) be a deduction in calculating the company's gross income, and no other deduction shall be made in respect of that activity.

(5) For the purposes of sub-paragraphs (3) and (4) of paragraph 6 above, so much of the income of a holding company as—

- (a) is derived directly from another company which it controls and which is not a holding company but otherwise is, in terms of this Schedule, engaged in exempt activities, and
- (b) was or could have been paid out of any non-trading income of that other company which is derived directly or indirectly from a third company connected or associated with it,

shall be treated, in relation to the holding company, as if it were not derived directly from companies which it controls.

(6) The reference in sub-paragraph (5) above to the non-trading income of a company is a reference to so much of its income as, if the company were carrying on its trade in the United Kingdom, would not be within the charge to corporation tax under Case I of Schedule D.

### PART III

#### THE PUBLIC QUOTATION CONDITION

- 13 (1) The provisions of this Part of this Schedule have effect for the purposes of paragraph (c) of subsection (1) of section 83 of this Act.
- (2) Subject to paragraph 14 below, a controlled foreign company fulfils the public quotation condition with respect to a particular accounting period if—
- (a) shares in the company carrying not less than 35 per cent. of the voting power in the company (and not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) have been allotted unconditionally to, or acquired unconditionally by, the public and, throughout that accounting period, are beneficially held by the public ; and
  - (b) within the period of twelve months ending at the end of the accounting period, any such shares have been the subject of dealings on a recognised stock exchange situated in the territory in which the company is resident; and
  - (c) within that period of twelve months the shares have been quoted in the official list of such a recognised stock exchange.
- 14 (1) The condition in paragraph 13(2) above is not fulfilled with respect to an accounting period of a controlled foreign company if at any time in that period the total



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percentage of the voting power in the company possessed by all of the company's principal members exceeds 85 per cent.

- (2) For the purposes of paragraph 13(2) above, shares in a controlled foreign company shall be deemed to be beneficially held by the public if they are held by any person other than—
- (a) a person connected or associated with the company ; or
  - (b) a principal member of the company ;
- and a corresponding construction shall be given to the reference to shares which have been allotted unconditionally to, or acquired unconditionally by, the public.
- 15 (1) References in this Part of this Schedule to shares held by any person include references to any shares the rights or powers attached to which could, for the purposes of section 302 of the Taxes Act (meaning of " control") be attributed to that person under subsection (5) of that section (nominees).
- (2) For the purposes of this Part of this Schedule—
- (a) a person is a principal member of a controlled foreign company if he possesses a percentage of the voting power in the company of more than 5 per cent. and,—
    - (i) where there are more than five such persons, if he is one of the five persons who possess the greatest percentages, or
    - (ii) if, because two or more persons possess equal percentages of the voting power in the company, there are no such five persons, he is one of the six or more persons (so as to include those two or more who possess equal percentages) who possess the greatest percentages ; and
  - (b) a principal member's holding consists of the shares which carry the voting power possessed by him.
- (3) In arriving at the voting power which a person possesses, there shall be attributed to him any voting power which, for the purposes of section 302 of the Taxes Act, would be attributed to him under subsection (5) or subsection (6) of that section (nominees, controlled companies and associates).
- (4) In this Part of this Schedule " share " includes stock.

#### PART IV

##### REDUCTIONS IN UNITED KINGDOM TAX AND DIVERSION OF PROFITS

- 16 (1) The provisions of this Part of this Schedule have effect for the purposes of subsection (3) of section 83 of this Act.
- (2) Any reference in paragraphs 17 and 18 below to a transaction—
- (a) is a reference to a transaction reflected in the profits arising in an accounting period of a controlled foreign company; and
  - (b) includes a reference to two or more such transactions taken together.
- 17 (1) A transaction achieves a reduction in United Kingdom tax if, had the transaction not been effected, any person—
- (a) would have been liable for any such tax or for a greater amount of any such tax ; or

- (b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.
- (2) In this Part of this Schedule and section 83(3) of this Act " United Kingdom tax " means income tax, corporation tax or capital gains tax.
- 18 It is the main purpose or one of the main purposes of a transaction to achieve a reduction in United Kingdom tax if this is the purpose or one of the main purposes—
- (a) of the controlled foreign company concerned ; or
- (b) of a person who has an interest in that company at any time during the accounting period concerned.
- 19 (1) The existence of a controlled foreign company achieves a reduction in United Kingdom tax by a diversion of profits from the United Kingdom in an accounting period if it is reasonable to suppose that, had neither the company nor any company related to it been in existence,—
- (a) the whole or a substantial part of the receipts which are reflected in the controlled foreign company's profits in that accounting period would have been received by a company or individual resident in the United Kingdom; and
- (b) that company or individual or any other person resident in the United Kingdom either—
- (i) would have been liable for any United Kingdom tax or for a greater amount of any such tax ; or
- (ii) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.
- (2) For the purposes of sub-paragraph (1) above, a company is related to a controlled foreign company if—
- (a) it is resident outside the United Kingdom; and
- (b) it is connected or associated with the controlled foreign company; and
- (c) in relation to any company or companies resident in the United Kingdom, it fulfils or could fulfil, directly or indirectly, substantially the same functions as the controlled foreign company.
- (3) Any reference in sub-paragraph (1) above to a company resident in the United Kingdom includes a reference to such a company which, if the controlled foreign company in question were not in existence, it is reasonable to suppose would have been established.

SCHEDULE 18

Section 89(7).

RELIEFS AGAINST LIABILITY FOR TA)( IN RESPECT OF CHARGEABLE PROFITS

*Trading losses and group relief etc.*

- 1 (1) In any case where—
- (a) an amount of chargeable profits is apportioned to a company resident in the United Kingdom, and

- (b) the company is entitled, or would on the making of a claim be entitled, in computing its profits for the appropriate accounting period, to a deduction in respect of any relevant allowance, and
- (c) for the appropriate accounting period the company has no profits against which a deduction could be made in respect of that allowance or, as the case may be, the amount of that allowance exceeds the profits against which a deduction falls to be made in respect of it,

then, on the making of a claim, a sum equal to corporation tax at the appropriate rate on so much of the relevant allowance or, as the case may be, of the excess of it referred to in paragraph (c) above as is specified in the claim shall be set off against the company's liability to tax under section 82(4)(a) of this Act in respect of the chargeable profits apportioned to it.

- (2) In this paragraph—
  - (a) "the appropriate accounting period" means the accounting period for which, by virtue of section 89(2) of this Act, the company is regarded as assessed to corporation tax in respect of the chargeable profits concerned ; and
  - (b) "the appropriate rate" means the rate of corporation tax applicable to profits of the appropriate accounting period or, if there is more than one such rate, the average rate over the whole accounting period.
- (3) In this paragraph "relevant allowance" means—
  - (a) any loss to which section 177(2) of the Taxes Act applies ;
  - (b) any charge on income to which section 248(1) of that Act applies;
  - (c) any expenses of management to which section 304(1) of that Act applies ;
  - (d) so much of any allowance to which section 74 of the Capital Allowances Act 1968 applies as falls within subsection (3) of that section ; and
  - (e) any amount available to the company by way of group relief.
- (4) In any case where, for the appropriate accounting period, an amount would have been available to the company by way of group relief if a claim had been made under section 264 of the Taxes Act, such a claim may be made for the purposes of this paragraph at any time before the end of the accounting period following that in which the assessment under section 82(4)(a) of this Act is made, notwithstanding that the period of two years referred to in section 264(1)(c) of the Taxes Act has expired.
- (5) Where, by virtue of sub-paragraph (1) above, a sum is set off against a liability to tax, so much of the relevant allowance as gives rise to the amount set off shall be regarded for the purposes of the Tax Acts as having been allowed as a deduction against the company's profits in accordance with the appropriate provisions of those Acts.
- (6) In its application to a claim under this paragraph, section 43 of the Taxes Management Act 1970 (time limit for making claims) shall have effect as if, in subsection (2),—
  - (a) any reference to an assessment to income tax were a reference to an assessment under section 82(4)(a) of this Act; and
  - (b) any reference to a year of assessment were a reference to an accounting period.

*Advance corporation tax*

- 2 (1) In any case where—

- (a) an amount of chargeable profits is apportioned to a company resident in the United Kingdom, and
- (b) the company has an amount of advance corporation tax which, apart from this paragraph, would, in relation to the appropriate accounting period, be surplus advance corporation tax for the purposes of subsection (3) of section 85 of the Finance Act 1972,

then, on the making of a claim, so much of that advance corporation tax as is specified in the claim and does not exceed the relevant maximum shall be set against the company's liability to tax under section 82(4)(a) of this Act in respect of the chargeable profits apportioned to it, to the extent that that liability has not or could not have been relieved by virtue of paragraph 1 above.

- (2) So much of any advance corporation tax as, by virtue of this paragraph, is set against the company's liability to tax under section 82(4)(a) of this Act in respect of chargeable profits shall be regarded for the purposes of the Tax Acts as not being surplus advance corporation tax within the meaning of section 85 of the Finance Act 1972.
- (3) In this paragraph " the appropriate accounting period " has the same meaning as in paragraph 1 above and " the relevant maximum ", in relation to the liability to tax referred to in sub-paragraph (1) above, is the amount of advance corporation tax that would have been payable (apart from section 89 of the Finance Act 1972) in respect of a distribution made at the end of the appropriate accounting period of an amount which, together with the advance corporation tax in respect of it, is equal to—
  - (a) that amount of the chargeable profits apportioned to the company on which it is chargeable to corporation tax for that accounting period, less
  - (b) any amount which, for that accounting period, is to be regarded, by virtue of paragraph 1(5) above, as having been allowed as a deduction against the company's profits.

*Gains on disposal of shares in controlled foreign company etc.*

- 3 (1) This paragraph applies in any case where—
  - (a) a direction has been given under section 82(1) of this Act in respect of an accounting period of a controlled foreign company (in this paragraph referred to as "the direction period "); and
  - (b) the company's chargeable profits for the direction period have been apportioned among the persons referred to in section 82(3) of this Act; and
  - (c) a company resident in the United Kingdom (in this section referred to as " the claimant company ") disposes of—
    - (i) shares in the controlled foreign company, or
    - (ii) shares in another company which, in whole or in part, give rise to the claimant company's interest in the controlled foreign company, being, in either case, shares acquired before the end of the direction period ; and
  - (d) by virtue of the apportionment referred to in paragraph (b) above, under section 82(4)(a) of this Act a sum is assessed on and recoverable from the claimant company as if it were an amount of corporation tax ; and
  - (e) the claimant company makes a claim for relief under this paragraph ;
 and in this paragraph the disposal mentioned in paragraph (c) above is referred to as " the relevant disposal ".

- (2) Subject to the following provisions of this section, in the computation under Chapter II of Part II of the Capital Gains Tax Act 1979 of the gain accruing on the relevant disposal, the appropriate fraction of the sum referred to in sub-paragraph (1)(d) above shall be allowable as a deduction; but to the extent that any sum has been allowed as a deduction under this sub-paragraph it shall not again be allowed as a deduction on any claim under this paragraph (whether made by the claimant company or another company).
- (3) In relation to the relevant disposal, the appropriate fraction means that of which the numerator is the average market value in the direction period of the shares disposed of and the denominator is the average market value in that period of the interest in the controlled foreign company which, in the case of the claimant company, was taken into account in the apportionment referred to in sub-paragraph (1)(b) above.
- (4) Where, before the relevant disposal,—
  - (a) a dividend is paid by the controlled foreign company, and
  - (b) the profits out of which the dividend is paid are those from which the chargeable profits referred to in sub-paragraph (1)(b) above are derived, and
  - (c) at least one of the two conditions in sub-paragraph (5) below is fulfilled,this paragraph does not apply in relation to a sum assessed and recoverable in respect of so much of the chargeable profits as corresponds to the profits which the dividend represents.
- (5) The conditions referred to in sub-paragraph (4)(c) above are—
  - (a) that the effect of the payment of the dividend is such that the value of the shares disposed of by the relevant disposal is less after the payment than it was before it; and
  - (b) that, in respect of a dividend paid or payable on the shares disposed of by the relevant disposal, the claimant company is, by virtue of paragraph 4(2) below, entitled under Part XVIII of the Taxes Act to relief (by way of underlying tax) by reference to sums which include the sum referred to in sub-paragraph (1)(d) above.
- (6) A claim for relief under this paragraph shall be made before the expiry of the period of three months beginning—
  - (a) at the end of the accounting period in which the relevant disposal occurs ; or
  - (b) if it is later, on the date on which the assessment to tax for which the claimant company is liable by virtue of section 82(4)(a) of this Act becomes final and conclusive.
- (7) In identifying for the purposes of this paragraph shares in a company with shares of the same class which are disposed of by the relevant disposal, shares acquired at an earlier time shall be deemed to be disposed of before shares acquired at a later time.

*Dividends from the controlled foreign company*

- 4 (1) This paragraph applies in any case where—
  - (a) a direction has been given under section 82(1) of this Act in respect of an accounting period of a controlled foreign company, and
  - (b) the company's chargeable profits for that period have been apportioned among the persons referred to in section 82(3) of this Act, and

- (c) the controlled foreign company pays a dividend in whole or in part out of the total profits from which (in accordance with section 82(6)(a) of this Act) those chargeable profits are derived.
- (2) Subject to paragraphs 5 and 6 below, where this paragraph applies, the aggregate of the sums assessed on and recoverable from companies resident in the United Kingdom in accordance with section 82(4)(a) of this Act in respect of the chargeable profits referred to in sub-paragraph (1)(b) above shall be treated for the purposes of Part XVIII of the Taxes Act (double taxation relief) as if it were an amount of tax paid in respect of the profits concerned under the law of the territory in which the controlled foreign company was resident and, accordingly, as underlying tax for the purposes of Chapter II of that Part.
- (3) In the following provisions of this paragraph and in paragraphs 5 and 6 below the aggregate of the sums which, under sub-paragraph (2) above, fall to be treated as underlying tax is referred to as the " gross attributed tax ".
- (4) If, in the case of a person who receives the dividend, section 504 or section 505 of the Taxes Act (1 limit on credit) has the effect of reducing the amount which (apart from that section) would have been the amount of the credit for foreign tax which is to be allowed to that person, then, for the purposes of sub-paragraph (5) below, the amount of that reduction shall be determined and so much of it as does not exceed the amount of the foreign tax, exclusive of underlying tax, for which credit is to be allowed in respect of the dividend is in that sub-paragraph referred to as " the wasted relief ".
- (5) Except for the purpose of determining the amount of the wasted relief, the gross attributed tax shall be treated as reduced by the aggregate of the wasted relief arising in the case of all the persons falling within sub-paragraph (4) above and, on the making of a claim by any of the companies referred to in sub-paragraph (2) above,—
- (a) the sum assessed on and recoverable from the company in accordance with section 82(4)(a) of this Act in respect of the chargeable profits referred to in sub-paragraph (1)(b) above shall, where appropriate, be reduced ; and
  - (b) all such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to any reduction under paragraph (a) above.
- 5 (1) In so far as any provision of—
- (a) arrangements having effect by virtue of section 497 of the Taxes Act (relief by agreement with other countries), or
  - (b) section 498 of that Act (unilateral relief),
- makes relief which is related to foreign dividends received by a company resident in the United Kingdom conditional upon that company either having a particular degree of control of the company paying the dividend or being a subsidiary of another company which has that degree of control, that condition shall be treated as fulfilled in considering whether any such company is by virtue of paragraph 4(2) above entitled to relief under Part XVIII of that Act in respect of any of the gross attributed tax.
- (2) Notwithstanding anything in paragraph 4(2) above, in section 503(2)(b) of the Taxes Act (income from dividends treated as increased by underlying tax) the expression "underlying tax" does not include gross attributed tax.
- (3) In a case where the controlled foreign company pays a dividend otherwise than out of specified profits and, on the apportionment referred to in paragraph 4(1) above, less

than the whole of the chargeable profits of the controlled foreign company concerned is apportioned to companies which are resident in the United Kingdom and liable for tax thereon as mentioned in section 82(4)(a) of this Act,—

- (a) the gross attributed tax shall be regarded as attributable to a corresponding proportion of the profits in question, and in this sub-paragraph the profits making up that proportion are referred to as " taxed profits " ;
- (b) so much of the dividend as is received by, or by a successor in title of, any such company shall be regarded as paid primarily out of taxed profits ; and
- (c) so much of the dividend as is received by any other person shall be regarded as paid primarily out of profits which are not taxed profits.

(4) The reference in sub-paragraph (3)(b) above to a successor in title of a company resident in the United Kingdom is a reference to a person who is such a successor in respect of the whole or any part of that interest in the controlled foreign company by virtue of which an amount of its chargeable profits was apportioned to that company.

6 (1) In any case where—

- (a) on a claim for relief under paragraph 3 above, the whole or any part of any sum has been allowed as a deduction on a disposal of shares in any company, and
- (b) that sum forms part of the gross attributed tax in relation to a dividend paid by that company, and
- (c) a person receiving the dividend in respect of the shares referred to in paragraph (a) above (in this paragraph referred to as " the primary dividend ") or any other relevant dividend is, by virtue of paragraph 4(2) above, entitled under Part XVIII of the Taxes Act to relief (by way of underlying tax) by reference to the whole or any part of the gross attributed tax,

the amount which, apart from this paragraph, would be available by way of such relief to the person referred to in paragraph (c) above shall be reduced or, as the case may be, extinguished by deducting therefrom the amount allowed by way of relief as mentioned in paragraph (a) above.

(2) For the purposes of sub-paragraph (1)(c) above, in relation to the primary dividend, another dividend is a relevant dividend if—

- (a) it is a dividend in respect of shares in a company which is resident outside the United Kingdom; and
- (b) it represents profits which, directly or indirectly, consist of or include the primary dividend.

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## SCHEDULE 19

Section 95.

## DISTRIBUTING FUNDS

## PART I

## THE DISTRIBUTION TEST

*Requirements as to distributions*

- 1 (1) For the purposes of this Chapter, an offshore fund pursues a full distribution policy with respect to an account period if—
- (a) a distribution is made for that account period or for some other period which, in whole or in part, falls within that account period; and
  - (b) subject to Part II of this Schedule, the amount of the distribution which is paid to the holders of material and other interests in the fund—
    - (i) represents at least 85 per cent. of the income of the fund for that period, and
    - (ii) is not less than 85 per cent. of the fund's United Kingdom equivalent profits for that period ; and
  - (c) the distribution is made during that account period or not more than six months after the expiry of it; and
  - (d) the form of the distribution is such that, if any sum forming part of it were received in the United Kingdom by a person resident there and did not form part of the profits of a trade, profession or vocation, that sum would fall to be chargeable to tax under Case IV or Case V of Schedule D ;
- and any reference in this sub-paragraph to a distribution made for an account period includes a reference to any two or more distributions so made or, in the case of paragraph (b), the aggregate of them.
- (2) Subject to sub-paragraph (3) below, with respect to any account period for which—
- (a) there is no income of the fund, and
  - (b) there are no United Kingdom equivalent profits of the fund,
- the fund shall be treated as pursuing a full distribution policy notwithstanding that no distribution is made as mentioned in sub-paragraph (1) above.
- (3) For the purposes of this Chapter, an offshore fund shall be regarded as not pursuing a full distribution policy with respect to an account period for which the fund does not make up accounts.
- (4) For the purposes of this paragraph—
- (a) where a period for which an offshore fund makes up accounts includes the whole or part of two or more account periods of the fund, then, subject to paragraph (c) below, income shown in those accounts shall be apportioned between those account periods on a time basis according to the number of days in each period which are comprised in the period for which the accounts are made up ;
  - (b) where a distribution is made for a period which includes the whole or part of two or more account periods of the fund, then, subject to sub-paragraph (5) below, the distribution shall be apportioned between those account periods



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- on a time basis according to the number of days in each period which are comprised in the period for which the distribution is made;
- (c) where a distribution is made out of specified income but is not made for a specified period, that income shall be attributed to the account period of the fund in which it in fact arose and the distribution shall be treated as made for that account period ; and
  - (d) where a distribution is made neither for a specified period nor out of specified income, then, subject to sub-paragraph (5) below, it shall be treated as made for the last account period of the fund which ended before the distribution was made.
- (5) If, apart from this sub-paragraph, the amount of a distribution made, or treated by virtue of sub-paragraph (4) above as made, for an account period would exceed the income of that period, then, for the purposes of this paragraph,—
- (a) if the amount of the distribution was determined by apportionment under sub-paragraph (4)(b) above, the excess shall be re-apportioned, as may be just and reasonable, to any other account period which, in whole or in part, falls within the period for which the distribution was made or, if there is more than one such period, between those periods ; and
  - (b) subject to paragraph (a) above, the excess shall be treated as an additional distribution or series of additional distributions made for preceding account periods in respect of which the distribution or, as the case may be, the aggregate distributions would otherwise be less than the income of the period, applying the excess to later account periods before earlier ones, until it is exhausted.
- (6) In any case where—
- (a) for a period which is or includes an account period, an offshore fund is subject to any restriction as regards the making of distributions, being a restriction imposed by the law of any territory outside the United Kingdom, and
  - (b) the fund is subject to that restriction by reason of an excess of losses over profits (applying the concepts of " profits " and " losses " in the sense in which and to the extent to which they are relevant for the purposes of the law in question),

then, in determining, for the purposes of the preceding provisions of this paragraph, the amount of the fund's income for that account period, there shall be allowed as a deduction any amount which, apart from this sub-paragraph, would form part of the income of the fund for that account period and which cannot be distributed by virtue of the restriction.

#### *Funds operating equalisation arrangements*

- 2 (1) In the case of an offshore fund which throughout any account period operates equalisation arrangements, on any occasion in that period when there is a disposal to which this sub-paragraph applies, the fund shall be treated for the purposes of this Part of this Schedule as making a distribution of an amount equal to so much of the consideration for the disposal as, in accordance with this paragraph, represents income accrued to the date of the disposal.
- (2) Sub-paragraph (1) above applies to a disposal—
- (a) which is a disposal of a material interest in the offshore fund concerned; and

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- (b) which is a disposal to which this Chapter applies (whether by virtue of subsection (3) of section 93 of this Act or otherwise) or is one to which this Chapter would apply if subsections (5) and (6) of that section applied generally and not only for the purpose of determining whether, by virtue of subsection (3) of that section, there is a disposal to which this Chapter applies; and
  - (c) which is not a disposal with respect to which the conditions in subsection (4) of that section are fulfilled ; and
  - (d) which is a disposal to the fund itself or to the persons concerned with the management of the fund (in this paragraph referred to as " the managers ") in their capacity as such.
- (3) On a disposal to which sub-paragraph (1) above applies, the part of the consideration which represents income accrued to the date of the disposal is, subject to sub-paragraph (4) and paragraph 4(4) below, the amount which would be credited to the equalisation account of the offshore fund concerned in respect of accrued income if, on the date of the disposal, the material interest which is disposed of were acquired by another person by way of initial purchase.
- (4) If, after the beginning of the period by reference to which the accrued income referred to in sub-paragraph (3) above is calculated, the material interest disposed of by a disposal to which sub-paragraph (1) above applies was acquired by way of initial purchase (whether or not by the person making the disposal), there shall be deducted from the amount which, in accordance with sub-paragraph (3) above, would represent income accrued to the date of the disposal, the amount which on that acquisition was credited to the equalisation account of the fund in respect of accrued income ; and if in that period there has been more than one such acquisition of that material interest by way of initial purchase, the deduction to be made under this sub-paragraph shall be the amount so credited to the equalisation account on the latest such acquisition prior to the disposal in question.
- (5) Where, by virtue of this paragraph, an offshore fund is treated for the purposes of this Part of this Schedule as making a distribution on the occasion of a disposal, the distribution shall be treated for those purposes—
- (a) as complying with paragraph 1(1)(d) above ; and
  - (b) as made out of the income of the fund for the account period in which the disposal occurs ; and
  - (c) as paid, immediately before the disposal, to the person who was then the holder of the interest disposed of.
- (6) In any case where—
- (a) a distribution in respect of an interest in an offshore fund is made to the managers of the fund, and
  - (b) their holding of that interest is in their capacity as such, and
  - (c) at the time of the distribution, the fund is operating equalisation arrangements,
- the distribution shall not be taken into account for the purposes of paragraph 1(1) above except to the extent that the distribution is properly referable to that part of the period for which the distribution is made during which that interest has been held by the managers of the fund in their capacity as such.
- (7) Subsection (2) of section 93 applies for the purposes of this paragraph as it applies for the purposes of that section.

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*Income taxable under Case IV or Case V of Schedule D*

- 3 (1) Sub-paragraph (2) below applies if any sums which form part of the income of an offshore fund falling within paragraph (b) or paragraph (c) of subsection (1) of section 94 of this Act are of such a nature that—
- (a) the holders of interests in the fund who are either companies resident in the United Kingdom or individuals domiciled and resident there—
    - (i) are chargeable to tax under Case IV or Case V of Schedule D in respect of such of those sums as are referable to their interests ; or
    - (ii) if any of that income is derived from assets within the United Kingdom, would be so chargeable had the assets been outside the United Kingdom ; and
  - (b) the holders of interests who are not such companies or individuals would be chargeable as mentioned in sub-paragraph (i) or sub-paragraph (ii) above if they were resident in the United Kingdom or, in the case of individuals, if they were domiciled and both resident and ordinarily resident there.
- (2) To the extent that sums falling within sub-paragraph (1) above do not actually form part of a distribution complying with paragraphs 1(1)(c) and 1(1)(d) above, they shall be treated for the purposes of this Part of this Schedule—
- (a) as a distribution complying with those paragraphs and made out of the income of which they form part; and
  - (b) as paid to the holders of the interests to which they are referable.

*Commodity income*

- 4 (1) To the extent that the income of an offshore fund for any account period includes profits from dealing in commodities, one half of those profits shall be left out of account in determining for the purposes of paragraphs 1(1)(b) above and 5 below—
- (a) the income of the fund for that period ; and
  - (b) the fund's United Kingdom equivalent profits for that period;
- but in any account period in which an offshore fund incurs a loss in dealing in commodities the amount of that loss shall not be varied by virtue of this paragraph.
- (2) In this paragraph, " dealing in commodities" shall be construed as follows—
- (a) " commodities " does not include currency, securities, debts or other assets of a financial nature but, subject to that, means tangible assets which are dealt with on a commodity exchange in any part of the world ; and
  - (b) " dealing" includes dealing by way of futures contracts and traded options.
- (3) Where the income of an offshore fund for any account period consists of profits from dealing in commodities and other income then,—
- (a) in determining whether the condition in paragraph 1(1)(b) above is fulfilled with respect to that account period, the expenditure of the fund shall be apportioned in such manner as is just and reasonable between the profits from dealing in commodities and the other income ; and
  - (b) in determining whether, and to what extent, any expenditure is deductible under section 304 of the Taxes Act (management expenses of investment companies) in computing the fund's United Kingdom equivalent profits for that period, so much of the business of the fund as does not consist of dealing in commodities shall be treated as a business carried on by a separate company.

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- (4) Where there is a disposal to which sub-paragraph (1) of paragraph 2 above applies, then, to the extent that any amount which was or would be credited to the equalisation account in respect of accrued income, as mentioned in sub-paragraph (3) or sub-paragraph (4) of that paragraph, represents profits from dealing in commodities, one half of that accrued income shall be left out of account in determining under those sub-paragraphs the part of the consideration for the disposal which represents income accrued to the date of the disposal.

*United Kingdom equivalent profits*

- 5 (1) Any reference in this Schedule to the United Kingdom equivalent profits of an offshore fund for an account period is a reference to the amount which, on the assumptions in sub-paragraph (3) below, would be the total profits of the fund for that period on which, after allowing for any deductions available against those profits, corporation tax would be chargeable.
- (2) In this paragraph the expression " profits " does not include chargeable gains.
- (3) The assumptions referred to in sub-paragraph (1) above are—
- (a) that the offshore fund is a company which, in the account period in question, but not in any other account period, is resident in the United Kingdom ; and
  - (b) that the account period is an accounting period of that company ; and
  - (c) that any dividends or distributions which, by virtue of section 239 of the Taxes Act (dividends and distributions of companies resident in the United Kingdom), should be left out of account in computing income for corporation tax purposes are nevertheless to be brought into account in that computation in like manner as if they were dividends or distributions of a company resident outside the United Kingdom.
- (4) Without prejudice to any deductions available apart from this sub-paragraph, the deductions referred to in sub-paragraph (1) above include—
- (a) a deduction equal to any amount which, by virtue of paragraph 1(6) above, is allowed as a deduction in determining the income of the fund for the account period in question; and
  - (b) a deduction equal to any amount of tax (paid under the law of a territory outside the United Kingdom) which was taken into account as a deduction in determining the income of the fund for the account period in question but which, because it is referable to capital rather than income, does not fall to be taken into account by virtue of section 516 of the Taxes Act.
- (5) For the avoidance of doubt it is hereby declared that, if any sums forming part of the offshore fund's income for any period have been received by the fund without any deduction of or charge to tax by virtue of section 99 or section 100 of the Taxes Act (securities held by non-residents), the effect of the assumption in sub-paragraph (3) (a) above is that those sums are to be brought into account in determining the total profits referred to in sub-paragraph (1) above.

## PART II

### MODIFICATIONS OF CONDITIONS FOR CERTIFICATION IN CERTAIN CASES

#### *Exclusion of investments in distributing offshore funds*

- 6 (1) In any case where—
- (a) in an account period of an offshore fund (in this Part of this Schedule referred to as the "primary fund"), the assets of the fund consist of or include interests in another offshore fund, and
  - (b) those interests (together with other interests which the primary fund may have) are such that, by virtue of paragraph (a) of subsection (3) of section 95 of this Act or, if the other fund concerned is a company, by virtue of paragraph (b) or paragraph (c) of that subsection, the primary fund could not, apart from this paragraph, be certified as a distributing fund in respect of that account period, and
  - (c) without regard to the provisions of this paragraph, that other fund could be certified as a distributing fund in respect of its account period or, as the case may be, each of its account periods which comprises the whole or any part of the account period of the primary fund,

then, in determining whether anything in paragraphs (a) to (c) of the said subsection (3) prevents the primary fund being certified as mentioned in paragraph (b) above, the interests of the primary fund in that other fund shall be left out of account except for the purpose of determining the total value of the assets of the primary fund.

- (2) In this Part of this Schedule an offshore fund falling within sub-paragraph (1)(c) above is referred to as a "qualifying fund".

- (3) In a case falling within sub-paragraph (1) above—

- (a) paragraphs (a) to (c) of subsection (3) of section 95 of this Act shall have effect in relation to the primary fund with the modification in paragraph 7 below (in addition to that provided for by sub-paragraph (1) above); and
- (b) Part I of this Schedule shall have effect in relation to the primary fund with the modification in paragraph 8 below.

- 7 The modification referred to in paragraph 6(3)(a) above is that, in any case where—

- (a) at any time in the account period referred to in paragraph 6(1) above, the assets of the primary fund include an interest in an offshore fund or in any company (whether an offshore fund or not), and
- (b) that interest falls to be taken into account in determining whether anything in paragraphs (a) to (c) of subsection (3) of section 95 of this Act prevents the primary fund being certified as a distributing fund in respect of that account period, and
- (c) at any time in that account period the assets of the qualifying fund include an interest in the offshore fund or company referred to in paragraph (a) above,

for the purpose of the application in relation to the primary fund of the provisions referred to in paragraph (b) above, at any time when the assets of the qualifying fund include the interest referred to in paragraph (c) above, the primary fund's share of that interest shall be treated as an additional asset of the primary fund.

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- 8 (1) The modification referred to in paragraph 6(3)(b) above is that, in determining whether the condition in paragraph 1(1)(b)(ii) above is fulfilled with respect to the account period of the primary fund referred to in paragraph 6(1) above, the United Kingdom equivalent profits of the primary fund for that period shall be treated as increased by the primary fund's share of the excess income (if any) of the qualifying fund which is attributable to that period.
- (2) For the purposes of this paragraph, the excess income of the qualifying fund for any account period of that fund is the amount (if any) by which its United Kingdom equivalent profits for that account period exceed the amount of the distributions made for that period, as determined for the purposes of the application of paragraph 1(1) above to the qualifying fund.
- (3) If an account period of the qualifying fund coincides with an account period of the primary fund, then the excess income (if any) of the qualifying fund for that period is the excess income which is attributable to that period of the primary fund.
- (4) In a case where sub-paragraph (3) above does not apply, the excess income of the qualifying fund which is attributable to an account period of the primary fund is the appropriate fraction of the excess income (if any) of the qualifying fund for any of its account periods which comprises the whole or any part of the account period of the primary fund and, if there is more than one such account period of the qualifying fund, the aggregate of the excess income (if any) of each of them.
- (5) For the purposes of sub-paragraph (4) above, the appropriate fraction is that of which—
- (a) the numerator is the number of days in the account period of the primary fund which are also days in an account period of the qualifying fund ; and
  - (b) the denominator is the number of days in that account period of the qualifying fund or, as the case may be, in each of those account periods of that fund which comprises the whole or any part of the account period of the primary fund.
- 9 (1) The references in paragraphs 7 and 8(1) above to the primary fund's share of—
- (a) an interest forming part of the assets of the qualifying fund, or
  - (b) the excess income (as defined in paragraph 8 above) of the qualifying fund,
- shall be construed as references to the fraction specified in sub-paragraph (2) below of that interest or excess income.
- (2) In relation to any account period of the primary fund, the fraction referred to in sub-paragraph (1) above is that of which—
- (a) the numerator is the average value of the primary fund's holding of interests in the qualifying fund during that period; and
  - (b) the denominator is the average value of all the interests in the qualifying fund held by any persons during that period.

*Offshore funds investing in trading companies*

- 10 (1) In any case where the assets of an offshore fund for the time being include an interest in a trading company, as defined in sub-paragraph (2) below, the provisions of subsection (3) of section 95 of this Act have effect subject to the modifications in sub-paragraphs (3) and (4) below.

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- (2) In this paragraph " trading company " means a company whose business consists wholly of the carrying on of a trade or trades and does not to any extent consist of—
  - (a) dealing in commodities, as defined in paragraph 4(2) above, or dealing, as so defined, in currency, securities, debts or other assets of a financial nature ; or
  - (b) banking or money-lending.
- (3) In the application of section 95(3)(b) of this Act to so much of the assets of an offshore fund as for the time being consists of interests in a single trading company, for the words " 10 per cent. " there shall be substituted the words " 20 per cent. "
- (4) In the application of section 95(3)(c) of this Act to an offshore fund the assets of which for the time being include any issued share capital of a trading company or any class of that share capital, for the words " more than 10 per cent." there shall be substituted the words " 50 per cent. or more ".

*Offshore funds with wholly-owned subsidiaries dealing in commodities*

- 11
- (1) In relation to an offshore fund which has a wholly-owned subsidiary—
    - (a) which is a company, and
    - (b) the business of which consists wholly or mainly of dealing in commodities, as defined in paragraph 4(2) above,the provisions of subsection (3) of section 95 of this Act and Part I of this Schedule have effect subject to the modifications in sub-paragraph (3) below.
  - (2) For the purposes of this paragraph, a company is a wholly-owned subsidiary of an offshore fund if and so long as the whole of the issued share capital of the company is,—
    - (a) in the case of an offshore fund falling within section 94(1)(a) of this Act, directly and beneficially owned by the fund ; and
    - (b) in the case of an offshore fund falling within section 94(1)(b) of this Act, directly owned by the trustees of the fund for the benefit of the fund ; and
    - (c) in the case of an offshore fund falling within section 94(1)(c) of this Act, owned in a manner which, as near as may be, corresponds either to paragraph (a) or paragraph (b) above.
  - (3) The modifications referred to in sub-paragraph (1) above are that, for the purposes of the provisions referred to in that sub-paragraph,—
    - (a) the receipts, expenditure, assets and liabilities of the subsidiary shall be regarded as the receipts, expenditure, assets and liabilities of the fund ; and
    - (b) there shall be left out of account the interest of the fund in the subsidiary and any distributions or other payments made by the subsidiary to the fund or by the fund to the subsidiary.

*Offshore funds with interests in dealing and management companies*

- 12
- (1) Section 95(3)(c) of this Act shall not apply to so much of the assets of an offshore fund as consists of issued share capital of a company which is either—
    - (a) a wholly-owned subsidiary of the fund which falls within sub-paragraph (2) below, or
    - (b) a subsidiary management company of the fund, as defined in sub-paragraph (3) below.

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- (2) A company which is a wholly-owned subsidiary of an offshore fund is one to which sub-paragraph (1)(a) above applies if—
- (a) the business of the company consists wholly of dealing in material interests in the offshore fund for the purposes of and in connection with the management and administration of the business of the fund ; and
  - (b) the company is not entitled to any distribution in respect of any material interest for the time being held by it;
- and paragraph 11(2) above shall apply to determine whether a company is, for the purposes of this paragraph, a wholly-owned subsidiary of an offshore fund.
- (3) A company in which an offshore fund has an interest is for the purposes of sub-paragraph (1)(b) above a subsidiary management company of the fund if—
- (a) the company carries on no business other than providing services falling within sub-paragraph (4) below either for the fund alone or for the fund and for any other offshore fund which has an interest in the company ; and
  - (b) the company's remuneration for the services which it provides to the fund is not greater than it would be if it were determined at arm's length between the fund and a company in which the fund has no interest.
- (4) The services referred to in sub-paragraph (3) above are—
- (a) holding property (of any description) which is occupied or used in connection with the management or administration of the fund ; and
  - (b) providing administrative, management and advisory services to the fund.
- (5) In determining, in accordance with sub-paragraph (3) above, whether a company in which an offshore fund has an interest is a subsidiary management company of that fund,—
- (a) every business carried on by a wholly-owned subsidiary of the company shall be treated as carried on by the Company ; and
  - (b) no account shall be taken of so much of the company's business as Consists of holding its interests in a wholly-owned Subsidiary; and
  - (c) any reference in sub-paragraph (3)(b) above to the company shall be taken to include a reference to a wholly-owned subsidiary of the company.
- (6) Any reference in sub-paragraph (5) above to a wholly-owned subsidiary of a company is a reference to another company the whole of the issued share capital of which is for the time being directly and beneficially owned by the first company.

### **PART III**

#### CERTIFICATION PROCEDURE

##### *Application for Certification*

- 13 (1) The Board shall, in such manner as they think appropriate, certify an offshore fund as a distributing fund in respect of an account period if—
- (a) an application in respect of that period is made under this paragraph; and
  - (b) the application is accompanied by the accounts of the fund for, or for a period which includes, the account period to which the application relates ; and



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- (c) there is furnished to the Board such information as they may reasonably require for the purpose of determining whether the fund should be so certified ; and
  - (d) they are satisfied that nothing in subsection (2) or subsection (3) of section 95 of this Act prevents the fund being so certified.
- (2) An application under this paragraph shall be made to the Board by the fund or by a trustee or officer thereof on behalf of the fund and may be so made—
- (a) before the expiry of the period of six months beginning at the end of the account period to which the application relates; or
  - (b) if it is later, before 1st January 1985 ; or
  - (c) at Such later time as the Board may in any particular case allow.
- (3) In any case where, on an application under this paragraph, the Board determine that the offshore fund concerned should not be certified as a dittoing fund in respect of the account period to which the application relates, they shall give notice in writing of that fact to the fund.
- (4) If at any time it appears to the Board that the accounts accompanying an application under this paragraph in respect of any account period of an offshore fund or any information furnished to the Board in connection with such an application is or are not such as to make full and accurate disclosure of all facts and considerations relevant to the application, they shall give notice to the fund accordingly, specifying the period concerned.
- (5) Where a notice is given by the Board under sub-paragraph (4) above, any certification by them in respect of the account period in question shall be void.

#### *Appeals*

- 14 (1) An appeal to the Special Commissioners—
- (a) against such a determination as is referred to in paragraph 13(3) above, or
  - (b) against a notification under paragraph 13(4) above,
- may be made by the offshore fund or by a trustee or officer thereof on behalf of the fund, and shall be so made by notice in writing specifying the grounds of appeal and given to the Board within 90 days of the date of the notice under paragraph 13(3) or, as the case may be, paragraph 13(4) above.
- (2) The jurisdiction of the Special Commissioners on an appeal under this paragraph shall include jurisdiction to review any decision of the Board which is relevant to a ground of the appeal.

### **PART IV**

#### **SUPPLEMENTARY**

##### *Assessment: effect of non-certification*

- 15 No appeal may be brought against an assessment to tax on the ground that an offshore fund should have been certified as a distributing fund in respect of an account period of the fund.

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- 16 (1) Without prejudice to paragraph 15 above, in any case where no application has been made under paragraph 13 above in respect of an account period of an offshore fund, any person who is assessed to tax for which he would not be liable if the offshore fund were certified as a distributing fund in respect of that period may by notice in writing require the Board to take action under this paragraph with a view to determining whether the fund should be so certified.
- (2) Subject to sub-paragraphs (3) and (5) below, if the Board receive a notice under sub-paragraph (1) above, they shall, by notice in writing, invite the offshore fund concerned to make an application under paragraph 13 above in respect of the period in question.
- (3) Where sub-paragraph (2) above applies, the Board shall not be required to give notice under that sub-paragraph before the expiry of the account period to which the notice is to relate nor if an application under paragraph 13 above has already been made; but where notice is given under that sub-paragraph, an application under paragraph 13 above shall not be out of time under paragraph 13(2)(a) or paragraph 13(2)(b) above if it is made within 90 days of the date of that notice.
- (4) If an offshore fund to which notice in writing is given under sub-paragraph (2) above does not, within the time allowed by sub-paragraph (3) above or, as the case may be, paragraph 13(2)(a) or paragraph 13(2)(b) above, make an application under paragraph 13 above in respect of the account period in question, the Board shall proceed to determine the question of certification in respect of that period as if such an application had been made.
- (5) Where the Board receive more than one notice under sub-paragraph (1) above with respect to the same account period of the same offshore fund, their obligations under sub-paragraphs (2) and (4) above shall be taken to be fulfilled with respect to each of those notices if they are fulfilled with respect to any one of them.
- (6) Notwithstanding anything in sub-paragraph (5) above, for the purpose of a determination under sub-paragraph (4) above with respect to an account period of an offshore fund, the Board shall have regard to accounts and other information furnished by all persons who have given notice under sub-paragraph (1) above with respect to that account period; and paragraph 13 above shall apply as if accounts and information so furnished had been furnished in compliance with sub-paragraph (1) of that paragraph.
- (7) Without prejudice to sub-paragraph (5) above, in any case where—
- (a) at a time after the Board have made a determination under sub-paragraph (4) above that an offshore fund should not be certified as a distributing fund in respect of an account period, notice is given under sub-paragraph (1) above with respect to that period, and
  - (b) the person giving that notice furnishes the Board with accounts or information which had not been furnished to the Board at the time of the earlier determination,
- the Board shall reconsider their previous determination in the light of the new accounts or information and, if they consider it appropriate, may determine to certify the fund accordingly.
- (8) Where any person has given notice to the Board under sub-paragraph (1) above with respect to an account period of an offshore fund and no application has been made under paragraph 13 above with respect to that period,—

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- (a) the Board shall notify that person of their determination with respect to certification under sub-paragraph (4) above ; and
- (b) paragraph 14 above shall not apply in relation to that determination.

*Postponement of tax pending determination of question as to certification*

- 17 (1) In any case where—
- (a) an application has been made under paragraph 13 above with respect to an account period of an offshore fund and that application has not been finally determined, or
  - (b) paragraph (a) above does not apply but notice has been given under paragraph 16(1) above in respect of an account period of an offshore fund and the Board have not yet given notice of their decision as to certification under paragraph 16(4) above,
- any person who has been assessed to tax and considers that, if the offshore fund were to be certified as a distributing fund in respect of the account period in question, he would be overcharged to tax by the assessment may, by notice in writing given to the inspector within 30 days after the date of the issue of the notice of assessment, apply to the General Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the question whether the fund should be so certified.
- (2) A notice of application under sub-paragraph (1) above shall state the amount in which the applicant believes that he is overcharged to tax and his grounds for that belief.
- (3) Subsections (3A) onwards of section 55 of the Taxes Management Act 1970 (recovery of tax not postponed) shall apply with any necessary modifications in relation to an application under sub-paragraph (1) above as if it were an application under subsection (3) of that section and as if the determination of the question as to certification (whether by the Board or on appeal) were the determination of an appeal.

*Information as to decisions on certification etc.*

- 18 No obligation as to the secrecy imposed by statute or otherwise shall preclude the Board or an inspector from disclosing to any person appearing to have an interest in the matter—
- (a) any determination of the Board or (on appeal) the Special Commissioners whether an offshore fund should or should not be certified as a distributing fund in respect of any account period; or
  - (b) the content and effect of any notice given by the Board under paragraph 13(4) above.

## SCHEDULE 20

Section 96.

## COMPUTATION OF OFFSHORE INCOME GAINS

## PART I

## DISPOSALS OF INTERESTS IN NON-QUALIFYING FUNDS

*Interpretation*

- 1 In this Part of this Schedule—
- " the principal Act" means the Capital Gains Tax Act 1979 ;
  - " the principal section " means section 96 of this Act; and
  - "material disposal" means a disposal to which Chapter VII of Part II of this Act applies, otherwise than by virtue of section 93(3) of this Act.

*Calculation of unindexed gain*

- 2 (1) Where there is a material disposal, there shall first be determined for the purposes of this Part of this Schedule the amount (if any) which, in accordance with the provisions of this paragraph, is the unindexed gain accruing to the person making the disposal.
- (2) Subject to subsections (3) to (6) of section 92 of this Act and paragraph 3 below, the unindexed gain accruing on a material disposal is the amount which would be the gain on that disposal for the purposes of the principal Act if it were computed—
- (a) without regard to any charge to income tax or corporation tax by virtue of the principal section; and
  - (b) without regard to any indexation allowance on the disposal under Chapter III of Part III of the Finance Act 1982.
- 3 (1) if the amount of any chargeable gain or allowable loss which (apart from section 98 of this Act) would accrue on the material disposal would fall to be determined in a way which, in whole or in part, would take account of the indexation allowance on an earlier disposal to which paragraph 2 of Schedule 13 to the Finance Act 1982 applies (disposals on a no-gain/no-loss basis), the unindexed gain on the material disposal shall be computed as if—
- (a) no indexation allowance had been available on any such earlier disposal; and
  - (b) subject to that, neither a gain nor a loss had accrued to the person making such an earlier disposal.
- (2) If the material disposal forms part of a transfer to which Section 123 of the principal Act applies (roll-over relief on transfer of business), the unindexed gain accruing on the disposal shall be computed without regard to any deduction which falls to be made under that section in computing a chargeable gain.
- (3) If the material disposal is made otherwise than under a bar-gam at arm's length and a claim for relief is made in respect of that disposal under section 79 of the Finance Act 1980 (relief for gifts), that section shall not affect the computation of the unindexed gain accruing on the disposal.
- (4) Where, in the case of an insurance company carrying on life assurance business, a profit arising from general annuity business and attributable to a material disposal

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falls (or would but for section 99(2) of this Act fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the unindexed gain, if any, accruing to the company on the disposal shall be computed as if section 31(1) of the principal Act (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.

- (5) Notwithstanding section 29 of the principal Act (losses to be determined in like manner as gains) if, apart from this sub-paragraph, the effect of any computation under the preceding provisions of this Part of this Schedule would be to produce a loss, the unindexed gain on the material disposal shall be treated as nil; and, accordingly, for the purposes of this Part of this Schedule no loss shall be treated as accruing on a material disposal.
- (6) Section 323 of the Taxes Act (interpretation of Chapter II of Part XII of that Act) has effect in relation to sub-paragraph (4) above as if it were included in that Chapter.

*Gains since 1st January 1984*

- 4 (1) This paragraph applies where—
- (a) the interest in the offshore fund which is disposed of by the person making a material disposal was acquired by him before 1st January 1984 ; or
  - (b) he is treated by virtue of any provisions of sub-paragraphs (3) and (4) below as having acquired the interest before that date.
- (2) Where this paragraph applies, there shall be determined for the purposes of this Part of this Schedule the amount which would have been the gain on the material disposals—
- (a) on the assumption that, on 1st January 1984, the interest was disposed of and immediately reacquired for a consideration equal to its market value at that time ; and
  - (b) subject to that, on the basis that the gain is computed in like manner as, under paragraphs 2 and 3 above, the unindexed gain on the material disposal is determined ;
- and that amount is in paragraph 5 below referred to as the " post-1983 gain " on the material disposal.
- (3) Where the person making the material disposal acquired the interest disposed of on or after 1st January 1984 and in such circumstances that, by virtue of any enactment other than section 86(5) of or Schedule 13 to the Finance Act 1982 (indexation provisions), he and the person from whom he acquired it (in this sub-paragraph and sub-paragraph (4) below referred to as " the previous owner ") fell to be treated for the purposes of the principal Act as if his acquisition were for a consideration of such an amount as would secure that, on the disposal under which he acquired it, neither a gain nor a loss accrued to the previous owner, the previous owner's acquisition of the interest shall be treated as his acquisition of it.
- (4) If the previous owner acquired the interest disposed of on or after 1st January 1984 and in circumstances similar to those referred to in sub-paragraph (3) above, his predecessor's acquisition of the interest shall be treated for the purposes of this paragraph as the previous owner's acquisition, and so on back through previous acquisitions in similar circumstances until the first such acquisition before 1st January 1984 or, as the case may be, until an acquisition on a material disposal on or after that date.

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*The offshore income gain*

- 5 (1) Subject to sub-paragraph (2) below, a material disposal gives rise to an offshore income gain of an amount equal to the unindexed gain on that disposal.
- (2) In any case where—
- (a) paragraph 4 above applies, and
  - (b) the post-1983 gain on the material disposal is less than the unindexed gain on the disposal,
- the offshore income gain to which the disposal gives rise is an amount equal to the post-1983 gain.

**PART II**

DISPOSALS INVOLVING AN EQUALISATION ELEMENT

- 6 (1) Subject to paragraph 7 below, a disposal to which Chapter VII of Part II of this Act applies by virtue of section 93(3) of this Act gives rise to an offshore income gain of an amount equal to the equalisation element relevant to the asset disposed of.
- (2) Subject to sub-paragraphs (4) to (6) below, the equalisation element relevant to the asset disposed of by a disposal falling within sub-paragraph (1) above is the amount which would be credited to the equalisation account of the offshore fund concerned in respect of accrued income if, on the date of the disposal, the asset which is disposed of were acquired by another person by way of initial purchase.
- (3) In the following provisions of this Part of this Schedule, a disposal falling within sub-paragraph (1) above is referred to as a "disposal involving an equalisation element".
- (4) Where the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal after the beginning of the period by reference to which the accrued income referred to in sub-paragraph (2) above is calculated, the amount which, apart from this sub-paragraph, would be the equalisation element relevant to that asset shall be reduced by the following amount, that is to say,—
- (a) if that acquisition took place on or after 1st January 1984, the amount which, on that acquisition, was credited to the equalisation account of the offshore fund concerned in respect of accrued income or, as the case may be, would have been so credited if that acquisition had been by way of initial purchase ; and
  - (b) in any other case, the amount which would have been credited to that account in respect of accrued income if that acquisition had been an acquisition by way of initial purchase taking place on 1st January 1984.
- (5) In any case where—
- (a) the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal at or before the beginning of the period by reference to which the accrued income referred to in sub-paragraph (2) above is calculated, and
  - (b) that period began before 1st January 1984 and ends after that date,
- the amount which, apart from this sub-paragraph, would be the equalisation element relevant to that asset shall be reduced by the amount which would have been credited to the equalisation account of the offshore fund concerned in respect of accrued

income if the acquisition referred to in paragraph (a) above had been an acquisition by way of initial purchase taking place on 1st January 1984.

- (6) Where there is a disposal involving an equalisation element, then, to the extent that any amount which was or would be credited to the equalisation account of the offshore fund in respect of accrued income, as mentioned in any of sub-paragraphs (2) to (5) above, represents profits from dealing in commodities, within the meaning of paragraph 4 of Schedule 19 to this Act, one half of that accrued income shall be left out of account in determining under those sub-paragraphs the equalisation element relevant to the asset disposed of by that disposal.
- 7 (1) For the purposes of this Part of this Schedule, there shall be determined, in accordance with paragraph 8 below, the Part I gain (if any) on any disposal involving an equalisation element.
- (2) Notwithstanding anything in paragraph 6 above,—
- (a) if there is no Part I gain on a disposal involving an equalisation element, that disposal shall not give rise to an offshore income gain ; and
- (b) if, apart from this paragraph, the offshore income gain on a disposal involving an equalisation element would exceed the Part I gain on that disposal, the offshore income gain to which that disposal gives rise shall be reduced to an amount equal to that Part I gain.
- 8 (1) On a disposal involving an equalisation element, the Part I gain is the amount (if any) which, by virtue of Part I of this Schedule (as modified by the following provisions of this paragraph), would be the offshore income gain on that disposal if it were a material disposal within the meaning of that Part.
- (2) For the purposes only of the application of Part I of this Schedule to determine the Part I gain (if any) on a disposal involving an equalisation element, subsections (5) and (6) of section 93 of this Act shall have effect as if, in subsection (5), the words " by virtue of subsection (3) above " were omitted,
- (3) If a disposal involving an equalisation element is one which, by virtue of any enactment other than section 86(5)(b) of or Schedule 13 to the Finance Act 1982 (indexation), is treated for the purposes of the Capital Gains Tax Act 1979 as one on which neither a gain nor a loss accrues to the person making the disposal, then, for the purpose only of determining the Part I gain (if any) on the disposal, that enactment shall be deemed not to apply to it (but without prejudice to the application of that enactment to any earlier disposal).
- (4) In any case where a disposal involving an equalisation element is made by a company which has made an election under Schedule 6 to the Finance Act 1983 (indexation: election for pooling) and the asset disposed of consists of or includes securities which, by virtue of paragraph 3(3) of that Schedule, are to be regarded for the purposes of the principal Act as a single asset or part of a single asset, then, for the purpose only of determining the Part I gain (if any) on the disposal,—
- (a) the reference in paragraph 2(2)(b) above to an indexation allowance under Chapter III of Part III of the Finance Act 1982 shall be construed as including a reference to an indexation allowance under Schedule 6 to the Finance Act 1983; and
- (b) if some of the securities comprised in the asset disposed of were acquired by the company making the disposal before 1st January 1984 and some were not, paragraph 4(2) above shall not apply and paragraph 5 above shall have

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effect with the omission of sub-paragraph (2) (and the reference to that sub-paragraph in sub-paragraph (1)).

- (5) The reference in sub-paragraph (4)(b) above to securities acquired before 1st January 1984 includes a reference to securities which, by virtue of any provisions of paragraph 4 above, are treated as so acquired.

## SCHEDULE 21

Section 108.

### CAPITAL TRANSFER TA)(: PRE-CONSOLIDATION AMENDMENTS

#### *The Finance Act 1975*

- 1 In section 22(4) of the Finance Act 1975 (in this Schedule referred to as " the 1975 Act ")—
- (a) for the words from the beginning to " his death " there shall be substituted the words " In determining for the purposes of this Part of this Act the value of the estate, immediately before his death, of a person whose spouse (or former spouse) died before 13th November 1974 "; and
- (b) for the words "that death" there shall be substituted the words " the later death ".
- 2 In section 25(10) of the 1975 Act, after the word " section" there shall be inserted the words " (except subsection (8)) ".
- 3 In section 26(2) of the 1975 Act—
- (a) the words from the beginning to " respectively, and " shall cease to have effect; and
- (b) at the end, there shall be added the words " or by virtue of paragraph 24(2) of Schedule 5 to this Act ".
- 4 In section 45(1) of the 1975 Act, after the words " as domiciled in the United Kingdom " there shall be inserted the words " (and not elsewhere) " ; and section 51(3) of that Act shall cease to have effect.
- 5 In section 51(1) of the 1975 Act—
- (a) the definition of " enactment" shall cease to have effect; and
- (b) after the definition of " Inland Revenue charge " there shall be inserted—
- “ land ' includes buildings and Other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land; but does not include any estate, interest or right by way of mortgage or other security ;”.
- 6 In paragraph 6(6) of Schedule 4 to the 1975 Act, for the words following " including references " there shall be substituted the words "to—
- (a) disposals on which tax is chargeable under paragraph 2 of Schedule 9 to this Act,
- (b) chargeable events by reference to which tax is chargeable under section 78 of the Finance Act 1976,
- (c) Occasions on which tax is chargeable under section 82 of the Finance Act 1976 or under Chapter II of Part IV of the Finance Act 1982,
- or to the amounts on which tax is then chargeable."



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- 7 In paragraph 14(2) of Schedule 4 to the 1975 Act, for the words "value Of an interest" there shall be substituted the words " net value of an interest ".
- 8 In paragraph 19(4) of Schedule 4 to the 1975 Act, the words " to any person " and the words " Of that person " shall cease to have effect.
- 9 Paragraph 44 of Schedule 4 to the 1975 Act shall cease to have effect.
- 10 In paragraph 1(8) of Schedule 5 to the 1975 Act, for the words "and section 25(3) (d) of this Act" there shall be substituted the words " , sections 22(2) and (3), 24(3) and 25(3)(d) of this Act and sections 93 and 94 ".
- 11 In paragraph 4(7) of Schedule 5 to the 1975 Act, after the words " surviving spouse " there shall be inserted the words " (or surviving former spouse) ".
- 12 In paragraph 17(3)(b) of Schedule 5 to the 1975 Act, for the words " this Schedule and of Chapter II of Part IV of the Finance Act 1982" there shall be substituted the words " this Part of this Act (except subsection (3) of section 23 and section 20(4) so far as relating to that subsection) ".
- 13 In paragraph 22(1) of Schedule 5 to the 1975 Act, for the words " this Schedule " there shall be substituted the words " this Part of this Act ".
- 14 (1) Paragraph 24 of Schedule 5 to the 1975 Act shall be amended as follows.
- (2) In sub-paragraph (1), for paragraph (a) there shall be substituted the following paragraphs—
- “(a) the reference in subsection (2) of that section to subsection (1) shall have effect as including a reference to sub-paragraph (2) below;
- (aa) subsection (3) of that section shall apply in relation to tax chargeable by virtue of sub-paragraph (2) below as it applies in relation to tax chargeable under subsection (1) of that section ;”.
- (3) In sub-paragraph (5), for the words "this Schedule and of Chapter II of Part IV of the Finance Act 1982" there shall be substituted the words " this Part of this Act (except subsection (3) of section 23 and section 20(4) so far as relating to that subsection) ".
- 15 In paragraph 4(2)(b) of Schedule 7 to the 1975 Act, for the words " which is, or forms part of, a colony, protectorate, protected state or United Kingdom trust territory " there shall be substituted the words " which, at the time when the fund was established, was, or formed part of, a colony (within the meaning of Schedule 1 to the Interpretation Act 1978), protectorate, protected state or United Kingdom trust territory ".
- 16 In paragraph 1(1) of Schedule 10 to the 1975 Act, for the words "a transferor's estate" there shall be substituted the words " a person's estate ".
- 17 In paragraph 5(1)(b) of Schedule 10 to the 1975 Act, for the word " by " there shall be substituted the word " for ".

*The Development Land Tax Act 1976*

- 18 (1) Section 34 of the Development Land Tax Act 1976 shall be amended as follows.
- (2) In subsection (3), for paragraph (d) there shall be substituted the following paragraph—
- “(d) ' a CTT transfer' means an event which is—

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- (i) a transfer of value, for the purposes of capital transfer tax, giving rise to liability for that tax,
- (ii) an occasion on which capital transfer tax is chargeable under Chapter II of Part IV of the Finance Act 1982, or
- (iii) a capital distribution (within the meaning of section 51(1) of the Finance Act 1975 as it has effect in relation to events before 9th March 1982),

and on the occurrence of which an interest in land is acquired by any person.”

(3) For subsection (5) there shall be substituted the following subsection—

“(5) In any case where the whole or any part of the land in which the interest referred to in paragraph (d) of subsection (3) above subsists—

- (a) is designated under section 77 of the Finance Act 1976 (conditional exemption) in relation to a conditionally exempt transfer (as defined in section 76 of that Act) made on a death, or
- (b) is designated as property to which section 34 of the Finance Act 1975 applies (conditional exemption on death before 7th April 1976),

it shall be assumed for the purpose only of determining whether the transfer of value in question falls within sub-paragraph (i) of subsection (3)(d) above that the transfer of value was not a conditionally exempt transfer or, as the case may be, that section 34 of the Finance Act 1975 never applied to the property.”

19 In paragraph 18(2) of Schedule 6 to the Development Land Tax Act 1976—

- (a) for the words from " as property " to " death ) " there shall be substituted the words " under section 34 of that Act or under section 77 of the Finance Act 1976 (conditional exemption) "; and
- (b) in paragraph (a) after the words " Act 1975 " there shall be inserted the words " or under section 78 of the Finance Act 1976 ".

*The Finance Act 1976*

20 In section 76(3)(b) of the Finance Act 1976, the words from " or the value " to the end shall cease to have effect.

21 In section 105 of the Finance Act 1976, subsections (3) and (4) shall cease to have effect.

22 In section 123(2) of the Finance Act 1976, after the words " shall carry interest" there shall be inserted the words " (which shall not constitute income for any tax purposes) ".

*The Finance Act 1980*

23 In Schedule 15 to the Finance Act 1980—

- (a) in paragraphs 2A, 5 and 6, for the word " previous " there shall be substituted the word " other "; and
- (b) in paragraphs 5 and 6, after the words " by that reduction " there shall be inserted the words " (or by the most recent of those reductions) ".

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*The Finance Act 1982*

- 24 In section 94(6) of the Finance Act 1982, the Words from " and, in " to the end shall cease to have effect.
- 25 In sections 120(1), 121(1) and (2) and 123 of the Finance Act 1982, after the words " for the purposes of this Chapter " there shall be inserted the words " , of sections 93 and 94 above and of sections 81, 82 and 82A of the Finance Act 1976 ".
- 26 In sections 122(1) and 124 of the Finance Act 1982, after the Words " for the purposes of this Chapter " there shall be inserted the words " and of sections 93 and 94 above ".

SCHEDULE 22

Section 127.

SPECIAL AND GENERAL COMMISSIONERS

*Appointment of Special Commissioners*

- 1 For section 4 of the Taxes Management Act 1970 (appointment of Special Commissioners) there shall be substituted—

**“4 Special Commissioners.**

- (1) The Lord Chancellor shall, after consultation with the Lord Advocate, appoint such persons as he thinks fit as " Commissioners for the special purposes of the Income Tax Acts" (in the Taxes Acts referred to as " Special Commissioners ") and shall designate one of the Special Commissioners as the Presiding Special Commissioner.
- (2) No person shall be appointed under subsection (1) above unless he is a barrister, advocate or solicitor of not less than ten years' standing.
- (3) If the Presiding Special Commissioner is temporarily absent or unable to act or there is a vacancy in his office, the Lord Chancellor may designate another Special Commissioner to act as deputy Presiding Special Commissioner and the Commissioner so designated shall, when so acting, have all the functions of the Presiding Special Commissioner.
- (4) The Lord Chancellor may, if he thinks fit, and after consultation with the Lord Advocate, remove a Special Commissioner from office on the grounds of incapacity or misbehaviour.
- (5) By virtue of their appointment the Special Commissioners shall have authority to execute such powers, and to perform such duties, as are assigned to them by any enactment
- (6) Such sums shall be allowed to Special Commissioners in respect of salary and incidental expenses and such pensions (including allowances and gratuities) shall be paid to, or in respect of, them as the Lord Chancellor may, with the approval of the Treasury, determine.

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- (7) Officers and staff may be appointed under section 27 of the Courts Act 1971 (court staff) for carrying out the administrative work of the Special Commissioners.

#### **4A Deputy Special Commissioners.**

- (1) If it appears to the Lord Chancellor expedient to do so in order to facilitate the performance of any functions of the Special Commissioners, he may, after consultation with the Lord Advocate, appoint a person to be a deputy Special Commissioner during such period or on such occasions as the Lord Chancellor thinks fit.
- (2) A person shall not be qualified for appointment as a deputy Special Commissioner unless he is qualified for appointment as a Special Commissioner.
- (3) A deputy Special Commissioner while acting under this section shall have all the jurisdiction and functions of a Special Commissioner and any reference to a Special Commissioner in the following provisions of this Act or in any other enactment or any instrument made under any enactment (whenever passed or made) shall include a reference to a deputy Special Commissioner.
- (4) The duty under section 6(1) below shall only apply to a deputy Special Commissioner on his first appointment to that office.
- (5) Notwithstanding the expiry of any period for which a person is appointed under this section, he may continue to act under the appointment for the purpose of continuing to deal with any matter with which he was concerned during that period.
- (6) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the approval of the Treasury, determine.”

#### *Special Commissioners: quorum*

- 2 (1) Section 45 of the Act of 1970 (quorum of Special Commissioners) shall be amended as follows.
- (2) In subsection (1), for the word " may " there shall be substituted the words " shall, except in any case where the Presiding Special Commissioner directs otherwise, " and the words "or any two or more Special Commissioners " shall be omitted.
- (3) In subsection (3), after the word "brought" there shall be inserted the words " , in accordance with a direction of the Presiding Special Commissioner ".
- (4) Subsections (2) and (4) to (6) shall be omitted.

#### *Elections to bring appeals before Special Commissioners*

- 3 (1) In section 31 of the Act of 1970 (appeals against assessments) the following subsections shall be inserted after subsection (5)—
- “(5A) An election under subsection (4) above shall be disregarded if—

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- (a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded ; or
    - (b) the General Commissioners have given a direction under subsection (5C) below and have not revoked it.
  - (5B) At any time before the determination of an appeal in respect of which an election has been made under subsection (4) above, the inspector or other officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.
  - (5C) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.
  - (5D) If, at any time after the giving of a direction under subsection (5C) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
  - (5E) Any decision to give a direction under subsection (5C) above or revoke such a direction under subsection (5D) above shall be final.”.
- (2) In Schedule 2 to the Act of 1970 (appeals against decisions on claims), in paragraph 1, the following sub-paragraphs shall be inserted after sub-paragraph (1)—
- “(1A) An election under sub-paragraph (1) above shall be disregarded if—
    - (a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded ; or
    - (b) the General Commissioners have given a direction under sub-paragraph (1C) below and have not revoked it.
  - (1B) At any time before the determination of an appeal in respect of which an election has been made under sub-paragraph (1) above, the inspector or other officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.
  - (1C) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.
  - (1D) If, at any time after the giving of a direction under sub-paragraph (1C) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
  - (1E) Any decision to give a direction under sub-paragraph (1C) or revoke such a direction under sub-paragraph (1D) above shall be final.”.

*Procedural rules*

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**“57B Commissioners: procedural rules.**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make rules—
- (a) as to the procedure of the Special Commissioners and the procedure in connection with the bringing of matters before them ;
  - (b) as to the time within which matters may be brought before the Special Commissioners ; and
  - (c) providing for appeals which have been heard by the Special Commissioners in the absence of the appellant to be reheard,
- in such circumstances and subject to such conditions, as the rules may prescribe.
- (2) Rules under this section may make such consequential provision (including the amendment of any enactment or instrument made under any enactment) as the Lord Chancellor considers necessary.
- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

*Transfer of appeals from General to Special Commissioners*

- 5 In section 44 of the Act of 1970 (jurisdiction of General Commissioners) the following subsection shall be inserted after subsection (3)—

“(3A) Where in any case (including one in which proceedings may be brought as mentioned in subsection (3) above)—

- (a) an appeal has been brought before the General Commissioners ; and
- (b) those Commissioners consider that, because of the complexity of the appeal or the length of time likely to be required for hearing it, the appeal should be brought before the Special Commissioners ;

the General Commissioners may, with the agreement of the Special Commissioners, and having considered any representations made to them by the parties, arrange for the transfer of the proceedings to the Special Commissioners.”.

*Fee for statement of case*

- 6 In section 56(3) of the Act of 1970 and paragraph 10(2) of Schedule 4 to the Finance Act 1975 (fee for statement of case for opinion of High Court) for " £1 " there shall be substituted " £25 ".

*Statement of case from Special Commissioners to Court of Appeal*

- 7 In the Act of 1970, the following section shall be inserted after section 56 (statement of case for opinion of High Court)—

**“56A Statement of case: Special Commissioners to Court of Appeal.**

- (1) The Lord Chancellor may by order provide that—

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- (a) in such classes of appeal in England and Wales as may be prescribed by the order; and
  - (b) subject to the consent of the parties and to such other conditions as may be so prescribed ;
- a case stated by the Special Commissioners under section 56 above, for the opinion of the High Court, shall be referred to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that section 56 above shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order'; and
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

*Saving*

- 8 Nothing in this Schedule shall affect the appointment of any person who, immediately before the passing of this Act, held office as a Special Commissioner.

SCHEDULE 23

Section 128(6).

REPEALS

**PART I**

MADE-WINE

Chapter	Short Title	Extent of Repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Schedule 2.
1982 c. 39.	The Finance Act 1982.	Section 1(4). Schedule 2.
1983 c. 28.	The Finance Act 1983.	Section 1(4). Schedule 2.

**PART II**

GAMING MACHINE LICENCE DUTY

Chapter	Short Title	Extent of Repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Section 24(1). In Schedule 4, in paragraphs 6 and 8(2), the words "in

These repeals do not affect licences granted for periods beginning before 1st October 1984.

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Chapter	Short Title	Extent of Repeal
<a href="#">1982 c. 39.</a>	The Finance Act 1982.	respect of any premises " and in paragraph 10(3) the words from " except" to the end- In Schedule 6, paragraphs 6 to 8 and 16.

These repeals do not affect licences granted for periods beginning before 1st October 1984.

### PART III

#### VALUE ADDED TAX

Chapter	Short Title	Extent of Repeal
<a href="#">1983 c. 55.</a>	The Value Added Tax Act 1983.	In section 16(5) the words " of a supply of goods or services outside the United Kingdom or " and " supply or " In Schedule 5, in Group 8, in Note (2), in paragraph (b), the words "or alteration" and paragraph (c).

### PART IV

#### CUSTOMS AND EXCISE: MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
<a href="#">1979 c. 58.</a>	The Isle of Man Act 1979.	In Schedule 1, paragraph 25.
<a href="#">1982 c. 39.</a>	The Finance Act 1982.	Section 2.
<a href="#">1983 c. 28.</a>	The Finance Act 1983.	Section 2.
<a href="#">1983 c. 55.</a>	The Value Added Tax Act 1983.	In section 24(3)(b) the figure " 7 ".

### PART V

#### INCOME TAX AND CORPORATION TAX: GENERAL

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	Section 310(1), (2) and (4). In section 343(1), in paragraph (a), the words



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Chapter	Short Title	Extent of Repeal
1972 c. 41.	The Finance Act 1972.	from " which takes " to " this section " and the proviso. Section 96. In Schedule 18, paragraph 2(1).
1974 c. 30.	The Finance Act 1974.	Section 10(3). In paragraph 14(1)(a) of Schedule 1, the words " employee-controlled company ", in both places.
1975 c. 22.	The Oil Taxation Act 1975.	Section 17(3).
1980 c. 48.	The Finance Act 1980.	Section 58. In Schedule 10, in paragraph 13, the words " (not exceeding £50 monthly) ".
1982 c. 39.	The Finance Act 1982.	Section 35(3). Section 40(4) and (5). In section 72(7), the words " on or before 31st March 1987 ".
1982 c. 50.	The Insurance Companies Act 1982.	In Schedule 5, paragraph 24.
1983 c. 28.	The Finance Act 1983.	Section 20(4).

1. The repeals in section 310 of the Income and Corporation Taxes Act 1970 and in Schedule 18 to the Finance Act 1972 do not have effect with respect to any financial year ending before 1st April 1986.
2. The repeals in section 343 of the Income and Corporation Taxes Act 1970 and section 58 of the Finance Act 1980 have effect from 6th April 1985.
3. The repeals in section 96 of the Finance Act 1972 and section 10(3) of the Finance Act 1974 do not have effect with respect to any financial year ending before 1st April 1985.
4. The repeals in Schedule 1 to the Finance Act 1974 have effect in relation to payments of interest made after the passing of this Act.
5. The repeal of section 17(3) of the Oil Taxation Act 1975 has effect with respect to any advance corporation tax which is, within the meaning of section 77 of this Act, advance corporation tax paid by a company in respect of distributions made in an accounting period of the company ending on or after 1st April 1984.
6. The repeal in paragraph 13 of Schedule 10 to the Finance Act 1980 has effect from the day appointed under section 39(9) of this Act.
7. The repeal in section 40 of the Finance Act 1982 has effect in relation to any right to acquire shares which is obtained after 5th April 1984.
8. The repeal in section 20(4) of the Finance Act 1983 has effect in relation to payments made on or after 6th April 1984.

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## PART VI

### INCOME TAX: THE ADDITIONAL RATE

Chapter	Short Title	Extent of Repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	<p>In section 30(3), the words " or additional".</p> <p>In section 36(1), the words " or additional".</p> <p>In section 38(2) the words from " and in determining" to " investment income ".</p> <p>In sections 403(1), 424(c), 430(1), 457(1) and 458(1) the words " or additional".</p>
1971 c. 68.	The Finance Act 1971.	<p>Section 32(3) and (4).</p> <p>Section 34(4).</p> <p>In Schedule 7, in paragraph 2(2), the words " or additional ".</p>
1972 c. 41.	The Finance Act 1972.	<p>In section 87(6), the words " or additional".</p> <p>In Schedule 16, in paragraph 5(6A), the words " or additional".</p>
1973 c. 51.	The Finance Act 1973.	<p>In section 44, the words " or additional".</p> <p>In section 59(2), the words from "the additional rate" to " them and ".</p>
1974 c. 30.	The Finance Act 1974.	<p>Section 15.</p> <p>In section 16(1), the words following " subsection (2) below ".</p> <p>In section 43(1), the words from " In this subsection " onwards.</p> <p>In Schedule 7, paragraph 1 and, in paragraph 9(5), the words from " and " onwards.</p>

The repeal in subsection (6) of section 87 of the Finance Act 1972 does not have effect for the purpose of determining whether a person has paid tax in respect of excess liability, within the meaning of that subsection, for the year 1983-84 or any earlier year of assessment or the amount so paid.

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Chapter	Short Title	Extent of Repeal
<a href="#">1975 c. 7.</a>	The Finance Act 1975.	In Schedule 2, in paragraph 19(1A) the words "or additional".
<a href="#">1980 c. 48.</a>	The Finance Act 1980.	In section 24(3), the words from "or over which" to "additional rate ", the word " respectively ", where it first occurs, and the words " and the investment income threshold ".

The repeal in subsection (6) of section 87 of the Finance Act 1972 does not have effect for the purpose of determining whether a person has paid tax in respect of excess liability, within the meaning of that subsection, for the year 1983-84 or any earlier year of assessment or the amount so paid.

## PART VII

### FOREIGN EARNINGS AND EMOLUMENTS

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 10.</a>	The Income and Corporation Taxes Act 1970.	In section 188(2), the words from " in respect of one-half " to " charged " and paragraph (a). In Schedule 8, in paragraph 12, the words " (2) or ". In Part III of Schedule 12, in paragraph 2(3) the words " (3) and ".
<a href="#">1974 c. 30.</a>	The Finance Act 1974.	Section 23(3). In Schedule 2, paragraph 3.
<a href="#">1975 c. 14.</a>	The Social Security Act 1975.	In Schedule 2, in paragraph 3(2), paragraph (cc).
<a href="#">1975 c. 15.</a>	The Social Security (Northern Ireland) Act 1975.	In Schedule 2, in paragraph 3(2), paragraph (cc).

1. The repeals in subsection (2) of section 188 of, and in Schedule 8 to, the Taxes Act have effect where the relevant date (within the meaning of that section) falls after 13th March 1984 but subject to subsection (8) of section 30 of this Act.
2. The repeal of section 23(3) of the Finance Act 1974 and the repeal in Schedule 12 of the Taxes Act have effect in relation to the year 1985-86 and subsequent years of assessment but subject to subsection (4) of section 30 of this Act.
3. The repeal in Schedule 2 of the Finance Act 1974 has effect in relation to the year 1989-90 and subsequent years of assessment.
4. The repeals in the Acts of 1975, section 31(2) of, and Schedule 7 to, the Finance Act 1977 and the Finance Act 1978 have effect for the year 1985-86 and subsequent years of assessment.

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

Chapter	Short Title	Extent of Repeal
1977 c. 36.	The Finance Act 1977.	In section 31(2), the words from the beginning to " emoluments); and "  In Schedule 7, paragraphs 2, 3,4(3), (4) and 5, in paragraph 9 the words "or 2", and paragraph 10.
1978 c. 42.	The Finance Act 1978.	Section 27. Schedule 4.

1. The repeals in subsection (2) of section 188 of, and in Schedule 8 to, the Taxes Act have effect where the relevant date (within the meaning of that section) falls after 13th March 1984 but subject to subsection (8) of section 30 of this Act.
2. The repeal of section 23(3) of the Finance Act 1974 and the repeal in Schedule 12 of the Taxes Act have effect in relation to the year 1985-86 and subsequent years of assessment but subject to subsection (4) of section 30 of this Act.
3. The repeal in Schedule 2 of the Finance Act 1974 has effect in relation to the year 1989-90 and subsequent years of assessment.
4. The repeals in the Acts of 1975, section 31(2) of, and Schedule 7 to, the Finance Act 1977 and the Finance Act 1978 have effect for the year 1985-86 and subsequent years of assessment.

## PART VIII

### CAPITAL GAINS

Chapter	Short Title	Extent of Repeal
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 6. Sections 8 and 9.  In section 29A, in subsection (2), the words "Except in the case specified in subsection (4) below" and, in paragraph (a), the words " or the corresponding disposal is made by an excluded person "  Section 32(5) and (6).  In sections 137(4)(aa) and 138(1)(aa), the words "to buy or sell shares in a company "  

1. The repeal of sections 6, 8, 9 and 148 of the Capital Gains Tax Act 1979 and of section 82 of the Finance Act 1980 and section 85 of the Finance Act 1982 has effect with respect to disposals on or after 6th April 1984.
2. The repeals in section 29 A of the Capital Gains Tax Act 1979 have effect in relation to disposals and acquisitions on or after 6th April 1983.
3. The repeals in section 32 of that Act have effect where the disposal by the person who is neither resident nor ordinarily resident in the United Kingdom is made on or after 6th April 1985.
4. The repeals in sections 137(4)(aa) and 138(1)(aa) of that Act have effect in relation to any abandonment or other disposal on or after 6th April 1984.

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

Chapter	Short Title	Extent of Repeal
1980 c. 48.	The Finance Act 1980.	Section 148. Section 82.
1982 c. 39.	The Finance Act 1982.	Section 85.
<ol style="list-style-type: none"> <li>1. The repeal of sections 6, 8, 9 and 148 of the Capital Gains Tax Act 1979 and of section 82 of the Finance Act 1980 and section 85 of the Finance Act 1982 has effect with respect to disposals on or after 6th April 1984.</li> <li>2. The repeals in section 29 A of the Capital Gains Tax Act 1979 have effect in relation to disposals and acquisitions on or after 6th April 1983.</li> <li>3. The repeals in section 32 of that Act have effect where the disposal by the person who is neither resident nor ordinarily resident in the United Kingdom is made on or after 6th April 1985.</li> <li>4. The repeals in sections 137(4)(aa) and 138(1)(aa) of that Act have effect in relation to any abandonment or other disposal on or after 6th April 1984.</li> </ol>		

## PART IX

### CAPITAL TRANSFER TAX

Chapter	Short Title	Extent of Repeal
1975 c. 7.	The Finance Act 1975.	In section 26(2), the words from the beginning to "respectively, and". In section 51(1), the definition of " enactment". Section 51(3). In Schedule 4, in paragraph 19(4), the words " to any person " and the words " of that person ".
1976 c. 40.	The Finance Act 1976.	In Schedule 4, paragraph 44. In section 76(3)(b), the words from " or the value" onwards. Section 105(3) and (4). Section 114(8). In Schedule 11, paragraph 2.
1982 c. 39.	The Finance Act 1982.	In section 94(6), the words from " and, in " onwards. In Schedule 17, paragraphs 9, 18 and 28.

The repeal of section 114(8) of the Finance Act 1976 has effect as from 1st April 1983.

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

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**PART X**

## STAMP DUTY

Chapter	Short Title	Extent of Repeal
1891 c. 39.	The Stamp Act 1891.	In section 75(1), the words " not exceeding thirty-five years ".
1963 c. 25.	The Finance Act 1963.	In Schedule 11, Part I.
1974 c. 30.	The Finance Act 1974.	In Schedule 11, in Part I, paragraphs 3 and 4, in Part II, paragraphs 13 and 14 and Part III.
1980 c. 48.	The Finance Act 1980.	Section 95(1).
1982 c. 39.	The Finance Act 1982.	Section 128(1).

**PART XI**

## NATIONAL INSURANCE SURCHARGE

Chapter	Short Title	Extent of Repeal
1976 c. 85.	The National Insurance Surcharge Act 1976.	The whole Act.
1977 c. 36.	The Finance Act 1977.	Section 57.
1978 c. 42.	The Finance Act 1978.	Section 75.
1980 c. 48.	The Finance Act 1980.	In section 118(4), the words from " and section 57" to " surcharge)".
1982 c. 39.	The Finance Act 1982.	Section 143.
1982 c. 55.	The National Insurance Surcharge Act 1982.	The whole Act.
1983 c. 28.	The Finance Act 1983.	Section 42.  In section 46(4), the words from " and section 57" to " surcharge) ".

These repeals have effect with respect to earnings paid on or after 6th April 1985.

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

## PART XII

### DEVELOPMENT LAND TAX

Chapter	Short Title	Extent of Repeal
<a href="#">1976 c. 24.</a>	The Development Land Tax Act 1976.	<p>In section 19A(1), the words " and before 1st April 1984 ".</p> <p>In section 26, subsection (2) and, in subsection (3), the words " or subsection (2) ".</p> <p>In section 40, in subsection (1), the words "which, at that time, is development land" and subsection (8).</p> <p>In section 47(1 A), the words " are begun on or before 31st December 1984 and ".</p> <p>In Schedule 8, in paragraph 45(1), (3), (4), (5) and (7)(b), the words " or half-yearly ".</p>

## PART XIII

### SPECIAL AND GENERAL COMMISSIONERS

Chapter	Short Title	Extent of Repeal
<a href="#">1970 c. 9.</a>	The Taxes Management Act 1970.	<p>In section 45, in subsection (1) the words " or any two or more Special Commissioners ", and subsections (2), (4), (5) and (6).</p> <p>In section 55(11) the words from the beginning to " and ".</p>

## PART XIV

### MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
<a href="#">1968 c. 13.</a>	The National Loans Act 1968.	In section 3(5), the words from " and " to " future Act".
<a href="#">1972 c. 41.</a>	The Finance Act 1972.	Section 132.

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

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Chapter	Short Title	Extent of Repeal
1975 c. 7.	The Finance Act 1975.	Section 55.
1975 c. 22.	The Oil Taxation Act 1975.	In section 3(4), the word " or " at the end of paragraph (d).
1978 c. 42.	The Finance Act 1978.	Section 78.
1982 c. 39.	The Finance Act 1982.	Section 154.