Finance Act 1991

CHAPTER 31

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Finance Act 1991

CHAPTER 31

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1991 CHAPTER 31

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

[25th July 1991]

Most Gracious Sovereign,

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

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER I

CUSTOMS AND EXCISE

Rates of duty

Spirits, beer, wine, made-wine and cider. 1979 c. 4.

1.—(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits) for "£17.35" there shall be substituted "£18.96".

(2) In section 36 of that Act (beer) for "£0.97" there shall be substituted "£1.06".

(3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.

(4) In section 62(1) of that Act (cider) for "£18.66" there shall be substituted "£20.40".

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(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1991.

Tobacco products. 1979 c. 7.

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

"TABLE

1. Cigarettes ...	An amount equal to 21 per cent. of the retail price plus £40.15 per thousand cigarettes.
2. Cigars	£61.72 per kilogram.
3. Hand-rolling tobacco	£65.12 per kilogram.
4. Other smoking tobacco and chewing tobacco	£28.69 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1991.

Hydrocarbon oil. 1979 c. 5.

3.—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, for "£0.2248" (duty on light oil) and "£0.1902" (duty on heavy oil) there shall be substituted "£0.2585" and "£0.2187" respectively.

(2) In section 11(1) of that Act, for "£0.0083" (rebate on fuel oil) and "£0.0118" (rebate on gas oil) there shall be substituted "£0.0091" and "£0.0129" respectively.

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for "£0.0299" there shall be substituted "£0.0344".

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for "£0.0083" there shall be substituted "£0.0091".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 19th March 1991.

Vehicles excise duty. 1971 c. 10.

4.—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In Schedule 1 (annual rate of duty on certain vehicles not exceeding 450 kilograms unladen weight) in Part I, in paragraph 3 (interpretation) there shall be inserted at the end—

""weight unladen" shall be construed in accordance with section 190(2) of the Road Traffic Act 1988." 1988 c. 52.

(3) In Schedule 1, for the Table set out in Part II there shall be substituted—

"Description of vehicle	Rate of duty
	£
1. Bicycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres	15.00
2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres	30.00
3. Bicycles not included above	50.00
4. Tricycles	50.00"

(4) In Schedule 3 (annual rates of duty on tractors etc.) in the Table set out in Part II—

(a) in the entry relating to special machines, for "16.00" there shall be substituted "30.00"; and

(b) in the entry relating to recovery vehicles, for "50.00" there shall be substituted "75.00".

(5) Subsections (1) to (4) above shall apply in relation to licences taken out after 19th March 1991.

(6) This section shall apply in relation to the Vehicles (Excise) Act (Northern Ireland) 1972 as it applies in relation to the Vehicles (Excise) Act 1971, but with the substitution for "section 190(2) of the Road Traffic Act 1988", in subsection (2), of "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981". 1972 c. 10 (N.I.). 1971 c. 10. 1988 c. 52. S.I. 1981/154 (N.I.1).

5.—(1) In section 7(1) of the Betting and Gaming Duties Act 1981 (which specifies 40 per cent. as the rate of pool betting duty) for "40 per cent." there shall be substituted "37.50 per cent." Pool betting duty. 1981 c. 63.

(2) This section shall apply in relation to bets made at any time by reference to an event taking place on or after 17th August 1991.

6.—(1) The Betting and Gaming Duties Act 1981 shall be amended as follows. Gaming licence duty.

(2) In section 14 (rate of gaming licence duty) in subsection (1)—

(a) in paragraph (a), for "£250" there shall be substituted "£10"; and

(b) in paragraph (b), the words "payable after the end of that period and" shall be omitted.

(3) For the Table set out in section 14(1) there shall be substituted—

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"TABLE

Part of gross gaming yield	*Rate*
The first £450,000	2½ per cent.
The next £2,250,000 ...	12½ per cent.
The next £2,700,000 ...	25 per cent.
The remainder	33⅓ per cent."

(4) In section 15 (gaming without duly paid licence) there shall be inserted at the end—

"(4) In subsection (1)(b) above the reference to amounts of gaming licence duty includes amounts payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) of Schedule 2 to this Act."

(5) In paragraph 3 of Schedule 2 (Commissioners' regulation-making powers in connection with gaming licence duty) at the end of sub-paragraph (3) there shall be inserted—

"(d) requiring, in relation to gaming licence duty chargeable by reference to the gross gaming yield from any premises in any period, that, at such time before the end of the period and in such manner as may be specified in the regulations, an amount be paid in anticipation of the duty chargeable, being an amount calculated in such manner as may be so specified."

(6) In paragraph 5 of that Schedule (power to estimate)—

(a) in sub-paragraph (1), for the words from "on account" to "gaming yield" there shall be substituted "under section 14(1)(b) above or by virtue of regulations under paragraph 3(3)(d) above" and the words "of the duty" shall be omitted; and

(b) in sub-paragraph (2), the word "duty" shall be omitted.

(7) In paragraph 6 of that Schedule (persons from whom duty recoverable) in sub-paragraph (1), after "period" there shall be inserted "and any amount payable in anticipation of that duty by virtue of regulations under paragraph 3(3)(d) above" and "(3)(c)" shall be omitted.

(8) In paragraph 7 of that Schedule (enforcement) there shall be inserted at the end—

"(5) In sub-paragraphs (1)(b) and (3)(a) above references to the duty on gaming licences include amounts payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) above.

(6) In ascertaining for the purposes of sub-paragraph (1) or (3) above the amount of the duty which is unpaid or payment of which is sought to be avoided, an amount payable in anticipation of gaming licence duty by virtue of regulations under paragraph 3(3)(d) above shall be treated as an amount of duty."

(9) Subsections (2)(a) and (3) above shall have effect in relation to gaming licences for any period beginning after 30th September 1991.

Duties of excise: other provisions PART I

Beer duty. 1979 c. 4.

7.—(1) For section 36 of the Alcoholic Liquor Duties Act 1979 (charge on beer imported into, or brewed in, the United Kingdom of an excise duty at a rate per hectolitre for every degree by which the original gravity of the beer exceeds 1000 degrees) there shall be substituted—

"Beer: charge of excise duty.

36.—(1) There shall be charged on beer—

(a) imported into the United Kingdom, or

(b) produced in the United Kingdom,

a duty of excise at the rate of £10.60 per hectolitre per cent. of alcohol in the beer.

(2) Subject to the provisions of this Act—

(a) the duty on beer produced in, or imported into, the United Kingdom shall be charged and paid, and

(b) the amount chargeable in respect of any such duty shall be determined and become due,

in accordance with regulations under section 49 below."

(2) After section 41 of that Act (which specifies certain reliefs from duty) there shall be inserted—

"Suspension of duty: registration of persons and premises.

41A.—(1) A person registered by the Commissioners under this section may hold, on premises so registered in relation to him, any beer of a prescribed class or description—

(a) which has been produced in, or imported into, the United Kingdom, and

(b) which is chargeable as such with excise duty,

without payment of that duty.

(2) A person entitled under subsection (1) above to hold beer on premises without payment of duty may also without payment of duty carry out on those premises such operations as may be prescribed on, or in relation to, such of the beer as may be prescribed.

(3) No person shall be registered under this section unless—

(a) he is a registered brewer or a packager of beer; and

(b) he appears to the Commissioners to satisfy such requirements for registration as they may think fit to impose.

(4) No premises shall be registered under this section unless—

(a) they are used for the production or packaging of beer, or

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(b) they are adjacent to, and occupied by the same person as, premises falling within paragraph (a) above which are registered under this section,

and they appear to the Commissioners to satisfy such requirements for registration as the Commissioners may think fit to impose.

(5) The Commissioners may register a person or premises under this section for such periods and subject to such conditions as they think fit.

(6) The Commissioners may at any time for reasonable cause—

(a) revoke or vary the terms of their registration of any person or premises under this section; or

(b) restrict the premises which are so registered.

(7) As respects beer chargeable with a duty of excise that has not been paid, regulations under section 49 below may, without prejudice to the generality of that section, make provision—

(a) regulating the holding or packaging of, or the carrying out of other operations on or in relation to, any such beer on registered premises without payment of the duty;

(b) for securing and collecting the duty on any such beer held on registered premises;

(c) permitting the removal of any such beer from registered premises without payment of duty in such circumstances and subject to such conditions as may be prescribed;

(d) for such persons as may be prescribed to be liable to pay the duty on any such beer held on, or removed without payment of duty from, registered premises, and for the circumstances in which, and the time at which, they are liable to do so.

(8) If any person contravenes or fails to comply with any condition of registration under this section he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer in respect of which the offence was committed shall be liable to forfeiture.

(9) In this section—

"prescribed" means specified in, or determined in accordance with, regulations made by the Commissioners under section 49 below;

"registered premises" means premises registered under this section."

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(3) For sections 47 and 48 of that Act (licences to brew beer and to use premises for adding solutions to beer) there shall be substituted—

"Registration of producers of beer.

47.—(1) A person who produces beer on any premises in the United Kingdom must be registered with the Commissioners under this section in respect of those premises; and in this Act "registered brewer" means a person registered under this section in respect of any premises.

(2) A person who produces beer on any premises shall not be required to be registered under this section in respect of those premises if the beer is produced solely for his own domestic use or solely for the purposes of research or experiments in the production of beer.

(3) An application for the registration under this section of any person required to be so registered in respect of any premises—

(a) shall be made at least fourteen days before the day on which he begins production of beer on those premises; and

(b) shall be in such form and manner as the Commissioners may by or under regulations prescribe.

(4) If any person fails to apply for registration under this section in circumstances where he is required by subsection (3)(a) above to do so, he shall be liable on summary conviction to a penalty not exceeding level 4 on the standard scale; and any beer or worts produced in contravention of that provision shall be liable to forfeiture.

(5) If any person produces beer on any premises in circumstances in which he is required to be, but is not, registered under this section in respect of those premises, he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer or worts in respect of which the offence was committed shall be liable to forfeiture."

(4) The enactments and instruments mentioned in Schedule 2 to this Act shall have effect with the amendments specified in that Schedule.

(5) This section shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.

(6) An order under subsection (5) above may contain such saving or transitional provision as the Commissioners think fit; and, without prejudice to the generality of the foregoing, any such order may include provision—

(a) for treating beer—

(i) produced, or in the process of being produced, before the relevant day, and

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(ii) held on, or in the process of being transported between, registered premises on that day,

as beer produced on or after that day and chargeable accordingly, and

(b) for the remission or repayment of any duty charged or paid in respect thereof under provisions replaced by this section and Schedule 2 to this Act.

(7) In this section—

"the Commissioners" means the Commissioners of Customs and Excise;

"registered premises" means—

(a) premises which, on the relevant day, are registered under section 41A of the Alcoholic Liquor Duties Act 1979, or

1979 c. 4.

(b) premises in respect of which, on that day, a person is registered under section 47 of that Act;

"the relevant day" means the day appointed for the coming into force of subsection (1) of the section 36 substituted by subsection (1) above.

Vehicles excise duty: exemptions.

8.—(1) The Vehicles (Excise) Act 1971 shall be amended as follows.

1971 c. 10.

(2) In section 4(1) (exemptions) after paragraph (ca) there shall be inserted—

"(cb) vehicles used solely as mine rescue vehicles or for the purpose of conveying or drawing emergency winding-gear at mines;".

(3) In section 4(1)(ka) (pedestrian controlled vehicles) the words "(other than mowing machines)" shall be omitted.

(4) In section 4(2), the following definition shall be inserted before the definition of "ambulance"—

""fire engine" means a vehicle—

(a) constructed or adapted for use for the purpose of fire fighting, salvage or both, and

(b) used solely for the purposes of a fire brigade (whether or not one maintained under the Fire Services Act 1947);".

1947 c. 41.

(5) In section 4(2), after the definition of "veterinary ambulance" there shall be inserted—

""weight unladen" shall be construed in accordance with section 190(2) of the Road Traffic Act 1988."

1988 c. 52.

(6) Section 7(4) (power to exempt civil defence vehicles) shall cease to have effect.

(7) Subsections (3) and (5) above shall be deemed to have come into force on 20th March 1991.

(8) Subsection (4) above shall be deemed to have come into force on 1st June 1991.

(9) Subsection (6) above shall come into force on 1st October 1991.

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(10) This section shall apply in relation to the Vehicles (Excise) Act (Northern Ireland) 1972 as it applies in relation to the Vehicles (Excise) Act 1971, but with the following modifications— 1972 c. 10 (N.I.). 1971 c. 10.

(a) in subsection (4), for "the Fire Services Act 1947" there shall be substituted "the Fire Services (Northern Ireland) Order 1984", and 1947 c. 41. S.I. 1984/1821 (N.I. 11).

(b) in subsection (5), for "section 190(2) of the Road Traffic Act 1988" there shall be substituted "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981". 1988 c. 52. S.I. 1981/154 (N.I.1).

Vehicles excise duty: combined transport.

9.—(1) The Vehicles (Excise) Act 1971 ("the 1971 Act") and the Vehicles (Excise) Act (Northern Ireland) 1972 ("the 1972 Act") shall be amended as follows.

(2) After section 18A of the 1971 Act there shall be inserted—

"Rebate of duty

Combined transport of goods.

18B.—(1) This section applies to any goods vehicle which—

(a) has a plated gross weight or a plated train weight which exceeds 3,500 kilograms, or

(b) has neither a plated gross weight nor a plated train weight, but has a design weight which exceeds 3,500 kilograms.

(2) Where in the course of the transport of goods between member States by means of combined transport a goods vehicle to which this section applies is transported by rail in Great Britain at a time when a vehicle licence for it is in force, the holder of the licence shall, on making a claim, be entitled to receive from the Secretary of State, by way of rebate of the duty paid upon the licence, a sum of an amount calculated in accordance with the method prescribed for the purpose by the Secretary of State.

(3) The Secretary of State may by regulations prescribe when and how a claim for a rebate under this section is to be made and the evidence to be provided in support of such a claim.

(4) For the purposes of this section—

(a) goods are transported by means of combined transport where they are loaded on a goods vehicle which is transported by rail between the following points, namely the nearest suitable rail loading station to the point of loading and the nearest suitable rail unloading station to the point of unloading;

(b) "design weight" and "goods vehicle" have the same meanings as in Schedule 4 to this Act; and

(c) references to the plated gross weight or plated train weight of a goods vehicle shall be construed in accordance with paragraph 9 of that Schedule."

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(3) Subsection (2) above shall apply in relation to the 1972 Act as it applies in relation to the 1971 Act, but with the following modifications—

(a) for the words "Great Britain" there shall be substituted the words "Northern Ireland",

(b) for the words "plated gross weight", in each place where they occur, there shall be substituted the words "relevant maximum weight", and

(c) for the words "plated train weight", in each place where they occur, there shall be substituted the words "relevant maximum train weight".

(4) In section 26(2)(a) of the 1971 Act (penalty for making false declarations) for the word "or", in the first place where it occurs, there shall be substituted ", a claim for a rebate under section 18B of this Act or an application".

(5) In section 37(4) of the 1971 Act and section 34(4) of the 1972 Act (additional regulation-making powers in relation to documents required by regulations under certain provisions) after "17(1)," there shall be inserted "18B(3),".

(6) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

Extension of Vehicles (Excise) Act 1971 to Northern Ireland.
1971 c. 10.

10.—(1) The Vehicles (Excise) Act 1971 ("the 1971 Act"), and any other Act to the extent that it amends or extends the 1971 Act, shall extend to Northern Ireland.

(2) In consequence of subsection (1) above—

(a) the 1971 Act shall have effect subject to Part I of Schedule 3 to this Act, and

1976 c. 40.

(b) section 11 of the Finance Act 1976 (which extends the power to make regulations under the 1971 Act to require information about goods vehicles, etc.) shall have effect subject to Part II of that Schedule.

(3) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(4) An order under subsection (3) above may contain such supplementary, incidental, consequential, saving or transitional provision as the Secretary of State thinks fit.

Management

Revenue traders and registered excise dealers and shippers.
1979 c. 2.

11.—(1) In section 1 of the Customs and Excise Management Act 1979 (interpretation) in subsection (1), after the definition of "Queen's warehouse" there shall be inserted—

""registered excise dealer and shipper" means a revenue trader approved and registered by the Commissioners under section 100G below;

"registered excise dealers and shippers regulations" means regulations under section 100G below;".

(2) In the definition of "revenue trader" in that subsection, in paragraph (a) (person carrying on a trade or business subject to any of the revenue trade provisions of the customs and excise Acts) after the words "customs and excise Acts" there shall be inserted the words "or which consists of or includes—

(i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods); or

(ii) the financing or facilitation of any such transactions or activities,".

(3) Schedule 4 to this Act shall have effect.

Protection of the revenues derived from excise duties.

12. Schedule 5 to this Act (which makes provision for the purpose of protecting the revenues derived from duties of excise) shall have effect.

CHAPTER II

VALUE ADDED TAX

Rate. 1983 c. 55.

13.—(1) In section 9(1) of the Value Added Tax Act 1983 (rate of tax) for "15 per cent." there shall be substituted "17.50 per cent."

(2) This section shall be deemed to have come into force on 1st April 1991.

Person supplied for input tax purposes.

14. In section 14 of the Value Added Tax Act 1983 (which allows as a credit against a taxable person's output tax the tax on goods or services supplied to him) there shall be inserted after subsection (3A)—

"(3B) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsection (3) above as supplied to such other person as may be determined in accordance with the order."

Bad debts. 1990 c. 29.

15.—(1) In section 11 of the Finance Act 1990 (refund of tax where bad debt written off and period of two years from supply has elapsed) in subsection (1)(c) for "two years" there shall be substituted "one year".

(2) The amendment made by subsection (1) above shall be deemed always to have had effect.

Groups of companies.

16.—(1) Section 29 of the Value Added Tax Act 1983 (groups of companies) shall be amended as follows.

(2) In subsection (3) for the words from "resident" to "if" there shall be substituted the words "are eligible to be treated as members of a group if each of them falls within subsection (3A) below and".

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

"(3A) A body falls within this subsection if it is resident in the United Kingdom or it has an established place of business in the United Kingdom."

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Interest on overpayments etc.
1983 c. 55.

17.—(1) In the Value Added Tax Act 1983, after section 38 (administration, collection and enforcement) there shall be inserted—

"Interest in certain cases of official error.

38A.—(1) Where, due to an error on the part of the Commissioners, a person—

(a) has accounted to them for an amount by way of output tax which was not output tax due from him and which they are in consequence liable to repay to him, or

(b) has failed to claim credit under section 14 above for an amount for which he was entitled so to claim credit and which they are in consequence liable to pay to him, or

(c) has (otherwise than in a case falling within paragraph (a) or (b) above) paid to them by way of value added tax an amount that was not tax due and which they are in consequence liable to repay to him, or

(d) has suffered delay in receiving payment of an amount due to him from them in connection with value added tax,

then, if and to the extent that they would not be liable to do so apart from this section, they shall pay interest to him on that amount for the applicable period, but subject to the following provisions of this section.

(2) Nothing in subsection (1) above requires the Commissioners to pay interest—

(a) on any amount which falls to be increased by a supplement under section 20 of the Finance Act 1985 (repayment supplement on certain delayed payments or refunds); or

1985 c. 54.

(b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

(3) Interest under this section shall be payable at such rates as may from time to time be prescribed by order made by the Treasury; and any such order—

(a) may prescribe different rates for different purposes; and

(b) shall apply to interest for periods beginning on or after the date on which the order is expressed to come into force, whether or not interest runs from before that date;

and the first such order may prescribe, for cases where interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.

(4) The "applicable period" in a case falling within paragraph (a) or (b) of subsection (1) above is the period—

(a) beginning with the appropriate commencement date, and

(b) ending with the date on which the Commissioners authorise payment of the amount on which the interest is payable.

(5) In subsection (4) above, the "appropriate commencement date"—

(a) in a case where an amount would have been due from the person by way of value added tax in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Commissioners received payment of that amount; and

(b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Commissioners would, apart from the error, have authorised payment of the amount on which the interest is payable;

and in this subsection "the relevant return" means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.

(6) The "applicable period" in a case falling within paragraph (c) of subsection (1) above is the period—

(a) beginning with the date on which the payment is received by the Commissioners, and

(b) ending with the date on which they authorise payment of the amount on which the interest is payable.

(7) The "applicable period" in a case falling within paragraph (d) of that subsection is the period—

(a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and

(b) ending with the date on which they in fact authorise payment of that amount.

(8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period referable to the raising and answering of any reasonable inquiry relating to any matter giving rise to, or otherwise connected with, the person's entitlement to interest under this section.

(9) The Commissioners shall only be liable to pay interest under this section on a claim made in writing for that purpose.

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(10) No claim shall be made under this section after the expiry of six years from the date on which the claimant discovered the error or could with reasonable diligence have discovered it.

(11) In this section—

(a) any reference to receiving a payment from the Commissioners includes a reference to the discharge, by way of set-off, of their liability to make it; and

(b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 7 to this Act.

(12) This section confers a right to interest in respect of periods before as well as after its coming into force.

Interest: general treatment.

38B.—(1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of—

(a) any provision of this Act,

1985 c. 54. (b) section 25 of the Finance Act 1985, or

1989 c. 26. (c) section 24 of the Finance Act 1989,

shall be treated as an amount due to him by way of credit under section 14(5) above.

(2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled."

(2) In section 40(1) of that Act (which specifies the matters in respect of which an appeal lies to a value added tax tribunal against a decision of the Commissioners) after paragraph (h) there shall be inserted—

"(ha) any liability of the Commissioners to pay interest under section 38A above or the amount of interest so payable;".

Reduction of penalty for serious misdeclaration etc.

18.—(1) In section 14 of the Finance Act 1985 (serious misdeclaration or neglect resulting in understatements or overclaims) in subsection (1) (liability to penalty equal to a percentage of the tax which would have been lost) for "30 per cent." there shall be substituted "20 per cent."

(2) Subject to subsection (3) below, this section shall apply where a penalty is assessed on or after 20th March 1991 in relation to a prescribed accounting period beginning on or after 1st April 1990.

(3) This section shall not apply in the case of a supplementary assessment if the original assessment was made before 20th March 1991.

CHAPTER III

CAR TAX

Vehicles leased to the handicapped. 1983 c. 53.

19.—(1) In section 5A of the Car Tax Act 1983 (relief where vehicle leased to the handicapped) after subsection (2) (which imposes a charge to tax where vehicle supplied by the lessor in certain circumstances) there shall be inserted—

"(2A) Subsection (2)(b) above shall not apply where at the time of the supply the lessor is—

(a) a charity, or

(b) a person used by a charity for the purpose of making supplies which attract relief under this section."

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

20.—(1) Section 7 of the Car Tax Act 1983 (remission of tax on certain vehicles) shall be amended as follows.

Research vehicles. 1983 c. 53.

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

"(4A) Regulations under this Act may make provision for enabling the Commissioners to remit the tax on a chargeable vehicle or, if the tax has been paid, to repay it, subject in either case to such conditions as they think necessary for the protection of the revenue, where—

(a) subsection (4B) below applies, and

(b) such other conditions are satisfied as may be prescribed by the regulations.

(4B) This subsection applies where a person registered under this Act—

(a) makes the vehicle in the United Kingdom and appropriates it to his own use,

(b) imports the vehicle into the United Kingdom and registers it, or

(c) acquires the vehicle in the United Kingdom in an unused condition from another,

and, at the time he appropriates, registers or, as the case may be, acquires the vehicle, he intends it to be used only by him or on his behalf and only for the purposes of commercial or industrial research."

(3) In subsection (5) (conditions which may be imposed) after "subsection (4)" there shall be inserted "or (4A)".

(4) In subsection (6) (recovery of tax where breach of condition)—

(a) for "has been remitted on a vehicle under subsection (4) above" there shall be substituted "on a vehicle has been—

(a) remitted under subsection (4) above, or

(b) remitted or repaid under subsection (4A) above,";

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(b) after "remission" there shall be inserted "or, as the case may be, an amount of tax equal to that repaid".

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Income tax rates and allowances

Charge and rates of income tax for 1991-92.

21.—(1) Income tax shall be charged for the year 1991-92, and—

(a) the basic rate shall be 25 per cent.,

(b) the basic rate limit shall be £23,700, and

(c) the higher rate shall be 40 per cent.

(2) In accordance with subsection (1)(b) above, section 1(4) of the Taxes Act 1988 (indexation) shall not apply for the year 1991-92.

Married couple's allowance.

22.—(1) Section 257C(1) of the Taxes Act 1988 (indexation), so far as relating to section 257A(1) of that Act (married couple's allowance), shall not apply for the year 1991-92.

(2) Section 257A(1) of that Act shall apply for the year 1991-92 as if the amount specified in it were "£1,720".

Corporation tax rates

Rate of corporation tax for 1990. 1990 c. 29.

23.—(1) The rate at which corporation tax is charged for the financial year 1990 shall be 34 per cent. (and not 35 per cent. as provided by section 19 of the Finance Act 1990).

(2) For the financial year 1990 the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths (and not one fortieth as provided by section 20 of the Finance Act 1990).

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

Charge and rate of corporation tax for 1991.

24. Corporation tax shall be charged for the financial year 1991 at the rate of 33 per cent.

Small companies.

25.—(1) For the financial year 1991—

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

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

(2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—

(a) for "£200,000" there shall be substituted "£250,000", and

(b) for "£1,000,000" there shall be substituted "£1,250,000".

(3) Subsection (2) above shall have effect for the financial year 1991 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company's accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

Interest

Relief for interest.

26. For the year 1991-92 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.

Abolition of higher rate relief on certain mortgage interest etc.

27.—(1) At the end of section 353 of the Taxes Act 1988 (certain interest payments to be deducted from or set off against income) there shall be added—

"(4) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of interest which falls to be deducted or set off under subsection (1) above by virtue of section 355(1)(a), 356(1) or 365.

(5) In subsection (4) above, "excess liability" means the excess of 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."

(2) In section 369 of that Act (mortgage interest relief at source) in subsection (3) (charge to tax at basic rate on an amount equal to that which falls to be deducted in computing total income) after the words "in computing his total income" there shall be inserted the words "(otherwise than for the purposes of excess liability)"; and after that subsection there shall be inserted—

"(3A) In computing for the purposes of excess liability the total income of a person for any year of assessment, no deduction shall be allowed in respect of any amount of relevant loan interest to which this section applies.

(3B) In this section "excess liability" means the excess of 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."

(3) The amendment made by subsection (1) above shall not apply in relation to interest which falls to be deducted or set off under section 353(1) of that Act by virtue of paragraph (a) of subsection (5) of section 354 of that Act (relief for bridging loans etc) in any case where—

(a) the loan on which the interest is payable is the loan referred to in that paragraph as "the first-mentioned loan"; and

(b) the loan referred to in paragraph (b) of that subsection as "the other loan" was made before 6th April 1991.

(4) The amendments made by subsection (2) above shall not apply in relation to an amount of interest which is relevant loan interest (within the meaning of section 369 of that Act) by virtue of section 371 of that Act (second loans) in any case where—

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(a) the loan on which the interest is payable is the loan referred to in subsection (1) of that section as "the first loan"; and

(b) the loan which is, for the purposes of that subsection, "the other loan" was made before 6th April 1991.

(5) Where the loan mentioned in paragraph (b) of subsection (3) above or, as the case may be, of subsection (4) above was made on or after 6th April 1991, it shall be treated for the purposes of the subsection in question 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.

(6) The enactments mentioned in Schedule 6 to this Act shall have effect for the year 1991-92 and subsequent years of assessment with the amendments there specified.

(7) Subsections (1) to (5) above shall have effect in relation to payments of interest made on or after 6th April 1991 (whenever falling due).

Mortgage interest relief: caravans.

28.—(1) Section 354(3) of the Taxes Act 1988 (interest eligible for relief in the case of a caravan only if the caravan is large or certain conditions presupposing domestic rating are met) shall cease to have effect.

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

Benefits in kind

Car benefits.

29.—(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	£2,050	£1,400
More than 1400 but not more than 2000	£2,650	£1,800
More than 2000	£4,250	£2,850

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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	£2,050	£1,400
£6,000 or more but less than £8,500	£2,650	£1,800
£8,500 or more but not more than £19,250	£4,250	£2,850

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	£5,500	£3,700
More than £29,000	£8,900	£5,900

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

Mobile telephones.

30.—(1) In section 154(2) of the Taxes Act 1988, in paragraph (b) (which excludes from the general charge on benefits in kind any benefits chargeable under the provisions there specified) after the words "section 157, 158," there shall be inserted "159A,".

(2) After section 159 of that Act there shall be inserted—

"Mobile telephones.

159A.—(1) Where in any year in the case of a person employed in employment to which this Chapter applies a mobile telephone is made available (without any transfer of the property in it) either to that person or to others who are members of his family or household, and—

(a) it is so made available by reason of his employment and it is in that year available for his or their private use, and

(b) the benefit of the mobile telephone is not (apart from this section) chargeable to tax as the employee's income,

there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.

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(2) The cash equivalent of a benefit taxable under this section in any year shall be £200 for each mobile telephone made available in that year, but subject to the following provisions of this section.

(3) If for any year—

(a) there is no private use of the mobile telephone, or

(b) the employee is required to, and does, make good to the person providing the benefit the full cost of any private use of the mobile telephone,

then the cash equivalent of the benefit for that year is nil.

(4) If the mobile telephone is unavailable for any part of a year, the cash equivalent of the benefit for that year shall be reduced by an amount which bears to that specified in subsection (2) above for that year the proportion which the number of days in the year on which the mobile telephone is unavailable bears to 365.

(5) For the purposes of subsection (4) above, a mobile telephone is to be regarded as "unavailable" on any day if, and only if—

(a) it is not made available as mentioned in subsection (1) above until after that day, or

(b) it ceases to be so available before that day, or

(c) it is incapable of being used at all throughout a period of not less than 30 consecutive days of which that day is one.

(6) Where different mobile telephones are made available on different days in a year, the employee shall be treated for the purposes of this section as if the same mobile telephone (or, in a case where two or more mobile telephones are made available concurrently, the same mobile telephones) had been made available on each of those days.

(7) The Treasury may by order taking effect from the beginning of any year commencing after the making of the order increase or further increase the amount specified in subsection (2) above.

(8) For the purposes of this section—

(a) "mobile telephone" means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a telephone which is connected to a public telecommunication system (within the meaning of the Telecommunications Act 1984) but which is not physically connected to a land-line and—

1984 c. 12.

(i) includes any such apparatus provided in connection with a car, notwithstanding that the car is made available as mentioned in section 157, but

(ii) does not include a cordless telephone or a telepoint telephone, whether or not provided in connection with a car;

(b) "cordless telephone" means wireless telegraphy apparatus—

(i) designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a wireless extension to a telephone, and

(ii) used only as such an extension to a telephone that is physically connected to a land-line;

(c) "telepoint telephone" means wireless telegraphy apparatus used for the purpose of a short-range radio communications service utilising frequencies between 864 and 868 megahertz (inclusive);

(d) "private use", in relation to a mobile telephone, means any use of the telephone to make calls, other than calls made wholly, exclusively and necessarily in the performance of the duties of the employment;

(e) "full cost", in relation to any private use of a mobile telephone, means the aggregate of—

(i) the cost of any telephone calls which constitute private use of the mobile telephone; and

(ii) any other cost of the benefit provided, determined in accordance with the provisions of section 156(2) and (5) to (7) as they would apply if the benefit were chargeable to tax under section 154;

(f) an employee who accepts a call on the footing that the cost of the call will be charged to the person providing the benefit shall be treated as if the employee had made the call."

(3) The amendments made by this section shall have effect for the year 1991-92 and subsequent years of assessment.

Beneficial loans: increase of de minimis limit.

31.—(1) In section 161(1) of the Taxes Act 1988 (no charge for beneficial loan if cash equivalent does not exceed £200) for "£200" there shall be substituted "£300".

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

Vocational training

Relief.

32.—(1) This section applies where—

(a) on or after 6th April 1992 an individual resident in the United Kingdom makes a payment in respect of a qualifying course of vocational training,

(b) the payment is made in respect of an allowable expense,

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(c) the payment is made in connection with the individual's own training,

(d) at the time the payment is made, the individual has not received in relation to the course, and is not entitled to receive in relation to it, any public financial assistance of a description specified in regulations made by the Treasury for the purposes of this paragraph, and

(e) the individual is not entitled to claim any relief or deduction in respect of the payment under any other provision of the Income Tax Acts.

(2) The payment shall be deducted from or set-off against the income of the individual for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.

(3) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (2) above shall be given in accordance with subsections (4) and (5) below.

(4) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.

(5) The person to whom the payment is made—

(a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and

(b) may, on making a claim, recover from the Board an amount equal to the amount deducted.

(6) The Treasury may make regulations providing that in circumstances prescribed in the regulations—

(a) an individual who makes, in respect of a qualifying course of vocational training, a payment in respect of an allowable expense shall cease to be and be treated as not having been entitled to relief under subsection (2) above in respect of the payment or such part of it as may be determined in accordance with the regulations; and

(b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.

(7) Regulations under subsection (6) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.

(8) In subsection (1)(a) above, the reference to an individual resident in the United Kingdom includes an individual performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.

(9) For the purposes of this section, a payment made in respect of a qualifying course of vocational training is made in respect of an allowable expense if—

(a) it is made in respect of fees payable in connection with undertaking the course, including fees payable for assessment purposes, or

(b) it is made in respect of fees payable in connection with the making, as a result of having undertaken the course, of any entry in an official register or any award.

(10) In this section, "qualifying course of vocational training" means any programme of activity capable of counting towards a qualification—

(a) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications, or

(b) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council,

except a qualification at the highest of the levels defined by the Council referred to in paragraph (a) or (b) above (as the case may be).

Section 32: supplementary.

33.—(1) The Board may by regulations—

(a) provide that a claim under section 32(2) or (5)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;

(b) make provision, in relation to payments in respect of which a person is entitled to relief under section 32 above, for persons who provide vocational training courses to give, in such circumstances as may be prescribed, certificates of payment in such form as may be prescribed to such persons as may be prescribed;

(c) provide that a person who provides (or has at any time provided) training courses which are (or were) qualifying courses of vocational training for the purposes of section 32 above shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board's inspection documents (of a prescribed kind) relating to such courses;

(d) provide that persons of such description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about training courses which are qualifying courses of vocational training for the purposes of section 32 above;

(e) make provision generally as to administration in connection with section 32 above.

(2) The words "Regulations under section 33 of the Finance Act 1991" shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.). 1970 c. 9.

(3) The following provisions of the Taxes Management Act 1970, namely— 1970 c. 9.

(a) section 29(3)(c) (excessive relief),

(b) section 30 (tax repaid in error etc.),

(c) section 88 (interest), and

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(d) section 95 (incorrect return or accounts),

shall apply in relation to the payment of an amount claimed under section 32(5)(b) above to which the claimant was not entitled as if it had been income tax repaid as a relief which was not due.

(4) In sections 257B(2), 257D(8) and 265(3) of the Taxes Act 1988, after paragraph (d) there shall be inserted ", or

(e) on account of any payments to which section 32(4) of the Finance Act 1991 applies."

(5) In subsection (1) above, "prescribed" means prescribed by or, in relation to form, under the regulations.

Retirement benefits schemes

Conditions for approval: amendments.

34.—(1) Section 590 of the Taxes Act 1988 (conditions for approval of retirement benefits schemes) shall be amended as follows.

(2) In subsection (3)(a) for the words "or, if the employee is a woman, 55, and not later than 70" there shall be substituted the words "and not later than 75".

(3) The following subsection shall be inserted after subsection (4)—

"(4A) In subsection (3)(c) above "benefits" does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security."

(4) This section shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed.

Cessation of approval.

35. The following section shall be inserted after section 591 of the Taxes Act 1988—

"Effect on approved schemes of regulations under section 591.

591A.—(1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 ("section 591 regulations") which contain provisions restricting the Board's discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme ("relevant provisions").

(2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—

(a) contains a provision of a prohibited description, or

(b) does not contain a provision of a required description,

unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.

(3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.

(4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.

(5) In this section—

(a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;

(b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591."

Cessation of approval: general provisions.

36.—(1) The following section shall be inserted after section 591A of the Taxes Act 1988—

"Cessation of approval: general provisions.

591B.—(1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.

(2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—

(a) the alteration has been approved by the Board, or

(b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class."

(2) Accordingly, in section 590 of the Taxes Act 1988 subsections (5) and (6) shall be omitted.

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(3) The amendments made by subsections (1) and (2) above shall be deemed always to have had effect.

1970 c. 24.

(4) The Finance Act 1970 shall be deemed always to have had effect—

(a) with the omission of section 19(3) and (4), and

(b) with the insertion after section 20 of a section 20A in the same form as section 591B of the Taxes Act 1988 (with the omission before 17th March 1987 of the words from "(which shall not" to "whichever is the later)").

Profit-related pay, share schemes etc.

Profit-related pay: increased relief.

37.—(1) In section 171(1) of the Taxes Act 1988 (one half of certain profit-related pay exempt from income tax) for "One half" there shall be substituted "The whole".

(2) This section shall have effect in relation to profit-related pay paid by reference to profit periods beginning on or after 1st April 1991.

Employee share schemes: non-discrimination.

38.—(1) The Taxes Act 1988 shall be amended as follows.

(2) In Part III of Schedule 9 (requirements applicable to savings-related share option schemes) in paragraphs 19(b) and 20 for "pensionable age" there shall be substituted "the specified age".

(3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for "pensionable age" there shall be substituted "the relevant age", and at the end of each of those paragraphs there shall be inserted—

"In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991 was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age."

(4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of "shares" there shall be inserted—

" "specified age", in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;".

(5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

"8A.—(1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.

(2) The age specified—

(a) must be the same for men and women, and

(b) must be not less than 60 and not more than 75."

(6) Subsections (2) and (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

Approved share option schemes: price at which shares may be acquired.

39.—(1) In Schedule 9 to the Taxes Act 1988 (requirements by reference to which share option schemes approved) for paragraph 29 there shall be substituted—

"29.—(1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

(a) must be stated at the time the right is obtained, and

(b) except where stated under provision included in the scheme pursuant to sub-paragraph (2) below, must not be manifestly less than the market value of shares of the same class at the material time.

(2) The scheme may provide that, if sub-paragraph (3) below applies, scheme shares may be acquired by the exercise of a right obtained under the scheme at a price which is not manifestly less than 85 per cent. of the market value of shares of the same class at the material time.

(3) This sub-paragraph applies if the conditions specified in sub-paragraph (4)(a) and, as the case may be, (b) or (c) below, are met—

(a) where at the time the right is obtained the scheme is not a group scheme, as respects the grantor;

(b) where at the time the right is obtained the scheme is a group scheme, as respects each company to which the scheme is expressed to extend at that time.

(4) The conditions are—

(a) that the company has established, or is at the time the right is obtained a participating company in relation to, a scheme which is at that time an approved savings-related share option scheme or an approved profit sharing scheme (a "qualifying scheme");

(b) where there is only one qualifying scheme, that every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme's existence;

(c) where there is more than one qualifying scheme, that, in the case of each of those schemes, every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme's existence.

(5) In determining whether the condition specified in sub-paragraph (4)(a) above is met, the withdrawal of approval under paragraph 3 above with effect from a time before the right is obtained shall be disregarded if the withdrawal takes place retrospectively from a time after the right is obtained.

(6) For the purposes of sub-paragraph (4)(b) and (c) above, an employee has been informed of the existence of a scheme by an appropriate person if he has been informed by one or more of the following—

(a) a company by virtue of employment with which the employee is eligible to participate in the scheme,

(b) the grantor, and

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(c) where the scheme under which the right to acquire the shares is obtained is a group scheme, any other company which is a participating company in relation to that scheme.

(7) The scheme may provide for such variation of the price at which scheme shares may be acquired as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

(8) In this paragraph, references to the material time are to the time the right to acquire the scheme shares is obtained or, if the Board and the grantor agree in writing, such earlier time or times as may be provided in the agreement."

(2) Section 185 of that Act (tax reliefs for approved share option schemes) shall be amended as mentioned in subsections (3) to (6) below.

(3) In subsection (2) (exemption from tax in respect of receipt under approved scheme of right to acquire shares) for "Subject to subsections (4) and (6) below" there shall be substituted "Subject to subsections (6) to (6B) below".

(4) In subsection (4) (which relates to certain rights to acquire shares obtained under a savings-related share option scheme) for "Subsections (2) and (3) above" there shall be substituted "Subsection (3) above".

(5) For subsection (6) there shall be substituted—

"(6) Subsection (6A) below applies where—

(a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and

(b) the price at which he may acquire shares by exercising the right is not applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9.

(6A) Where the aggregate of—

(a) the amount or value of any consideration given by him for obtaining the right, and

(b) the price at which he may acquire the shares by exercising the right,

is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(6B) Subsection (6A) above shall also apply where—

(a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and

(b) the price at which he may acquire shares by exercising the right is applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9;

but with the substitution for "the market value" of "85 per cent. of the market value"."

(6) In subsections (7) and (8), for "(6)" there shall be substituted "(6A)".

(7) Subsections (1), (5) and (6) above shall come into force on 1st January 1992.

(8) Subsections (3) and (4) above shall apply in relation to rights obtained on or after 1st January 1992.

Savings-related share option schemes.

40.—(1) In Part III of Schedule 9 to the Taxes Act 1988 (requirements applicable to savings-related share option schemes) in paragraph 24(2)(a) (scheme not to permit monthly amount of contributions linked to schemes to exceed £150) for "£150" there shall be substituted "£250".

(2) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

Profit sharing schemes.

41.—(1) In section 187(2) of the Taxes Act 1988, in the definition of "relevant amount" (limit on the value of shares that may be appropriated to a participant in a year of assessment) for "not less than £2,000 and not more than £6,000" there shall be substituted "not less than £3,000 and not more than £8,000".

(2) This section shall apply for the year 1991-92 and subsequent years of assessment.

Costs of establishing share option or profit sharing schemes: relief.

42. The following section shall be inserted after section 84 of the Taxes Act 1988—

"Costs of establishing share option or profit sharing schemes: relief.

84A.—(1) Subsection (2) below applies where—

(a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or

(b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.

(2) In such a case the expenditure—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

(b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) In a case where—

(a) subsection (2) above applies, and

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(b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).

(4) References in this section to approving are to approving under Schedule 9.

(5) This section applies where the expenditure is incurred on or after 1st April 1991."

Costs of establishing employee share ownership trusts: relief.

43. The following section shall be inserted after section 85 of the Taxes Act 1988—

"Costs of establishing employee share ownership trusts: relief.

85A.—(1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.

(2) In such a case the expenditure—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

(b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) In a case where—

(a) subsection (2) above applies, and

(b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).

(4) In this section "qualifying employee share ownership trust" shall be construed in accordance with Schedule 5 to the Finance Act 1989.

1989 c. 26.

(5) For the purposes of this section the trust is established when the deed under which it is established is executed.

(6) This section applies where the expenditure is incurred on or after 1st April 1991."

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Priority share allocations for employees etc.
1988 c. 39.

44.—(1) In relation to offers made on or after 16th January 1991, section 68 of the Finance Act 1988 (which provides for the benefits derived from priority rights in share offers to be disregarded in certain circumstances) shall have effect, and be deemed at all times on and after that date to have had effect, with the amendments specified in subsections (2) to (8) below.

(2) In paragraph (a) of subsection (1), for the words "an offer" there shall be substituted the words "a bona fide offer".

(3) After that subsection there shall be inserted—

"(1ZA) A case falls within this subsection if—

(a) there is a bona fide offer to the public of a combination of shares in two or more companies at a fixed price or by tender ("the public offer");

(b) there is at the same time an offer ("the employee offer") of shares, or of a combination of shares, in any one or more, but not all, of those companies—

(i) to directors or employees, or

(ii) to directors or employees and to other persons,

(whether the directors or employees are directors or employees of any of those companies, or of any other company or person); and

(c) any of those directors or employees is entitled, by reason of his office or employment, to an allocation of shares under the employee offer in priority to any allocation to members of the public under the public offer.

(1ZB) In any case falling within subsection (1ZA) above—

(a) the public offer and the employee offer shall be regarded for the purposes of subsection (1) above as together constituting a single offer of shares to the public, notwithstanding the difference in the shares to which each offer relates;

(b) the reference to "the shares" in paragraph (b) of that subsection shall be taken as a reference to any of the shares which, in consequence of paragraph (a) above, are to be regarded as subject to that single offer; and

(c) in the following provisions of this section references to the offer or to shares subject to the offer shall be construed accordingly."

(4) For subsection (1A) there shall be substituted—

"(1A) Where, disregarding the amount or value of any registrant discount made to the director or employee in respect of the shares of the company (or, in a case falling within subsection (1ZA) above, of the company in question), the price payable by him for the shares of that company which are allocated to him under the offer—

(a) in a case not falling within subsection (1ZA) above, is less than the fixed price or the lowest price successfully tendered, or

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(b) in a case falling within that subsection, is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of that company,

subsection (1) above shall not apply to the benefit (if any) represented by the difference in price."

(5) After subsection (2B) there shall be inserted—

"(2C) In a case falling within subsection (1ZA) above, the condition in paragraph (a) of subsection (2) above shall be taken to be satisfied in relation to the offer if, and only if, it is separately satisfied with respect to the shares in each one of the companies which are subject to that offer; and for this purpose only, any reference in that paragraph or in subsection (2A) or (2B) above to shares is a reference to shares in the particular company in question."

(6) In subsection (3A) (saving where the allocations of directors or employees are larger than those of other persons) after the words "the company", where first occurring, there shall be inserted the words "(or, in a case falling within subsection (1ZA) above, any one or more of the companies to which the offer relates)".

(7) At the end of subsection (5) (definitions) there shall be added—

""the public offer" and "the employee offer" have the meaning given by paragraphs (a) and (b) of subsection (1ZA) above."

(8) After that subsection there shall be inserted—

"(5A) For the purposes of this section, there is a "registrant discount" in respect of the shares of a company in any case where—

(a) in connection with the offer, members of the public who comply with such requirements as may be imposed in that behalf are, or may become, entitled to a discount in respect of the whole or some part of the shares of that company which are allocated to them; and

(b) at least 40 per cent. of the shares of that company which are allocated to members of the public other than employees and directors are allocated to individuals who are or become entitled either to that discount or to some other benefit of similar value for which they may elect as an alternative to the discount; and

(c) directors or employees who either—

(i) subscribe for shares under the offer (or, in a case falling within subsection (1ZA) above, under the public offer) as members of the public, or

(ii) subscribe for shares under the employee offer, as directors or employees,

and who comply (or, in the case of a requirement to register, are taken under the terms of the offer to comply) with the same requirements as are mentioned in paragraph (a) above, are, or may become, entitled to the same

discount in respect of the shares of the company as any other members of the public to whom shares of that company are allocated under the offer;

and any reference in this section to the amount or value of the registrant discount made to a director or employee is a reference to the amount of any such discount made to him as is mentioned in paragraph (c) above or, as the case may be, the value of any such other benefit as is mentioned in paragraph (b) above which is conferred upon him as an alternative to the discount.

(5B) For the purposes of this section, in a case falling within subsection (1ZA) above "the appropriate notional price" for the shares of any of the companies subject to the offer is such price as—

(a) had the shares of that company, and of each of the other companies, instead of being subject to the offer, been subject to separate offers to the public in respect of each company at fixed prices, and

(b) had those separate offers been made at the time at which the public offer was in fact made,

might reasonably have been expected to be the fixed price for the shares of that company under the separate offer of those shares; but where subsection (5C) below applies, the amount determined in accordance with this subsection as the notional price for the shares of any company shall be varied in accordance with that subsection.

(5C) If the amounts determined in accordance with subsection (5B) above as the appropriate notional prices for the shares of each of the companies subject to the public offer are such that, had the price for the combination of shares subject to the public offer been determined by aggregating the appropriate notional price (as so determined) for each one of the shares comprised in the combination, the price for the combination would have been different from the actual fixed price or (as the case may be) lowest successfully tendered price, then those amounts shall each be varied by multiplying them by the fraction of which—

(a) the numerator is the actual fixed or lowest successfully tendered price for the combination of shares subject to the public offer; and

(b) the denominator is the different price mentioned above;

and those amounts, as so varied, shall be the appropriate notional prices for the purposes of this section."

(9) In section 77 of that Act (scope of provisions about unapproved employee share schemes) in subsection (1), for the words "Subject to subsections (2) and (3) below" there shall be substituted the words "Subject to subsections (2) to (4) below", and after subsection (3) (exemption where the acquisition is made in pursuance of an offer to the public) there shall be added—

"(4) Where, in a case falling within subsection (1ZA) of section 68 above, subsection (1) of that section—

(a) applies or applied in relation to such a benefit as is there mentioned, or

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(b) would so apply or have applied, had there been any such benefit,

any acquisition made on or after 16th January 1991 in pursuance of any of the offers which, in that case, fall to be regarded by virtue of subsection (1ZB) of that section as together constituting a single offer of shares to the public for the purposes of subsection (1) of that section shall be regarded for the purposes of subsection (3) above as an acquisition made in pursuance of an offer to the public."

(10) The amendments made by subsection (9) above shall be deemed to have come into force on 16th January 1991.

Foreign earnings

Seafarers.

45.—(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings) in paragraph 3(2A) (seafarers) for "90" there shall be substituted "183" and for "one quarter" there shall be substituted "one half".

(2) Subject to subsection (3) below, this section shall apply for the purpose of deciding whether the relevant period and the earlier qualifying period referred to in paragraph 3(2) of Schedule 12 to the Taxes Act 1988 are to be treated as a single period in a case where at least one of the intervening days falls after 5th April 1991.

(3) This section shall apply for the purpose of charging tax for the year 1991-92 or any later year of assessment.

Workers in Kuwait or Iraq.

46.—(1) This section applies if—

(a) a person was in Kuwait or Iraq at any time in the period of 62 days ending with 2nd August 1990,

(b) he was at that time engaged in performing the duties of an office or employment which were to be performed to a substantial extent in Kuwait or Iraq,

(c) he returned to the United Kingdom after that time,

(d) the period of absence from the United Kingdom which ends with his return is not, and is not part of, a qualifying period consisting of at least 365 days, and

(e) he satisfies the Board (or the Commissioners on appeal) that, having regard to the circumstances, it is likely that that period of absence would have been part of such a qualifying period but for events leading up to or arising from the invasion of Kuwait on 2nd August 1990.

(2) In such a case, so much of the period before the day of his return to the United Kingdom as the Board are satisfied would have been part of a qualifying period consisting of at least 365 days (but for those events) shall be treated as a qualifying period consisting of at least 365 days.

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

(4) In the case of employment as a seafarer, this section shall have effect as if "62 days" read "90 days".

(5) In this section—

(a) "qualifying period" means a qualifying period for the purposes of section 193(1) of the Taxes Act 1988 (foreign earnings);

(b) "employment as a seafarer" has the same meaning as in paragraph 3(2A) of Schedule 12 to that Act (further provisions about foreign earnings).

Insurance companies and friendly societies

Investor protection schemes.

47.—(1) In section 76 of the Taxes Act 1988, in subsection (7) (which treats certain levies as expenses of management of insurance companies) after the word "under" there shall be inserted "(a)" and after the words "Policyholders Protection Act 1975" there shall be inserted the words "or

(b) a levy imposed in pursuance of a scheme established by rules under section 54 of the 1986 Act (compensation fund for unsatisfied claims),".

(2) After that subsection there shall be inserted—

"(7A) The Treasury may by regulations make provision for any sums paid by a company under a prescribed levy imposed under a prescribed investor protection scheme established under the rules of a prescribed recognised self-regulating organisation to be treated for the purposes of this section as part of the company's expenses of management; and, without prejudice to the generality of the foregoing, regulations under this subsection may, in particular—

(a) provide for only a prescribed part of any sums so paid to be so treated;

(b) provide for sums paid before, as well as after, the coming into force of the regulations to be so treated; and

(c) make different provision for different cases or in relation to different levies, schemes or organisations."

(3) For subsection (8) of that section (definitions) there shall be substituted—

"(8) In this section—

"the 1986 Act" means the Financial Services Act 1986; 1986 c. 60.

"acquisition expenses" means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989; 1989 c. 26.

"authorised person" has the same meaning as it has in the 1986 Act by virtue of section 207(1) of that Act;

"investment business" has the same meaning as it has in the 1986 Act by virtue of section 1(2) of that Act;

"investor" includes a person who is an investor for the purposes of the 1986 Act;

"investor protection scheme" means a scheme established under the rules of a recognised self-regulating organisation for purposes which consist of or include the compensating of investors in cases where persons, or persons of some class or description, who are or have been authorised

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persons, are, or are likely to be, unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their investment businesses;

"prescribed" means specified in regulations made by the Treasury under subsection (7A) above;

"recognised self-regulating organisation" has the same meaning as it has in the 1986 Act;

and other expressions have the same meaning as in Chapter I of Part XII."

(4) The amendments made by subsection (1) above shall have effect in relation to levies imposed, and sums paid, before or after the coming into force of that subsection.

Assimilation of basic life assurance business and general annuity business.

48. Schedule 7 to this Act shall have effect.

Pension business: payments on account of tax credits and deducted tax.

49.—(1) After section 438 of the Taxes Act 1988 (pension business: exemption from tax) there shall be inserted—

"Pension business: payments on account of tax credits and deducted tax.

438A. Schedule 19AB shall have effect."

(2) Schedule 8 to this Act (which makes provision for and in connection with the making of payments to insurance companies on account of tax borne by deduction and tax credits in respect of income from assets referable to their pension business) shall have effect.

(3) This section shall have effect in relation to accounting periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint.

Friendly societies.

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

Building societies

Qualifying shares.

51. Schedule 10 to this Act (which makes provision about certain kinds of building society share) shall have effect.

Marketable securities.

52.—(1) Schedule 11 to this Act (which makes provision about the deduction of income tax in the case of marketable securities issued by building societies) shall have effect.

(2) In section 477A of the Taxes Act 1988 (corporation tax treatment of payments by building societies) after subsection (3) there shall be inserted—

"(3A) Subsection (3B) below applies in the case of a dividend or interest payable in respect of any security (other than a qualifying certificate of deposit) which is quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest becomes payable.

(3B) Where the amount payable by way of dividend or interest represents more than a reasonable commercial return for the use of the principal to which the security relates, the amount deductible in respect of the dividend or interest under subsection (3)(a) above shall not exceed an amount equal to the amount which would have represented a reasonable commercial return for the use of that principal.

(3C) For the purposes of subsection (3B) above, no amount shall be regarded as representing the principal to which a security relates in so far as it exceeds any new consideration which has been received by the society for the issue of the security."

(3) Subsection (2) above shall apply in relation to dividends or interest becoming payable on or after the day on which this Act is passed.

Income Tax (Building Societies) Regulations 1986. 1970 c. 10. S.I. 1986/482.

53.—(1) Section 343(1A) of the Income and Corporation Taxes Act 1970 (building societies) shall be deemed to have conferred power to make all the provisions in fact contained in the Income Tax (Building Societies) Regulations 1986 (the regulations).

(2) Where a provision of the regulations requires a building society to pay to the Board a sum calculated by reference to the reduced rate and the basic rate, subsection (3) below shall apply to the extent that the sum is one in respect of payments or credits made in the period beginning with 1st March in any year and ending with 5th April in the same year.

(3) The provision shall be deemed always to have had effect as if the reduced and basic rates concerned were those for the year of assessment in which the period falls.

(4) In relation to a building society which commenced proceedings to challenge the validity of the regulations before 18th July 1986, this section shall not have effect to the extent that the regulations apply (or purport to apply) to payments or credits made before 6th April 1986.

Securities

New issues.

54. Schedule 12 to this Act (which contains provisions about securities issued after an issue of securities of the same kind) shall have effect.

Purchase and sale of securities: options.

55.—(1) In section 731 of the Taxes Act 1988 (scope of bondwashing provisions) the following subsections shall be inserted after subsection (4)—

"(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm's length terms.

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(4B) For the purposes of subsection (4A) above an option is a "qualifying option" if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that subsection to the time of the abandonment or other disposal a reference to the time of exercise.

(4C) In subsection (4A) above the reference to arm's length terms is to terms—

(a) agreed between persons dealing at arm's length, or

(b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing."

(2) This section shall apply where the subsequent sale by the first buyer takes place on or after the day on which this Act is passed.

Bondwashing.

56.—(1) In section 732 of the Taxes Act 1988, after subsection (2) (exemption for market makers) there shall be inserted—

"(2A) Subsection (1) above shall not apply in prescribed circumstances if—

(a) the first buyer is—

(i) a prescribed recognised clearing house, or

(ii) a member, of a prescribed class or description, of a prescribed recognised investment exchange, and

(b) the subsequent sale is carried out by the first buyer after a prescribed date and in the ordinary course of his business."

(2) At the end of that section there shall be added—

"(7) For the purposes of subsection (2A) above—

"prescribed" means prescribed in regulations made by the Treasury;

"recognised clearing house" means a recognised clearing house within the meaning of the Financial Services Act 1986;

1986 c. 60.

"recognised investment exchange" means a recognised investment exchange within the meaning of that Act."

Stock lending.

57.—(1) Section 129 of the Taxes Act 1988 (stock lending) shall be amended as mentioned in subsections (2) and (3) below.

(2) The following subsection shall be inserted after subsection (2)—

"(2A) Subject to subsection (4) below—

(a) this section also applies where an arrangement in addition to those mentioned in subsections (1) and (2) above, and similar to that mentioned in subsection (2) above, is entered into as part of a chain of arrangements all having the effect of enabling A to fulfil his contract, and

(b) it is immaterial how many separate arrangements there are in the chain."

(3) In subsection (3) after "(2)" there shall be inserted "or (2A)".

1979 c. 14.

(4) In section 149B(9) of the Capital Gains Tax Act 1979 (which refers to section 129 of the Taxes Act 1988) after "(2)" there shall be inserted "or (2A)".

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(5) This section shall apply to transfers made after such date as is specified for this purpose by regulations under section 129 of the Taxes Act 1988.

Manufactured dividends and interest.

58.—(1) After section 736 of the Taxes Act 1988 there shall be inserted—

"Manufactured dividends and interest.

736A. Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities."

(2) The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified.

(3) This section shall have effect in relation to payments made on or after such day as the Treasury may specify for this purpose by regulations made by statutory instrument and different days may be so appointed for different provisions or different purposes.

Capital allowances

Interaction with VAT capital goods scheme. 1990 c. 1.

59.—(1) The Capital Allowances Act 1990 shall have effect with the amendments specified in Schedule 14 to this Act.

(2) The amendments made by that Schedule shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1990.

Toll roads.

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

(2) Part I (industrial buildings and structures) shall be amended as mentioned in subsections (3) to (6) below.

(3) In section 3 (writing-down allowances) there shall be inserted at the end—

"(5) For the purposes of this section, a person entitled to charge tolls in respect of a road shall be treated as having an interest in the road."

(4) In section 18 (definition of "industrial structure") in subsection (1), after paragraph (d) there shall be inserted—

"(da) for the purposes of a toll road undertaking; or".

(5) In section 20 (meaning of "relevant interest") after subsection (4) there shall be inserted—

"(5) For the purposes of subsections (1) and (2) above, in their application to expenditure incurred on the construction of a toll road, the right to charge tolls in respect of the road shall not be treated as an interest in the road.

(6) Where, in the case of expenditure incurred on the construction of a toll road, the person who incurred the expenditure—

(a) was not for the purposes of subsections (1) and (2) above entitled to an interest in the road when he incurred the expenditure, but

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(b) was at that time entitled to charge tolls in respect of the road,

"the relevant interest" means, in relation to that expenditure, the right to charge tolls in respect of the road."

(6) In section 21 (interpretation) after subsection (5) there shall be inserted—

"(5A) For the purposes of this Part, the carrying on of a toll road undertaking shall be treated as the carrying on of an undertaking by way of trade; and accordingly, references in this Part (except sections 17 and 18) to a trade shall be treated as including references to an undertaking treated by virtue of this subsection as carried on by way of trade.

(5B) For the purposes of this Part, a person carrying on a toll road undertaking shall be treated as occupying for the purposes of the undertaking any toll road comprised in it."

(7) Part VIII (supplementary provisions) shall be amended as mentioned in subsections (8) and (9) below.

(8) In section 140 (income tax allowances and charges in taxing a trade etc.) at the end there shall be inserted—

"(11) In the application of this section to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade."

(9) In section 144 (corporation tax allowances and charges in taxing a trade) at the end there shall be inserted—

"(4) In the application of subsection (2) above to allowances and charges which fall to be made under the provisions of Part I, references to a trade shall be treated as including references to an undertaking treated by virtue of section 21(5A) as carried on by way of trade."

(10) This section shall have effect in relation to any chargeable period or its basis period ending on or after 6th April 1991.

Hiring motor cars. 1990 c. 1.

61.—(1) Section 35 of the Capital Allowances Act 1990 (motor cars) shall be amended as mentioned in subsections (2) and (3) below.

(2) In subsection (2) (reduction of allowance for hiring cars whose retail price when new exceeds £8,000) at the end there shall be inserted the words "; but this subsection shall have effect subject to subsection (3) below."

(3) The following subsections shall be inserted after subsection (2)—

"(3) Subsection (2) above shall not apply where the hiring is under a hire-purchase agreement under which there is an option to purchase exercisable on the payment of a sum equal to not more than 1 per cent. of the retail price of the motor car when new.

(4) In subsection (3) above "hire-purchase agreement" has the meaning given by section 784(6) of the principal Act."

(4) This section shall have effect in relation to any chargeable period or its basis period ending on or after the day on which this Act is passed.

Oil industry PART II

Expenditure on and under abandonment guarantees. 1975 c. 22.

62.—(1) To the extent that, by virtue of paragraph (hh) of subsection (1) of section 3 of the Oil Taxation Act 1975 (as set out in section 103(2) of this Act), expenditure incurred on or after 19th March 1991 by a participator in an oil field is allowable for the purposes of petroleum revenue tax under the said section 3, that expenditure shall be allowed as a deduction in computing the participator's ring fence income.

(2) Expressions used in subsection (1) above and the following provisions of this section have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(3) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any purposes of tax as having been incurred by the relevant participator or any other participator in the oil field concerned.

(4) In any case where—

(a) a payment made by the guarantor under the abandonment guarantee is not immediately applied in meeting any expenditure, and

(b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and

(c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,

any reference in subsection (3) above or section 63 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.

(5) In subsections (3) and (4) above—

(a) "abandonment guarantee" has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 105 of this Act; and

(b) "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 of this Act.

Relief for reimbursement expenditure under abandonment guarantees.

63.—(1) This section applies in any case where—

(a) on or after 19th March 1991 a payment (in this section referred to as "the guarantee payment") is made by the guarantor under an abandonment guarantee; and

(b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and

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(c) expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.

(2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 62(4) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 of this Act and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—

(a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and

(b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.

(3) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

(4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall, by virtue of this section, be allowed as a deduction in computing the relevant participator's ring fence income; and no part of the expenditure which is so allowed shall be otherwise deductible or allowable by way of relief for any purposes of tax.

(5) Subject to subsection (6) below, of the reimbursement expenditure incurred in any accounting period by the relevant participator, the amount which constitutes qualifying expenditure shall be determined by the formula—

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

where—

"A" is the reimbursement expenditure incurred in the accounting period;

"B" is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in computing his ring fence income; and

"C" is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

(6) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure shall not exceed whichever is the less of "B" and "C" in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier accounting period.

(7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—

(a) for which the relevant participator is liable; and

(b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 62(3) above is not to be regarded as expenditure incurred by the relevant participator).

(8) In this section—

(a) "abandonment guarantee" has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 3 of the 1975 Act;

(b) "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 of this Act; and

(c) other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

Relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure.

64.—(1) This section applies in any case where—

(a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and

(b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure).

(2) In this section "default payment", "the defaulter" and "qualifying participator" have the same meaning as in paragraph 2A of Schedule 5 to the 1975 Act and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(3) In this section, the amount which is attributed to the qualifying participator as mentioned in subsection (1)(b) above (whether representing the whole or only a part of the default payment) is referred to as the additional abandonment expenditure.

(4) Relief by way of capital allowance or, as the case may be, a deduction in computing ring fence income shall be available to the qualifying participator by virtue of this section in respect of the additional abandonment expenditure in any case where any such relief or deduction would have been available to the defaulter if—

(a) the defaulter had incurred the additional abandonment expenditure; and

(b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

(5) The basis of qualification for or entitlement to any relief or deduction which is available to the qualifying participator by virtue of this section shall be determined on the assumption that the conditions in paragraphs (a) and (b) of subsection (4) above are fulfilled but, subject to that, any such relief or deduction shall be available in like manner as if the additional abandonment expenditure had been incurred by the qualifying participator for the purposes of the ring fence trade carried on by him.

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Reimbursement by defaulter in respect of certain abandonment expenditure.

65.—(1) This section applies in any case where—

(a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and

(b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and

(c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;

and in this section "default payment", "the defaulter" and "qualifying participator" have the same meaning as in the said paragraph 2A and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

(2) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

(3) Subject to subsection (7) below, reimbursement expenditure shall be allowed as a deduction in computing the defaulter's ring fence income.

(4) Subject to subsection (7) below, reimbursement expenditure received by the qualifying participator shall be treated as a receipt (in the nature of income) of his ring fence trade for the relevant accounting period.

(5) For the purposes of subsection (4) above, the relevant accounting period is the accounting period in which the reimbursement expenditure is received by the qualifying participator or, if the qualifying participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.

(6) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the qualifying participator may be made at any time not later than six years after the end of the calendar year in which the reimbursement expenditure is so received.

(7) In relation to a particular default payment, reimbursement expenditure incurred at any time—

(a) shall be allowed as mentioned in subsection (3) above, and

(b) shall be taken into account in computing the qualifying participator's ring fence income by virtue of subsection (4) above,

only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.

(8) The incurring of reimbursement expenditure shall not be regarded, by virtue of section 153 of the Capital Allowances Act 1990 (subsidies, contributions etc.), as the meeting of the expenditure of the qualifying participator in making the default payment.

Restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.

66.—(1) In section 497 of the Taxes Act 1988 (restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.), in subsection (2) after the words "resident in the United Kingdom" there shall be inserted the words "or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme".

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

"(2A) For the purposes of subsection (2) above, a distribution ("the relevant distribution") is made pursuant to a substitution scheme if—

(a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and

(b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and

(c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.

(2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section."

Oil licences.
1988 c. 39.

67.—(1) In section 64(6)(c) of the Finance Act 1988 (definition of the expression "the appropriate legislation relating to capital allowances" for the purposes of section 62 of that Act, which relates to disposals of oil licences) for "Part IV of the Capital Allowances Act 1990" there shall be substituted "Parts IV and VII of the Capital Allowances Act 1990".

(2) This section shall have effect in relation to disposals on or after the day on which this Act is passed.

Miscellaneous

Gifts to educational establishments.

68.—(1) For section 84 of the Taxes Act 1988 (payments for technical education) there shall be substituted the following—

"Gifts to educational establishments.

84.—(1) This section applies where a person carrying on a trade, profession or vocation ("the donor") makes a

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gift for the purposes of a designated educational establishment of—

(a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or

(b) an article used by the donor in the course of his trade, profession or vocation—

(i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and

(ii) in respect of which he has claimed an allowance under that Part of that Act.

(2) For the purposes of this section, an article "qualifies as machinery or plant in the hands of an educational establishment" if, and only if, it is an article such that—

(a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and

(b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and

(c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.

(3) Where this section applies—

(a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and

(b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;

but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.

(4) In any case where—

(a) relief is given under subsection (3) above in respect of the gift of an article, and

(b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,

the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.

(5) In this section "designated educational establishment" means any educational establishment designated, or of a category designated,—

(a) as respects Great Britain, in regulations made by the Secretary of State; or

(b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;

and any such regulations may make different provision for different areas.

(6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—

(a) in the case of an establishment in Great Britain, to the Secretary of State, or

(b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.

(7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(8) Regulations made under subsection (5) above for Northern Ireland—

(a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and S.I. 1979/1573 (N.I. 12).

(b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954. 1954 c. 33 (N.I.).

(9) Section 839 applies for the purposes of subsection (4) above."

(2) The amendment made by subsection (1) above shall have effect with respect to gifts made on or after 19th March 1991.

69.—(1) Section 201A of the Taxes Act 1988 (deduction of fees paid by entertainer to employment agency) shall be amended as follows. Expenses of entertainers.

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(2) In subsection (1)(a) after "subsection (2)" there shall be inserted "or (2A)".

(3) The following subsection shall be inserted after subsection (2)—

"(2A) Fees fall within this subsection if—

(a) they are paid by the employee in pursuance of an arrangement under which a bona fide co-operative society agrees, or the members of such a society agree, to act as agent of the employee in connection with the employment,

(b) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and

(c) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned."

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

1965 c. 12.

"(3A) Subsection (3) of section 1 of the Industrial and Provident Societies Act 1965 (co-operative society does not include profit-making society) shall apply for the purposes of subsection (2A)(a) above as it applies for the purposes of that section."

(5) The following subsection shall be inserted after subsection (4)—

"(4A) Subject to subsection (4) above, a deduction by virtue of this section as regards a particular employment and a particular year of assessment may be based on fees falling within subsection (2) above or fees falling within subsection (2A) above, or both."

(6) The amendments made by this section shall apply for the year 1990–91 and subsequent years of assessment.

(7) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

Personal equity plans.

70. In section 333 of the Taxes Act 1988 (personal equity plans) in subsection (3) (regulations) the following paragraphs shall be inserted after paragraph (f)—

"(g) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations;

(h) provide that the Board may register a plan as being of a particular kind;

(i) make different provision as to different kinds of plan;

(j) provide for investment by an individual under more than one plan in the same year of assessment."

Donations to charity.

71.—(1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.

(2) In consequence of subsection (1) above, in section 338(2) of that Act, for "to sections 339 and 339A" there shall be substituted "to section 339".

(3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.

(4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—

(a) in subsections (1) and (2), after the words "in that period", in the first place where they occur, there were inserted "and before 19th March 1991"; and

(b) in subsection (3)(b), after "that section" there were inserted "in respect of payments made before 19th March 1991".

(5) In section 25 of the Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect. 1990 c. 29.

(6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

Deduction of trading losses.

72.—(1) Where under section 380 of the Taxes Act 1988 (set-off of trading losses against general income) a person makes a claim for relief for a year of assessment in respect of an amount ("the trading loss") which is available for relief under that section, he may in the notice by which the claim is made make a claim under this subsection for the relevant amount for the year to be determined.

(2) The relevant amount for the year is so much of the trading loss as—

(a) cannot be set off against the claimant's income for the year, and

(b) has not already been taken into account for the purpose of giving relief (under section 380 or this section or otherwise) for any other year.

(3) Where the claim under subsection (1) above is finally determined, the relevant amount for the year shall be treated for the purposes of capital gains tax as an allowable loss accruing to the claimant in the year; but the preceding provisions of this subsection shall not apply to so much of the relevant amount as exceeds the maximum amount.

(4) The maximum amount is the amount on which the claimant would be chargeable to capital gains tax for the year, disregarding section 5(1) of the Capital Gains Tax Act 1979 and the effect of this section. 1979 c. 14.

(5) In ascertaining the maximum amount, no account shall be taken of any event—

(a) occurring after the date on which the claim under subsection (1) above is finally determined, and

(b) in consequence of which the amount referred to in subsection (4) above is reduced by virtue of any enactment relating to capital gains tax.

(6) An amount treated as an allowable loss by virtue of this section shall not be allowed as a deduction from chargeable gains accruing to a person in any year of assessment beginning after he has ceased to carry on the trade, profession, vocation or employment in which the relevant trading loss was sustained.

(7) For the purposes of this section, the claim under subsection (1) above shall not be deemed to be finally determined until the relevant amount for the year can no longer be varied, whether by the Commissioners on appeal or on the order of any court.

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(8) References in sections 382(3), 383(6), (7) and (8) and 385(1) of the Taxes Act 1988 to relief under section 380 of that Act shall be construed as including references to relief under this section.

(9) This section shall apply in relation to losses sustained in the year 1991-92 and subsequent years of assessment.

Relief for company trading losses.

73.—(1) After section 393 of the Taxes Act 1988 (losses other than terminal losses) there shall be inserted—

"Losses: set off against profits of the same, or an earlier, accounting period.

393A.—(1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—

(a) of that accounting period, and

(b) if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;

and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.

(2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.

(3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—

(a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or

(b) it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part;

but this subsection is without prejudice to section 397.

(4) For the purposes of subsection (3) above—

(a) the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and

(b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.

(5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—

(a) to be made to the company by way of discharge or repayment of tax, and

(b) to be so made for an accounting period ending on or after 1st April 1991,

shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.

(6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.

(7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.

(8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.

(9) For the purposes of this section—

(a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;

(b) "trading income" means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and

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(c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.

(10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.

(11) In any case where—

(a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or

(b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,

then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of "five years" for "two years"."

(2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.

(3) Schedule 15 to this Act shall have effect.

(4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.

(5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

Trade unions and employers' associations.

74.—(1) Section 467 of the Taxes Act 1988 (trade unions and employers' associations) shall be amended as follows.

(2) In subsection (1) (exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity)—

(a) for "£3,000" there shall be substituted "£4,000", and

(b) for "£625" there shall be substituted "£825".

(3) In subsection (3) (matters to be disregarded in applying subsection (1)) for "£625" there shall be substituted "£825".

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

"(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order."

(5) In subsection (4) (definition of "trade union")—

(a) in paragraphs (a) and (b), for "Registrar of Friendly Societies" there shall be substituted "Certification Officer"; and

(b) for "and" at the end of paragraph (b) there shall be substituted—

"(ba) any trade union within the meaning of the Trade Union Act 1871 registered in Northern Ireland under section 6 of that Act; and". 1871 c. 31.

(6) Subsections (2) and (3) above shall have effect in relation to income or gains which are applicable and applied as mentioned in section 467 of the Taxes Act 1988 on or after 1st April 1991.

(7) Subsection (5) above shall be deemed always to have had effect.

Audit powers in relation to non-residents.

75. The following section shall be inserted after section 482 of the Taxes Act 1988—

"Audit powers in relation to non-residents.

482A.—(1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) ("audit powers").

(2) Regulations under subsection (1) above may in particular—

(a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;

(b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;

(c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;

(d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and

(e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.

(3) Regulations under subsection (1) above may—

(a) make different provision for different cases; and

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(b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

(4) In this section "deposit-taker" has the meaning given by section 481(2)."

Capital element in annuities.

76.—(1) Section 656 of the Taxes Act 1988 (purchased life annuities other than retirement annuities) shall have effect, and be deemed always to have had effect, with the addition of the following subsections—

"(7) In using the prescribed tables of mortality to determine—

(a) the expected term of an annuity for the purposes of subsection (2)(a) above, or

(b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,

the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.

(8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.

(9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary."

1970 c. 10.

(2) Section 230 of the Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for "(2)(a)" and "(4)(c)", in each place where they occur, of "(2A)(a)" and "(3)(c)" respectively.

1956 c. 54.

(3) Section 27 of the Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of "(3)(c)" for "(4)(c)" in both places where it occurs.

Definition of "normal commercial loan".

77.—(1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—

"(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—

(a) shall not be treated as depending to any extent on the results of the company's business or any part of it by reason only of the fact that the terms of the loan provide

for the rate of interest to be reduced in the event of the results of the company's business or any part of it improving, and

(b) shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the value of any of the company's assets increasing.

(5F) Sub-paragraph (5H) below applies where—

(a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and

(b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

(a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,

(b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and

(c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company's assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it."

(2) In relation to the application of paragraph 1(5) of that Schedule (definition of "normal commercial loan") for the purposes of section 64(2) of the Finance Act 1984 (definition of "corporate bond"), this section shall have effect— 1984 c. 43.

(a) so far as concerns the application of section 64(2) for the purposes of section 136A of the Capital Gains Tax Act 1979, in relation to claims on or after 1st April 1991, and 1979 c. 14.

(b) so far as concerns any other application of section 64(2), in relation to disposals on or after that date (and, in relation to such disposals, shall be regarded as always having had effect).

(3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.

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Sharing of transmission facilities.

78.—(1) This section applies to any agreement relating to the sharing of transmission facilities—

(a) to which the parties are national broadcasting companies,

(b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and

(c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.

(2) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement, both parties shall be treated for the purposes of corporation tax on chargeable gains as if the asset acquired by the party to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other.

(3) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement and the asset is one which the party making the disposal acquired on a part disposal by the party to whom the disposal under the agreement is made, then in applying subsection (2) above—

1979 c. 14.

(a) section 35 of the Capital Gains Tax Act 1979 shall be deemed to have had effect in relation to the part disposal with the omission of subsection (4),

(b) the amount or value of the consideration for the part disposal shall be taken to have been nil, and

1988 c. 39.

(c) if the disposal under the agreement is one to which section 96(2) of the Finance Act 1988 applies, the market value of the asset on 31st March 1982 shall be taken to have been nil.

(4) Where under an agreement to which this section applies one party to the agreement disposes of machinery or plant to another party to the agreement, the Capital Allowances Act 1990 shall apply—

1990 c. 1.

(a) in the case of the party making the disposal, as if the disposal value of the machinery or plant for the purposes of section 24 of that Act were equal to the capital expenditure incurred by that party on its provision, and

(b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the machinery or plant were equal to the capital expenditure so incurred.

(5) In subsection (4) above, references to machinery or plant include a share in machinery or plant.

1985 c. 54.

(6) In section 68 of the Finance Act 1985 (modification of indexation allowance) in subsection (7A) (list of no gain/no loss provisions) the word "and" at the end of paragraph (f) shall be omitted and after paragraph (g) there shall be inserted—

"(h) section 78(2) of the Finance Act 1991."

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(7) In Schedule 8 to the Finance Act 1988 (rebasing to 1982) in paragraph 1(3) (list of no gain/no loss provisions) the word "and" at the end of paragraph (g) shall be omitted and after paragraph (h) there shall be inserted "and 1988 c. 39.

(i) section 78(2) of the Finance Act 1991."

(8) In this section, "national broadcasting company" means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

Abolition of CRT: consequential amendment.

79.—(1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for "section 476" there shall be substituted "section 477A".

(2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.

Interest on certain debentures. 1989 c. 29.

80. Paragraph 8(2) of Schedule 11 to the Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and be deemed always to have had effect, with the addition after paragraph (b) of the words—

"and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture."

Agents acting for non-residents. 1970 c. 9.

81.—(1) Section 78 of the Taxes Management Act 1970 (method of charging non-residents) shall be amended as mentioned in subsections (2) to (4) below.

(2) In subsection (3) (meaning of investment transactions) the following paragraph shall be substituted for paragraph (a)—

"(a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land,".

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

"(3A) For the purposes of subsection (3) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations."

(4) Subsection (4) (provision about investment transactions does not apply to profits or gains which constitute income of an offshore fund) shall be omitted.

(5) This section shall apply—

(a) for the year 1991-92 and subsequent years of assessment, in the case of profits or gains chargeable to income tax, and

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(b) for accounting periods ending on or after 1st April 1991, in the case of profits or gains chargeable to corporation tax.

Certificates of non-liability to tax. 1970 c. 9.

82.—(1) In the Taxes Management Act 1970, the following section shall be inserted after section 99—

"Certificates of non-liability to income tax.

99A. If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

(a) gives the certificate fraudulently or negligently, or

(b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000."

(2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.

(3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.

CHAPTER II

CAPITAL GAINS

Settlements

Trustees ceasing to be resident in U.K.

83.—(1) This section applies if the trustees of a settlement become at any time (the relevant time) neither resident nor ordinarily resident in the United Kingdom.

1979 c. 14.

(2) The trustees shall be deemed for all purposes of the Capital Gains Tax Act 1979—

(a) to have disposed of the defined assets immediately before the relevant time, and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Subject to subsections (4) and (5) below, the defined assets are all assets constituting settled property of the settlement immediately before the relevant time.

(4) If immediately after the relevant time—

(a) the trustees carry on a trade in the United Kingdom through a branch or agency, and

(b) any assets are situated in the United Kingdom and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency,

the assets falling within paragraph (b) above shall not be defined assets.

(5) Assets shall not be defined assets if—

(a) they are of a description specified in any double taxation relief arrangements, and

(b) were the trustees to dispose of them immediately before the relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(6) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the trustees— 1979 c. 14.

(a) have disposed of the old assets, or their interest in them, before the relevant time, and

(b) acquire the new assets, or their interest in them, after that time,

unless the new assets are excepted from this subsection by subsection (7) below.

(7) If at the time when the new assets are acquired—

(a) the trustees carry on a trade in the United Kingdom through a branch or agency, and

(b) any new assets are situated in the United Kingdom and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency,

the assets falling within paragraph (b) above shall be excepted from subsection (6) above.

(8) In this section—

"double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended 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 Capital Gains Tax Act 1979.

(9) This section applies where the relevant time falls on or after 19th March 1991.

Death of trustee: special rules.

84.—(1) Subsection (2) below applies where—

(a) section 83 above applies as a result of the death of a trustee of the settlement, and

(b) within the period of six months beginning with the death, the trustees of the settlement become resident and ordinarily resident in the United Kingdom.

(2) That section shall apply as if the defined assets were restricted to such assets (if any) as—

(a) would be defined assets apart from this section, and

(b) fall within subsection (3) or (4) below.

(3) Assets fall within this subsection if they were disposed of by the trustees in the period which—

(a) begins with the death, and

(b) ends when the trustees become resident and ordinarily resident in the United Kingdom.

(4) Assets fall within this subsection if—

(a) they are of a description specified in any double taxation relief arrangements,

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(b) they constitute settled property of the settlement at the time immediately after the trustees become resident and ordinarily resident in the United Kingdom, and

(c) were the trustees to dispose of them at that time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(5) Subsection (6) below applies where—

(a) at any time (whether occurring before or on or after 19th March 1991) the trustees of a settlement become resident and ordinarily resident in the United Kingdom as a result of the death of a trustee of the settlement, and

(b) section 83 above applies as regards the trustees of the settlement in circumstances where the relevant time (within the meaning of that section) falls within the period of six months beginning with the death.

(6) That section shall apply as if the defined assets were restricted to such assets (if any) as—

(a) would be defined assets apart from this section, and

(b) fall within subsection (7) below.

(7) Assets fall within this subsection if—

(a) the trustees acquired them in the period beginning with the death and ending with the relevant time, and

(b) they acquired them as a result of a disposal in respect of which relief is given under section 126 of the Capital Gains Tax Act 1979 or in relation to which section 147A(3) of that Act applies.

1979 c. 14.

(8) In this section "double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

Past trustees: liability for tax.

85.—(1) This section applies where—

(a) section 83 above applies as regards the trustees of a settlement (the migrating trustees), and

(b) any capital gains tax which is payable by the migrating trustees by virtue of section 83(2) above is not paid within six months from the time when it became 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;

(b) stating particulars of any interest payable on the tax, any amount remaining unpaid and the date when it became payable;

(c) requiring that person to pay the amount of the unpaid tax, or the aggregate amount of the unpaid tax and the unpaid interest, within thirty days of the service of the notice.

(3) This subsection applies to any person who, at any time within the relevant period, was a trustee of the settlement, except that it does not apply to any such person if—

(a) he ceased to be a trustee of the settlement before the end of the relevant period, and

(b) he shows that, when he ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the United Kingdom.

(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 trustees.

(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) For the purposes of this section—

(a) where the relevant time (within the meaning of section 83 above) falls within the period of twelve months beginning with 19th March 1991, the relevant period is the period beginning with that date and ending with that time;

(b) in any other case, the relevant period is the period of twelve months ending with the relevant time.

Trustees ceasing to be liable to U.K. tax.

86.—(1) This section applies if the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the time concerned) trustees who fall 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 accruing on disposals of assets (relevant assets) which constitute settled property of the settlement and fall within descriptions specified in the arrangements.

1979 c. 14.

(2) The trustees shall be deemed for all purposes of the Capital Gains Tax Act 1979—

(a) to have disposed of their relevant assets immediately before the time concerned, and

(b) immediately to have reacquired them,

at their market value at that time.

(3) In this section "double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

(4) This section applies where the time concerned falls on or after 19th March 1991.

Acquisition by dual resident trustees.

87.—(1) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where—

(a) the new assets are, or the interest in them is, acquired by the trustees of a settlement,

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(b) at the time of the acquisition the trustees are resident and ordinarily resident in the United Kingdom and fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom,

(c) the assets are of a description specified in the arrangements, and

(d) were the trustees to dispose of the assets immediately after the acquisition, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(2) In this section—

"double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979);

1979 c. 14.

"the new assets" has the same meaning as in section 115 of the Capital Gains Tax Act 1979.

(3) This section applies where the new assets are, or the interest in them is, acquired on or after 19th March 1991.

Disposal of settled interest.

88.—(1) Subject to subsections (3) and (8) below, subsection (2) below applies where—

(a) section 83 above applies as regards the trustees of a settlement,

(b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that section 88(1) of the Finance Act 1981 prevents section 58(1) of the Capital Gains Tax Act 1979 applying, and

1981 c. 35.

(c) the interest was created for his benefit, or he otherwise acquired it, before the relevant time.

(2) For the purpose of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—

(a) disposed of it immediately before the relevant time, and

(b) immediately reacquired it,

at its market value at that time.

(3) Subsection (2) above shall not apply if section 86 above applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell before the time when the interest was created for the benefit of the person disposing of it or when he otherwise acquired it.

(4) Subsection (6) below applies where—

(a) section 83 above applies as regards the trustees of a settlement,

(b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that section 88(1) of the Finance Act 1981 prevents section 58(1) of the Capital Gains Tax Act 1979 applying,

(c) the interest was created for his benefit, or he otherwise acquired it, before the relevant time, and

(d) section 86 above applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell in the relevant period.

(5) The relevant period is the period which—

(a) begins when the interest was created for the benefit of the person disposing of it or when he otherwise acquired it, and

(b) ends with the relevant time.

(6) For the purpose of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—

(a) disposed of it immediately before the time found under subsection (7) below, and

(b) immediately reacquired it,

at its market value at that time.

(7) The time is—

(a) the time concerned (where there is only one such time), or

(b) the earliest time concerned (where there is more than one because section 86 above applied more than once).

(8) Subsection (2) above shall not apply where subsection (6) above applies.

Non-resident settlements where settlor has an interest.

89.—(1) Schedule 16 to this Act (which relates to certain settlements in which the settlor has an interest) shall have effect; and accordingly the amendments in subsections (2) and (3) below shall have effect.

1981 c. 35.

(2) In section 80 of the Finance Act 1981 (gains of non-resident settlements chargeable on beneficiaries) the following subsection shall be inserted after subsection (2)—

"(2A) Where as regards the same settlement and for the same year of assessment—

(a) chargeable gains, whether of one amount or of two or more amounts, are treated as accruing by virtue of paragraph 2 of Schedule 16 to the Finance Act 1991 (gains of non-resident settlements chargeable on settlor), and

(b) an amount falls to be computed under subsection (2) above,

the amount so computed shall be treated as reduced by the amount, or aggregate of the amounts, mentioned in paragraph (a) above."

1988 c. 39.

(3) In Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) in paragraph 5 (right of recovery) the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(3) In a case where—

(a) gains are treated as accruing to a person in a year under paragraph 2 of Schedule 16 to the Finance Act 1991, and

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(b) gains are treated as accruing to the same person under paragraph 1 above in the same year,

sub-paragraph (2) above shall have effect subject to paragraph 2(b) of that Schedule (gains treated as forming highest part of chargeable gains)."

Settlements: beneficiaries charged on capital payments.

90. Schedule 17 to this Act (which relates to settlements whose beneficiaries are charged to tax in respect of capital payments) shall have effect.

Settlements: further provisions about beneficiaries.

91. Schedule 18 to this Act (which contains further provisions about beneficiaries under settlements) shall have effect.

Settlements with foreign element: miscellaneous.

1979 c. 14.
1981 c. 35.

92.—(1) Section 126C of the Capital Gains Tax Act 1979 (relief for gifts of business assets: emigration of controlling trustees) shall cease to have effect.

(2) In section 79 of the Finance Act 1981 (emigration of donee) in subsection (1)(a) for the words from "or the" to "any disposal" there shall be substituted "or under section 147A of that Act in respect of a disposal to an individual".

(3) In section 88 of the Finance Act 1981 (disposal of interests in non-resident settlements) subsections (2) to (6) shall cease to have effect.

1986 c. 41.

(4) In section 58 of the Finance Act 1986 (gifts into dual resident trusts) subsection (5) shall cease to have effect.

(5) Subsections (1) and (3) above apply where the trustees become neither resident nor ordinarily resident in the United Kingdom on or after 19th March 1991.

(6) Subsection (2) above applies where the transferee becomes neither resident nor ordinarily resident in the United Kingdom on or after 19th March 1991.

(7) Subsection (4) above applies where the time subsequent to the relevant disposal, and referred to in section 58(5)(b) of the Finance Act 1986, falls on or after 19th March 1991.

Private residence

Meaning of permitted area.

93.—(1) In section 101 of the Capital Gains Tax Act 1979 (relief on disposal of private residence) in subsections (2) and (3) for the words "one acre" there shall be substituted the words "0.5 of a hectare".

(2) This section shall apply in relation to disposals on or after 19th March 1991.

Amount of relief.

94.—(1) In section 102 of the Capital Gains Tax Act 1979 (amount of relief on disposal of private residence) in subsections (1) and (2)(a) for "twenty-four months" there shall be substituted "thirty-six months".

(2) In that section, the following subsections shall be inserted after subsection (4)—

"(5) Where at any time the number of months specified in subsections (1) and (2)(a) above is thirty-six, the Treasury may by order amend those subsections by substituting references to twenty-four for the references to thirty-six in relation to disposals on or after such date as is specified in the order.

(6) Subsection (5) above shall also have effect as if "thirty-six" (in both places) read "twenty-four" and as if "twenty-four" read "thirty-six".

(7) Any power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(3) In section 80 of the Finance Act 1980 (amount of relief on disposal of private residence let as residential accommodation) in subsection (1)(b) for "£20,000" there shall be substituted "£40,000". 1980 c. 48.

(4) Subsections (1) and (3) above shall apply in relation to disposals on or after 19th March 1991.

Miscellaneous

95.—(1) In section 342 of the Income and Corporation Taxes Act 1970 (disposals of land between Housing Corporation and housing associations) and section 342A of that Act (disposals by Housing Corporation and certain housing associations) the words "or Housing for Wales" in each place where they occur (which were inserted by the Housing Act 1988 consequentially on the establishment of Housing for Wales) shall be omitted and those sections shall instead be amended as follows. Housing for Wales. 1970 c. 10. 1988 c. 50.

(2) In section 342, the words from "Where" to "that party" shall become subsection (1) and the remaining words shall become subsection (2).

(3) In subsection (2) of that section, for "In this section" there shall be substituted "In subsection (1) above".

(4) In that section, there shall be inserted at the end—

"(3) This section shall also have effect with the substitution of the words "Housing for Wales" for the words "the Housing Corporation" and "the Corporation", in each place where they occur."

(5) In section 342A, after subsection (1) there shall be inserted—

"(1A) Subsection (1) above shall also have effect with the substitution of the words "Housing for Wales" for the words "the Housing Corporation" and "the Corporation", in each place where they occur."

(6) This section shall be deemed to have come into force on 1st December 1988.

96.—(1) In section 342 of the Income and Corporation Taxes Act 1970, there shall be inserted at the end— Scottish Homes.

"(4) This section shall also have effect with the substitution of the words "Scottish Homes" for the words "the Housing Corporation" and "the Corporation", in each place where they occur."

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(2) In section 342A of that Act, after subsection (1A) there shall be inserted—

"(1B) Subsection (1) above shall also have effect with the substitution of the words "Scottish Homes" for the words "the Housing Corporation" and "the Corporation", in each place where they occur."

(3) This section shall be deemed to have come into force on 1st December 1988.

Foreign assets: delayed remittances. 1979 c. 14.

97.—(1) In section 13 of the Capital Gains Tax Act 1979 (foreign assets: delayed remittances) in subsection (3)(b) for "income arose" there shall be substituted "assets were situated at the time of the disposal".

(2) This section shall apply in relation to disposals on or after 19th March 1991.

Corporate bonds. 1984 c. 43.

98.—(1) Section 64 of the Finance Act 1984 shall be amended as follows.

1984 c. 43. 1979 c. 14.

(2) In subsection (2) (which defines "corporate bond" for the purposes of section 64 of the Finance Act 1984 and accordingly for the purposes of certain other enactments including, by virtue of section 64(1) of the Capital Gains Tax Act 1979, that Act), in paragraph (b) the words from "as defined" to "1973" shall be omitted.

(3) After that subsection there shall be inserted—

"(2A) In subsection (2)(b) above "normal commercial loan" has the meaning which would be given by sub-paragraph (5) of paragraph 1 of Schedule 18 to the Taxes Act 1988 if for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words "corporate bonds (within the meaning of section 64 of the Finance Act 1984)"."

(4) This section shall have effect—

(a) so far as concerns the application of section 64 for the purposes of section 136A of the Capital Gains Tax Act 1979, in relation to claims on or after 19th March 1991, and

(b) so far as concerns any other application of section 64, in relation to disposals on or after that date (and, in relation to such disposals, shall be regarded as always having had effect).

Indexation. 1985 c. 54.

99.—(1) In section 68 of the Finance Act 1985 (modification of indexation allowance) in subsection (7A) there shall be added after paragraph (h) the words "; and

1990 c. 29.

(i) paragraph 2(1) of Schedule 12 to the Finance Act 1990."

(2) In Schedule 19 to the Finance Act 1985 (indexation) in paragraph 16(3) after "under" there shall be inserted "Chapter II of Part IV of the Finance Act 1981 or".

1981 c. 35.

(3) Subsection (1) above shall be deemed to have come into force on 26th July 1990.

(4) Subsection (2) above shall apply in relation to disposals on or after 19th March 1991.

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Relief on certain business etc. disposals by persons over 55 or who retire under that age for ill health.
1985 c. 54.

100.—(1) Sections 69 and 70 of, and Schedule 20 to, the Finance Act 1985 (which give relief on certain disposals by persons over 60 or who retire under that age on grounds of ill health) shall be amended in accordance with the following provisions of this section.

(2) The words "the age of 55" shall be substituted for the words "the age of 60" wherever occurring in—

(a) section 69(1)(a) and (b), (4)(b) and (6)(b);

(b) section 70(1)(a) and (b), (2)(c), (4)(c) and (5)(c); and

(c) paragraph 5(2) and (4) of Schedule 20.

(3) In paragraph 13(1) of Schedule 20—

(a) in paragraph (a) (full relief up to the appropriate percentage of £125,000) for "£125,000" there shall be substituted "£150,000"; and

(b) in paragraph (b) (half relief on the excess, up to the appropriate percentage of £500,000) for "£125,000" and "£500,000" there shall be substituted "£150,000" and "£600,000" respectively.

(4) The amendments made by this section shall apply in relation to disposals on or after 19th March 1991.

Amendments of rebasing provisions.
1988 c. 39.

101.—(1) Schedule 9 to the Finance Act 1988 (deferred charges on gains before 31st March 1982) shall be amended as follows.

(2) In paragraph 1(b) (reduction of gain) after "within paragraph" there shall be inserted "2A or".

(3) In sub-paragraph (1) of paragraph 2 (charges rolled-over or held-over) for "sub-paragraph (2)" there shall be substituted "sub-paragraphs (2) to (2B)".

(4) After sub-paragraph (2) of that paragraph there shall be inserted—

"(2A) Where the disposal takes place on or after 19th March 1991, this Schedule does not apply if the amount of the deduction would have been less had relief by virtue of a previous application of this Schedule been duly claimed.

(2B) Where—

(a) the asset was acquired on or after 19th March 1991,

(b) the deduction is partly attributable to a claim by virtue of section 117(3) of the Capital Gains Tax Act 1979 (roll-over into non-depreciating asset instead of into depreciating asset), and 1979 c. 14.

(c) the claim applies to the asset,

this Schedule does not apply by virtue of this paragraph."

(5) After paragraph 2 there shall be inserted—

"2A.—(1) This paragraph applies where this Schedule would have applied on a disposal but for paragraph 2(2B) above.

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(2) This Schedule applies on the disposal if paragraph 3 below would have applied had—

1979 c. 14.

(a) section 117(2) of the Capital Gains Tax Act 1979 (postponement of charge where depreciating asset acquired as replacement for business asset) continued to apply to the gain carried forward as a result of the claim by virtue of section 117(3) of that Act, and

(b) the time of the disposal been the time when that gain was treated as accruing by virtue of section 117(2) of that Act."

(6) In sub-paragraph (1) of paragraph 3 (postponed charges) for "sub-paragraph (3)" there shall be substituted "sub-paragraphs (3) and (4)".

(7) In sub-paragraph (2)(e) of that paragraph the words from "(postponement" to "asset)" shall be omitted.

(8) After sub-paragraph (3) of that paragraph there shall be inserted—

"(4) Where a gain is treated as accruing in consequence of an event occurring on or after 19th March 1991, this Schedule does not apply if—

(a) the gain is attributable (whether directly or indirectly and whether in whole or part) to the disposal of an asset on or after 6th April 1988, or

(b) the amount of the gain would have been less had relief by virtue of a previous application of this Schedule been duly claimed."

(9) In sub-paragraph (1)(a) of paragraph 8 for "which ends when" there shall be substituted "in which".

(10) Subsection (9) above shall apply in relation to claims made on or after 19th March 1991.

Traded options: closing purchases.

102.—(1) This section applies where, on or after the day on which this Act is passed, a person ("the grantor") who has granted a traded option ("the original option") closes it out by acquiring a traded option of the same description ("the second option").

(2) Any disposal by the grantor involved in closing out the original option shall be disregarded for the purposes of capital gains tax or, as the case may be, corporation tax on chargeable gains.

(3) The incidental costs to the grantor of making the disposal constituted by the grant of the original option shall be treated for the purposes of Chapter II of Part II of the Capital Gains Tax Act 1979 (computation of gains and losses) as increased by an amount equal to the aggregate of—

(a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the second option, and

(b) the incidental costs to him of that acquisition.

(4) In this section "traded option" has the meaning given by section 137(9)(b) of the Capital Gains Tax Act 1979. PART II 1979 c. 14.

PART III

OIL TAXATION

Abandonment etc.

103.—(1) Section 3 of the principal Act (allowance of certain expenditure) shall be amended in accordance with subsections (2) to (6) below. Allowance of certain expenditure relating to abandonment, decommissioning assets, etc.

(2) With respect to expenditure incurred on or after 19th March 1991, in subsection (1), after paragraph (h) there shall be inserted the following paragraph—

"(hh) obtaining an abandonment guarantee, as defined in section 104 of the Finance Act 1991".

(3) With respect to expenditure incurred after 30th June 1991, in subsection (1), for paragraph (i) there shall be substituted the following paragraphs—

"(i) closing down, decommissioning, abandoning or wholly or partially dismantling or removing any qualifying asset;

(j) carrying out qualifying restoration work consequential upon the closing down of the field or any part of it."

(4) After subsection (1) there shall be inserted the following subsections—

"(1A) In this section "qualifying asset" has the same meaning as in the Oil Taxation Act 1983; and, in the case of a qualifying asset which was leased or hired, the reference in subsection (1)(i) above to decommissioning includes a reference to carrying out any restoration or similar work which is required to be carried out to comply with the terms of the contract of lease or hire. 1983 c. 56.

(1B) In subsection (1)(j) above "qualifying restoration work", in relation to a participator in an oil field, means—

(a) restoring (including landscaping) land on which a qualifying asset is or was situated; or

(b) restoring the seabed (including the subsoil thereof) on which a qualifying asset is or was situated.

(1C) In any case where—

(a) expenditure is incurred by a participator for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and

(b) the participator is or was a participator in two or more oil fields and the qualifying asset which is relevant to the incurring of that expenditure is, at the end of the claim period concerned, a qualifying asset in respect of more than one of those oil fields,

the expenditure shall be apportioned between those oil fields in such manner as is just and reasonable.

PART III

(1D) Without prejudice to any apportionment under subsection (1C) above, in any case where—

(a) any expenditure incurred by a participator would, apart from this subsection, be regarded as wholly incurred for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and

(b) the qualifying asset which is relevant to the incurring of that expenditure has at some time been used otherwise than in connection with an oil field,

only such portion of the expenditure as it is just and reasonable to apportion to the use in connection with an oil field shall be regarded as allowable for any of the purposes referred to in paragraph (a) above."

(5) After subsection (5A) there shall be inserted the following subsection—

"(5B) Expenditure incurred by a participator in an oil field shall be taken to be incurred for the purpose mentioned in paragraph (hh) of subsection (1) above if, and only if,—

(a) it consists of fees, commission or incidental costs incurred wholly and exclusively for the purposes of obtaining an abandonment guarantee; and

(b) the abandonment guarantee is obtained in order to comply with a term of a relevant agreement relating to that field under which the participator is required to provide security (whether or not specifically in the form of an abandonment guarantee) in respect of his liabilities to contribute to field abandonment costs;

and expressions used in this subsection shall be construed in accordance with section 104 of the Finance Act 1991."

(6) In subsection (6) (apportionment of expenditure)—

(a) at the beginning there shall be inserted "Without prejudice to any apportionment under subsection (1C) or subsection (1D) above"; and

(b) after the words "subsections (1) and (5) above" there shall be inserted "other than paragraph (hh) of subsection (1)".

(7) In section 10 of the principal Act (exempt gas)—

(a) in subsection (2) for the words "and (i) of subsection (1)" there shall be substituted "(hh), (i) and (j) of subsection (1) and subsection (1D)";

(b) in subsection (3) for the words "paragraph (a), (b), (c) or (i)" there shall be substituted "any of paragraphs (a), (b), (c), (hh), (i) and (j)"; and

(c) in subsection (3)(b) for the words "paragraph (i)" there shall be substituted "paragraph (hh), (i) or (j)".

(8) So far as they relate to the paragraph (hh) inserted by subsection (2) above, the amendments in subsections (5) to (7) above have effect with respect to expenditure incurred on or after 19th March 1991 and, subject to that, the amendments in subsections (4) to (7) above have effect with respect to expenditure incurred after 30th June 1991.

PART III
Abandonment guarantees.

104.—(1) Subject to subsection (2) below, for the purposes of section 3 of the principal Act and sections 105 and 106 below, an abandonment guarantee is a contract under which a person ("the guarantor") undertakes to make good any default by a participator in an oil field ("the relevant participator") in meeting the whole or any part of those liabilities of his which—

(a) arise under a relevant agreement relating to that field; and

(b) are liabilities to contribute to field abandonment costs;

and such a contract is an abandonment guarantee regardless of the form of the undertaking of the guarantor and, in particular, whether or not it is expressed as a guarantee or arises under a letter of credit, a performance bond or any other instrument.

(2) For the purposes of section 3 of the principal Act and section 106 (but not section 105) below a contract is not an abandonment guarantee—

(a) unless it is entered into in good faith and on terms reasonably appropriate to the nature and extent of the guarantee; or

(b) if the guarantor undertakes any liability beyond that of making good any such default as is referred to in subsection (1) above; or

(c) if it can be revoked by the guarantor otherwise than on account of some fraud, misrepresentation or other fault on the part of the relevant participator occurring prior to the making of the contract; or

(d) if, subject to subsection (3) below, the guarantor is, or is a person connected with, a participator in one or more oil fields.

(3) Paragraph (d) of subsection (2) above does not apply if—

(a) the main business carried on by the guarantor is such that it is in the ordinary course of that business to provide guarantees; and

(b) the relevant participator is not connected with the guarantor;

and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this subsection and subsection (2) above.

(4) Without prejudice to the generality of paragraph (a) of subsection (2) above, a contract shall not be regarded as entered into in good faith if, as a result of any arrangement, the liability to make good any such default as is referred to in subsection (1) above will be met, directly or indirectly, by such a person that, if he were the guarantor under the contract, the contract could not be an abandonment guarantee by virtue of paragraph (d) of subsection (2) above.

(5) In this section and in section 3(5B) of the principal Act—

(a) in relation to an oil field, a "relevant agreement" means a joint operating agreement, a unitisation agreement (within the meaning of paragraph 1(1) of Schedule 17 to the Finance Act 1980) or an agreement entered into by some or all of the parties to a joint operating agreement or such a unitisation agreement; and

1980 c. 48.

(b) in relation to an oil field, "field abandonment costs" means costs incurred in closing down the field or any part of it, together with any costs incurred in discharging any continuing liabilities resulting directly from that closure.

PART III
Restriction of expenditure relief by reference to payments under abandonment guarantees.

105.—(1) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any of the purposes of the principal Act as having been incurred by the relevant participator or any other participator in the oil field concerned.

(2) In any case where—

(a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure, and

(b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and

(c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,

any reference in subsection (1) above or section 106 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.

(3) In subsections (1) and (2) above "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 above.

Relief for reimbursement expenditure under abandonment guarantees.

106.—(1) This section applies in any case where—

(a) on or after 19th March 1991 a payment (in this section referred to as "the guarantee payment") is made by the guarantor under an abandonment guarantee; and

(b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and

(c) in any claim period (in this section referred to as "the relevant period") expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.

(2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 105(2) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 above and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—

(a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and

(b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.

(3) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

(4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the relevant participator for the purpose of obtaining an abandonment guarantee.

(5) Subject to subsection (6) below, of the reimbursement expenditure which is incurred in the relevant period, the amount which constitutes qualifying expenditure shall be determined by the formula—

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

where—

"A" is the reimbursement expenditure incurred in the relevant period;

"B" is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have constituted expenditure allowable under section 3 of the principal Act; and

"C" is the total of the sums which, at or before the end of the relevant period, the participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

(6) In relation to the guarantee payment, the total of the reimbursement expenditure (whether incurred in one or more claim periods) which constitutes qualifying expenditure shall not exceed whichever is the less of "B" and "C" in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier claim period.

(7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—

(a) for which the relevant participator is liable; and

(b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 105 above is not to be regarded as expenditure incurred by the relevant participator).

(8) In this section "the guarantor" and "the relevant participator" have the same meaning as in subsection (1) of section 104 above.

Allowance of expenditure of participator meeting defaulter's field abandonment expenditure.

107.—(1) In Schedule 5 to the principal Act (procedure for allowance of expenditure) at the beginning of paragraph (b) of sub-paragraph (4) of paragraph 2 (claim must state the shares, by reference to their respective interests in the oil field, in which participators propose to divide expenditure) there shall be inserted "Subject to paragraph 2A below".

PART III

(2) After paragraph 2 of Schedule 5 to the principal Act there shall be inserted the following paragraph—

"2A.—(1) This paragraph applies where—

(a) a claim is made under this Schedule for the allowance of any expenditure which is incurred after 30th June 1991 and is allowable for an oil field by virtue of paragraph (i) or paragraph (j) of subsection (1) of section 3 of this Act (in this paragraph referred to as "the abandonment expenditure");

(b) a participator (in this paragraph referred to as "the defaulter") has defaulted on his liability under a relevant agreement to make a payment towards the abandonment expenditure;

(c) at the end of the claim period for which the claim is made, the defaulter still has an interest in the oil field which falls to be taken into account in determining, under paragraph 2(4)(b) above, the shares of each of the participators in the abandonment expenditure;

(d) the participators (other than any who have defaulted as mentioned in paragraph (b) above) have taken all reasonable steps by way of legal remedy to secure that the defaulter meets the whole of the liability referred to in paragraph (b) above and to enforce any guarantee or other security provided in respect of that liability; and

(e) one or more of those participators has paid an amount in or towards meeting the whole or any part of the payment for which the defaulter was liable as mentioned in paragraph (b) above.

(2) For the purposes of this paragraph, a participator is to be regarded as defaulting on his liability to make a payment as mentioned in sub-paragraph (1)(b) above if he has failed to make the payment in full on the date on which it becomes due under the relevant agreement and either—

(a) on the sixtieth day after that due date any of the payment remains unpaid; or

(b) before that sixtieth day the participator's interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of his failure to meet his liability.

(3) In this paragraph—

(a) "relevant agreement" has the meaning given by section 104(5)(a) of the Finance Act 1991;

(b) "the sum in default" means so much of the payment referred to in sub-paragraph (1)(b) above as has neither been paid by the defaulter nor met by virtue of any such guarantee or security as is referred to in sub-paragraph (1)(d) above;

(c) the "default payment" means the amount which the qualifying participator has paid as mentioned in sub-paragraph (1)(e) above; and

(d) a "qualifying participator" means a participator who falls within sub-paragraph (1)(e) above and who is not connected with the defaulter, applying section 839 of the Taxes Act (connected persons) for the purposes of this paragraph.

(4) For the purposes of paragraphs 2(4)(b) and 3(1)(c) of this Schedule, there shall be attributed to a qualifying participator (as an addition to the share of the abandonment expenditure referable to his own interest in the oil field) whichever is the less of—

(a) the default payment; and

(b) subject to sub-paragraph (5) below, that portion of the sum in default which, in accordance with the relevant agreement, the qualifying participator is required to meet in the event of a failure by the defaulter to meet his liability to pay in full the payment referred to in sub-paragraph (1)(b) above.

(5) If, in the case of any oil field, there are only two participators and one of them is the defaulter, the portion referred to in sub-paragraph (4)(b) above is the whole.

(6) Where this paragraph applies, account shall, in the first instance, be taken under paragraph 2(4)(b) above of the whole of the defaulter's interest in the oil field in determining the share of the abandonment expenditure which, apart from sub-paragraph (4) above, is to be attributed to each of the other participators; but the amount of the abandonment expenditure which, apart from this paragraph, would be attributed to the defaulter by reference to his interest in the oil field shall be reduced (or, as the case may be, extinguished) by deducting therefrom any expenditure attributed to the other participators under sub-paragraph (4) above."

Reimbursement by defaulter in respect of certain abandonment expenditure.

108.—(1) This section applies in any case where—

(a) paragraph 2A of Schedule 5 to the principal Act (as set out in section 107 above) applies; and

(b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and

(c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;

and expressions used in this section have the same meaning as in the said paragraph 2A.

(2) In the following provisions of this section "reimbursement expenditure" means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.

PART III

(3) Subject to subsection (5) below, in relation to the defaulter, reimbursement expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the defaulter for purposes falling within paragraph (i) of subsection (1) of section 3 of that Act.

(4) Subject to subsection (5) below, in computing under section 2 of the principal Act the assessable profit or allowable loss accruing to the qualifying participator from the oil field concerned in any chargeable period, the positive amounts for the purposes of that section (as specified in subsection (3)(a) thereof) shall be taken to include any reimbursement expenditure received by the qualifying participator in that period.

(5) In relation to a particular default payment, reimbursement expenditure incurred at any time—

(a) shall be treated as mentioned in subsection (3) above, and

(b) shall be taken to be included as mentioned in subsection (4) above,

only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.

(6) A claim by the defaulter for the allowance of reimbursement expenditure by virtue of subsection (3) above shall be made under Schedule 6 to the principal Act (instead of under Schedule 5); and, for this purpose only, Schedule 6 to that Act shall have effect as if, in sub-paragraph (1) of paragraph 1, the words from "if the participator" onwards were omitted.

(7) The incurring of reimbursement expenditure shall not be regarded, by virtue of paragraph 8 of Schedule 3 to the principal Act (certain subsidised expenditure to be disregarded), as the meeting of the expenditure of the qualifying participator in making the default payment.

Penalties

PRT: proceedings for penalties.

109.—(1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax) the Table in paragraph 1(1) shall be amended as follows.

1970 c. 9.

(2) The following shall be substituted for the entries relating to section 100 of the Taxes Management Act 1970—

"Section 100C(1)	... ...	For the words from "General" to the end substitute "Special Commissioners for any penalty".
(2)	... ...	Before "Commissioners" insert "Special".
(3)	... ...	Before "Commissioners" insert "Special".
(4)	... ...	—
(5)	... ...	— ".

(3) The following shall be substituted for the entries relating to section 103 of the Taxes Management Act 1970— PART III 1970 c. 9.

"Section 103(1)	... ...	For the words from the beginning to "court—" substitute "Where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, proceedings for the penalty may be commenced before the Special Commissioners—".
(4)	... ...	For the words from the beginning to "court," substitute "Proceedings for a penalty to which subsection (1) above does not apply may be commenced before the Special Commissioners"."

PART IV

STAMP DUTY AND STAMP DUTY RESERVE TAX

110.—(1) This section applies where— Stamp duty abolished in certain cases.

(a) apart from this section stamp duty under any of the headings mentioned in subsection (3) below would be chargeable on an instrument to which this section applies, and

(b) the condition mentioned in subsection (4) below is fulfilled.

(2) In such a case stamp duty under the heading concerned shall not be chargeable on the instrument.

(3) The headings are the following headings in Schedule 1 to the Stamp Act 1891— 1891 c. 39.

(a) the heading "conveyance or transfer on sale";

(b) the heading "conveyance or transfer of any kind not hereinbefore described";

(c) the heading beginning "declaration of any use or trust";

(d) the heading beginning "disposition in Scotland of any property";

(e) the heading "exchange or excambion";

(f) the heading "partition or division";

(g) the heading "release or renunciation of any property, or of any right or interest in any property";

(h) the heading "surrender".

(4) The condition is that the property concerned consists entirely of exempt property; and as regards the heading "exchange or excambion" the reference here to the property concerned is to all property subject to any part of the exchange.

(5) For the purposes of this section exempt property is property other than—

(a) land,

(b) an interest in the proceeds of the sale of land held on trust for sale, or

(c) a licence to occupy land.

PART IV

(6) This section applies to—

(a) an instrument executed in pursuance of a contract made on or after the abolition day;

(b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.

1990 c. 29.

(7) For the purposes of this section the abolition day is such day as may be appointed under section 111(1) of the Finance Act 1990 (abolition of stamp duty for securities etc).

Stamp duty reduced in certain cases. 1891 c. 39.

111.—(1) This section applies where—

(a) stamp duty under the heading "conveyance or transfer on sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument to which this section applies, and

(b) part of the property concerned consists of exempt property.

(2) In such a case—

(a) the consideration in respect of which duty would be charged (apart from this section) shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of exempt property and the part which does not, and

(b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not exempt property.

(3) In this section "exempt property" has the same meaning as in section 110 above.

(4) This section applies to—

(a) an instrument executed in pursuance of a contract made on or after the abolition day;

(b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.

(5) In this section "the abolition day" has the same meaning as in section 110 above.

Apportionment of consideration for stamp duty purposes.

112.—(1) Subsection (2) below applies where part of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of exempt property.

(2) Section 58(1) shall have effect as if "the parties think fit" read "is just and reasonable".

(3) Subsection (4) below applies where—

(a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of exempt property, and

(b) both or (as the case may be) all the relevant persons are connected with one another.

(4) Section 58(2) shall have effect as if the words from "for distinct parts of the consideration" to the end of the subsection read ", the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or

parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration."

(5) In a case where subsection (2) or (4) above applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—

(a) the consideration had been apportioned in a manner that is just and reasonable, and

(b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).

(6) In this section "exempt property" has the same meaning as in section 110 above.

(7) For the purposes of subsection (3) above—

(a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;

(b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.

(8) This section applies where the contract concerned is made on or after the abolition day.

(9) In this section "the abolition day" has the same meaning as in section 110 above.

Certification of instruments for stamp duty purposes.
1958 c. 56.
1958 c. 14 (N.I.).

113.—(1) Section 34 of the Finance Act 1958 and section 7 of the Finance Act (Northern Ireland) 1958 shall be amended as mentioned in subsections (2) and (3) below.

(2) In subsection (4) of each of those sections (certification of instrument at a particular amount) the following paragraph shall be substituted for paragraph (a)—

"(a) any sale or contract or agreement for the sale of exempt property shall be disregarded; and".

(3) In each of those sections the following subsection shall be inserted after subsection (4)—

"(4A) In subsection (4) above "exempt property" has the same meaning as in section 110 of the Finance Act 1991."

(4) This section applies to—

(a) an instrument executed in pursuance of a contract made on or after the abolition day;

(b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.

(5) In this section "the abolition day" has the same meaning as in section 110 above.

PART IV

Acquisition under statute: exempt property.
1949 c. 47.
1949 c. 15 (N.I.).
1895 c. 16.

114.—(1) Section 36 of the Finance Act 1949 and section 9 of the Finance Act (Northern Ireland) 1949 shall be amended as mentioned in subsections (2) and (3) below.

(2) In subsection (4) of each of those sections (goods not affected by section 12 of the Finance Act 1895, which relates to duty on property acquired under statute) for the words "goods, wares or merchandise" (in each place where they occur) there shall be substituted the words "exempt property".

(3) In each of those sections the following subsection shall be inserted after subsection (4)—

"(5) In subsection (4) above "exempt property" has the same meaning as in section 110 of the Finance Act 1991."

(4) This section applies where the Act mentioned in section 12 of the Finance Act 1895, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after the abolition day.

(5) In this section "the abolition day" has the same meaning as in section 110 above.

Northern Ireland bank notes: duty abolished.
1891 c. 39.
1828 c. 30.

115.—(1) In its application to Northern Ireland, the Stamp Act 1891 shall have effect with the omission from Schedule 1 of the heading "bank note".

(2) The licences required to be taken out under the Bankers' Composition (Ireland) Act 1828 (licences for bankers in Northern Ireland issuing certain promissory notes) are hereby abolished.

(3) This section takes effect on 1st January 1992.

Investment exchanges and clearing houses: stamp duty.

116.—(1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—

(a) would (apart from the regulations) give rise to a charge to stamp duty,

(b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange, or a nominee (or nominee of a prescribed description) of such a clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange, and

(c) are such as are prescribed.

(2) The regulations may provide that the charge to stamp duty shall be treated as not arising or (depending on the terms of the regulations) as reduced.

(3) Regulations under this section—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons;

(b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient;

(c) may make different provision for different circumstances;

(d) may make any provision in such way as the Treasury think fit (whether by amending enactments or otherwise).

(4) In this section—

(a) "prescribed" means prescribed by the regulations,

(b) "recognised investment exchange" means a recognised investment exchange within the meaning of the Financial Services Act 1986, and 1986 c. 60.

(c) "recognised clearing house" means a recognised clearing house within the meaning of that Act.

Investment exchanges and clearing houses: SDRT.

117.—(1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—

(a) would (apart from the regulations) give rise to a charge to stamp duty reserve tax,

(b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange, or a nominee (or nominee of a prescribed description) of such a clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange, and

(c) are such as are prescribed.

(2) The regulations may provide that the charge to stamp duty reserve tax shall be treated as not arising or (depending on the terms of the regulations) as reduced.

(3) Subsections (3) and (4) of section 116 above shall apply for the purposes of this section as they apply for the purposes of that.

PART V

MISCELLANEOUS AND GENERAL

Miscellaneous

Designated international organisations: miscellaneous exemptions.

118.—(1) The following section shall be inserted after section 582 of the Taxes Act 1988—

"Designated international organisations: miscellaneous exemptions.

582A.—(1) The Treasury may by order designate for the purposes of any one or more of subsections (2) to (6) below any international organisation of which the United Kingdom is a member; and in those subsections "designated" means designated under this subsection.

(2) Section 43 shall not apply in the case of payment made by an organisation designated for the purposes of this subsection.

(3) Section 123(2) and paragraph 6(1)(b) of Schedule 3 shall have effect as if "foreign dividends" did not include any interest, dividends or other annual payments payable out of or in respect of the stocks, funds, shares or securities of an organisation designated for the purposes of this subsection.

PART V

(4) Section 349(1) shall not apply in the case of a payment of an amount payable by an organisation designated for the purposes of this subsection.

(5) Section 349(2) shall not apply in the case of interest payable by—

(a) an organisation designated for the purposes of this subsection, or

(b) a partnership of which such an organisation is a member.

(6) An organisation designated for the purposes of this subsection shall not be a person to whom section 560(2) applies."

(2) In section 828(4) of that Act (Treasury orders not subject to annulment in pursuance of a resolution of the House of Commons) after "377(8)," there shall be inserted "582A(1),".

Trading funds. 1973 c. 63.

119.—(1) The Government Trading Funds Act 1973 shall be amended as follows.

(2) In section 2 (assets and liabilities of funds) in subsections (1)(b) and (2) the words "at values or amounts determined by him in accordance with Treasury directions" shall be omitted.

(3) In that section, the following subsection shall be inserted after subsection (2)—

"(2A) The values or amounts of assets and liabilities which are the subject of provision under subsection (1) or (2) above shall be determined by the responsible Minister in accordance with Treasury directions."

National savings: date of issue of repayment warrants etc.

120.—(1) Where—

(a) a payment in respect of certificates to which subsection (2) below applies has been made by means of a repayment warrant,

(b) the warrant was posted before 11th February 1991,

(c) the amount of the payment depended to any extent on the date of issue of the warrant, and

(d) that date was taken to be the expected date of receipt of the warrant or of a notice advising of the warrant's availability,

the amount shall to that extent be deemed to have been properly calculated.

(2) This subsection applies to—

1915 c. 55. 1916 c. 24.

(a) war savings certificates issued under section 1 of the War Loan Act 1915 or section 58 of the Finance Act 1916, or

1920 c. 18. 1958 c. 6. 1968 c. 13.

(b) national savings certificates issued under section 59 of the Finance Act 1920, section 7 of the National Debt Act 1958 or section 12 of the National Loans Act 1968.

(3) Subsection (1) above shall not apply where the amount of the payment would have been greater had it been calculated on the basis that the date of issue of the warrant was the date on which it was posted.

(4) Where—

(a) an amount has been reinvested in certificates to which subsection (2) above applies,

(b) the new certificates were posted before 11th February 1991,

(c) the amount reinvested depended to any extent on the date of issue of the new certificates, and

(d) that date was taken to be the expected date of receipt of the certificates,

the amount shall to that extent be deemed to have been properly calculated.

(5) Subsection (4) above shall not apply where the amount reinvested would have been greater had it been calculated on the basis that the date of issue of the new certificates was the date on which they were posted.

(6) Where for any month before December 1989 the amount of the prize fund for a premium savings bond draw depended to any extent on the date of issue of a repayment warrant, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.

(7) Where the amount of a payment made, before the day on which this Act is passed, in respect of interest on—

(a) a deposit (other than an investment deposit) made in a post office savings bank, or

(b) an ordinary deposit with the National Savings Bank,

depended to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.

(8) Where the amount of a payment made, on or after the day on which this Act is passed, in respect of interest on an ordinary deposit with the National Savings Bank depends to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to be properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.

Pools payments to support games etc.

121.—(1) This section applies to any payment which, in consequence of the reduction in pool betting duty effected by section 5 above, is made—

(a) by a person liable to pay that duty, and

(b) to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.

(2) Where a person carrying on a trade makes a payment to which this section applies, the payment may be deducted in computing for tax purposes the profits or gains of the trade.

(3) A payment to which this section applies shall not be regarded as an annual payment.

(4) Where a payment to which this section applies is made, the sum received by the trustees and any assets representing it (but not any income or gains arising from them) shall not be relevant property for the purposes of Chapter III of Part III of the Inheritance Tax Act 1984.

1984 c. 51.

PART V *General*

Interpretation etc. 1988 c. 1.

122.—(1) In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988.

1979 c. 14.

(2) Part II of this Act, so far as it relates to capital gains tax, shall be construed as one with the Capital Gains Tax Act 1979.

1975 c. 22.

(3) Part III of this Act shall be construed as one with Part I of the Oil Taxation Act 1975 and in that Part of this Act "the principal Act" means that Act.

Repeals.

123. The enactments specified in Schedule 19 to this Act (which include certain provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

Short title.

124. This Act may be cited as the Finance Act 1991.

SCHEDULES

SCHEDULE 1

Section 1.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Description of wine or made-wine	*Rates of duty per hectolitre*
	£
Wine or made-wine of a strength not exceeding 2 per cent.	12.06
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	20.09
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	28.12
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	36.17
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	44.20
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	120.54
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	199.04
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 18 per cent.	207.89
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	239.80
Wine or made-wine of a strength exceeding 22 per cent.	239.80 plus £18.96 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.

Section 7.

SCHEDULE 2

AMENDMENTS RELATING TO BEER DUTY

General amendment of enactments relating to beer

1. Subject to section 7 of this Act and the following provisions of this Schedule—

(a) for the words "brewer for sale" or "brewers for sale", wherever occurring in the Customs and Excise Acts 1979, the Licensing Act 1964 or the Licensing (Scotland) Act 1976, there shall be substituted respectively the words "registered brewer" or "registered brewers"; and

1964 c. 26.
1976 c. 66.

(b) for the word "brew", "brews", "brewing" or "brewed", wherever occurring in those Acts in connection with worts or beer, there shall be substituted respectively the word "produce", "produces", "producing" or "produced".

The Alcoholic Liquor Duties Act 1979 (c.4)

2. In section 1 of the Alcoholic Liquor Duties Act 1979, in subsection (3) (definition of beer)—

(a) for the words "on analysis of a sample is found to be" there shall be substituted the word "is"; and

(b) paragraph (b) and the word "or" immediately preceding it shall cease to have effect.

3.—(1) In section 2 of that Act, in subsection (3A) (regulations enabling the strength, weight or volume of spirits, wine or made-wine to be ascertained by reference to information on the label of the container etc) after the word "spirits," in both places where it occurs there shall be inserted the word "beer,".

(2) In subsection (5) of that section (saving for other methods of calculating the strength, weight or volume of wine, made-wine or cider) after the words "volume of" there shall be inserted the word "beer,".

(3) Subsection (6) of that section (section not to apply to beer) shall cease to have effect.

4. In section 3 of that Act (meaning of, and method of ascertaining, gravity of liquids)—

(a) in subsection (3), the words "Subject to subsection (5) below", and

(b) subsection (5) (original gravity for purposes of section 38),

shall cease to have effect.

5.—(1) Section 4(1) of that Act (definitions) shall be amended in accordance with the following provisions of this paragraph.

(2) The definitions of "brewer" and "brewer for sale" and of "limited licence to brew beer" shall be omitted.

(3) After the definition of "methylated spirits" there shall be inserted—

""package", in relation to beer, means to put beer into tanks, casks, kegs, cans, bottles or any other receptacles of a kind in which beer is distributed to wholesalers or retailers;

"packager", in relation to beer, means a person carrying on the business of packaging beer;".

(4) After the definition of "rectifier" there shall be inserted—

""registered brewer" has the meaning given by section 47(1) below;".

SCH. 2

6. Sections 37, 38 and 39 of that Act (which make provision for the duty on beer brewed in the UK to be charged by reference to worts and gravity and as to the charging and payment of duty on such beer brewed by brewers for sale and by private brewers) shall cease to have effect.

7. Section 40 of that Act (duty on imported beer etc) shall cease to have effect.

8. For section 41 of that Act (exemption from duty of beer brewed for private consumption) there shall be substituted—

"Exemption from duty of beer produced for private consumption.

41. The duty on beer produced in the United Kingdom shall not be chargeable on beer produced by a person who produces beer only for his own domestic use."

9. In section 42 of that Act (drawback on exportation, removal to excise warehouse, shipment as stores etc) for subsection (3) (declaration required for beer brewed in the UK) there shall be substituted—

"(3) In the case of beer produced in the United Kingdom, the person intending to remove, export or ship the beer shall produce to the proper officer a declaration made by the person who paid the duty on the beer, in such form and manner as the Commissioners may direct, stating the strength of the beer and the date on which the duty became payable."

10. In section 43 of that Act (warehousing of beer for exportation etc) in subsection (1) (brewer for sale or wholesaler entitled to warehouse beer in excise warehouse for exportation etc) for the words "a brewer for sale" there shall be substituted the words "a registered brewer, a person registered under section 41A above".

11. In section 44 of that Act (remission or repayment of duty on beer used for purposes of research or experiment) in subsection (1) for the word "brewing" there shall be substituted the words "the production of beer".

12.—(1) In section 45 of that Act (repayment of duty on beer used in the production or manufacture of other beverages etc) in subsection (1) (repayment of duty) after the words "to be" there shall be inserted the words "remitted or".

(2) Subsection (2) of that section (remission of duty chargeable on imported beer of a strength not exceeding 1.2 per cent.) shall cease to have effect.

13. For section 46 of that Act (remission or repayment of duty on spoilt beer) there shall be substituted—

"Remission or repayment of duty on spoilt beer.

46.—(1) Where it is shown to the satisfaction of the Commissioners that any beer which has been removed from any premises of a registered brewer in respect of which he is registered under section 47 below has become spoilt or otherwise unfit for use and, in the case of beer delivered to another person, has been returned to the registered brewer as so spoilt or unfit, the Commissioners shall, subject to compliance with such conditions as they may by regulations impose, remit or repay any duty charged or paid in respect of the beer.

(2) If any person contravenes or fails to comply with any regulation made under subsection (1) above, he shall be liable on summary conviction to a penalty not exceeding level 3 on the standard scale."

SCH. 2

14. For section 49 of that Act (power to regulate manufacture of beer by brewers for sale) there shall be substituted—

"Beer regulations.

49.—(1) The Commissioners may, with a view to managing, securing and collecting the duty on beer produced in, or imported into, the United Kingdom or to the protection of the revenues derived from the duty of excise on beer, make regulations—

(a) regulating the production, packaging, keeping and storage of beer produced in the United Kingdom and the packaging, keeping and storage of beer imported into the United Kingdom;

(b) regulating the registration of persons and premises under section 41A or 47 above and the revocation or variation of any such registrations;

(c) for determining under or in accordance with the regulations when the production of beer begins and when it is completed;

(d) for securing and collecting the duty;

(e) for determining the duties chargeable, the rates of those duties, the persons liable to pay them and in that connection prescribing the method of charging the duties, the due dates for payment and the method of payment;

(f) for charging the duty, in such circumstances as may be prescribed in the regulations, by reference to a strength which the beer might reasonably be expected to have, or the rate of duty in force, at a time other than that at which the beer becomes chargeable;

(g) for relieving beer from the duty in such circumstances and to such extent as may be prescribed in the regulations;

(h) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, beer;

(j) regulating the transportation of beer in such circumstances as may be prescribed in the regulations.

(2) Regulations under this section may make different provision for persons, premises or beer of different classes or descriptions, for different circumstances and for different cases.

(3) Any person contravening or failing to comply with any regulation made under this section shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale, and any article or substance in respect of which the offence was committed shall be liable to forfeiture."

15.—(1) In section 49A of that Act, in subsection (1) (duty determined in accordance with regulations under section 49(1)(bb) deemed to have been paid for purposes of claims for drawback by brewers for sale)—

(a) for the words "brewer for sale" there shall be substituted the words "registered brewer or person registered under section 41A above"; and

(b) for the words "section 49(1)(bb)" there shall be substituted the words "section 49(1)(e)".

SCH. 2

(2) In subsection (2) of that section—

(a) for the words "brewer for sale" in both places where they occur there shall be substituted the words "registered brewer or person registered under section 41A above";

(b) for the words "the brewer" there shall be substituted the word "he"; and

(c) for the words "under section 38 above" there shall be substituted the words "in respect of the excise duty on beer".

16. Section 50 of that Act (regulations as respects sugar kept by brewers for sale) shall cease to have effect.

17. For section 52 of that Act (offences by brewers) there shall be substituted—

"Offences in connection with fraudulent evasion of duty.

52. If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of the duty on any beer, he shall be liable—

(a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years, or to both,

and, in either case, any beer in respect of which the offence was committed shall be liable to forfeiture."

18. Section 53 of that Act (limited licences to brew) shall cease to have effect.

19. Section 71A of that Act (restrictions on adding substances to beer) shall cease to have effect.

20. Section 72 of that Act (offences by wholesaler or retailer of beer) shall cease to have effect.

The Bankruptcy (Scotland) Act 1985 (c.66)

21. In Schedule 3 to the Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

"(4) The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

The Insolvency Act 1986 (c.45)

22. In Schedule 6 to the Insolvency Act 1986 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5 there shall be inserted—

"5A. The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

SCH. 2

The Insolvency (Northern Ireland) Order 1989

S.I. 1989/2405 (N.I. 19).

23. In Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5 there shall be inserted—

"5A. The amount of any excise duty on beer which is due at the relevant date from the debtor and which became due within a period of 6 months next before that date."

The Licensing (Northern Ireland) Order 1990

S.I. 1990/594 (N.I.6).

24. In the definition of "intoxicating liquor" in Article 2(2) of the Licensing (Northern Ireland) Order 1990, in paragraph (e), for the words "brewer for sale" there shall be substituted the words "registered brewer".

Section 10.

SCHEDULE 3

MODIFICATION OF ENACTMENTS EXTENDED TO NORTHERN IRELAND

PART I

THE VEHICLES (EXCISE) ACT 1971

Introduction

1971 c. 10.

1. The Vehicles (Excise) Act 1971 shall be amended as follows.

Excise duty on, and licensing of, mechanically propelled vehicles

2. In section 1 (charge of duty) in subsection (1) for "Great Britain" there shall be substituted "the United Kingdom".

Exemptions from duty

3. In section 4 (exemptions from duty of certain descriptions of vehicles) at the end there shall be added the following subsection—

"(3) In its application to Northern Ireland, this section shall have effect as if—

(a) in paragraph (b) of subsection (1) for "a local authority" there were substituted "the Fire Authority for Northern Ireland" and for "their" there were substituted "its";

(b) in paragraph (j) of that subsection for "local authority's" there were substituted "district council's";

(c) in subsection (2)—

1947 c. 41. S.I. 1984/1821 (N.I. 11).

(i) in the definition of "fire engine", for "the Fire Services Act 1947" there were substituted "the Fire Services (Northern Ireland) Order 1984";

1988 c. 52. S.I. 1981/154 (N.I. 1).

(ii) in the definition of "weight unladen", for "section 190(2) of the Road Traffic Act 1988" there were substituted "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981";

(iii) in the definition of "local authority's watering vehicle", for "local authority's" there were substituted "district council's" and for the words "local authority", in each place where they occur, there were substituted "district council"; and

(iv) in the definition of "street lighting authority", for "local authority or Minister" there were substituted "Northern Ireland department"."

4. In section 5 (exemptions from duty in connection with vehicle testing, etc.) at the end there shall be added the following subsection— SCH. 3

"(4) In its application to Northern Ireland, this section shall have effect as if—

(a) in subsection (2) for the word "Minister's" there were substituted "Department's"; and

(b) for subsection (3) there were substituted the following subsection—

"(3) In this section—

"authorised person" means an inspector of vehicles within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1981; S.I. 1981/154 (N.I. 1).

"compulsory test" means an examination to obtain a vehicle test certificate under Article 33 of the Road Traffic (Northern Ireland) Order 1981 without which a vehicle licence cannot be obtained for the vehicle under this Act, or an examination to obtain a goods vehicle certificate, public service vehicle licence or certificate of inspection under Article 53, 60(1) or 67 respectively of that Order;

"the relevant certificate" means a vehicle test certificate, a goods vehicle certificate, a public service vehicle licence (those expressions having the same meanings as they have in the Road Traffic (Northern Ireland) Order 1981) a certificate of inspection within the meaning of Article 67(2) of that Order, a type approval certificate within the meaning of Article 31A of that Order or a Department's approval certificate within the meaning of that Article.""

5.—(1) In section 7 (miscellaneous exemptions from duty)—

(a) in paragraph (b) of subsection (2) after "1978" there shall be inserted "or Article 30(3) of the Health and Personal Social Services (Northern Ireland) Order 1972", and S.I. 1972/1265 (N.I. 14).

(b) in paragraph (c) of that subsection after "subsection" there shall be inserted "subsection (2C) below".

(2) In subsection (2A) of that section in the definition of "appointee" after "1975" there shall be inserted "or the Social Security (Northern Ireland) Act 1975". 1975 c. 15.

(3) After subsection (2B) of that section there shall be inserted the following subsections—

"(2C) A mechanically propelled vehicle suitable for use by persons having a particular disability that so incapacitates them in the use of their limbs that they have to be driven and cared for by a full-time constant attendant and registered in the name of such a disabled person under this Act shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of that disabled person or by reason of its being kept for such use where—

(a) the disabled person is sufficiently disabled to be eligible under the Health and Personal Social Services (Northern Ireland) Order 1972 for an invalid tricycle but too disabled to drive it; and

(b) no vehicle exempted from duty under subsection (2) above is (or by virtue of that subsection is deemed to be) registered in his name under this Act.

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(2D) Subsection (2C) above applies only in relation to Northern Ireland."

(4) In subsection (4A) of that section at the end there shall be added "or a health and social services body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991 or a Health and Social Services Trust established under that Order".

S.I. 1991/194 (N.I. 1).

(5) Subsection (5) of that section shall be omitted.

Liability to pay duty and consequences of non-payment

6.—(1) In section 9 (additional liability for keeping unlicensed vehicle) in subsection (5) after "1948" there shall be inserted "or the Probation Act (Northern Ireland) 1950".

1950 c. 7 (N.I.).

(2) At the end of that section there shall be added the following subsection—

"(9) In its application to Northern Ireland, this section shall have effect as if for subsection (7) there were substituted the following subsection—

"(7) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.""

1954 c. 9 (N.I.).

7. In section 13 (temporary licences) in subsection (2A) after "body", where it occurs for the first time, there shall be inserted "(other than a Northern Ireland department)".

8. In section 18 (alteration of vehicle or its use) at the end there shall be added the following subsection—

"(10) In its application to Northern Ireland, this section shall have effect as if—

(a) for subsection (8) there were substituted the following subsection—

"(8) Where duty has been paid under this Act in respect of a vehicle either—

(a) as an agricultural tractor under Schedule 3, or

(b) as a farmer's goods vehicle under Schedule 4,

duty at a higher rate shall not become chargeable in respect of that vehicle by reason only that it is used by the person in whose name it is registered for conveying to or from any agricultural land in his occupation livestock owned by him in connection with the agricultural activities carried on by him on that land; but this subsection shall not have effect in relation to a vehicle used for conveying any livestock which for the time being is part of the stock in trade of a dealer in cattle and is conveyed in the course of his business as such dealer."; and

(b) subsection (9) were omitted."

9.—(1) In section 18A (additional liability in relation to alteration of vehicle or its use) in subsection (10) after "1973" there shall be inserted "or the Probation Act (Northern Ireland) 1950".

(2) After subsection (12) of that section there shall be inserted the following subsection—

"(12A) In its application to Northern Ireland, this section shall have effect as if— SCH. 3

(a) in subsections (3) and (5) for "plated weight", in each place, there were substituted "relevant maximum weight or, as the case may be, relevant maximum train weight";

(b) in subsection (6) for "plated with the higher plated weight" there were substituted "rated at the higher relevant maximum weight or, as the case may be, the higher relevant maximum train weight"; and

(c) for subsection (11) there were substituted the following subsections—

"(11) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954. 1954 c. 9 (N.I.).

(11A) In this section "relevant maximum weight" and "relevant maximum train weight" have the same meaning as in Schedule 4 to this Act.""

10.—(1) Section 18B (combined transport of goods) shall be amended as follows.

(2) In subsection (2), for "Great Britain" there shall be substituted "the United Kingdom".

(3) At the end there shall be inserted the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if—

(a) for "plated gross weight", in each place, there were substituted "relevant maximum weight"; and

(b) for "plated train weight", in each place, there were substituted "relevant maximum train weight"."

Registration and registration marks, etc.

11. In section 22 (failure to fix, and obscuration of, marks and signs) at the end there shall be added the following subsection—

"(4) In its application to Northern Ireland, subsection (1) above shall have effect as if for paragraph (b) of the proviso there were substituted the following paragraph—

"(b) in a case where the charge relates to a vehicle to which Article 34 of the Road Traffic (Northern Ireland) Order 1981 applies by virtue of paragraph (2)(b) thereof, that he had no opportunity of so registering the vehicle and that the vehicle was being driven on a road for the purposes of or in connection with its examination under Article 33 of the said Order of 1981 in circumstances in which its use is exempted from paragraph (1) of the said Article 34 by regulations under paragraph (5) thereof."" S.I. 1981/154 (N.I. 1).

Miscellaneous

12. In section 27 (duty to give information) at the end there shall be added the following subsection—

"(4) In its application to Northern Ireland, subsection (1)(a) above shall have effect as if for "a chief officer of police" there were substituted "the Chief Constable of the Royal Ulster Constabulary"."

SCH. 3

13. After section 28 (institution of proceedings in England and Wales) there shall be inserted the following section—

"Institution of proceedings in Northern Ireland.

28A. Section 28 of this Act shall also apply in relation to the institution of proceedings in Northern Ireland, but as if—

(a) for any reference in that section to England and Wales there were substituted a reference to Northern Ireland; and

(b) in subsection (4) of that section for the words from the beginning to "county court" there were substituted "In a court of summary jurisdiction or before a county court"."

14. In section 31 (admissibility of records as evidence) at the end there shall be added the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2) for "subsection (1) of section 10 of the Civil Evidence Act 1968" there were substituted "subsection (1) of section 6 of the Civil Evidence Act (Northern Ireland) 1971"."

1968 c. 64.
1971 c. 36 (N.I.).

15. In section 32 (evidence of admissions in certain proceedings) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

"(2) Subsection (1) above shall apply in Northern Ireland as if—

(a) for the words "England and Wales" there were substituted "Northern Ireland"; and

(b) for the words from "rules" to "1949" there were substituted "magistrates' courts rules as defined in Article 2(3) of the Magistrates' Courts (Northern Ireland) Order 1981"."

S.I. 1981/1675 (N.I. 26).

16. In section 34 (fixing amount payable on pleas of guilty by absent accused) the existing provision shall be numbered as subsection (1) and after that subsection there shall be added the following subsection—

"(2) In its application to Northern Ireland, subsection (1) above shall have effect as if—

(a) for "section 12(2) of the Magistrates' Courts Act 1980" and "the said section 12(2)" there were substituted "Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981" and "the said Article 24(2)" respectively; and

(b) for the words from "or in" to "1980" there were substituted "or by affidavit or in the manner prescribed by magistrates' courts rules as defined by Article 2(3) of the Magistrates' Courts (Northern Ireland) Order 1981"."

1980 c. 43.

17. In section 35 (application of fines etc.) in subsection (2) after "Scotland" there shall be inserted "or Northern Ireland".

Supplementary

18. In section 37 (regulations), at the end of paragraph (a) of subsection (1) there shall be inserted the words "and for different parts of the United Kingdom".

19. In section 40 (short title, etc.) for subsection (3) there shall be substituted—

"(3) This Act extends to Northern Ireland."

20. In Part I of Schedule 1 (annual rate of duty on certain mechanically propelled vehicles) after paragraph 3 there shall be added the following paragraph—

"4. In its application to Northern Ireland, this Part of this Schedule shall have effect as if—

(a) in paragraph 2(a), for "1933" there were substituted "1935"; and

(b) in paragraph 3, in the definition of "weight unladen", for "section 190(2) of the Road Traffic Act 1988" there were substituted "Article 2(3) of the Road Traffic (Northern Ireland) Order 1981"." 1988 c. 52. S.I. 1981/154 (N.I. 1).

21. In Schedule 2 (annual rates of duty on hackney carriages) at the end of Part I there shall be added the following paragraph—

"5.—(1) A vehicle falling within this Schedule shall not be chargeable with duty at the rate appropriate to a hackney carriage unless a licence granted under Article 61 of the Road Traffic (Northern Ireland) Order 1981 is in force with respect to that vehicle.

(2) This paragraph applies only to Northern Ireland."

22. In Schedule 4 (annual rates of duty on goods vehicles) at the end of Part I there shall be added the following paragraph—

"16.—(1) This Schedule shall apply to Northern Ireland subject to the following modifications.

(2) Any reference to a plated gross weight or a plated train weight shall be construed as if it were a reference to a relevant maximum weight or a relevant maximum train weight.

(3) Paragraph 5 above shall have effect as if for sub-paragraph (1) there were substituted the following paragraph—

"(1) This paragraph applies to a goods vehicle—

(a) which has a relevant maximum weight or a relevant maximum train weight exceeding 3,500 kilograms or, in the case of a vehicle which has neither a relevant maximum weight nor a relevant maximum train weight, a design weight exceeding 3,500 kilograms; and

(b) which is for the time being authorised for use on roads by virtue of an order under Article 29(3) of the Road Traffic (Northern Ireland) Order 1981 (authorisation of special vehicles)."

(4) Paragraph 9 above shall have effect as if for sub-paragraphs (1) and (2) there were substituted the following sub-paragraphs—

"(1) Any reference in this Schedule to the relevant maximum weight of a goods vehicle or trailer is a reference—

(a) where the vehicle or trailer is required by regulations under Article 28 of the Road Traffic (Northern Ireland) Order 1981 to have a maximum gross weight in Great Britain for the vehicle or trailer marked on a plate attached to the vehicle or trailer, to the maximum gross weight in Great Britain marked on such a plate;

(b) where a vehicle or trailer on which the maximum gross weight in Great Britain is marked by the same means as would be required by regulations under the said

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Article 28 if those regulations applied to the vehicle or trailer, to the maximum gross weight in Great Britain so marked on the vehicle or trailer;

(c) where a maximum gross weight is not marked on a vehicle or trailer as mentioned in paragraph (a) above, to the notional maximum gross weight of the vehicle or trailer ascertained in accordance with the Goods Vehicles (Ascertainment of Maximum Gross Weights) Regulations (Northern Ireland) 1976 (or any regulations replacing those regulations, whether with or without amendments).

S.R. (N.I.) 1976 No. 241.

(2) Any reference in this Schedule to the relevant maximum train weight of a vehicle is a reference to the maximum gross weight which may not be exceeded in Great Britain for an articulated vehicle consisting of the vehicle in question and any semi-trailer which may be drawn by it."

(5) Paragraph 15(1) above shall have effect as if in the definition of "unladen weight" for the words from "the Road" to "that Act" there were substituted "the Road Traffic (Northern Ireland) Order 1981 by virtue of Article 2(3) of that Order"."

S.I. 1981/154 (N.I. 1).

23. In Schedule 4A (duty on vehicles used for carrying or drawing exceptional loads) at the end there shall be added the following paragraph—

"5. In its application to Northern Ireland, this Schedule shall have effect as if—

(a) in paragraph 1 above for the words referring to section 44 of the Road Traffic Act 1988 there were substituted "Article 29(3) of the Road Traffic (Northern Ireland) Order 1981";

1988 c. 52.

(b) in paragraph 4 above—

(i) in the definition of "exceptional load" for the words referring to section 41 of the Road Traffic Act 1988 there were substituted "Article 28 of the Road Traffic (Northern Ireland) Order 1981"; and

(ii) in the definition of "specified amount" for the words from "Road Traffic" to "that Act" there were substituted "Road Traffic (Northern Ireland) Order 1981 have the same meanings as in that Order"."

PART II

SECTION 11 OF THE FINANCE ACT 1976

1976 c. 40.

24. In section 11 of the Finance Act 1976, for subsection (5) there shall be substituted the following subsection—

"(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2)—

(a) for paragraph (b) there were substituted the following paragraph—

"(b) the relevant maximum weight or, as the case may be, the relevant maximum train weight of the vehicle;"

and

(b) in paragraph (c) for the words "plated weights" there were substituted "relevant maximum weight or, as the case may be, such relevant maximum train weight"."

SCHEDULE 4

Section 11.

REGISTERED EXCISE DEALERS AND SHIPPERS

After Part VIIIA of the Customs and Excise Management Act 1979 there shall be inserted— 1979 c. 2.

"PART VIIIB

REGISTERED EXCISE DEALERS AND SHIPPERS

Registered excise dealers and shippers.

100G.—(1) For the purpose of administering, collecting or protecting the revenues derived from duties of excise, the Commissioners may by regulations under this section (in this Act referred to as "registered excise dealers and shippers regulations")—

(a) confer or impose such powers, duties, privileges and liabilities as may be prescribed in the regulations upon any person who is or has been a registered excise dealer and shipper; and

(b) impose on persons other than registered excise dealers and shippers, or in respect of any goods of a class or description specified in the regulations, such requirements or restrictions as may by or under the regulations be prescribed with respect to registered excise dealers and shippers or any activities carried on by them.

(2) The Commissioners may approve, and enter in a register maintained by them for the purpose, any revenue trader who applies for registration under this section and who appears to them to satisfy such requirements for registration as they may think fit to impose.

(3) In the customs and excise Acts "registered excise dealer and shipper" means a revenue trader approved and registered by the Commissioners under this section.

(4) The Commissioners may approve and register a person under this section for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under the regulations prescribe.

(5) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval or registration of any person under this section.

(6) The regulations may make provision for treating revenue traders as approved and registered under this section in cases where they are members of a group of companies (within the meaning of the regulations) which is approved and registered in accordance with the regulations.

Registered excise dealers and shippers regulations.

100H.—(1) Without prejudice to the generality of section 100G above, registered excise dealers and shippers regulations may, in particular, make provision—

(a) regulating the approval and registration of persons as registered excise dealers and shippers and the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject;

(b) regulating any activities carried on by or for a registered excise dealer and shipper and, in particular, the importation, exportation, buying, selling, loading, unloading, delivery, movement, holding,

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deposit, security, treatment or removal of, or the carrying out of operations on, or the effecting of any other transaction relating to, any goods of a class or description subject to a duty of excise;

(c) authorising a registered excise dealer and shipper to carry out or arrange for the carrying out of any prescribed activity falling within paragraph (b) above in relation to goods chargeable with a duty of excise which has not been paid, but subject to prescribed conditions or restrictions and to prescribed requirements for the payment of the unpaid duty;

(d) exempting registered excise dealers and shippers from compliance with such provisions made by or under the customs and excise Acts as may be prescribed, or applying such provisions in relation to registered excise dealers and shippers with prescribed modifications or adaptations, or applying in relation to registered excise dealers and shippers such substitute provisions as may be prescribed in place of any such provisions;

(e) requiring, except as otherwise permitted by the Commissioners, goods which are subject to a duty of excise that has not been paid and which are not consigned to an excise warehouse—

(i) to be consigned to a registered excise dealer and shipper; and

(ii) to be accompanied by such documents in such form and such manner and containing such particulars as may be prescribed;

(f) imposing on a registered excise dealer and shipper liability for the payment of duties of excise chargeable on any goods or, in prescribed cases, imposing joint and several liability for the payment of any such duties on a registered excise dealer and shipper and some other person specified in the regulations who, if not a registered excise dealer and shipper, would have been liable for their payment apart from this paragraph;

(g) for securing and collecting any duty of excise for the payment of which a registered excise dealer and shipper is or may be liable;

(h) for determining, in relation to goods which are the subject of a transaction involving a registered excise dealer and shipper, the duties of excise chargeable, the rates of those duties and the persons liable to pay them and the time at which and manner in which payment is to be made and, in that connection, prescribing the method of charging the duties;

(j) permitting payment of excise duty by a registered excise dealer and shipper to be deferred, subject to compliance with prescribed conditions;

(k) for relieving registered excise dealers and shippers from liability to pay excise duty on goods in prescribed circumstances;

(l) for cases where a registered excise dealer and shipper acts as agent for some other person (whether a registered excise dealer and shipper or not);

(m) requiring registered excise dealers and shippers to keep and make available for inspection such records relating to their activities as such as may be prescribed;

(n) for goods in the United Kingdom which are liable to a duty of excise which has not been paid to be subject to forfeiture for any breach of—

(i) registered excise dealers and shippers regulations, so far as relating to goods chargeable with a duty of excise which has not been paid, or

(ii) any condition or restriction imposed by or under any such regulations so far as so relating.

(2) Registered excise dealers and shippers regulations may make different provision for persons or goods of different classes or descriptions, for different circumstances and for different cases.

(3) In this section "prescribed" means prescribed in registered excise dealers and shippers regulations or prescribed by the Commissioners under any such regulations.

Contravention of regulations etc.

100J. If any person contravenes any provision of registered excise dealers and shippers regulations or fails to comply with any condition or restriction which the Commissioners impose upon him under section 100G above or by or under any such regulations, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale and any goods in respect of which the offence was committed shall be liable to forfeiture."

SCHEDULE 5

Section 12.

PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

After Part IX of the Customs and Excise Management Act 1979 there shall be inserted— 1979 c.2.

"PART IXA

PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

Duty of revenue traders to keep records.

118A.—(1) The Commissioners may by regulations require every revenue trader—

(a) to keep such records as may be prescribed in the regulations; and

(b) to preserve those records for such period not exceeding six years as may be prescribed in the regulations or for such lesser period as the Commissioners may require.

(2) Regulations under this section—

(a) may make different provision for different cases; and

(b) may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.

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(3) Any duty imposed under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve.

(4) Where any information is preserved in accordance with subsection (3) above, a copy of any document forming part of the records in question shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(5) The Commissioners may, as a condition of approving under subsection (3) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.

(6) A statement contained in a document produced by a computer shall not by virtue of subsection (4) above be admissible in evidence—

(a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act 1968;

1968 c. 64.

(b) in criminal proceedings in England and Wales, except in accordance with sections 69 and 70 of the Police and Criminal Evidence Act 1984 and Part II of the Criminal Justice Act 1988;

1984 c. 60.

1988 c. 33.

(c) in civil proceedings in Scotland, except in accordance with sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;

1968 c. 70.

(d) in criminal proceedings in Scotland, except in accordance with the said sections 13 and 14, which shall, for the purposes of this section, apply with the necessary modifications to such proceedings;

(e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971; and

1971 c. 36 (N.I.).

(f) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988.

S.I. 1989/1341 (N.I. 12).
S.I. 1988/1847 (N.I. 17).

(7) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under—

(a) section 5(4) of the Civil Evidence Act 1968,

(b) section 13(4) of the Law Reform (Miscellaneous Provisions) Scotland Act 1968, or

(c) section 2(4) of the Civil Evidence Act (Northern Ireland) 1971.

Duty of revenue traders and others to furnish information and produce documents.

118B.—(1) Every revenue trader shall—

(a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to—

(i) any goods or services supplied by or to him in the course or furtherance of a business, or

(ii) any goods in the importation or exportation of which he is concerned in the course or furtherance of a business,

as they may reasonably specify; and

(b) upon demand made by an officer, produce or cause to be produced for inspection by that officer—

(i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require, and

(ii) at such time as the officer may reasonably require,

any documents relating to the goods or services or to the supply, importation or exportation.

(2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from a revenue trader—

(a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but

(b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course or furtherance of any business shall be taken to include—

(a) any profit and loss account and balance sheet, and

(b) any records required to be kept by virtue of section 118A above,

relating to that business.

(4) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.

(5) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed.

(6) Where a lien is claimed on a document produced under subsection (2) above, the removal of the document under subsection (5) above shall not be regarded as breaking the lien.

(7) Where a document removed by an officer under subsection (5) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

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(8) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

Entry and search of premises and persons.

118C.—(1) For the purpose of exercising any powers under the customs and excise Acts an officer may at any reasonable time enter premises used in connection with the carrying on of a business.

(2) Where an officer has reasonable cause to believe that any premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with a duty of excise and that any such goods are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

1975 c. 21.

(3) If a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied on information on oath—

(a) that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises, or

(b) that evidence of the commission of such an offence is to be found there,

he may issue a warrant in writing authorising, subject to subsections (6) and (7) below, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant and search them.

(4) Any officer who enters premises under the authority of a warrant under subsection (3) above may—

(a) take with him such other persons as appear to him to be necessary;

(b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and

(c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;

but no woman or girl shall be searched by virtue of this subsection except by a woman.

(5) In subsections (3) and (4) above "a fraud offence" means an offence under any provision of section 167(1), 168 or 170 below.

(6) The powers conferred by a warrant under this section shall not be exercisable—

(a) by more than such number of officers as may be specified in the warrant; nor

(b) outside such times of day as may be so specified; nor

(c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(7) An officer seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—

(a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;

(b) if at the time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy shall be supplied to that person; and

(c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

Order for access to recorded information, etc.

118D.—(1) Where, on an application by an officer, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing— 1975 c. 21.

(a) that an offence in connection with a duty of excise is being, has been or is about to be committed, and

(b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this section.

(2) An order under this section is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

(a) give an officer access to it, and

(b) permit an officer to remove and take away any of it which he reasonably considers necessary,

not later than the end of the period of seven days beginning with the date of the order or the end of such longer period as the order may specify.

(3) The reference in subsection (2)(a) above to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer to take copies of it or to make extracts from it.

(4) Where the recorded information consists of information contained in a computer, an order under this section shall have effect as an order to produce the information in a form in which it is visible and legible and, if the officer wishes to remove it, in a form in which it can be removed.

(5) This section is without prejudice to sections 118B and 118C above.

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Procedure when documents etc. are removed.

118E.—(1) An officer who removes anything in the exercise of a power conferred by or under section 118C or 118D above shall, if so requested by a person showing himself—

(a) to be the occupier of premises from which it was removed, or

(b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(2) The officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (7) below, if a request for permission to be granted access to anything which—

(a) has been removed by an officer, and

(b) is retained by the Commissioners for the purposes of investigating an offence,

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.

(4) Subject to subsection (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—

(a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it, or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—

(a) that investigation;

(b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or

(c) any criminal proceedings which may be brought as a result of—

(i) the investigation of which he is in charge; or

(ii) any such investigation as is mentioned in paragraph (b) above.

(8) Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.

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Failure of officer to comply with requirements under section 118E.

118F.—(1) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 118E above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

(2) An application under subsection (1) above shall be made—

(a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 118E above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and

(b) in any other case, by the person who has such custody or control.

(3) In this section "the appropriate judicial authority" means—

(a) in England and Wales, a magistrates' court;

(b) in Scotland, the sheriff; and

(c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates' Courts (Northern Ireland) Order 1981. S.I. 1981/1675 (N.I. 26).

(4) Any application for an order under this section—

(a) in England and Wales, shall be made by way of complaint; or

(b) in Northern Ireland, shall be made by way of civil proceedings on complaint.

(5) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (rules and orders regulating procedure of courts etc and assignment of business to particular courts) shall apply as if any reference in those provisions to any enactment included a reference to this section. 1954 c. 33 (N.I.).

Offences under Part IXA.

118G. If any person fails to comply with any requirement imposed under section 118A(1) or section 118B above, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale."

SCHEDULE 6

Section 27.

RESTRICTION OF HIGHER RATE RELIEF: BENEFICIAL LOANS ETC

Taxation of beneficial loan arrangements

1.—(1) In section 160 of the Taxes Act 1988 (charge to tax in respect of beneficial loan arrangements) at the end of subsection (4) (which introduces Schedule 7) there shall be added the words "but that Part of that Schedule is subject to Part IV of that Schedule, which makes provision in connection with the restriction to tax at the basic rate of certain reliefs in respect of loans to which Part III of that Schedule has effect; and Part V of that Schedule has effect for the interpretation of the Schedule."

(2) After that subsection there shall be inserted—

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"(4A) Where an assessment for any year in respect of a loan has been made or determined on the footing that the whole or part of the interest payable on the loan for that year was not in fact paid, but it is subsequently paid, then, on a claim in that behalf, the cash equivalent for that year shall be recalculated so as to take that payment into account and the assessment shall be adjusted accordingly."

2. In section 167 of that Act, after subsection (2) (taxation of benefits for directors and employees paid more than £8,500 per annum: calculation of emoluments) there shall be inserted—

"(2A) Where, by virtue of paragraph 15 of Schedule 7, the amount, or the total of the amounts, treated under section 160 as emoluments of a person exceeds what it would have been apart from that paragraph, then, for the purposes of subsection (2)(a) above there shall, instead of that excess, be brought into account an amount equal to the difference between—

(a) the amount by which his total income for the purposes of excess liability exceeds the basic rate limit; and

(b) what the amount referred to in paragraph (a) above would have been, apart from paragraph 15 of Schedule 7;

and in this subsection "excess liability" means the excess of 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."

3.—(1) In Schedule 7 to that Act (taxation of benefit from loans obtained by reason of employment) in paragraph 3, after paragraph (b) of sub-paragraph (1) there shall be added—

"and, in a case where there are two or more loans, the aggregate of the cash equivalents (if any) of the benefit of each of those loans shall be treated for the purposes of section 160 as the cash equivalent of the benefit of all of them."

(2) Sub-paragraphs (2) and (3) of that paragraph shall cease to have effect.

4. Paragraph 6 of that Schedule (meaning of "interest eligible for relief" in Part III, which is superseded by amendments made by paragraph 5 below) shall be omitted.

5. At the end of that Schedule there shall be added—

"13. This Part of this Schedule is subject to the provisions of Part IV below.

PART IV

INTEREST ELIGIBLE FOR RELIEF: CONSEQUENCES OF RESTRICTION OF RELIEF TO TAX AT THE BASIC RATE ONLY

14. This Part of this Schedule applies in relation to the employee for any year for which he is, or, apart from paragraph 7, 8 or 9 above as they apply in relation to home loans, would be, liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability.

15. Where this Part of this Schedule applies in relation to the employee for any year, none of paragraphs 7, 8 and 9 above shall apply in his case in relation to any home loan in that year, except as provided by paragraph 17 below.

16.—(1) Where, by virtue only of paragraph 15 above, paragraph 7, 8 or 9 above does not apply in the case of the employee in relation to a home loan in any year, there shall be treated as interest eligible for relief under section 353 by virtue of section 355(1)(a) in that year—

(a) in a case where, apart from paragraph 15 above, paragraph 7 would have applied in relation to the home loan, an amount equal to the cash equivalent of the benefit of that loan in that year, apart from paragraph 7, or

(b) in a case where, apart from paragraph 15 above, paragraph 8 or 9 would have applied in relation to the home loan, an amount equal to the difference between—

(i) the cash equivalent of the benefit of the home loan in that year, apart from paragraphs 8 and 9, and

(ii) what the cash equivalent of the benefit of the home loan would have been in that year, apart from paragraph 15 above,

but subject to the following provisions of this paragraph.

(2) In the application of section 353 by virtue of this paragraph—

(a) the amount that falls to be treated as mentioned in sub-paragraph (1) above shall be taken to fall within paragraph (a) of subsection (1) of that section; and

(b) subsections (2) and (3) of that section shall be disregarded in relation to that amount.

17. Paragraph 15 above shall not prevent paragraph 7, 8 or 9 applying in the case of the employee in any year if, apart from paragraph 15—

(a) he would not have been charged for that year to income tax at any rate higher than basic rate in respect of any of his total income or to tax in respect of excess liability; and

(b) the aggregate of the following amounts, that is to say—

(i) the amount of income in respect of which, apart from any home loans, he would have been charged to income tax for that year at the basic rate,

(ii) any income which is treated by virtue of section 683(1) or 684(1) as his income for that year for the purposes of excess liability, notwithstanding that he would not have been charged to tax otherwise than at the basic rate,

(iii) the cash equivalents, apart from paragraphs 7, 8 and 9 above, of the benefit of any home loans in that year, and

(iv) his nominal element (if any) for that year, reduced by an amount equal to the cash equivalents, apart from paragraph 15 above, of the benefit of any home loans in that year,

does not exceed the basic rate limit by more than the amount specified in section 161(1) for that year.

18. If, in the case of the employee, there is a home loan in any year and that is a year for which—

(a) he is liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability (whether or not by virtue of this Part of this Schedule), but

(b) he would not have been so liable apart from any home loans, and

(c) there is in his case a nominal element,

then, in computing his liability to income tax for that year, the amount which falls to be treated as emoluments under section 160(1) in consequence of the operation of paragraph 15 above (or, if more than one,

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the aggregate of those amounts) shall be taken to be the highest part of the income charged to tax, and an amount equal to the nominal element shall be taken to be the lowest portion of that part.

PART V

INTERPRETATION

19.—(1) In this Schedule—

"eligible for relief" shall be construed in accordance with sub-paragraph (2) below;

"eligible loan" means—

(a) any loan the interest on which is eligible for relief, other than a home loan; and

(b) in a case where part of the interest on a loan is eligible for relief otherwise than by virtue of section 355(1)(a), 356(1) or 365, that proportion of the loan which that part of the interest bears to the whole of the interest;

and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;

"excess liability" means 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;

"home loan" means—

(a) any loan the interest on which is, or apart from section 357 would have been, eligible for relief by virtue of section 355(1)(a), 356(1) or 365; and

(b) in a case where part of the interest on a loan is or would have been so eligible for relief, that proportion of the loan which that part of the interest bears to the whole of the interest;

and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is or would have been so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;

"loan", except in Part I of this Schedule, shall be construed in accordance with sub-paragraphs (3) to (5) below;

"nominal element", in relation to the employee, means the amount (if any) which, apart from paragraph 15 above, would, by virtue of section 161(1), not have been charged to tax under section 160 in that year in his case.

(2) Interest is "eligible for relief" for the purposes of this Schedule if it is eligible for relief under section 353 or would be eligible for such relief apart from subsection (2) of that section.

(3) In the definitions of "eligible loan" and "home loan" in sub-paragraph (1) above, "loan" means any such loan as is mentioned in section 160(1), and for this purpose sub-paragraphs (4) and (5) below shall be disregarded.

(4) Where by virtue of sub-paragraph (1) above part of a loan constitutes a home loan or an eligible loan, the loan shall be treated for the purposes of this Schedule, apart from Part I, as if it were two or more separate loans, consisting respectively—

(a) of the part (if any) which is a home loan,

(b) of the part (if any) which is an eligible loan, and

(c) of the part (if any) which is neither a home loan nor an eligible loan, SCH. 6

and, subject to sub-paragraph (5) below, references in this Schedule, apart from Part I, to loans, home loans and eligible loans shall be construed accordingly.

(5) Except for home loans and eligible loans, all the loans between the same lender and borrower for which a cash equivalent falls to be ascertained and which are outstanding at any time, as to any amount, in any year are to be treated for the purposes of this Schedule, apart from Part I, as a single loan."

Applicable rates of capital gains tax

6.—(1) In section 102 of the Finance Act 1988 (unification of rates of tax on income and gains: special cases) after subsection (1) there shall be inserted— 1988 c. 39.

"(1A) References in section 98 above to income tax chargeable at the higher rate also include references to tax chargeable by virtue of section 353(4) or 369(3A) of that Act (restriction to basic rate of relief on certain interest etc) in respect of excess liability; and where for any year of assessment a deduction is by virtue of either of those provisions not allowed in computing the total 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, that deduction shall not be allowed for the purposes of section 98(4) above."

(2) In subsection (4) of that section (deductions in respect of personal reliefs not to be affected), after the words "subsection (1)" there shall be inserted the words "or (1A)".

SCHEDULE 7

Section 48.

BASIC LIFE ASSURANCE AND GENERAL ANNUITY BUSINESS

Management expenses

1. In section 76 of the Taxes Act 1988 (expenses of management of insurance companies) in subsection (1)—

(a) in paragraphs (ca) and (e), for the words "basic life assurance business" there shall be substituted in each place the words "basic life assurance and general annuity business";

(b) in paragraph (d), the words "general annuity business" shall cease to have effect.

Interpretation of Chapter I of Part XII

2. In section 431 of that Act (interpretative provisions relating to insurance companies) in subsection (2), after the definition of "basic life assurance business" there shall be inserted—

"'"basic life assurance and general annuity business" means life assurance business other than pension business and overseas life assurance business;".

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Apportionment of income and gains

3.—(1) In section 432A of that Act (apportionment of income and gains between different categories of business) in subsection (2) (which specifies the categories) paragraphs (b) and (d) shall be omitted and at the end there shall be added—

"(e) basic life assurance and general annuity business."

(2) In subsection (3) of that section, for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(3) In subsection (7)(a)(iii) of that section—

(a) for the words "general annuity business or basic life assurance business" there shall be substituted the words "or basic life assurance and general annuity business", and

(b) for the words "pension business and basic life assurance business" there shall be substituted the words "those categories of business".

(4) In section 432C of that Act (apportionment: income of non-participating funds) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(5) In subsection (5)(a)(ii) of that section—

(a) for the words "general annuity business or basic life assurance business" there shall be substituted the words "or basic life assurance and general annuity business", and

(b) for the words "pension business and basic life assurance business" there shall be substituted the words "those categories of business".

(6) In section 432D of that Act (apportionment: value of non-participating funds) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Computation of trading profit

4.—(1) In section 436 of that Act (general annuity business and pension business: separate charge on profits) in subsection (1)—

(a) the words "general annuity business or" shall cease to have effect, and

(b) in paragraph (a), for the words "the business of each such class" there shall be substituted the words "that business".

(2) In subsection (3) of that section—

(a) in paragraph (c), the words "or general annuity business", and

(b) in paragraph (e), the words "general annuity business or",

shall cease to have effect.

(3) In subsection (4) of that section, the words "general annuity business or" shall cease to have effect.

(4) In section 437 of that Act (general annuity business) subsections (2) to (5) shall cease to have effect.

Deduction for annuities referable to basic life assurance and general annuity business

5. In section 437 of that Act, for subsection (1) there shall be substituted—

"(1A) In the case of a company carrying on basic life assurance and general annuity business, the new annuities paid in any accounting period by the company shall be regarded as charges on income only to the extent that they do not exceed the income limit for that accounting period.

(1B) Subsection (1A) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.

(1C) For the purposes of this section—

(a) "new annuity" means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company's basic life assurance and general annuity business;

(b) "the income limit" for an accounting period of an insurance company is the difference between—

(i) the total amount of the new annuities paid by the company in that accounting period; and

(ii) the total of the capital elements contained in the new annuities so paid; and

(c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—

(i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and

(ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.

(1D) In any case where—

(a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,

(b) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(c) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

(a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,

(b) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(c) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

"group annuity contract" means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise

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ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

"reinsurance treaty" means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a "reinsurer") to accept, the whole or part of a risk of a class or description to which the contract relates."

Transfer of assets between classes of business

6.—(1) In section 440 of that Act (transfers of assets etc) in subsection (4) (categories of business) for paragraph (a) there shall be substituted—

"(a) assets linked solely to basic life assurance and general annuity business;".

(2) In section 440A of that Act (securities treated as one holding) in subsection (2)(a)—

(a) after the word "policies" there shall be inserted the words "or annuity contracts"; and

(b) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(3) Immediately before the commencement of the first accounting period of an insurance company beginning on or after 1st January 1992—

(a) all the assets held by the company and falling within the category set out in paragraph (a) of subsection (4) of section 440 of that Act (basic life assurance business),

(b) so much of the assets held by the company and falling within the category set out in paragraph (d) of that subsection (assets not falling within any other category) as are linked solely to general annuity business, and

(c) so much of the assets held by the company and falling within that category as, although not falling within paragraph (b) above, would be regarded as linked solely to the company's basic life assurance business were its general annuity business treated as forming part of its basic life assurance business and as not being a separate category of business,

shall be taken to have been transferred from the category in question to the category set out in the paragraph (a) inserted by sub-paragraph (1) above.

(4) Neither section 440(1) nor section 724(1A) of that Act shall have effect in relation to the transfer of assets from one category to another by sub-paragraph (3) above.

United Kingdom branches of overseas life assurance companies

7.—(1) In section 446 of that Act (computation under section 436 of profits arising to an overseas life assurance company)—

(a) in subsection (1), the words "and general annuity business", and

(b) subsections (2) and (3),

shall cease to have effect.

(2) In section 447 of that Act (set-off of income tax and tax credits against corporation tax) in subsection (1), for the words "(2) to (4)" there shall be substituted the words "(2) and (4)".

(3) Subsection (3) of that section (proportion of profits arising from general annuity business for purposes of section 446) shall cease to have effect.

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(4) In subsection (4) of that section (which refers to section 446 and to subsection (3))—

(a) the words "or 446" shall cease to have effect; and

(b) for the words "subsections (2) and (3)" there shall be substituted the words "subsection (2)".

(5) In section 448 of that Act (qualifying distributions and tax credits) in subsection (3), paragraph (a) (limit on amounts that may be set against profits from general annuity business) shall cease to have effect.

Treatment of tax-free income

8. In section 474 of that Act, in subsection (1)(b) (certain tax-free income to be included in computing profits or loss from pension business and general annuity business) the words "and general annuity business" shall cease to have effect.

Life annuity contracts: taxation of gain on chargeable event

9.—(1) In section 547 of that Act (method of charging gain on surrender etc to tax) after subsection (5) there shall be inserted—

"(5A) Where a gain is to be treated under section 543 as arising in connection with a contract for a life annuity made—

(a) after 26th March 1974, and

(b) unless the contract falls, or has at any time fallen, to be regarded as not forming part of any insurance company or friendly society's basic life assurance and general annuity business the income and gains of which are subject to corporation tax, in an accounting period of the insurance company or friendly society beginning before 1st January 1992,

subsection (6) below shall apply in relation to the gain unless subsection (7) below applies in relation to it."

(2) In subsection (6) of that section (income constituted by gains on life annuity contracts made after 26th March 1974 not to be treated as if paid after deduction of tax at the basic rate etc) for the words from the beginning to "26th March 1974" there shall be substituted the words "Where this subsection applies in relation to such a gain as is mentioned in subsection (5A) above".

(3) After subsection (8) of that section there shall be inserted—

"(9) In this section "basic life assurance and general annuity business" has the same meaning as in Chapter I of Part XII."

(4) In section 549 of that Act, in subsection (2) (which limits the deduction that may be made under that section to the purposes of excess liability, except where the contract was made after 26th March 1974) after the words "after 26th March 1974" there shall be inserted the words "but in an accounting period of the insurance company or friendly society beginning before 1st January 1992,".

Computation of offshore income gains

10. In Schedule 28 to that Act, in paragraph 3(4), paragraph (a) (computation of unindexed gain in case of certain profits arising from general annuity business and falling to be taken into account under section 436) shall cease to have effect.

Interpretation of sections 85 to 89 of Finance Act 1989

11. In section 84 of the Finance Act 1989, for subsection (1) (meaning of "basic life assurance business" in sections 85 to 89) there shall be substituted— 1989 c. 26.

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"(1) In sections 85 to 89 below "basic life assurance and general annuity business" has the same meaning as in Chapter I of Part XII of the Taxes Act 1988."

Miscellaneous receipts

1989 c. 26.

12. In section 85 of the Finance Act 1989 (charge of certain receipts of basic life assurance business) in subsection (1), for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Spreading of relief for acquisition expenses

13.—(1) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses) in subsections (1) and (5), for the words "basic life assurance business" there shall be substituted in each place the words "basic life assurance and general annuity business".

(2) After subsection (3) of that section there shall be inserted—

"(3A) Nothing in subsection (1), (2) or (3) above applies to commissions (however described) in respect of annuity contracts made in accounting periods beginning before 1st January 1992, but without prejudice to the application of subsections (1) and (2) above to any commission attributable to a variation, in an accounting period beginning on or after that date, of an annuity contract so made; and for this purpose the exercise of any rights conferred by an annuity contract shall be regarded as a variation of it."

(3) In subsection (4) of that section (meaning of "the acquisition of business") after the word "includes" there shall be inserted "(a)" and at the end there shall be added the words "and

(b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date)."

Deemed disposal of unit trusts etc

1990 c. 29.

14.—(1) In section 46 of the Finance Act 1990 (annual deemed disposal of holdings of unit trusts etc) in subsection (2) (subsection (1) to apply only to relevant chargeable fraction except in the case of assets linked solely to basic life assurance business) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

(2) In subsection (3)(a) of that section (denominator of the relevant chargeable fraction) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business".

Exemptions and exclusions from charges by virtue of section 46

15.—(1) Schedule 8 to that Act (which provides certain exemptions and exclusions from charges by virtue of section 46 of that Act) shall have effect, and be deemed always to have had effect, with the following amendments.

(2) In paragraph 1, at the beginning there shall be inserted "(1)" and in paragraph (c) (definition of "relevant linked liabilities")—

(a) for the words "basic life assurance business" there shall be substituted the words "basic life assurance and general annuity business"; and

(b) after the words "pre-commencement policies" there shall be inserted the words "or contracts".

(3) For paragraph (d) of that paragraph (definition of "pre-commencement policies") there shall be substituted—

"(d) "pre-commencement policies or contracts" means—

(i) policies issued in respect of insurances made before 1st April 1990, and

(ii) annuity contracts made before that date,

but excluding policies or annuity contracts varied on or after that date so as to increase the benefits secured or to extend the term of the insurance or annuity (any exercise of rights conferred by a policy or annuity contract being regarded for this purpose as a variation);

(e) "basic life assurance and general annuity business" means life assurance business, other than pension business and overseas life assurance business."

(4) At the end of that paragraph there shall be added—

"(2) The assets which are to be regarded for the purposes of this Schedule as linked solely to an insurance company's basic life assurance and general annuity business at any time before the first accounting period of the company which begins on or after 1st January 1992 are all the assets which at that time—

(a) are or were linked solely to the company's basic life assurance business or general annuity business, or

(b) although not falling within paragraph (a) above, would be, or would have been, regarded as linked solely to the company's basic life assurance business, were its general annuity business treated as forming, or having at all times formed, part of its basic life assurance business and as not being a separate category of business."

(5) In paragraph 3 (roll-over relief on replacement of assets) in sub-paragraph (1)(c), for the words "basic life assurance business" in both places where they occur there shall be substituted the words "basic life assurance and general annuity business".

Transitional relief for old general annuity contracts

16.—(1) In computing for the purposes of corporation tax the profits of an insurance company for any accounting period beginning on or after 1st January 1992, there shall be treated as a charge on income an amount equal to the lesser of—

(a) A, and

(b) A - (R1 - R2 + C - SV - DB),

and if the result of the formula in paragraph (b) above is a negative amount, it shall be taken to be nil.

(2) For the purposes of sub-paragraph (1) above—

A is the gross amount of any annuities paid in the accounting period so far as referable to old annuity contracts;

R1 is the amount of the company's opening liabilities for the accounting period in respect of old annuity contracts;

R2 is the amount of the company's closing liabilities for the accounting period in respect of old annuity contracts;

C is the amount of any consideration received in the accounting period in respect of old annuity contracts;

SV is the amount of any sums paid in the accounting period by reason of the surrender of rights conferred by old annuity contracts;

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DB is the amount of any death benefits paid in the accounting period in respect of old annuity contracts.

(3) An annuity paid in an accounting period beginning on or after 1st January 1992, so far as referable to an old annuity contract, shall not to any extent be regarded as constituting a charge on income except as provided by sub-paragraph (1) above.

(4) Neither sub-paragraph (1) nor sub-paragraph (3) above shall apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.

(5) If, in the case of an annuity under a group annuity contract made by an insurance company in an accounting period beginning before 1st January 1992—

(a) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(b) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the group annuity contract, so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(6) If, in the case of an annuity which is subject to a reinsurance treaty made by the reinsurer in an accounting period beginning before 1st January 1992—

(a) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and

(b) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the reinsurance treaty, as respects the reinsurer and so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(7) In this paragraph—

"general annuity contract" means an annuity contract so far as referable to general annuity business;

"group annuity contract" means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

"old annuity contract" means a general annuity contract made by an insurance company in an accounting period beginning before 1st January 1992;

"reinsurance treaty" means a contract under which one insurance company is obliged to cede, and another (in this paragraph referred to as a "reinsurer") to accept, the whole or part of a risk of a class or description to which the contract relates;

and, subject to that, expressions used in this paragraph and in Chapter I of Part XII of the Taxes Act 1988 have the same meaning in this paragraph as they have in that Chapter.

Transitional provisions for chargeable gains and unrelieved general annuity losses SCH. 7

17.—(1) An insurance company's unrelieved general annuity losses shall be relieved under this paragraph by setting them against the relevant part of any chargeable gains arising to the company in accounting periods beginning on or after 1st January 1992.

(2) Any relief under this paragraph shall be given as far as possible for the first accounting period of the company beginning on or after 1st January 1992 and, so far as it cannot be so given, for the next accounting period, and so on.

(3) For the purposes of this paragraph an insurance company's "unrelieved general annuity losses" are so much of any losses—

(a) arising from the company's general annuity business in an accounting period or year of assessment beginning before 1st January 1992, and

(b) computed as mentioned in paragraph (c) of subsection (3) of section 436 of the Taxes Act 1988 as it applied in relation to such accounting periods,

as, by virtue only of an insufficiency of profits, cannot be relieved under that subsection (or any previous enactment which it re-enacts) by setting them off against the profits of such an accounting period or year of assessment.

(4) For the purposes of this paragraph the relevant part of the chargeable gains arising to a company in an accounting period shall be determined by the application of the following formula—

$$X \times \frac{Y}{Z}$$

where—

X is so much of the chargeable gains arising to the company in the accounting period as are referable to its basic life assurance and general annuity business;

Y is the mean of the company's opening and closing liabilities for the accounting period in respect of old annuity contracts; and

Z is the mean of the company's opening and closing liabilities for the accounting period in respect of its basic life assurance and general annuity business.

(5) Sub-paragraphs (5) to (7) of paragraph 16 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

Application of this Schedule

18. Paragraphs 1, 3, 4, 5, 6(1) and (2), 7, 8, 10 to 14, 16 and 17 above have effect with respect only to accounting periods beginning on or after 1st January 1992.

SCHEDULE 8

Section 49.

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

After Schedule 19AA to the Taxes Act 1988 there shall be inserted—

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Section 438A.

"SCHEDULE 19AB

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

Entitlement to certain payments on account

1.—(1) An insurance company carrying on pension business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf to a payment (in this Schedule referred to as a "provisional repayment") of an amount equal to the aggregate of—

(a) the appropriate portion of any income tax borne by deduction on any payment received by the company in that provisional repayment period and referable to its pension business, and

(b) the appropriate portion of any tax credit in respect of a distribution received by the company in that provisional repayment period and referable to its pension business,

or of such lesser amount as may be specified in the claim.

(2) For the purposes of this paragraph, a "provisional repayment period" of a company—

(a) shall begin whenever—

(i) the company begins to carry on pension business;

(ii) an accounting period of the company begins, at a time when the company is carrying on such business; or

(iii) a provisional repayment period of the company ends, at a time when the company is carrying on such business; and

(b) shall end on the first occurrence of either of the following—

(i) the expiration of three months from the beginning of the provisional repayment period; or

(ii) the end of an accounting period of the company.

(3) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of provisional repayments in the case of any accounting period, the reference in subsection (5) to "the relevant fraction" shall be taken as a reference to a fraction determined in accordance with subsections (6) to (9)—

(a) for the latest preceding accounting period of the company for which an inspector is satisfied that the company has supplied him with such information as would enable the relevant fraction for that accounting period to be estimated with reasonable accuracy, and

(b) by reference to that information,

and, subject to sub-paragraph (4)(b) below, any reference in this paragraph to "the provisional fraction" is a reference to the fraction so determined.

(4) For the purposes of sub-paragraph (3) above—

(a) "information" means any information, accounts, statements or reports delivered under section 11 of the Management Act; and

(b) unless and until an inspector is satisfied as mentioned in paragraph (a) of that sub-paragraph, the provisional fraction shall be taken to be nil.

(5) In sub-paragraph (1) above "the appropriate portion" means—

(a) in the case of an insurance company carrying on pension business and no other category of long term business, the whole; and

(b) in the case of an insurance company carrying on more than one category of long term business—

(i) where the payment or distribution in question is income arising from an asset linked solely to pension business, the whole; and

(ii) in any other case, the provisional fraction.

(6) An inspector shall not give effect to any claim under this paragraph unless and until he is satisfied that the claimant has supplied to him in connection with the claim such information as will enable the inspector to determine that the amount claimed has been computed in accordance with the provisions of this paragraph.

(7) A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amount (if any) which, disregarding any pension business repayments, the company would be entitled to be paid or repaid in respect of its pension business by the Board for the accounting period in which that provisional repayment period falls, in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business,

when the assessment to corporation tax for that accounting period is finally determined or when effect is given to a claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act made in respect of that accounting period.

(8) Where a company makes an election under section 438(6) as respects all or any part of its franked investment income arising in an accounting period, that franked investment income or, as the case may be, that part of it, and the tax credits in respect thereof, shall be left out of account in making with respect to that accounting period any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

(9) Where an overseas life insurance company makes a claim under subsection (2) of section 448 in respect of any income represented by a distribution, that income, and the tax credit to which the company is deemed to be entitled in respect thereof by subsection (1) of that section for the purposes there mentioned, shall be left out of account in making any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

(10) In this paragraph "pension business repayments" means—

(a) provisional repayments; and

(b) repayments of income tax, and payments of tax credits, on any claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act.

Changes in the provisional fraction

2.—(1) This paragraph applies in any case where, after a claim has been made for a provisional repayment in respect of a provisional repayment period falling within an accounting period, the provisional fraction falling to be applied in the case of that accounting period is varied as a result of a determination such as is mentioned in paragraph 1(3) above being made in consequence of the delivery of a return under section 11 of the Management Act.

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(2) Where this paragraph applies, the amount of any provisional repayment to which the company is entitled—

(a) for the first provisional repayment period falling within that accounting period for which a claim is made by reference to the later (or, if there has been more than one such determination, the latest) provisional fraction, or

(b) for any subsequent provisional repayment period in that accounting period for which a claim is made,

shall be an amount determined in accordance with sub-paragraph (3) below or such lesser amount as may be specified in the claim.

(3) The amount referred to in sub-paragraph (2) above is the amount (if any) by which total entitlement exceeds total past payments, and for this purpose—

"total entitlement" means the aggregate of the provisional repayments to which the company would have been entitled (apart from this paragraph) for—

(a) the provisional repayment period to which the claim relates, and

(b) any earlier provisional repayment period in the same accounting period,

had the later or, as the case may be, latest provisional fraction applicable in relation to that accounting period been so applicable as from the beginning of that period; and

"total past payments" means the aggregate of any amounts already paid by way of provisional repayments for provisional repayment periods falling within that accounting period.

(4) Expressions used in this paragraph and in paragraph 1 above have the same meaning in this paragraph as they have in that paragraph.

Repayment, with interest, of excessive provisional repayments

3.—(1) In any case where—

(a) the assessment to corporation tax for an accounting period of an insurance company has been finally determined, and

(b) the aggregate amount of the provisional repayments made to the company for that accounting period exceeds the amount referred to in paragraph 1(7) above,

the excess, together with the amount of any relevant interest, shall be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax for that accounting period which had been repaid to the insurance company and which ought not to have been so repaid.

(2) In this paragraph, "relevant interest" means interest—

(a) on so much of the excess referred to in sub-paragraph (1) above as is or was from time to time outstanding,

(b) for any period for which it is or was so outstanding, and

1989 c. 26.

(c) at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 87A of the Management Act (interest on overdue corporation tax).

(3) In the application of section 87A of the Management Act in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of this paragraph—

(a) the amount so assessed shall be taken to have become due and payable on the date on which that assessment was made; and

(b) the words "(in accordance with section 10 of the principal Act)" in subsection (1) shall accordingly be disregarded.

(4) In determining the amount of any relevant interest, any question whether the excess mentioned in sub-paragraph (1) above (in the following provisions of this paragraph referred to as "the principal") or any part of it is or was "outstanding" at any time shall be determined in accordance with sub-paragraphs (5) to (7) below.

(5) So much of the principal as does not exceed the amount of the last provisional repayment made to the company for the accounting period in question shall be taken to have become outstanding on the date on which that provisional repayment was made.

(6) So much (if any) of the principal as—

(a) exceeds the amount of the provisional repayment referred to in sub-paragraph (5) above, but

(b) does not exceed the amount of the preceding provisional repayment for that accounting period,

shall be taken to have become outstanding on the date on which that preceding provisional repayment was made; and so on with any remaining portion of the principal and any preceding provisional repayments for that accounting period.

(7) So much (if any) of the principal as has become outstanding as mentioned in sub-paragraph (5) or (6) above and has at any time neither been repaid to the Board nor been assessed to corporation tax under section 30 of the Management Act by virtue of this paragraph shall be taken to remain outstanding at that time (and an amount shall accordingly be taken to cease being outstanding only when it is repaid to the Board or when it is so assessed).

Reduced entitlement during transitional period

4.—(1) The Board may by regulations make provision for the amount of any provisional repayment to which a company would otherwise be entitled for any accounting period ending after the opening transitional date and before the closing transitional date to be reduced by a prescribed percentage.

(2) The regulations may require a company claiming a provisional repayment for a provisional repayment period falling within such an accounting period to specify in the claim—

(a) the maximum amount to which it could have been entitled by way of provisional repayment for that provisional repayment period apart from the regulations;

(b) the maximum reduced entitlement for that provisional repayment period; and

(c) the amount of the provisional repayment claimed for that provisional repayment period.

(3) The regulations may make provision—

(a) for the charging of interest in any case where an insurance company claims, and is paid, by way of provisional repayment an amount in excess of the maximum reduced entitlement for the provisional repayment period to which the claim relates;

(b) for the period for which, and the rate at which, any such amount is to carry interest under the regulations;

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(c) for any such interest to be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax which had been repaid and which ought not to have been repaid; and

(d) for section 87A of that Act to apply in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of the regulations with modifications corresponding to those specified in paragraph 3(3) above.

(4) The regulations may prescribe for the purposes of sub-paragraph (1) above different percentages for accounting periods ending after different dates.

(5) Sub-paragraphs (2) to (4) above are without prejudice to the generality of sub-paragraph (1) above.

(6) In this paragraph—

"the maximum reduced entitlement", in relation to an insurance company and a provisional repayment period, means the maximum amount (as reduced in accordance with the regulations) to which the company could have been entitled by way of provisional repayment for that provisional repayment period;

"the opening transitional date" and "the closing transitional date" mean respectively such date as the Board may specify for the purpose in the first regulations made under this paragraph;

"prescribed" means specified in the regulations;

"the regulations" means any regulations under this paragraph.

Transitional application of pay and file provisions

5.—(1) This paragraph applies in relation to an accounting period of an insurance company if—

(a) the accounting period—

(i) begins on or after the commencement day; and

(ii) ends on or before the day appointed for the purposes of section 10;

(b) the company carries on pension business for the whole or part of the accounting period; and

(c) the company makes a claim for a provisional repayment for the accounting period;

and in this paragraph "transitional accounting period" means an accounting period in relation to which this paragraph applies.

(2) An insurance company shall be entitled—

(a) to make a claim for payment of a tax credit in respect of any income of a transitional accounting period, and

(b) to make a claim for the purposes of section 7(5), so far as relating to section 7(2) or 11(3), in respect of any income tax falling to be set off against corporation tax for a transitional accounting period,

(and may do so whether or not the income in question is referable to the company's pension business).

(3) For the purposes of sub-paragraph (2) above, sections 7(2) and 11(3) shall have effect in relation to a transitional accounting period as if the words from "and accordingly" to the end, in each provision, were omitted.

(4) A claim under sub-paragraph (2) above may only be made at such time or within such period as the Board may by regulations provide.

(5) In the application of this Schedule in relation to a transitional accounting period, paragraph 1 above shall have effect as if the reference in each of sub-paragraphs (7) and (10) to a claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act were a reference to a claim under paragraph (a) or (b) of sub-paragraph (2) above.

(6) If and to the extent that the provisions of section 826, or of section 87A of the Management Act, would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that accounting period; and—

(a) in the application of section 826 by virtue of this sub-paragraph, the reference in subsection (1)(a) of that section to an accounting period which ends after the appointed day shall be treated as a reference to a transitional accounting period; and

(b) in the application of section 87A of the Management Act by virtue of this sub-paragraph, corporation tax shall be taken to become due and payable on the day following the expiration of the period within which it is required under section 10(1)(b) to be paid.

(7) If and to the extent that the amendments of section 30 of the Management Act specified in subsections (1) to (4) of section 88 of the Finance (No.2) Act 1987 would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that transitional accounting period.

1987 c. 51.

(8) Subsection (7) of section 88 of the Finance (No.2) Act 1987 shall have effect for the purposes of sub-paragraph (7) above as if the reference in paragraph (a) of that subsection to accounting periods ending after the appointed day were a reference to transitional accounting periods.

(9) In this paragraph "the commencement day" means the day appointed under section 49 of the Finance Act 1991.

Interpretation

6.—(1) In this Schedule—

"provisional fraction" shall be construed in accordance with paragraphs 1(3), (4)(b) and 2 above;

"provisional repayment" means a provisional repayment under paragraph 1 above;

"provisional repayment period" shall be construed in accordance with paragraph 1 above.

(2) Any reference in this Schedule to a provisional repayment for an accounting period is a reference to a provisional repayment for a provisional repayment period falling within that accounting period.

(3) Until an insurance company makes a return under section 11 of the Management Act as amended by section 82 of the Finance (No.2) Act 1987, paragraph 1(4) above shall have effect in relation to that company as if for paragraph (a) there were substituted—

"(a) "information" means any information contained in a return under section 11 of the Management Act as that section has effect apart from section 82 of the Finance (No.2) Act 1987; and"."

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SCHEDULE 9

FRIENDLY SOCIETIES

Tax exempt life or endowment business

1.—(1) Section 460 of the Taxes Act 1988 (exemption from tax in respect of life or endowment business) shall be amended as follows.

(2) Subsection (2) shall be amended as mentioned in sub-paragraphs (3) to (6) below.

(3) Before sub-paragraph (i) of paragraph (c) there shall be inserted—

"(ai) where the profits relate to contracts made on or after the day on which the Finance Act 1991 was passed, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £200 or of the granting of annuities of annual amounts exceeding £156;".

(4) In that sub-paragraph, for "31st August 1987" there shall be substituted "31st August 1990 but before the day on which the Finance Act 1991 was passed".

(5) In sub-paragraph (ia) of paragraph (c), after "£100" there shall be inserted "or of the granting of annuities of annual amounts exceeding £156".

(6) At the end of that paragraph, for "and" there shall be substituted—

"(ca) shall not apply to so much of the profits arising from life or endowment business as is attributable to contracts for the assurance of gross sums made on or after 20th March 1991 and expressed at the outset not to be made in the course of tax exempt life or endowment business; and".

(7) In subsection (3)—

(a) for "subsection (2)(c)(i) or (ia)" there shall be substituted "subsection (2)(c)(ai), (i) or (ia)";

(b) for "subsection (2)(c)(i)" there shall be substituted "subsection (2)(c)(ai), (i) or (ia)".

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

"(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which the Finance Act 1991 was passed.

(4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a variation made in the period beginning with the day on which the Finance Act 1991 was passed and ending with 31st July 1992, the contract shall be treated for the purposes of subsection (2)(c) above as made at the time of the variation."

2. After section 462 of that Act there shall be inserted—

"Election as to tax exempt business.

462A.—(1) Where a registered friendly society has tax exempt life or endowment business which includes contracts—

(a) made before 20th March 1991, and

(b) expressed at the outset not to be made in the course of such business,

the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(2) Where a registered friendly society has tax exempt life or endowment business which includes contracts falling within subsection (3) below, the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(3) A contract falls within this subsection if—

(a) at the outset, it is neither expressed to be made in the course of tax exempt life or endowment business nor expressed not to be so made but is assumed by the society not to be so made, and

(b) the policy issued in pursuance of it falls within paragraph 21(1)(b) of Schedule 15.

(4) An election under subsection (2) above shall only be valid if the society satisfies the inspector (or the Commissioners on appeal) that it is possible to identify all the contracts to which the election relates.

(5) If the inspector decides that he is not satisfied as mentioned in subsection (4) above, he shall give notice of his decision to the society; and section 42(3), (4) and (9) of, and paragraph 1(1) to (1E) of Schedule 2 to, the Management Act shall apply in relation to such a decision as they apply in relation to a decision of an inspector on a claim.

(6) An election under subsection (1) or (2) above shall have effect for accounting periods ending on or after the day on which the Finance Act 1991 was passed.

(7) No election under subsection (1) or (2) above may be made after 31st July 1992.

(8) Where a friendly society has made an election under subsection (1) or (2) above, then, for any accounting period for which the election has effect—

(a) section 460(1) shall apply to profits arising from life or endowment business which would have been included in the society's tax exempt life or endowment business had no account been taken of the contracts to which the election relates, and

(b) section 462(1), in its application to the society, shall have effect with the insertion after "societies" of "and all policies issued in pursuance of contracts to which an election under section 462A(1) or (2) relates"."

Maximum benefits payable to members

3.—(1) Section 464 of that Act (maximum benefits payable to members) shall be amended as follows.

(2) In subsection (3), before paragraph (a) there shall be inserted—

"(za) contracts under which the total premiums payable in any period of 12 months exceed £200; or".

(3) In paragraph (a) of subsection (3), after "contracts" there shall be inserted "made before the day on which the Finance Act 1991 was passed and".

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

"(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which the Finance Act 1991 was passed.

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(4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a variation made in the period beginning with the day on which the Finance Act 1991 was passed and ending with 31st July 1992, the contract shall be treated for the purposes of subsection (3) above as made at the time of the variation."

Qualifying policies

4.—(1) In Schedule 15 to that Act (qualifying policies) in paragraph 3, sub-paragraph (1)(c) (contract for policy issued by new society to be made by member over 18) shall be omitted, with the word "and" immediately preceding it.

(2) This paragraph shall apply in relation to policies issued in pursuance of contracts made on or after the day on which this Act is passed.

5.—(1) This paragraph applies to any policy—

(a) issued by a friendly society, or branch of a friendly society, in the course of tax exempt life or endowment business (as defined in section 466 of the Taxes Act 1988), and

(b) effected by a contract made after 31st August 1987 and before the day on which this Act is passed.

(2) Where—

(a) the amount payable by way of premium under a policy to which this paragraph applies is increased by virtue of a variation made in the period beginning with the day on which this Act is passed and ending with 31st July 1992, and

(b) the variation is not such as to cause a person to become in breach of the limits in section 464 of the Taxes Act 1988,

Schedule 15 to that Act, in its application to the policy, shall have effect, in relation to that variation, with the modifications mentioned in sub-paragraph (3) below.

(3) The modifications are the omission of paragraph 4(3)(a) and the insertion at the end of paragraph 18(2) of "and as if for paragraph 3(2)(b) above there were substituted—

"(b) subject to sub-paragraph (4) below, the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals over the whole of the term of the policy as from the variation, or, where premiums are not payable for any period after the person liable to pay them or whose life is insured has attained a specified age, being an age attained at a time not less than ten years after the beginning of the term of the policy, over the whole of the remainder of the period for which premiums are payable.""

Section 51.

SCHEDULE 10

BUILDING SOCIETIES: QUALIFYING SHARES

Capital gains: exemption

1984 c. 43.

1.—(1) Section 64 of the Finance Act 1984 (qualifying corporate bonds) shall be amended as follows.

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

"(3E) For the purposes of this section "corporate bond" also includes a share in a building society— SCH. 10

(a) which is a qualifying share,

(b) which is expressed in sterling, and

(c) in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.

(3F) For the purposes of subsection (3E) above, a share in a building society is a qualifying share if—

(a) it is a permanent interest bearing share, or

(b) it is of a description specified in regulations made by the Treasury for the purposes of this paragraph.

(3G) Subsection (3) above applies for the purposes of subsection (3E) above as it applies for the purposes of subsection (2)(c) above, treating the reference to a security as a reference to a share."

(3) After subsection (8) there shall be inserted—

"(9) In this section—

"building society" means a building society within the meaning of the Building Societies Act 1986, 1986 c. 53.

"permanent interest bearing share" has the same meaning as in the Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991. S.I. 1991/702.

(10) The Treasury may by regulations provide that for the definition of the expression "permanent interest bearing share" in subsection (9) above (as it has effect for the time being) there shall be substituted a different definition of that expression.

(11) Regulations under subsection (3F)(b) or (10) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury think fit.

(12) The power to make regulations under subsection (3F)(b) or (10) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(4) This paragraph shall apply in relation to disposals on or after the day on which this Act is passed.

(5) This paragraph shall not have effect in relation to the application of section 64 for the purposes of section 136A of the Capital Gains Tax Act 1979. 1979 c. 14.

Accrued income scheme: inclusion

2.—(1) Section 710 of the Taxes Act 1988 (meaning of "securities" for the purposes of the accrued income scheme) shall be amended as follows.

(2) In subsection (2), after ""Securities" does not" there shall be inserted ", except as provided by subsection (2A) below,".

(3) After that subsection there shall be inserted—

"(2A) "Securities" includes shares in a building society which are qualifying shares for the purposes of section 64(3E) of the Finance Act 1984 (qualifying corporate bonds)." 1984 c. 43.

(4) This paragraph shall have effect in relation to the application of sections 711 to 728 of the Taxes Act 1988 to transfers of securities on or after the day on which this Act is passed.

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Incidental costs of issue

3.—(1) The following section shall be inserted after section 477A of the Taxes Act 1988—

"Building societies: incidental costs of issuing qualifying shares.

477B.—(1) In computing for the purposes of corporation tax the income of a building society from the trade carried on by it, there shall be allowed as a deduction, if subsection (2) below applies, the incidental costs of obtaining finance by means of issuing shares in the society which are qualifying shares.

(2) This subsection applies if any amount payable in respect of the shares by way of dividend or interest is deductible in computing for the purposes of corporation tax the income of the society from the trade carried on by it.

(3) In subsection (1) above, "the incidental costs of obtaining finance" means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.

(4) This section shall not be construed as affording relief—

(a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies, or

(b) for the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or to their having been issued at a discount.

(5) In this section—

"dividend" has the same meaning as in section 477A, and

"qualifying share" has the same meaning as in section 64(3E) of the Finance Act 1984."

1984 c. 43.

(2) This paragraph shall apply in relation to costs incurred on or after the day on which this Act is passed.

Preferential rights of acquisition

4.—(1) This paragraph applies where, on or after the day on which this Act is passed, a building society confers—

(a) on its members, or

(b) on any particular class or description of its members,

any rights to acquire, in priority to other persons, shares in the society which are qualifying shares.

(2) Any such right so conferred shall be regarded for the purposes of capital gains tax as an option granted to, and acquired by, the member concerned for no consideration and having no value at the time of that grant and acquisition.

(3) In this paragraph—

"building society" means a building society within the meaning of the Building Societies Act 1986;

1986 c. 53.

"member" includes former member;

"qualifying share" has the same meaning as in section 64(3E) of the Finance Act 1984.

SCHEDULE 11

Section 52.

BUILDING SOCIETIES: MARKETABLE SECURITIES

Deduction of income tax

1.—(1) Section 349 of the Taxes Act 1988 (annual interest etc.) shall be amended as follows.

(2) In subsection (2)(a), after "company" there shall be inserted "(other than a building society)".

(3) In subsection (3), paragraph (e) shall be omitted.

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

"(3A) Subject to subsection (3B) below and to any other provision to the contrary in the Income Tax Acts, where—

(a) any dividend or interest is paid in respect of a security issued by a building society other than a qualifying certificate of deposit, and

(b) the security was quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest became payable,

the person by or through whom the payment is made shall, on making the payment, deduct out of it a sum representing the amount of income tax thereon for the year in which the payment is made.

(3B) Subsection (3A) above does not apply to any payment to which section 124 applies."

(5) In subsection (4), for "subsection (3)(e) above" there shall be substituted "this section" and for the words from "and" to the end there shall be substituted—

""qualifying certificate of deposit" means a certificate of deposit, as defined in section 56(5), under which—

(a) the amount payable by the issuing society, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made), and

(b) the obligation of the society to pay that amount arises after a period of not more than five years beginning with the date on which the deposit is made; and

"security" includes share."

2.—(1) Section 477A of the Taxes Act 1988 (building societies: regulations for deduction of tax) shall be amended as follows.

(2) After subsection (1) there shall be inserted—

"(1A) Regulations under subsection (1) above may not make provision with respect to any dividend or interest paid or credited, on or after the day on which the Finance Act 1991 was passed, in respect of a security (other than a qualifying certificate of deposit) which was quoted, or capable of being quoted, on a recognised stock exchange at the time the dividend or interest became payable."

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

"(10) In this section—

"qualifying certificate of deposit" has the same meaning as in section 349, and

"security" includes share."

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Collection

3.—(1) Schedule 16 to the Taxes Act 1988 (collection of income tax on company payments which are not distributions), in its application to building societies by virtue of section 350(4) of that Act, shall have effect as if for paragraph 2(2)(a) there were substituted—

"(a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with the last day of February, May, August and November;".

(2) In section 350(4) of that Act, the second reference to regulations shall be treated as including a reference to sub-paragraph (1) above.

(3) Regulations under section 350(4) of that Act (power to modify Schedule 16) may repeal sub-paragraphs (1) and (2) above.

4.—(1) A building society may not make more than one claim to relief under paragraph 5 of Schedule 16 to the Taxes Act 1988 (set-off of income tax borne on company income against tax payable) in respect of the same deduction.

(2) In sub-paragraph (1) above, the reference to a claim under paragraph 5 of Schedule 16 to the Taxes Act 1988 includes a reference to a claim under that paragraph as applied by regulations under section 477A(1) of that Act.

Information

1970 c. 9.

5.—(1) In section 18 of the Taxes Management Act 1970 (information about interest payments) after subsection (3C) there shall be inserted—

"(3D) For the purposes of this section, the payment by a building society of a dividend in respect of a share in the society shall be treated as the payment of interest."

(2) This paragraph shall have effect as regards a case where the payment is made on or after the day on which this Act is passed.

Section 54.

SCHEDULE 12

SECURITIES: NEW ISSUES

General treatment of extra return

1. The following section shall be inserted after section 587 of the Taxes Act 1988—

"New issues of securities: extra return.

587A.—(1) This section applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of the new securities, by the person issuing them, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on so many old securities as there are new (or, if there are more new

securities than old, the amount of interest which would be so payable if there were as many old securities as new).

(2) Anything payable or paid by way of the extra return shall be treated for the purposes of the Tax Acts as payable or paid by way of interest (to the extent that it would not be so treated apart from this subsection).

(3) But as regards any payment by way of the extra return, relief shall not be given under any provision of the Tax Acts to the person by whom the new securities are issued; and "relief" here means relief by way of deduction in computing profits or gains or deduction or set off against income or total profits.

(4) For the purposes of this section securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(5) For the purposes of this section the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(6) For the purposes of this section the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;

and an interest payment day, in relation to the old securities, is a day on which interest is payable under them."

Accrued income scheme

2. The following section shall be inserted after section 726 of the Taxes Act 1988—

"New issues of securities.

726A.—(1) This section applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of the new securities, by the person issuing them, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on so many old securities as there are new (or, if there are more new securities than old, the amount of interest which would be so payable if there were as many old securities as new).

(2) For the purposes of sections 710 to 728—

(a) the new securities shall be treated as having been issued on the relevant day;

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(b) they shall be treated as transferred to the person to whom they are in fact issued (though not treated as transferred by any person);

(c) the transfer shall be treated as a transfer with accrued interest and as made on the day on which the new securities are in fact issued;

(d) that day shall be treated as the settlement day (notwithstanding section 712);

but this subsection is subject to subsection (7) below.

(3) If the new securities are in fact issued under an arrangement by virtue of which the acquirer accounts to the issuer separately for the extra return mentioned in subsection (1) above and the rest of the issue price, in relation to the transfer mentioned in subsection (2)(b) above—

(a) section 713(4) shall not apply, and

(b) for the purposes of section 713(2) the accrued amount shall be the amount found under subsection (4) or (5) below (as the case may be);

and here "the acquirer" means the person to whom the new securities are in fact issued and "the issuer" means the person by whom they are in fact issued.

(4) Subject to subsection (5) below, the amount is one equal to the amount (if any) of the extra return separately accounted for.

(5) If the interest on the new securities is payable in a currency other than sterling, the amount is the sterling equivalent on the settlement day of the amount found under subsection (4) above; and for this purpose the sterling equivalent of an amount on the settlement day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

(6) If the new securities are in fact issued otherwise than as mentioned in subsection (3) above, section 713(4)(b) shall apply in relation to the transfer mentioned in subsection (2)(b) above.

(7) If the new securities are securities to which section 717 applies (after applying subsection (2)(a) above) subsection (2)(b) to (d) above shall not apply.

(8) For the purposes of this section the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are in fact issued.

(9) For the purposes of this section the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are in fact issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are in fact issued."

Deep discount securities

3. In Schedule 4 to the Taxes Act 1988 the following shall be inserted after paragraph 11A—

"Issue price

11B.—(1) This paragraph applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on each old security.

(2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraphs 1(1)(a), (e) and (h) and 11(2) and (3) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.

(3) For the purposes of this paragraph securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(5) For the purposes of this paragraph the relevant day is—

(a) the last day of the last (or only) income period to end in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no income period ended in respect of them before the day on which the new securities are issued."

Deep gain securities

4. In Schedule 11 to the Finance Act 1989 the following shall be inserted after paragraph 3— 1989 c. 26.

"Issue price

3A.—(1) This paragraph applies where—

(a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

(b) on a later occasion securities (new securities) of the same kind are issued,

(c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,

(d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and

(e) the extra return is equal to the amount of interest payable for the relevant period on each old security.

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(2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraph 1(9) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.

(3) For the purposes of this paragraph securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.

(5) For the purposes of this paragraph the relevant day is—

(a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or

(b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;

and an interest payment day, in relation to the old securities, is a day on which interest is payable under them."

General

5. This Schedule applies if the new securities are issued on or after 19th March 1991 (whether the old securities are issued before or on or after that day).

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SCHEDULE 13

MANUFACTURED DIVIDENDS AND INTEREST

The new arrangements

1. After Schedule 23 to the Taxes Act 1988 there shall be inserted—

"Section 736A.

SCHEDULE 23A

MANUFACTURED DIVIDENDS AND INTEREST

Interpretation

1.—(1) In this Schedule—

"approved stock lending arrangement" means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129 and in relation to which that section and section 149B(9) of the 1979 Act apply;

"dividend manufacturer" has the meaning given by paragraph 2(1) below;

"dividend manufacturing regulations" means regulations made by the Treasury under this Schedule;

"interest manufacturer" has the meaning given by paragraph 3(1) below;

"manufactured dividend", "manufactured interest" and "manufactured overseas dividend" shall be construed respectively in accordance with paragraphs 2, 3 and 4 below, as shall references to the gross amount thereof;

"market maker", in relation to any shares, stock or other securities, means a person who—

(a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell shares, stock or other securities of the kind concerned at a price specified by him, and

(b) is recognised as doing so by the Council of the Stock Exchange,

but subject to any regulations under sub-paragraph (2) below;

"overseas dividend" means any interest, dividend or other annual payment payable in respect of any overseas securities;

"overseas dividend manufacturer" has the meaning given by paragraph 4(1) below;

"overseas securities" means—

(a) shares, stock or other securities issued by a government or public or local authority of a territory outside the United Kingdom or by any other body of persons not resident in the United Kingdom; and

(b) quoted Eurobonds held in a recognised clearing system, within the meaning of section 124;

"overseas tax" means tax under the law of a territory outside the United Kingdom;

"overseas tax credit" means any such credit under the law of a territory outside the United Kingdom in respect of overseas tax as corresponds to a tax credit;

"prescribed" means prescribed in dividend manufacturing regulations;

"recognised clearing house" means a recognised clearing house within the meaning of the Financial Services Act 1986; 1986 c. 60.

"recognised investment exchange" means a recognised investment exchange within the meaning of that Act;

"securities" includes any loan stock or similar security;

"transfer" includes any sale or other disposal;

"unapproved manufactured payment", subject to any regulations under sub-paragraph (2) below, means—

(a) any manufactured dividend, manufactured interest or manufactured overseas dividend paid in connection with an unapproved stock lending arrangement, and

(b) any manufactured dividend or manufactured interest not falling within paragraph (a) above which is paid in respect of United Kingdom securities or United Kingdom equities by a person other than one who is—

(i) a market maker in relation to United Kingdom securities or United Kingdom equities of the kind in question, or

(ii) in such circumstances as may be prescribed, a member, of a prescribed class or description, of a prescribed recognised investment exchange, or

(iii) in such circumstances as may be prescribed, a prescribed recognised clearing house,

and which is so paid otherwise than in connection with an approved stock lending arrangement;

"unapproved stock lending arrangement" means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129, but which, in consequence of regulations under subsection (4) of that section, is not an approved stock lending arrangement;

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"United Kingdom equities" means shares of any company resident in the United Kingdom;

"United Kingdom securities" means securities of the government of the United Kingdom, of any public or local authority in the United Kingdom or of any company or other body resident in the United Kingdom, but does not include quoted Eurobonds held in a recognised clearing system, within the meaning of section 124, or United Kingdom equities.

(2) Dividend manufacturing regulations may amend sub-paragraph (1) above—

(a) by changing the definition for the time being of "market maker"; or

(b) by changing the definition for the time being of "unapproved manufactured payment".

Manufactured dividends on United Kingdom equities

2.—(1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (the "dividend manufacturer") is required to pay to the other ("the recipient") an amount representative of a dividend on the equities; and in this Schedule the "manufactured dividend" means any payment which the dividend manufacturer makes in discharge of that requirement.

(2) If, in a case where this paragraph applies, the dividend manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the manufactured dividend shall be treated as if it were a dividend of, and paid by, the dividend manufacturer (and shall accordingly be a distribution of the dividend manufacturer for those purposes).

(3) If, in a case where this paragraph applies, the dividend manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the dividend manufacturer) the manufactured dividend shall for all purposes of the Tax Acts be treated in relation to the recipient and all persons claiming title through or under him—

(a) as if the manufactured dividend were a dividend on the United Kingdom equities,

(b) as if any amount required in consequence of section 737 to be deducted by the dividend manufacturer on account of income tax in respect of the gross amount of the manufactured dividend were required to be accounted for by him as advance corporation tax in respect of the dividend, and

(c) as if any certificate of deduction of tax required in consequence of that section to be issued in connection with the manufactured dividend were the tax credit certificate that would have been issued had the manufactured dividend in fact been a dividend on the United Kingdom equities.

(4) For the purposes of sub-paragraph (3)(b) above, the gross amount of a manufactured dividend is the aggregate of the amount of the manufactured dividend and the amount of the tax credit that would have been issued in respect thereof had the manufactured dividend in fact been a dividend on the United Kingdom equities.

Manufactured interest on United Kingdom securities

3.—(1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom securities, one of the parties (the "interest manufacturer") is required to pay to the other ("the recipient") an amount representative of a periodical payment of interest on the securities; and in this Schedule the "manufactured interest" means any payment which the interest manufacturer makes in discharge of that requirement.

(2) If, in a case where this paragraph applies, the interest manufacturer is a company resident in the United Kingdom, then, for all purposes of the Tax Acts, the gross amount of the manufactured interest shall be treated as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.

(3) If, in a case where this paragraph applies, the interest manufacturer is not such a company as is mentioned in sub-paragraph (2) above (so that section 737 applies in relation to the interest manufacturer) the gross amount of the manufactured interest shall for all purposes of the Tax Acts be treated in relation to the recipient, and all persons claiming title through or under him, as if it were the gross amount of a periodical payment of interest on the securities, but made by the interest manufacturer.

(4) For the purposes of this paragraph the gross amount of any manufactured interest is an amount equal to the gross amount of that periodical payment of interest of which the manufactured interest is representative, as mentioned in sub-paragraph (1) above.

Manufactured overseas dividends

4.—(1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of overseas securities, one of the parties (the "overseas dividend manufacturer") is required to pay to the other ("the recipient") an amount representative of an overseas dividend on the overseas securities; and in this Schedule the "manufactured overseas dividend" means any payment which the overseas dividend manufacturer makes in discharge of that requirement.

(2) Subject to sub-paragraph (3) below, where this paragraph applies the gross amount of the manufactured overseas dividend shall be treated for all purposes of the Tax Acts as an annual payment, within section 349, but—

(a) the amount which is to be deducted from that gross amount on account of income tax shall be an amount equal to the relevant withholding tax on that gross amount; and

(b) in the application of sections 338(4)(a) and 350(4) in relation to manufactured overseas dividends the references to Schedule 16 shall be taken as references to dividend manufacturing regulations;

and paragraph (a) above is without prejudice to any further amount required to be deducted under dividend manufacturing regulations by virtue of sub-paragraph (8) below.

(3) If, in a case where this paragraph applies, the overseas dividend manufacturer is not resident in the United Kingdom and the manufactured overseas dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, sub-paragraph (2) above shall not apply; but if the manufactured overseas dividend is received by a person resident in the United Kingdom (the "United Kingdom recipient"), then unless the United Kingdom recipient shows either—

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(a) that the overseas dividend manufacturer was entitled to payment of the overseas dividend as the registered holder of the overseas securities, or

(b) that the overseas dividend manufacturer was entitled to payment of the overseas dividend directly or indirectly from a person from whom he acquired the overseas securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall account for and pay an amount of tax in respect of the manufactured overseas dividend equal to that which the overseas dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom; and any reference in this Schedule to an amount deducted under sub-paragraph (2) above includes a reference to an amount of tax accounted for and paid under this sub-paragraph.

(4) Where a manufactured overseas dividend is paid after deduction of the amount required by sub-paragraph (2) above, or where the amount of tax required under sub-paragraph (3) above in respect of such a dividend has been accounted for and paid, then for all purposes of the Tax Acts as they apply in relation to persons resident in the United Kingdom or to persons not so resident but carrying on business through a branch or agency in the United Kingdom—

(a) the manufactured overseas dividend shall be treated in relation to the recipient, and all persons claiming title through or under him, as if it were an overseas dividend of an amount equal to the gross amount of the manufactured overseas dividend, but paid after the withholding therefrom, on account of overseas tax, of the amount deducted under sub-paragraph (2) above; and

(b) the amount so deducted shall accordingly be treated in relation to the recipient, and all persons claiming title through or under him, as an amount so withheld instead of as an amount on account of income tax.

(5) For the purposes of this paragraph—

(a) "relevant withholding tax", in relation to the gross amount of a manufactured overseas dividend, means an amount of tax representative of—

(i) the amount (if any) that would have been deducted by way of overseas tax from an overseas dividend on the overseas securities of the same gross amount as the manufactured overseas dividend; and

(ii) the amount of the overseas tax credit (if any) in respect of such an overseas dividend;

(b) the gross amount of a manufactured overseas dividend is an amount equal to the gross amount of that overseas dividend of which the manufactured overseas dividend is representative, as mentioned in sub-paragraph (1) above; and

(c) the gross amount of an overseas dividend is an amount equal to the aggregate of—

(i) so much of the overseas dividend as remains after the deduction of the overseas tax (if any) chargeable on it;

(ii) the amount of the overseas tax (if any) so deducted; and

(iii) the amount of the overseas tax credit (if any) in respect of the overseas dividend.

(6) Dividend manufacturing regulations may make provision with respect to the rates of relevant withholding tax which are to apply in relation to manufactured overseas dividends in relation to different overseas territories, but in prescribing those rates the Treasury shall have regard to—

(a) the rates at which overseas tax would have fallen to be deducted, and

(b) the rates of overseas tax credits,

in overseas territories, or in the particular overseas territory, in respect of payments of overseas dividends on overseas securities.

(7) Dividend manufacturing regulations may make provision for a person who, in any chargeable period, is an overseas dividend manufacturer to be entitled in prescribed circumstances to set off against each other, in accordance with the regulations—

(a) overseas tax in respect of any overseas dividends, or amounts deducted under sub-paragraph (2) above from any manufactured overseas dividends, received by him in that chargeable period, and

(b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period,

and account to the Board for, or as the case may be, claim credit in respect of, the balance.

(8) Dividend manufacturing regulations may also make provision for cases where a manufactured overseas dividend is paid or otherwise dealt with in circumstances such that, had it been an overseas dividend in respect of the overseas securities, it would have been—

(a) a relevant foreign dividend, within the meaning of section 123,

(b) a foreign dividend, within the meaning of that section,

(c) interest on a quoted Eurobond held in a recognised clearing system, within the meaning of section 124, or

(d) an overseas public revenue dividend, within the meaning of Part III,

and, notwithstanding anything in sub-paragraph (2) or (3) above, any such regulations may provide for deductions of an amount determined by reference to the gross amount of the manufactured overseas dividend to be made from the manufactured overseas dividend on account of income tax similar to the deductions that would, in the case of an overseas dividend, be made under subsection (2) or (3) of section 123 or under Part III, as the case may be, and for Parts III and IV of Schedule 3 to apply with prescribed modifications in relation thereto.

Dividends and interest passing through the market

5.—(1) Sub-paragraph (2) below applies in any case where, under a contract or other arrangements for the transfer of securities, a party ("the payment manufacturer") who satisfies the following condition, that is to say, that he is entitled either—

(a) to a dividend or a periodical payment of interest as the registered holder of the securities, or

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(b) to payment, whether directly or indirectly, of any such dividend or interest from a person from whom he acquired the securities or to whom he transferred them,

is required to pay to the other party ("the recipient") an amount representative of that dividend or interest; and in this paragraph the "manufactured payment" means any payment which the payment manufacturer makes in discharge of that requirement.

(2) Where this sub-paragraph applies—

(a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment,

(b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the recipient and not as the income of the payment manufacturer, and

(c) the manufactured payment shall not be regarded as the income of the recipient,

but this sub-paragraph is subject to sub-paragraphs (3) and (4) below.

(3) In any case where—

(a) any dividend or interest would, apart from the application or, as the case may be, the subsequent application of this sub-paragraph, be treated by virtue of any provision of this paragraph as the income of a person (the "subsequent manufacturer") who is a party to a further contract or other arrangements for the transfer of securities, and

(b) under that contract or those arrangements, the subsequent manufacturer is required to pay to the other party (the "subsequent recipient") an amount representative of the dividend or interest (the "subsequent manufactured payment"),

sub-paragraph (4) below shall apply instead of sub-paragraph (2) above (and, on any second or subsequent application of this sub-paragraph, instead of sub-paragraph (4) below as it last applied).

(4) Where this sub-paragraph applies—

(a) paragraphs 2, 3 and 4 above and section 737 shall not apply in relation to the manufactured payment or any subsequent manufactured payment;

(b) the dividend or interest shall be treated for all purposes of the Tax Acts as the income of the subsequent recipient (or, on a second or subsequent application of sub-paragraph (3) above, the last of them) and not as the income of any other person; and

(c) neither the manufactured payment nor any subsequent manufactured payment shall be regarded as the income of the recipient or of any subsequent recipient;

but this sub-paragraph is subject to any subsequent application of sub-paragraph (3) above.

(5) Notwithstanding anything in sub-paragraphs (1) to (4) above, in any case where—

(a) the dividend or interest is an overseas dividend,

(b) the payment manufacturer or a subsequent manufacturer is resident in the United Kingdom but the recipient or a subsequent recipient is not so resident, and

(c) the rates of overseas tax or overseas tax credit applicable to the overseas dividend in relation to the payment manufacturer or subsequent manufacturer falling within paragraph (b) above are

different from what they would have been in relation to the recipient or subsequent recipient falling within that paragraph, had the overseas dividend been paid directly to him,

dividend manufacturing regulations may, in such cases as may be prescribed, make provision for tax to be charged on, or for credit in respect of tax to be given to, such one of the manufacturers falling within paragraph (b) above as may be determined in accordance with the regulations, at such rates as may be so determined.

(6) Any reference in this paragraph to securities is a reference to United Kingdom equities, United Kingdom securities or overseas securities.

Unapproved manufactured payments

6.—(1) This paragraph applies where a person makes an unapproved manufactured payment.

(2) Where the unapproved manufactured payment is a manufactured dividend paid by a company, any advance corporation tax paid by the company in respect of the manufactured dividend—

(a) shall not be set against any liability of the company to corporation tax as mentioned in section 239;

(b) shall not be surrendered under, or otherwise treated as mentioned in, section 240; and

(c) shall not be utilised in any other way for the purposes of the Tax Acts;

and no franked investment income of a company shall be used to frank (within the meaning of section 241(5)) the manufactured dividend.

(3) Where the unapproved manufactured payment is manufactured interest paid by a company—

(a) relief shall not be given to the company under any provision of the Tax Acts in respect of any amount which the company is required to deduct from the payment on account of income tax; and

(b) the company shall not be entitled under paragraph 5(1) of Schedule 16 to claim to set income tax borne by deduction from payments received by it against the income tax which it is liable to pay in respect of the payment of manufactured interest.

(4) Where the unapproved manufactured payment is a manufactured overseas dividend—

(a) relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the payment on account of income tax; and

(b) a person shall not be entitled under or by virtue of this Schedule to set—

(i) overseas tax in respect of overseas dividends received by him, or

(ii) an amount deducted under paragraph 4(2) above in respect of manufactured overseas dividends received by him,

against any income tax which he is liable to pay in respect of the payment of the manufactured overseas dividend.

(5) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, franked investment income of a company has been used to frank a manufactured dividend which is an unapproved manufactured payment, he may make an assessment on the dividend

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manufacturer under sub-paragraph (3) of paragraph 3 of Schedule 13 and that sub-paragraph shall accordingly apply in relation to the amount of advance corporation tax in question.

(6) If it appears to an inspector that, notwithstanding the foregoing provisions of this paragraph, income tax on income received by an interest manufacturer has been set against an amount deducted by the interest manufacturer on account of income tax on a payment of manufactured interest which is an unapproved manufactured payment, the inspector may make an assessment on the interest manufacturer under paragraph 4 of Schedule 16 and that paragraph shall accordingly apply in relation to the amount of income tax in question.

(7) In this paragraph "relief" means relief by way of—

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits.

Irregular manufactured payments

7.—(1) Except where paragraph 5(2) or (4) above applies, in any case where (apart from this paragraph)—

(a) an amount paid by way of manufactured dividend would exceed the amount of the dividend of which it is representative, or

(b) the aggregate of—

(i) an amount paid by way of manufactured interest or manufactured overseas dividend, and

(ii) the tax required to be accounted for in connection with the making of that payment,

would exceed the gross amount (as determined in accordance with paragraph 3 or 4 above) of the interest or overseas dividend of which it is representative, as the case may be,

the payment shall, to the extent of an amount equal to the excess, not be regarded for the purposes of this Schedule as made in discharge of the requirement referred to in paragraph 2(1), 3(1) or 4(1) above, as the case may be, but shall instead to that extent be taken for all purposes of the Tax Acts to constitute a separate fee for entering into the contract or other arrangements under which it was made, notwithstanding anything in paragraphs 2 to 4 above.

(2) Dividend manufacturing regulations may make provision in such circumstances and for such purposes of the Tax Acts as may be prescribed for such a fee as is mentioned in sub-paragraph (1) above to be treated as paid in any case that would fall within that sub-paragraph, apart from paragraph 5 above; and, without prejudice to the generality of the foregoing, any such regulations may in particular provide—

(a) for the amount of the fee to be determined in accordance with the regulations, and

(b) for such of the persons mentioned in that paragraph as may be prescribed to be treated as paying or, as the case may be, as receiving the fee,

and it is immaterial for the purposes of paragraph (b) above whether or not the person prescribed would, apart from paragraph 5 above, have been regarded by virtue of sub-paragraph (1) above as paying or receiving a fee, or as paying it to, or receiving it from, any other person prescribed under paragraph (b) above.

(3) For the purpose of giving relief under any provision of the Tax Acts in a case falling within paragraph 3(1) or 4(1) above where (apart from this paragraph) the aggregate referred to in sub-paragraph (1)(b) above would be less than the gross amount there mentioned—

(a) the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be an amount equal to the aggregate referred to in sub-paragraph (1)(b) above, except where paragraph 6 above applies, and

(b) where paragraph 6 above applies, the gross amount of the manufactured interest or manufactured overseas dividend shall be taken to be only the amount referred to in sub-paragraph (1)(b)(i) above,

notwithstanding anything in paragraph 3, 4 or 6 above.

(4) In this paragraph "relief" means relief by way of—

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits.

Dividend manufacturing regulations: general

8.—(1) Dividend manufacturing regulations may make provision for—

(a) such manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed, or

(b) such dividend manufacturers, interest manufacturers or overseas dividend manufacturers as may be prescribed,

to be treated in prescribed circumstances otherwise than as mentioned in paragraph 2, 3 or 4 above for the purposes of such provisions of the Tax Acts as may be prescribed.

(2) Dividend manufacturing regulations may make provision with respect to—

(a) the accounts and other records which are to be kept,

(b) the vouchers which are to be issued or produced,

(c) the returns which are to be made,

(d) the manner in which amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax are to be accounted for and paid,

by dividend manufacturers, interest manufacturers or overseas dividend manufacturers in connection with the manufacturing of dividends, interest or overseas dividends.

(3) Dividend manufacturing regulations may—

(a) make provision for prescribed provisions of the Management Act to apply in relation to manufactured dividends, manufactured interest or manufactured overseas dividends with such modifications, specified in the regulations, as the Treasury think fit;

(b) make such further provision with respect to the administration, assessment, collection and recovery of amounts required to be deducted or accounted for under or by virtue of this Schedule on account of tax as the Treasury think fit.

(4) Dividend manufacturing regulations may make different provision for different cases."

SCH. 13 *Power to obtain information in connection with dealings in securities*

1986 c. 41. 2. In Schedule 18 to the Finance Act 1986, in paragraph 9(1)(b) (power by regulations to substitute for section 21(1) of the Management Act provision that the Board may exercise the powers conferred by section 21 in such circumstances as may be specified) after the words "conferred by section 21" there shall be inserted the words "in relation to such persons (whether market makers or not) and".

Manufactured dividends etc: amendments of section 737

3.—(1) Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (1) there shall be substituted—

"(1) Subject to the provisions of this section and of Schedule 23A, where, under a contract or other arrangements for the transfer of securities, one of the parties (the "dividend manufacturer") is required to pay to the other an amount representative of a periodical payment of interest on the securities, section 350(1) and Schedule 16 shall apply as if the payment by the dividend manufacturer (the "manufactured dividend") were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to income tax."

(3) For subsection (3) there shall be substituted—

"(3) Subsection (1) above shall not apply in any case where—

(a) the dividend manufacturer is a company resident in the United Kingdom; or

(b) the manufactured dividend is a manufactured overseas dividend, within the meaning of Schedule 23A."

(4) Subsection (4) (purchase of securities by dividend manufacturer resident in the United Kingdom from person not so resident) shall cease to have effect; and for subsection (5) (dividend manufacturers not resident in the United Kingdom) there shall be substituted—

"(5) Where the dividend manufacturer in relation to the contract or other arrangements mentioned in subsection (1) above is not resident in the United Kingdom and the manufactured dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, that subsection shall not apply; but if the manufactured dividend is received by a person resident in the United Kingdom (the "United Kingdom recipient"), then unless the United Kingdom recipient shows either—

(a) that the dividend manufacturer was entitled to payment of the dividend as the registered holder of the securities, or

(b) that the dividend manufacturer was entitled to payment of the dividend directly or indirectly from a person from whom he acquired the securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall be assessable and chargeable with an amount of income tax in respect of the manufactured dividend equal to that which the dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom."

(5) After that subsection there shall be inserted—

"(5A) Where this section applies in relation to a manufactured dividend, relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the manufactured dividend on account of income tax; and in this subsection "relief" means relief by way of— SCH. 13

(a) deduction in computing profits or gains; or

(b) deduction or set off against income or total profits."

(6) In subsection (6) (definitions)—

(a) for the definitions of "broker" and "market maker" there shall be substituted—

" "dividend manufacturing regulations" means regulations made by the Treasury under Schedule 23A;

"prescribed" means prescribed in dividend manufacturing regulations;

"recognised investment exchange" means a recognised investment exchange within the meaning of the Financial Services Act 1986;"; and 1986 c. 60.

(b) after the definition of "securities" there shall be inserted—

" "transfer" includes any sale or other disposal;".

(7) After subsection (7) there shall be inserted—

"(7A) Where the dividend manufacturer—

(a) is not resident in the United Kingdom but carries on a trade through a branch or agency in the United Kingdom, or

(b) is a member, of a prescribed class or description, of a prescribed recognised investment exchange,

dividend manufacturing regulations may make provision for this section and such other provisions of the Tax Acts as may be prescribed to apply with prescribed modifications in connection with the manufactured dividend or any tax required to be deducted or accounted for in respect of it.

(7B) Without prejudice to the generality of subsection (7A) above, dividend manufacturing regulations made by virtue of that subsection may, in particular, include provision—

(a) entitling the dividend manufacturer to any prescribed relief to which he would not otherwise be entitled;

(b) denying the dividend manufacturer any prescribed relief to which he would otherwise be entitled;

(c) prescribing the manner in which amounts required to be deducted or accounted for on account of tax are to be accounted for and paid;

and, without prejudice to the generality of paragraph (c) above, any regulations made for the purpose specified in that paragraph may include provision, in a case falling within subsection (7A)(a) above, for the manufactured dividend to be a relevant payment for the purposes of Schedule 16 and for that Schedule to apply in relation to it with such modifications as may be prescribed."

Consequential provisions

4. In section 738 of that Act, subsection (2) (which confers power to amend the definitions of "broker" and "market maker" in section 737(6)) shall cease to have effect; and in subsection (4)—

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(a) for the words "subsections (2) and" there shall be substituted the word "subsection"; and

(b) for the words "contract for the sale of securities" there shall be substituted the words "contract or other arrangements for the transfer of securities".

Section 59.

SCHEDULE 14

CAPITAL ALLOWANCES: VAT CAPITAL GOODS SCHEME

PART I

INDUSTRIAL BUILDINGS AND STRUCTURES

Buildings and structures in enterprise zones

1990 c. 1.

1. In section 1 of the Capital Allowances Act 1990 (enterprise zones) after subsection (1) there shall be inserted—

"(1A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred as mentioned in paragraphs (a) and (b) of subsection (1) above incurs an additional VAT liability in respect of any of that capital expenditure at a time when—

(a) the building or structure is, or is to be, an industrial building or structure occupied as mentioned in paragraph (a) of that subsection, and

(b) the site of the building or structure is in an enterprise zone and not more than 10 years have elapsed since the site was first included in the zone,

that liability shall be regarded for the purposes of this Act as capital expenditure incurred on the construction of the building or structure and, subject to the following provisions of this Act, an allowance shall accordingly be made to him under that subsection for the chargeable period related to the incurring of that liability."

Transitional relief for regional projects

2.—(1) In section 2 of that Act, in subsection (1) (which applies section 1, with modifications, in relation to certain regional projects) after paragraph (a) there shall be inserted—

"(aa) in subsection (1A)—

(i) for the words "paragraphs (a) and (b)" there shall be substituted the words "paragraph (a)"; and

(ii) paragraph (b) shall be omitted; and".

(2) After subsection (3) of that section there shall be inserted—

"(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above."

Writing-down allowances

3.—(1) In section 3 of that Act (writing-down allowances in respect of industrial buildings and structures) after subsection (2) there shall be inserted—

"(2A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred on the construction of a building or structure incurs an additional VAT liability in respect of any of that capital expenditure, then—

(a) that liability shall be regarded for the purposes of this Act as capital expenditure incurred by him on the construction of the building or structure, and

(b) the residue (as defined in section 8(1)) of the expenditure incurred on the construction of the building shall accordingly be deemed for the purposes of this Part to be increased as at the time at which the liability is incurred by an amount equal to the liability.

(2B) Where an additional VAT liability is incurred as mentioned in subsection (2A) above, then (subject to any further adjustment under this subsection on any later such event or under subsection (2C) or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the liability is incurred, shall be the residue of the capital expenditure immediately after the incurring of the liability, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the incurring of the liability, of the period of 25 years beginning with the time when the building or structure was first used.

(2C) In any case where—

(a) an additional VAT rebate in respect of any capital expenditure incurred on the construction of a building or structure is made to the person entitled to the relevant interest in relation to that expenditure, and

(b) the residue of that expenditure immediately before the making of the rebate is not less than the amount of the rebate,

then (subject to any further adjustment under this subsection on any later such event or under subsection (2B) above or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the rebate is made, shall be the residue of that expenditure immediately after the making of the rebate, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the making of the rebate, of the period of 25 years beginning with the time when the building or structure was first used."

(2) In subsection (3) of that section (sale of relevant interest: recalculation of future writing-down allowances) after the words "on a later sale" there shall be inserted the words "or under subsection (2B) or (2C) above".

Balancing allowances and balancing charges

4.—(1) In section 4 of that Act, in subsection (1) (events which give rise to balancing allowances and balancing charges), after paragraph (d) there shall be inserted the words "or

(e) an additional VAT rebate in respect of any of the capital expenditure is made to the person entitled to the relevant interest,".

(2) In subsection (2) of that section (no balancing allowance or charge on second or subsequent events when the building or structure is not an industrial building or structure) after the words "and where two or more events" there shall be inserted the words "falling within paragraphs (a) to (d) of subsection (1) above".

(3) After that subsection there shall be inserted—

"(2A) No balancing allowance shall be made by reason of an event falling within paragraph (e) of subsection (1) above; and no balancing charge shall be made by reason of such an event unless—

(a) the amount of the additional VAT rebate exceeds the residue of expenditure immediately before the making of that rebate, or

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(b) there is no such residue,

and in any such case a balancing charge shall be made on an amount equal to that by which the rebate exceeds the residue of expenditure immediately before the making of the rebate or, where there is no such residue, to the amount of the rebate."

(4) In subsection (9) of that section, in the definition of "the capital expenditure" there shall be added at the end of paragraph (a) the words "reduced by an amount equal to that of any balancing charge made in relation to that expenditure on the occurrence of an event falling within subsection (1)(e) above;".

(5) At the end of subsection (10) of that section (balancing charge not to exceed allowances made) there shall be added the words "reduced by the amounts (if any) on which balancing charges in respect of the expenditure have been made on him for any such chargeable periods".

Writing off of expenditure and meaning of "residue of expenditure"

5.—(1) In section 8 of that Act, for subsection (2) (initial allowances to be treated as written off when building or structure first used) there shall be substituted—

"(2) Where an initial allowance is made in respect of any of the expenditure, then—

(a) if that allowance is made in respect of an additional VAT liability incurred after the building or structure is first used, the amount of that allowance shall be treated as written off as at the time at which the liability is incurred; and

(b) in any other case, the amount of the allowance shall be treated as written off as at the time when the building or structure is first used."

(2) After subsection (12) of that section there shall be inserted—

"(12A) Where an additional VAT rebate is made in respect of any of the expenditure, there shall be treated as written off as at the time at which the rebate is made an amount equal to the rebate."

(3) In subsection (13) (application of subsections (1) to (12) to the Crown) for "(12)" there shall be substituted "(12A)".

PART II

MACHINERY AND PLANT

Transitional relief for regional projects

6.—(1) In section 22 of that Act (first-year allowances: transitional relief for regional projects) after subsection (1) there shall be inserted—

"(1A) Subsection (1B) below applies in any case where a person—

(a) has at any time incurred, as mentioned in paragraphs (a) and (b) of subsection (1) above, capital expenditure to which this section applies, and

(b) subsequently incurs an additional VAT liability in respect of that capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade.

(1B) Where this subsection applies, then, for the purposes of this Act—

(a) the additional VAT liability shall be regarded as capital expenditure incurred by the person on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and

(b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him at some time during the chargeable period related to the incurring of the capital expenditure,

and, subject to the following provisions of this Act, a first-year allowance shall accordingly be made to him under subsection (1) above for the chargeable period related to the incurring of that liability."

(2) After subsection (3) of that section there shall be inserted—

"(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above."

Writing-down allowances and balancing adjustments

7.—(1) In section 24 of that Act, after subsection (1) (expenditure on machinery or plant qualifying for writing-down allowances) there shall be inserted—

"(1A) If, in a case where the circumstances are as mentioned in paragraphs (a) and (b) of subsection (1) above, the person there mentioned incurs an additional VAT liability in respect of the capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade, then, for the purposes of this Act—

(a) that liability shall be regarded as capital expenditure incurred by him on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and

(b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him,

and, subject to the following provisions of this Act, subsection (1) above shall have effect accordingly in relation to the capital expenditure constituted by that liability."

(2) At the beginning of subsection (6) of that section (disposal value) there shall be inserted the words "Subject to subsection (7) below," and after that subsection there shall be inserted—

"(7) This subsection applies to all machinery and plant—

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

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

(c) in respect of which the following event occurs, namely, the making of an additional VAT rebate to him in that chargeable period or its basis period in respect of the capital expenditure incurred by him on the provision of the machinery or plant;

and where this subsection applies to any machinery or plant the amount that is to be brought into account by virtue of subsection (6) above by that person for the chargeable period related to the making of the rebate shall be increased by the addition of (or, if there would not otherwise be a disposal value for that chargeable period, shall be) the disposal value of the machinery or plant in respect of which that rebate is made.

(8) Except in subsection (7) above, any reference in this Act to subsection (6) above (but not a reference to any specific provision of it) shall be taken to include a reference to subsection (7) above."

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The disposal value

8.—(1) In section 26 of that Act (which defines the disposal value by reference to the event giving rise to it) in subsection (1), after paragraph (e) there shall be inserted—

"(ee) if that event is the making of an additional VAT rebate in respect of capital expenditure incurred on the provision of the machinery or plant, equals the amount of that rebate; and".

(2) At the end of subsection (2) of that section (disposal value not to exceed expenditure on the provision of the machinery or plant for the purposes of the trade) there shall be added the words—

"reduced by the aggregate amount of any additional VAT rebates made to him in respect of any of that capital expenditure.

(2A) If the event by reason of which a disposal value is to be brought into account is the making of an additional VAT rebate to a person, subsection (2) above shall have effect as if the capital expenditure referred to in that subsection were reduced (or further reduced) by the amount of any disposal value brought into account by that person in respect of the machinery or plant by reason of any earlier event (other than the making of an additional VAT rebate)."

(3) At the end of that section there shall be added—

"(4) Where an additional VAT rebate has been made to any of the persons mentioned in subsection (3) above in respect of the capital expenditure incurred by him as there mentioned, that capital expenditure shall, in his case, be treated as reduced by the amount of the rebate, but no further reduction shall be made under subsection (2) above."

Short-life assets

9.—(1) In section 37 of that Act, after subsection (4) (allowances for the notional trade to be given for the corresponding period of the actual trade) there shall be inserted—

"(4A) In any case where—

(a) a balancing allowance that would, on the assumptions in subsection (3) above, fall to be made to the trader for a chargeable period in the case of the notional trade has, by virtue of subsection (4) above, been made to him for a chargeable period in the case of the actual trade,

(b) after the chargeable period of the notional trade related to its permanent discontinuance for the purposes of sections 24, 25 and 26, he incurs an additional VAT liability in respect of the capital expenditure incurred on the provision of the machinery or plant, and

(c) that liability was not brought into account in determining the amount of the balancing allowance,

a further balancing allowance, of an amount equal to the liability, shall be made to him for the chargeable period of the actual trade related to the incurring of the liability (and the liability shall not be brought into account for any chargeable period in the case of the notional trade)."

(2) In subsection (5) of that section (no disposal value brought into account before fourth anniversary) after the word "If" there shall be inserted the words "disregarding section 24(7)".

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10. In section 54(1)(c) of that Act (which refers to a person being required to bring the disposal value of a fixture into account under section 24) after the words "section 24" there shall be inserted the words "otherwise than by virtue of subsection (7) of that section".

Further restrictions on allowances

11.—(1) In section 75 of that Act (connected persons etc) in subsection (1) (provision by purchase of machinery or plant)—

(a) after the words "in respect of the expenditure" there shall be inserted the words "or any additional VAT liability incurred in respect of it"; and

(b) for the words "so much (if any) of the expenditure" there shall be substituted the words "so much (if any) of the aggregate of the expenditure and any such additional VAT liability".

(2) In subsection (2) of that section (contracts under which a person will or may become the owner of machinery or plant)—

(a) after the words "so far as relating to that machinery or plant" there shall be inserted the words "or in respect of any additional VAT liability incurred by him in respect of any such expenditure"; and

(b) for the words "so much (if any) of the expenditure" there shall be substituted the words "so much (if any) of the aggregate of the expenditure and any such additional VAT liability".

(3) In subsection (3) of that section (assignment of benefit of such contracts)—

(a) after the words "consideration for the assignment" there shall be inserted the words "or in respect of any additional VAT liability incurred by him in respect of any such expenditure"; and

(b) for the words "so much (if any) of the assignee's expenditure" there shall be substituted the words "so much (if any) of the aggregate of the assignee's expenditure and any such additional VAT liability".

(4) In section 76 of that Act (extension of section 75) after subsection (2) (provision for open market value etc to be brought into account where there is no disposal value) there shall be inserted—

"(2A) In any case where—

(a) section 75(1) has effect with the modification specified in paragraph (a) of subsection (2) above, but

(b) the open market value of the machinery or plant in question is determined for the purposes of those provisions inclusive of value added tax,

section 75(1) as so modified shall have effect with the omission of the words "the aggregate of" and "and any such additional VAT liability".

(2B) For the purposes of paragraphs (b) and (c) of subsection (2) above—

(a) any additional VAT liability incurred by the seller or, as the case may be, any person connected with him in respect of capital expenditure incurred on the provision of the machinery or plant shall be regarded as capital expenditure incurred on the provision of the machinery or plant, and

(b) any additional VAT rebate made to the seller or, as the case may be, any person connected with him in respect of any such expenditure shall be regarded as reducing the amount of capital expenditure so incurred by him,

to the extent that the liability or rebate in question would not, apart from this subsection, fall to be so regarded."

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(5) In subsection (4) of that section (application of subsections (2) and (3) in relation to section 75(2) and (3)) for the words "Subsections (2) and (3)" there shall be substituted the words "Subsections (2), (2A), (2B) and (3)".

PART III

SCIENTIFIC RESEARCH

Deduction for additional VAT liability on capital expenditure

12.—(1) In section 137 of that Act (deductions for capital expenditure on scientific research) after subsection (1) there shall be inserted—

"(1A) Where a person—

(a) has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of subsection (1) above, and

(b) incurs an additional VAT liability in respect of that expenditure at any time before the relevant event (as defined in section 138(1)) occurs in relation to the asset in question,

that liability shall, subject to the following provisions of this section, be regarded for the purposes of this Act as expenditure of a capital nature incurred on the scientific research."

(2) In subsection (3) of that section (relief where scientific building contains a dwelling to which not more than one quarter of the cost is referable) after the words "consists of a dwelling and" there shall be inserted the words ",disregarding any additional VAT liability or rebate,".

Charge in respect of additional VAT rebate on capital expenditure

13.—(1) In section 138 of that Act, after subsection (2) (charge where asset ceases to belong to trader) there shall be inserted—

"(2A) Where one or more additional VAT rebates have been made in respect of the expenditure at any time before the relevant event, the amount of the allowance and the amount of the expenditure shall each be treated for the purposes of subsection (2)(a) and (b) above as reduced by the aggregate amount of such of those rebates as fell, or fall, to be treated as trading receipts under subsection (3A) below."

(2) After subsection (3) of that section there shall be inserted—

"(3A) In any case where—

(a) a person carrying on a trade has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of section 137(1), and

(b) an additional VAT rebate in respect of that expenditure is made to him at any time before the relevant event occurs in relation to the asset in question,

then, unless that rebate falls to be brought into account for the purpose of making allowances and charges under Part I or Part II, an amount equal to the rebate shall be treated as a trading receipt of the trade accruing for the chargeable period related to the making of the rebate or, if the rebate is made on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance."

(3) At the end of that section there shall be added—

"(8) For the purposes of subsections (2) and (3) above, any question arising whether the relevant event occurred in or after, or (as the case may be) before, the chargeable period for which an allowance is given in respect of the expenditure there mentioned shall be determined without reference

to the making of any allowance by virtue of section 137(1A); but this subsection is without prejudice to any question as to the amount of the expenditure or of the allowance for the purposes of those subsections." SCH. 14

PART IV

SUPPLEMENTARY PROVISIONS

General provisions about additional VAT liabilities and rebates

14. In section 159 of that Act, in subsection (2) (time when capital expenditure is incurred) after the words "capital expenditure" there shall be inserted the words "(other than that constituted by an additional VAT liability)" and after that section there shall be inserted—

"Additional VAT liabilities and rebates.

159A.—(1) Subject to subsections (3) and (4) below, any additional VAT liability or rebate arising is to be regarded for the purposes of this Act as incurred or made on the last day of the relevant VAT interval.

(2) For the purposes of subsection (1) above "the relevant VAT interval", in relation to an additional VAT liability or rebate, means that one of the periods of which, under the VAT capital items legislation, the VAT period of adjustment applicable to the asset in question consists, in which occurred the increase or decrease in use which gave rise to the liability or rebate.

(3) An additional VAT liability or rebate shall, for the purpose only of determining the chargeable period—

(a) for which an allowance or charge under this Act may be made in respect of that liability or rebate, or

(b) in which the amount of that liability or rebate is to be brought into account in connection with the making of such allowances or charges,

be regarded as incurred or made at a time determined in accordance with subsection (4) below and, except for that purpose, any such liability or rebate shall not be treated as incurred or made otherwise than on the day on which it is to be regarded as incurred or made by virtue of subsection (1) above.

(4) For the purpose of determining the chargeable period referred to in subsection (3) above—

(a) where a return for the purposes of value added tax is made to the Commissioners of Customs and Excise in which the liability or rebate is accounted for, the liability or rebate shall be regarded as incurred or made in the chargeable period or its basis period which includes the last day of the period to which that return relates; but

(b) if, before any such return is made, those Commissioners assess the liability or rebate as due or repayable, then, notwithstanding paragraph (a) above, the liability or rebate shall be regarded as incurred or made on the day on which that assessment is made; and

(c) if the additional VAT liability or rebate has not been accounted for on a return for the purposes of value added tax to those Commissioners, or assessed by them for those purposes, before the trade in question has been permanently discontinued or treated by any provision of the Tax Acts as permanently

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discontinued, then, notwithstanding paragraphs (a) and (b) above, the liability or rebate shall be regarded as incurred or made on the last day of the chargeable period related to the discontinuance.

(5) Where, disregarding any additional VAT liability or rebate, any allowance or charge falling to be made under this Act in respect of any capital expenditure falls, under any provision of this Act, to be determined by reference to—

(a) a proportion only of that expenditure, or

(b) a proportion only of what that allowance or charge would have been apart from that provision,

then, to the extent that so much of any allowance or charge as falls to be so made in respect of any additional VAT liability or rebate in respect of that expenditure would not (apart from this subsection) fall to be determined by reference to that proportion of the liability or rebate or, as the case may be, of what that portion of the allowance or charge would otherwise have been, it shall be so determined.

(6) In this Act—

"additional VAT liability", in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes liable to pay by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

"additional VAT rebate", in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes entitled to deduct by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

"VAT capital items legislation" means any provisions of any Act or instrument (whenever passed or made) which provide, in relation to value added tax—

(a) for the proportion of input tax on an asset of a specified description which may be deducted by a person from his output tax to be adjusted from time to time in consequence of any increase or decrease in the extent to which the asset is used by him for the making of taxable supplies, or taxable supplies of a specified class or description, over a specified period (a "VAT period of adjustment") applicable to the asset, or

(b) otherwise for the purpose of giving effect to Article 20(2) to (4) of the Sixth Directive of the Council of the European Communities on Value Added Tax, dated 17th May 1977,

77/388/EEC.

and for this purpose "taxable supply" has the same meaning as it has in the Value Added Tax Act 1983 by virtue of section 2(2) of that Act;

1983 c. 55.

"VAT period of adjustment" has the meaning given in the definition of VAT capital items legislation.

(7) In this section— SCH. 14

(a) "input tax" and "output tax" have the meaning given by section 14 of the Value Added Tax Act 1983; and 1983 c. 55.

(b) in the application of subsection (4)(c) above for the purposes of Part II, the reference to the trade in question shall be construed in accordance with section 27 as that section would apply if this section were included in that Part."

SCHEDULE 15

Section 73.

RELIEF FOR COMPANY TRADING LOSSES

The Taxes Management Act 1970 (c. 9)

1.—(1) In section 86 of the Taxes Management Act 1970 (interest on overdue tax) after subsection (2) there shall be inserted—

"(2A) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (the "later period") is set off for the purposes of corporation tax against profits of a preceding accounting period (the "earlier period"),

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) if the claim had not been made, an amount of corporation tax assessed for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the claim, except so far as concerns interest for any time after the day following the expiry of the period of nine months from the end of the later period."

(2) The subsection (2A) inserted by sub-paragraph (1) above shall be omitted where the accounting period referred to in that subsection as the earlier period ends after the appointed day for the purposes of section 86 of the Finance (No.2) 1987 c. 51. Act 1987 so far as relating to the omission of section 86(2)(d) of the Taxes Management Act 1970.

2. In section 87A of that Act (which is set out in section 85 of the Finance (No.2) Act 1987 and which makes fresh provision for interest on overdue corporation tax) there shall be added at the end—

"(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (the "later period") is set off for the purposes of corporation tax against profits of a preceding accounting period (the "earlier period"),

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) if the claim had not been made, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the claim, except

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so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (1) above."

The Income and Corporation Taxes Act 1988 (c. 1)

3. In section 114 of the Taxes Act 1988 (special rules for computing profits and losses) in subsection (3), paragraph (c) and the word "and" immediately preceding it shall cease to have effect.

4. In section 118 of that Act (restriction on relief: companies)—

(a) in subsection (1) (treatment of certain amounts which may be given or allowed under section 393(2) etc) for "393(2)" there shall be substituted "393A(1)"; and

(b) in subsection (2), in the definition of "the aggregate amount" (certain amounts given or allowed under section 393(2) etc to form part of that amount) for "393(2)" there shall be substituted "393A(1)".

5.—(1) In section 242 of that Act (set-off of losses etc against surplus of franked investment income) in subsection (2)(a) (surplus to be treated as an amount of profits chargeable to corporation tax for purpose of setting of trading losses against total profits under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (4) of that section (restriction imposed by section 393(3) etc on relief to apply only to relief given apart from the section in case of certain claims under the section relating to section 393(2) etc)—

(a) for "393(2)" there shall be substituted "393A(1)"; and

(b) in paragraph (a), for "393(3)" there shall be substituted "393A(2)".

(3) In subsection (8)(a) of that section (time limit for claims under the section for purpose of setting of trading losses against total profits under section 393(2)) for the words from "section 393(2)" to "is incurred" there shall be substituted the words "subsection (1) of section 393A, the time limit that would, by virtue of subsection (10) or (11) of that section, be applicable in the case of a claim under that section in respect of those losses".

6.—(1) In section 243 of that Act, in subsection (1) (company with surplus of franked investment income may require that surplus to be taken into account for relief under section 393(1) or 394) the words "or 394" shall cease to have effect.

(2) Subsection (5) of that section (claim relating to section 394) shall cease to have effect.

(3) In subsection (6) of that section, paragraph (b) (time limit for claims so far as relating to section 394) shall cease to have effect.

7.—(1) In section 343 of that Act (company reconstructions without a change of ownership) in subsection (3) (predecessor not entitled to relief under section 394 except as provided by subsection (6); and successor entitled to relief under section 393(1) subject to claim made by predecessor under section 393(2) etc)—

(a) the words from the beginning to "subsection (6) below; and" shall cease to have effect; and

(b) for "393(2)" there shall be substituted "393A(1)".

(2) Subsection (6) of that section shall cease to have effect.

(3) In subsection (7) of that section—

(a) the words from "then no relief" to "subject to that" shall be omitted; and

(b) for "(6)" there shall be substituted "(5)".

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8. In section 393 of that Act (losses other than terminal losses)—

(a) in subsection (1), for the words "subsection (2) below" there shall be substituted the words "section 393A(1)"; and

(b) in subsection (11) (time limits for claims under section 393) the words from "and a claim under subsection (2) above" onwards shall cease to have effect.

9. In section 395 of that Act (leasing contracts and company reconstructions) in subsection (1) (limitation of relief under section 393(1) or (2) in respect of losses incurred on leasing contract of machinery or plant) in paragraph (b) for the words "subsection (1) or (2) of section 393" there shall be substituted the words "section 393(1) or 393A(1)".

10. In section 397(2) of that Act (which excludes certain losses in a trade of farming or market gardening from relief under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

11. In section 399 of that Act (dealings in commodity futures etc: withdrawal of loss relief) in subsection (2) (relief not to be given under section 393(2) etc in respect of certain losses) for "393(2)" there shall be substituted "393A(1)".

12. In section 400 of that Act (write-off of government investment) in subsection (4) (exclusion of amounts in respect of which claim has been made under section 393(2) etc) for "393(2)" there shall be substituted "393A(1)".

13.—(1) In section 403 of that Act (losses etc which may be surrendered by way of group relief) in subsection (1) (claimant company entitled to relief in respect of loss incurred by surrendering company and computed as for the purposes of section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (2) of that section (subsection (1) not to apply to so much of loss as is excluded from section 393(2) by section 393(5) etc) for the words "subsection (2) of section 393 by subsection (5) of that section" there shall be substituted the words "subsection (1) of section 393A by subsection (3) of that section".

(3) In subsection (10) of that section for "393(2)" in both places where occurring there shall be substituted "393A(1)".

14.—(1) In section 407 of that Act (relationship between group relief and other relief) in subsection (1)(b), for "393(2)" there shall be substituted "393A(1)".

(2) In subsection (2)(a) of that section, for "393(2) or 394" there shall be substituted "393A(1)(b)".

15. In section 434 of that Act (insurance companies: franked investment income etc) in subsection (2) (ascertaining for purposes of section 393 or 394 whether and to what extent company has incurred loss on its life assurance business) for "394" there shall be substituted "393A(1)".

16. In section 458 of that Act (capital redemption business) in subsection (2) (ascertaining whether and to what extent person has incurred loss on capital redemption business for purposes of section 380 or sections 393 and 394) for "394" there shall be substituted "393A(1)".

17. In section 492 of that Act (treatment of oil extraction activities etc for tax purposes) in subsection (3) (restriction on relief under section 393(2) against ring fence profits) for "393(2)" there shall be substituted "393A(1)".

18. In section 503(1) of that Act (commercial letting of furnished holiday accommodation to be treated as trade for purposes of section 394 etc) for "394" there shall be substituted "393A(1)".

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19.—(1) In section 518 of that Act (harbour reorganisation schemes) in subsection (3) (person to whom harbour authority transferred entitled to relief under section 393(1) in certain circumstances but subject to any claim made by transferor under section 393(2)) for "393(2)" there shall be substituted "393A(1)".

(2) Subsection (6) of that section (transferor not entitled to relief under section 394 in respect of the trade) shall cease to have effect.

20.—(1) After section 768 of that Act (change in ownership: trading losses not to be carried forward) there shall be inserted the following section—

"Change in ownership: disallowance of carry back of trading losses.

768A.—(1) In any case where—

(a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by the company, or

(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, there is a change in the ownership of the company,

no relief shall be given under section 393A(1) by setting a loss incurred by the company in an accounting period ending after the change in ownership against any profits of an accounting period beginning before the change in ownership.

(2) Subsections (2) to (4), (8) and (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.

(3) This section applies in relation to changes in ownership occurring on or after 14th June 1991."

(2) In section 769 of that Act (rules for ascertaining change in ownership in company)—

(a) in subsections (1), (2)(d) and (5), for the words "section 768" there shall be substituted the words "sections 768 and 768A"; and

(b) in subsections (3) and (4), after the words "section 768" there shall be inserted the words "or 768A".

21. In section 808 of that Act (restriction on deduction of interest or dividends from trading income so as to give rise to losses to be set off under section 393 or 436) after "393" there shall be inserted "393A(1)".

22. In section 825 of that Act, in subsection (4) (restrictions on repayment supplement) after paragraph (b) there shall be added the words "and

(c) a repayment of corporation tax or income tax falling to be made as a result of a claim under section 393A(1) to have the whole or any part of a loss incurred in an accounting period set off against profits of an earlier accounting period ("the earlier period")—

(i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss was incurred, be treated as a repayment of tax paid for the earlier period; and

(ii) in any other case, shall be treated as a repayment of tax paid for the accounting period in which the loss is incurred; and

(d) a payment of the whole or part of a tax credit falling to be made as a result of a claim under section 242, to the extent that a surplus of franked investment income for an accounting period (the "earlier

period") is treated as there mentioned for the purpose of setting a loss incurred in a later accounting period against total profits under section 393A(1)—

(i) shall, in a case where the earlier period falls wholly within the period of twelve months immediately preceding the accounting period in which the loss is incurred, be treated as a payment in respect of franked investment income received in the earlier period; and

(ii) in any other case, shall be treated as a payment in respect of franked investment income received in the accounting period in which the loss is incurred."

23. In section 826 of that Act (interest on tax overpaid) after subsection (7) there shall be inserted—

"(7A) In any case where—

(a) a company carrying on a trade incurs a loss in the trade in an accounting period ("the later period"),

(b) as a result of a claim under section 393A(1), the whole or any part of that loss is set off for the purposes of corporation tax against profits (of whatever description) of an earlier accounting period ("the earlier period") which does not fall wholly within the period of twelve months immediately preceding the later period, and

(c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period,

then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that repayment as a result of the claim under section 393A(1), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above.

(7B) In any case where—

(a) a company carrying on a trade incurs a loss in the trade in an accounting period ("the later period"),

(b) as a result of a claim under section 242, the whole or any part of a surplus of franked investment income for an earlier accounting period (the "earlier period") which does not fall wholly within the period of twelve months immediately preceding the later period is treated as there mentioned for the purpose of setting the loss against total profits under section 393A(1), and

(c) a payment falls to be made of the whole or part of a tax credit comprised in franked investment income received by the company in the earlier period,

then, in determining the amount of interest (if any) payable under this section on the payment referred to in paragraph (c) above, no account shall be taken of any increase in the amount of that payment as a result of the claim under section 242 (to the extent that that section relates to section 393A(1)), except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

24. In section 843 of that Act (commencement) in subsection (4) (exceptions in the case of certain provisions which include section 394) "394" shall be omitted.

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25. In Schedule 5 to that Act (treatment of farm animals etc for purposes of Case I of Schedule D) in paragraph 2(3)(a) (election for herd basis to be valid only if made not later than two years after end of the first chargeable period in which relief under section 393(2) given etc) after "393(2)" there shall be inserted "or 393A(1)".

26. In Schedule 26 to that Act (reliefs against liability for tax in respect of chargeable profits) in paragraph 1(3)(a) ("relevant allowance" to include any loss to which section 393(2) applies) for "393(2)" there shall be substituted "393A(1)".

27.—(1) In Schedule 30 to that Act (transitional provisions and savings) in paragraph 2 (duration of leases) in sub-paragraph (2)(a) (section 38 deemed to have effect as from passing of Finance Act 1963 in respect of relief under section 385 or 393) after "393" there shall be inserted the words "or 393A(1)".

1963 c. 25.

(2) In paragraph 3 of that Schedule (duration of leases) in sub-paragraph (1)(b) (sections 24 and 38 to have effect subject to modifications except to extent that section 38 relates to relief under section 385 or 393) after "393" there shall be inserted the words "or 393A(1)".

The Capital Allowances Act 1990 (c. 1)

28. In section 17 of the Capital Allowances Act 1990 (mining structures etc: balancing allowances carried back to earlier chargeable periods) in subsection (2) (where on company ceasing to carry on trade a claim is made under that section and section 394 then allowance for which claim is made is to be disregarded for purposes of claim under section 394 etc) for the words "section 394 of the principal Act (relief for terminal loss)" there shall be substituted the words "section 393A(1) of the principal Act (relief for company trading losses)".

Section 89.

SCHEDULE 16

SETTLEMENTS: SETTLORS

Conditions for the charge

1.—(1) This paragraph applies where the following conditions are fulfilled as regards a settlement in a particular year of assessment—

(a) the settlement is a qualifying settlement in the year;

(b) the trustees of the settlement fulfil the condition as to residence specified in sub-paragraph (2) below;

(c) a person who is a settlor in relation to the settlement (the settlor) is domiciled in the United Kingdom at some time in the year and is either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year;

(d) at any time during the year the settlor has an interest in the settlement;

(e) by virtue of disposals of any of the settled property originating from the settlor, there is an amount on which the trustees would be chargeable to tax for the year under section 4(1) of the Capital Gains Tax Act 1979 if the assumption as to residence specified in sub-paragraph (3) below were made;

1979 c. 14.

(f) paragraph 5, 6 or 7 below does not prevent this paragraph applying.

(2) The condition as to residence is that—

(a) the trustees are not resident or ordinarily resident in the United Kingdom during any part of the year, or

(b) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year, but at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom. SCH. 16

(3) Where sub-paragraph (2)(a) above applies, the assumption as to residence is that the trustees are resident or ordinarily resident in the United Kingdom throughout the year; and where sub-paragraph (2)(b) above applies, the assumption as to residence is that the double taxation relief arrangements do not apply.

(4) In this paragraph "double taxation relief arrangements" means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979). 1979 c. 14.

The charge

2. Where paragraph 1 above applies—

(a) chargeable gains of an amount equal to that referred to in paragraph 1(1)(e) above shall be treated as accruing to the settlor in the year, and

(b) those gains shall be treated as forming the highest part of the amount on which he is chargeable to capital gains tax for the year.

Construction of paragraph 1(1)(e)

3.—(1) In construing paragraph 1(1)(e) above as regards a particular year of assessment, the effect of the following provisions shall be ignored—

(a) section 5 of the Capital Gains Tax Act 1979 (annual exemption);

(b) Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances). 1988 c. 39.

(2) In construing paragraph 1(1)(e) above as regards a particular year of assessment—

(a) any deductions provided for by section 4(1) of the Capital Gains Tax Act 1979 shall be made in respect of disposals of any of the settled property originating from the settlor, and

(b) section 29(3) of that Act (losses accruing to non-residents not to be allowable losses) shall be assumed not to prevent losses accruing to trustees in one year of assessment from being allowed as a deduction from chargeable gains accruing in a later year of assessment (so far as not previously set against gains).

(3) In a case where—

(a) the trustees hold shares in a company which originate from the settlor, and

(b) under section 15 of the Capital Gains Tax Act 1979 gains or losses would be treated as accruing to the trustees in a particular year of assessment by virtue of the shares if the assumption as to residence specified in paragraph 1(3) above were made,

the gains or losses shall be taken into account in construing paragraph 1(1)(e) above as regards that year as if they had accrued by virtue of disposals of settled property originating from the settlor.

(4) Where, as regards a particular year of assessment, there would be an amount under paragraph 1(1)(e) above (apart from this sub-paragraph) and the trustees fall within paragraph 1(2)(b) above, the following rules shall apply—

(a) assume that the references in paragraph 1(1)(e) and sub-paragraphs (2)(a) and (3) above to settled property originating from the settlor were to such of it as constitutes protected assets;

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(b) assume that the reference in sub-paragraph (3)(a) above to shares originating from the settlor were to such of them as constitute protected assets;

(c) find the amount (if any) which would be arrived at under paragraph 1(1)(e) on those assumptions;

(d) if no amount is so found there shall be deemed to be no amount for the purposes of paragraph 1(1)(e);

(e) if an amount is found under paragraph (c) above it must be compared with the amount arrived at under paragraph 1(1)(e) apart from this sub-paragraph, and the smaller of the two shall be taken to be the amount arrived at under paragraph 1(1)(e).

(5) Sub-paragraphs (2) to (4) above shall have effect subject to sub-paragraphs (6) and (7) below.

(6) The following rules shall apply in construing paragraph 1(1)(e) above as regards a particular year of assessment (the year concerned) in a case where the trustees fall within paragraph 1(2)(a) above—

(a) if the conditions mentioned in paragraph 1(1) above are not fulfilled as regards the settlement in any year of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before the year concerned;

(b) if the conditions mentioned in paragraph 1(1) above are fulfilled as regards the settlement in any year or years of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before that year (or the first of those years) so falling;

but nothing in the preceding provisions of this sub-paragraph shall prevent deductions being made in respect of losses accruing in a year of assessment in which the conditions mentioned in paragraph 1(1)(a) to (d) and (f) above are fulfilled as regards the settlement.

(7) In construing paragraph 1(1)(e) above as regards a particular year of assessment and in relation to a settlement created before 19th March 1991, no account shall be taken of disposals made before 19th March 1991 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).

(8) For the purposes of sub-paragraph (4) above assets are protected assets if—

(a) they are of a description specified in the arrangements mentioned in paragraph 1(2)(b) above, and

(b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(9) For the purposes of sub-paragraph (8) above—

(a) the assumption as to residence specified in paragraph 1(3) above shall be ignored;

(b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;

(c) if different assets are identified by reference to different relevant times, all of them are protected assets.

Test whether settlor has interest SCH. 16

4.—(1) For the purposes of paragraph 1(1)(d) above a settlor has an interest in a settlement if—

(a) any relevant property which is or may at any time be comprised in the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever,

(b) any relevant income which arises or may arise under the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever, or

(c) any defined person enjoys a benefit directly or indirectly from any relevant property which is comprised in the settlement or any relevant income arising under the settlement;

but this sub-paragraph is subject to sub-paragraphs (4) to (6) below.

(2) For the purposes of sub-paragraph (1) above—

(a) relevant property is property originating from the settlor;

(b) relevant income is income originating from the settlor.

(3) For the purposes of sub-paragraph (1) above each of the following is a defined person—

(a) the settlor;

(b) the settlor's spouse;

(c) any child of the settlor or of the settlor's spouse;

(d) the spouse of any such child;

(e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;

(f) a company associated with a company falling within paragraph (e) above.

(4) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of—

(a) the bankruptcy of some person who is or may become beneficially entitled to the property,

(b) any assignment of or charge on the property being made or given by some such person,

(c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or

(d) the death under the age of 25 or some lower age of some person who would be beneficially entitled to the property on attaining that age.

(5) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when some person is alive and under the age of 25 if during that person's life none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of that person becoming bankrupt or assigning or charging his interest in the property concerned.

(6) Sub-paragraphs (4) and (5) above apply for the purposes of paragraph (b) of sub-paragraph (1) above as they apply for the purposes of paragraph (a), reading "income" for "property".

(7) In sub-paragraph (3) above "child" includes a stepchild.

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(8) For the purposes of sub-paragraph (3) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(9) For the purposes of sub-paragraph (3) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act 1988; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) In sub-paragraphs (8) and (9) above "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

Exceptions to charge

5. Paragraph 1 above does not apply if the settlor dies in the year.

6.—(1) This paragraph applies where for the purposes of paragraph 1(1)(d) above the settlor has no interest in the settlement at any time in the year except for one of the following reasons, namely, that—

(a) property is, or will or may become, applicable for the benefit of or payable to one of the persons falling within paragraph 4(3)(b) to (d) above,

(b) income is, or will or may become, applicable for the benefit of or payable to one of those persons, or

(c) one of those persons enjoys a benefit from property or income.

(2) This paragraph also applies where sub-paragraph (1) above is fulfilled by virtue of two or all of paragraphs (a) to (c) being satisfied by reference to the same person.

(3) Where this paragraph applies, paragraph 1 above does not apply if the person concerned dies in the year.

(4) In a case where—

(a) this paragraph applies, and

(b) the person concerned falls within paragraph 4(3)(b) or (d) above,

paragraph 1 above does not apply if during the year the person concerned ceases to be married to the settlor or child concerned (as the case may be).

7.—(1) This paragraph applies where for the purposes of paragraph 1(1)(d) above the settlor has no interest in the settlement at any time in the year except for the reason that there are two or more persons, each of whom—

(a) falls within paragraph 4(3)(b) to (d) above, and

(b) stands to gain for the reason stated in sub-paragraph (2) below.

(2) The reason is that—

(a) property is, or will or may become, applicable for his benefit or payable to him,

(b) income is, or will or may become, applicable for his benefit or payable to him,

(c) he enjoys a benefit from property or income, or

(d) two or all of paragraphs (a) to (c) above apply in his case.

(3) Where this paragraph applies, paragraph 1 above does not apply if each of the persons concerned dies in the year.

Right of recovery

8.—(1) This paragraph applies where any tax becomes chargeable on, and is paid by, a person in respect of gains treated as accruing to him in a year under paragraph 2 above.

(2) The person shall be entitled to recover the amount of the tax from any person who is a trustee of the settlement.

(3) For the purposes of recovering that amount, the person shall also be entitled to require an inspector to give him a certificate specifying—

(a) the amount of the gains concerned, and

(b) the amount of tax paid,

and any such certificate shall be conclusive evidence of the facts stated in it.

Meaning of "settlor"

9. For the purposes of this Schedule a person is a settlor in relation to a settlement if the settled property consists of or includes property originating from him.

Meaning of "originating"

10.—(1) References in this Schedule to property originating from a person are references to—

(a) property provided by that person;

(b) property representing property falling within paragraph (a) above;

(c) so much of any property representing both property falling within paragraph (a) above and other property as, on a just apportionment, can be taken to represent property so falling.

(2) References in this Schedule to income originating from a person are references to—

(a) income from property originating from that person;

(b) income provided by that person.

(3) Where a person who is a settlor in relation to a settlement makes reciprocal arrangements with another person for the provision of property or income, for the purposes of this paragraph—

(a) property or income provided by the other person in pursuance of the arrangements shall be treated as provided by the settlor, but

(b) property or income provided by the settlor in pursuance of the arrangements shall be treated as provided by the other person (and not by the settlor).

(4) For the purposes of this paragraph—

(a) where property is provided by a qualifying company controlled by one person alone at the time it is provided, that person shall be taken to provide it;

(b) where property is provided by a qualifying company controlled by two or more persons (taking each one separately) at the time it is provided, those persons shall be taken to provide the property and each one shall be taken to provide an equal share of it;

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(c) where property is provided by a qualifying company controlled by two or more persons (taking them together) at the time it is provided, the persons who are participators in the company at the time it is provided shall be taken to provide it and each one shall be taken to provide so much of it as is attributed to him on the basis of a just apportionment.

(5) But where a person would be taken to provide less than one twentieth of any property by virtue of sub-paragraph (4)(c) above and apart from this sub-paragraph, he shall not be taken to provide any of it by virtue of sub-paragraph (4)(c) above.

(6) For the purposes of sub-paragraph (4) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.

(7) For the purposes of this paragraph references to property representing other property include references to property representing accumulated income from that other property.

(8) For the purposes of this paragraph property or income is provided by a person if it is provided directly or indirectly by the person.

(9) For the purposes of this paragraph the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) In this paragraph "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

(11) The preceding provisions of this paragraph shall apply to determine whether shares originate from the settlor for the purposes of paragraph 3(3)(a) above as they apply to determine whether property of any kind originates from a person.

Qualifying settlements, and commencement

11.—(1) A settlement created on or after 19th March 1991 is a qualifying settlement for the purposes of this Schedule in—

(a) the year of assessment in which it is created, and

(b) subsequent years of assessment.

(2) A settlement created before 19th March 1991, and as regards which any of the four conditions set out in sub-paragraphs (3) to (6) below becomes fulfilled, is a qualifying settlement for the purposes of this Schedule in—

(a) the year of assessment in which any of those conditions becomes fulfilled, and

(b) subsequent years of assessment.

(3) The first condition is that on or after 19th March 1991 property or income is provided directly or indirectly for the purposes of the settlement—

(a) otherwise than under a transaction entered into at arm's length, and

(b) otherwise than in pursuance of a liability incurred by any person before that date;

but if the settlement's expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored for the purposes of this condition if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement's income for the year.

(4) The second condition is that—

(a) the trustees become on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or

(b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and here "double taxation relief arrangements" has the meaning given by paragraph 1(4) above.

(5) The third condition is that on or after 19th March 1991 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.

(6) The fourth condition is that—

(a) on or after 19th March 1991 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and

(b) the person concerned is not one who (looking only at the terms of the settlement immediately before 19th March 1991) would be capable of enjoying a benefit from the settlement on or after that date.

(7) Each of the following persons falls within this sub-paragraph—

(a) a settlor;

(b) the spouse of a settlor;

(c) any child of a settlor or of a settlor's spouse;

(d) the spouse of any such child;

(e) a company controlled by a person or persons falling within paragraphs (a) to (d) above;

(f) a company associated with a company falling within paragraph (e) above.

(8) In sub-paragraph (7) above "child" includes a stepchild.

(9) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(10) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act 1988; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(11) In sub-paragraphs (9) and (10) above "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

Information

12. An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time as he may direct (which must not be less than 28 days beginning with the day the notice is given) such particulars as he thinks necessary for the purposes of this Schedule and specifies in the notice.

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13.—(1) This paragraph applies if—

(a) a settlement is created before 19th March 1991,

(b) on or after that date a person transfers property to the trustees otherwise than under a transaction entered into at arm's length and otherwise than in pursuance of a liability incurred by any person before that date,

(c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and

(d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.

(2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—

(a) identifies the settlement, and

(b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.

(3) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day on which the transfer is made, and

(b) the day on which this Act is passed.

14.—(1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—

(a) the trustees are not resident or ordinarily resident in the United Kingdom, or

(b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and here "double taxation relief arrangements" has the meaning given by paragraph 1(4) above.

(2) Any person who—

(a) is a settlor in relation to the settlement at the time it is created, and

(b) at that time fulfils the condition mentioned in sub-paragraph (4) below,

shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.

(3) Any person who—

(a) is a settlor in relation to the settlement at the time it is created,

(b) at that time does not fulfil the condition mentioned in sub-paragraph (4) below, and

(c) fulfils that condition at a later time,

shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (5) below.

(4) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.

(5) The particulars are—

(a) the day on which the settlement was created;

(b) the name and address of the person delivering the return;

(c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.

(6) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day on which the settlement is created, and

(b) the day on which this Act is passed.

(7) For the purposes of sub-paragraph (3) above the relevant day is the later of—

(a) the day on which the person first fulfils the condition after the settlement is created, and

(b) the day on which this Act is passed.

15.—(1) This paragraph applies if—

(a) the trustees of a settlement become at any time (the relevant time) on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or

(b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

and "double taxation relief arrangements" here has the meaning given by paragraph 1(4) above.

(2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—

(a) the day on which the settlement was created,

(b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and

(c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.

(3) For the purposes of sub-paragraph (2) above the relevant day is the later of—

(a) the day when the relevant time falls, and

(b) the day on which this Act is passed.

16.—(1) Nothing in paragraph 13, 14 or 15 above shall require information to be contained in the return concerned to the extent that—

(a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or

(b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.

(2) Nothing in paragraph 13, 14 or 15 above shall require a return to be delivered if—

(a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or

(b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.

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17.—(1) In the Table in section 98 of the Taxes Management Act 1970 (penalties) at the end of the first column there shall be inserted— 1970 c. 9.

"Paragraph 12 of Schedule 16 to the Finance Act 1991."

(2) In that Table, at the end of the second column there shall be inserted—

"Paragraphs 13 to 16 of Schedule 16 to the Finance Act 1991."

Section 90.

SCHEDULE 17

SETTLEMENTS: BENEFICIARIES

Introduction

1. In this Schedule—

1981 c. 35.

(a) references to sections are to sections of the Finance Act 1981 (provisions about gains of non-resident settlements);

(b) references to trust gains for a year shall be construed in accordance with section 80;

(c) "capital payment" has the same meaning as in sections 80 to 82A.

Qualifying amounts

2.—(1) This paragraph applies for the purposes of this Schedule.

(2) If section 80 applies to a settlement for the year 1990-91 the settlement shall have a qualifying amount for the year, and the amount shall be the amount constituting the trust gains for the year less so much of them as are by virtue of section 80 treated as chargeable gains accruing in that year to beneficiaries.

(3) If section 80 applies to a settlement for the year 1991-92 or a subsequent year of assessment the settlement shall have a qualifying amount for the year, and the amount shall be the amount computed for the settlement in respect of the year concerned under section 80(2).

(4) Sub-paragraph (5) below applies where—

(a) there is a period (a non-resident period) of one or more years of assessment for each of which section 80 applies to a settlement and each of which falls before the year 1990-91,

(b) section 80 does not apply to the settlement for the year 1990-91, and

(c) there are trust gains for the last year of the non-resident period which have not (or have not wholly) been treated by virtue of section 80 or section 81(2) as chargeable gains accruing to beneficiaries before the year 1990-91.

(5) In such a case the settlement shall have a qualifying amount for the year 1990-91, and the amount shall be the amount constituting the trust gains mentioned in sub-paragraph (4)(c) above (or the outstanding part of them) less so much of them as are by virtue of section 81(2) treated as chargeable gains accruing in that year to beneficiaries.

Matching capital payments

3.—(1) This paragraph applies where-

(a) capital payments are made by the trustees of a settlement on or after 6th April 1991, and

(b) the payments are made in a year or years of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payments.

(2) For the purposes of this Schedule the payments shall be matched with qualifying amounts of the settlement for the year 1990-91 and subsequent years of assessment (so far as the amounts are not already matched with payments by virtue of this paragraph).

(3) In applying this paragraph—

(a) earlier payments shall be matched with earlier amounts;

(b) payments shall be carried forward to be matched with future amounts (so far as not matched with past amounts);

(c) a payment which is less than an unmatched amount (or part) shall be matched to the extent of the payment;

(d) a payment which is more than an unmatched amount (or part) shall be matched, as to the excess, with other unmatched amounts.

(4) Where part only of a capital payment is taxable, the part which is not taxable shall not fall to be matched until taxable parts of other capital payments (if any) made in the same year of assessment have been matched; and the preceding provisions of this paragraph shall have effect accordingly.

(5) For the purposes of sub-paragraph (4) above a part of a capital payment is taxable if the part results in chargeable gains accruing under section 80 or 81(2).

Increased tax: the main rule

4.—(1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) the whole payment is matched with a qualifying amount of the settlement for a year of assessment falling at some time before that immediately preceding the one in which the payment is made, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) The tax payable by the beneficiary in respect of the payment shall be increased by the amount found under sub-paragraph (3) below, except that it shall not be increased beyond the amount of the payment; and an assessment may charge tax accordingly.

(3) The amount is one equal to the interest that would be yielded if an amount equal to the tax which would be payable by the beneficiary in respect of the payment (apart from this paragraph) carried interest for the chargeable period at the rate of 10 per cent. per annum.

(4) The chargeable period is the period which—

(a) begins with the later of the two days specified in sub-paragraph (5) below, and

(b) ends with 30th November in the year of assessment following that in which the capital payment is made.

(5) The two days are—

(a) 1st December in the year of assessment following that for which the qualifying amount mentioned in sub-paragraph (1)(c) above is the qualifying amount, and

(b) 1st December falling six years before 1st December in the year of assessment following that in which the capital payment is made.

SCH. 17

(6) The Treasury may by order substitute for the percentage specified in sub-paragraph (3) above (whether as originally enacted or as amended at any time under this sub-paragraph) such other percentage as they think fit.

(7) An order under sub-paragraph (6) above may provide that an alteration of the percentage is to have effect for periods beginning on or after a day specified in the order in relation to interest running for chargeable periods beginning before that day (as well as interest running for chargeable periods beginning on or after that day).

(8) An order under sub-paragraph (6) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

More than one qualifying amount

5.—(1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) the whole payment is matched with qualifying amounts of the settlement for different years of assessment, each falling at some time before that immediately preceding the one in which the payment is made, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) For the purposes of this Schedule—

(a) the capital payment (the main payment) shall be treated as being as many payments (subsidiary payments) as there are qualifying amounts,

(b) a qualifying amount shall be attributed to each subsidiary payment and each payment shall be quantified accordingly, and

(c) the tax in respect of the main payment shall be divided up and attributed to the subsidiary payments on the basis of a just and reasonable apportionment.

(3) Paragraph 4 above shall apply in the case of each subsidiary payment, the qualifying amount attributed to it and the tax attributed to it.

Payment partly ignored

6.—(1) This paragraph applies where—

(a) a capital payment is made by the trustees of a settlement on or after 6th April 1992,

(b) the payment is made in a year of assessment for which section 80 applies to the settlement or in circumstances where section 81(2) treats chargeable gains as accruing in respect of the payment,

(c) part of the payment is matched with a qualifying amount of the settlement for a year of assessment falling at some time before that immediately preceding the one in which the payment is made, or with qualifying amounts of the settlement for different years of assessment each so falling, and

(d) a beneficiary is charged to tax in respect of the payment by virtue of section 80 or 81(2).

(2) For the purposes of this Schedule—

(a) only tax in respect of so much of the payment as is matched as mentioned in sub-paragraph (1)(c) above shall be taken into account, and references below to the tax shall be construed accordingly,

(b) the capital payment shall be divided into two, the first part representing so much as is matched as mentioned in sub-paragraph (1)(c) above and the second so much as is not,

(c) the second part shall be ignored, and

(d) the first part shall be treated as a capital payment, the whole of which is matched with the qualifying amount or amounts mentioned in sub-paragraph (1)(c) above, and the whole of which is charged to the tax.

(3) Paragraph 4 above or paragraphs 4 and 5 above (as the case may be) shall apply in the case of the capital payment arrived at under sub-paragraph (2) above, the qualifying amount or amounts, and the tax.

Parts of amounts matched

7. Paragraphs 4 to 6 above shall apply (with appropriate modifications) where a payment or part of a payment is to any extent matched with part of an amount.

Transfers between settlements

8.—(1) This paragraph applies if—

(a) in the year 1990-91 or a subsequent year of assessment the trustees of a settlement (the transferor settlement) transfer all or part of the settled property to the trustees of another settlement (the transferee settlement), and

(b) looking at the state of affairs at the end of the year of assessment in which the transfer is made, there is a qualifying amount of the transferor settlement for a particular year of assessment (the year concerned) and the amount is not (or not wholly) matched with capital payments.

(2) If the whole of the settled property is transferred, for the purposes of this Schedule—

(a) the transferor settlement's qualifying amount for the year concerned shall be treated as reduced by so much of it as is not matched, and

(b) so much of that amount as is not matched shall be treated as (or as an addition to) the transferee settlement's qualifying amount for the year concerned.

(3) If part of the settled property is transferred, for the purposes of this Schedule—

(a) so much of the transferor settlement's qualifying amount for the year concerned as is not matched shall be apportioned on such basis as is just and reasonable, part being attributed to the transferred property and part to the property not transferred,

(b) the transferor settlement's qualifying amount for the year concerned shall be treated as reduced by the part attributed to the transferred property, and

(c) that part shall be treated as (or as an addition to) the transferee settlement's qualifying amount for the year concerned.

(4) If the transferee settlement did not in fact exist in the year concerned, for the purposes of this Schedule it shall be treated as having been made at the beginning of that year.

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(5) If the transferee settlement did in fact exist in the year concerned, this paragraph shall apply whether or not section 80 applies to the settlement for that year or for any year of assessment falling before that year.

Matching after transfer

9.—(1) This paragraph applies as regards the transferee settlement in a case where paragraph 8 above applies.

(2) Matching shall be made under paragraph 3 above by reference to the state of affairs existing immediately before the beginning of the year of assessment in which the transfer is made, and the transfer shall not affect matching so made.

(3) Subject to sub-paragraph (2) above, payments shall be matched with amounts in accordance with paragraph 3 above and by reference to amounts arrived at under paragraph 8 above.

Section 91.

SCHEDULE 18

SETTLEMENTS: BENEFICIARIES (MISCELLANEOUS)

Computation rules

1981 c. 35.

1. In section 80 of the Finance Act 1981 (gains of non-resident settlements) the following subsection shall be inserted after subsection (6)—

"(6A) In computing an amount under subsection (2) above in respect of the year 1991-92 or a subsequent year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored."

1988 c. 39.

Dual-resident settlements

2. The following section shall be inserted after section 80 of that Act—

"Gains of dual-resident settlements.

80A.—(1) Section 80 above also applies to a settlement for any year of assessment beginning on or after 6th April 1991 if—

(a) the trustees are resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year,

(b) at any time of such residence or ordinary residence they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and

(c) the settlor or one of the settlors is at any time during that year, or was when he made his settlement, domiciled and either resident or ordinarily resident in the United Kingdom;

and "double taxation relief arrangements" here means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).

1979 c. 14.

(2) In respect of every year of assessment for which section 80 above applies by virtue of this section, section 80 shall have effect as if the amount to be computed under section 80(2) were the assumed chargeable amount; and the reference in section 80(2) to the corresponding amount in respect of an earlier year shall be construed as a reference to the amount computed under section 80(2) apart from this section or (as the case may be) the amount computed under section 80(2) by virtue of this section.

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(3) For the purposes of subsection (2) above the assumed chargeable amount in respect of a year of assessment is the lesser of the following two amounts—

(a) the amount on which the trustees would be chargeable to tax for the year under section 4(1) of the Capital Gains Tax Act 1979 on the assumption that the double taxation relief arrangements did not apply; 1979 c. 14.

(b) the amount on which, by virtue of disposals of protected assets, the trustees would be chargeable to tax for the year under section 4(1) of that Act on the assumption that those arrangements did not apply.

(4) For the purposes of subsection (3)(b) above assets are protected assets if—

(a) they are of a description specified in the double taxation relief arrangements, and

(b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.

(5) For the purposes of subsection (4) above—

(a) the assumption specified in subsection (3)(b) above shall be ignored;

(b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;

(c) if different assets are identified by reference to different relevant times, all of them are protected assets.

(6) In computing the assumed chargeable amount in respect of a particular year of assessment, the effect of Schedule 10 to the Finance Act 1988 (settlor chargeable instead of trustees in certain circumstances) shall be ignored. 1988 c. 39.

(7) For the purposes of section 80 above as it applies by virtue of this section, capital payments received before 6th April 1991 shall be disregarded."

3. In section 81 of that Act (migrant settlements) in subsection (1) for the words "in each of which the trustees were at some time resident or ordinarily resident in the United Kingdom" there shall be substituted "for each of which section 80 above does not apply to the settlement".

Payments by and to companies

4. The following section shall be inserted after section 82 of that Act—

"Payments by and to companies.

82A.—(1) Where a capital payment is received from a qualifying company which is controlled by the trustees of a settlement at the time it is received, for the purposes of sections 80 to 82 above it shall be treated as received from the trustees.

(2) Where a capital payment is received from the trustees of a settlement (or treated as so received by virtue of subsection (1) above) and it is received by a non-resident qualifying company, the rules in subsections (3) to (6) below shall apply for the purposes of sections 80 to 82 above.

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(3) If the company is controlled by one person alone at the time the payment is received, and that person is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person.

(4) If the company is controlled by two or more persons (taking each one separately) at the time the payment is received, then—

(a) if one of them is then resident or ordinarily resident in the United Kingdom, it shall be treated as a capital payment received by that person;

(b) if two or more of them are then resident or ordinarily resident in the United Kingdom (the residents) it shall be treated as being as many equal capital payments as there are residents and each of them shall be treated as receiving one of the payments.

(5) If the company is controlled by two or more persons (taking them together) at the time the payment is received and each of them is then resident or ordinarily resident in the United Kingdom—

(a) it shall be treated as being as many capital payments as there are participators in the company at the time it is received, and

(b) each such participator (whatever his residence or ordinary residence) shall be treated as receiving one of the payments, quantified on the basis of a just and reasonable apportionment.

(6) But where (by virtue of subsection (5) above and apart from this subsection) a participator would be treated as receiving less than one twentieth of the payment actually received by the company, he shall not be treated as receiving anything by virtue of subsection (5) above.

(7) For the purposes of subsection (1) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.

(8) For the purposes of subsection (1) above a company is controlled by the trustees of a settlement if it is controlled by the trustees alone or by the trustees together with a person who (or persons each of whom) falls within subsection (9) below.

(9) A person falls within this subsection if—

(a) he is a settlor in relation to the settlement, or

(b) he is connected with a person falling within paragraph (a) above.

(10) For the purposes of subsection (2) above a non-resident qualifying company is a company which is not resident in the United Kingdom and would be a close company if it were so resident.

(11) For the purposes of this section the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act 1988; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

(12) In this section "participator" has the meaning given by section 417(1) of the Taxes Act 1988.

(13) This section shall apply to payments received on or after 19th March 1991."

Beneficiaries

5. In section 83 of that Act (supplementary provisions) the following subsections shall be inserted after subsection (7)—

"(8) In a case where—

(a) at any time on or after 19th March 1991 a capital payment is received from the trustees of a settlement or is treated as so received by virtue of section 82A(1) above,

(b) it is received by a person, or treated as received by a person by virtue of section 82A(2) to (6) above,

(c) at the time it is received or treated as received, the person is not (apart from this subsection) a beneficiary of the settlement, and

(d) subsection (9) or (10) below does not prevent this subsection applying,

for the purposes of sections 80 to 82 above the person shall be treated as a beneficiary of the settlement as regards events occurring at or after that time.

(9) Subsection (8) above shall not apply where a payment mentioned in paragraph (a) is made in circumstances where it is treated (otherwise than by subsection (8) above) as received by a beneficiary.

(10) Subsection (8) above shall not apply so as to treat—

(a) the trustees of the settlement referred to in that subsection, or

(b) the trustees of any other settlement,

as beneficiaries of the settlement referred to in that subsection.

(11) In subsection (8) above "capital payment" has the same meaning as in sections 80 to 82A above."

Other amendments

6.—(1) Section 83 of that Act shall also be amended as follows.

(2) In subsection (1)—

(a) for "82" there shall be substituted "82A", and

(b) for "beneficiary" (in each place) there shall be substituted "recipient".

(3) The following subsection shall be inserted after subsection (1)—

"(1A) But in sections 80 to 82A above "capital payment" does not include a payment under a transaction entered into at arm's length."

(4) In subsection (2) for "subsection (1)" there shall be substituted "subsections (1) and (1A)".

(5) In subsections (3)(a), (4) and (7) for "82" there shall be substituted "82A".

(6) This paragraph shall apply in relation to payments received, transfers made, benefits conferred, or occasions arising, on or after 19th March 1991.

Section 123.

SCHEDULE 19

REPEALS

PART I

BETTING AND GAMING DUTIES

Chapter	Short title	Extent of repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 14(1)(b), the words "payable after the end of that period and". In Schedule 2, in paragraph 5, in sub-paragraph (1), the words "of the duty" and, in sub-paragraph (2), the word "duty" and, in paragraph 6(1), "(3)(c)".

PART II

BEER DUTY

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 1(3), paragraph (b) and the word "or" immediately preceding it. Section 2(6). In section 3, in subsection (3), the words "Subject to subsection (5) below", and subsection (5). In section 4(1), the definitions of "brewer" and "brewer for sale" and of "limited licence to brew beer". Sections 37 to 40. Section 45(2). Section 50. Section 53. Sections 71A and 72.
1982 c. 39.	The Finance Act 1982.	Section 9(3) and (4).
1985 c. 54.	The Finance Act 1985.	In Schedule 3, paragraphs 3 and 4.
1986 c. 41.	The Finance Act 1986.	Section 4(1). In section 8(2)(a), the words "47(3), 48(2)".
1988 c. 39.	The Finance Act 1988.	In Schedule 1, in Part II, paragraphs 1(2), 2(2), 3 and 11.
1989 c. 26.	The Finance Act 1989.	Section 3.

These repeals have effect in accordance with section 7 of this Act.

PART III SCH. 19

VEHICLES EXCISE DUTY: GENERAL

Chapter	Short title	Extent of repeal
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 4(1)(ka), the words "(other than mowing machines)". Section 7(4). Section 38(4). Schedule 6.
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	In section 4(1)(ka), the words "(other than mowing machines)". Section 7(4). Section 35(4). Schedule 7.
1982 c. 39.	The Finance Act 1982.	Section 5(6). Section 6(7).
1985 c. 54.	The Finance Act 1985.	In Schedule 2, in Part I, paragraph 1.

1. The repeals in section 4 of each of the Vehicles (Excise) Act 1971 ("the 1971 Act") and the Vehicles (Excise) Act (Northern Ireland) 1972 ("the 1972 Act") are deemed to have come into force on 20th March 1991.

2. The repeals of section 7(4) of each of the 1971 Act and the 1972 Act come into force on 1st October 1991.

3. The repeals of section 38(4) of, and Schedule 6 to, the 1971 Act, section 35(4) of, and Schedule 7 to, the 1972 Act and sections 5(6) and 6(7) of the Finance Act 1982, so far as relating to the application of those provisions for the purpose of section 4(1)(g) of either the 1971 Act or the 1972 Act, are deemed to have come into force on 20th March 1991.

4. The repeal in Schedule 2 to the Finance Act 1985, and the repeals mentioned in note 3 above so far as relating to the application of the repealed provisions for the purpose of any provision of the 1971 Act or the 1972 Act other than section 4(1)(g), have effect in relation to licences taken out after 20th March 1991.

SCH. 19

PART IV

VEHICLES EXCISE DUTY: NORTHERN IRELAND

Chapter	Short title	Extent of repeal
	Acts of the Parliament of the United Kingdom	
1971 c. 10.	The Vehicles (Excise) Act 1971.	Section 7(5).
1974 c. 39.	The Consumer Credit Act 1974.	In Schedule 4, paragraph 50.
1975 c. 7.	The Finance Act 1975.	Section 58.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 6.
1977 c. 36.	The Finance Act 1977.	Section 6.
1978 c. 42.	The Finance Act 1978.	Section 9.
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In Schedule 1, paragraph 5.
1980 c. 48.	The Finance Act 1980.	Section 5.
1981 c. 35.	The Finance Act 1981.	Section 8.
1982 c. 39.	The Finance Act 1982.	Sections 6 and 7(2) and (4). Schedule 4 and, in Schedule 5, Part B.
1983 c. 28.	The Finance Act 1983.	Section 4(6) and (7). In Schedule 3, paragraphs 7 and 12.
1984 c. 43.	The Finance Act 1984.	Section 5(4).
1986 c. 41.	The Finance Act 1986.	Section 3(5). In Schedule 2, Part II.
1987 c. 16.	The Finance Act 1987.	Section 2(4). In Schedule 1, paragraphs 6, 9, 11, 13, 15, 17, 19 and 21.
1988 c. 39.	The Finance Act 1988.	Section 4(5). In Schedule 2, paragraph 6.
1989 c. 26.	The Finance Act 1989.	Section 14(2), (4) and (6).
1990 c. 29.	The Finance Act 1990.	Section 5(4) and (6). In Schedule 2, Part III.
	Act of the Parliament of Northern Ireland	
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	The whole Act.
	Orders in Council	
S.I. 1972/1100 (N.I. 11).	The Finance (Northern Ireland) Order 1972.	Article 1(4). Part IV.
S.I. 1980/704 (N.I. 6).	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraphs 62 and 63.
S.I. 1981/154 (N.I. 1).	The Road Traffic (Northern Ireland) Order 1981.	In Schedule 7, paragraphs 14 and 15.
S.I. 1981/1675 (N.I. 26).	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 126 and 127.

These repeals have effect in accordance with section 10 of this Act.

PART V SCH. 19

INCOME TAX AND CORPORATION TAX

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	Section 78(4). Section 86(2A).
1985 c. 54.	The Finance Act 1985.	In section 68(7A), the word "and" at the end of paragraph (f).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76(1)(d), the words "general annuity business". In section 114(3), paragraph (c) and the word "and" immediately preceding it. In section 243, in subsection (1), the words "or 394" and subsections (5) and (6)(b). Section 339A. In section 343, in subsection (3), the words from the beginning to "subsection (6) below; and", subsection (6) and, in subsection (7), the words from "then no relief" to "subject to that". Section 349(3)(e). Section 354(3). In section 367(1), the definition of the expression "large caravan". In section 393, subsections (2) to (6) and, in subsection (11), the words from "and a claim under subsection (2)" onwards. Section 394. Section 432A(2)(b) and (d). In section 436, in subsection (1), the words "general annuity business or", in subsection (3), in paragraph (c), the words "or general annuity business" and, in paragraph (e), the words "general annuity business or", and in subsection (4), the words "general annuity business or". Section 437(2) to (5). In section 446, in subsection (1), the words "and general annuity business" and subsections (2) and (3).

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Chapter	Short title	Extent of repeal
		In section 447, subsection (3) and, in subsection (4), the words "or 446". Section 448(3)(a). In section 465(3) the words "and (c)". In section 474(1)(b), the words "and general annuity business". Section 518(6). In section 590, subsections (5) and (6). Section 726. In section 737, in subsection (2), the words "otherwise than by virtue of section 476(5)(a)", and sub-section (4). Section 738(2). In section 843(4), the words "394". In Schedule 5, in paragraph 2(3)(a), the word "or" immediately following the words "section 380". In Schedule 7, paragraphs 3(2) and (3) and 6. In Schedule 15, paragraph 3(1)(c) and the word "and" immediately preceding it. In Schedule 28, paragraph 3(4)(a). In Schedule 29, in the Table in paragraph 32, the entry relating to section 78(4) of the Taxes Management Act 1970. In Schedule 30, in paragraph 2(2)(a), the word "or" where first occurring and, in paragraph 3(1)(b), the word "or".
1988 c. 39.	The Finance Act 1988.	In Schedule 8, in paragraph 1(3), the word "and" at the end of paragraph (g).
1989 c. 26.	The Finance Act 1989.	Section 62(2). Section 63. Section 87(3).
1990 c. 1.	The Capital Allowances Act 1990.	In section 2(1), the word "and" at the end of paragraph (a). In section 3(3), the words "(as defined in section 8(1))". In section 26(1), the word "and" at the end of paragraph (e).

SCH. 19

Chapter	Short title	Extent of repeal
1990 c. 29.	The Finance Act 1990.	In Schedule 1, paragraph 8(16). Section 25(2)(h). In section 27, subsections (1) and (3). Section 61. In Schedule 6, paragraph 6. In Schedule 7, paragraph 8. In Schedule 14, paragraph 7.

1. The repeal of section 78(4) of the Taxes Management Act 1970 and the repeal in Schedule 29 to the Income and Corporation Taxes Act 1988 have effect in accordance with section 81 of this Act.

2. The repeal in section 86 of the Taxes Management Act 1970 has effect in accordance with paragraph 1(2) of Schedule 15 to this Act.

3. The repeals in sections 76, 432A, 436, 437, 446, 447, 448 and 474 of, and Schedule 28 to, the Income and Corporation Taxes Act 1988 and in Schedules 6 and 7 to the Finance Act 1990 have effect for accounting periods beginning on or after 1st January 1992.

4. The following repeals have effect in relation to losses incurred in accounting periods ending on or after 1st April 1991—

(a) the repeals in sections 114, 243, 343, 393, 518 and 843 of, the repeals in Schedules 5 and 30 to, and the repeal of section 394 of, the Income and Corporation Taxes Act 1988;

(b) the repeal in Schedule 1 to the Capital Allowances Act 1990;

(c) the repeal of section 61 of, and the repeal in Schedule 14 to, the Finance Act 1990.

5. The repeals of section 339A of the Income and Corporation Taxes Act 1988 and section 27(1) and (3) of the Finance Act 1990 have effect in relation to accounting periods beginning on or after 19th March 1991.

6. The following repeals have effect for the year 1991-92 and subsequent years of assessment—

(a) the repeals of sections 354(3) and 726 of the Income and Corporation Taxes Act 1988;

(b) the repeals in sections 367(1) and 737(2) of, and in Schedule 7 to, that Act;

(c) the repeal of section 63 of the Finance Act 1989.

7. The repeals in section 465 of, and Schedule 15 to, the Income and Corporation Taxes Act 1988 apply in relation to policies issued in pursuance of contracts made on or after the day on which this Act is passed.

8. The repeal of section 590(5) and (6) of the Income and Corporation Taxes Act 1988 has effect in accordance with section 36 of this Act.

9. The repeals of sections 737(4) and 738(2) of the Income and Corporation Taxes Act 1988 have effect in accordance with section 58 of this Act.

10. The repeal of section 62(2) of the Finance Act 1989 has effect in accordance with section 40 of this Act.

11. The repeals in sections 2(1), 3(3) and 26(1) of the Capital Allowances Act 1990 have effect in relation to any chargeable period or its basis period ending on or after 6th April 1990.

12. The repeal of section 25(2)(h) of the Finance Act 1990 has effect in relation to gifts made on or after 19th March 1991.

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PART VI

CAPITAL GAINS

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 342, the words "or Housing for Wales", in each place where they occur. In section 342A, the words "or Housing for Wales", in each place where they occur.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 126C.
1980 c. 48.	The Finance Act 1980.	Section 80(2).
1981 c. 35.	The Finance Act 1981.	Section 88(2) to (6).
1984 c. 43.	The Finance Act 1984.	Section 63(3). In section 64(2)(b), the words from "as defined" to "1973".
1986 c. 41.	The Finance Act 1986.	Section 58(5).
1988 c. 39.	The Finance Act 1988.	In Schedule 9, in paragraph 3(2)(e), the words from "(postponement" to "asset)".
1988 c. 50.	The Housing Act 1988.	In Schedule 17, in Part II, paragraph 93.
1989 c. 26.	The Finance Act 1989.	In Schedule 14, in paragraph 6(5)(c), the words "and (5)".
1990 c. 29.	The Finance Act 1990.	Section 70(5).

1. The repeals in sections 342 and 342A of the Income and Corporation Taxes Act 1970 and Schedule 17 to the Housing Act 1988 are deemed to have come into force on 1st December 1988.

2. The repeals of section 80(2) of the Finance Act 1980 and section 63(3) of the Finance Act 1984 have effect in relation to disposals on or after 19th March 1991.

3. The repeal in section 64 of the Finance Act 1984 has effect in accordance with section 98 of this Act.

4. The remaining repeals (other than the repeal in Schedule 9 to the Finance Act 1988) have effect in accordance with section 92 of this Act.

PART VII

STAMP DUTY

Chapter	Short title	Extent of repeal
9 Geo. 4 c. 80.	The Bankers' Composition (Ireland) Act 1828.	The whole Act.
54 & 55 Vict. c. 39.	The Stamp Act 1891.	Sections 29, 30 and 31. In Schedule 1 the heading "bank note".

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Chapter	Short title	Extent of repeal
1952 c. 13 (N.I.).	The Finance Act (Northern Ireland) 1952.	Sections 4 and 5.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	Section 7. In Schedule 2, paragraphs 5 and 18.
1972 c. 41.	The Finance Act 1972.	Section 134(5).

These repeals have effect in accordance with section 115 of this Act.

PART VIII

TRADING FUNDS

Chapter	Short title	Extent of repeal
1973 c. 63.	The Government Trading Funds Act 1973.	In section 2(1)(b) and (2), the words "at values or amounts determined by him in accordance with Treasury directions".

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