

SCHEDULES

SCHEDULE 10

CONVERTIBLE SECURITIES

PART II

CHARGE TO TAX

The charge

- 12 (1) For the purposes of this Part of this Schedule a chargeable event occurs if, on or after 9th June 1989, there is a transfer of a security and at the time of the transfer the security—
- (a) is a qualifying convertible security, and
 - (b) is subject to at least one qualifying provision for redemption under which the occasion for redemption has not arrived.
- (2) For the purposes of this Part of this Schedule a chargeable event also occurs if—
- (a) a person holding a security redeems it on or after 9th June 1989,
 - (b) immediately before the redemption the security is a qualifying convertible security, and
 - (c) the redemption is made in exercise of the option for redemption under a qualifying provision for redemption to which the security is subject.
- (3) For the purposes of this Part of this Schedule the chargeable person is the person making the transfer or exercising the option (as the case may be).
- (4) Where a chargeable event occurs—
- (a) the chargeable amount shall be treated as income of the chargeable person,
 - (b) the income shall be chargeable to tax under Case III or Case IV (as the case may be) of Schedule D,
 - (c) the income shall be treated as arising in the year of assessment in which the chargeable event occurs, and
 - (d) notwithstanding anything in sections 64 to 67 of the Taxes Act 1988, the tax shall be computed on the income arising in the year of assessment for which the computation is made.

Chargeable amount

- 13 (1) For the purposes of paragraph 12 above the chargeable amount is—
- (a) the amount obtained on transfer or redemption, in a case where that amount is equal to or less than the total income element;

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- (b) so much of the amount obtained on transfer or redemption as is equal to the total income element, in a case where that amount is greater than that element.
- (2) For the purposes of this paragraph the amount obtained on transfer or redemption is the amount obtained, in respect of the transfer or redemption, by the person making the transfer or (as the case may be) the person who was entitled to the security immediately before redemption.
- (3) For the purposes of sub-paragraph (2) above the person concerned shall be treated as obtaining in respect of the transfer or redemption—
 - (a) any amount he actually obtains in respect of it, and
 - (b) any amount he is entitled to obtain, but does not obtain, in respect of it.
- (4) Sub-paragraph (3) above shall not apply where paragraph 16, 17 or 18(2) below applies.

Total income element

- 14 (1) The total income element for the purposes of paragraph 13 above shall be determined by—
- (a) finding the income element for each income period (if any) the whole of which consists of or falls within the ownership period, and
 - (b) finding the partial income element for each income period (if any) a part of which consists of or falls within the ownership period.
- (2) The aggregate of the income elements and the partial income elements so found is the total income element.
- (3) The ownership period is the period which—
- (a) begins with the day on which the chargeable person acquired the security, and
 - (b) ends with the day on which the chargeable event occurs.

Income elements

- 15 (1) This paragraph has effect for the purposes of paragraph 14 above.
- (2) The income element for an income period shall be determined in accordance with the formula—

$$\frac{A \times B}{100} - C$$

- (3) For the purposes of sub-paragraph (2) above—
- (a) A is the adjusted issue price of the security,
 - (b) B is the figure included in the percentage representing the yield to redemption for the redemption period which consists of the income period or in which the income period falls, and
 - (c) C is the amount of interest (if any) payable in respect of the income period.
- (4) The partial income element for an income period a part of which consists of or falls within the ownership period shall be determined in accordance with the formula—

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$$D \times \frac{E}{F}$$

- (5) For the purposes of sub-paragraph (4) above—
- (a) D is the income element for the income period (determined in accordance with the formula mentioned in sub-paragraph (2) above),
 - (b) E is the number of days in the income period which consist of or fall within the ownership period, and
 - (c) F is the number of days in the income period.
- (6) The adjusted issue price of a security, in relation to a particular income period, is the aggregate of the issue price of the security and the income elements for all previous income periods of the security (determined in accordance with the formula mentioned in sub-paragraph (2) above).

Death

- 16 (1) Where an individual who is entitled to a security dies, for the purposes of this Part of this Schedule he shall be treated as—
- (a) transferring it immediately before his death, and
 - (b) obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (2) Where a security is transferred by personal representatives to a legatee, for the purposes of paragraph 13 above they shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (3) In sub-paragraph (2) above “legatee” includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased’s property.

Market value

- 17 (1) This paragraph applies where a security is transferred from one person to another and—
- (a) they are connected with each other,
 - (b) the transfer is made for a consideration which consists of or includes consideration not in money or money’s worth, or
 - (c) the transfer is made otherwise than by way of a bargain made at arm’s length.
- (2) For the purposes of paragraph 13 above the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer.
- (3) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Underwriters

- 18 (1) An underwriting member of Lloyd’s shall be treated for the purposes of this Part of this Schedule as absolutely entitled as against the trustees to the securities forming

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part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.

- (2) Where a security forms part of a premiums trust fund at the end of 31st December of any relevant year, for the purposes of this Part of this Schedule—
 - (a) the trustees of the fund shall be treated as transferring the security at that time, and
 - (b) they shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer;and for this purpose relevant years are 1989 and subsequent years.
- (3) Where a security forms part of a premiums trust fund at the beginning of 1st January of any relevant year, for the purposes of this Part of this Schedule the trustees of the fund shall be treated as acquiring the security at that time; and for this purpose relevant years are 1990 and subsequent years.
- (4) Sub-paragraph (5) below applies where the following state of affairs exists at the beginning of 1st January of any year or the end of 31st December of any year—
 - (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2) of the Taxes Act 1988,
 - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
 - (c) securities have not been transferred in return, and
 - (d) section 129(3) of that Act applies to the transfer made by the trustees.
- (5) The securities transferred by the trustees shall be treated for the purposes of sub-paragraphs (2) and (3) above as if they formed part of the premiums trust fund at the beginning of 1st January concerned or the end of 31st December concerned (as the case may be).
- (6) Paragraph 16(1) above shall not apply where—
 - (a) the individual concerned is an underwriting member of Lloyd's, and
 - (b) the security concerned forms part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd's, or required by the underwriting agent through whom the individual's business or any part of it is carried on, to be kept in connection with the business.
- (7) In a case where an amount treated as income chargeable to tax by virtue of paragraph 12 above constitutes profits or gains mentioned in section 450(1) of the Taxes Act 1988—
 - (a) section 450(1)(b) shall apply, and
 - (b) paragraph 12(4)(c) above shall not apply.
- (8) For the purpose of computing income tax for the year 1987-88 sub-paragraph (7) above shall have effect as if—
 - (a) the reference to section 450(1) of the Taxes Act 1988 were to paragraph 2 of Schedule 16 to the Finance Act 1973, and
 - (b) the reference to section 450(1)(b) were to paragraph 2(b) of that Schedule.

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- (9) In this paragraph “business” and “premiums trust fund” have the meanings given by section 457 of the Taxes Act 1988.

Trustees

- 19 (1) Where on a transfer or redemption of a security by trustees an amount is treated as income chargeable to tax by virtue of paragraph 12 above, the rate at which it is chargeable shall be a rate equal to the sum of the basic rate and the additional rate for the year of assessment in which the transfer or redemption is made.
- (2) Where the trustees are trustees of a scheme to which section 469 of the Taxes Act 1988 applies, sub-paragraph (1) above shall not apply if or to the extent that the amount is treated as income in the accounts of the scheme.

Receipts in United Kingdom

- 20 (1) Sub-paragraph (2) below applies where—
- (a) by virtue of paragraph 12(4) above an amount is treated as income of a person and as chargeable to tax under Case IV of Schedule D, and
 - (b) the person satisfies the Board, on a claim in that behalf, that he is not domiciled in the United Kingdom, or that (being a Commonwealth citizen or a citizen of the Republic of Ireland) he is not ordinarily resident in the United Kingdom.
- (2) In such a case—
- (a) any amounts received in the United Kingdom in respect of the amount treated as income shall be treated as income arising in the year of assessment in which they are so received, and
 - (b) paragraph 12(4) above shall have effect with the substitution of paragraph (a) above for paragraph 12(4)(c).
- (3) For the purposes of sub-paragraph (2) above—
- (a) there shall be treated as received in the United Kingdom all amounts paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and
 - (b) subsections (6) to (9) of section 65 of the Taxes Act 1988 shall apply as they apply for the purposes of subsection (5) of that section.

Charities

- 21 (1) In a case where—
- (a) paragraph 12 above would apply (apart from this paragraph) in the case of a transfer or redemption of a security,
 - (b) immediately before the transfer or redemption was made the security was held by a charity, and
 - (c) the amount which would (apart from this paragraph) be treated as income by virtue of paragraph 12 above is applicable and applied for charitable purposes,
- that paragraph shall not apply in the case of the transfer or redemption.
- (2) In this paragraph “charity” has the same meaning as in section 506 of the Taxes Act 1988.

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Retirement benefit schemes

- 22 In a case where—
- (a) paragraph 12 above would apply (apart from this paragraph) in the case of a transfer or redemption of a security, and
 - (b) immediately before the transfer or redemption was made the security was held for the purposes of an exempt approved scheme (within the meaning of Chapter I of Part XIV of the Taxes Act 1988),
- that paragraph shall not apply in the case of the transfer or redemption.

Stock lending

- 23 In a case where—
- (a) a security is the subject of a transfer which falls within section 129(3) of the Taxes Act 1988, and
 - (b) paragraph 12 above would apply in the case of the transfer (apart from this paragraph),
- that paragraph shall not apply in the case of the transfer.

Identification of securities

- 24 Section 88 of the Finance Act 1982 shall apply to the identification, for the purposes of this Part of this Schedule, of qualifying convertible securities transferred or redeemed as it applies to the identification, for the purposes of capital gains tax, of deep discount securities disposed of.