



Finance Act 1984

1984 CHAPTER 43

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.

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- (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:—

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-eighths
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 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 sub-paragraph (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 "

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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.

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(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
- (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.

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- (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—

“Section 26 of the Finance Act 1984.”.

- (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

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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.

(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.

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- (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 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—

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- “; 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 ;”; and
- (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”; 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.”.
- (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 second 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—

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- (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—
- (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—

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

- (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 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.

Status: This is the original version (as it was originally enacted).

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
 - ' 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 ;

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- (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 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—

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

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

Status: This is the original version (as it was originally enacted).

- 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):—
- “(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—

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- (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:—

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

- “(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
 - (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

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- (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.

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

- (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) "; and
 - (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
- (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 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.

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

- (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 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);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—

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- (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.
- (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 ;

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

- (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;
 - (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.

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

- (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
 - (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
- (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";
- 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”.”

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

- (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
 - (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—

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“(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),
 - (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:—

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

“(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
- (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

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- (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
- (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

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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).

(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 ".

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- (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—
- (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

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- (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,—
 - (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—

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- (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, 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,

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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.
- (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

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- (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 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—
 - (a) the proposal form for the policy was completed on or before that date, and
 - (b) on or before 31st March 1984 the policy was prepared for issue by the company or society concerned, and

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- (c) 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 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

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- (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

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- (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.
- (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 ".

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- (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.
- (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—

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- (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—
- (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,

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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 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

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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—

- (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:—

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- (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—

- (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

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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
 - (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

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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,

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- (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.

- (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—

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- (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

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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—
- (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

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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 ") 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;

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- (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;
 - (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

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- (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 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

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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
- (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—

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- (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 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

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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
 - (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—

“Section 90 of the Finance Act 1984.”

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

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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 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
 - (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.

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- (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).
- (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 ;

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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 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—

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- (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
 - (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

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- (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

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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.

(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

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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
- (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,

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within the meaning of section 79 of that Act (consideration given or received for new holding on a reorganisation).

- (7) In any case where—
- (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
- (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.