Finance Act 1988

1988 CHAPTER 39

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Tax rates and personal reliefs

23 Charge and basic rate of income tax for 1988-89

Income tax shall be charged for the year 1988-89, and the basic rate of tax shall be 25 per cent.

24 Higher and additional rates of income tax

(1) The rate at which income tax is charged for the year 1988-89 in respect of so much of an individual's total income as exceeds £19,300 shall be 40 per cent.

(2) In accordance with subsection (1) above, section 1 of the Taxes Act 1988 shall be amended as follows—

(a) for paragraph (b) of subsection (2) there shall be substituted—

"(b) in respect of so much of an individual's total income as exceeds £19,300, at such higher rate as Parliament may determine";

(b) in subsection (3) the words "and the" onwards shall cease to have effect;

(c) in subsection (4) for the words "each of the amounts" there shall be substituted the words "the amount";

(d) in subsection (6) for the word "amounts" there shall be substituted the word "amount";

and section 1(4) (indexation) shall not apply for the year 1988-89.

(3) In section 694 of the Taxes Act 1988 (which imposes a charge on trustees of maintenance funds for historic buildings in certain circumstances), in subsection (2), the words "at the rate of 30 per cent." shall cease to have effect; and after that subsection there shall be inserted—

"(2A) The rate at which tax is charged under this section shall be equivalent to the higher rate of income tax for the year of assessment during which the charge arises, reduced by the sum of the basic and additional rates for that year."

(4) In section 832(1) of the Taxes Act 1988, in the definition of "additional rate", for the words "income tax for" onwards there shall be substituted the words "any year of assessment for which income tax is charged, means 10 per cent. or such other rate as Parliament may determine".

25 Personal reliefs

(1) In section 257 of the Taxes Act 1988 (personal reliefs)—

(a) in subsection (1)(a) (married allowance) for "£3,795" there shall be substituted "£4,095";

(b) in subsections (1)(b) (single allowance) and (6) (wife's earned income relief) for "£2,425" there shall be substituted "£2,605";

(c) in subsection (2)(a) (married allowance: age 65 to 79) for "£4,675" there shall be substituted "£5,035";

(d) in subsection (2)(b) (single allowance: age 65 to 79) for "£2,960" there shall be substituted "£3,180";

(e) in subsection (3)(a) (married allowance: age 80 and over) for "£4,845" there shall be substituted "£5,205";

(f) in subsection (3)(b) (single allowance: age 80 and over) for "£3,070" there shall be substituted "£3,310";

(g) in subsection (5) (income limit for age allowance) for "£9,800" there shall be substituted "£10,600".

(2) Section 257(9) of that Act (indexation) shall not apply for the year 1988-89.

(3) Sections 258, 263 and 264 of that Act (housekeeper allowance, dependent relative allowance and son's or daughter's services allowance) shall not have effect for the year 1988-89 or any subsequent year of assessment.

26 Charge and rate of corporation tax for financial year 1988

Corporation tax shall be charged for the financial year 1988 at the rate of 35 per cent.

27 Corporation tax: small companies

(1) For the financial year 1988 the small companies rate shall be 25 per cent.

(2) For the financial year 1988 the fraction mentioned in section 13(2) of the Taxes Act 1988, and in section 95(2) of the Finance Act 1972, (marginal relief for small companies) shall be one fortieth.

28 Deduction rate for sub-contractors in construction industry

Section 559(4) of the Taxes Act 1988 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after 31st October 1988 with the substitution for the words "27 per cent." of the words "25 per cent.".

29 Life assurance premium relief

(1) In sections 266(5)(a) and 274(3)(a) of the Taxes Act 1988, and in paragraph 3(3)(a) of Schedule 14 to that Act, (rate of relief on premiums on life policies etc.) for the words "15 per cent." wherever they occur there shall be substituted the words "12.5 per cent.".

(2) This section shall have effect on and after 6th April 1989.

30 Additional relief in respect of children

(1) In section 259 of the Taxes Act 1988 (additional relief in respect of children), in subsection (2), for the words "and (4)" there shall be substituted the words "to (4A)"; and after subsection (4) there shall be inserted—

"(4A) Where—

(a) a man and a woman who are not married to each other live together as husband and wife for the whole or any part of a year of assessment, and

(b) apart from this subsection each of them would on making a claim be entitled to a deduction under subsection (2) above,

neither of them shall be entitled to such a deduction except in respect of the youngest of the children concerned (that is to say, the children in respect of whom either would otherwise be entitled to a deduction)."

(2) This section shall apply for the year 1989-90 and subsequent years of assessment.

31 Non-residents' personal reliefs

(1) For the year 1990-91 and subsequent years of assessment section 278 of the Taxes Act 1988 (which with certain exceptions denies relief under Chapter I of Part VII to non-residents) shall have effect with the following amendments.

(2) In subsection (2)(e) (exception for widows of Crown servants) after the word "husband" there shall be inserted the words ", or a widower whose late wife,".

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

"(2A) Notwithstanding subsection (2) above, no relief shall be given under section 257D in a case where the husband is not resident in the United Kingdom."

(4) Subsections (3) to (7) shall be omitted.

Married couples

32 Abolition of aggregation of income

Section 279 of the Taxes Act 1988 (which treats the income of a woman living with her husband as his income for income tax purposes) shall not have effect for the year 1990-91 or any subsequent year of assessment.

33 Personal allowance and married couple's allowance

The Taxes Act 1988 shall have effect for the year 1990-91 and subsequent years of assessment with the substitution of the following sections for section 257—

"**257 Personal allowance**

(1) The claimant shall be entitled to a deduction from his total income of £2,605.

(2) If the claimant proves that he is at any time within the year of assessment of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £3,180 (instead of the deduction provided for by subsection (1) above).

(3) If the claimant proves that he is at any time within the year of assessment of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £3,310 (instead of the deduction provided for by subsection (1) or (2) above).

(4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.

(5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by two-thirds of the excess (but not so as to reduce those amounts below that specified in subsection (1) above).

257A Married couple's allowance

(1) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, he shall be entitled to a deduction from his total income of £1,490.

(2) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £1,855 (instead of the deduction provided for by subsection (1) above).

(3) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £1,895 (instead of the deduction provided for by subsection (1) or (2) above).

(4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.

(5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by—

(a) two-thirds of the excess, less

(b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section,

(but not so as to reduce the amounts so specified below the amount specified in subsection (1) above).

(6) A man shall not be entitled by virtue of this section to more than one deduction for any year of assessment; and in relation to a claim by a man who becomes married in the year of assessment and has not previously in the year been entitled to relief under this section, this section shall have effect as if the amounts specified in subsections (1) to (3) above were reduced by one twelfth for each month of the year ending before the date of the marriage.

In this subsection "month" means a month beginning with the 6th day of a month of the calendar year.

257B Transfer of relief under section 257A

(1) Where —

(a) a man is entitled to relief under section 257A, but

(b) the amount which he is entitled to deduct from his total income by virtue of that section exceeds what is left of his total income after all other deductions have been made from it,

his wife shall be entitled to a deduction from her total income of an amount equal to the excess.

(2) In determining for the purposes of subsection (1)(b) above the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—

(a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or

(b) under section 289.

(3) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—

(a) shall be given not later than six years after the end of the year of assessment to which it relates,

(b) shall be in such form as the Board may determine, and

(c) shall be irrevocable.

257C Indexation of amounts in sections 257 and 257A

(1) If the retail prices index for the month of December preceding a year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, sections 257 and 257A shall apply for that year as if for each amount specified in them as they applied for the previous year (whether by virtue of this section or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index, and—

(a) if in the case of an amount specified in sections 257(5) and 257A(5) the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple;

(b) if in the case of any other amount the increase is not a multiple of £10, rounding the increase up to the nearest amount which is such a multiple.

(2) Subsection (1) above shall not require any change to be made in the amounts deductible or repayable under section 203 between the beginning of a year of assessment and 5th May in that year.

(3) The Treasury shall in each year of assessment make an order specifying the amounts which by virtue of subsection (1) above will be treated as specified for the following year of assessment in sections 257 and 257A.

(4) This section shall have effect in relation to reliefs for the year 1990-91 (as well as for later years); and for that purpose it shall be assumed that sections 257 and 257A applied for the year 1989-90 as they apply, apart from this section, for the year 1990-91.

257D Transitional relief: husband with excess allowances

(1) Where—

(a) a husband and wife are living together for the whole or any part of the year 1990-91 and section 279 (but not section 287) applied in relation to them for the whole or any part of the year 1989-90, and

(b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter exceed the aggregate mentioned in subsection (2) below,

the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.

(2) The aggregate referred to in subsection (1) above is the aggregate of—

(a) the husband's total income for the year 1990-91, and

(b) the deductions which the wife is entitled to make from her total income for that year under this Chapter (apart from this section).

(3) Where—

(a) a husband and wife are living together for the whole or any part of the year 1990-91 and for part of the year 1989-90 but section 279 did not apply in relation to them for any part of the year 1989-90, and

(b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter, apart from section 257(6), exceed his total income for the year 1990-91,

then, subject to subsection (4) below, the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.

(4) If the deductions which the wife is entitled to make from her total income for the year 1990-91 under this Chapter (apart from this section) exceed the lesser of—

(a) her total income for the year 1989-90, and

(b) the deductions which she was entitled to make from her total income for that year under this Chapter, apart from section 259, section 262 and section 280,

the deduction provided for by subsection (3) above shall be reduced by an amount equal to the excess.

(5) Where—

(a) a husband and wife are living together for the whole or any part of the year 1991-92 or any subsequent year of assessment ("the year in question"), and

(b) they were also living together throughout the immediately preceding year of assessment and the wife made a deduction from her total income for that year under this section, and

(c) the deductions which the wife is entitled to make from her total income under this Chapter (apart from this section) are either no greater for the year in question than for the immediately preceding year, or greater by a margin which does not exceed the deduction referred to in paragraph (b) above, and

(d) the deductions which the husband is entitled to make from his total income for the year in question under this Chapter, apart from section 257A and section 265, exceed his total income for that year,

the wife shall be entitled to a deduction from her total income for that year.

(6) The amount of that deduction shall be equal to—

(a) the deduction referred to in subsection (5)(b) above, reduced where applicable by an amount equal to the margin referred to in subsection (5)(c), or

(b) the excess referred to in subsection (5)(d),

whichever is less.

(7) In determining for the purposes of subsection (5)(b) above whether the wife made a deduction from her total income for the immediately preceding year of assessment under this section, and the amount of any such deduction, it shall be assumed that a deduction under this section is made after all other deductions (except any deduction under section 289).

(8) In determining for the purposes of this section a person's total income for a year of assessment there shall be disregarded any deduction made—

(a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or

(b) under this Chapter or under section 289;

and in determining for the purposes of subsection (1)(b) above the deductions which a man was entitled to make under this Chapter for the year 1989-90, any application under section 283 shall be disregarded.

(9) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—

(a) shall be given not later than six years after the end of the year of assessment to which it relates,

(b) shall be in such form as the Board may determine, and

(c) shall be irrevocable.

(10) A notice given under subsection (9) above in relation to a year of assessment shall have effect also as a notice under section 257B(3) (and, where it is relevant, under section 265(5)).

257E Transitional relief: the elderly

(1) This section shall apply in relation to a claimant for any year of assessment for the whole or any part of which he has his wife living with him if he proves—

(a) that for the year 1989-90 he was entitled to relief by virtue of section 257(2)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 65 throughout that year), or

(b) that for the year 1989-90 he was entitled to relief by virtue of section 257(3)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 80 throughout that year),

and, in either case, that the amount of that relief exceeded the aggregate amount of any relief to which he would be entitled for the year 1990-91 under sections 257 and 257A (apart from this section).

(2) Where this section applies, section 257 shall have effect—

(a) in a case within subsection (1)(a) above, as if for the amount specified in subsection (1) of that section there were substituted £3,180, and

(b) in a case within subsection (1)(b) above, as if for the amounts specified in subsections (1) and (2) of that section there were substituted £3,310.

(3) Section 257(5) shall have effect in relation to section 257(1) as modified by this section as it has effect in relation to section 257(2) and (3); and in all cases the reference in section 257(5) to the amount specified in section 257(1) is a reference to the amount specified apart from this section.

(4) The references in section 257C to the amounts specified in section 257 are references to the amounts specified apart from this section.

(5) In determining for the purposes of this section the amount of any reliefs to which a person was entitled for the year 1989-90, any application under section 283 shall be disregarded.

257F Transitional relief: separated couples

If the claimant proves—

(a) that he and his wife ceased to live together before 6th April 1990 but that ever since they ceased to live together they have continued to be married to one another and she has been wholly maintained by him, and

(b) that he is not entitled to make any deduction in respect of the sums paid for her maintenance in computing for income tax purposes the amount of his income for the year to which the claim relates, and

(c) that he was entitled to a deduction for the year 1989-90 by virtue of section 257(1)(a) of this Act (as it had effect for that year) and, if the claim relates to a year later than 1990-91, that he has been entitled by virtue of this section to a deduction under section 257A for each intervening year,

sections 257A and 257E (but not section 257B or section 257D) shall have effect for the year to which the claim relates as if his wife were living with him."

34 Jointly held property

The Taxes Act 1988 shall have effect for the year 1990-91 and subsequent years of assessment with the insertion of the following sections after section 282—

"**282A Jointly held property**

(1) Subject to the following provisions of this section, income arising from property held in the names of a husband and his wife shall for the purposes of income tax be regarded as income to which they are beneficially entitled in equal shares.

(2) Subsection (1) above shall not apply to income to which neither the husband nor the wife is beneficially entitled.

(3) Subsection (1) above shall not apply to income—

(a) to which either the husband or the wife is beneficially entitled to the exclusion of the other, or

(b) to which they are beneficially entitled in unequal shares,

if a declaration relating to it has effect under section 282B.

(4) Subsection (1) above shall not apply to—

(a) earned income, or

(b) income which is not earned income but to which section 111 applies.

(5) Subsection (1) above shall not apply to income to which the husband or the wife is beneficially entitled if or to the extent that it is treated by virtue of any other provision of the Income Tax Acts as the income of the other of them or of a third party.

(6) References in this section to a husband and his wife are references to a husband and wife living together.

282B Jointly held property: declarations

(1) The declaration referred to in section 282A (3) is a declaration by both the husband and the wife of their beneficial interests in—

(a) the income to which the declaration relates, and

(b) the property from which that income arises.

(2) Subject to the following subsections, a declaration shall have effect under this section in relation to income arising on or after the date of the declaration; but a declaration made before 6th June 1990 shall also have effect in relation to income arising before that date.

(3) A declaration shall not have effect under this section unless notice of it is given to the inspector, in such form and manner as the Board may prescribe, within the period of 60 days beginning with the date of the declaration.

(4) A declaration shall not have effect under this section in relation to income from property if the beneficial interests of the husband and the wife in the property itself do not correspond to their beneficial interests in the income.

(5) A declaration having effect under this section shall continue to have effect unless and until the beneficial interests of the husband and wife in either the income to which it relates, or the property from which the income arises, cease to accord with the declaration."

35 Minor and consequential provisions

Schedule 3 to this Act (which makes provision consequential on sections 32 and 33 above and other minor amendments relating to the treatment for income tax purposes of husbands, wives, widowers and widows) shall have effect.

Annual payments

36 Annual payments

(1) The following sections shall be inserted at the beginning of Part IX of the Taxes Act 1988—

"**347A General rule**

(1) A payment to which this section applies shall not be a charge on the income of the person liable to make it, and accordingly—

(a) his income shall be computed without any deduction being made on account of the payment, and

(b) the payment shall not form part of the income of the person to whom it is made or of any other person.

(2) This section applies to any annual payment made by an individual which would otherwise be within the charge to tax under Case III of Schedule D except—

(a) a payment of interest;

(b) a covenanted payment to charity (within the meaning given by section 660(3));

(c) a payment made for bona fide commercial reasons in connection with the individual's trade, profession or vocation; and

(d) a payment to which section 125(1) applies.

(3) This section applies to a payment made by personal representatives (within the meaning given in section 701(4)) where—

(a) the deceased would have been liable to make the payment if he had not died, and

(b) this section would have applied to the payment if he had made it.

(4) A maintenance payment arising outside the United Kingdom shall not be within the charge to tax under Case V of Schedule D if, because of this section, it would not have been within the charge to tax under Case III had it arisen in the United Kingdom; and for this purpose "maintenance payment" means a periodical payment (not being an instalment of a lump sum) which satisfies the conditions set out in paragraphs (a) and (b) of section 347B(5).

(5) No deduction shall be made under section 65(1)(b) on account of an annuity or other annual payment which would not have been within the charge to tax under Case III of Schedule D if it had arisen in the United Kingdom.

(6) References in subsection (2) above to an individual include references to a Scottish partnership in which at least one partner is an individual.

347B Qualifying maintenance payments

(1) In this section "qualifying maintenance payment" means a periodical payment which—

(a) is made under an order made by a court in the United Kingdom, or under a written agreement the proper law of which is the law of a part of the United Kingdom,

(b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—

(i) to or for the benefit of the other party and for the maintenance of the other party, or

(ii) to the other party for the maintenance by the other party of any child of the family,

(c) is due at a time when—

(i) the two parties are not a married couple living together, and

(ii) the party to whom or for whose benefit the payment is made has not remarried, and

(d) is not a payment in respect of which relief from tax is available to the person making the payment under any provision of the Income Tax Acts other than this section.

(2) Notwithstanding section 347A(1)(a) but subject to subsections (3) and (4) below, a person making a claim for the purpose shall be entitled, in computing his total income for a year of assessment, to deduct an amount equal to the aggregate amount of any qualifying maintenance payments made by him which fall due in that year.

(3) The amount which may be deducted under this section by a person in computing his total income for a year of assessment shall not exceed the amount of the difference between the higher (married person's) relief and the lower (single person's) relief under subsection (1) of section 257 as it applies for the year to a person not falling within subsection (2) or (3) of that section.

(4) Where qualifying maintenance payments falling due in a year of assessment are made by a person who also makes other maintenance payments attracting

relief for that year, subsection (3) above shall apply as if the limit imposed by it were reduced by an amount equal to the aggregate amount of those other payments.

(5) The reference in subsection (4) above to other maintenance payments attracting relief for a year is a reference to periodical payments which—

(a) are made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement, and

(b) are made by a person—

(i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or

(ii) to any person under 21 years of age for his own benefit, maintenance or education, or

(iii) to any person for the benefit, maintenance or education of a person under 21 years of age,

and in respect of which the person making them is entitled otherwise than under this section to make a deduction in computing his income for the year.

(6) The reference in subsection (1) above to a married couple living together shall be construed in accordance with section 282(1), but section 282(2) shall not apply for the purposes of this section.

(7) In this section—

"child of the family", in relation to the parties to a marriage, means a person under 21 years of age—

(a) who is a child of both those parties, or

(b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;

"periodical payment" does not include an instalment of a lump sum."

(2) The following sections shall be inserted at the beginning of Part II of the Taxes Act 1970—

"**51A General rule**

(1) A payment to which this section applies shall not be a charge on the income of the person liable to make it, and accordingly—

(a) his income shall be computed without any deduction being made on account of the payment, and

(b) the payment shall not form part of the income of the person to whom it is made or of any other person.

(2) This section applies to any annual payment made by an individual which would otherwise be within the charge to tax under Case III of Schedule D except—

(a) a payment of interest;

(b) a covenanted payment to charity (within the meaning given by section 434(2) below);

(c) a payment made for bona fide commercial reasons in connection with the individual's trade, profession or vocation; and

(d) a payment to which section 48(1) of the Finance Act 1977 applies.

(3) This section applies to a payment made by personal representatives (within the meaning given in section 432(4) below) where—

(a) the deceased would have been liable to make the payment if he had not died, and

(b) this section would have applied to the payment if he had made it.

(4) A maintenance payment arising outside the United Kingdom shall not be within the charge to tax under Case V of Schedule D if, because of this section, it would not have been within the charge to tax under Case III had it arisen in the United Kingdom; and for this purpose "maintenance payment" means a periodical payment (not being an instalment of a lump sum) which satisfies the conditions set out in paragraphs (a) and (b) of section 51B(5) below.

(5) No deduction shall be made under section 122(1)(b) below on account of an annuity or other annual payment which would not have been within the charge to tax under Case III of Schedule D if it had arisen in the United Kingdom.

(6) References in subsection (2) above to an individual include references to a Scottish partnership in which at least one partner is an individual.

51B Qualifying maintenance payments

(1) In this section "qualifying maintenance payment" means a periodical payment which—

(a) is made under an order made by a court in the United Kingdom, or under a written agreement the proper law of which is the law of a part of the United Kingdom,

(b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—

(i) to or for the benefit of the other party and for the maintenance of the other party, or

(ii) to the other party for the maintenance by the other party of any child of the family,

(c) is due at a time when—

(i) the two parties are not a married couple living together, and

(ii) the party to whom or for whose benefit the payment is made has not remarried, and

(d) is not a payment in respect of which relief from tax is available to the person making the payment under any provision of the Income Tax Acts other than this section.

(2) Notwithstanding section 51A(1)(a) above but subject to subsections (3) and (4) below, a person making a claim for the purpose shall be entitled, in computing his total income for the year 1987-88, to deduct an amount equal to the aggregate amount of any qualifying maintenance payments made by him which fall due in that year.

(3) The amount which may be deducted under this section by a person in computing his total income for the year 1987-88 shall not exceed £1,370.

(4) Where qualifying maintenance payments falling due in the year 1987-88 are made by a person who also makes other maintenance payments attracting relief for that year, subsection (3) above shall apply as if the limit imposed by it were reduced by an amount equal to the aggregate amount of those other payments.

(5) The reference in subsection (4) above to other maintenance payments attracting relief for the year 1987-88 is a reference to periodical payments which—

(a) are made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement, and

(b) are made by a person—

(i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or

(ii) to any person under 21 years of age for his own benefit, maintenance or education, or

(iii) to any person for the benefit, maintenance or education of a person under 21 years of age,

and in respect of which the person making them is entitled otherwise than under this section to make a deduction in computing his income for the year.

(6) The reference in subsection (1) above to a married couple living together shall be construed in accordance with section 42(1) above, but section 42(2) above shall not apply for the purposes of this section.

(7) In this section—

"child of the family", in relation to the parties to a marriage, means a person under 21 years of age—

(a) who is a child of both those parties, or

(b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;

"periodical payment" does not include an instalment of a lump sum."

(3) This section shall have effect in relation to any payment falling due on or after 15th March 1988 unless it is made in pursuance of an existing obligation.

(4) In subsection (3) above "existing obligation" means a binding obligation—

(a) under an order made by a court (whether in the United Kingdom or elsewhere) before 15th March 1988, or before the end of June 1988 on an application made on or before 15th March 1988;

(b) under a deed executed or written agreement made before 15th March 1988 and received by an inspector before the end of June 1988;

(c) under an oral agreement made before 15th March 1988, written particulars of which have been received by an inspector before the end of June 1988; or

(d) under an order made by a court (whether in the United Kingdom or elsewhere) on or after 15th March 1988, or under a written agreement made on or after that date, where the order or agreement replaces, varies or supplements an order or agreement within this subsection;

but subject to subsection (5) below.

(5) An obligation within subsection (4)(d) above is an existing obligation only if—

(a) it is an obligation to make periodical payments (not being instalments of a lump sum) which are made by a person—

(i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or

(ii) to any person under 21 years of age for his own benefit, maintenance or education, or

(iii) to any person for the benefit, maintenance or education of a person under 21 years of age, and

(b) the order or agreement replaced, varied or supplemented provided for such payments to be made for the benefit, maintenance or, as the case may be, education of the same person.

(6) Section 351 of the Taxes Act 1988 and section 65 of the Taxes Act 1970 shall not apply to any payment in relation to which this section has effect.

37 Maintenance payments under existing obligations: 1988-89

(1) This section applies to any annual payment due in the year 1988-89 which—

(a) is made in pursuance of an existing obligation under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement,

(b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—

(i) to or for the benefit of the other party and for the maintenance of the other party, or

(ii) to the other party for the maintenance by the other party of any child of the family,

(c) is due at a time when—

(i) the two parties are not a married couple living together, and

(ii) the party to whom or for whose benefit the payments are made has not remarried, and

(d) is within the charge to tax under Case III or Case V of Schedule D, and is not by virtue of Part XV of the Taxes Act 1988 treated for any purpose as the income of the person making it.

(2) On making a claim for the purpose a person chargeable to tax in respect of payments to which this section applies shall be entitled, in computing his total income for the year 1988-89, to deduct an amount equal to the aggregate amount of the payments, or £1,490, whichever is less.

38 Maintenance payments under existing obligations: 1989-90 onwards

(1) This section applies to any annual payment due in the year 1989-90 or any subsequent year of assessment which—

(a) is made in pursuance of an existing obligation under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement,

(b) is made by an individual—

(i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or

(ii) to any person under 21 years of age for his own benefit, maintenance or education, or

(iii) to any person for the benefit, maintenance or education of a person under 21 years of age, and

(c) is (apart from this section) within the charge to tax under Case III or Case V of Schedule D, and is not by virtue of Part XV of the Taxes Act 1988 treated for any purpose as the income of the person making it.

(2) A payment to which this section applies shall not be a charge on the income of the person liable to make it, but—

(a) that person shall be entitled, on making a claim for the purpose, to make a deduction of an amount determined in accordance with subsection (3) below in computing his total income for the year of assessment in which the payment falls due, and

(b) the payment shall form part of the income of the recipient, but subject to subsections (4) and (5) below.

(3) The amount which a person may deduct under subsection (2)(a) above in computing his total income for a year of assessment shall be equal to the aggregate amount of the payments made by him which fall due in that year and to which this section applies, except that it shall not in any event exceed the aggregate amount of any payments due in the year 1988-89—

(a) which satisfy the conditions in paragraphs (a), (b) and (c) of subsection (1) above, and

(b) in respect of which he was entitled to make a deduction in computing his income for that year.

(4) The amount which, by virtue of subsection (2)(b) above, is treated as forming part of a person's income for a year of assessment by reason of payments made by another person ("the payer") shall not exceed the aggregate amount of any payments made by the payer which—

(a) formed part of the same recipient's income for the year 1988-89, and

(b) satisfy the conditions in paragraphs (a), (b) and (c) of subsection (1) above.

(5) The amount which, by virtue of subsection (2)(b) above, would apart from this subsection be treated as forming part of a person's income for a year of assessment by reason of payments within subsection (6) below shall, if he makes a claim for the purpose, be reduced by the amount of the difference between the higher (married person's) relief and the lower (single person's) relief under subsection (1) of section 257 of the Taxes Act 1988 as it applies for that year to a person not falling within subsection (2) or (3) of that section.

(6) The payments referred to in subsection (5) above are payments which—

(a) are made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—

(i) to or for the benefit of the other party and for the maintenance of the other party, or

(ii) to the other party for the maintenance by the other party of any child of the family, and

(b) are due at a time when—

(i) the two parties are not a married couple living together, and

(ii) the party to whom or for whose benefit the payments are made has not remarried.

(7) A payment to which this section applies shall be made without deduction of income tax.

(8) A payment to which this section applies shall be within the charge to tax under Case III or (if it arises outside the United Kingdom) Case V of Schedule D; and tax chargeable under Case III shall, notwithstanding anything in sections 64 to 67 of the Taxes Act 1988, be computed on the payments falling due in the year of assessment, so far as paid in that or any other year.

(9) No deduction shall be made under section 65(1)(b) of the Taxes Act 1988 on account of a payment to which this section applies.

39 Maintenance payments under existing obligations: election for new rules

(1) If an election is duly made for the purpose by any person, section 36 above shall have effect in relation to all payments made by him—

(a) to which section 37 or section 38 above would apply apart from the election, and

(b) which fall due in a year of assessment for which the election has effect;

and accordingly sections 37 and 38 shall not apply to the payments.

(2) An election under subsection (1) above—

(a) shall be made in such form and manner as the Board may prescribe,

(b) shall be made not later than twelve months after the end of the first year of assessment for which it is to have effect,

(c) shall have effect for any subsequent year of assessment, and

(d) shall be irrevocable.

(3) A person making an election under subsection (1) above shall, before the end of the period of 30 days beginning with the day on which it is made, give notice of it to every recipient of a payment affected by the election.

40 Provisions supplementary to sections 37 to 39

(1) In sections 37 to 39 above—

"child of the family", in relation to the parties to a marriage, means a person under 21 years of age—

(a) who is a child of both those parties, or

(b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;

"existing obligation" has the same meaning as in section 36(3) above.

(2) The references in sections 38(2)(b) and (4) and 39(3) above to the recipient of a payment are, in a case of the kind described in sections 37(1)(b)(i) and 38(1)(b)(i), references to the other party there mentioned.

(3) The references in sections 37 and 38 above to a married couple living together shall be construed in accordance with section 282(1) of the Taxes Act 1988, but section 282(2) shall not apply for the purposes of those sections.

Relief for interest

41 Qualifying maximum for loans

For the year 1988-89 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

42 Home loans: restriction of relief

(1) The following sections shall be inserted after section 356 of the Taxes Act 1988—

"**356A Limit on relief for home loans: residence basis**

(1) Where all the qualifying interest payable for any period in relation to a residence is payable by one person, it shall be eligible for relief only to the extent that the amount on which it is payable does not exceed the qualifying maximum during the period.

(2) Where qualifying interest is payable for any period in relation to a residence by more than one person, the interest paid by each of them shall be eligible for relief only to the extent that the amount on which it is payable by him does not exceed the sharer's limit for the period in his case.

(3) Subject to the following provisions of this section and section 356B, in this section and section 356B "the sharer's limit", in relation to a person by whom qualifying interest is payable for a period in relation to a residence, means the amount arrived at by dividing the amount of the qualifying maximum during the period by the number of persons by whom qualifying interest is payable for the period in relation to the residence.

(4) Subsection (5) below applies where—

(a) in the case of any person by whom qualifying interest is payable for any period in relation to a residence the sharer's limit for the period exceeds the amount on which the interest is payable by him, and

(b) the amount which (apart from that subsection) would be the sharer's limit for the period in the case of any other person by whom qualifying interest is payable for the period in relation to the residence falls short of the amount on which qualifying interest is so payable by him.

(5) Where this subsection applies—

(a) the sharer's limit for the period in the case of the person mentioned in subsection (4)(a) above shall be reduced by the amount of the excess, and

(b) the sharer's limit for the period in the case of any person such as is mentioned in subsection (4)(b) above shall be increased in accordance with subsections (6) to (8) below.

(6) Where there is only one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in his case shall be increased by the amount of the excess.

(7) Where there is more than one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in the case of each of them shall be increased by such part of the excess as bears to the whole of it the same proportion as any shortfall in his case bears to the aggregate of any shortfalls in the case of each of them.

(8) In subsection (7) above "shortfall" means the amount by which what would be the sharer's limit in the case of a person (apart from subsection (5) above) falls short of the amount on which qualifying interest is payable by him.

356B Residence basis: married couples

(1) Subject to subsections (2) and (4) below, qualifying interest payable or paid by a married woman who is not separated from her husband shall be treated for the purposes of sections 353 to 356A and 369 to 379 as payable or paid by her husband (and not by her).

(2) Where—

(a) qualifying interest is payable, or treated by subsection (1) above as payable, for a period in relation to a residence by a married man who is not separated from his wife, and

(b) qualifying interest is also payable for the period in relation to the residence by one or more persons other than the man and his wife,

then for the purposes of section 356A(2) and (3) qualifying interest shall be treated as payable by the wife for the period in relation to the residence (whether or not it actually is).

(3) The application of subsection (2) above in the case of a husband and wife shall not give rise to a separate sharer's limit for the period in question in the case of the wife; but the limit arrived at under subsection (3) of section 356A for the period in the case of the husband shall be increased by the amount which (apart from this subsection) would be the limit arrived at under that subsection in the case of the wife.

(4) Where an application under section 283 or an election under section 287 is in force in relation to a husband and wife for a year of assessment, subsections (1) to (3) above shall not apply in relation to them for the year but they may jointly elect—

(a) that qualifying interest payable or paid by one of them for the year (or a period within the year), or such part of that interest as may be specified in the election, shall be treated for the purposes of sections 353 to 356A and 369 to 379 (and section 287(7)) as payable or paid by the other, and

(b) that the sharer's limit under section 356A for the year (or period) in the case of one of them shall be reduced by such amount as may be specified in the election and the sharer's limit under that section for the year (or period) in the case of the other shall be correspondingly increased.

(5) An election under subsection (4) above—

(a) shall be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow,

(b) shall, subject to subsection (6) below, have effect if made for the year 1988-89 not only for that year but also for the year 1989-90, and

(c) shall be in such form, and be made in such manner, as the Board may prescribe.

(6) Where a husband and wife have made an election under subsection (4) above for the year 1988-89 they may give, for the year 1989-90, a notice to withdraw that election; and, if they do so, the election shall not have effect for the year 1989-90.

(7) A notice of withdrawal under subsection (6) above—

(a) shall be in such form, and be given in such manner, as the Board may prescribe,

(b) shall not be given after 5th April 1991 or such later date as the Board may in any particular case allow, and

(c) shall not prejudice the making of a fresh election for 1989-90.

(8) Where—

(a) a husband and wife are not separated,

(b) the husband pays interest in relation to a residence used or to be used as his only or main residence, and

(c) his wife pays interest in relation to some other residence used or to be used as her only or main residence,

the residence which was purchased first shall be treated for the purposes of sections 355(1)(a) and 356 as used or to be used as the only or main residence of both of them and the other residence shall be treated as used or to be used as the only or main residence of neither.

356C Payments to which sections 356A and 356B apply

(1) Subject to subsection (2) below, sections 356A and 356B shall have effect with respect to payments of qualifying interest made on or after 1st August 1988.

(2) Subject to subsection (5) below, those sections shall not have effect with respect to a payment of qualifying interest made by a person in relation to a residence if—

(a) the payment is made under a loan made before 1st August 1988,

(b) qualifying interest was payable in relation to the residence for 1st August 1988 by someone other than the person making the payment or his spouse,

(c) qualifying interest has been payable in relation to the residence by the person making the payment or his spouse throughout the time beginning with 1st August 1988 and ending with the date of the payment, and

(d) someone other than the person making the payment or his spouse owns an estate or interest or property in the residence at each point during that time and at each such point at least one such person is a person by whom qualifying interest is payable in relation to the residence at some point during that time.

(3) For the purposes of subsection (2) above a loan made on or after 1st August 1988 shall be treated as made before that date if it is proved by written evidence—

(a) that the loan was made in pursuance of an offer made before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, and

(b) that the loan was used to defray money applied in pursuance of a binding contract entered into before that date;

and where a payment is made under such a loan the references in subsection (2) above to 1st August 1988 shall be treated as references to the first day for which qualifying interest is payable in relation to the residence under the loan (or where there is more than one such loan the latest such day).

(4) Subject to subsection (5) below, where by virtue of subsection (2) above sections 356A and 356B do not have effect with respect to payments of qualifying interest made by a person for any period in relation to a residence under one loan those sections shall not have effect with respect to payments of qualifying interest for that period in relation to the residence made by that person or his spouse under any other loan.

(5) Where all the persons by whom qualifying interest is payable in relation to a residence have made a joint election for the purpose, sections 356A and 356B shall have effect with respect to all payments of qualifying interest made by any person in relation to the residence notwithstanding that they would otherwise be payments with respect to which those sections would not have effect.

(6) An election under subsection (5) above—

(a) shall have effect for the period in which it is made and subsequent periods,

(b) shall be irrevocable, and

(c) shall be in such form, and be made in such manner, as the Board may prescribe.

(7) Sections 356A and 356B shall not have effect with respect to payments of qualifying interest if the interest is qualifying interest only by reason of its being paid in relation to a residence used or to be used as the only or main residence of a dependent relative or former or separated spouse of the person by whom the payment is made.

(8) In this section references to a spouse do not include references to a separated spouse.

356D Provisions supplementary to sections 356A to 356C

(1) In sections 356A to 356C and this section "qualifying interest" means interest which (apart from those sections or section 357) is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(2) In sections 356A to 356C and this section "residence" means a building, or part of a building, occupied or intended to be occupied as a separate residence, or a caravan or house-boat; but a building, or part of a building, which is designed for permanent use as a single residence shall be treated as a single residence notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate residences.

(3) In sections 356A to 356C and this section "period", with respect to qualifying interest payable by a person in relation to a residence, means a period commencing with—

(a) any day which is the first day for which qualifying interest is payable in relation to the residence by that or any other person (whether or not qualifying interest was payable by any person in relation to the residence for any earlier day),

(b) any day immediately following a day which is the last day for which qualifying interest is payable in relation to the residence by any other person (whether or not qualifying interest is payable by any person in relation to the residence for any later day), or

(c) the first day of a year of assessment,

and ending with either the day immediately preceding the next day such as is mentioned in paragraph (a), (b) or (c) above or (if sooner) the day which is the last day for which qualifying interest is payable in relation to the residence by that person.

(4) In section 356A references to the qualifying maximum during a period are references to the qualifying maximum for the year of assessment in which the period falls.

(5) Where because of section 356A the full amount of qualifying interest paid by a person for a period is not eligible for relief, the part of that interest that is eligible for relief shall be such as bears to the whole of it the same proportion as the part of the amount on which qualifying interest is payable by him for the period that does not exceed the limit under that section in his case bears to the whole of that amount.

(6) Where a person pays qualifying interest on more than one loan, the limit under section 356A in his case shall have effect in relation to qualifying interest paid on a later loan as if that loan were reduced by the amount of any earlier loan; and if that amount is equal to or exceeds the limit, none of the interest paid on the later loan is eligible for relief.

(7) For the purposes of subsection (6) above, where interest is paid on more than one loan made simultaneously to one person it shall be treated as paid on one loan.

(8) Subject to section 356B, where a loan is made jointly to more than one person by whom qualifying interest is payable in relation to a residence under

the loan, the amount on which qualifying interest is payable in relation to the residence under the loan by each of the persons shall be treated for the purposes of section 356A as being such amount as is produced by dividing the whole of the amount on which qualifying interest is payable in relation to the residence under the loan by the number of persons by whom qualifying interest is so payable.

(9) Where section 354 continues to apply to a loan by virtue of section 354(5)(a), then sections 356A to 356C and this section shall also continue to have effect as if section 354 applied to it by virtue of section 355(1)(a).

(10) In determining whether the amount on which interest is payable exceeds any limit under section 356A, no account shall be taken of so much (if any) of that amount as consists of interest which has been added to capital and which does not exceed £1,000."

(2) In section 357 of the Taxes Act 1988 (limit on interest relief for home loans where residence basis does not apply)—

(a) in subsection (1)—

(i) for the word "Interest" there shall be substituted the words "Subject to subsection (1A) below, where section 356A does not have effect with respect to a payment of interest because of section 356C(2) or (7) and the payment is of interest", and

(ii) after "356(1)" there shall be inserted the words "the payment of interest", and

(b) the following subsections shall be inserted after that subsection—

"(1A) Where section 356A does not have effect with respect to a payment of interest made by a person in relation to land, or a caravan or house-boat, used or to be used as his only or main residence because of section 356C(2), subsection (1) above shall have effect with respect to the payment of interest as if the reference to the qualifying maximum for the year of assessment were a reference to the amount specified in subsection (1B) below.

(1B) The amount referred to in subsection (1A) above is the lesser of £30,000 and the amount on which interest was payable by the person in relation to the land, caravan or house-boat immediately before 1st August 1988.

(1C) Where subsection (2) of section 356C applies in the case of a person by virtue of subsection (3) of that section, for the purposes of subsection (1B) above the amount on which interest is payable by him under the loan referred to in section 356C(3) for the first day for which interest is so payable shall be treated as the amount on which interest is payable by him under the loan immediately before 1st August 1988."

(3) In the Taxes Act 1988—

(a) in section 355(1) (requirement that interest be payable in relation to only or main residence of payer), before "357" there shall be inserted the words "356A or",

(b) in section 367(5) (meaning of "qualifying maximum"), for "357(1)" there shall be substituted "356A to 357",

(c) in section 370(2)(b) (MIRAS: meaning of "relevant loan interest"), before "357" there shall be inserted "356A,", and

(d) in section 373 (MIRAS: large loans and joint borrowers)—

(i) in subsection (1), before "357(1)" there shall be inserted "356A, section",

(ii) in subsection (3), after the word "applies" there shall be inserted the words "section 356D(6) or", and

(iii) in subsection (4), after the words "by virtue of" there shall be inserted the words "section 356D(7) or".

(4) This section shall come into force on 1st August 1988.

43 Home improvement loans

(1) In relation to payments of interest made on or after 6th April 1988 section 355 of the Taxes Act 1988 (limitations on relief for loans for purchase or improvement of land etc.) shall have effect with the insertion of the following subsections after subsection (2)—

"(2A) Section 354 shall not apply by virtue of subsection (1)(a) above where the interest is paid on a home improvement loan unless the loan was made before 6th April 1988.

(2B) In subsection (2A) above "home improvement loan" means—

(a) a loan to defray money applied in improving or developing land or buildings on land, otherwise than by the erection of a new building (which is not part of an existing residence) on land which immediately before the improvement or development began had no building on it, or

(b) a loan replacing (whether directly or indirectly) a loan within paragraph (a) above.

(2C) Where it is proved by written evidence that a loan made on or after 6th April 1988 was made in pursuance of an offer made by the lender before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, the loan shall be deemed for the purposes of subsection (2A) above to have been made before that date."

(2) In relation to payments of interest made on or after 6th April 1988 section 356 of the Taxes Act 1988 (job-related accommodation) shall have effect with the insertion of the following subsection after subsection (1)—

"(1A) Subsection (1) above shall not apply where the interest is paid on a home improvement loan (as defined in section 355(2B)) unless the loan was made before 6th April 1988; and section 355(2C) shall have effect for the purposes of this subsection as for those of section 355(2A)."

(3) Interest paid by a housing association on a home improvement loan made on or after 6th April 1988 shall not be relevant loan interest for the purposes of Part IX of the Taxes Act 1988; and for the purposes of this subsection—

(a) "housing association" means a housing association for the time being approved for the purposes of section 488 of that Act or a self-build society for the time being approved for the purposes of section 489,

(b) "home improvement loan" has the same meaning as in subsection (2B) of section 355 of that Act, and

(c) subsection (2C) of that section shall have effect as it does for the purposes of subsection (2A) of that section.

44 Loans for residence of dependent relative etc

(1) In sections 355(1)(a) and 357(2)(a) of the Taxes Act 1988 the words "or of a dependent relative or former or separated spouse of his," shall not have effect in relation to payments of interest made on or after 6th April 1988.

(2) Subsection (1) above shall not apply where the interest is paid on a loan made before 6th April 1988 if interest paid on it at a relevant time was eligible for relief under section 353 of the Taxes Act 1988 only because the land, caravan or house-boat concerned was used as the only or main residence of the same dependent relative or former or separated spouse.

(3) In subsection (2) above "relevant time" means—

(a) the last time when interest was paid on the loan before 6th April 1988, or

(b) if no interest was paid on it before that date, any time within the period of 12 months (or any longer period substituted in relation to the case under section 355(2) of the Taxes Act 1988) after the date on which the loan was made;

but paragraph (b) above shall not apply if at any time after the date on which the loan was made and before the date on which the land, caravan or house-boat was first used as mentioned in subsection (2) above, the land, caravan or house-boat was used for any other purpose.

(4) In section 358(4)(a) of the Taxes Act 1988 (relief where borrower deceased) the words "or of any dependent relative of the deceased" shall not have effect in relation to payments of interest made on or after 6th April 1988 unless—

(a) the deceased died before that date, and

(b) the land, caravan or house-boat was used as the only or main residence of the dependent relative before that date.

(5) Where it is proved by written evidence that a loan made on or after 6th April 1988 was made in pursuance of an offer made by the lender before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, the loan shall be deemed for the purposes of this section to have been made before that date.

(6) Interest paid by a housing association shall not be relevant loan interest for the purposes of Part IX of the Taxes Act 1988 where by virtue of this section it would not be relevant loan interest if paid by a member of the association; and in this subsection "housing association" means a housing association for the time being approved for the purposes of section 488 of that Act or a self-build society for the time being approved for the purposes of section 489.

Benefits in kind

45 Car benefits

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

"**PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

Table A

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND HAVING A CYLINDER CAPACITY

Cylinder capacity of car in cubic centimetres	*Age of car at end of relevant year of assessment*	
	Under 4 years	4 years or more
1400 or less	£1,050	£700
More than 1400 but not more than 2000	£1,400	£940
More than 2000	£2,200	£1,450

Table B

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY

Original market value of car	*Age of car at end of relevant year of assessment*	
	Under 4 years	4 years or more
Less than £6,000	£1,050	£700
£6,000 or more but less than £8,500	£1,400	£940
£8,500 or more but not more than £19,250	£2,200	£1,450

Table C

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

Original market value of car	*Age of car at end of relevant year of assessment*	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£2,900	£1,940

Original market value of car	*Age of car at end of relevant year of assessment*	
More than £29,000	£4,600	£3,060”

(2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

46 Car parking facilities

(1) In section 141 of the Taxes Act 1988 (non-cash vouchers), in subsection (6), for the words “Subsections (1) and (2)” there shall be substituted the words “Subsection (1)” and after that subsection there shall be inserted—

“(6A) Subsection (1) above shall not apply in relation to a non-cash voucher to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.”

(2) In section 142 of that Act (credit-tokens), after subsection (3) there shall be inserted—

“(3A) Subsection (1) above shall not apply in relation to a credit-token to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.”

(3) In section 155 of that Act (benefits in kind for persons in director’s or higher-paid employment: exceptions from the general charge), after subsection (1) there shall be inserted—

“(1A) Section 154 does not apply to a benefit consisting in the provision for the employee of a car parking space at or near his place of work.”

(4) After section 197 of that Act there shall be inserted—

“**197A Car parking facilities**

Any expenditure incurred in paying or reimbursing expenses in connection with the provision for, or use by, a person holding an office or employment of a car parking space at or near his place of work shall not be regarded as an emolument of the office or employment for any purpose of Schedule E.”

(5) This section shall have effect for the year 1988-89 and subsequent years of assessment.

47 Entertainment: non-cash vouchers

(1) In section 141 of the Taxes Act 1988 (non-cash vouchers), after subsection (6A) there shall be inserted—

“(6B) Subsection (1) above shall not apply in relation to any non-cash voucher to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

(a) the person providing the non-cash voucher is neither his employer nor a person connected with his employer;

(b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and

(c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his

employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection."

(2) In subsection (1) of section 36 of the Finance (No. 2) Act 1975 (vouchers other than cash vouchers), for the words "Subject to subsection (2) below" there shall be substituted the words "Subject to the provisions of this section".

(3) The provision set out in subsection (1) above shall be inserted after subsection (3A) of that section as subsection (3B) with the substitution—

(a) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970; and

(b) for any reference to a non-cash voucher of a reference to a voucher.

(4) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendments made by subsections (2) and (3) above shall have effect for the year 1987-88.

48 Entertainment: credit-tokens

(1) In section 142 of the Taxes Act 1988 (credit-tokens), after subsection (3A) there shall be inserted—

"(3B) Subsection (1) above shall not apply in relation to any credit-token to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

(a) the person providing the credit-token is neither his employer nor a person connected with his employer;

(b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and

(c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection."

(2) The provision set out in subsection (1) above shall be inserted after subsection (3) of section 36A of the Finance (No. 2) Act 1975 (credit-tokens) as subsection (3A) with the substitution for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.

(3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

49 Entertainment of directors and higher-paid employees

(1) At the end of section 155 of the Taxes Act 1988 (benefits in kind for persons in director's or higher-paid employment: exceptions from the general charge) there shall be added—

"(7) Section 154 does not apply to a benefit consisting in the provision of entertainment (including hospitality of any kind) for the employee, or for members of his family or household, if—

(a) the person providing the benefit is neither his employer nor a person connected with his employer;

(b) neither his employer nor a person connected with his employer has directly or indirectly procured its provision; and

(c) it is not provided either in recognition of particular services which have been performed by the employee in the course of his employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection."

(2) The provision set out in subsection (1) above shall be added at the end of section 62 of the Finance Act 1976 as subsection (9) with the substitution—

(a) for the reference to section 154 of the Taxes Act 1988 of a reference to section 61 of the 1976 Act; and

(b) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.

(3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

Business expansion scheme

50 Private rented housing

(1) Where eligible shares in a company are issued for the purpose of raising money for qualifying activities—

(a) which are being carried on by the company or any of its subsidiaries; or

(b) which the company or any of its subsidiaries intends to carry on,

Chapter III of Part VII of the Taxes Act 1988 (relief for investment in new corporate trades: the business expansion scheme) shall apply in relation to the company with the modifications set out in Part I of Schedule 4 to this Act.

(2) In this section and Chapter III (as so modified) "qualifying activities", in relation to a company by which eligible shares are issued or any subsidiary of such a company, means activities which—

(a) consist of or are connected with the provision and maintenance of dwelling-houses to which this section applies which the company or subsidiary lets, or intends to let, on qualifying tenancies; and

(b) are, during the period beginning with the date on which the shares are issued and ending four years after that date, conducted on a commercial basis and with a view to the realisation of profits.

(3) This section applies to any dwelling-house which is not precluded from being a dwelling-house to which this section applies by Part II of Schedule 4 to this Act; and in this section and that Part of that Schedule—

(a) references to a company or subsidiary do not include references to a company or subsidiary which is a registered housing association within the meaning of the Housing Associations Act 1985 or Part VII of the Housing (Northern Ireland) Order 1981;

(b) "qualifying tenancy" means any tenancy which is—

(i) for the purposes of the Housing Act 1988, an assured tenancy other than an assured shorthold tenancy;

(ii) for the purposes of the Housing (Scotland) Act 1988, an assured tenancy other than a short assured tenancy; or

(iii) in Northern Ireland, a tenancy which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland,

and is not a tenancy which falls within subsection (4) below; and

(c) expressions which are also used in Chapter III have the same meanings as in that Chapter.

(4) A tenancy falls within this subsection if—

(a) it is a tenancy granted in consideration of a premium within the meaning of Schedule 3 to the Capital Gains Tax Act 1979; or

(b) any option to purchase in relation to the dwelling-house has been granted to the tenant or an associate of his;

and in this subsection any reference to the tenant includes, in the case of a joint tenancy, a reference to either or any of the joint tenants.

(5) Regulations under subsection (3) above shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

(6) This section and Schedule 4 to this Act shall have effect in relation to shares issued after the passing of this Act and before the end of 1993.

51 Restriction of relief

(1) The Taxes Act 1988 shall have effect, and be deemed always to have had effect, with the following amendments, namely—

(a) in section 289(12)(b), the substitution of the words "sections 290A, 293" for the words "sections 293"; and

(b) the insertion after section 290 of the following section—

"**290A Restriction of relief where amounts raised exceed permitted maximum**

(1) Where—

(a) a company raises any amount through the issue of eligible shares after 15th March 1988; and

(b) the aggregate of that amount and of all other amounts (if any) so raised within the period mentioned in subsection (2) below exceeds £500,000,

the relief shall not be given in respect of the excess.

(2) The period referred to in subsection (1) above is—

(a) the period of 6 months ending with the date of the issue of the shares; or

(b) the period beginning with the preceding 6th April and ending with the date of that issue,

whichever is the longer.

(3) In determining the aggregate mentioned in subsection (1) above, no account shall be taken of any amount—

(a) which is subscribed by a person other than an individual who qualifies for relief; or

(b) as respects which relief is precluded by section 290 or this section.

(4) Where—

(a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and

(b) that other person, or at least one of those other persons, is a company,

the reference to £500,000 in subsection (1) above shall have effect as if it were a reference to—

$$\frac{£500,000}{1 + A,}$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which, during the relevant period, are members of any such partnership or parties to any such joint venture.

(5) Where this section precludes the giving of relief on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from this section, be eligible for relief.

(6) Where—

(a) in the case of a company falling within subsection (2)(a) of section 293, the qualifying trade or each of the qualifying trades is a trade to which subsection (7) below applies;

(b) in the case of a company falling within subsection (2)(b)(i) of that section, the subsidiary or each of the subsidiaries is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades which or each of which is a trade to which subsection (7) below applies; or

(c) in the case of a company falling within subsection (2)(b)(ii) of that section, the requirements mentioned in each of paragraphs (a) and (b) above are satisfied,

subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £5 million.

(7) This subsection applies to a trade if it consists, wholly or substantially wholly, of operating or letting ships, other than oil rigs or pleasure craft, and—

(a) every ship operated or let by the company carrying on the trade is beneficially owned by the company;

(b) every ship beneficially owned by the company is registered in the United Kingdom;

(c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and

(d) the conditions mentioned in section 297(7) are satisfied in relation to every letting by the company.

(8) Where—

(a) any of the requirements mentioned in paragraphs (a) to (c) of subsection (7) above are not satisfied in relation to any ships; or

(b) any of the conditions referred to in paragraph (d) of that subsection are not satisfied in relation to any lettings,

the trade shall not thereby be precluded from being a trade to which that subsection applies if the operation or letting of those ships, or, as the case may be, those lettings do not amount to a substantial part of the trade.

(9) The Treasury may by order amend any of the foregoing provisions of this section by substituting a different amount for the amount for the time being specified there.

(10) Where—

(a) the issue of the eligible shares is made in pursuance of a prospectus published, or an offer in writing made, before 15th March 1988;

(b) the shares are issued after that date and before 6th April 1988; and

(c) subsection (6) above does not apply,

subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £1 million.

(11) In this section—

"let" means let on charter and "letting" shall be construed accordingly;

"oil rig" and "pleasure craft" have the same meanings as in section 297;

"prospectus" has the meaning given by section 744 of the Companies Act 1985 or Article 2(3) of the Companies (Northern Ireland) Order 1986."

(2) Schedule 5 to the Finance Act 1983 shall be deemed always to have had effect as if—

(a) in paragraph 2(7), for the words "paragraphs 5" there had been substituted the words "paragraphs 3A, 5"; and

(b) the provisions set out in subsection (1)(b) above had been inserted, with any necessary modifications, after paragraph 3 as paragraph 3A.

52 Valuation of interests in land

(1) In section 294 of the Taxes Act 1988 (companies with interests in land), after subsection (5) there shall be inserted—

"(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it."

(2) This section shall have effect in relation to valuations which fall to be made after the passing of this Act.

53 Approved investment funds

(1) For subsection (3) of section 311 of the Taxes Act 1988 there shall be substituted—

"(2A) Subsection (2B) below applies where an individual claims relief in respect of eligible shares in a company and—

(a) the shares have been issued to the managers of an approved fund as nominee for the individual;

(b) the fund has closed, that is to say, no further investments in the fund are to be accepted; and

(c) the amounts which the managers have, as nominee for the individual, subscribed for eligible shares issued within six months after the closing of the fund represent not less than 90 per cent. of his investment in the fund;

and in this section "the managers of an approved fund" means the person or persons having the management of an investment fund approved for the purposes of this section by the Board.

(2B) In any case where this subsection applies, subsections (5) to (7) of section 289 and subsections (1) to (3) and (6) of section 304 shall have effect as if—

(a) any reference to the year of assessment or other period in which the shares are issued were a reference to the year of assessment or other period in which the fund closes; and

(b) any reference to the time of the issue of the shares, or the time of the subscription for the shares, were a reference to the time of the closing of the fund.

(3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the managers of an approved fund."

(2) This section shall have effect in relation to approved funds closing after 15th March 1988.

Pensions etc.

54 Personal pension schemes: commencement

(1) In section 56(1) of the Finance (No. 2) Act 1987 and section 655(4) of the Taxes Act 1988 (personal pension schemes not to be approved with effect from date earlier than 4th January 1988) for "4th January" there shall be substituted "1st July".

(2) In consequence of the amendment made by subsection (1) above—

(a) the same amendment shall be made in—

(i) section 54(1) of the Act of 1987 and section 618(1) of the Act of 1988 (no retirement annuity relief for contracts made or trust schemes established on or after 4th January 1988);

(ii) section 54(3) of the Act of 1987 and section 618(2) of the Act of 1988 (limit on lump sums under contracts made or schemes established before 4th January 1988); and

(iii) section 20(3) of the Act of 1987 and section 632(3) of the Act of 1988 (removal of restriction from certain schemes established before 4th January 1988);

(b) in section 55 of the Act of 1987 and section 655 of the Act of 1988 (transitional provisions: carry back and carry forward)—

(i) in subsection (2), for "1984-85, 1985-86 or 1986-87" there shall be substituted "1985-86, 1986-87 or 1987-88"; and

(ii) in subsection (3), for "1987-88" there shall be substituted "1988-89"; and

(c) in section 56(2) of the Act of 1987 and section 655(5) of the Act of 1988 (provisional approval where application made before 1st August 1989) for "August 1989" there shall be substituted "February 1990".

(3) The amendments made by this section shall be deemed always to have had effect.

55 Personal pension schemes: other amendments

(1) At the end of section 630 of the Taxes Act 1988 (interpretation of Chapter IV of Part XIV) there shall be inserted—

"and references to an employee or to an employer include references to the holder of an office or to the person under whom an office is held."

(2) In section 638 of that Act, for subsection (7) (personal pension schemes which permit acceptance of certain contributions not to be approved) there shall be substituted—

"(7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service as director of a company, if his emoluments as such are within section 644(5).

(8) A personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service in an office or employment to which section 645 applies may be approved by the Board only if—

(a) the scheme does not permit the acceptance of contributions from the individual or from the person who is his employer in relation to that office or employment; or

(b) at the time when the minimum contributions are paid the individual is not serving in an office or employment to which section 645 applies."

(3) In section 686(2) of that Act (income arising to trustees which is chargeable to income tax at the additional rate), for paragraph (c) there shall be substituted—

"(c) is not income arising under a trust established for charitable purposes only or income from investments, deposits or other property held—

(i) for the purposes of a fund or scheme established for the sole purpose of providing relevant benefits within the meaning of section 612; or

(ii) for the purposes of a personal pension scheme (within the meaning of section 630) which makes provision only for benefits such as are mentioned in section 633; and".

(4) The amendments made by this section shall be deemed to have come into force on 1st July 1988.

56 Occupational pension schemes

In Schedule 23 to the Taxes Act 1988 (which alters the rules of schemes approved before 23rd July 1987) the following sub-paragraphs shall be substituted for sub-paragraph (2) of paragraph 1—

"(2) The Board may by regulations provide that, in circumstances prescribed in the regulations, this Schedule or any provision of it shall not apply or shall apply with such modifications as may be so prescribed.

(2A) Regulations under sub-paragraph (2) above—

(a) may include provision authorising the Board to direct that this Schedule or any provision of it shall not apply in any particular case where in the opinion of the Board the facts are such that its application would not be appropriate;

(b) may take effect (and may authorise any direction given under them to take effect) as from 17th March 1987 or any later date;

(c) may make such supplementary provision as appears to the Board to be necessary or expedient."

57 Lump sum benefits paid otherwise than on retirement

(1) In section 14 of the Finance Act 1973 and section 189 of the Taxes Act 1988 (lump sum benefits paid on retirement not chargeable to income tax under Schedule E), for the words "on his retirement from an office or employment" there shall be substituted the words "(whether on his retirement from an office or employment or otherwise)".

(2) The amendments made by this section shall be deemed always to have had effect.

Underwriters

58 Assessment and collection

(1) For subsection (2) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—

"(2) The aggregate for any year of assessment of—

(a) the profits or gains arising to a member from his underwriting business; and

(b) the profits or gains arising to him from assets forming part of a premiums trust fund,

shall be chargeable to tax under Case I of Schedule D; but nothing in this subsection shall affect the manner in which the amount of those profits or gains is to be computed.

(2A) Schedule 19A shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with this section."

(2) Section 39 of the Finance Act 1973 shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—

"(2) Schedule 16A to this Act shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with Schedule 16 to this Act."

(3) In Schedule 16 to that Act (underwriters)—

(a) the subsection (2) set out in subsection (1) above shall be inserted after paragraph 2 as paragraph 2A; and

(b) paragraph 16 (assessment on agent) shall cease to have effect.

(4) The provisions set out in Schedule 5 to this Act shall be inserted—

(a) after Schedule 19 to the Taxes Act 1988 as Schedule 19A; and

(b) after Schedule 16 to the Finance Act 1973 as Schedule 16A.

(5) Subsections (1) and (4)(a) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2), (3) and (4)(b) above shall have effect for the years 1986-87 and 1987-88.

59 Reinsurance: general

(1) In subsection (4) of section 450 of the Taxes Act 1988 (underwriters), for paragraph (b) there shall be substituted—

"(b) any insurance money payable to him under that insurance in respect of a loss shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment which corresponds to the underwriting year in which the loss arose;".

(2) The amendment set out in subsection (1) above shall also be made in paragraph 4 of Schedule 16 to the Finance Act 1973 (underwriters).

(3) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsection (2) above shall have effect for the years 1985-86, 1986-87 and 1987-88.

60 Reinsurance to close

(1) For subsection (5) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—

"(5) Subsection (5A) below applies where—

(a) in accordance with the rules or practice of Lloyd's and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter's business for an underwriting year so that the accounts of the business for that year may be closed; and

(b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium ("the reinsured syndicate") but also of the syndicate as a member of which the other member is entitled to receive it ("the reinsurer syndicate").

(5A) In any case where this subsection applies—

(a) in computing for the purposes of income tax the profits or gains of the continuing member's business as a member of the reinsured syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and

(b) in computing for those purposes the profits or gains of his business as a member of the reinsurer syndicate, those profits or gains shall be reduced by an amount equal to any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of his as a member of the reinsured syndicate;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss."

(2) The provisions set out in subsection (1) above, but renumbered as subsections (1) and (2) and with the substitution, in the provision renumbered as subsection (1), of the words "subsection (2)" for the words "subsection (5A)", shall also be substituted for subsections (1) to (4) of section 70 of the Finance (No. 2) Act 1987 (underwriters); and in subsection (5) of that section, for the word "underwriter" there shall be substituted the word "member".

(3) In this section—

(a) subsection (1) shall have effect in relation to premiums payable in connection with the closing of accounts of a member's business for an underwriting year ending in the year 1988-89 or any subsequent year of assessment; and

(b) subsection (2) shall have effect in relation to premiums payable in connection with the closing of accounts of a member's business for an underwriting year ending in the year 1985-86, 1986-87 or 1987-88.

61 Minor and consequential amendments

(1) In the Taxes Act 1988—

(a) in section 20, at the beginning of subsection (2) there shall be inserted the words "Except as provided by section 450 (underwriters)";

(b) in section 451, in subsection (1), for paragraph (a) there shall be substituted—

"(a) for the assessment and collection of tax charged in accordance with section 450 (so far as not provided for by Schedule 19A);

(aa) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;";

(c) after that subsection there shall be inserted—

"(1A) Regulations under subsection (1) above may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made."; and

(d) in section 452(8), for the words "Case I of Schedule D" there shall be substituted the words "in accordance with section 450" and the words "the investments forming part of the premiums trust fund of the underwriter" shall cease to have effect.

(2) In Schedule 10 to the Taxes Act 1970, in paragraph 7(3), for the words "Case I of Schedule D" there shall be substituted the words "in accordance with Schedule 16 to Finance Act 1973" and the words "the investments forming part of the premiums trust fund of the underwriter" shall cease to have effect.

(3) In section 87 of the Finance Act 1972, at the beginning of subsection (3) there shall be inserted the words "Except as provided by Schedule 16 to Finance Act 1973 (underwriters)".

(4) In Schedule 16 to the Finance Act 1973—

(a) in sub-paragraph (1) of paragraph 17, for paragraph (a) there shall be substituted—

"(a) for the assessment and collection of tax charged in accordance with the preceding provisions of this Schedule (so far as not provided for by Schedule 16A to this Act);

(aa) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;";

(b) after that sub-paragraph, there shall be inserted—

"(1A) Regulations under this paragraph may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made."

(5) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2) to (4) above shall have effect for the years 1986-87 and 1987-88.

Oil licences

62 Disposals of oil licences relating to undeveloped areas

(1) If, at the time of the material disposal of a licence, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—

(a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or

(b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,

the value of that consideration shall be treated as nil for the purposes of the Capital Gains Tax Act 1979 (in this section referred to as "the 1979 Act") and the appropriate legislation relating to capital allowances.

(2) For the purposes of this section a "material disposal" is a disposal (which includes a part disposal) which occurred or occurs before or after the passing of this Act, other than,—

(a) so far as concerns the 1979 Act, a disposal which is made otherwise than by way of a bargain at arm's length; and

(b) so far as concerns the appropriate legislation relating to capital allowances, a disposal in relation to which Schedule 7 to the Capital Allowances Act 1968 (sales between connected persons etc.) has effect.

(3) If a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another material disposals of two or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (1)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those two or more licences.

(4) Where a claim is made under section 68(5)(b) of the Finance Act 1985 (claims to substitute, for indexation purposes, a 1982 market value for cost on certain disposals between 1st April 1985 and 5th April 1988) for the purpose of computing the indexation allowance on a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area and, accordingly, it is assumed for that purpose that, on 31st March 1982, the licence concerned was sold and immediately reacquired, then, for that purpose, section 34 of the 1979 Act (effect of capital allowances on allowable expenditure) shall apply in relation to any capital allowance—

(a) made in respect of the expenditure actually incurred in providing the licence, and

(b) so made for an accounting period ending on or after 1st April 1982,

as if the allowance (or, if the accounting period begins before that date, a time-apportioned part of the allowance) were made in respect of expenditure which, on that assumption, was incurred in reacquiring the asset on 31st March 1982.

(5) In relation to a material disposal of a licence which at the time of the disposal relates to an undeveloped area, being a disposal—

(a) which is a part disposal of the licence in question, and

(b) part but not the whole of the consideration for which falls within paragraph (a) or paragraph (b) of subsection (1) above,

section 35 of the 1979 Act (apportionment of expenditure etc. on part disposals) shall not apply unless the amount or value of the part of the consideration which does not

fall within one of those paragraphs is less than the aggregate of the amounts which, if the material disposal were a disposal of the whole of the licence rather than a part disposal, would be—

(i) the relevant allowable expenditure, as defined in section 86 of the Finance Act 1982 (indexation allowance on certain disposals); and

(ii) the indexation allowance on the disposal.

(6) Where section 35 of the 1979 Act has effect in relation to such a disposal as is referred to in subsection (5) above, it shall have effect as if, for subsection (2) thereof, there were substituted the following subsection—

"(2) The apportionment shall be made by reference to—

(a) the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and

(b) the aggregate referred to in subsection (5) of section 62 of the Finance Act 1988 on the other hand (call that aggregate C),

and the fraction of the said sums allowable as a deduction in computing the amount of the gain (if any) accruing on the disposal shall be—

$$\frac{A}{C,}$$

and the remainder shall be attributed to the part of the property which remains undisposed of."

(7) In the case of a material disposal—

(a) which falls within subsection (5) above, and

(b) in respect of which a claim is made under section 68(5)(b) of the Finance Act 1985,

the claim shall be treated also as having effect for the purpose of determining the indexation allowance referred to in sub-paragraph (ii) of subsection (5) above on the notional material disposal of the whole of the licence referred to in that subsection.

63 Allowance of certain drilling expenditure etc. in determining chargeable gains

(1) On the disposal of a licence, whether occurring before or after the passing of this Act, relevant qualifying expenditure incurred by the person making the disposal—

(a) in searching for oil anywhere in the licensed area, or

(b) in ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the licensed area or what the reserves of oil of any such oil-bearing area are,

shall be treated as expenditure falling within section 32(1)(b) of the Capital Gains Tax Act 1979 (enhancement expenditure reflected in the state or nature of the asset at the time of disposal).

(2) Expenditure incurred as mentioned in subsection (1) above is relevant expenditure if, and only if,—

(a) it is expenditure of a capital nature on scientific research; and

(b) either it was allowed or allowable under section 91 of the Capital Allowances Act 1968 (capital expenditure on scientific research) for a chargeable period which, or the basis year for which, began before the date of the disposal or it would have been so allowable if the trading condition had been fulfilled; and

(c) the disposal is an occasion by virtue of which section 92 of that Act (termination of user of assets representing scientific research expenditure of a capital nature) applies in relation to the expenditure or would apply if the trading condition had been fulfilled and the expenditure had been allowed accordingly.

(3) In subsection (2) above and subsection (4) below, the expression "if the trading condition had been fulfilled" means, in relation to expenditure of a capital nature on scientific research, if, after the expenditure was incurred but before the disposal concerned was made, the person incurring the expenditure had set up and commenced a trade connected with that research; and in subsection (2)(b) above—

(a) "chargeable period" has the same meaning as in section 91 of the Capital Allowances Act 1968; and

(b) "basis year" has the same meaning as in subsection (3)(c) of that section.

(4) Relevant expenditure is qualifying expenditure only to the extent that it does not exceed the trading receipt which, by reason of the disposal,—

(a) is treated as accruing under section 92(2) of the Capital Allowances Act 1968; or

(b) would be treated as so accruing if the trading condition had been fulfilled and the expenditure had been allowed accordingly.

(5) On the disposal of a licence, sections 31 and 34 of the Capital Gains Tax Act 1979 (which include provisions under which set off is given for balancing charges) shall apply in relation to any such trading receipt as is mentioned in subsection (4)(a) above as if it were a balancing charge falling to be made by reference to the disposal.

(6) Where, on the disposal of a licence, subsection (1) above has effect in relation to any relevant qualifying expenditure which had not in fact been allowed or become allowable as mentioned in subsection (2)(b) above,—

(a) no allowance shall be made in respect of that expenditure under section 91 of the Capital Allowances Act 1968; and

(b) no deduction shall be allowed in respect of it under section 92(3) of that Act.

(7) Where, on the disposal of a licence which is a part disposal, subsection (1) above has effect in relation to any relevant qualifying expenditure, then, for the purposes of section 35 of the Capital Gains Tax Act 1979 (part disposals), that expenditure shall be treated as wholly attributable to what is disposed of (and, accordingly, shall not be apportioned as mentioned in that section).

64 Interpretation of sections 62 and 63

(1) For the purposes of section 62 above, a licence relates to an undeveloped area at any time if—

(a) for no part of the licensed area has consent for development been granted to the licensee by the Secretary of State on or before that time; and

(b) for no part of the licensed area has a programme of development been served on the licensee or approved by the Secretary of State on or before that time.

(2) Subsections (4) and (5) of section 36 of the Finance Act 1983 (meaning of "development") shall have effect in relation to subsection (1) above as they have effect in relation to subsection (2) of that section.

(3) In relation to a licence under the Petroleum (Production) Act (Northern Ireland) 1964 any reference in subsection (1) above to the Secretary of State shall be construed as a reference to the Department of Economic Development.

(4) In relation to a material disposal, within the meaning of section 62 above, of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in subsection (1) or subsection (3) of that section or subsection (1) above to the licensed area shall be construed as a reference only to that part of the licensed area to which the buyer's acquisition relates.

(5) In sections 62 and 63 above and the preceding provisions of this section "oil", "licence", "licensee" and, subject to subsection (4) above, "licensed area" have the meaning assigned by section 12(1) of the Oil Taxation Act 1975.

(6) In section 62 above—

(a) "exploration work", in relation to any area, means work carried out for the purpose of searching for oil anywhere in that area;

(b) "appraisal work", in relation to any area, means work carried out for the purpose of ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the area concerned or what the reserves of oil of any such oil-bearing area are;

(c) "the appropriate legislation relating to capital allowances" means—

(i) Chapter III of Part I and Part II of the Capital Allowances Act 1968; and

(ii) section 55 of and Schedules 13 and 14 to the Finance Act 1986 (new code of allowances for capital expenditure on mineral extraction); and

(d) any reference to section 68(5)(b) of the Finance Act 1985 is a reference to that section as it had effect before the amendment made by Schedule 8 to this Act.

Miscellaneous

65 Commercial woodlands

Schedule 6 to this Act (which abolishes the charge to tax under Schedule B and makes other provision with respect to the occupation of commercial woodlands) shall have effect.

66 Company residence

(1) Subject to the provisions of Schedule 7 to this Act, a company which is incorporated in the United Kingdom shall be regarded for the purposes of the Taxes Acts as resident there; and accordingly, if a different place of residence is given by any rule of law, that place shall no longer be taken into account for those purposes.

(2) For the purposes of the Taxes Acts, a company which—

(a) is no longer carrying on any business; or

(b) is being wound up outside the United Kingdom,

shall be regarded as continuing to be resident in the United Kingdom if it was so regarded for those purposes immediately before it ceased to carry on business or, as the case may be, before any of its activities came under the control of a person exercising functions which, in the United Kingdom, would be exercisable by a liquidator.

(3) In this section "the Taxes Acts" has the same meaning as in the Taxes Management Act 1970.

(4) This section and Schedule 7 to this Act shall be deemed to have come into force on 15th March 1988.

67 Seafarers: foreign earnings

(1) In paragraph 3 of Schedule 12 to the Taxes Act 1988 (qualifying period for relief for foreign earnings) after sub-paragraph (2) there shall be inserted—

"(2A) In relation to emoluments from employment as a seafarer, sub-paragraph (2) above shall have effect—

(a) as if the number of days specified in paragraph (a) were 90 instead of 62, and

(b) as if the fraction specified in paragraph (b) were one quarter instead of one sixth;

and for the purposes of this sub-paragraph "employment as a seafarer" means employment consisting of the performance of duties on a ship (or of such duties and of others incidental to them)."

(2) This section shall have effect for the year 1988-89 and subsequent years of assessment; but the relevant period and the earlier qualifying period referred to in paragraph 3(2) of Schedule 12 to the Taxes Act 1988 shall not be treated as a single period by virtue of this section if none of the intervening days falls after 5th April 1988.

68 Priority share allocations for employees etc

(1) Where—

(a) there is an offer to the public of shares in a company at a fixed price or by tender, and

(b) a director or employee (whether of that company or of any other company or person) is entitled by reason of his office or employment to an allocation of the shares, in priority to members of the public, at the fixed price or at the lowest price successfully tendered, and

(c) the conditions set out in subsection (2) below are satisfied,

any benefit derived by the director or employee from his entitlement shall not be treated as an emolument of his office or employment.

(2) The conditions referred to in subsection (1) above are—

(a) that the aggregate number of shares that may be allocated as mentioned in subsection (1)(b) above does not exceed 10 per cent. of the shares subject to the offer (including the shares that may be so allocated);

(b) that all the persons entitled to such an allocation are entitled to it on similar terms;

(c) that those persons are not restricted wholly or mainly to persons who are directors or whose remuneration exceeds a particular level.

(3) For the purposes of subsection (2)(b) above the fact that different provision is made for persons according to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that they are not entitled to an allocation on similar terms.

(4) Section 29A(1) of the Capital Gains Tax Act 1979 (assets deemed to be acquired at market value) shall not apply to any acquisition in relation to which subsection (1) above applies.

(5) In this section "director" includes a person who is to be, or has ceased to be, a director and "employee" includes a person who is to be, or has ceased to be, an employee.

(6) This section shall apply to offers made on or after 23rd September 1987.

69 Share options: loans

(1) Paragraph 13 of Schedule 9 to the Taxes Act 1988 (approved share option schemes: cases where scheme shares are subject to restrictions) shall have effect, and shall be deemed always to have had effect, with the addition of the following sub-paragraph after sub-paragraph (2)—

"(3) In the case of schemes other than savings-related share option schemes, sub-paragraph (1) above does not apply in relation to any terms of a loan making provision about how it is to be repaid or the security to be given for it."

(2) Paragraph 10 of Schedule 10 to the Finance Act 1984 (approved share option schemes: cases where scheme shares are subject to restrictions) shall be deemed always to have had effect with the addition of the following sub-paragraph after sub-paragraph (2)—

"(3) Sub-paragraph (1) above does not apply in relation to any terms of a loan making provision about how it is to be repaid or the security to be given for it."

70 Charities: payroll deduction scheme

(1) In section 202(7) of the Taxes Act 1988 (which limits to £120 the deductions attracting relief) for "£120" there shall be substituted "£240".

(2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

71 Unit trusts: relief on certain payments

Section 469 of the Taxes Act 1988 (taxation of unauthorised and certain other unit trusts) shall have effect, and shall be deemed always to have had effect, with the insertion of the following subsections after subsection (5)—

"(5A) Subsection (5B) below applies where for any year of assessment—

(a) the trustees are (or, apart from this subsection, would be) chargeable under section 350 with tax on payments treated as made by them under subsection (3) above, and

(b) there is an uncredited surplus in the case of the scheme.

(5B) Where this subsection applies, the amount on which the trustees would otherwise be so chargeable shall be reduced—

(a) if the surplus is greater than that amount, to nil, or

(b) if it is not, by an amount equal to the surplus.

(5C) For the purposes of subsections (5A) and (5B) above whether there is an uncredited surplus for a year of assessment in the case of a scheme (and, if so, its amount) shall be ascertained by—

(a) determining, for each earlier year of assessment in which the income on which the trustees were chargeable to tax by virtue of subsection (2) above exceeded the amount treated by subsection (3) above as annual payments received by the unit holders, the amount of the excess,

(b) aggregating the amounts determined in the case of the scheme under paragraph (a) above, and

(c) deducting from that aggregate the total of any reductions made in the case of the scheme under subsection (5B) above for earlier years of assessment.

(5D) The references in subsection (5C)(a) above to subsections (2) and (3) above include references to subsections (2) and (3) of section 354A of the 1970 Act."

72 Entertainment of overseas customers

(1) Subsection (2) of section 577 of the Taxes Act 1988 (which excepts the entertainment of overseas customers from the general rule that entertainment expenses are not deductible for tax purposes) shall not have effect in relation to entertainment provided on or after 15th March 1988.

(2) Subsection (1) above shall not apply where the expenses incurred or the assets used in providing the entertainment were incurred or used under a contract entered into before 15th March 1988.

73 Consideration for certain restrictive undertakings

(1) For subsections (1) to (5) of section 313 of the Taxes Act 1988 (taxation of consideration for certain restrictive undertakings) there shall be substituted—

"(1) Where an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding that office or employment an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities, any sum to which this section applies shall be treated as an emolument of the office or employment, and accordingly shall be chargeable to tax under Schedule E, for the year of assessment in which it is paid.

(2) This section applies to any sum which—

(a) is paid, in respect of the giving of the undertaking or its total or partial fulfilment, either to the individual or to any other person; and

(b) would not, apart from this section, fall to be treated as an emolument of the office or employment.

(3) Where the individual has died before the payment of any sum to which this section applies, subsections (1) and (2) above shall have effect as if that sum had been paid immediately before his death.

(4) Where valuable consideration otherwise than in the form of money is given in respect of the giving of the undertaking or its total or partial fulfilment,

subsections (1) to (3) above shall have effect as if a sum had instead been paid equal to the value of that consideration."

(2) Notwithstanding anything in section 74 of the Taxes Act 1988, any sum to which section 313 of that Act applies, and which is paid or treated as paid by a person carrying on a trade, profession or vocation, may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax.

(3) Any sum to which section 313 of the Taxes Act 1988 applies, and which is paid or treated as paid by an investment company, shall for the purposes of section 75 of that Act be treated as an expense of management.

(4) This section has effect in relation to sums paid or treated as paid in respect of the giving of, or the total or partial fulfilment of, undertakings given on or after 9th June 1988.

74 Payments on termination of office or employment etc

(1) In section 188(4) of the Taxes Act 1988 (tax not chargeable by virtue of section 148 of that Act in respect of the first £25,000 of a payment on termination of office or employment etc.) for "£25,000" there shall be substituted "£30,000".

(2) Paragraphs 4 to 7 of Schedule 11 to that Act (relief by reduction of tax on next £50,000 of such a payment) shall cease to have effect.

(3) This section shall apply to any payment treated by section 148(4) of that Act as income received on 6th April 1988 or any later date, unless a notice is given in relation to it in accordance with paragraph 12 of that Schedule (payments in pursuance of pre-10th March 1981 obligations).

75 Premiums for leases etc

Sections 39(3) and 780(5) of, and Schedule 2 to, the Taxes Act 1988 (top-slicing relief where premiums for leases etc. chargeable to income tax) shall not have effect for the year 1988-89 or any subsequent year of assessment.

76 Foreign dividends etc., quoted Eurobonds and recognised clearing systems

(1) In section 17(1) of the Taxes Act 1988 (Schedule C) for paragraph 3 of Schedule C there shall be substituted—

> Where a banker or any other person in the United Kingdom obtains payment of any overseas public revenue dividends by means of coupons received from any other person or otherwise on his behalf and either—
>
> (a) the payment of those dividends was not entrusted to any person in the United Kingdom, or
>
> (b) the securities in respect of which those dividends are paid are held in a recognised clearing system,
>
> tax under this Schedule shall be charged in respect of those dividends."

(2) In section 45 of that Act (definitions relating to Schedule C) for the definition of "overseas public revenue dividends" there shall be substituted—

> ""overseas public revenue dividends" means public revenue dividends payable out of any public revenue other than that of the United Kingdom;".

(3) In section 123 of that Act, in paragraph (a) of subsection (3) (Schedule D charge where collecting agents in UK obtain payment of foreign dividends elsewhere than in UK) for the words "elsewhere than in the United Kingdom" there shall be substituted the words "and either—

(i) the payment of those dividends was not entrusted to any person in the United Kingdom, or

(ii) the stocks, funds, shares or securities in respect of which those dividends are paid are held in a recognised clearing system".

(4) In section 124 of that Act (interest on quoted Eurobonds) in subsection (5) (which applies, with modifications, section 123(3) to (6)) the following paragraph shall be inserted immediately before paragraph (a)—

"(za) subsection (3)(a)(i) shall have effect in relation to quoted Eurobonds not held in a recognised clearing system as if the words "made by or" were inserted immediately before the words "entrusted to any person in the United Kingdom"".

(5) In subsection (6) of that section (definitions)—

(a) in the definition of "recognised clearing system" after the words "system for clearing quoted Eurobonds" there shall be inserted the words "or relevant foreign securities"; and

(b) after that definition there shall be added—

""relevant foreign securities" means any of the following, that is to say—

(a) any such stocks, funds, shares or securities as give rise to foreign dividends, within the meaning of section 123; and

(b) any such securities as give rise to overseas public revenue dividends, within the meaning of Part III."

(6) Subsections (1) to (4) above shall have effect with respect to payments obtained on behalf of another by a banker or other person after the passing of this Act.

CHAPTER II

UNAPPROVED EMPLOYEE SHARE SCHEMES

Preliminary

77 Scope of Chapter

(1) Subject to subsections (2) and (3) below, this Chapter shall apply where, on or after 26th October 1987, a person acquires shares or an interest in shares in a company in pursuance of a right conferred on him or an opportunity offered to him by reason of his office as a director of, or his employment by, that or any other company.

(2) This Chapter shall not apply in relation to an acquisition by a person who is not chargeable to tax under Case I of Schedule E in respect of the office or employment in question.

(3) This Chapter shall not apply where the acquisition is made in pursuance of an offer to the public.

Charges to tax

78 Charge where restrictions removed etc

(1) The person acquiring the shares or interest in shares shall be chargeable to tax if—

(a) a chargeable event occurs in relation to the shares at a time when he has not ceased to have a beneficial interest in them, and

(b) the shares are shares in a company which was not a dependent subsidiary at the time of the acquisition and is not a dependent subsidiary at the time of the chargeable event.

(2) Subject to subsections (4) and (5) below, any of the following events is a chargeable event in relation to shares in a company for the purposes of this section if it increases, or but for the occurrence of some other event would increase, the value of the shares —

(a) the removal or variation of a restriction to which the shares are subject;

(b) the creation or variation of a right relating to the shares;

(c) the imposition of a restriction on other shares in the company or the variation of a restriction to which such other shares are subject;

(d) the removal or variation of a right relating to other shares in the company.

(3) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment in which the chargeable event occurs, on the amount by which the value of the shares is increased by the chargeable event or the amount by which it would be increased but for the occurrence of some other event (or, if the interest of the person chargeable is less than full beneficial ownership, on an appropriate part of that amount).

(4) An event is not a chargeable event in relation to shares in a company for the purposes of this section unless the person who acquired the shares or interest has been a director or employee of —

(a) that company, or

(b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or

(c) an associated company of a company within paragraph (a) or (b) above,

at some time during the period of seven years ending with the date on which the event occurs.

(5) An event is not a chargeable event for the purposes of this section if it consists of—

(a) the removal of a restriction to which all shares of a class are subject from all those shares,

(b) the variation of such a restriction in the case of all those shares,

(c) the creation of a right relating to all shares of a class,

(d) the variation of such a right in the case of all those shares,

(e) the imposition of a restriction on all shares of a class, or

(f) the removal of a right relating to all shares of a class from all those shares,

and any of the conditions in subsection (6) below is satisfied.

(6) The conditions referred to in subsection (5) above are—

(a) that at the time of the event the majority of the company's shares of the same class as those which, or an interest in which, the person acquired are held otherwise than by or for the benefit of—

(i) directors or employees of the company,

(ii) an associated company of the company, or

(iii) directors or employees of any such associated company;

(b) that at the time of the event the company is employee-controlled by virtue of holdings of shares of that class;

(c) that at the time of the event the company is a subsidiary which is not a dependent subsidiary and its shares are of a single class.

(7) References in this section to restrictions to which shares are subject, or to rights relating to shares, include references to restrictions imposed or rights conferred by any contract or arrangement or in any other way.

79 Charge for shares in dependent subsidiaries

(1) The person acquiring the shares or interest in shares shall be chargeable to tax if the shares are shares in a company which—

(a) was a dependent subsidiary at the time of the acquisition, or

(b) was not a dependent subsidiary at that time but becomes a dependent subsidiary before the person making the acquisition ceases to have any beneficial interest in the shares,

and there is a chargeable increase in the value of the shares.

(2) There is a chargeable increase in the value of shares in a case within subsection (1)(a) above if the value of the shares at the earlier of—

(a) the expiration of seven years from the time of the acquisition, and

(b) the time when the person making the acquisition ceases to have any beneficial interest in the shares,

exceeds their value at the time of the acquisition.

(3) Subject to subsection (7) below, there is a chargeable increase in the value of shares in a case within subsection (1)(b) above if the value of the shares at the earlier or earliest of—

(a) the expiration of seven years from the time when the company becomes a dependent subsidiary, and

(b) the time when the person making the acquisition ceases to have any beneficial interest in the shares, and

(c) if the company ceases to be a dependent subsidiary, the time when it does so,

exceeds their value at the time when the company becomes a dependent subsidiary.

(4) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment which includes the end of the period for which the chargeable increase is determined, on an amount equal to that increase (or, if the interest of the person chargeable is less than full beneficial ownership, on an appropriate part of that amount).

(5) Where, in accordance with the terms on which the acquisition was made, the consideration for the acquisition is subsequently increased, the amount chargeable to

tax by virtue of this section shall be reduced by an amount equal to the increase in the consideration.

(6) Where, in accordance with those terms, the person making the acquisition subsequently ceases to have a beneficial interest in the shares by a disposal made for a consideration which is less than the value of the shares or his interest in them at the time of the disposal, the amount on which tax is chargeable by virtue of this section shall be reduced so as to be equal to the excess of that consideration over the value of the shares or interest at the time of the acquisition.

(7) In a case within subsection (1)(b) above there is no chargeable increase in the value of shares in a company unless the person who acquired the shares or interest has been a director or employee of—

(a) that company, or

(b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or

(c) an associated company of a company within paragraph (a) or (b) above,

at some time during the period of seven years ending with the time when the company becomes a dependent subsidiary.

80 Charge on special benefits

(1) Subject to subsections (5) and (6) below, the person acquiring the shares or interest in shares shall be chargeable to tax if he receives a special benefit by virtue of his ownership of or interest in the shares.

(2) A benefit is a "special benefit" for the purposes of subsection (1) above unless—

(a) it is received in respect of all shares of the same class as those which, or an interest in which, the person acquired, and

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

(3) The conditions referred to in subsection (2) above are—

(a) that when the benefit is received the majority of the company's shares of the class concerned are held otherwise than by or for the benefit of—

(i) directors or employees of the company,

(ii) an associated company of the company, or

(iii) directors or employees of any such associated company;

(b) that when the benefit is received the company is employee-controlled by virtue of holdings of shares of the class concerned;

(c) that when the benefit is received the company is a subsidiary which is not a dependent subsidiary and its shares are of a single class.

(4) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment in which the benefit is received, on an amount equal to the value of the benefit.

(5) Subsection (1) above shall apply only if the person receiving the benefit has been a director or employee of—

(a) the company referred to in that subsection, or

(b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or

(c) an associated company of a company within paragraph (a) or (b) above,

at some time during the period of seven years ending with the date on which the benefit is received.

(6) A benefit shall not be chargeable by virtue of this section if it is chargeable to income tax apart from this section.

Miscellaneous

81 Changes in interest

Where a person's interest in shares is increased or reduced he shall be treated for the purposes of this Chapter as acquiring or disposing of a separate interest proportionate to the increase or reduction.

82 Company reorganisations etc

(1) Subsection (2) below applies where—

(a) a person has acquired shares or an interest in shares as mentioned in section 77 above (those shares being referred to in subsection (2) below as "the originally-acquired shares"); and

(b) by virtue of his holding of those shares or the interest in them he acquires (whether or not for consideration) additional shares or an interest in additional shares (those shares being referred to in subsection (2) below as "the additional shares").

(2) Where this subsection applies—

(a) the additional shares or the interest in them shall be treated for the purposes of this Chapter as having been acquired as mentioned in section 77 above and as having been acquired at the same time as the originally-acquired shares or the interest in them;

(b) for the purposes of section 79 above, the additional shares and the originally-acquired shares shall be treated as one holding of shares and the value of the shares comprised in that holding at any time shall be determined accordingly (the value of the originally-acquired shares at the time of acquisition being attributed proportionately to all the shares in the holding); and

(c) for the purposes of that section, any consideration given for the acquisition of the additional shares or the interest in them shall be taken to be an increase falling within subsection (5) of that section in the consideration for the original acquisition.

(3) If, on a person ceasing to have a beneficial interest in any shares, he acquires other shares or an interest in other shares and the circumstances are such that, for the purposes of sections 78 to 81 of the Capital Gains Tax Act 1979 (reorganisations etc.) the shares in which he ceases to have a beneficial interest constitute "original shares" and the other shares constitute a "new holding"—

(a) section 78 of that Act (which equates the original shares and the new holding) shall apply for the purposes of this Chapter; and

(b) if any such consideration is given for the new holding as is mentioned in section 79(1) of that Act, it shall be treated for the purposes of this Chapter as an increase falling within section 79(5) above in the consideration for the shares; and

(c) if any such consideration is received for the disposal of the original shares as is mentioned in section 79(2) of that Act, the consideration shall be apportioned among the shares comprised in the new holding and the amount which, apart from this paragraph, would at any subsequent time be the value of any of those shares shall be taken to be increased by the amount of the consideration apportioned to them.

83 Connected persons etc

(1) For the purposes of this Chapter, where a person acquires shares or an interest in shares in a company in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other company, the shares or interest shall be deemed to be acquired by the director or employee.

(2) For the purposes of this Chapter, where a person who acquires shares or an interest in shares disposes of the shares or interest otherwise than by a bargain at arm's length with a person who is not connected with him, he shall be deemed to continue to have a beneficial interest in the shares until there is a disposal of the shares or interest by such a bargain.

(3) Subsection (2) above shall not apply where shares, or an interest in shares, in a company are disposed of to the company in accordance with the terms on which the acquisition was made.

(4) Where a person who has made an acquisition as mentioned in subsection (1) above receives a benefit in the circumstances described in section 80 above, the benefit shall be treated for the purposes of that section as received by the person deemed by that subsection to have made the acquisition; and where at a time when a person is deemed by subsection (2) above to continue to have a beneficial interest in shares another person receives a benefit in such circumstances, the benefit shall be treated for those purposes as received by him.

84 Capital gains tax

Where an amount is chargeable to tax under this Chapter on a person who acquires shares or an interest in shares, then on the first disposal of the shares (whether by him or another person) after his acquisition, section 32(1)(a) of the Capital Gains Tax Act 1979 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares; and this section shall apply with the appropriate modifications in a case to which section 83 above applies.

85 Information

(1) Where in any year of assessment a person acquires shares, or an interest in shares, in a company in the circumstances described in section 77(1) above, that company and (if it is different) the company as a director or employee of which he acquires the shares or interest shall give written particulars of the acquisition to the inspector within 30 days of the end of the year.

(2) Where—

(a) there occurs in relation to shares in a company an event which is a chargeable event for the purposes of section 78 above, or

(b) a person receives a special benefit (within the meaning given for the purposes of section 80(1) above) in respect of shares, or an interest in shares, in a company,

the company, and (if it is different) the company as a director or employee of which the person who acquired the shares or an interest in the shares made the acquisition, shall within 60 days give to the inspector written particulars of the event or benefit and of the shares concerned.

(3) In the second column in the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information, etc.) there shall be added at the end—

"Section 85(1) and (2) of the Finance Act 1988".

Supplementary

86 Meaning of "dependent subsidiary"

(1) For the purposes of this Chapter a company which is a subsidiary is a dependent subsidiary throughout a period of account of the company unless—

(a) the whole or substantially the whole of the company's business during the period of account (taken as a whole) is business carried on with persons who are not members of the same group as the company,

(b) during the period of account either there is no increase in the value of the company as a result of intra-group transactions, or any such increase in value does not exceed 5 per cent. of the value of the company at the beginning of the period (or a proportionately greater or smaller percentage in the case of a period which is longer or shorter than a year),

(c) the directors of the principal company of the group give to the inspector, not later than two years after the end of the period of account, a certificate that in their opinion the conditions mentioned in paragraphs (a) and (b) above are satisfied in relation to the period of account, and

(d) there is attached to the certificate a report addressed to those directors by the auditors of the subsidiary that the auditors—

(i) have enquired into the state of affairs of the company with particular reference to the conditions mentioned in paragraphs (a) and (b) above, and

(ii) are not aware of anything to indicate that the opinion expressed by the directors in their certificate is unreasonable in all the circumstances.

(2) For the purposes of subsection (1)(a) above business carried on with any subsidiary of the company concerned shall be treated as carried on with a person who is not a member of the same group as the company unless the whole or substantially the whole of the business of that or any other subsidiary of the company during the company's period of account (taken as a whole) is carried on with members of the group other than the company and its subsidiaries.

(3) In this section—

"group" means a principal company and all its subsidiaries;

"intra-group transactions" means transactions between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm's length (other than any

payment for group relief, within the meaning given in section 402(6) of the Taxes Act 1988);

"period of account", in relation to a company, means the period for which it makes up its accounts;

"principal company" means a company of which another company is a subsidiary and which is not itself a subsidiary of another company.

87 Other interpretation provisions

(1) In this Chapter, except where the context otherwise requires,—

"associated company" has the same meaning as, by virtue of section 416 of the Taxes Act 1988, it has for the purposes of Part XI of that Act;

"director" includes a person who is to be, or who has ceased to be, a director;

"employee" includes a person who is to be, or who has ceased to be, an employee;

"shares" includes stock and also includes securities as defined in section 254(1) of the Taxes Act 1988;

"subsidiary" means 51 per cent. subsidiary;

"value", in relation to shares or a benefit, means the amount which the person holding the shares or receiving the benefit might reasonably expect to obtain from a sale in the open market;

and references to an interest in any shares include references to an interest in the proceeds of sale of part of the shares.

(2) For the purposes of this Chapter a company is "employee-controlled" by virtue of shares of a class if —

(a) the majority of the company's shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company, and

(b) those directors and employees are together able as holders of the shares to control the company.

(3) Sections 839 (connected persons) and 840 (control) of the Taxes Act 1988 shall apply for the purposes of this Chapter.

(4) Where a right to acquire shares or an interest in shares in a company is assigned to a person and the right was conferred on some other person by reason of the assignee's office as a director of, or his employment by, that or any other company, the assignee shall be treated for the purposes of this Chapter as acquiring the shares or interest in pursuance of a right conferred on him by reason of that office or employment.

88 Transitional provisions

(1) Section 138 of the Taxes Act 1988 and section 79 of the Finance Act 1972 shall not apply to an acquisition of shares, or of an interest in shares, made on or after 26th October 1987.

(2) Where—

(a) tax is chargeable by virtue of section 138(1)(a) of the Taxes Act 1988 or section 79(4) of the Finance Act 1972 by reference to the market value,

after 26th October 1987, of shares in a company which is not a dependent subsidiary on that date, and (b) that market value is greater than the market value of the shares on 26th October 1987,

the amount on which tax is chargeable (and the question whether any tax is chargeable) shall be determined by reference to the market value on 26th October 1987 (and for this purpose "market value" has the same meaning as in section 138 of the Taxes Act 1988).

(3) Subject to subsection (4) below, this Chapter, with the omission of sections 79 and 80, shall have effect where shares, or an interest in shares, in a company which is not a dependent subsidiary on 26th October 1987 have been acquired before that date as it has effect (apart from this section) where shares or an interest in shares are acquired on or after that date.

(4) In relation to shares which were, or an interest in which was, acquired before 26th October 1987 the removal or variation of a restriction to which the shares are subject shall not be a chargeable event for the purposes of section 78 above if, because of paragraph 7 of Schedule 8 to the Finance Act 1973, the restriction would not have been regarded as one to which the shares were subject for the purposes of section 79(2)(c) of the Finance Act 1972.

89 Consequential amendments

In relation to acquisitions of shares or interests in shares on or after 26th October 1987—

(a) for the words from "section 138(1)(a)" to "value of the shares" in section 185(3)(a) (approved share option schemes) and section 186(2)(b) (approved profit sharing schemes) of the Taxes Act 1988, and

(b) for the words from "section 79(4)" to "value of the shares" in—

(i) section 53(3)(b) of the Finance Act 1978 (approved profit sharing schemes),

(ii) section 47(1)(b) of the Finance Act 1980 (savings-related share option schemes), and

(iii) section 38(3)(a) of the Finance Act 1984 (approved share option schemes),

there shall be substituted the words "section 78 or 79 of the Finance Act 1988 in respect of the shares".

CHAPTER III

CAPITAL ALLOWANCES

90 Buildings or structures sold by exempt bodies

(1) At the end of section 4 of the Capital Allowances Act 1968 (writing off of expenditure and meaning of "residue of expenditure") there shall be added—

"(13) In subsection (12) above references to the Crown shall include references to any person who is not within the charge to tax in the United Kingdom."

(2) This section shall have effect in relation to sales occurring after the passing of this Act.

91 Sales without change of control

(1) Paragraph 4 of Schedule 7 to the Capital Allowances Act 1968 (sales without change of control) shall be amended as follows.

(2) In paragraph (1), for the words "by notice in writing to the inspector so elect" there shall be substituted the words "so elect by notice in writing given to the inspector not later than two years after the sale".

(3) After sub-paragraph (3) there shall be inserted—

"(4) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this paragraph."

(4) This section shall have effect in relation to sales occurring after the passing of this Act.

92 Successions to trades between connected persons

(1) For paragraph 13 of Schedule 8 to the Finance Act 1971 (successions to trades between connected persons) there shall be substituted—

"13 (1) Where at any time a person ("the successor") succeeds to a trade which was until that time carried on by another person ("the predecessor") and—

(a) the two persons are connected with each other;

(b) each of them is within the charge to tax in the United Kingdom on the profits of the trade; and

(c) the successor is not a dual resident investing company within the meaning of section 404 of the Taxes Act,

those persons may, by notice in writing given to the inspector not later than two years after that time, elect that the provisions of this paragraph shall have effect.

(2) In the event of such an election—

(a) for the purpose of making allowances and charges under Chapter I of Part III of this Act, any machinery or plant which—

(i) immediately before the time when the succession took place, belonged to the predecessor and was in use for the purposes of the trade; and

(ii) immediately after that time, belonged to the successor and was in use for those purposes,

shall (notwithstanding any actual sale or transfer) be treated as sold by the predecessor to the successor at a price which does not give rise to a balancing allowance or a balancing charge; and

(b) allowances and charges shall be made under that Chapter to or on the successor as if everything done to or by the predecessor had been done to or by the successor.

(3) The predecessor and the successor are connected with each other for the purposes of this paragraph if—

(a) they are connected with each other within the meaning of section 839 of the Taxes Act;

(b) one of them is a partnership and the other has the right to a share in that partnership;

(c) one of them is a body corporate and the other has control over that body;

(d) both of them are partnerships and some other person has the right to a share in both of them; or

(e) both of them are bodies corporate, or one of them is a partnership and the other is a body corporate, and (in either case) some other person has control over both of them.

(4) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this paragraph.

(5) In this paragraph "control" shall be construed in accordance with section 840 of the Taxes Act; and any reference to the right to a share in a partnership is a reference to the right to a share of the assets or income of that partnership."

(2) This section shall have effect in relation to successions occurring after the passing of this Act.

93 Safety at sports grounds

(1) In the following enactments, namely—

(a) section 49 of the Finance (No. 2) Act 1975 (expenditure on safety at sports stadia); and

(b) section 40 of the Finance Act 1978 (capital allowances: sports stadia),

for the words "sports stadium" and the word "stadium", in each place where they occur, there shall be substituted the words "sports ground".

(2) This section shall be deemed to have come into force on 1st January 1988.

94 Quarantine premises

(1) Section 71 of the Finance Act 1980 (expenditure in altering or replacing quarantine premises) shall cease to have effect.

(2) Nothing in subsection (1) above applies to expenditure which—

(a) is incurred after 15th March 1988 and before 1st April 1989; and

(b) consists of the payment of sums under a contract entered into on or before 15th March 1988 by the person incurring the expenditure.

(3) Subsection (1) above shall be deemed to have come into force on 16th March 1988.

95 Dwelling-houses let on assured tenancies

(1) In relation to any capital expenditure which—

(a) is expenditure on the construction of a building which is or includes a dwelling-house; and

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

Schedule 12 to the Finance Act 1982 (capital allowances for dwelling-houses let on assured tenancies) shall have effect, after the coming into force of Part I of the Housing Act 1988, as if any qualifying tenancy of the dwelling-house were an assured tenancy within the meaning of section 56 of the Housing Act 1980.

(2) This subsection applies to any expenditure incurred—

(a) by an approved company; or

(b) by a person who sells or sold the relevant interest in the building to an approved company before any of the dwelling-houses comprised in it are or were used,

if it is incurred before 15th March 1988 or consists of the payment of sums under a contract entered into before that date.

(3) This subsection applies to any expenditure incurred before 1st April 1992 by an approved company which, before 15th March 1988, bought or contracted to buy the relevant interest in the building.

(4) For the purposes of this section, "qualifying tenancy" means a tenancy (whenever created) which for the purposes of the Housing Act 1988 is an assured tenancy other than an assured shorthold tenancy.

(5) In this section—

(a) "approved company" means a company which was on 15th March 1988 an approved body; and

(b) expressions which are also used in Schedule 12 to the Finance Act 1982 have the same meanings as in that Schedule;

and paragraph 10 of that Schedule (expenditure on repair of buildings) shall apply for the purposes of this section as it applies for the purposes of that Schedule.

CHAPTER IV

CAPITAL GAINS

Re-basing to 1982

96 Assets held on 31st March 1982

(1) This section applies to a disposal on or after 6th April 1988 of an asset which was held on 31st March 1982 by the person making the disposal.

(2) Subject to the following provisions of this section, in computing for the purpose of capital gains tax the gain or loss accruing on the disposal it shall be assumed that the asset was on 31st March 1982 sold by the person making the disposal, and immediately re-acquired by him, at its market value on that date.

(3) Subject to subsection (5) below, subsection (2) above shall not apply to a disposal—

(a) where a gain would accrue on the disposal to the person making the disposal if that subsection did apply, and either a smaller gain or a loss would so accrue if it did not,

(b) where a loss would so accrue if that subsection did apply, and either a smaller loss or a gain would accrue if it did not,

(c) where, either on the facts of the case or by virtue of Schedule 5 to the Capital Gains Tax Act 1979, neither a gain nor a loss would accrue if that subsection did not apply, or

(d) where neither a gain nor a loss would accrue by virtue of any of the specified enactments.

(4) Where in the case of a disposal of an asset—

(a) the effect of subsection (2) above would be to substitute a loss for a gain or a gain for a loss, but

(b) the application of subsection (2) is excluded by subsection (3),

it shall be assumed in relation to the disposal that the asset was acquired by the person making the disposal for a consideration such that, on the disposal, neither a gain nor a loss accrues to him.

(5) If a person so elects, disposals made by him (including any made by him before the election) shall fall outside subsection (3) above (so that subsection (2) above is not excluded by that subsection).

(6) An election by a person under subsection (5) above shall be irrevocable and shall be made by notice in writing to the inspector at any time before 6th April 1990 or at any time during the period beginning with the day of the first relevant disposal and ending—

(a) two years after the end of the year of assessment or accounting period in which the disposal is made, or

(b) at such later time as the Board may allow;

and "the first relevant disposal" means the first disposal to which this section applies which is made by the person making the election.

(7) An election made by a person under subsection (5) above in one capacity does not cover disposals made by him in another capacity.

(8) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under subsection (5) above.

(9) Schedule 8 to this Act (which contains provisions supplementary to this section) shall have effect; and in subsection (3)(d) above "specified enactments" means the enactments specified in paragraph 1(3) of that Schedule.

97 Deferred charges on gains before 31st March 1982

Schedule 9 to this Act (which provides for the reduction of a deferred charge to tax where the charge is wholly or partly attributable to an increase in the value of an asset before 31st March 1982) shall have effect.

Unification of rates of tax on income and capital gains

98 Rates of capital gains tax

(1) Subject to the provisions of this section and sections 99 and 100 below, the rate of capital gains tax in respect of gains accruing to a person in a year of assessment shall be equivalent to the basic rate of income tax for the year.

(2) If income tax is chargeable at the higher rate in respect of any part of the income of an individual for a year of assessment, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the higher rate.

(3) If no income tax is chargeable at the higher rate in respect of the income of an individual for a year of assessment, but the amount on which he is chargeable to capital gains tax exceeds the unused part of his basic rate band, the rate of capital gains tax on the excess shall be equivalent to the higher rate of income tax for the year.

(4) The reference in subsection (3) above to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).

99 Husband and wife

(1) Where —

(a) gains accrue to a woman in a year of assessment during which she is a married woman living with her husband, and

(b) if her chargeable amount were added to, and constituted the highest part of, her husband's chargeable amount for the year, capital gains tax would be chargeable on it or any part of it at a rate equivalent to the higher rate of income tax for the year,

the rate of capital gains tax on her chargeable amount or that part of it shall be equivalent to the higher rate.

(2) For the purposes of this section a person's chargeable amount for a year of assessment is the amount on which he is (or would apart from section 45 of the Capital Gains Tax Act 1979 be) chargeable to capital gains tax for the year.

(3) In relation to a year of assessment for which an application under section 45(2) of the Capital Gains Tax Act 1979 (separate assessment) has effect, the amounts of tax payable by the husband and by the wife shall be determined by—

(a) aggregating the amounts that would be payable by each of them apart from this subsection, and

(b) dividing that aggregate between them in proportion to their chargeable amounts for the year.

(4) This section shall apply in relation to a part of a year of assessment, being a part beginning with 6th April, as it applies in relation to a whole year (except that references to a husband's chargeable amount are references to his chargeable amount for the whole year).

(5) This section shall have effect for the years 1988-89 and 1989-90 only.

100 Accumulation and discretionary settlements

(1) The rate of capital gains tax in respect of gains accruing to trustees of an accumulation or discretionary settlement in a year of assessment shall be equivalent to the sum of the basic and additional rates of income tax for the year.

(2) For the purposes of subsection (1) above a trust is an accumulation or discretionary settlement where—

(a) all or any part of the income arising to the trustees in the year of assessment is income to which section 686 of the Taxes Act 1988 (liability to income tax at the additional rate) applies, or

(b) all the income arising to the trustees in the year of assessment is treated as the income of the settlor, but that section would apply to it if it were not so treated, or

(c) all the income arising to the trustees in the year of assessment is applied in defraying expenses of the trustees in that year, but that section would apply to it if it were not so applied, or

(d) no income arises to the trustees in the year of assessment, but that section would apply if there were income arising to the trustees and none of it were treated as the income of the settlor or applied as mentioned in paragraph (c) above.

101 Underwriters

In subsection (2) of section 142 of the Capital Gains Tax Act 1979 (which provides for capital gains tax to be assessed and charged on the trustees of premiums trust funds of underwriters) for the words "subsection (3)" there shall be substituted the words "subsections (2A) and (3)"; and after subsection (2) there shall be inserted—

"(2A) Tax assessed by virtue of subsection (2) above for a year of assessment shall be assessed at a rate equivalent to the basic rate of income tax for the year; and if an assessment to tax at a higher rate is subsequently made on an underwriting member in respect of the same gains, an appropriate credit shall be given for the tax assessed on the trustees."

102 Other special cases

(1) References in section 98 above to income tax chargeable at the higher rate include references to tax chargeable by virtue of section 683(1) or 684(1) of the Taxes Act 1988 (settlements) in respect of excess liability (that is, liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any higher rate); and where for any year of assessment income is treated by virtue of either of those provisions as the income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, it shall also be treated as his income for the purposes of section 98(4) above.

(2) Where for any year of assessment—

(a) by virtue of section 427(4) of the Taxes Act 1988 (apportionment of close company income) an amount is deemed not to form part of a person's income for the purposes of excess liability,

(b) by virtue of section 549(2) of that Act (gains under life policy or life annuity contract) a deduction of an amount is made from a person's total income for those purposes,

(c) by virtue of section 683(1) or 684(1) of that Act an amount of a person's income is treated as not being his income for those purposes, or

(d) by virtue of section 699(1) of that Act (income accruing before death) the residuary income of an estate is treated as reduced so as to reduce a person's income by any amount for the purposes of excess liability,

section 98(4) above shall have effect as if his income for the year were reduced by that amount.

(3) Where by virtue of section 547(1)(a) of that Act (gains from insurance policies etc.) a person's total income for a year of assessment is deemed to include any amount or amounts—

(a) section 98(4) above shall have effect as if his total income included not the whole of the amount or amounts concerned but only the appropriate fraction within the meaning of section 550(3), and

(b) if relief is given under section 550 of that Act and the calculation required by section 550(2)(b) does not involve the higher rate of income tax, section 98(2) and (3) above shall have effect as if no income tax were chargeable at the higher rate in respect of his income.

(4) Nothing in subsection (1) above shall be taken to reduce, and nothing in subsections (2) and (3) above shall be taken to increase, the amount of the deduction which a person is entitled to make from his total income by virtue of any provision of Chapter 1 of Part VII of the Taxes Act 1988 which limits any allowance by reference to the level of his total income.

103 Commencement of sections 98 to 102

Subject to section 99(5) above, sections 98 to 102 above shall have effect for the year 1988-89 and subsequent years of assessment.

Married couples

104 Married couples

(1) In the Capital Gains Tax Act 1979 —

(a) section 4(2) (losses of one spouse deductible from gains of other),

(b) section 45 (assessment and charge of wife's gains on husband), and

(c) paragraphs 2 and 3 of Schedule 1 (special rules for annual exemption in case of married couple),

shall cease to have effect.

(2) Subsection (1) above shall have effect in relation to the year 1990-91 and subsequent years of assessment.

(3) Where—

(a) a claim under section 13 of the Capital Gains Tax Act 1979 (enforced delay in remitting gains from disposals of foreign assets) is made by a man in respect of chargeable gains accruing to his wife before 6th April 1990, and

(b) by virtue of that section the amount of the gains falls to be assessed to capital gains tax as if it were an amount of gains accruing in the year 1990-91 or a subsequent year of assessment,

it shall be assessed not on the claimant (or his personal representatives) but on the person to whom the gains accrued (or her personal representatives).

Company migration

105 Deemed disposal of assets on company ceasing to be resident in U.K

(1) This section and section 107 below apply to a company if, at any time ("the relevant time"), the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.

(2) The company shall be deemed for all purposes of the Capital Gains Tax Act 1979—

(a) to have disposed of all its assets, other than assets excepted from this subsection by subsection (4) below, immediately before the relevant time; and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and

(b) acquires the new assets, or its interest in those assets, after that time,

unless the new assets are excepted from this subsection by subsection (4) below.

(4) If at any time after the relevant time the company carries on a trade in the United Kingdom through a branch or agency—

(a) any assets which, immediately after the relevant time, are situated in the United Kingdom and are used in or for the purposes of the trade, or are used or held for the purposes of the branch or agency, shall be excepted from subsection (2) above; and

(b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (3) above;

and references in this subsection to assets situated in the United Kingdom include references to exploration or exploitation assets and to exploration or exploitation rights.

(5) In this section—

"branch or agency" has the same meaning as in the Capital Gains Tax Act 1979;

"designated area", "exploration or exploitation activities" and "exploration or exploitation rights" have the same meanings as in section 38 of the Finance Act 1973;

"exploration or exploitation assets" means assets used or intended for use in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;

"the old assets" and "the new assets" have the same meanings as in section 115 of the 1979 Act;

"Treasury consent" means a consent under section 765 of the Taxes Act 1988 or section 482 of the Taxes Act 1970 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section;

and a company shall not be regarded for the purposes of this section as ceasing to be resident in the United Kingdom by reason only that it ceases to exist.

(6) In section 765 of the Taxes Act 1988 and section 482 of the Taxes Act 1970, in subsection (1), paragraphs (a) and (b) shall cease to have effect and in paragraph (c) for the words "so resident" there shall be substituted the words "resident in the United Kingdom"; but nothing in this subsection shall affect the operation of either section in relation to—

(a) an application for a Treasury consent made before the date of the coming into force of this section; or

(b) such a consent granted on an application so made.

(7) This section and sections 106 and 107 below shall be deemed to have come into force on 15th March 1988.

106 Deemed disposal of assets on company ceasing to be liable to U.K. tax

(1) This section and section 107 below apply to a company if, at any time ("the relevant time"), the company, while continuing to be resident in the United Kingdom, becomes a company which falls to be regarded for the purposes of any double taxation relief arrangements—

(a) as resident in a territory outside the United Kingdom; and

(b) as not liable in the United Kingdom to tax on gains arising on disposals of assets of descriptions specified in the arrangements ("prescribed assets").

(2) The company shall be deemed for all purposes of the Capital Gains Tax Act 1979—

(a) to have disposed of all its prescribed assets immediately before the relevant time; and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the new assets are prescribed assets and the company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and

(b) acquires the new assets, or its interest in those assets, after that time.

(4) In this section—

"double taxation relief arrangements" means arrangements having effect by virtue of section 497 of the Taxes Act 1970 or section 788 of the Taxes Act 1988 (as extended, in either case, to capital gains tax by section 10 of the Capital Gains Tax Act 1979);

"the old assets" and "the new assets" have the same meanings as in section 115 of the 1979 Act.

107 Postponement of charge on deemed disposal

(1) If—

(a) immediately after the relevant time, a company to which this section applies by virtue of section 105 or 106 above ("the company") is a 75 per cent. subsidiary of another company ("the principal company") which is resident in the United Kingdom; and

(b) the principal company and the company so elect, by notice in writing given to the inspector within two years after that time,

the Capital Gains Tax Act 1979 shall have effect in accordance with the following provisions.

(2) Any allowable losses accruing to the company on a deemed disposal of foreign assets shall be set off against the chargeable gains so accruing and—

(a) that disposal shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses; and

(b) the whole of that gain shall be treated as not accruing to the company on that disposal but an equivalent amount ("the postponed gain") shall be brought into account in accordance with subsections (3) and (4) below.

(3) If at any time within six years after the relevant time the company disposes of any assets ("relevant assets") the chargeable gains on which were taken into account in arriving at the postponed gain, there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole or the appropriate proportion of the postponed gain so far as not already taken into account under this subsection or subsection (4) below.

In this subsection "the appropriate proportion" means the proportion which the chargeable gain taken into account in arriving at the postponed gain in respect of the part of the relevant assets disposed of bears to the aggregate of the chargeable gains so taken into account in respect of the relevant assets held immediately before the time of the disposal.

(4) If at any time after the relevant time—

(a) the company ceases to be a 75 per cent. subsidiary of the principal company on the disposal by the principal company of ordinary shares of the company;

(b) after the company has ceased to be such a subsidiary otherwise than on such a disposal, the principal company disposes of such shares; or

(c) the principal company ceases to be resident in the United Kingdom,

there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole of the postponed gain so far as not already taken into account under this subsection or subsection (3) above.

(5) If at any time—

(a) the company has allowable losses which have not been allowed as a deduction from chargeable gains; and

(b) a chargeable gain accrues to the principal company under subsection (3) or (4) above,

then, if and to the extent that the principal company and the company so elect by notice in writing given to the inspector within two years after that time, those losses shall be allowed as a deduction from that gain.

(6) In this section—

"deemed disposal" means a disposal which, by virtue of section 105(2) or, as the case may be, section 106(2) above, is deemed to have been made;

"foreign assets" means any assets of the company which, immediately after the relevant time, are situated outside the United Kingdom and are used in or for the purposes of a trade carried on outside the United Kingdom;

"ordinary share" means a share in the ordinary share capital of the company;

"the relevant time" has the meaning given by section 105(1) or, as the case may be, section 106(1) above.

(7) For the purposes of this section a company is a 75 per cent. subsidiary of another company if and so long as not less than 75 per cent. of its ordinary share capital is owned directly by that other company.

Miscellaneous

108 Annual exempt amount for 1988-89

For the year 1988-89 section 5 of the Capital Gains Tax Act 1979 (annual exempt amount) shall have effect as if the amount specified in subsection (1A) were £5,000; and accordingly subsection (1B) of that section (indexation) shall not apply for that year.

109 Gains arising from certain settled property

Schedule 10 to this Act (taxation of gains arising from settled property in which the settlor or his spouse has an interest) shall have effect.

110 Retirement relief

(1) In sub-paragraph (1) of paragraph 13 of Schedule 20 to the Finance Act 1985 (amount available for relief to be a percentage of £125,000 varying with length of qualifying period) for the words "a percentage of £125,000" there shall be substituted the words "an amount equal to the aggregate of—

(a) so much of the gains qualifying for relief as do not exceed the appropriate percentage of £125,000; and

(b) one half of so much of those gains as exceed the appropriate percentage of £125,000 but do not exceed that percentage of £500,000;

and for the purposes of this sub-paragraph "the appropriate percentage" is a percentage".

(2) After that sub-paragraph there shall be inserted—

"(1A) In sub-paragraph (1) above "the gains qualifying for relief" means, in relation to any qualifying disposal, so much of the gains accruing on that disposal (aggregated under paragraph 6, 7(1)(a) or 8(1)(a) above) as would, by virtue of this Schedule, not be chargeable gains if—

(a) sub-paragraph (1) above had specified as the amount available for relief a fixed sum in excess of those aggregate gains; and

(b) paragraphs 14 to 16 below were disregarded."

(3) In paragraph 15 of that Schedule (limit on relief available on later disposal where relief given on earlier disposal) in sub-paragraph (2) (definition of later and earlier disposals) for the words "In sub-paragraph (3) below" there shall be substituted the words "In the following provisions of this paragraph".

(4) In sub-paragraph (3)(a) of that paragraph, for the words "if the qualifying period appropriate to that disposal" there shall be substituted—

"(i) if the gains qualifying for relief on that disposal were increased by the amount of the underlying gains relieved on the earlier disposal (or the aggregate amount of the underlying gains relieved on all the earlier disposals, as the case may be); and

(ii) if the qualifying period appropriate to the later disposal".

(5) After sub-paragraph (3) of that paragraph there shall be inserted—

"(3A) Where there is only one earlier disposal, or where there are two or more such disposals but none of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above—

(a) if the earlier disposal took place on or after 6th April 1988, the amount of the underlying gains relieved on that disposal is the aggregate of—

(i) so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13(1)(a) above, not chargeable gains; and

(ii) twice the amount of so much of those gains as were, by virtue of paragraph 13(1)(b) above, not chargeable gains; and

(b) if the earlier disposal took place before 6th April 1988, the amount of the underlying gains relieved on that disposal (or on each such disposal) is so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13 above, not chargeable gains.

(3B) Where there are two or more earlier disposals and at least one of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above, the aggregate amount of the underlying gains relieved on all those disposals shall be determined as follows—

(a) it shall be assumed for the purposes of paragraph (b) below—

(i) that the amount which resulted from the calculation under sub-paragraph (3)(a) above on the last of those disposals ("the last disposal") was the amount of the gains qualifying for relief on that disposal which were, by virtue of this Schedule, not chargeable gains (the "gains actually relieved");

(ii) that the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) was that period as extended in accordance with sub-paragraph (3)(a)(ii) above; and

(iii) that the last disposal was the only earlier disposal;

(b) there shall then be ascertained in accordance with paragraph 13(1) above (but on the assumptions in paragraph (a) above)—

(i) how much of the gains actually relieved would, by virtue of paragraph 13(1)(a) above, not have been chargeable gains; and

(ii) how much of those gains would, by virtue of paragraph 13(1)(b) above, not have been chargeable gains; and

(c) the aggregate amount of the underlying gains relieved on all the earlier disposals is the sum of—

(i) the amount ascertained under paragraph (b)(i) above; and

(ii) twice the amount ascertained under paragraph (b)(ii) above.

(3C) In this paragraph "the gains qualifying for relief" has the meaning given by paragraph 13(1A) above."

(6) In sub-paragraph (4) of that paragraph (cases where relief on earlier disposal given under certain former enactments) for the words from the beginning of paragraph (b) to "the qualifying period appropriate to the disposal is" there shall be substituted the words—

"(b) for the purpose of determining the limit in sub-paragraph (3) above where the earlier disposal (or any of the earlier disposals) was a disposal in respect of which relief was given under either of those sections—

(i) the underlying gains relieved on that disposal shall (subject to sub-paragraph (3B) above) be taken to be gains of an amount equal to the relief given under the section in question in respect of that disposal; and

(ii) the reference in sub-paragraph (3)(a)(ii) above to the qualifying period appropriate to the earlier disposal shall be construed in accordance with paragraph (c) below;

(c) for the purpose mentioned in paragraph (b) above, that reference shall, as respects the earlier disposal in question, be taken to be".

(7) In paragraph 16 of that Schedule (aggregation of spouse's interest in the business)—

(a) in sub-paragraph (3), for the words "whichever is the lower of the two limits" there shall be substituted the words "the limit";

(b) in sub-paragraph (4), for the words "limits" and "are" there shall be substituted the words "limit" and "is" (respectively) and paragraph (a) shall be omitted; and

(c) sub-paragraph (5) shall be omitted.

(8) This section shall have effect with respect to qualifying disposals (within the meaning of that Schedule) occurring on or after 6th April 1988.

111 Dependent relative's residence

(1) Section 105 of the Capital Gains Tax Act 1979 shall not apply to disposals on or after 6th April 1988.

(2) Subsection (1) above shall not have effect where, on 5th April 1988 or at any earlier time during the period of ownership of the individual making the disposal, the dwelling-house or part in question was the sole residence (provided rent-free and without any other consideration) of a dependent relative of his.

(3) If in a case within subsection (2) above the dwelling-house or part ceases, whether before 6th April 1988 or later, to be the sole residence (provided as mentioned above) of the dependent relative, any subsequent period of residence beginning on or after that date by that or any other dependent relative shall be disregarded for the purposes of section 105(2) of the Capital Gains Tax Act 1979.

112 Roll-over relief

(1) In section 118 of the Capital Gains Tax Act 1979 (classes of assets for the purposes of roll-over relief)—

(a) after Class 2 there shall be inserted—

"Class 2A

Satellites, space stations and spacecraft (including launch vehicles).", and

(b) after Class 3 there shall be inserted—

"Class 4

Milk quotas (that is, rights to sell dairy produce without being liable to pay milk levy or to deliver dairy produce without being liable to pay a contribution to milk levy) and potato quotas (that is, rights to produce potatoes without being liable to pay more than the ordinary contribution to the Potato Marketing Board's fund)."

(2) Subsection (1)(a) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 28th July 1987; and subsection (1)(b) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 30th October 1987.

113 Indexation: building societies etc

(1) The provisions specified in subsection (2) below (which provide for an indexation allowance on the disposal of assets) shall not apply in the case of—

(a) shares in a building society within the meaning of the Building Societies Act 1986, or

(b) shares in a registered industrial and provident society as defined in section 486 of the Taxes Act 1988.

(2) The provisions referred to in subsection (1) above are—

(a) in the Finance Act 1982, sections 86(4) and 87 and, in Schedule 13, paragraphs 1 to 7, 8(2)(c) and 10(3); and

(b) in the Finance Act 1985, section 68(4) to (8) and, in Schedule 19, paragraphs 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23.

(3) This section shall apply to disposals on or after 4th July 1987.

114 Indexation: groups and associated companies

Schedule 11 to this Act (which makes provision removing or restricting indexation allowance in the case of certain disposals by companies of debts or shares) shall have effect.

115 Transfers within a group

(1) In section 273 of the Taxes Act 1970 (which treats certain intra-group transactions as producing neither a gain nor a loss) after subsection (2) there shall be inserted—

"(2A) Subsection (1) above shall not apply to a transaction treated by virtue of sections 78 and 85 of the Capital Gains Tax Act 1979 as not involving a disposal by the company first mentioned in that subsection."

(2) This section shall apply to transactions on or after 15th March 1988.

116 Personal equity plans

The following subsection shall be inserted after subsection (2) of section 149D of the Capital Gains Tax Act 1979—

"(2A) Regulations under this section may include provision securing that losses are disregarded for the purposes of capital gains tax where they accrue on the disposal of investments on or after 18th January 1988."

117 Definition of "investment trust"

(1) In section 842 of the Taxes Act 1988 (definition of "investment trust")—

(a) before paragraph (a) of subsection (1) there shall be inserted—

"(aa) that the company is resident in the United Kingdom; and";

(b) for paragraph (c) of that subsection there shall be substituted—

"(c) that the shares making up the company's ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on the Stock Exchange; and"; and

(c) after that subsection there shall be inserted—

"(1A) For the purposes of paragraph (b) of subsection (1) above and the other provisions of this section having effect in relation to that paragraph—

(a) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company; and

(b) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money;

and for the purposes of this subsection "group" means a company and all companies which are its 51 per cent. subsidiaries."

(2) The repeal by the Finance (No. 2) Act 1987 of section 93 of the Finance Act 1972 shall be treated as not having extended to subsection (6) of that section (amendment of definition of "investment trust" in section 359 of the Taxes Act 1970).

(3) For section 266(4) of the Companies Act 1985 there shall be substituted—

"(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of subsection (2)(b) above as for those of subsection (1)(b) of that section.";

and for Article 274(4) of the Companies (Northern Ireland) Order 1986 there shall be substituted—

"(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of paragraph (2)(b) as for those of subsection (1)(b) of that section."

(4) Subsections (1) and (3) above shall have effect for companies' accounting periods ending after 5th April 1988 and subsection (2) above shall have effect for companies' accounting periods ending on or before that date.

118 Amendments of Finance Act 1985 s.68

(1) In relation to disposals on or after 6th April 1988 section 68 of the Finance Act 1985 (indexation allowance) shall have effect subject to the following amendments.

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

"(5A) If under subsection (4) above it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately re-acquired by him, sections 34 and 39 of the Capital Gains Tax Act 1979 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in re-acquiring the asset on 31st March 1982."

(3) In subsection (7) for the words from "section 267" to "1983" there shall be substituted "any of the enactments specified in subsection (7A) below".

(4) The following subsection shall be inserted after that subsection—

"(7A) The enactments mentioned in subsection (7) above are—

(a) sections 44, 56, 123A, 146(3), 147(4), 148 and 149A of the Capital Gains Tax Act 1979;

(b) sections 267, 273, 340(7), 342, 342A, 342B, 343(5) and 352(7) of the Income and Corporation Taxes Act 1970;

(c) section 148 of the Finance Act 1982;

(d) section 7 of the Finance (No.2) Act 1983;

(e) paragraph 2 of Schedule 2 to the Trustee Savings Banks Act 1985;

(f) section 486(8) of the Taxes Act; and

(g) paragraph 4 of Schedule 12 to the Finance Act 1988."

CHAPTER V

MANAGEMENT

Assessment

119 Current year assessments

(1) Section 29 of the Taxes Management Act 1970 (assessment procedure) shall have effect subject to the following amendments.

(2) In subsection (1), after paragraph (b) there shall be added—

"(c) where income tax is charged for a year of assessment in respect of income arising in that year, the inspector may make an assessment during that year to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other."

(3) After subsection (1) there shall be inserted—

"(1A) Where an assessment is made by virtue of subsection (1)(c) above, any necessary adjustments shall be made after the end of the year (whether by way of assessment, repayment of tax or otherwise) to secure that tax is charged in respect of income actually arising in the year."

Returns of income and gains

120 Notice of liability to income tax

(1) For section 7 of the Taxes Management Act 1970 there shall be substituted—

"**7 Notice of liability to income tax**

(1) Every person who is chargeable to income tax for any year of assessment and has neither—

(a) delivered a return of his profits or gains or his total income for that year, nor

(b) received a notice under section 8 of this Act requiring such a return,

shall, subject to subsections (2) to (5) below, within twelve months from the end of that year, give notice to the inspector that he is so chargeable, specifying each separate source of income.

(2) A source of income is excluded for the purposes of subsection (1) above in relation to any year of assessment if—

(a) all payments of, or on account of, income from it during that year, and

(b) all income from it for that year which does not consist of payments,

have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.

(3) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year has been assessed or has been taken into account—

(a) in determining that person's liability to tax, or

(b) in the making of deductions or repayments of tax under section 203 of the principal Act.

(4) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year is—

(a) income from which income tax has been deducted;

(b) income from or on which income tax is treated as having been deducted or paid (not being income consisting of a payment to which section 559 of the principal Act applies); or

(c) income chargeable under Schedule F,

and that person is not for that year liable to tax at a rate other than basic rate.

(5) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if and to the extent that his total income for that year consists of income from sources—

(a) which are excluded under subsections (2) to (4) above, or

(b) in respect of income from which he could not become liable to tax under assessments made more than twelve months after the end of that year.

(6) If any person, for any year of assessment, fails to comply with subsection (1) above as respects any source of income, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of income from that source for that year, under assessments made more than twelve months after the end of that year.

(7) In the case of a partner, the reference in subsection (6) above to the tax for which he is liable in respect of income from any source does not include a reference to tax assessable in the name of the partnership on so much of the income from that source as falls to be included in the total income of any other person."

(2) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

121 Notice of liability to corporation tax

(1) For section 10 of the Taxes Management Act 1970 there shall be substituted—

"**10 Notice of liability to corporation tax**

(1) Every company which is chargeable to corporation tax for any accounting period and has neither—

(a) made a return of its profits for that period, nor

(b) received a notice under section 11 of this Act requiring such a return,

shall, within twelve months from the end of that period, give notice to the inspector that it is so chargeable.

(2) If any company, for any accounting period ending on or before the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the amount of the corporation tax for which it is liable, in respect of its profits for that period, under assessments made more than twelve months after the end of that period.

(3) If any company, for any accounting period ending after the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the amount by which so much of the corporation tax chargeable on its profits for that period as remains unpaid twelve months after the end of that period exceeds any income tax borne by deduction from payments included in those profits.

(4) In determining—

(a) for the purposes of subsection (2) above, for how much corporation tax a company is liable, in respect of its profits for an accounting period, under assessments made more than twelve months after the end of that period; or

(b) for the purposes of subsection (3) above, how much of the corporation tax chargeable on the profits of a company for an accounting period remained unpaid at the time of any failure to comply with subsection (1) above,

no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of section 239 of the principal Act, is attributable to an amount of surplus advance corporation tax, as defined in that subsection.

(5) In this section "the appointed day" means the day appointed for the purposes of section 8(3) of the principal Act."

(2) This section has effect with respect to notices required to be given in respect of accounting periods ending after 31st March 1989.

122 Notice of liability to capital gains tax

(1) Immediately before section 12 of the Taxes Management Act 1970 there shall be inserted—

"**11A Notice of liability to capital gains tax**

(1) Every person who is chargeable to capital gains tax for any year of assessment and has neither—

(a) delivered a return of his chargeable gains for that year, nor

(b) received a notice under section 8 of this Act requiring such a return,

shall, within twelve months from the end of that year, give notice to the inspector that he is so chargeable; but a person all of whose chargeable gains for a year of assessment have been assessed shall not be required to give notice under this subsection in respect of that year.

(2) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of his chargeable gains for that year, under assessments made more than twelve months after the end of that year.

(3) In this section references to a person's chargeable gains for a year of assessment include, if section 45(1) of the Capital Gains Tax Act 1979 applies in relation to him and his wife in that year, her chargeable gains for that year."

(2) For subsection (1) of section 12 of that Act (information about chargeable gains) there shall be substituted—

"(1) Section 8 of this Act shall apply in relation to capital gains tax as it applies in relation to income tax, and subject to any necessary modifications."

(3) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

Other returns and information

123 Three year time limit

(1) At the end of section 13 of the Taxes Management Act 1970 (returns by persons in receipt of taxable income belonging to others) there shall be added—

"(3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice."

(2) In section 17(1) of that Act (interest paid or credited by banks etc. without deduction of income tax) after the words "during a year" there shall be inserted the words "of assessment".

(3) In section 18 of that Act (particulars of interest paid without deduction of income tax) after subsection (3) there shall be inserted—

"(3A) A notice under this section shall not require information with respect to interest paid in a year of assessment ending more than three years before the date of the giving of the notice."

(4) At the end of section 19 of that Act (information for the purposes of Schedule A etc.) there shall be added—

"(4) A notice under this section shall not require information with respect to—

(a) the terms applying to the lease, occupation or use of the land, or

(b) consideration given, or

(c) payments arising,

in a year of assessment ending more than three years before the date of the giving of the notice."

(5) This section has effect with respect to notices given after the passing of this Act.

124 Returns of fees, commissions etc

(1) At the end of section 16 of the Taxes Management Act 1970 (fees, commissions etc.) there shall be added—

"(8) In subsection (2) above references to a body of persons include references to any department of the Crown, any public or local authority and any other public body."

(2) This section has effect with respect to payments made in the year 1988-89 or any subsequent year of assessment.

125 Other payments and licences etc

After section 18 of the Taxes Management Act 1970 there shall be inserted—

"**18A Other payments and licences etc**

(1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—

(a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and

(b) the amount of the payment so made or received,

and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.

(2) Any person by whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—

(a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and

(b) particulars of the licence or entry.

(3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.

(4) A notice is not to be given under this section unless (in the inspector's reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.

(5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist—

(a) before 6th April 1988; or

(b) in a year of assessment ending more than three years before the date of the giving of the notice.

(6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public

or local authority whether in the United Kingdom or elsewhere or by any Community institution."

Production of accounts, books etc.

126 Production of documents relating to a person's tax liability

(1) In subsection (4)(b) of section 20 of the Taxes Management Act 1970 (persons who may be required to produce documents relating to liability of taxpayer arising from business), for the words from "and any company" onwards there shall be substituted the words "any company, whether carrying on a business or not, and the Director of Savings".

(2) In subsection (7) of that section, for the words "this section", in the first place where they occur, there shall be substituted the words "subsection (1) or (3) above".

(3) After subsection (8) of that section there shall be inserted—

"(8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

(a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;

(b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;

(c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and

(d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.

(8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice."

(4) In section 20B of that Act—

(a) in subsection (1), for the words "section 20(1) or (3)" there shall be substituted the words "section 20(1), (3) or (8A)" and for the words "section 20(7)" there shall be substituted the words "section 20(7) or (8A)"; and

(b) in subsections (2), (4), (8) and (9), after the words "section 20(3)", in each place where they occur, there shall be inserted the words "or (8A)".

(5) In consequence of the amendment made by subsection (1) above, at the end of section 12(3) of the National Savings Bank Act 1971 (provisions which override prohibition on disclosure of information) there shall be added the words "and of

section 20(4)(b) of that Act (persons who may be required to produce documents relating to liability of taxpayer arising from business)".

(6) The amendments made by this section have effect with respect to notices given after the passing of this Act.

127 Production of computer records etc

(1) Any provision made by or under the Taxes Acts which requires a person—

(a) to produce, furnish or deliver any document or cause any document to be produced, furnished or delivered; or

(b) to permit the Board, or an inspector or other officer of the Board—

(i) to inspect any document, or

(ii) to make or take extracts from or copies of or remove any document,

shall have effect as if any reference in that provision to a document were a reference to a document within the meaning of Part I of the Civil Evidence Act 1968; and, accordingly, any reference in such a provision to a copy of a document shall be construed in accordance with section 10(2) of that Act.

(2) In connection with tax, a person authorised by the Board to exercise the powers conferred by this subsection—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used, or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus, or material,

to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.

(3) Subsection (2) above applies to any document, within the meaning of Part I of the Civil Evidence Act 1968, which a person is or may be required by or under any provision of the Taxes Acts—

(a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or

(b) to permit the Board, or an inspector or other officer of the Board, to inspect, make or take extracts from or copies of or remove.

(4) Any person who—

(a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or

(b) fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,

shall be liable to a penalty not exceeding £500.

(5) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the Civil Evidence Act 1968 and section 10(2) of that Act shall be construed—

(a) in the case of Scotland, as references to Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 and section 17(4) of that Act respectively; and

(b) in the case of Northern Ireland, as references to Part I of the Civil Evidence Act (Northern Ireland) 1971 and section 6(2) of that Act respectively.

(6) This section shall be construed as if it were contained in the Taxes Management Act 1970.

Interest and penalties

128 Interest on overdue or overpaid PAYE

(1) In subsection (2) of section 203 of the Taxes Act 1988 (pay as you earn), for paragraph (d) there shall be substituted—

"(d) for requiring the payment of interest on sums due to the Board which are not paid by the due date, for determining the date (being not less than 14 days after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;

(dd) for requiring the payment of interest on sums due from the Board and for determining the date (being not less than one year after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated;".

(2) At the end of that section there shall be added—

"(9) Interest required to be paid by regulations under subsection (2) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes."

129 Two or more tax-geared penalties in respect of same tax

(1) After section 97 of the Taxes Management Act 1970 there shall be inserted—

"**97A Two or more tax-geared penalties in respect of same tax**

Where two or more penalties—

(a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or

(b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined."

(2) Section 97A(a) of that Act has effect with respect to the year 1988-89 or any subsequent year of assessment; and section 97A(b) has effect with respect to accounting periods ending after 31st March 1989.

Company migration

130 Provisions for securing payment by company of outstanding tax

(1) The requirements of subsections (2) and (3) below must be satisfied before a company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.

(2) The requirements of this subsection are satisfied if the company gives to the Board—

(a) notice of its intention to cease to be resident in the United Kingdom, specifying the time ("the relevant time") when it intends so to cease;

(b) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before that time; and

(c) particulars of the arrangements which it proposes to make for securing the payment of that tax.

(3) The requirements of this subsection are satisfied if—

(a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the relevant time; and

(b) those arrangements as so made are approved by the Board for the purposes of this subsection.

(4) If any question arises as to the amount which should be regarded for the purposes of subsection (3) above as the amount of the tax which is or will be payable by the company in respect of periods beginning before the relevant time, that question shall be referred to the Special Commissioners, whose decision shall be final.

(5) If any information furnished by the company for the purpose of securing the approval of the Board under subsection (3) above does not fully and accurately disclose all facts and considerations material for the decision of the Board under that subsection, any resulting approval of the Board shall be void.

(6) In this section "Treasury consent" means a consent under section 765 of the Taxes Act 1988 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section.

(7) In this section and sections 131 and 132 below any reference to the tax payable by a company includes a reference to—

(a) any amount of tax which it is liable to pay under regulations made under section 203 of the Taxes Act 1988 (PAYE);

(b) any income tax which it is liable to pay in respect of payments to which section 350(4)(a) of that Act (company payments which are not distributions) applies;

(c) any amount representing income tax which it is liable to pay under—

(i) regulations made under section 476(1) of that Act (building societies);

(ii) section 479 of that Act (interest paid on deposits with banks etc.); or

(iii) section 555 of that Act (entertainers and sportsmen);

(d) any amount which it is liable to pay under section 559(4) of that Act (sub-contractors in the construction industry); and

(e) any amount which it is liable to pay under paragraph 4 of Schedule 15 to Finance Act 1973 (territorial extension of charge of tax).

(8) In this section and section 132 below any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest on the tax so payable, or on tax paid by it in respect of such periods, which it is liable to pay in respect of periods beginning before or after that time.

(9) In this section and sections 131 and 132 below any reference to a provision of the Taxes Act 1988 shall be construed, in relation to any time before 6th April 1988, as a reference to the corresponding enactment repealed by that Act.

(10) This section and sections 131 and 132 below shall be deemed to have come into force on 15th March 1988.

131 Penalties for failure to comply with section 130

(1) If a company fails to comply with section 130 above at any time, it shall be liable to a penalty not exceeding the amount of tax which is or will be payable by it in respect of periods beginning before that time and which has not been paid at that time.

(2) If, in relation to a company ("the migrating company"), any person does or is party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company failing to comply with section 130 above at any time and either—

(a) that person is a person to whom subsection (3) below applies; or

(b) the act in question is a direction or instruction given (otherwise than by way of advice given by a person acting in a professional capacity) to persons to whom that subsection applies,

that person shall be liable to a penalty not exceeding the amount of tax which is or will be payable by the migrating company in respect of periods beginning before that time and which has not been paid at that time.

(3) This subsection applies to the following persons, namely—

(a) any company which has control of the migrating company; and

(b) any person who is a director of the migrating company or of a company which has control of the migrating company.

(4) In any proceedings against any person to whom subsection (3) above applies for the recovery of a penalty under subsection (2) above—

(a) it shall be presumed that he was party to every act of the migrating company unless he proves that it was done without his consent or connivance; and

(b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company failing to comply with section 130 above was to his knowledge such an act.

(5) References in this section to a company failing to comply with section 130 above are references to the requirements of subsections (2) and (3) of that section not being satisfied before the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent; and in this subsection "Treasury consent" has the same meaning as in that section.

(6) In this section and section 132 below "director", in relation to a company—

(a) has the meaning given by subsection (8) of section 168 of the Taxes Act 1988 (read with subsection (9) of that section); and

(b) includes any person falling within subsection (5) of section 417 of that Act (read with subsection (6) of that section);

and any reference to a person having control of a company shall be construed in accordance with section 416 of that Act.

132 Liability of other persons for unpaid tax

(1) This section applies where—

(a) a company ("the migrating company") ceases to be resident in the United Kingdom at any time; and

(b) any tax which is payable by the migrating company in respect of periods beginning before that time is not paid within six months from the time when it becomes payable.

(2) The Board may, at any time before the end of the period of three years beginning with the time when the amount of the tax is finally determined, serve on any person to whom subsection (3) below applies a notice—

(a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable; and

(b) requiring that person to pay that amount within thirty days of the service of the notice.

(3) This subsection applies to the following persons, namely—

(a) any company which is, or within the relevant period was, a member of the same group as the migrating company; and

(b) any person who is, or within the relevant period was, a controlling director of the migrating company or of a company which has, or within that period had, control over the migrating company.

(4) Any amount which a person is required to pay by a notice under this section may be recovered from him as if it were tax due and duly demanded of him; and he may recover any such amount paid by him from the migrating company.

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

(6) In this section—

"controlling director", in relation to a company, means a director of the company who has control of it;

"group" has the meaning which would be given by section 272 of the Taxes Act 1970 if in that section references to residence in the United Kingdom were omitted and for references to 75 per cent. subsidiaries there were substituted references to 51 per cent. subsidiaries;

"the relevant period" means—

(a) where the time when the migrating company ceases to be resident in the United Kingdom is less than twelve months after 15th March 1988, the period beginning with that date and ending with that time;

(b) in any other case, the period of twelve months ending with that time.

Appeals etc.

133 Jurisdiction of General Commissioners

(1) After subsection (1) of section 44 of the Taxes Management Act 1970 (General Commissioners) there shall be inserted—

"(1A) Subject to subsections (1B) and (2) below, the Board may direct that, notwithstanding the said rules, proceedings before the General Commissioners under the Taxes Acts of any description specified in the direction shall be brought before the General Commissioners for the division so specified in relation to proceedings of that description.

(1B) A direction under subsection (1A) above shall have effect subject to the provisions referred to in the last paragraph of Schedule 3 to this Act and shall not apply to any proceedings if—

(a) the inspector has not served on the other party a notice stating the effect of the direction in relation to those proceedings;

(b) that party has served on the inspector, within thirty days of the service of the inspector's notice, a notice objecting to the direction so applying; or

(c) in the case of an appeal, that party has elected under rule 3 or 5 of the said rules for the place where he ordinarily resides."

(2) For subsection (2) of that section there shall be substituted—

"(2) Where—

(a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and

(b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above."

(3) The amendment made by subsection (1) above shall have effect in relation to proceedings instituted on or after 1st January 1989; and the amendment made by subsection (2) above shall have effect in relation to proceedings instituted after the passing of this Act.

134 General Commissioners for Northern Ireland

(1) In section 2 of the Taxes Management Act 1970 (General Commissioners)—

(a) in subsection (1), after the words "who shall act for the same separate areas in Great Britain as heretofore" there shall be inserted the words "or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor", and

(b) in subsection (2), after the words "England and Wales" there shall be inserted the words "or Northern Ireland".

(2) Section 58(1) of that Act (references in Taxes Acts to General Commissioners to be taken in relation to proceedings in Northern Ireland as references to Special Commissioners or, where section 59 applies, a county court) and section 59 of that Act (right in Northern Ireland to bring before a county court certain proceedings which in Great Britain may be brought before General Commissioners) shall cease to have effect.

(3) In sections 260(3) and 281(4) of the Taxes Act 1988 (and the corresponding enactments repealed by that Act) and in section 11(4) of the Taxes Act 1970 (Special Commissioners to act instead of General Commissioners where taxpayers not resident in Great Britain) for the words "Great Britain" there shall be substituted the words "the United Kingdom".

(4) This section and section 135 below shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.

(5) Subject to the following provisions of this section, the preceding provisions of this section and section 135(2) below shall not affect any proceedings instituted before the day appointed under subsection (4) above.

(6) Subject to subsection (8) below, where—

(a) before the day appointed under subsection (4) above proceedings in Northern Ireland have been instituted before the Special Commissioners but not determined by them, and

(b) the proceedings might have been instituted before the General Commissioners if they had been proceedings in Great Britain,

they shall be transferred to the General Commissioners; and subsection (3) of section 58 of the Taxes Management Act 1970 shall apply for the purposes of this subsection as for those of that section (the reference to proceedings in Great Britain being construed accordingly).

(7) Section 44 of that Act shall apply in relation to proceedings transferred to the General Commissioners under subsection (6) above as it applies to proceedings instituted before them; and in the case of an appeal so transferred a notice of election under rule 3 or 5 of Schedule 3 to that Act may be given at any time before the end of the period of thirty days beginning with the day appointed under subsection (4) above.

(8) Subsection (6) above shall not apply in relation to proceedings if—

(a) before the end of that period an election that the proceedings be not transferred is made by any of the parties to the proceedings and written notice of the election is given to the other parties to the proceedings, or

(b) they are proceedings under section 100 of the Taxes Management Act 1970 (recovery of penalties);

but subsections (5A) to (5E) of section 31 of that Act shall apply in relation to an election under paragraph (a) of this subsection in respect of an appeal against an assessment or the decision of an inspector on a claim as they apply in relation to an election under subsection (4) of that section.

(9) The Lord Chancellor may by order made by statutory instrument make provision supplementing or modifying the effect of subsections (5) to (8) above; and an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

135 Cases stated in Northern Ireland

(1) In section 58 of the Taxes Management Act 1970 after subsection (2) (cases stated in proceedings in Northern Ireland to be cases for the opinion of the Court of Appeal in Northern Ireland) there shall be inserted—

"(2A) Where in proceedings in Northern Ireland an application is made for a case to be stated by the Commissioners under section 56 of this Act the case must be settled and sent to the applicant as soon after the application as is reasonably practicable."

(2) For subsection (3) of that section there shall be substituted—

"(3) For the purposes of this section—

(a) "proceedings in Northern Ireland" means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;

(b) proceedings under section 102, 113(5), 260(3), 281(4), 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland,

and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section."